

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-1314

Filed: 6 September 2016

Wake County, No. 15 CVD 1018

GREATAMERICA FINANCIAL SERVICES CORPORATION, an Iowa Corporation
formerly known as GreatAmerica Leasing Corporation, Plaintiff,

v.

LILLINGTON FAMILY CHIROPRACTIC, PA, and DEE AUSTIN-COX, Defendants.

Appeal by defendants from orders entered 24 September 2015 and
7 October 2015 by Judge Debra A. Sasser in Wake County District Court. Heard in
the Court of Appeals 27 April 2016.

*Smith Debnam Narrow Drake Saintsing & Myers, LLP, by Byron L. Saintsing,
Thomas A. Gray, and Samuel D. Fleder, for plaintiff-appellee.*

*Bain & McRae, LLP, by Ryan McKaig and Edgar R. Bain, for defendants-
appellants.*

McCULLOUGH, Judge.

Lillington Family Chiropractic, PA, and Dee Austin-Cox (“defendants”) appeal
from the entry of summary judgment in favor of GreatAmerica Financial Services
Corporation (“plaintiff”) and an order denying defendants’ motion for a change of
venue and motions to dismiss for lack of personal jurisdiction and subject matter
jurisdiction. For the following reasons, we affirm.

Opinion of the Court

I. Background

On 22 January 2015, plaintiff filed a complaint in Wake County District Court seeking to enforce a default judgment entered against defendants in Iowa on 13 April 2011. Defendants responded to the complaint on 9 March 2015 by filing an “Answer and Motion To Strike Any Purported Filing of a Judgment Against Defendants For Lack of Jurisdiction.” Plaintiff then filed a motion for summary judgment and a supporting affidavit on 26 May 2015. A notice of hearing was filed on 22 July 2015 notifying defendants that plaintiff’s motion for summary judgment would be heard on 13 August 2015. Yet, on 13 August 2015, the summary judgment hearing was continued until 24 September 2015. Another notice of hearing was filed on 18 August 2015 notifying defendants that plaintiff’s motion for summary judgment would be heard on 24 September 2015. Upon receiving the continuance, on 19 August 2015, defendants filed the following motions: (1) a motion for a change of venue to have the matter moved to Harnett County, where defendants were located; and (2) a motion to dismiss for lack of personal jurisdiction because “[p]laintiff has not acquired personal jurisdiction of any of the [d]efendants and has totally failed to comply with Chapter 1C, Article 17 of the North Carolina General Statutes relating to uniform enforcement of foreign judgments.” Separate notices of hearing were filed together with defendants’ motions on 19 August 2015 notifying plaintiff that

Opinion of the Court

defendants' motions would be heard at the same time as plaintiff's motion for summary judgment.

After both sides filed memorandums of law, the motions came on for hearing in Wake County District Court before the Honorable Debra A. Sasser on 24 September 2015. Before addressing plaintiff's summary judgment motion, the trial judge heard arguments on defendants' motion for a change of venue and motion to dismiss for lack of personal jurisdiction. Both motions were denied as untimely. During the arguments, defendants also asserted a motion to dismiss for lack of subject matter jurisdiction based on plaintiff's failure to follow the statutory procedures for domesticating a foreign judgment found in the Uniform Enforcement of Foreign Judgments Act ("UEFJA"). *See* N.C. Gen. Stat. § 1C-1701 *et seq.* (2015). Upon consideration, the trial judge denied defendants' motion to dismiss for lack of subject matter jurisdiction, holding the court had subject matter jurisdiction based on the Full Faith and Credit Clause. The trial judge then heard argument on plaintiff's motion for summary judgments and granted summary judgment in favor of plaintiff; thereby enforcing the default judgment from Iowa.

Written orders granting plaintiff's motion for summary judgment and denying defendants' motions were later entered on 24 September 2015 and 7 October 2015. Defendants filed notice of appeal on 15 October 2015.

II. Discussion

Opinion of the Court

In the sole issue raised on appeal, defendants argue “[t]he trial court erred in denying [their] motion to dismiss for lack of subject matter jurisdiction on the ground that the plaintiff failed to follow statutory procedures necessary to invoke the court’s jurisdiction.”¹ Specifically, plaintiff identifies the procedures in the UEFJA for filing a foreign judgment and for serving notice of filing.

Under the UEFJA, a “foreign judgment” means “any judgment, decree, or order of a court of the United States or a court of any other state which is entitled to full faith and credit in this state” N.C. Gen. Stat. § 1C-1702 (2015). Concerning the filing of foreign judgments, the UEFJA provides as follows:

- (a) A copy of any foreign judgment authenticated in accordance with an act of Congress or the statutes of this State may be filed in the office of the clerk of superior court of any county of this State in which the judgment debtor resides, or owns real or personal property. Along with the foreign judgment, the judgment creditor or his attorney shall make and file with the clerk an affidavit which states that the foreign judgment is final and that it is unsatisfied in whole or in part, and which sets forth the amount remaining unpaid on the judgment.
- (b) Upon the filing of the foreign judgment and the affidavit, the foreign judgment shall be docketed and indexed in the same manner as a judgment of this State; however, no execution shall issue upon the foreign judgment nor shall any other proceeding be taken for its enforcement until the expiration of 30 days from the date upon which notice of filing is served in accordance

¹ Defendants have abandoned other proposed issues on appeal by failing to argue those issues in their appellate brief. *See* N.C. R. App. P. 28(b)(6) (2016) (“Issues not presented in a party’s brief, or in support of which no reason or argument is stated, will be taken as abandoned.”).

Opinion of the Court

with G.S. 1C-1704.

- (c) A judgment so filed has the same effect and is subject to the same defenses as a judgment of this State and shall be enforced or satisfied in like manner; provided however, if the judgment debtor files a motion for relief or notice of defense pursuant to G.S. 1C-1705, enforcement of the foreign judgment is automatically stayed, without security, until the court finally disposes of the matter.

N.C. Gen. Stat. § 1C-1703 (2015). Concerning notice of filing, the UEFJA provides as follows:

- (a) Promptly upon the filing of a foreign judgment and affidavit, the judgment creditor shall serve the notice of filing provided for in subsection (b) on the judgment debtor and shall attach thereto a filed-stamped copy of the foreign judgment and affidavit. Service and proof of service of the notice may be made in any manner provided for in Rule 4(j) of the Rules of Civil Procedure.
- (b) The notice shall set forth the name and address of the judgment creditor, of his attorney if any, and of the clerk's office in which the foreign judgment is filed in this State, and shall state that the judgment attached thereto has been filed in that office, that the judgment debtor has 30 days from the date of receipt of the notice to seek relief from the enforcement of the judgment, and that if the judgment is not satisfied and no such relief is sought within that 30 days, the judgment will be enforced in this State in the same manner as any judgment of this State.

N.C. Gen. Stat. § 1C-1704 (2015).

In the present case, defendants contend plaintiff failed to comply with the above provisions of the UEFJA as follows: (1) plaintiff did not file the judgment and

Opinion of the Court

an affidavit with the clerk of Superior Court in the county in which defendants reside or own property; (2) plaintiff did not wait 30 days before initiating proceedings to enforce the judgment; and (3) plaintiff did not notify defendants that the judgment had been filed.

Defendants' argument on appeal is essentially the same argument that was rejected by the court below. The ultimate question we must answer is whether the UEFJA is the sole method to invoke the subject matter jurisdiction of a trial court to enforce foreign judgments. We agree with the trial court that it is not. Therefore, we overrule defendants' argument and affirm the denial of defendants' motion to dismiss for lack of subject matter jurisdiction. Our decision is guided by the clear language of the UEFJA, which, in a provision entitled "optional procedure," provides, "[t]his Article may not be construed to impair a judgment creditor's right to bring a civil action in this State to enforce such creditor's judgment." N.C. Gen. Stat. § 1C-1707 (2015). Moreover, this Court has recognized that the UEFJA is not the only way to enforce a foreign judgment. *See Freeman v. Pacific Life Ins. Co.*, 156 N.C. App. 583, 589-90, 577 S.E.2d 184, 188 (2003), *Lust v. Fountain of Life, Inc.*, 110 N.C. App. 298, 300, 429 S.E.2d 435, 436 (1993).

In this case, defendant brought a separate civil action to enforce the default judgment from Iowa. Such a suit has always been a method in North Carolina to give full faith and credit to judgments from other states.

Opinion of the Court

III. Conclusion

For the reasons stated above, we affirm the denial of defendants' motions and the grant of summary judgment in favor of plaintiff.

AFFIRMED.

Judges ELMORE and INMAN concur.

Report per Rule 30(e).