

First Supplement to Memorandum 79-51

Subject: Study D-300 - Enforcement of Judgments (Action on a California Judgment)

Under existing law, a judgment creditor may bring an action on a California judgment and obtain a new California judgment. One purpose of bringing an action on a judgment is to obtain a new judgment with a new 10-year period of enforceability. There may be some other reason for obtaining a new judgment as, for example, where a wife with a support judgment desires to invoke the contempt powers of the court of another county. See Thomas v. Thomas, 14 Cal.2d 355, 358 (1939) ("In the instant case the purpose of the action upon the Butte County decree was to obtain a continuing judgment enforceable by contempt in Los Angeles County, where both parties now reside . . . actions are allowed on domestic judgments when the plaintiff will secure some advantage thereby. The advantage here for the plaintiff is that she may prosecute her action in the county of her residence rather than proceed to a distant county. . . ."). Witkin gives other illustrations of situations where a new action on an existing domestic judgment may be a necessary or desirable step in its enforcement. See 5 B. Witkin, California Procedure Enforcement of Judgment § 192, at 3547 (2d. ed. 1971).

Formerly, it was necessary to bring an action on a sister state judgment in California if the judgment were to be enforced in California. The action resulted in a California judgment which was enforceable as any other California judgment. The traditional method of an action to enforce a sister state judgment was criticized as time consuming and inefficient. The Sister State Money Judgments Act, enacted in 1974 upon recommendation of the Law Revision Commission, provides a simple alternative method of obtaining a California judgment but also affords the judgment debtor an opportunity to present any available defenses. The California judgment is entered by the court clerk upon application of the judgment creditor, notice of entry is served upon the judgment debtor in the manner provided for service of summons, and the judgment debtor may move to vacate the judgment not later than 30 days after service of notice of entry. The motion may be based on any ground which would be a defense to an action on the judgment.

It seems strange that such a simple method is provided for obtaining a California judgment on a sister state judgment but the more cumbersome method of bringing an action on the judgment is still required if the original judgment is a California judgment. The staff suggests that a tentative recommendation be drafted for Commission consideration to provide a registration procedure for obtaining a new California judgment on an existing California judgment. We would draw on the existing sister-state judgment procedure, making such revisions as would be necessary to adapt that procedure for use in obtaining a new judgment on an existing California money judgment.

Respectfully submitted,

John H. DeMouilly
Executive Secretary