

RENDERED: JANUARY 13, 2017; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2016-CA-000090-MR

JEFF RAY MITCHELL

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE JAMES M. SHAKE, JUDGE
ACTION NO. 15-CI-004700

LEED HR, LLC, and
MICHAEL SCHROERING

APPELLEES

OPINION
VACATING AND
REMANDING

** ** * * * * *

BEFORE: CLAYTON, COMBS AND MAZE, JUDGES.

COMBS, JUDGE: Jeff Ray Mitchell appeals from an opinion and order of the Jefferson Circuit Court entered in favor of Leed HR, LLC, and Michael Schroering. The order vacated a foreign judgment based upon lack of *in*

personam jurisdiction. After our review, we vacate the order of the circuit court and remand.

In August 2015, Mitchell won a default judgment against Leed and Schroering in the United States District Court for the State of Idaho. On September 11, 2015, and pursuant to the provisions of KRS¹ 426.955, Mitchell filed a notice and affidavit to register the foreign judgment in the Jefferson Circuit Court. An authenticated copy of the federal court's final judgment was attached to the notice and affidavit. The judgment was duly entered by the deputy clerk – thus enabling Mitchell to enforce the judgment in Kentucky after twenty (20) days.

On September 24, 2015, Leed and Schroering filed a motion in Jefferson Circuit Court to vacate the foreign judgment. Leed and Schroering argued that the Idaho judgment was not entitled to full faith and credit since the federal district court in Idaho lacked personal jurisdiction over them. In response, Mitchell contended that the issue of personal jurisdiction had been thoroughly litigated in the federal district court. Mitchell attached to his responsive memorandum a copy of the October 20, 2014, memorandum decision and order of the federal district court that denied the motion of Leed and Schroering to dismiss for lack of personal jurisdiction. The federal district court concluded that Leed and Schroering had submitted to the personal jurisdiction of the Idaho state court by making a general appearance in the action before the matter had been removed to federal court upon their subsequent motion.

¹ Kentucky Revised Statutes.

The opinion and order of the Jefferson Circuit Court was entered on December 23, 2015. In its opinion, the circuit court analyzed whether Leed and Schroering had established minimum contacts with Idaho sufficient to justify the state court's exercise of *in personam* jurisdiction. Concluding that they had not, the Jefferson Circuit Court vacated the foreign judgment. This appeal followed.

On appeal, Mitchell contends that the circuit court erred by failing to conclude that the judgment of the federal district court should be afforded full faith and credit under the provisions of the Uniform Enforcement of Foreign Judgments Act (UEFJA). KRS 426.950-426.975. We agree.

The Full Faith and Credit Clause of the United States Constitution, Article IV, Section 1, requires each state to honor the judicial proceedings of every other state. The provisions of the UEFJA codify the Full Faith and Credit Clause.

While a foreign judgment is subject to the same proceedings for vacating as any judgment of a court of this state, the judgment of a sister state is entitled to full faith and credit if the foreign judgment is valid under the laws of the sister state. *Sunrise Turquoise, Inc., v. Chem. Design Co., Inc.*, 899 S.W.2d 856 (Ky.App. 1995); *Morrel & West, Inc. v. Yazel*, 711 S.W.2d 501 (Ky.App. 1986).

Idaho state courts hold firmly to the proposition that where “a party wishes to insist upon the objection that he is not in court, he must keep out for all purposes except to make that objection.” *Rhino Metals, Inc. v. Craft*, 146 Idaho 319, 322, 193 P.3d 866, 869 (2008) *citing* *Pingree Cattle Loan Co. v. Charles J. Webb & Co.*, 36 Idaho 442, 446, 211 P. 556, 557 (1922) (quoting from *Lowe v.*

Stringham, 14 Wis. 222 (1861)). Regardless of counsel's intention, the filing of a notice of appearance constitutes a *general* appearance as a matter of law in Idaho. *Secured Inv. Corp. v. Myers Exec. Bldg., LLC*, 2016 WL 4151376, ___ Idaho , ___ P.3d ___ (2016). With limited exceptions, none of which is relevant here, a *general* appearance in an Idaho state court without a simultaneous challenge to its jurisdiction is a voluntary and irrevocable submission to the personal jurisdiction of the court.

In the underlying action, counsel for Leed and Schroering filed a notice of appearance in the Idaho state court on January 17, 2014. Counsel did not file a motion or make a special appearance to contest personal jurisdiction. On January 21, 2014, new counsel removed the action to federal court, and on March 20, 2014, counsel filed a motion to dismiss for lack of personal jurisdiction. The federal district court took the matter under submission. Ultimately, the federal court concluded as follows:

At the time the case was removed to federal court in January of 2014, [Leed and Schroering] had already voluntarily consented to personal jurisdiction in Idaho. Filing a motion to dismiss in federal court approximately two months after filing a general appearance in state court cannot unwind the previously given consent to personal jurisdiction.

Upon removal, the federal court took the action in the identical procedural posture in which it had been prior to removal. Idaho's state court rules of civil procedure had already applied to establish the defendants' submission to the state court's jurisdiction. Moreover, Leed and Schroering agreed to the

application of Idaho law when they executed the contracts that were at issue in the underlying action against them. Idaho has quite precise rules regarding consent to its jurisdiction. Leed and Schroering did not avail themselves of the opportunity to contest jurisdiction. On the contrary, they voluntarily consented to the court's jurisdiction.

Because consent to personal jurisdiction was properly established in the federal and state courts of Idaho, the Jefferson Circuit Court erred by failing to grant full faith and credit to the default judgment of the federal district court. No analysis of minimum contacts with the forum or the requirements of the federal Due Process Clause was necessary or even relevant because Idaho's jurisdiction had been validly established through consent of the parties – albeit an arguably constructive consent from their perspective.

We conclude that the Jefferson Circuit Court erred by failing to grant full faith and credit to the judgment of the federal district court. Therefore, we vacate its order and remand for entry of an appropriate order.

ALL CONCUR.

BRIEF FOR APPELLANT:

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