

FOREIGN JUDGMENTS:

Foreign judgment must be sued on this  
state to establish a lien of same.

May 17, 1939

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Mr. Raymond O. Douglas, Clerk  
Circuit Court  
St. Louis County  
Clayton, Missouri

Dear Sir:

This is in reply to yours of recent date where-  
in you request an opinion from this department on the  
following statement of facts:

"I have been requested to record and  
abstract a transcript judgment from  
the 92nd Judicial District Court of  
Hidalgo County, Texas, in the case  
of B. T. Tackett, vs M. M. Bradley,  
et al. This transcript was furnish-  
ed by Weona Loan Company, 110 East  
Second Street, Weslaco, Texas, which  
was authenticated under the Acts of  
Congress.

"I am of the opinion that it will  
be necessary in order to establish  
a lien against any real estate which  
the defendants may have in our County  
is for the plaintiff to sue upon this  
authenticated judgment in our State  
and to obtain a judgment in accord-  
ance therewith in our Circuit Court."

It seems from our research on this question  
that the answer to it will be controlled by the statutes  
of this state. Laws of Missouri, 1935, page 207, Sec-

tion 1142, provides as follows:

"Judgments and decrees obtained in the Supreme Court or either court of appeals or any United States Court or any court of record in this State, shall, upon the filing of a transcript thereof in the office of the Clerk of the Circuit Court of any other county, be a lien upon the real estate of the person against whom such judgment or decree is rendered, situate in the county in which such transcript is filed."

In Volume 34 C. J., page 1137, Section 1612, the general rule as to foreign judgments and the procedure is stated as follows:

"Unless so provided by statute in the state where enforcement is sought, a judgment recovered in one state is not executory in any other state in the sense that final process for its enforcement could issue on merely filing or docketing the judgment, as in the case of a domestic judgment. The constitutional provision for giving 'full faith and credit' to such judgments relates only to their effect as evidence or as a bar to further litigation, and in order to proceed for the collection of a judgment recovered in another state, the creditor must first sue upon it in the state where he wishes to enforce it and recover a judgment upon it."

And on the question of the full faith and credit to be given to judgments of foreign jurisdiction we find the rule stated in 71 A. L. R. at page 1090 in the following language:

"Also, in Carr v. Lewis Coal Co.

(1888) 96 Mo. 149, 9 Am. St. Rep. 328, 8 S. W. 907 (affirming (1884) 15 Mo. App. 551), it was said that the full faith and credit clause has no bearing on the point as to whether a lis pendens in one state shall have extra-territorial effect. It was also said that 'the obvious meaning of that provision goes only to the operation such records shall have, when complete and subsequently offered in evidence, as establishing that certain facts have been adjudicated, and has no reference as to what shall be the incidental effect of a suit which results in such records being made.'"

In the case of Barney v. White, 46 Mo. 137, 139, on this same question the Missouri court said:

"\* \* \* \* A foreign judgment is prima facie evidence of indebtedness at the time, and becomes conclusive unless impeached. Judgments rendered in other States are not treated as foreign, and though they are not so far domestic that they can be enforced without a new judgment, they are conclusive of everything except jurisdiction over the parties or the subject-matter. \* \* \* \* \*"

In Walter L. Lacy Company v. National Finance Corporation, 79 S. W. (2d) 1078, 1079, the court said:

"The defendant says there are two questions in the case: (1) Was the defendant 'so engaged in doing business in the State of Kentucky as to submit itself to the juris-

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diction of the Kentucky courts?'  
(2) Was the service of summons sufficient to bring the appellant within the jurisdiction of the Kentucky court? In determining these questions, it must be borne in mind that if the judgment is valid in Kentucky, it is equally valid in Missouri (Hudson-Kimberly Pub. Co. v. Young, 90 Mo. App. 505), and that the authenticated copy of the judgment and judgment roll made a prima facie case in plaintiff's behalf (Severson v. Dickinson, 216 Mo. App. 572, 259 S. W. 518; Reis v. Epperson, 143 Mo. App. 90, 122 S. W. 353, 357.)"

So it will be noted from the foregoing text, authorities and rules of court that a judgment rendered in a foreign state does not establish a lien by being filed in this state but must be sued upon. However, such judgment, properly certified and authenticated, shall receive as prima facie evidence as the matter sued upon.

CONCLUSION.

From the foregoing it is the opinion of this department that in order to establish a lien on real estate by a foreign judgment such judgment must be sued upon in some court with proper jurisdiction in this state.

Respectfully submitted

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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