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Pursuant to Section 4101 of the Probate, Estates and Fiduciaries Code, and 42 Pa. C.S. §4306." That same day, Judgment in the amount of \$559,254.27 was entered by the Carbon County Prothonotary's Office in favor of the Estate and against the Appellant.

On March 15, 2022, a Writ of Execution was filed by the Estate. Before execution occurred, Appellant filed the instant petition to strike and/or open¹ this foreign judgment.

On September 29, 2022, a hearing was held, after which both parties lodged a brief or memorandum of law in support of their respective positions. On December 28, 2022, this Court issued an order denying the Appellant's petition *in toto*. Thereafter, on January 24, 2023, Appellant filed a timely appeal. Pursuant to Pa. R.A.P. 1925(b), this Court directed Appellant to file a Concise Statement of Errors Complained of on Appeal, which he did on February 10, 2023. In that Concise Statement, Appellant alleged that the Court erred in the following respect that:

- a. the Court committed an error in failing to strike the foreign judgment because the document which purports to be the docket entries incidental to the foreign judgment was not properly authenticated as required by 42 Pa. C.S.A. §4306(b);
- b. the Court committed an error in failing to strike the foreign

¹ As noted in footnote one (1) of the attached order, Counsel agrees that the Petition to Strike should be the only aspect of that Petition that needed to be addressed by the Court, not the Petition to Open.

judgment because the document which purports to be the docket entries incidental to the foreign judgment was not properly authenticated as required by 42 Pa.C.S.A. §5328(a);

c. the Court made a factual and legal error in finding that the document which purports to be the docket entries incidental to the foreign judgment contained the "seal of the Honorable Mary Ann C. O'Brien, Surrogate, Surrogate and Deputy Clerk of the Superior Court, Chancery Divisions, Probate Part, Burlington County." Although the document indicates that Judge O'Brien affixed her "official seal", there is no official seal affixed;

d. the Court erred in not finding that the notice of the filing of the foreign judgment which was sent to the judgment debtor by the Carbon County Prothonotary does not include the name and post office address of the judgment creditor and the attorney for the judgment creditor as required by 42 Pa.C.S.A. §4306(c)(2), and failing to strike the foreign judgment because of the deficiency;

e. the Court erred in finding that the Plaintiff did not need to comply with 20 Pa.C.S.A. §4101 et seq. prior to or simultaneously with filing the foreign judgment in the Carbon County Prothonotary's Office, and failing to strike the foreign judgment in the Carbon County Prothonotary's Office, and failing to strike the foreign judgment because of that


deficiency.

This Court's review of these claimed errors suggests that it has adequately and appropriately addressed each of them in footnote 2 of its December 28, 2022 Order. It is for that reason that this Court does not replicate those rationales herein but rather point the Appellate Court to that footnote and specifically paragraphs, I, III, and IV therein.

CONCLUSION

Based upon the foregoing, this Court respectfully requests the Appellate Court to affirm it's decision.

BY THE COURT:



Joseph J. Matika, J.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

In the Matter of the Estate of, :
JOAN McFADDEN, Deceased :
Plaintiff :

v.

JOHN McFADDEN,
Defendant

No. 19-2652

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5 min:

CARBON COUNTY
PROTHONOTARY

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David H. Trathen, Esquire

Counsel for Plaintiff

Thomas S. Nanovic, Esquire

Counsel for Defendant

ORDER OF COURT

AND NOW, this 28th day of December, 2022, upon consideration
of

the "Petition to Strike and/or Open Foreign Judgment" filed by
Defendant on April 26, 2022 ("Petition to Strike/Open");

"Respondent, Estate of Joan McFadden by Joseph McFadden,
Administration CTA's Response to Petition to Strike and/or Open
Foreign Judgment" filed September 29, 2022 ("Response");

- Defendant's "Memorandum of Law" filed October 13, 2022; and

- "Estate of Joan McFadden's Brief in Opposition to John
McFadden's Petition to Strike Judgment" filed October 13, 2022;

and upon oral argument thereupon,¹ it is hereby ORDERED and DECREED
that the Defendant's Petition to Strike/Open is hereby DENIED.²

¹ Counsel appeared for argument on September 29, 2022, at which both parties
agreed that the present petition is a petition to strike and not a petition to
open, thus, we need not address Defendant's petition to open for it is moot.

² Defendant argues seven (7) issues as to why the Court should strike the
judgment. We will address the issues individually:

I. Docket Entry Compliance with 42 Pa.C.S.A §4306(b) .

Defendant argues that Plaintiff did not file an authenticated copy of the docket entries incidental to the foreign judgment as required by 42 Pa.C.S.A. Section 4306(b). The Uniform Enforcement of Foreign Judgments Act (hereinafter "Act"), 42 Pa.C.S.A. §4306, sets forth the procedural requirements to record or file a judgment in the Commonwealth of Pennsylvania. Section 4306(b) states in relevant part: "[a] copy of any foreign judgment including the docket entries incidental thereto authenticated in accordance with act of Congress or this title may be filed in the office of the clerk of any court of common pleas of this Commonwealth."

The Docket entries filed by the Estate in this matter do contain certified docket entries from the State of New Jersey, Burlington County Surrogate's Court together with the Court's seal. The Docket entries are certified to contain true and accurate listing and copies of the document filed relevant to the litigation that resulted in the final judgement. Attorney Herbert J. Stayton, Jr. testified on behalf of Plaintiff regarding his experience as an attorney licensed in the State of New Jersey and has been practicing law for over 40 years. Attorney Stayton testified that this is the document from his experience that is produced by the Burlington County Surrogate's Court when docket entries are requested.

Regarding authentication of a foreign judgment, Pennsylvania law provides:

An official record kept within the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certificate that the officer has the custody. The certificate may be made by a judge of a court of record having jurisdiction in the governmental unit in which the record is kept, authenticated by the seal of the court, or by any public officer having a seal of office and having official duties in the governmental unit in which the record is kept, authenticated by the seal of his office. 42 Pa.C.S.A. § 5328(a) (emphasis ours).

The docket entries that were filed in Carbon County contain the docket entries relevant to the litigation which produced the judgment. The docket entries contain a certification and the seal of the Honorable Mary Ann C. O'Brien, Surrogate, Surrogate and Deputy Clerk of the Superior Court, Chancery Division, Probate Part, Burlington County.

The Court finds the docket entries therefore comply with 42 Pa.C.S.A. Section 4306(b) and Section 5328(a) concluding the foreign judgment and docket entries has been properly authenticated and denies Defendant's first argument.

II. Docket entries begin March 23, 2012 and not 2009.

Defendant also argues that the full list of Docket entries was not provided. This argument echoes the previous argument in that the docket entries provided to the Court were an incomplete list. The Court finds that the docket entries do comply with 42 Pa.C.S.A. Section 4306(b), and ALL relevant docket entries have been filed in the Prothonotary's Office. The Court, therefore, denies Defendant's second argument.

III. Notice to include the name and post office address of the judgment creditor and the attorney for the judgment creditor as required by 42 Pa.C.S.A 4306(c)(2).

Defendant argues that the Notice of the foreign judgment filed by Plaintiff is invalid as it does not contain the name and address of the judgment creditor and the judgment creditor's attorney. Section 4306(c)(2) of Title 42 states that the notice is to include the name and address of the judgment creditor and its attorney.

The Court find the Plaintiff did provide a valid Notice of foreign judgment which includes on the face of the document the name and address of the judgment creditor. The judgment creditor's address in this instant matter is also the judgment creditor's attorney's address. The Notice complies with section 4306(c)(2) and therefore, the Court denies Defendant's third argument.

IV. Notice of the filing of the foreign judgment does not include the docket number.

Defendant argues that the Notice of the foreign judgment filed by Plaintiff is invalid as it does not contain the case docket number. The Court takes judicial notice that this Notice of the foreign judgment was filed as a packet of papers on September 24, 2019, in the Prothonotary's office, and upon this filing a docket number was generated and assigned to this foreign judgment. The Prothonotary then hand wrote the docket number on each individual filing within the packet of papers, or so they believed they did so, and this lack of a docket number was simply a mistake by the Prothonotary, for they had accidentally missed the Notice. This issue is one that is out of the hands of the Plaintiff. The Court, therefore, denies Defendant's fourth argument.

V. Failure to file foreign judgment in the Register of Wills Office.

Defendant argues that Plaintiff has failed to comply with 20 Pa.C.S.A. § 4101 et seq., which requires a foreign fiduciary to, *inter alia*, file in the Register of Wills Office exemplified copies of their appointment or other qualification in the foreign jurisdiction, together with an affidavit containing certain information prior to the maintenance of a proceeding or the exercise of certain powers in Pennsylvania.

The Court finds this argument misplaced. Section 4101 pertains to the Powers and Duties of Foreign Fiduciaries regarding Estates in the Commonwealth of Pennsylvania. The purpose for this rule is to require foreign individuals to register in the Commonwealth of Pennsylvania before they can exercise powers regarding a decedent's estate. Section 4101 does not pertain to the entry of a foreign judgment. In the case *sub judice*, there are no powers given to the foreign fiduciary by the Commonwealth of Pennsylvania to do anything regarding the estate. This case is strictly to collect on a judgment that has already been entered by the state of New Jersey and is now being collected on. Here Plaintiff was not required to file anything with the Register of Wills office in Carbon County for the foreign judgment to be valid and therefore, the Court denied Defendant's fifth argument.

VI. A decedent's estate cannot be a party to litigation, except through the personal representative of the estate.

Defendant argues that the Estate itself cannot be the Plaintiff in action in Pennsylvania and that Plaintiff has filed this judgment with an invalid caption requiring the judgment to be stricken.

Plaintiff argues that the judgment creditor cannot change the parties or how they are identified in the initial filing. Further, Plaintiff asserts that the judgment creditor filed an authenticated copy of the judgment in the same manner as identified on the foreign judgment. Plaintiff asserts further that the Defendant's argument may be applicable to any additional filings or litigation concerning the judgment, but not on the original filing of the foreign judgment.

The Court agrees the entry of a foreign judgment should mirror the case caption in which the judgment originated. The judgment *sub judice* is not disputed here in the Commonwealth, and instead the action has been entered in the Commonwealth solely to collect on the judgment. This is a valid judgment from the State of New Jersey and the purpose is to collect on the judgment here. For judicial economy and logical reasoning, it would make sense to have the caption be identical to the caption in New Jersey. Therefore, the Court denies Defendant's sixth argument.

VII. Pending litigation in New Jersey.

Defendant argues that the foreign judgment must be stricken because of current litigation in the State of New Jersey in which the parties are disputing the amount of the judgment.

Regardless of whether the judgment is to change or not, the judgment entered in Pennsylvania is a final judgment and the amount owed still stands.

A petition to strike a judgment operates as a demurrer to the record and may only be granted based upon a fatal defect or irregularity appearing on the face of the record. *Digital Communications Warehouse, Inc. v. Allen Investments, LLC*, 223 A.3d 278, 284 (Pa. Super. Ct. 2019). Such a petition does not entitle a court to review the merits of the allegations; rather the petition to strike is directed towards defects that affect the validity of the judgment and entitle the petitioner to relief as a matter of law. *Id.* at 285.

Under the full faith and credit clause of the United States Constitution, "[a] final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land." *Capstone Capital Group, LLC v. Alexander Perry, Inc.*, 263 A.3d at 1182 (Pa. Super. Ct. 2021); see U.S. Const. art. IV, § 1. The full faith and credit clause has been codified in this Commonwealth through the adoption of the Uniform Enforcement of Foreign Judgments Act. See 42 Pa.C.S.A. § 4306.

When a judgment of one state is transferred to another state, the full faith and credit clause prevents courts of the transferee state from addressing the merits of the decision that forms the basis of the judgment. *Capstone Capital Grp., LLC v. Alexander Perry, Inc.*, 263 A.3d 1178, 1182 (Pa. Super. Ct. 2021) A State may not disregard the judgment of a sister State because it disagrees with the reasoning underlying the judgment or deems it to be wrong on the merits. On the contrary, "the full faith and credit clause of the Constitution precludes any inquiry into the merits of the cause of action, the logic or consistency of the decision, or the validity of the legal principles on which the judgment is based." *V.L. v. E.L.*, 577 U.S. 404, 407, 136 S.Ct. 1017, 194 L.Ed.2d 92 (2016) (*per curiam*) (quoting *Milliken v. Meyer*, 311 U.S. 457, 462, 61 S.Ct. 339, 85 L.Ed. 278 (1940)).

Since the judgement entered in New Jersey was a final judgment, our Court must take the final judgment as the correct amount owed to the Plaintiff. Our Court is not at liberty to decide whether the judgment is correct or not and only has the jurisdiction to allow Plaintiff to execute on the foreign judgment. Further, should action be taken in New Jersey which results in a different

BY THE COURT:



Joseph J. Matika, J.

judgment amount, corresponding action could be taken here to change this judgment. Therefore, the Court denies Defendant's seventh argument.

For the reasons stated above, the Court DENIES Defendant's Petition to Strike the foreign judgment from the New Jersey Court Against, the Defendant, the Estate of Joan McFadden.