

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DORSEY AND WHITNEY LLP,	:	NO. 16 - 1169
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	Motion to Strike Judgment
REGSCAN, INC.,	:	Petition to Stay Execution
Defendant	:	Motion for Protective Order

OPINION AND ORDER

Before the court are three motions filed by Defendant: a Motion to Strike Judgment and Writ of Execution, a Petition to Stay and Set aside Writ of Execution and a Motion for Protective Order, all filed October 14, 2016. Argument on the motions was heard November 29, 2016.

Plaintiff initiated this matter by filing a Praecipe to file Foreign Judgment on August 4, 2016, by which it sought to file in this court two judgments entered in the District Court of the Second Judicial District of the State of Colorado on March 24, 2016 and June 11, 2016, pursuant to the Uniform Enforcement of Foreign Judgments Act. 42 Pa.C.S. Section 4306. The judgments were entered on the records of this court by the Prothonotary on August 4, 2016 as a single judgment. A praecipe for Writ of Execution was then filed on September 7, 2016, and that writ was issued to the Sheriff of Lycoming County on that date.

In the first of its motions, Defendant seeks to strike both the judgment entered in this court on August 4, as well as the Writ of Execution. In the second motion, apparently out of an abundance of caution, Defendant seeks to stay and set aside the Writ of Execution. And, in the third motion, Defendant seeks a stay

of discovery.¹ As the court finds that the judgment must be stricken, addressing the requests for stay of execution and discovery is not necessary.

The Uniform Enforcement of Foreign Judgments Act provides in relevant part as follows:

§ 4306. Enforcement of foreign judgments.

...

(b) Filing and status of foreign judgments. --

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 clerk shall treat the foreign judgment in the same manner as a judgment of any court of common pleas of this Commonwealth. A judgment so filed shall be a lien as of the date of filing and shall have the same effect and be subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of any court of common pleas of this Commonwealth and may be enforced or satisfied in like manner.

42 Pa.C.S. Section 4306. Defendant contends the judgments filed in this court on August 4, 2016 must be stricken as Plaintiff did not file **copies** of the foreign judgments as required by the Act.² Indeed, the record shows that only two documents entitled “Transcript of Judgment” were filed to evidence the judgments, and that no actual copies of the judgments were filed:

¹ In the motion, Defendant explains that Plaintiff has issued a notice of deposition on one of RegScan’s corporate officers and has issued garnishment interrogatories on Woodlands Bank, where it holds an account.

² Defendant also argues that there are other defects in the filing, but in light of the disposition, these other arguments need not be addressed.

DISTRICT COURT, DENVER COUNTY, COLORADO
Court Address:
Denver City and County Building
1437 Bannock St Rm 256
Denver, CO 80202-0000

Case Number: 14CV-034542
Div.: 414

Plaintiff: DORSEY AND WHITNEY LLP

Defendant: REGSCAN INC

TRANSCRIPT OF JUDGMENT

Original Judgment Amount: \$474,401.70 Judgment Date: March 24, 2016
Revived Judgment Amount: \$.00 Judgment Date:
Judgment Status: UNSATISFIED

Debtor Fee: \$737.41

Additional Remarks:

COURT ENTERS JUDGMENT IN FAVOR OF PLAINTIFF AND AGAINST DEFENDANT IN THE
AMOUNT OF \$373,707.43, PLUS PREJUDGMENT INTEREST. INTEREST OF 100,694.27
ADDED PER ORDER OF 05/15/16.

Debtor(s): REGSCAN INC, 800 W Fourth Street, Williamsport, PA 17701

Creditor(s): DORSEY AND WHITNEY LLP, 1400 Wewatta Street, Suite 400, DENVER,
CO 80202

Balance of Judgment to Date: \$474,401.70

I hereby certify that the above is a true and complete transcript of the
judgment in the above-referenced case which is retained in my office.



Sabra Millett
Clerk of Court
DISTRICT COURT, DENVER COUNTY

DATE: June 15, 2016

BY *[Signature]*
Deputy Clerk

DISTRICT COURT, DENVER COUNTY, COLORADO
Court Address:
Denver City and County Building
1437 Bannock St Rm 256
Denver, CO 80202-0000

Case Number: 14CV-034542
Div.: 414

Plaintiff: DORSEY AND WHITNEY LLP

Defendant: REGSCAN INC

EXEMPLIFIED RECORD

TRANSCRIPT OF JUDGMENT

Original Judgment Amount: \$43,054.31 Judgment Date: June 11, 2016
Revived Judgment Amount: \$0.00 Judgment Date:
Judgment Status: UNSATISFIED

Additional Remarks:
COURT ENTERS JUDGMENT ON BILL OF COSTS IN FAVOR OF PLTF AND AGAINST DEF IN
THEAMOUNT OF \$43,054.31.

Debtor(s): REGSCAN INC, 800 W Fourth Street, Williamsport, PA 17701

Creditor(s): DORSEY AND WHITNEY LLP, 1400 Wewatta Street, Suite 400, DENVER,
CO 80202

Balance of Judgment to Date: \$43,054.31

I hereby certify that the above is a true and complete transcript of the
judgment in the above-referenced case which is retained in my office.



Sabra Millett
Clerk of Court
DISTRICT COURT, DENVER COUNTY

DATE: June 15, 2016

BY *[Signature]*
Deputy Clerk

Plaintiff argues that a “Transcript of Judgment” is what Colorado accepts to record a judgment against the judgment debtor’s property and thus should be accepted for purposes of filing a foreign judgment in this court. In Griggs v. Gibson, 754 P.2d 783 (Colo.App.1988), however, the Colorado Court of Appeals rejected a similar argument, that an "Affidavit of Foreign Judgment," in which plaintiff's Colorado counsel purported to describe a judgment entered by a California court, should suffice. Relying on Hull v. Buffalo Federal Savings & Loan Ass'n, 661 P.2d 1049 (Wyo. 1983), which held that a "certificate of judgment" issued by the clerk of the rendering court, describing the judgment and suitable for recording to give notice of the judgment lien, cannot be substituted for an authenticated copy of the judgment, the Griggs Court held that a document that merely describes the foreign judgment cannot be filed in lieu of an authenticated copy of the judgment itself.³ This court therefore finds that the Transcripts of Judgment filed in this case are not sufficient under the Act.

Following Ward v. Price, 814 A.2d 262 (Pa. Super. 2002) (the statute clearly requires a copy of the judgment to be filed and without such the court is without jurisdiction to enforce the purported judgment),⁴ the judgments will be stricken. Accordingly, the writ of execution issued upon those judgments must also be stricken and the discovery attempts nullified.

³ Colorado has adopted the Uniform Enforcement of Foreign Judgments Act. See Table of Jurisdictions Wherein 1964 Act has been Adopted, following the text of the statute. 42 Pa.C.S. Section 4306.

⁴ It is notable that the Ward Court looked to the Griggs decision for guidance. Ward v. Price, 814 A.2d 262, 264 (Pa. Super. 2002).

ORDER

AND NOW, this 30th day of November 2016, for the foregoing reasons, Defendant's Motion to Strike Judgment and Writ of Execution is hereby GRANTED. The judgment entered on August 4, 2016 and the Writ of Execution entered on September 7, 2016 are hereby STRICKEN. The Prothonotary is directed to mark the docket accordingly and to strike the judgment and writ from the judgment and lien indices.

Defendant's Motion for Protective Order is GRANTED. Plaintiff is directed to cease and retract all discovery efforts based on the stricken judgment.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Suzanne Fedele, Prothonotary
Michael J. Dougherty, Esq., Weltman, Weinberg & Reis Co., LPA
325 Chestnut Street, Suite 501, Philadelphia, PA 19106
Tiffani Kase, Esq.
Austin White, Esq.
Sheriff
Gary Weber, Esq. (Lycoming Reporter)
Hon. Dudley Anderson