



THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

Appellate Case No. 2014-001917

Investment Associates, ... Appellant,

v.

Joseph D. Lancia, ... Respondent.

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
INVESTMENT ASSOCIATES,

Plaintiff,

vs.

JOSEPH D. LANCIA

Defendant.

FILED-CLERK OF COURT
IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C. A. No. 2014-CP-23-00515

ORDER

I. Introduction

On May 17, 1994, the State of Connecticut Superior Court entered a judgment ("the Judgment") against Defendant Joseph D. Lancia ("Lancia") in favor of Investment Associates ("IA"). Lancia moved from Connecticut to South Carolina in 1992 and has been a resident of Greenville County, South Carolina since August 1992.

In 2007, IA filed an action with the Connecticut Superior Court seeking a "new" judgment based on the Judgment. *See Investment Associates v. Lancia*, CV074028746S, 2008 WL 2168983, 2008 Conn. Super Lexis 1112 (Conn. Super. Ct. May 5, 2008). Lancia moved to dismiss for lack of personal jurisdiction on the grounds that he had been a resident of South Carolina since 1992, had worked in South Carolina exclusively during that time, and lacked sufficient contacts with Connecticut. The Connecticut Superior Court granted Lancia's motion, finding Connecticut lacked personal jurisdiction over Lancia. *Id.* IA did not appeal that decision, and the time period for doing so has expired.

In 2009, the Connecticut legislature passed General Statutes § 52-598(c), which provides:

With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to

revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.

In October 2009, IA filed a "Motion to Revive" the Judgment in the Connecticut Superior Court pursuant to this statute. Lancia moved to dismiss for lack of personal jurisdiction. The court simultaneously granted the motion to revive and denied the motion to dismiss, finding that the motion to revive was merely a continuation of the original action and not a "new" action that would require Connecticut to obtain personal jurisdiction. *See Investment Associates v. Lancia*, CV91-0309954-S, 2010 Conn. Super. LEXIS 548 (Conn. Super. Ct. March 4, 2010).

Lancia appealed this decision and on August 27, 2013 the Supreme Court of Connecticut affirmed the Superior Court. *Investment Assocs. v. Summit Assocs.*, 74 A.3d 1192 (Conn. 2013). The Court explained that "a motion to revive under § 52-598 (c) is effectively a continuation of the original proceeding rather than a new action." *Id.* at 1201. As such, Connecticut had personal jurisdiction over Lancia for purposes of the motion to revive. *See id.* at 1211.

On January 28, 2014, IA filed the Judgment in South Carolina for the first time. Lancia moves for relief, which this Court grants for the reasons that follow.

II. Law/Analysis

A. S.C. Code Ann. § 15-3-600

South Carolina Code Section 15-3-600 establishes a ten-year statute of limitations that applies to the enforcement of foreign judgments. *See Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 483, 517 S.E.2d 235, 238 (Ct. App. 1999) ("the catch-all limitation period of § 15-3-

600 applies to the time in which a foreign judgment must be filed . . . "). The ten-year clock begins to run when the debtor moves to South Carolina and the courts of this state become empowered to adjudicate between the parties, regardless of when the creditor discovered that the debtor was a South Carolina resident. *Id.* at 482, 517 S.E.2d at 237 ("the limitation period does not begin to run until the judgment debtor moves to South Carolina and the courts of this state become empowered to adjudicate between the parties upon the particular cause of action."); *id.* at 485-86, 517 S.E.2d at 239 ("We hold the ten year limitations period of § 15-3-600, for enforcement of [creditor's] foreign judgment under the UEFJA, began to run when [debtor] became a resident of South Carolina, not when [creditor] discovered [debtor] was a South Carolina resident."). There is no discovery rule. *Id.* at 485-86, 517 S.E.2d at 239.

It is undisputed that Mr. Lancia has been a resident of South Carolina since 1992. *See also Investment Assocs.*, 74 A.3d at 1196 ("The following facts are undisputed. . . . In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina."). As set forth in Mr. Lancia's affidavit filed in support of his motion, Lancia has resided at the same address continuously since 1992. The courts of South Carolina became empowered to adjudicate this dispute when the Judgment was entered in 1994 and the ten-year statutory period began to run at that time. The statutory period expired in 2004. This enforcement action was filed in 2014, almost ten years after the ten-year statutory period expired. Consequently, this action is barred.

B. Effect of Revival of the Judgment in Connecticut

IA's revival of the Judgment under Conn. Gen. Stat. 52-598(c) does not change the conclusion that this action is barred by South Carolina Code Section 15-3-600. A revived

judgment under section 52-598(c) of the Connecticut General Statutes is nothing more than a continuation of the original judgment and is not a new judgment.¹ See *Investment Assoc.*, 74 A.3d at 1201. Thus, the revival goes only to the validity of the Judgment in Connecticut and does not impact South Carolina's statute of limitations. See *Owens v. McCloskey*, 161 U.S. 642, 646 (1896) (holding that a Pennsylvania judgment recovered in 1861 and revived in 1871 was barred in a 1880 Louisiana action by Louisiana's ten-year statute of limitations since "considered as in continuation of the prior action and a revival of the original judgment for purposes of execution . . . it operated merely to keep in force the local lien, and could not be availed of as removing the statutory bar of *lex fori*").

South Carolina Code Section 15-3-600 bars the enforcement of a foreign judgment after the statutory time period even where that judgment is still valid in the rendering state. In *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999), Plaintiff obtained a Florida judgment against the debtor in 1983. The debtor became a South Carolina resident by 1985. Plaintiff filed the judgment with the Greenville, South Carolina Clerk of Court on December 23, 1996. *Id.* at 480-81, 517 S.E.2d at 236-37. Under Florida law, the judgment was valid for 20 years from the date of entry. See *id.* at 480, 517 S.E.2d at 236 n. 2. The *Abba Equipment* Court held that S.C. Code § 15-3-600 barred the IA's enforcement of the judgment even though the Florida judgment was still valid under Florida law when it was filed in South Carolina in 1996 (and even in 1999 when the Court of Appeals issued its opinion). See *id.* at 483, 517 S.E.2d at 238.

¹ The revival in this case could not be a new judgment since, as set forth above, the Connecticut Superior Court had already found that it lacked personal jurisdiction over Mr. Lancia to issue a new judgment.

The revival of the Judgment was merely a continuation of the validity of the Judgment in Connecticut. Thus, it is no different than the Florida judgment in *Abba Equipment, Inc.*, which continued to be valid in Florida. As such, the Judgment is barred by the statute of limitations in South Carolina Code § 15-3-600, just like the judgment in *Abba Equipment, Inc.*

Nor does the Full Faith and Credit clause require that the 1994 Connecticut judgment be enforced in South Carolina at this late date. The Connecticut legislation that resulted in § 52-598(c)—and which appeared to be targeted directly at the judgment at issue in this case—accomplished practically little if anything. See *Investment Assoc.*, 74 A.3d at 1199. The Supreme Court has succinctly expressed the controlling principle: "Full faith and credit, however, does not mean that states must adopt the practices of other states regarding the time, manner and mechanisms for enforcing judgments. Enforcement measures do not travel with the sister state judgments as preclusive effects do; such measures remain subject to the even-handed control of forum law." *Baker v. General Motors Corp.*, 522 U.S. 222, 235 (1998). Thus, while ~~states may not at any time refuse to give full faith and credit to the res judicata effect of a foreign~~ state judgment, they may refuse to enforce a money judgment that is filed too late as determined by the forum state's neutral laws. *Adar v. Smith*, 639 F.3d 146, 159 (5th Cir. 2011) (requirement of Full Faith and Credit clause that judgments be enforced by "even-handed" control of forum law "means only that the state execute a sister state's judgment in the same way it would execute judgments in the forum court.")

There is an apparent exception which only the legal mind could conjure: if the issuing state "revives" the judgment and the effect of the revival is to create a "new" judgment rather

than merely a "continuation" of the old, then the "new" judgment restarts the clock for enforcement in both the issuing state and all other states.²

By reviving its judgment pursuant to § 52-598(c) in 2010, IA did not obtain a "new" judgment. Indeed, the Connecticut Supreme Court repeatedly deems it a "continuation":

- A "motion to revive under § 52-598(c) is effectively a continuation of the original action rather than a new action." 74 A.3d at 1201.
- "As we continue to underscore, a proceeding to revive a judgment is a continuation of the original action." 74 A.3d at 1207.

To be sure, the Connecticut decision, far from a model of clarity, does state that "the manifest purpose of revival under § 52-598(c) is to create a new judgment for the purpose of meeting a foreign jurisdiction's time limit for enforcement." 74 A.3d at 1200. Yet in the very next paragraph and an accompanying footnote it notes that the nature of the revival "may" be important for full faith and credit purposes, and that "a proceeding to revive a judgment generally is viewed a continuation of the original action, and not a new action." 74 A.3d at 1200-1201 & n. 8. It is also telling that nowhere in § 52-598(c) does the word "new" appear.

It seems as though by passing § 52-598(c) the Connecticut legislature was attempting to thread a needle imagined by Comment (c) to § 118 of The Restatement (Second) of Conflict of Laws, which suggests that although a valid judgment rendered in a state may be denied enforcement in a sister state if suit on the judgment is barred by the sister state's statute of limitation applicable to judgments, a different result ensues under the Full Faith and Credit

² As the Connecticut Supreme Court discerned, the "revival" versus "new" distinction arose in states where judgments can go dormant. 74 A.3d at 1199 n. 6. The dormancy creates a presumption that the judgment was satisfied, which can be rebutted by revival. Connecticut, however, is not one of these states. This may explain the awkwardness of the Connecticut Supreme Court opinion, which attempts to fathom the legislative intent behind § 52-598(c)'s provision that a Connecticut judgment which has never expired or become dormant somehow can still be "revived."

clause if the judgment is "revived": "If under the local law of the State of rendition the effect of this revival is to create a new judgment, then suit on this judgment may not be held barred under full faith and credit in the sister State. The contrary will be true, however, if the effect of the revival in the State of rendition is not to create a new judgment but rather to prolong the effective life of the original judgment." *Id.*³

Even if this conundrum were resolved by treating the expressly "revived" judgment as an entirely "new" judgment (a transformation customarily spun by the world of advertising rather than the annals of law), this court still finds it does not offend the Full Faith and Credit clause for South Carolina to bar enforcement based on its ten (10) year statute of limitations. The clear import of *Baker v. General Motors Corp.*, *supra*, is that states may enforce judgments according to their own statute of limitations periods, so long as they are "even handed." This is highlighted by *Baker's* reliance on § 99 of the Restatement (Second) of Conflicts of Laws ("The local law of the forum determines the methods by which the judgment of another state is enforced") and its own 1839 precedent that a "judgment may be enforced only as 'laws [of enforcing forum]' may

³ The tension can be traced to two anomalous mid-20th century cases. In *Union Nat. Bank of Wichita v. Lamb*, 337 U.S. 38 (1949), Bank obtained a judgment against Lamb in Colorado in 1927, which was revived in 1945 in that state. Bank then brought an action in Missouri against Lamb in 1945 to enforce the judgment. The Missouri Supreme Court refused to enforce it, citing its statutory law that limited a judgment to 10 years from original rendition or 10 years after revival, but also provided that no judgment could be revived 10 years after its rendition. The United States Supreme Court in a 6-3 opinion reversed, holding that the 1945 revival constituted a "new" judgment according to Colorado law. 337 U.S. at 44-46.

In *Watkins v. Conway*, the Court held that a Georgia statute that limited enforcement of foreign judgments to 5 years (a period shorter than that afforded to domestic Georgia judgments) did not violate either the Full Faith and Credit or the Equal Protection clauses because the judgment holder could have revived the judgment under Florida law for 20 years after its rendition. The Court did not cite *Lamb* or even discuss whether the revival constituted a new judgment or merely a continuation of the original.

Lamb and *Watkins* offer scant guidance. Arguably both cases assumed that the revival by the rendering state created a "new" judgment. Indeed, *Lamb* ends expressly with this assumption. *Lamb*, 337 U.S. at 45 (Missouri Supreme Court decision "cannot stand if, as assumed, the Colorado judgment had the force and effect of a new one."). But here, we have the guidance of the Connecticut Supreme Court that the revival was merely a continuation of the original judgment and not a new action. More importantly, we have the pronouncements of the United States Supreme Court in *Baker* and *Sun Oil Co. v. Wortman*, 486 U.S. 717 (1988), which likely rendered *Lamb* and *Watkins* obsolete.

permit." *Baker*, 522 U.S. at 235 (quoting *McElmoyle ex rel. Bailey v. Cohen*, 13 Pet. 312, 325, 10 L.Ed. 177 (1839)); *See also Carter v. Carter*, 232 Va. 166, 349 S.E.2d 95 (1986) (1981 action filed in Virginia to enforce 1964 Florida judgment, which went dormant in 1967 but revived in 1977 by Florida law as "continuation", barred by Virginia's 10 year statute of limitations); *Mundaca Fin. Servs. LLC v. Casella*, 2011 WL 883506 (N.C. Ct. App. 2011) (unpublished) (cited by Connecticut Supreme Court).

The legislative history of § 52-598(c) illuminates the true objectives driving the legislation. The statute enacted a Bill entitled "An Act Concerning the Time Limit for Enforcing a State Court Judgment in a Foreign Jurisdiction." *See* 74 A.3d at 1199. Such a law must yield to the command in *Baker* that "[e]nforcement measures do not travel with sister state judgments..." but instead are decided by the law of the forum state. *Baker*, 522 U.S. at 235. Certainly statutes of limitations for enforcement of judgments are procedural rules which states may promulgate without fear of violating Full Faith and Credit. *Sun Oil Co. v. Wortman*, 486 U.S. 717, 722 (1988) (Full Faith and Credit clause does not compel "a state to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate.") (citation omitted). The Connecticut Supreme Court acknowledged as much in reverse, finding § 52-598(c) to be a procedural rule that "obviously does not alter the foreign jurisdiction's law with respect to the period of enforcement." 74 A.3d at 1210.

The application of South Carolina's statute of limitations on foreign judgments comports with the Full Faith and Credit clause since actions on foreign and South Carolina judgments alike must be maintained within ten (10) years. In South Carolina, proceedings to execute on a South Carolina judgment must be brought within ten (10) years. S.C. Code Ann. § 15-39-30; *see also Linda Mc Company, Inc. v. Shore*, 390 S.C. 543, 554-55, 703 S.E.2d 499, 505 (2010). South

Carolina judgments "cannot be renewed" or revived. *See LaRosa v. Johnston*, 328 S.C. 293, 300, 493 S.E.2d 100, 103 (Ct. App. 1997) *overruled in part as stated in Linda Mc Company, Inc.*, 390 S.C. at 554-55 n. 8, 703 S.E.2d at 505 n. 8; *Home Port Rentals, Inc. v. International Yachting Group*, 95 F.Supp.2d 623, 624 (W.D. La. 2000) ("South Carolina courts interpret [S.C. Code § 15-39-30] to mean what it says: a judgment is utterly extinguished ten years from the date of entry. There is no procedure for renewal or revival.").

South Carolina already affords foreign judgments greater rights than South Carolina judgments since a foreign creditor could file the foreign judgment in South Carolina within ten years, at which point the foreign judgment would then be valid for ten (10) years after enrollment in South Carolina. *See Commercial Credit Loans, Inc. v. Riddle*, 334 S.C. 176, 512 S.E.2d 123 (Ct. App. 1999) (holding that the 10-year period in S.C. Code § 15-39-30 begins to run when the creditor enrolls the judgment in South Carolina rather than when it obtained the judgment).⁴ As a result a foreign judgment could continue to be valid in South Carolina for longer than a judgment actually rendered in South Carolina. Consequently, the application of South Carolina Code § 15-3-600 to bar this action is in line with the Full Faith and Credit Clause. *See Great Western Tel. Co. v. Purdy*, 162 U.S. 329, 338 (1896) (holding that Iowa statute of limitations was proper since "[n]either the statutes nor the decisions of the State of Iowa upon this subject have made any discrimination against the citizens, the contracts or the judgments of other States, or against any right asserted under the Constitution or laws of the United States."); *Suter v. Suter*, 37 S.E.2d 474 (W. Va. 1946) ("we do not think that, under the full faith and credit clause of our Federal Constitution, a court of any state is required to give to the decree of a court of a foreign state, a higher degree of force or effect than that accorded to the decrees of its own courts.").

⁴ IA did not file the Connecticut judgment in South Carolina before its purportedly alchemic 2010 "revival."

Statutes of limitations are scrupulously applied in this State. They perform an essential role in the administration of justice by providing finality and closure. *See Ariail v. Ariail*, 29 S.C. 84, 93, 7 S.E. 35, 40 (1888) ("The statute of limitations may sometimes work a great hardship in special cases; but under the principle that litigation and contention must have an ending, and that the repose and quiet of the many compensates for the loss of the few, such statutes have been adopted and strictly enforced in most countries, as wise, and as contributing to the best interests of society. Such is the doctrine in this state."). *Moates v. Bobb*, 322 S.C. 172, 176, 470 S.E.2d 402, 404 (Ct. App. 1996) delineated the public policy considerations that statutes of limitations embody: "they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs." Statutes of limitations serve to achieve "the laudable goal of law to promote and achieve finality in litigation." *Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 175, 609 S.E.2d 548 (Ct. App 2005). They provide defendants with certainty of when they can no longer be haled into court and discourage parties from sitting on their rights, and thus, "are, indeed, fundamental to our judicial system." *Id.*

If South Carolina were to consider revived judgments from the date of revival, then a creditor could potentially "revive" a judgment in the rendering state continuously, in which case there would effectively be no statute of limitations in South Carolina on foreign judgments. As set forth above, this is not the law and creditors cannot sit on their rights as IA did here. Even though no discovery rule applies in this case, IA knew, or should have known, that Lancia was living in South Carolina by 1993 at the latest. Lancia was receiving legal documents addressed to him in South Carolina in 1993, including in actions to which IA was a party. Yet IA waited until nearly twenty (20) years after obtaining its Judgment to file it in South Carolina. Its action on the Judgment is consequently barred by the statute of limitations.

IT IS THEREFORE ORDERED that this action be dismissed, that the foreign judgment at issue is unenforceable in South Carolina, that the foreign judgment be stricken from the Rolls and index, and that any attempts to enforce the foreign judgment in South Carolina be terminated. Furthermore, in accordance with the Consent Order Merging Cases entered July 29, 2014 by Judge G. Edward Welmaker, this Order shall apply to bar enforcement of the Judgment in civil action number 2014-CP-23-02705.

IT IS SO ORDERED.

D. Garrison Hill

D. Garrison Hill
Circuit Judge

August 5, 2014
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

Case No. 2014-CP-23-00515

Investment Associates, ... Appellant,

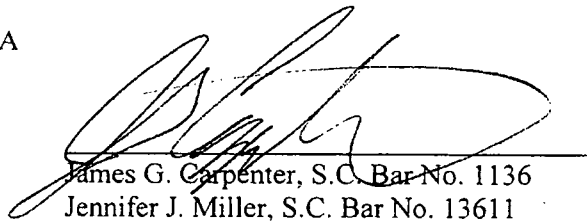
v.

Joseph D. Lancia, ... Respondent.

Certificate of Service

The undersigned attorney hereby certifies that he served a copy of the foregoing Notice of Appeal on counsel for Respondents by US Mail, postage prepaid on Friday, September 05, 2014 to the following persons:

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FILED-CLERK OF COURT
 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
 GREENVILLE CO. S.C. THIRTEENTH JUDICIAL CIRCUIT
 COUNTY OF GREENVILLE PAUL B. WICKENSIMER

2014 JUL 29 PM 3 19
 INVESTMENT ASSOCIATES,) C.A. No. 2014-CP-23-02705
)
 Plaintiff,) **CONSENT ORDER MERGING CASES**
)
 vs.)
)
 JOSEPH D. LANCIA)
)
 Defendant.)
 _____)

This matter comes before the Court on Defendant's Motion to Dismiss and/or Motion for Relief from Foreign Judgment. Plaintiff filed the above-captioned action against Defendant Joseph D. Lancia ("Lancia") on May 15, 2014 seeking to enforce a foreign judgment pursuant to S.C. Code § 15-35-950¹ that was entered in the State of Connecticut Superior Court, number CV091-0309954, on May 17, 1994 (hereinafter the "Judgment"). This action is a common law action to enforce the Judgment and is not an enforcement action being pursued under the Uniform Enforcement of Foreign Judgments Act, S.C. Code §§15-35-900, et. seq. ("UEFJA").

Prior to the present action, Plaintiff had already filed and is currently pursuing enforcement of the Judgment pursuant to the UEFJA. Specifically, on January 28, 2014, Plaintiff filed the Judgment with the Greenville County clerk of court along with a Notice of Filing of Foreign Judgment pursuant to S.C. Code § 15-35-920, and served Lancia with the Judgment and Notice of Filing Foreign Judgment pursuant to S.C. Code §15-35-930 (hereafter the "UEFJA Action"). The UEFJA Action bears civil action number 2014-CP-23-00515.

¹ S.C. Code § 15-35-950 provides that "[t]his article [the Uniform Enforcement of Foreign Judgments Act] may not be construed to impair a judgment creditor's right to bring a civil action in this State to enforce the creditor's judgment."

SCANNED

ENTERED COMPUTER

Pursuant to S.C. Code § 15-35-940, Lancia timely filed a Motion for Relief From, and Notice of Objections to, Foreign Judgment in the UEFJA Action. Lancia asserted several defenses and objections in that motion, including, without limitation, that enforcement of the Judgment is barred by the ten (10) year statute of limitations contained in S.C. Code § 15-3-600, that the Judgment is void for lack of personal jurisdiction, that the Judgment is void for lack of subject matter jurisdiction, and other defenses. On April 2, 2014, a hearing was held before the Honorable D. Garrison Hill on Lancia's Motion for Relief From, and Notice of Objections to, Foreign Judgment, with counsel for both parties in attendance. After the hearing Judge Hill in written correspondence to counsel stated that "Defendant's motion for relief from foreign judgment is granted" and that "a 1994 Connecticut judgment cannot circumvent South Carolina's 10 year statute of limitations found in §15-3-600." However, to date no formal order has been entered on Lancia's Motion for Relief in the UEFJA Action. That matter is still pending.²

Lancia timely filed the Motion to Dismiss and/or Motion for Relief from Foreign Judgment in the present action. In that Motion, Lancia asserts the same defenses that Lancia asserted in the UEFJA Action. In addition, Lancia asserts that the present action should be dismissed pursuant to Rule 12(b)(8), SCRPC, on the grounds that "another action is pending between the same parties for the same claim." Specifically, Lancia asserts that the present action should be dismissed because the UEFJA Action is already pending and is between the same parties (Plaintiff and Lancia) for the same claim.

A hearing on Lancia's Motion to Dismiss and/or Motion for Relief from Foreign Judgment in the present action was held on July 24, 2014. At the hearing, counsel for the parties

² In issuing this particular Order, this Court is not weighing in on the merits of the statute of limitations defense, but notes that *if* the Judgment is barred by the statute of limitations found in S.C. Code § 15-3-600 as is indicated by Judge Hill's letter to counsel, then the foreign judgment would be barred regardless of whether it is pursued under the UEFJA or in a common law action. See *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999); *Payne v. Claffy*, 281 S.C. 385, 315 S.E.2d 814 (Ct. App. 1984).

informed the Court that they had reached an agreement to merge this case into the UEFJA Action, which bears civil action number 2014-CP-23-00515. For the reasons cited by counsel, this Court accepts the proposed merger agreement and hereby orders that this action be merged into the UEFJA Action, Civil Action Number 2014-CP-23-00515, as set forth below.

NOW, THEREFORE, WITH THE CONSENT OF THE PARTIES HERETO, IT IS HEREBY ORDERED:

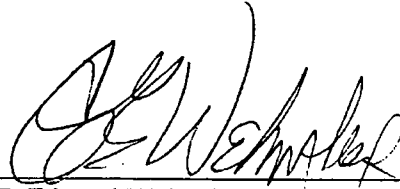
1. The present action, which bears civil action number 2014-CP-23-02705, including all of the claims, causes of action, defenses, and filings asserted herein, shall be, and is hereby, merged and subsumed into the case bearing civil action number 2014-CP-23-00515, which is pending in the Greenville County Court of Common Pleas and styled *Investment Associates v. Joseph D. Lancia*. The present action is hereby ended and taken off the civil roster. The surviving action shall bear civil action number 2014-CP-23-00515. As such:
 - a. All of the defenses asserted by Lancia in the present action and the UEFJA Action shall apply to the claims in both the present action and the UEFJA Action (civil action number 2014-CP-23-00515).
 - b. Any and all orders in the case bearing civil action number 2014-CP-23-00515, including without limitation the forthcoming order on Defendant's Motion for Relief From, and Notice of Objections to, Foreign Judgment in that action, shall apply equally to the claims and defenses in the present action, civil action number 2014-CP-23-02705. Thus, if Judge Hill issues an order in the UEFJA Action, civil action number 2014-CP-23-00515, finding that enforcement of the Judgment is barred by the ten (10) year

statute of limitations contained in S.C. Code § 15-3-600, then such order shall apply to bar enforcement of the Judgment in the present action (number 2014-CP-23-02705).

2. By agreeing to merge these two actions into civil action number 2014-CP-23-00515, Lancia is not waiving any defenses to any claims in either the UEFJA Action, civil action number 2014-CP-23-00515, or the present action, civil action number 2014-CP-23-02705,.
3. This Order is not intended to address the merits of the claims or defenses asserted in the present action or the UEFJA Action. This Order is not a denial or granting of Lancia's Motion to Dismiss and/or Motion for Relief from Foreign Judgment. The defenses and arguments asserted in Lancia's Motion to Dismiss and/or Motion for Relief from Foreign Judgment are not being ruled upon in this Order. Rather, since the defenses and arguments in Lancia's Motion to Dismiss and/or Motion for Relief from Foreign Judgment are identical to those asserted in the UEFJA Action (civil action number 2014-CP-23-00515), the orders in the UEFJA Action, including the forthcoming order on Lancia's Motion for Relief in the UEFJA Action, shall address the merits of those claims and defenses. Lancia, having properly filed a motion pursuant to Rule 12(B) SCRCF, will not be considered to be in default for failure to provide a further Answer, Motion, or Pleading in response to the complaint filed in the present action since Lancia's Motion to Dismiss and/or Motion for Relief from Foreign Judgment is still pending and his defenses are set forth therein and in his Motion for Relief From, and Notice of Objections to, Foreign Judgment in the UEFJA Action.

AND IT IS SO ORDERED.

Dated: July 25, 2014

A handwritten signature in black ink, appearing to read "G. Edward Weimaker", written over a horizontal line.

G. Edward Weimaker, Judge
Thirteenth Judicial Circuit

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

Investment Associates

FILED-CLERK OF COURT

GREENVILLE CO. S.C.

PAUL B. WICKENSIMER

JUDGMENT IN A CIVIL CASE

CASE NUMBER 2014CP2302705

2014 JUL 29 PM 3 19

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

7/29/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on 29th day of July, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 29th day of July, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Randy A. Skinner Skinner Law Firm LLC 300 North Main
Street Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

W. Francis Marion Jr. Haynsworth Sinkler Boyd, P.A. P.O.
Box 2048 Greenville, SC 29602
Denny Parker Major Haynsworth Sinkler Boyd, P.A. P.O.
Box 2048 Greenville, SC 29602

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

INVESTMENT ASSOCIATES

Plaintiff(s)

vs.

JOSEPH D. LANCIA

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP-23-00515

Submitted By: Jason M. Ward
Address: Skinner Law Firm, LLC
300 N. Main St.- Suite 201 Greenville SC 29601

SC Bar #: 100782
Telephone #: 864-232-2007
Fax #: 864-232-8496

Other:
E-mail: jward@skinnerlawfirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

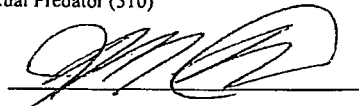
DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ Employment (120) ☐ General (130) ☐ Breach of Contract (140) ☐ Other (199)	Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) Previous Notice of Intent Case # 20 -CP- ☐ Notice/ File Med Mal (230) ☐ Other (299)	Torts - Personal Injury ☐ Assault/Slander/Libel (300) ☐ Conversion (310) ☐ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☐ Wrongful Death (360) ☐ Other (399)	Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☐ Other (499)
Inmate Petitions ☐ PCR (500) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599)	Administrative Law/Relief ☐ Reinstate Drv. License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture-Petition (840) ☐ Forfeiture-Consent Order (850) ☐ Other (899)	Judgments/Settlements ☐ Death Settlement (700) ☒ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Transfer of Structured Settlement Payment Rights Application (760) ☐ Confession of Judgment (770) ☐ Petition for Workers Compensation Settlement Approval (780) ☐ Other (799)	Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCDOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Public Service Comm. (990) ☐ Employment Security Comm (991) ☐ Other (999)
Special/Complex /Other ☐ Environmental (600) ☐ Automobile Arb. (610) ☐ Medical (620) ☐ Other (699)	☐ Pharmaceuticals (630) ☐ Unfair Trade Practices (640) ☐ Out-of State Depositions (650) ☐ Motion to Quash Subpoena in an Out-of-County Action (660) ☐ Sexual Predator (510)		

Submitting Party Signature: 

Date: 01/28/2014

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Investment Associates)
)
Plaintiff,)
)
vs.)
)
Joseph D. Lancia)
)
Defendant.)
)

IN THE COURT OF COMMON PLEAS

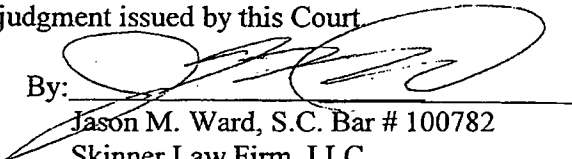
2014-CP -23-00515

NOTICE OF FILING OF JUDGMENT

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENS
JAN 28 PM 11:22

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED that the judgment attached hereto, rendered against you in the Superior Court of New Haven, State of Connecticut in the matter entitled "Investment Associates v. Summit Associates, et. al" bearing Case No. CV091-0309954 S, has been filed with the Clerk of Court for the County of Greenville, State of South Carolina. You may seek relief from the enforcement of this judgment within thirty (30) days of the service of this notice by serving your grounds therefore upon the Clerk of Court for Greenville County and the undersigned attorney for the Plaintiff at his office located at 300 North Main Street Suite 201A Greenville SC 29601). Should you fail to either seek such relief or satisfy the judgment within such period, the judgment will be enforced in this State in the same manner as a judgment issued by this Court

By: 

Jason M. Ward, S.C. Bar # 100782
Skinner Law Firm, LLC
300 N. Main St. Suite 201
Greenville, SC 29601
Telephone: 864-232-2007
Facsimile: 864-232-8496
Email jward@skinnerlawfirm.com

Date: 1/28, 2014

Greenville, South Carolina

Attorneys for Investment Associates

STATE OF CONNECTICUT
JUDICIAL DISTRICT OF NEW HAVEN
SUPERIOR COURT

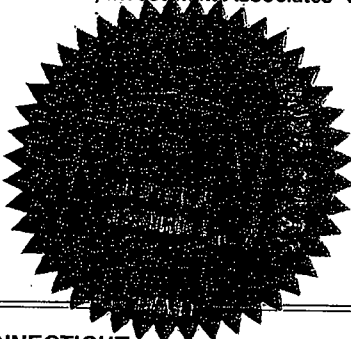
EXEMPLIFIED COPY



www.jud.ct.gov

I, Louis Fagnani, Deputy Chief Clerk of the Superior Court within and for said Judicial District, in the State of Connecticut, and keeper of the records and seal thereof, hereby certify that the above and foregoing is a true copy of

the Judgment entered by the Court, (Frank Meadow, J) on May 17, 1994 as on file in the records of this Court in the matter of CV91 030 9954, Investment Associates vs Summit Associates, Inc.



In testimony whereof I hereunto set my hand and affix the seal of said Court at New Haven in said Judicial District and State on (date): 1/14/14

Clerk

STATE OF CONNECTICUT
JUDICIAL DISTRICT OF NEW HAVEN } ss. New Haven, CT

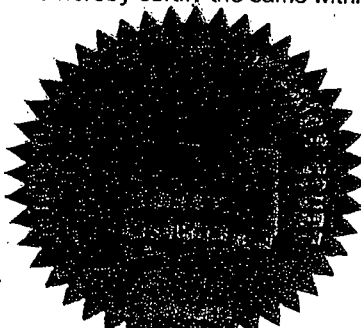
I, Angela C. Robinson Presiding Judge of the Superior Court for the State of Connecticut, in said Judicial District, do hereby certify that Louis Fagnani whose name is above written and subscribed, is and was at the date thereof Deputy Chief Clerk of said Superior Court duly appointed, commissioned and sworn, and keeper of the records and seal thereof, and that the above certificate, and attestation of record thereof, is in due form of law.

In testimony whereof I have hereunto set my hand on (date): 1/14/14

Presiding Judge, Superior Court

STATE OF CONNECTICUT
JUDICIAL DISTRICT OF NEW HAVEN } ss. New Haven, CT

I, Louis Fagnani, Deputy Chief Clerk of the Superior Court of the State of Connecticut, within and for said Judicial District, and keeper of the seal thereof, hereby certify that the Honorable Angela C. Robinson whose name is within written and subscribed, was on the day of 1/14/14 and now is Presiding Judge of said court, duly appointed, commissioned, and sworn, and qualified; and that I am well acquainted with the above-named individual's handwriting and official signature and know and hereby certify the same within written to be said individual's.



In testimony whereof I hereunto set my hand and affix the seal of said court at New Haven in said Judicial District and State on (date): 1/14/14

Clerk

STATE OF CONNECTICUT

CV091-0309954 S

SUPERIOR COURT

INVESTMENT ASSOCIATES
Northford, CT

JUDICIAL DISTRICT

OF NEW HAVEN

VS

AT NEW HAVEN

SUMMIT ASSOCIATES, INC.
Branford, CT
NED B. WILSON
Branford, CT
JOSEPH D. LANCIA
Old Saybrook, CT

MAY 17, 1994

PRESENT: Hon. Frank Meadow, Judge Trial Referee

JUDGMENT

This Action by writ and complaint, as amended, claiming damages came to this Court on February 5, 1991, thence to later dates when the defendant appeared, file answers and special defenses, when the plaintiff filed a reply to special defenses, and when said action was claimed to the non-jury trial list, thence to the present time when the parties appeared.

The court, having heard the parties, finds the plaintiff has sustained damages as alleged in the complaint in the amount of \$272,530.03.

Whereupon it is adjudged that the plaintiff recover of the defendants \$272,530.03 damages plus costs taxed at \$201.20.

BY THE COURT

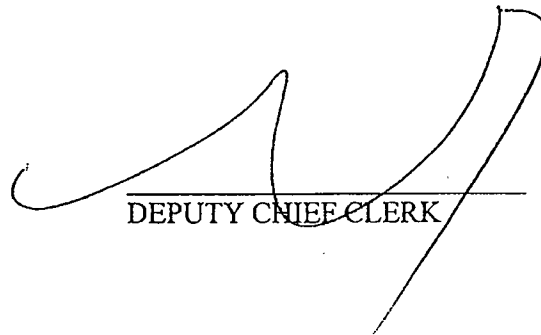


Deputy Chief Clerk

FILED-CLERK OF COURT
GREENVILLE, CT, S.C.
PAUL B. WICKENS/NER
2019 JAN 28 AM 11 53

Thereafter on October 6, 2009 the plaintiff filed a Motion to Revive Judgment pursuant to section 52-598(c) of the Connecticut General Statutes, thereafter the defendant Joseph Lancia filed a Motion to Dismiss the Motion to Revive. The Court (A. Robinson, J.) having heard argument granted the Motion to Revive Judgment and denied the Motion to Dismiss the Motion to Revive on March 4, 2010.

BY THE COURT



DEPUTY CHIEF CLERK

30954

SUPREME COURT
STATE OF CONNECTICUT

NO. S.C. 18910

INVESTMENT ASSOCIATES

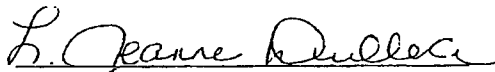
v.

SUMMIT ASSOCIATES, INC., ET AL. : NOVEMBER 13, 2013

ORDER

THE MOTION OF THE DEFENDANT, FILED OCTOBER 7, 2013, FOR
RECONSIDERATION/RE-ARGUMENT AND/OR RECONSIDERATION/
RE-ARGUMENT EN BANC, HAVING BEEN PRESENTED TO THE COURT, IT IS
HEREBY ORDERED DENIED.

BY THE COURT,


L. JEANNE DULLEA
ASSISTANT CLERK-APPELLATE

NOTICE SENT: NOVEMBER 14, 2013
HON. ANGELA C. ROBINSON
CLERK, NEW HAVEN SUPERIOR COURT, (CV91-0309954S)
ROME MCGUIGAN, PC
BERDON, YOUNG & MARGOLIS
REPORTER OF JUDICIAL DECISIONS
ct

130189

162

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Investment Associates)
)
Plaintiff,)
)
vs.)
)
Joseph D. Lancia)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

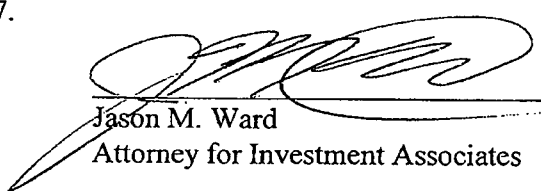
2014-CP-23-00515

AFFIDAVIT OF JASON M. WARD

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WIGGINS
JAN 28 AM 11:52

PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED, Jason M. Ward, who
being first duly sworn, deposes, and says:

1. The attached Exemplification of Judgment against Joseph D. Lancia, Case No.: CV091-0309954 S, is filed with the Superior Court of New Haven, State of Connecticut. The Judgment is final and said Judgment is unsatisfied in whole and has not been contested.
2. That neither the Plaintiff, nor the attorney, has received any payments to apply to the judgment amount. An accounting of the amount due and owing is attached hereto as "Exhibit A".
3. As ordered, Defendant Joseph D. Lancia, owes the Plaintiff the total amount of Two Hundred Seventy Two Thousand Five Hundred Thirty and 03/100 (\$272,530.03) Dollars, plus costs awarded of Two Hundred One and 20/100 (\$201.20) Dollars, plus post-judgment interest at the statutory rate since the Judgment was filed on May 17, 1994.
4. That the last known address for Joseph D. Lancia is 109 Thornblade Boulevard, Greer, SC 29650-4427.


Jason M. Ward

Attorney for Investment Associates

SWORN to before me this
28th day of January, 2014.

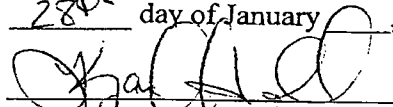

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 12-22-21

EXHIBIT A

Investment Associates v. Summit Associates, et. al.

Original Judgment Dated May 17, 1994 \$ 272,731.23

Post Judgment Interest at 10% Statutory Rate \$ 537,616.77

Yearly: $\$272,731.23 \times .10 = 27,273.12$

Daily: $27,273.12 / 365 = \$74.72$

Days since Judgment: 7,195

Total Interest Since Judgment: $74.72 \times 7195 = \$537,616.77$

Costs of Collection: \$ 13,550.00

Total Owed: \$ 823,898.00

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Investment Associates,
☐ Plaintiff

v.

Joseph D. Lancia,
☐ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.
2014-CP-23-00515

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:
Jason M. Ward, Bar No. 100782
Address:
Skinner Law Firm, LLC
300 N. Main St., Suite 201, Greenville, SC 29601
phone: 864.232.2007 fax: 864.232.8496
e-mail: jward@skinnerlawfirm.com other:

Defendant's Attorney:
Denny P. Major, Bar No. 74907
Address:
Haynsworth Sinkler Boyd, P.A.
Post Office Box 2048, Greenville, SC 29602-2048
phone: 864.240.3296 fax: 864.240.3336
e-mail: dmajor@hsblawfirm.com other:

- ☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

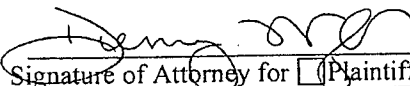
SECTION I: Hearing Information

Nature of Motion: Motion for Relief from and Notice of Defenses to Foreign Judgment
Estimated Time Needed: 30 mins. Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☐ Plaintiff / ☒ Defendant

February 18, 2014
Date submitted

SECTION III: Motion Fee

- ☒ PAID - AMOUNT: \$25.00
☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support
(check reason) ☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCF)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

JUDGE

CODE: _____ Date: _____

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

- ☐ MOTION FEE COLLECTED: _____
☐ CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
INVESTMENT ASSOCIATES,	)	C.A. No. 2014-CP-23-00515
	)	
Plaintiff,	)	
	)	MOTION FOR RELIEF FROM AND
vs.	)	NOTICE OF DEFENSES TO FOREIGN
	)	JUDGMENT
JOSEPH D. LANCIA	)	
	)	
Defendant.	)	
	)	

PLEASE TAKE NOTICE that, pursuant to S.C. Code Ann. § 15-35-940, Defendant Joseph D. Lancia (Lancia) hereby moves for relief from, and gives notice of his defenses to, the Notice of Filing of Foreign Judgment filed by Investment Associates (IA) on January 28, 2014 with the Clerk of Court in Greenville County. Lancia seeks an order striking the foreign judgment, finding that the foreign judgment is void and unenforceable, dismissing this action, and terminating any attempts to enforce the foreign judgment. While Lancia believes that all matter raised to dismiss the action are legal in nature and should be decide by the court, should the court determine a question of material fact exists, a jury is requested to decide such facts. Lancia's defenses, and the grounds for this motion, are set forth herein.

I.

**Enforcement of the Foreign Judgment Is Barred
by the Statute of Limitations, S.C. Code Ann. Section 15-3-600**

1. The Foreign Judgment at issue (hereafter the "Judgment") IA attempts to enforce is barred by South Carolina Code Ann. § 15-3-600 because more than ten (10) years have passed since South Carolina became empowered to adjudicate this dispute. See Abba Equipment, Inc. v.

*see sp' motion
Cmn*

Thomason, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999). The undisputed record which bars enforcement is as follows:

- a. The Judgment was entered in the State of Connecticut Superior Court, number CV091-0309954, on May 17, 1994.
- b. Lancia moved to South Carolina, in 1992 and has been a resident of South Carolina since August 1992. (Lancia Aff., **Exh. 1**). Lancia and his family have resided at the address of 109 Thornblade Blvd, Greer, South Carolina continuously since August 1992 and has been active in the Greenville County, South Carolina community ever since. (*See id.*). Lancia's affidavit discusses Lancia's South Carolina residency and some of his South Carolina activities.
- c. IA did not file or seek to enforce the Judgment in South Carolina until January 28, 2014, more than ten (10) years (nearly 20 years) after Lancia became a South Carolina resident and the courts of South Carolina became empowered to adjudicate this dispute. The ten (10) year period began to run in 1994, at the latest, and expired in 2004. Consequently, enforcement of the Judgment is barred by South Carolina Code Ann. § 15-3-600.

II.

The Granting of the Motion to Revive Judgment Does Not Alter the Application of South Carolina Code Section 15-3-600

2. The granting of the motion to revive the judgment pursuant to Conn. Gen. Stat. 52-598(c) does not alter the bar of the ten year statute of limitations in South Carolina Code Ann. § 15-3-600 for the following reasons:

- a. As indicated in the attachments to the Notice of Filing of Judgment, IA filed a Motion to Revive Judgment pursuant to section 52-598(c) of the Connecticut General Statutes in the Connecticut Superior Court on October 6, 2009. That motion was granted on March 4, 2010.

Sub-section 52-598(c) of the Connecticut General Statutes, which was added in 2009, provides:

With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.

A revived judgment under section 52-598(c) of the Connecticut General Statutes is a continuation of the original judgment in Connecticut and is not a new judgment.¹ See Investment Assoc. v. Summit Assoc., Inc., 74 A.3d 1192, 1201 (Conn. 2013). Consequently, it is barred under South Carolina Code Ann. § 15-3-600. See Abba Equipment, Inc. v. Thomason, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999) (holding that a Florida judgment entered in Florida in 1983 and filed in South Carolina in 1996 against the defendant who became a South Carolina resident in 1985 was barred by S.C. Code Ann. § 15-3-600 even though the judgment was valid 20 years under Florida law); Owens v. Henry, 161 U.S. 642, 646 (1896) (holding that the revival of a

¹ In response to the motion to revive the Judgment in the Connecticut Superior Court, Lancia argued, among other things, that the Court lacked personal jurisdiction over Lancia since he had become a resident in S.C. in 1992 and lacked contacts with Connecticut. The Court rejected this argument on the grounds that the motion to revive is a continuation of the original judgment rather than a new action or new judgment, therefore there need not be personal jurisdiction. The Connecticut Superior Court's ruling was affirmed by the Connecticut Supreme Court See Investment Assoc. v. Summit Assoc., Inc., 74 A.3d 1192 (Conn. 2013). Lancia raises this as a defense to the extent this court views the revival as a renewal rather than a continuation.

judgment in Pennsylvania “had no binding force in Louisiana” due to lack of personal jurisdiction when viewed as a new judgment and when viewed as a continuation of the prior action, “operated merely to keep in force the local lien, and could not be availed of as removing” Louisiana’s 10 year statute of limitations);² Mundaca Fin. Servs. LLC v. Casella, 2011 WL 883506, 2011 N.C. App. LEXIS 471, N.C. App. No. COA10-714 (N.C. Ct. App. March 15, 2011) (holding that the plaintiff’s 2009 revival of a New Jersey judgment in New Jersey was merely a continuation of the prior action and “did not constitute a new judgment,” and reversing the trial court’s determination that the judgment was filed within North Carolina’s ten year statute of limitations) (unpublished).

- b. The Judgment is ineffective for the additional reason that it was not revived until after the ten (10) year time period in S.C. Code § 15-3-600 expired.

III.

**If Investment Associates Argue That The Judgment Is A “Revived Judgment”,
Then The Judgment Is Unenforceable Because Connecticut Lacked
Personal Jurisdiction Over Lancia**

3. In 2007, IA commenced a separate action in Connecticut solely against Lancia to enforce the Judgment. Lancia moved to dismiss for lack of personal jurisdiction. By decision dated May 5, 2008, the court granted Lancia’s motion to dismiss and found that Connecticut lacked personal jurisdiction over Lancia. A true and accurate copy of that decision is attached hereto as **Exhibit 2**. IA did not appeal that decision, and the time period for doing so has expired. Consequently, there is no question that the courts of Connecticut lacked personal

² Similarly, here, the revival of the Judgment in this case fails for lack of personal jurisdiction to the extent it is viewed as a new case. This argument is set forth below.

jurisdiction over Lancia as of at least 2007 and lacked personal jurisdiction over Lancia when the motion to revive was granted. Thus, the revived Judgment is ineffective and unenforceable.

4. The Judgment is clearly ineffective and unenforceable to the extent the revival is viewed as a renewal rather than a continuation. If the revival is viewed as a continuation, then it is clearly barred by the statute of limitations as set forth above. Either way, the Judgment is clearly unenforceable. See Owens, 161 U.S. at 646.

IV.

Additional Defenses

5. Lancia submits that the above defenses are conclusive of this action to enforce the Judgment and that this action should be dismissed on the basis of the above defenses alone.

Nevertheless, Lancia has additional defenses and is providing notice of those as follows:

- a. The Connecticut Superior Court lacked subject matter jurisdiction when it rendered the Judgment and granted the motion to ~~revive the Judgment~~.

Lancia is informed and believes that IA is not, and at all relevant times was not, an existing legal entity capable of filing suit or enforcing the Judgment. The Complaint giving rise to the Judgment alleges that IA was a joint venture equally owned by R.S.S. McKosky and Alton W. Seavey, Jr. This is insufficient to confer standing upon IA and the court lacked subject matter jurisdiction over the action since IA is not an existing entity. See American Lines, LLC v. CIC Ins. Co., A.V.V. SA, 2004 WL 3281717 (D. Conn. Sept. 30, 2004) (plaintiff has the burden to establish its corporate existence); Coldwell Banker Manning Realty, Inc. v. Computer Sciences Corp., Superior Court, judicial district of Hartford, Docket No. CV 03 0825180 (Nov. 12, 2010) (the plaintiff must be a corporation registered with the Secretary of State to have standing to invoke the court's jurisdiction); GMA Yacht Sales v. Skagit Marine Distributing, Inc., Superior Court, judicial district of Fairfield at Bridgeport, Docket No. CV 99-0364155 (Sept. 7, 2010) (mere trade name cannot invoke jurisdiction of the trial court since trade name is not a legal entity); Isaac v. Mount Sinai Hospital, 3 Conn. App. 598, 600 (1985) ("to confer jurisdiction on the court the plaintiff must have an actual legal existence, that is he or it must be a person in law or a legal entity with legal capacity to sue."); Argent Mortgage Co., LLC v. Huertas, 288 Conn. 568, 576 (2008) ("No principle is more universal than that the judgment of a court without jurisdiction is a nullity . . . Such a judgment, whenever and wherever declared upon as a source of a right, may always be challenged."). Further, IA lacks standing to enforce the judgment for this same reason.

- b. To the extent IA is construed to be a partnership, it is not a legal entity capable of filing suit. See Fidelity Trust Co. v. BVD Associates, 196 Conn. 270, 273 (1985) ("Because the partnership is not regarded as a legal entity it could not take or hold title to real estate in the firm name.").

While Connecticut General Statutes section 34-328(a) permits partnerships to bring actions in their own name, Connecticut General Statutes section 34-399 provides that "Sections 34-300 to 34-399, inclusive, do not affect an action or proceeding commenced or right accrued before July 1, 1997." There is no dispute that the lawsuit was filed in 1991 and accrued before July 1, 1997. Thus, under Fidelity Trust Co. v. BVD Associates, *supra*, the partnership could not file suit. As such, the court lacked subject matter jurisdiction over the suit, rendering the Judgment void.

- c. Lancia was deprived of a hearing as to the status of IA in violation of his due process rights. See, e.g., Hege v. Aegon USA, LLC, 780 F. Supp.2d 416, 425 (D.S.C. 2011) ("in order for the judgment to acquire the presumption of full faith and credit, the court entering the judgment must have complied with the Due Process Clause.").
- d. The Connecticut court lacked subject matter jurisdiction to revive this action, and IA lacks standing to enforce the Judgment on the basis that Lancia is informed and believes that IA did not have the consent of both partners/joint venturers in filing the motion to revive the Judgment or seeking to enforce the Judgment.
- e. Upon information and belief, Lancia asserts that the representative from IA misrepresented to the trial court his efforts in locating Lancia within the ten time period proscribed by the S.C. Statute, thereby rendering the Judgment invalid and unenforceable.

IA represented to the Connecticut court during proceedings on the motion to revive the Judgment, that IA was unable to locate Lancia and did not know he was in South Carolina. However, Lancia had been openly in South Carolina since August 1992 as set forth in **exhibit 1**. Further, his location in South Carolina was set forth in public records relating to a lawsuit to which IA was a party. (See **Exhibit 1**).

1/22
Revised
on
appended
+ not
required

V.

Alternative Defenses

6. Should this action not be dismissed as requested above, Lancia asserts the following alternative defenses:

a. Lancia is entitled to a setoff of the Judgment on the basis that he is informed and believes that certain assets may have been paid to satisfy the Judgment in whole or in part.

b. Lancia would should that the Judgment is deficient in that the interest should be calculated to run from the date of revival, March 4, 2010, rather than the date of original entry.

7. As an alternative argument to the statute of limitations argument set forth in, section I, above, Defendant submits that enforcement of the Judgment is barred by the statutes of limitations set forth in S.C. Code §15-3-530(1), S.C. Code §15-39-30, and/or laches. Further, IA, knew or should have known since August 1992 that Mr. Lancia was residing in South Carolina.

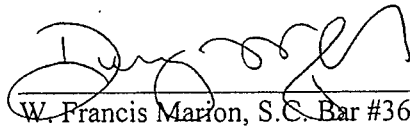
8. In addition, Lancia is informed and believes that he may have counterclaims against IA and/or Ron McKosky that he may assert in this action in the event that his motion for relief is denied and this action moves forward. Upon information, these claims may include, without limitation, engaging in unconscionable conduct in collecting a debt in violation of the South Carolina Consumer Protection Code §37-5-108.

WHEREFORE, having submitted this Motion for Relief From, and Notice of Defenses To, the Foreign Judgment, Defendant Joseph Lancia prays this action be dismissed, that the foreign judgment be stricken, that any attempts to enforce the foreign judgment in South Carolina be terminated, that the court find the foreign judgment to be void and unenforceable, and that Lancia be granted such other and further relief as this Court deems proper. Lancia further requests that a hearing be held on this motion for relief, if the court finds such hearing to

be necessary.

This Motion will be further based upon the pleadings, record herein, applicable law, affidavits and any memorandum of law to be filed subsequently and other material the Court may receive.

HAYNSWORTH SINKLER BOYD, P.A.



W. Francis Marion, S.C. Bar #3645

Denny P. Major, S.C. Bar #74907

HAYNSWORTH SINKLER BOYD, P.A.

P. O. Box 2048

Greenville, SC 29602

Telephone: (864) 240-3220

Fax: (864) 240-3336

Attorneys for Defendant Joseph D. Lancia

February 18, 2014

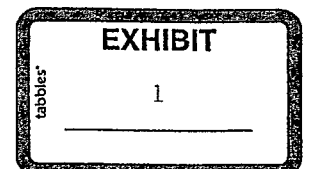
Greenville, South Carolina

DM: 2213984 V.4

STATE OF SOUTH CAROLINA)
) AFFIDAVIT OF JOSEPH LANCIA
COUNTY OF GREENVILLE)

PERSONALLY APPEARED BEFORE ME, JOSEPH LANCIA, who, being duly sworn,
deposes and affirms as follows:

1. I have personal knowledge of the facts set forth herein and would testify to the same if called to do so.
2. I have been a resident of South Carolina continuously since August 1992 and am presently a resident of South Carolina.
3. I have resided at the address of 109 Thornblade Boulevard, Greer, South Carolina 29650 since August 1992.
4. I have been working in South Carolina since 1992.
5. I have had a South Carolina driver's license since 1992. Attached hereto as **exhibit A** is a true and accurate copy of my 10 year driver record from the South Carolina DMV. This correctly states that my South Carolina driver's license was first issued on 10/02/1992.
6. My vehicles have been registered in South Carolina since 1992 and I have paid Greenville County, South Carolina vehicle taxes since 1992. Attached hereto is a true and accurate copy of a printout from the Greenville County, South Carolina website (www.greenvillegov.org) showing my tax payments on my vehicles dating back to 1999.
7. I have paid South Carolina income taxes since the 1992 tax year.
8. Attached hereto as **exhibit C** is a true and accurate copy of my 1994 tax return, which shows my home address as 109 Thornblade Boulevard, Greer, SC 29650.
9. I have been a member of the Thornblade Club in Greer, South Carolina since 1992.



10. I have served as director of the Thornblade Classic golf tournament from 1993 to 2000. Attached hereto as **exhibit D** is a true and accurate copy of two pages contained in the program of the 1994 Thornblade Classic. Attached hereto as **exhibit E** is a true and accurate copy of an article that appeared in the Greenville News on April 19, 2000 regarding my work with the Thornblade Classic and other activities in Greenville County, South Carolina.

11. During the early 1990s, I served as a member of the board of directors for Loaves and Fishes, which is a charitable organization here in Greenville that distributes food to soup kitchens and food pantries throughout Greenville County.

12. I have been a member of the Prince of Peace Church located in Taylors, South Carolina since 1992.

13. I have had three children that attended public school in Greenville County, South Carolina beginning in 1992.

14. All three of my children have attended public colleges in South Carolina and I have paid in-state tuition for their attendance of these South Carolina colleges.

15. In May 1993, I was served with a summons and third party complaint in the Connecticut lawsuit of Aetna Casualty & Surety Company of Illinois v. Investment Associates. The summons is addressed to me in South Carolina. I was served here in South Carolina. Attached hereto as **exhibit F** is a true and accurate copy of the summons.

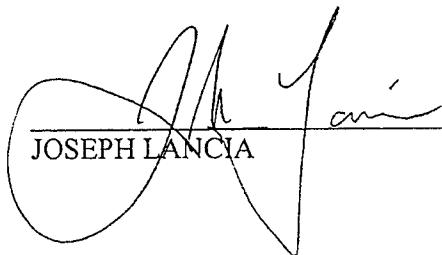
16. In 1993, I received a document from the Connecticut Superior Court regarding a notice of default in the Connecticut lawsuit of Aetna Cas. vs. Investment Assoc., et. al. A true and accurate copy of that document is attached hereto as **exhibit G**. The document is addressed to me in South Carolina. I received that document in South Carolina.

17. In September 1993, I was served with a subpoena for a deposition that took place on September 28, 1993 here in Greenville, South Carolina. I was served at my residence of 109 Thornblade Boulevard, Greer, SC 29650, which was my residence at that time and continues to be my residence today. A true and accurate copy of the subpoena is attached hereto as **exhibit H**. The subpoena itself, which is dated September 8, 1993, correctly listed my address as 109 Thornblade Boulevard, Greer, South Carolina 29650.

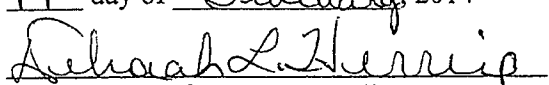
18. I have not lived or worked in Connecticut since 1992 and have not transacted any business in Connecticut since at least 1992.

19. I have not owned used or possessed any real estate in Connecticut since 1992.

SO ENDETH.



JOSEPH LANCIA

Sworn to before me this
17th day of February, 2014


Notary Public for South Carolina
My Commission Expires: 3/12/2019



10 YEAR DRIVER RECORD

Customer No: 24238285 Driver License No: [REDACTED]
Name: LANCIA, JOSEPH D
Address: 109 THORNBLADE BLVD
City: GREER State: SC Zip: 296504427
County: GREENVILLE
DOB: 08/05/1960 Sex: M Driver Training: Y

Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Restrictions	Endorsements
Current							
DL	D	Renewal	07/26/2006	08/05/2016	10/02/1992	N	N
Prior							
DL	D	Renewal	07/10/2001	08/05/2006	10/02/1992	N	N

Point Summary

Total Current Points: 1
Driver Credit: -0
Adjusted Current Points: 1

VIOL: 421 - Speeding 10-mph or less

Violation: 08/25/2012 Conviction: 09/18/2012

ACD: S51

Conviction State: SC

Ticket#: F637675

Recd: 10/01/2012 Post: 10/05/2012

Conviction Reference:

Court Type: MAG

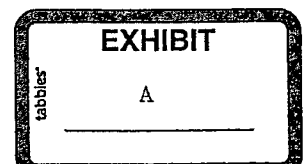
Violation Points: 2 Current Points: 1

END OF REPORT

2/14/2014 12:26 PM

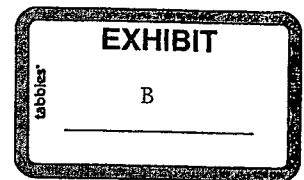
Data obtained from DMV via South
Carolina State Portal

Invoice #13531529



[Home](#) | [Search](#) | [Services](#) | [Legal Disclaimer](#)

Vehicle Tax Search Results



Search Results For: LANCIA JOSEPH D

Results Found: 43

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	2013 05 0646608 01 001	\$290.70	\$290.70	
VIN#: WDDHF9BB3CA644777	2012 MERZ	District: 195	04/18/2013	View Receipt
LANCIA JOSEPH D	2013 09 0790105 01 001	\$48.80	\$48.80	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	08/26/2013	View Receipt
LANCIA JOSEPH D	2013 10 0823741 01 001	\$308.10	\$308.10	
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195	09/23/2013	View Receipt
LANCIA JOSEPH D	2012 03 0049323 01 001	\$164.24	\$164.24	
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195	03/14/2012	View Receipt
LANCIA JOSEPH D	2012 05 0150640 01 001	\$802.25	\$802.25	
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195	04/16/2012	View Receipt
LANCIA JOSEPH D	2012 09 0291872 01 001	\$301.27	\$301.27	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	08/23/2012	View Receipt
LANCIA JOSEPH D	2012 10 0325069 01 001	\$345.72	\$345.72	
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195	09/14/2012	View Receipt
LANCIA JOSEPH D	2011 03 0635033 01 001	\$145.47	\$145.47	
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195	02/24/2011	View Receipt
LANCIA JOSEPH D	2011 05 0701623 01 001	\$957.29	\$957.29	
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195	04/27/2011	View Receipt
LANCIA JOSEPH D	2011 09 0840566 01 001	\$335.06	\$335.06	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	08/17/2011	View Receipt
LANCIA JOSEPH D	2011 10 0872967 01 001	\$338.66	\$338.66	
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195	09/28/2011	View Receipt
LANCIA JOSEPH D	2010 03 0153705 01 001	\$176.34	\$176.34	
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195	02/26/2010	View Receipt
LANCIA JOSEPH D	2010 05 0286513 01 001	\$976.35	\$976.35	
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195	04/30/2010	View Receipt
LANCIA JOSEPH D	2010 08 0387719 01 001	\$0	\$0	
VIN#: SALAE25468A447184	2008 LNDR	District: 195		View Receipt
LANCIA JOSEPH D	2010 09 0421537 01 001	\$324.63	\$324.63	
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LANCIA JOSEPH D	2009 03 0723439 01 001	\$221.75	\$221.75	
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195	01/30/2009	View Receipt
LANCIA JOSEPH D	2009 05 0789326 01 001	\$933.27	\$933.27	
VIN#: SALSH23428A185811	2008 LNDR	District: 195	05/06/2009	View Receipt
LANCIA JOSEPH D	2009 08 0889689 01 001	\$575.48	\$575.48	
VIN#: SALAE25468A447184	2008 LNDR	District: 195	07/27/2009	View Receipt
LANCIA JOSEPH D	2009 09 0923342 01 001	\$469.94	\$469.94	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	08/31/2009	View Receipt

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2008 03 0282583 01 001 2005 JEEP	\$270.94 District: 195 02/28/2008	\$270.94	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2008 05 0347469 01 001 2006 LNDR	\$667.32 District: 195 04/25/2008	\$667.32	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2008 08 0445837 01 001 2002 TOYT	\$176.71 District: 195 07/29/2008	\$176.71	View Receipt
LANCIA JOSEPH D VIN#: SALFS24NX8H038976	2008 09 0511362 01 001 2008 LNDR	\$577.93 District: 195 08/25/2008	\$577.93	View Receipt
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2007 03 0885193 01 001 2005 JEEP	\$323.66 District: 195 03/13/2007	\$323.66	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2007 05 0948135 01 001 2006 LNDR	\$803.06 District: 195 05/23/2007	\$803.06	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2007 08 0048486 01 001 2002 TOYT	\$184.51 District: 195 07/30/2007	\$184.51	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2007 09 0081086 01 001 2004 VOLV	\$524.76 District: 195 09/11/2007	\$524.76	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2006 05 0497649 01 001 2006 LNDR	\$939.21 District: 195 04/27/2006	\$939.21	View Receipt
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2006 06 0527429 01 001 2005 JEEP	\$396.42 District: 195 05/31/2006	\$396.42	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2006 08 0620466 01 001 2002 TOYT	\$234.60 District: 195 07/27/2006	\$234.60	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2006 09 0651712 01 001 2004 VOLV	\$694.71 District: 195 09/26/2006	\$694.71	View Receipt
LANCIA JOSEPH D VIN#: YV1CZ59H341035649	2005 05 0128936 01 001 2004 VOLV	\$586.46 District: 195 04/11/2005	\$586.46	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2005 08 0217023 01 001 2002 TOYT	\$244.74 District: 195 08/17/2005	\$244.74	View Receipt
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LANCIA JOSEPH D VIN#: YV1CZ59H341035649	2004 05 0704085 01 001 2004 VOLV	\$717.84 District: 195 04/25/2004	\$717.84	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2004 08 0790231 01 001 2002 TOYT	\$301.36 District: 195 07/22/2004	\$301.36	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2004 09 0819281 01 001 2004 VOLV	\$717.84 District: 195 08/31/2004	\$717.84	View Receipt
LANCIA JOSEPH D VIN#: YV1RH52YX42343242	2003 00 3696218 01 001 2004 VOLV	\$798.81 District: 195 09/18/2003	\$798.81	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2003 08 0411283 01 001 2002 TOYT	\$344.15 District: 195 07/31/2003	\$344.15	View Receipt
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LANCIA JOSEPH D VIN#: JTEGH20V120075268	2002 11 0092281 01 001 2002 TOYT	\$379.82 District: 195 10/31/2002	\$379.82	View Receipt
LANCIA JOSEPH D VIN#: WP0CA2999TS340098	2000 01 0583042 01 001 1996 PORS	\$183.01 District: 195 01/20/2000	\$183.01	View Receipt

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	1999 05 0170006 01 001	\$1250.82	\$1250.82	View Receipt
VIN#: WP0CA2999TS340098	1996 PORS	District: 195 04/30/1999		

Form 1040

Department of the Treasury - Internal Revenue Service
U.S. Individual Income Tax Return

1994

IRS Use Only - Do not write or staple in this space.

For the year Jan. 1-Dec. 31, 1994, or other tax year beginning 1994, ending 19		OMB No. 1545-0074			
Label (See Instructions on page 12.) Use IRS label. Otherwise, please print or type.	Your first name and initial JOSEPH D LANCIA		Last name Last name		
	If a joint return, spouse's first name and initial KATHRYN M		Last name Last name		
	Home address (number and street). If you have a P.O. box, see page 12. 109 THORNBLADE BOULEVARD		Apt. no.		
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 12. GREER, SC 29650		For Privacy Act and Paperwork Reduction Act Notice, see page 4.		
Presidential Election Campaign	Do you want \$3 to go to this fund? If a joint return, does your spouse want \$3 to go to this fund?		Yes	No	Note: Checking "Yes" will not change your tax or reduce your refund.
Filing Status	1 Single 2 ☒ Married filing joint return (even if only one had income) 3 Married filing separate return. Enter spouse's soc. sec. no. above and full name here. 4 Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here. 5 Qualifying widow(er) with dependent child (year spouse died 19)				
Exemptions (See page 13.)	6a ☒ Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2.				No. of boxes checked on 6a and 6b
	b ☒ Spouse				2
If more than six dependents, see page 14.	c Dependents: (1) Name (first, initial, and last name) (2) Check if under age 1 (3) If age 1 or older, dependent's social security number (4) Dependent's relationship to you (5) No. of months lived in your home in 1994				No. of your children on 6c who: ♦ lived with you ♦ didn't live with you due to divorce or separation (see page 14)
	d If your child didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here				2
e Total number of exemptions claimed					4
Income Attach Copy B of your Forms W-2, W-2G, and 1099-R here. If you did not get a W-2, see page 15. Enclose, but do not attach, any payment with your return.	7 Wages, salaries, tips, etc. Attach Form(s) W-2				7
	8a Taxable interest income. Attach Schedule B if over \$400				8a
	b Tax-exempt interest (see page 16). DON'T include on line 8a				8b
	9 Dividend income. Attach Schedule B if over \$400				9
	10 Taxable refunds, credits, or offsets of state and local income taxes (see page 16)				10
	11 Alimony received				11
	12 Business income or (loss). Attach Schedule C or C-EZ				12
	13 Capital gain or (loss). If required, attach Schedule D (see page 16).				13
	14 Other gains or (losses). Attach Form 4797				14
	15a Total IRA distributions				15a
	b Taxable amount (see page 17)				15b
	16a Total pensions and annuities				16a
b Taxable amount (see page 17)				16b	
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E				17	
18 Farm income or (loss). Attach Schedule F				18	
19 Unemployment compensation (see page 18)				19	
20a Social security benefits				20a	
b Taxable amount (see page 18)				20b	
21 Other income. List type and amount - see page 18				21	
22 Add the amounts in the far right column for lines 7 through 21. This is your total income					22
Adjustments to Income Caution: See instructions ...	23a Your IRA deduction (see page 19)				23a
	b Spouse's IRA deduction (see page 19)				23b
	24 Moving expenses. Attach Form 3903 or 3903-F				24
	25 One-half of self-employment tax				25
	26 Self-employed health insurance deduction (see page 21)				26
	27 Keogh retirement plan and self-employed SEP deduction				27
	28 Penalty on early withdrawal of savings				28
	29 Alimony paid. Recipient's SSN				29
	30 Add lines 23a through 29. These are your total adjustments				30
	Adjusted Gross Income				31

EXHIBIT

C

410001
10-29-94 \$430
21420411 786735 21053

060 LANCIA, JOSEPH D

Form 1040 (1994)
10000001

Tax
Compu-
tation

32	Amount from line 31 (adjusted gross income)	32	
33a	Check if: ☐ You were 65 or older, ☐ Blind; ☐ Spouse was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here	33a	
b	If your parent (or someone else) can claim you as a dependent, check here	33b	
c	If you are married filing separately and your spouse itemizes deductions or you are a dual-status alien, see page 23 and check here	33c	
34	Enter the larger of: Itemized deductions from Schedule A, line 29, OR Standard deduction shown below for your filing status. But if you checked any box on line 33a or b, go to page 23 to find your standard deduction. If you checked box 33c, your standard deduction is zero. • Single - \$3,800 • Head of household - \$5,600 • Married filing jointly or Qualifying widow(er) - \$6,350 • Married filing separately - \$3,175	34	
35	Subtract line 34 from line 32	35	
36	If line 32 is \$83,850 or less, multiply \$2,450 by the total number of exemptions claimed on line 6e. If line 32 is over \$83,850, see the worksheet on page 24 for the amount to enter	36	
37	Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0-	37	
38	Tax. Check if from a ☒ Tax Table, b ☐ Tax Rate Schedules, c ☐ Capital Gain Tax Worksheet, or d ☐ Form 8615 (see page 24). Amount from Form(s) 8814	38	
39	Additional taxes. Check if from a ☐ Form 4970 b ☐ Form 4972	39	
40	Add lines 38 and 39	40	

Credits

41	Credit for child and dependent care expenses. Attach Form 2441	41	
42	Credit for the elderly or the disabled. Attach Schedule R	42	
43	Foreign tax credit. Attach Form 1116	43	
44	Other credits. Check if from a ☐ Form 3800 b ☐ Form 8396 c ☐ Form 8801 d ☐ Form (specify)	44	
45	Add lines 41 through 44	45	
46	Subtract line 45 from line 40. If line 45 is more than line 40, enter -0-	46	

Other
Taxes

47	Self-employment tax. Attach Schedule SE	47	
48	Alternative minimum tax. Attach Form 6251	48	
49	Recapture taxes. Check if from a ☐ Form 4255 b ☐ Form 8511 c ☐ Form 8828	49	
50	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	50	
51	Tax on qualified retirement plans, including IRAs. If required, attach Form 5329	51	
52	Advance earned income credit payments from Form W-2	52	
53	Add lines 46 through 52. This is your total tax	53	

Payments

54	Federal income tax withheld. If any is from Form(s) 1099, check ☐	54	500.
55	1994 estimated tax payments and amount applied from 1993 return	55	
56	Earned income credit. If required, attach Schedule EIC (see page 27). Nontaxable earned income: amount and type	56	
57	Amount paid with Form 4868 (extension request)	57	
58	Excess social security and RRTA tax withheld (see page 32)	58	
59	Other payments. Check if from a ☐ Form 2439 b ☐ Form 4136	59	
60	Add lines 54 through 59. These are your total payments	60	

Attach
Forms W-2,
W-2G, and
1099-R on
the front.Refund or
Amount
You Owe

61	If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID	61	
62	Amount of line 61 you want REFUNDED TO YOU	62	
63	Amount of line 61 you want APPLIED TO YOUR 1995 ESTIMATED TAX	63	
64	If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE. For details on how to pay, including what to write on your payment, see page 32	64	
65	Estimated tax penalty (see page 33). Also include on line 64	65	27.

Sign
Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Keep a copy
of this return
for your
records.

Preparer's signature	Date	Your occupation
Spouse's signature. If a joint return, BOTH must sign.	Date	Spouse's occupation

Paid
Preparer's
Use Only

Preparer's signature	Date	Check if self-employed ☐	Preparer's social security no.
Firm's name (or yours if self-employed) and address	Chris McCraw, C.P.A., P.A. 1200 Woodruff Road, A-3 Greenville, SC		E. I. No. ZIP code 29607



EXHIBIT
D

Welcome to the 1994 Thornblade Classic

We are pleased that you have joined us for the Third Annual Thornblade Classic. Our Tournament has continued to grow because of the wonderful support we receive from several important groups.

First, special thanks to the PGA Tour players who make this event possible. We have been extremely fortunate to feature the most outstanding players in golf. Their presence sets our event apart from all others. It is the key ingredient we need to provide funds to our beneficiaries.

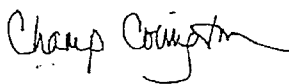
The second group we wish to thank are the corporate sponsors that have annually supported the Thornblade Classic. These many fine companies know that the principle benefit of their involvement in the Thornblade Classic is their association, through the Classic, with our three beneficiaries. Their support makes it possible for the Thornblade Classic to make a generous contribution to The School District of Greenville County, The Governors School for the Arts and the Peace Center.

We also want to thank the many tournament volunteers who help make this day a pleasure for the participants and the spectators. We have never been short of volunteers to assist with the many needs of the event. Few events of this kind can make that claim. We are proud of our association with these community minded individuals who give so freely of their time.

Finally, we are most appreciative of the many thousands of golf fans who have attended the Thornblade Classic. Your support and enthusiastic reception of the Classic has made the Tournament an important event in the upstate.

To the amateurs, spectators, volunteers, sponsors and especially our PGA Tour Professionals, thank you for being here. We know that you will enjoy the day.

Sincerely,



Champ Covington
Founder's Board Chairman



Joe Lancia
Tournament Director



Jay Haas
Director of Golf



ALAN DEVORSEY / Staff

Joe Lancia moved from Connecticut to Greenville in 1992.

Lancia's love of golf reaped rewards for Thornblade Classic

Manny Cornelison
City People Writer
mancor@greenvillenews.com

In his office on the third floor of his Thornblade home, Joe Lancia has collected enough golf memorabilia to start his own PGA museum. The other collectibles scattered about his house could almost complete the museum.

There's a blimp shot of Mark O'Meara sinking his putt on the 18th hole to win the 1993 Masters. It's autographed by O'Meara.

There's also a shot of

Lancia with Phil Michelson, and it appears that Lancia is offering advice to the touring pro. Jokingly, Lancia says he was.

A shadowbox frame holds one of Tiger Woods' golf caps. Another contains one of Arnold Palmer's golf gloves. A copy of the classic golf book, "Little Red Book," by Harry Penick is inscribed by the author.

Photos of Greg Norman, Larry Mize and a host of who's who on the PGA tour, all autographed, are on display along with one of John Daly's drivers.

Most of these things were given to Lancia by players he's met in his seven years as tournament director of the Thornblade Classic, the charity golf event that has raised more than \$1.5 million for local charities.

This year's Classic, to be held at Thornblade Monday, will be the last one.

The idea for the Classic came from Thornblade's touring PGA pro, Jay Haas. He envisioned a one-day event that would have all the ambience of a

See **HANDLING** on page 3A

EXHIBIT

E

Handling details is Lancia's S

Continued from Page 1

tournament. He would invite friends from the tour and pair them with sponsors to raise money for local charities.

He was assisted in organizing the Classic by a local businessman, Champ Covington.

In 1992, the same year a young man named Joe Lancia moved to Greenville, the first Thornblade Classic was held. For two years, Covington assisted the Thornblade Country Club head golf pro. When the pro moved, Covington was on his own.

One day Lancia and Covington were having lunch, and almost matter-of-factly, Lancia said, "Hey, if you need any help ..."

Lancia found himself appointed volunteer director.

"I had zero experience. I knew nothing about running a golf tournament," he admits with a smile. "But when I started a plastic injection molding company, I knew nothing about that, so I figured I could run a golf tournament. A lot of it is just management."

Jamie McCullough, head golf professional at Thornblade, says Lancia is especially good at getting sponsorships and dealing with vendors.

"He's the reason we've had the

Profile

■ Lancia has three children, Jenna, 12; Kara, 10 and Krista, 5.

■ One of the highlights of Lancia's work as tournament director of the Thornblade Classic was chauffeuring Arnold Palmer from the airport in 1994.

■ Though he has a five-handicap, Lancia has never had a golf lesson.

■ To be paired with a top pro at the Classic, a Presenting Patron must contribute \$20,000. Pairings of pros with sponsors are based on how long the sponsor has been involved with the Classic.

■ In 1999, the Thornblade Classic distributed \$240,000 to 29 non-profit organizations and charities in Greenville County.

success we've had," McCullough says. "He has a way of getting people to pitch in and help, and that's what you need in a charity event."

"Joe's an incredible negotiator," agrees Linda Riddle, co-director of the tournament. "He's able to get things at cost or free, which obviously means more money for charities. When he came, the money that went back to the community really increased. After Joe talks to you, you just want to do it."

Lancia was born and raised in Connecticut, a graduate of the Uni-

versity of Southern Connecticut, where he earned a degree in finance and computer science. Out of college, Lancia took a job with Litton Industries, working with computer accounting systems, then moved to another computer software company.

This background allowed Lancia to strike out on his own in Connecticut with a company that bought old and obsolete computers to gut them and sell anything of value.

This venture was followed by the plastic injection molding business. In 1989, still in his 20s, Lancia sold his interest in those businesses and started his own firm, Strategic Investments, specializing in mergers and acquisitions.

"Strategic Investments was the harder one to get started," recalls Lancia. "Most of my peers came from Wall Street investment houses. Getting clients was hard, because I didn't have the ability to contact one and say, 'I was with Morgan Stanley.'"

Still, it all worked because Lancia figures he was in the right place at the right time.

By the early '90s, Lancia and his wife, Kathy, began looking for a new place to live. Since his office was in his home, he would also be relocating his business.

"We had small children and started looking for somewhere warmer," he says. "Because of family, we wanted to stay on the East Coast. Every place we looked was either a great place to live or not a good place for business, or good place for business and not good place for families."

In the *Wall Street Journal*, Lancia saw an ad for a company for sale in Greenville.

"I'd never heard of Greenville. By 1991, there were the rumors BMW coming, so I visited her;

trength

Two days here, and I started getting a good feeling."

In 1992, the couple bought a home in Thornblade, an ideal location for family, his business and his growing passion for golf.

"I was a baseball player in college. My mom was 45 when she took up golf, and at age 60, she won the Connecticut Senior Amateur Championship," says Lancia.

With athletic ability and good hand-eye coordination, Lancia began teaching himself how to play golf. He watched golf on television and then tried to copy the pros.

Today, he carries a five handicap to go with his smooth swing, and at the Thornblade Classic, he has had the opportunity to meet many of those pros who helped shape his game through their television appearances.

As director of the tournament, Lancia's goal has been the one Haas envisioned — to keep the atmosphere of a regular PGA tour event. He believes he and the 350 tournament volunteers have done that.

A sponsor once told Lancia that his favorite part of the tournament came on the ninth green as he sunk a 25-foot putt, and the crowd cheered.

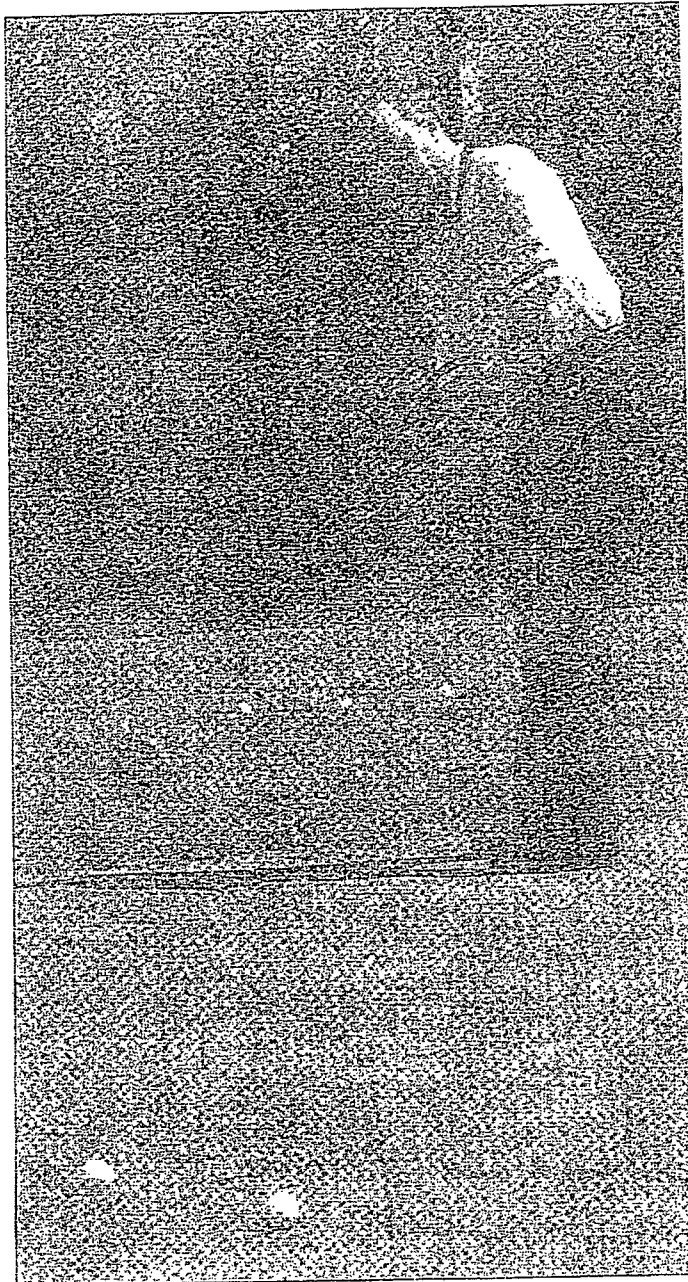
"He said the hairs stood up on his arm, and that he now knew what the pros felt like," says Lancia. "My biggest surprise has been how big this thing has gotten."

In his first year, Arnold Palmer came, and since that time, the tournament has raised \$1.5 million for local charities.

"Everybody knows about the Thornblade Classic. It's been recognized as one of the top charity events on the tour," Lancia points out.

It was because of a chance meeting several years ago at a Greenville County School Board meeting that Lancia came to understand

yellow jacket is the school



ALAN DEVORSEY / Staff

Joe Lancia carries a five handicap.

the good the tournament was doing. Lancia had been asked to speak at a public hearing.

"A lady came up to me afterwards and said she just wanted to thank me for what we were doing," says Lancia of the tournament's focus on children's charities and education.

"She said if it wasn't for the Thornblade Classic the school her child attended wouldn't have a computer lab. She wasn't able to afford a computer, and the lab allowed her child to keep up."

Lancia, through his role as tournament director, has also become exposed to many charities in the

What he has realized, he explains, is that there is much happening in Greenville to make the quality of life better. What he saw on his visits to agencies, he describes simply: "Wow!"

During those visits he became so interested in the work of several agencies that he involved himself as a volunteer. Now he serves on the board of Loaves and Fishes, a food rescue agency.

In the summer he will direct the Frank Outlaw Tennis Tournament to raise money for the Red Cross.

It all started with Lancia's chance remark over lunch, "If I can ever help . . ."

CIVIL (except family actions)

JD-CV-1 Rev. 3-91

GEN. STAT. 51-346, 51-347, 51-349, 51-350, 52-45a,

52-48, 52-259

PR. BK. 49, 63, 66

SUPERIOR COURT

INSTRUCTIONS

1. Prepare on typewriter: sign original summons (top sheet) and conform copies of the summons (sheets 3 and 4).
2. If there is more than one defendant, prepare or photocopy conformed summons for each additional defendant.
3. Attach the original summons, with computer sheet attached (page 2), to the original complaint, and attach a copy of the summons to each copy of the complaint. Also, if there are more than 2 plaintiffs or 4 defendants prepare form JD-CV-2 and attach it to the original and all copies of the complaint.
4. After service has been made by officer, file original papers and officer's return with the clerk of the court.
5. The party recognized to pay costs must appear personally before the authority taking the recognizance.
6. Do not use this form for actions in which an attachment, garnishment or replevy is being sought. See Practice Book Section 49 for other exceptions.

TO: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this Summons and attached Complaint.

"X" ONE OF THE FOLLOWING:

Amount, legal interest or property in demand, exclusive interest and costs is

- a. ☐ less than \$2,500
- b. ☐ \$2,500 through \$14,999.99
- c. ☒ \$15,000 or more
- d. ☒ Claiming other relief in addition to or in lieu of money damages.

☒ JUDICIAL DISTRICT		AT (Town in which writ is returnable) (Gen. Stat. 51-346, 51-349)		RETURN DATE (Mo., day, yr.)	
☐ HOUSING SESSION ☐ G.A.		NEW HAVEN		MAY 4, 1993	
ADDRESS OF CLERK OF COURT WHERE WRIT AND OTHER PAPERS SHALL BE FILED (Gen. Stat. 51-347, 51-350)				CASE TYPE (From Judicial Dept. code list)	
235 CHURCH STREET, NEW HAVEN, CT 06510				Major C Minor 20	
PARTIES		NOTE: Individual's Names:		NAME AND ADDRESS OF EACH PARTY	
THIRD PARTY		Last, First, Middle Initial			
FIRST NAME X		AETNA CASUALTY & SURETY COMPANY OF ILLINOIS, 99 HAWLEY LANE, STRATFORD, CT		Form JD-CV-2 attached	
PLAINTIFF				06497	
Additional Plaintiff					
THIRD PARTY		LANCIA, JOSEPH, P.O. BOX 25278, GREENVILLE, SOUTH CAROLINA 29616-0278			
FIRST NAME X		C/O SECRETARY OF STATE, 30 TRINITY STREET, HARTFORD, CT 06106			
DEFENDANT		WILSON, NED, B., 3260 PINE VALLEY DRIVE, SPRASOTA, FLORIDA 34239,			
Additional Defendant		C/O SECRETARY OF STATE, 30 TRINITY STREET, HARTFORD, CT 06106			
Additional Defendant					
Additional Defendant					

EXHIBIT

F

NOTICE to each DEFENDANT

1. You are being sued.
2. This paper is a Summons in a lawsuit.
3. The Complaint attached to these papers states the claims that each Plaintiff is making against you in this lawsuit.
4. To respond to this summons, or to be informed of further proceedings, you or your attorney must file a form called an "Appearance" with the Clerk of the above named Court at the above Court address on or before the second day after the above Return Date.
5. If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default.
6. The "Appearance" form may be obtained at the above Court address.
7. If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately take the Summons and Complaint to your insurance representative.
8. If you have questions about the Summons and Complaint, you should consult an attorney promptly. The Clerk of Court is not permitted to give advice on legal questions.

DATE		SIGNED (Sign and "X" proper box)		TYPE IN NAME OF PERSON SIGNING AT LEFT	
MARCH 25, 1993				PETER D. CLARK	
FOR THE PLAINTIFF(S) ENTER THE APPEARANCE OF:					
NAME AND ADDRESS OF ATTORNEY, LAW FIRM OR PLAINTIFF IF PRO SE				TELEPHONE NO.	
ILLIAMS, COONEY & SHEEHY, ONE LAFAYETTE CIRCLE, BRIDGEPORT, CT				331-0888	
NAME AND ADDRESS OF PERSON RECOGNIZED TO PROSECUTE IN THE AMOUNT OF \$250				JURIS NO. (if atty. or law firm)	
BERNADETTE HEFFERN, ONE LAFAYETTE CIRCLE, BRIDGEPORT, CT 06604				106036	
10. PLFS.		NO. DEFS.		NO. CNTS.	
1		2		3	
SIGNED (Official taking recognizance; "X" proper box)					
☒ Commissioner of Superior Court					
☐ Assistant Clerk					

F THIS SUMMONS IS SIGNED by a CLERK:

- a. The signing has been done so that the Plaintiff(s) will not be denied access to the courts.
- b. It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law.
- c. The Clerk is not permitted to give any legal advice in connection with any lawsuit.
- d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service thereof.

hereby certify I have read and understand the above:	SIGNED (Pro se plaintiff)	DATE SIGNED	DOCKET NO.

A TRUE COPY
ATTEST:FRANCIS M. DELUCCO
CHIEF DEPUTY SHERIFF
HARTFORD COUNTY

SUMMONS, CIVIL

CONNECTICUT SUPERIOR COURT
OFFICE OF THE CHIEF CLERK
JUDICIAL DISTRICT OF NEW HAVEN



235 Church Street, New Haven, Connecticut 06510

Telephone: (203) 789-7908

Mr. Joseph Lancia
P.O. Box 25278
Greenville, SC 29616 0278

NOTICE OF ENTRY OF DEFAULT FOR FAILURE TO APPEAR

In the matter of: Aetna Cas. vs. Investment Assoc. et als

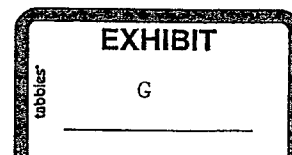
Docket No.: 30 50 48

You are hereby notified that you have been defaulted for failure to file an appearance in the above captioned case within the time prescribed by statute and rule.

Date default entered: 6-9-93

BY THE CLERK

PURSUANT TO PRACTICE BOOK SEC. 352, IF YOU FILE AN APPEARANCE IN THIS CASE BEFORE JUDGMENT IS ENTERED AGAINST YOU, THE DEFAULT FOR FAILURE TO APPEAR SHALL AUTOMATICALLY BE SET ASIDE BY THE CLERK.



STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF GREENVILLE

Branford Savings Bank

, Plaintiff

SUBPOENA IN A CIVIL CASE

Case Number:

Pending in Greenville County

v.
Aetna Casualty and
Surety Company of Illinois

, Defendant

TO: Joseph Lancia
109 Thornblade Blvd.
Greer, SC 29650

☐ YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM:
	DATE AND TIME:

☒ YOU ARE COMMANDED to appear in the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: Haynsworth, Marion, McKay & Guerard Two Insignia Financial Plaza, 11th Floor 75 Beattle Place Greenville, SC 29601	DATE AND TIME: Tuesday, September 28, 1993 10:00 a.m.

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE:	DATE AND TIME:

☐ YOU ARE COMMANDED to permit inspection of the following premises at the time specified below.

PREMISES	DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30 (b) (6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

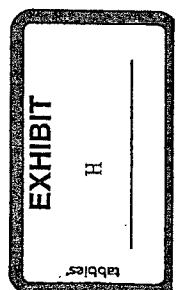
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Caroline W. Mattos, Greenville County, Clerk of Court, Greenville County Courthouse, Greenville, SC 29601, 803-487-8551 *Caroline W. Mattos*

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45 (c) (1) AND THAT NOTICE AS REQUIRED BY RULE 45 (b) (1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney for Defendant

ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) DATE **SEP 8 1993**
SCCA FORM 254 (7/93) (See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on Reverse)



PROOF OF SERVICE		
SERVED	DATE	FEE AND MILEAGE TENDERED TO WITNESS (YES) (NO) AMOUNT \$
	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICES
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ DATE _____ SIGNATURE OF SERVER _____
ADDRESS OF SERVER _____

Rule 4E, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) PROTECTION OF PERSON SUBJECT TO SUBPOENAS

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party or an officer, director or managing agent of a party to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from the county where the subpoena was served to the place within the state where the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer, director or managing agent of a party to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

DOCKET NO. CV07-4028746S : SUPERIOR COURT
INVESTMENT ASSOCIATES : JUDICIAL DISTRICT OF NEW HAVEN
V. : AT NEW HAVEN
JOSEPH LANCIA : MAY 5, 2008

MEMORANDUM OF DECISION RE MOTION TO DISMISS #102

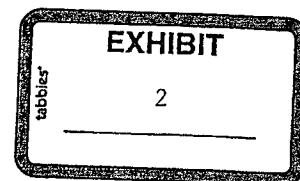
On December 27, 2007, the defendant filed a timely motion to dismiss for lack of personal jurisdiction, in support of which he submitted an affidavit.¹ In response, the plaintiff filed a memorandum of law in opposition, along with the officer's supplemental return and the summons and complaint from the underlying action, which gave rise to the 1994 judgment. Finally, the defendant filed a supplemental brief and reply memorandum. In support, the defendant included the summons and complaint of the withdrawn action, the 1994 judgment, the officer's return, the summons and complaint of the present action, and

¹ Practice Book § 10-31 states in relevant part that "[a]ny defendant, wishing to contest the court's jurisdiction, may do so even after having entered a general appearance, but must do so by filing a motion to dismiss within thirty days of the filing of an appearance." Specifically, "any claim of lack of jurisdiction over the person as a result of an insufficiency of service of process is waived unless it is raised by a motion to dismiss filed within thirty days in the sequence required by Practice Book § 10-6" (Emphasis in original.) *Pitchell v. Hartford*, 247 Conn. 422, 433, 711 A.2d 797 (1999). In the present case, the defendant filed his appearance on November 29, 2007, and the motion to dismiss was filed on December 27, 2007. Accordingly, the defendant's motion to dismiss is timely.

Counsel/Pro Se Parties notified 5/6 2008

By ☐ JDND ☒ Copy of Memo. ☐ Other

1008 MAY -5 P 3:56
NEW HAVEN J.D.
SUPERIOR COURT
CLERK'S OFFICE



the affidavits of service in South Carolina. The matter was heard on the short calendar on January 28, 2008. For reasons more fully set forth, this court grants the motion to dismiss.

FACTS

The claim in the instant matter arises out of a judgment against the defendant and for the plaintiff rendered on May 17, 1994.² The present action, filed on November 13, 2007, seeks to enforce the unpaid prior judgment of \$272,505.03 in damages plus costs taxed at \$201.20. Prior to the present action, the plaintiff filed an identical action on September 27, 2007, with docket number CV 07 4028072, which was withdrawn on December 3, 2007.

DISCUSSION

"A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court. . . . A motion to dismiss tests, inter alia, whether, on the face of the record, the court is without jurisdiction." (Internal quotation marks omitted.) *Cox v. Aiken*, 278 Conn. 204, 210-11, 897 A.2d 71 (2006); see also *Kozlowski v. Commissioner of Transportation*, 274 Conn. 497, 501, 876 A.2d 1148 (2005); *Filippi v. Sullivan*, 273 Conn. 1, 8, 866 A.2d 599 (2005). Pursuant to Practice Book § 10-31 (a), "a motion to dismiss shall be used to assert . . . (2) lack of jurisdiction over the person . . . and (5) insufficiency of

² *Investment Associates v. Summit Associates Inc.*, Superior Court, judicial district of New Haven, Docket No. CV 91 0309954.

service of process." The motion, however, "is not designed to test the legal sufficiency of a complaint in terms of whether it states a cause of action." *Pratt v. Old Saybrook*, 225 Conn. 177, 185, 621 A.2d 1322 (1993).

"If a challenge to the court's personal jurisdiction is raised by a defendant, either by a foreign corporation or by a nonresident individual, the plaintiff must bear the burden of proving the court's jurisdiction." *Knipple v. Viking Communications, Ltd.*, 236 Conn. 602, 607, 674 A.2d 426 (1996). "[W]hen a motion to dismiss for lack of personal jurisdiction raises a factual question which is not determinable from the face of the record, the burden of proof is on the plaintiff to present evidence which will establish jurisdiction. . . . [w]hen jurisdiction is based on constructive service [i.e., service on a foreign corporation or nonresident individual by mail] jurisdiction cannot arise solely from the acts recited in the return. There should be no presumption of the truth of the plaintiff's allegation of the additional facts necessary to confer jurisdiction." (Citations omitted; internal quotation marks omitted.) *Reiner, Reiner & Bendett, P.C. v. Cadle Co.*, 278 Conn. 92, 109, 897 A.2d 58 (2006).

RIGHT TO BRING A NEW ACTION ON A PRIOR JUDGMENT

The defendant erroneously argues that the plaintiff's action, seeking a judgment based on a prior judgment, is unprecedented. Further, the defendant argues that the plaintiff has missed its window of opportunity to enforce the 1994 judgment against the defendant.

because under South Carolina law the out-of-state judgment must be filed with the South Carolina court within ten years of the date it was issued. The plaintiff responds that an action seeking a judgment based upon a prior action is proper in Connecticut pursuant to both common law, as well as statutory law³. See General Statutes § 52-607⁴. The plaintiff further argues that Connecticut's policy for enforcing judgments is twenty years. See *Nauss v. Pinkus*, 2 Conn. App. 400, 411, 400 A.2d 568 (1984).⁵

"General Statutes § 52-607 preserve[s] the common-law right of a judgment creditor to bring an independent action on the judgment." (Internal quotation marks omitted.) *Chase Manhattan Bank v. Goldstone*, Superior Court, judicial district of Stamford-Norwalk at Stamford, Docket No. CV 95 0144986 (December 5, 1995, Dean, J.) (15 Conn. L. Rptr. 472). See also *Seaboard Surety Co. v. Waterbury*, 38 Conn. Sup. 468, 470, 451 A.2d 291 (App. Sess. 1982). "Although an action on a judgment is not favored as being generally vexatious and oppressive, the weight of authority is to the effect that an allegation of nonpayment is

³ The plaintiff also mistakenly argues that General Statutes § 52-604 supports its argument because it permits the unlimited enforcement of foreign judgments. The judgment in the present case, however, is not foreign judgment. It is a Connecticut judgment to be enforced in Connecticut against an out-of-state defendant.

⁴ General Statutes § 52-607 states: "The right of a judgment creditor to proceed by an action on the judgment or a motion for summary judgment in lieu of complaint instead of proceeding under sections 52-604 to 52-609, inclusive, remains unimpaired."

⁵ "At common law an action on a judgment may be maintained at any time within twenty years from the date of the judgment." (Internal quotation marks omitted.) *Nauss v. Pinkes*, 2 Conn. App. 400, 411, 400 A.2d 568 (1984).

sufficient reason for instituting suit." *Garguilo v. Moore*, 156 Conn. 359, 361, 242 A.2d 716 (1968).

"General Statutes § 52-598 (a) . . . provides a twenty-five year time limit to institute an action for the collection of damages" from the day judgment was entered. *Quickpower International Corp. v. Danbury*, 69 Conn. App. 756, 759, 796 A.2d 622 (2002); *Lee v. BSB Greenwich Mortgage, LP*, Superior Court, complex litigation docket at Stamford, Docket No. X08 CV 04 0200344 (August 31, 2007, Jennings, J.).⁶

The Superior Court has "the general power . . . to enforce its own judgments." *Gentile v. Ives*, 163 Conn. 281, 282, 303 A.2d 720 (1972). "[A] court must have the authority to enforce its own judgments; it must protect the integrity of its decisions by subsequent orders of enforcement." *Bailey v. Roubos*, Superior Court, judicial district of Danbury, Docket No. FA 97 0327053 (July 23, 1999, Owens, J.) (25 Conn. L. Rptr. 215, 216); see also *Turgeon v. Turgeon*, 190 Conn. 269, 284, 460 A.2d 1260 (1983).

In the present case, the defendant was engaged in a joint business venture in Connecticut, which gave rise to a legal dispute in 1991, which resulted in a Connecticut judgment in 1994. The plaintiff is within the twenty-five year statute of limitations of

⁶ General Statutes § 52-598 (a) provides in pertinent part: "No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered".

bringing an action on the prior judgment, because the present action was brought on November 13, 2007. This confers subject matter jurisdiction upon the court. It does not, however, address issues of personal jurisdiction over the defendant.

PERSONAL JURISDICTION OVER A NONRESIDENT INDIVIDUAL

The defendant argues in his motion to dismiss that the requirements of the long-arm statute were not met because he is not, and at the time of the institution of this action was not, a resident of the state of Connecticut. He attests that he has resided in South Carolina since 1992, and that there is no basis for the court to exercise personal jurisdiction over him. Finally, the defendant argues that, even if long-arm jurisdiction is authorized, personal jurisdiction over him is inconsistent with due process.

The plaintiff, counters that the defendant has sufficient contacts with Connecticut arising out of the 1994 judgment in favor of the plaintiff and against the defendant. The plaintiff reasons that the defendant was a Connecticut resident at the time of the prior litigation, 16 years ago; and that utilizing the Connecticut court system meets the statutory requirement of 'transacting business' within the state of Connecticut.

"When a defendant challenges personal jurisdiction in a motion to dismiss, the court must undertake a two part inquiry to determine the propriety of its exercising such jurisdiction over the defendant. The trial court must first decide whether the applicable state long-arm statute authorizes the assertion of jurisdiction over the [defendant]. If the statutory

requirements [are] met, its second obligation [is] then to decide whether the exercise of jurisdiction over the [defendant] would violate constitutional principles of due process.” (Internal quotation marks omitted.) *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 514-15, 923 A.2d 638 (2007).

First, the court examines the applicability of the Connecticut long-arm statute. “Connecticut courts may assert personal jurisdiction over a nonresident defendant under General Statutes § 52-59b (a) (1)⁷, as long as that defendant transacts business within the state.” *Gaudio v. Gaudio*, 23 Conn. App. 287, 298, 580 A.2d 1212, cert. denied, 217 Conn. 803, 584 A.2d 471 (1990). “[A]lthough the term ‘[t]ransacts any business’ is not defined by statute, [the Connecticut Supreme Court] previously ha[s] construed the term to embrace a single purposeful business transaction.” (Internal quotation marks omitted.) *Ryan v. Cerullo*, 282 Conn. 109, 119, 918 A.2d 867 (2007). “A purposeful business transaction is one in which the defendant has engaged in some form of affirmative conduct allowing or promoting the transaction of business within the forum state.” (Internal quotation marks omitted.) *The Cadle Co. v. Sydorowycz*, Superior Court, judicial district of Hartford, Docket No. CV 00 0597714 (June 5, 2001, Hennessey, J.) (30 Conn. L. Rptr. 202, 204). “Moreover, a

⁷ Section 52-59b(a) (1) provides, in pertinent part, that: “...a court may exercise personal jurisdiction over any nonresident individual....who in person or through an agent transacts any business within the state.”

defendants who have engaged in contemporaneous activities in Connecticut or who have had direct and recent contact with Connecticut. According to the record, the defendant in the instant matter has had no contact with Connecticut since the mid 90s. Accordingly, this court concludes that the prior litigation, which was concluded 14 years ago, is insufficient to provide personal jurisdiction over the defendant under § 52-59b.

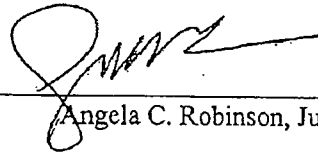
The second part of the jurisdictional analysis is whether constitutional protections of due process have been violated. "[T]he constitutional due process standard requires that, in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice. . . . In other words, [t]he Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful contacts, ties, or relations. . . . By requiring that individuals have fair warning that a particular activity may subject [them] to the jurisdiction of a foreign sovereign . . . the Due Process Clause gives a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit" *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 523-24, 923 A.2d 638 (2007).

"The due process test for personal jurisdiction has two related components: the minimum contacts inquiry and the reasonableness inquiry. The court must first determine whether the defendant has sufficient contacts with the forum state to justify the court's exercise of personal jurisdiction." (Internal quotation marks omitted.) Id., 524. Thereafter, "[w]hile the exercise of jurisdiction is favored where the plaintiff has made a threshold showing of minimum contacts at the first stage of the inquiry, it may be defeated where the defendant presents a compelling case that the presence of some other considerations would render jurisdiction unreasonable." (Internal quotation marks omitted.) Id., 525.

Addressing the issue of due process, the same factors noted above, are relevant. The defendant has not had any contact with Connecticut since 1992 outside of the 1994 judgment. The defendant is presently a resident of South Carolina, is employed in South Carolina and has been working there exclusively for over fifteen years. The defendant has not transacted any business in Connecticut in fifteen years; has not owned, used or possessed any real estate in Connecticut since 1992; and does not use a computer or a computer network within the State of Connecticut.

The plaintiff fails to meet its threshold burden of showing minimum contacts. The connection between the defendant's last contact with the forum state and the present action is too remote and too attenuated to constitute the requisite minimum contacts; and that the 1994 judgment does not constitute a recent 'transaction of business.' Accordingly, this court

concludes that it does not have personal jurisdiction over the defendant, even though Connecticut courts would have a valid interest in enforcing a valid judgment.

A handwritten signature in black ink, appearing to read 'Angela C. Robinson', is written over a horizontal line.

Angela C. Robinson, Judge

Haynsworth
Sinkler Boyd, P.A.

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March 27, 2014

VIA HAND DELIVERY

The Honorable Paul B. Wickensimer
Greenville County Clerk of Court
305 East North Street
Greenville, SC 29601-2120

Re: Investment Associates v. Joseph D. Lancia
C.A. No. 2014-CP-23-00515

Dear Mr. Wickensimer:

I have enclosed for filing the original and one copy each of a Memorandum in Support of Motion for Relief from Foreign Judgment in the above matter, together with our Certificate of Service of same.

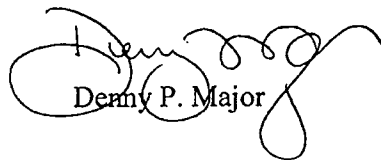
By copy of this letter, I am serving a copy of same upon counsel for the Plaintiff, Jason M. Ward, Esq.

Please return file-stamped copies to me via my courier.

If you have any questions, please feel free to contact me.

Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.


Denny P. Major

DPM:dlh

Enclosure

cc: Jason M. Ward, Esq. (Via U.S. Mail) ✓

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
INVESTMENT ASSOCIATES,	)	C.A. No. 2014-CP-23-00515
	)	
Plaintiff,	)	
	)	
vs.	)	MEMORANDUM IN SUPPORT OF
	)	MOTION FOR RELIEF FROM FOREIGN
JOSEPH D. LANCIA	)	JUDGMENT
	)	
	)	
Defendant.	)	
	)	

This action is barred by the statute of limitations contained in South Carolina Code Section 15-3-600. Plaintiff Investment Associates ("IA") is seeking to enforce a judgment (hereinafter "the Judgment") rendered in Connecticut on May 17, 1994. Defendant Joseph D. Lancia ("Lancia") has been a South Carolina resident since 1992. The Judgment was not filed in South Carolina until January 28, 2014. Consequently, enforcement of the judgment is barred by the ten year statute of limitations contained in South Carolina Code Section 15-3-600.

The above paragraph is all the information needed to rule on this matter. Nevertheless, in anticipation of arguments from IA regarding a "revival" of the Judgment, Defendant is setting forth a more detailed background relating to this matter and presenting its arguments in the context of that background.

I. FACTUAL AND PROCEDURAL BACKGROUND

On May 17, 1994, the State of Connecticut Superior Court entered the Judgment against Lancia and two others. Lancia moved from Connecticut to South Carolina in 1992 and has been a resident of South Carolina since August 1992, residing continuously at the address of 109

Thornblade Blvd in Greer, South Carolina. (Lancia Affidavit at ¶¶2-3, **exh. 1**).¹ Lancia has been active in the Greenville community since he moved to South Carolina. (*See id.* at ¶¶9-12).

In an attempt to circumvent South Carolina's ten year statute of limitations for enforcement of foreign judgments, IA filed an action in 2007 with the Connecticut Superior Court seeking a new judgment based on the Judgment. *See Investment Associates v. Lancia*, CV074028746S, 2008 WL 2168983, 2008 Conn. Super Lexis 1112 (Conn. Super. Ct. May 5, 2008), **exh. 2**. Lancia moved to dismiss for lack of personal jurisdiction on the grounds that he had been a resident of South Carolina since 1992, had worked in South Carolina exclusively during that time, and did not have any contacts with Connecticut since his move to South Carolina in 1992. *See id.* The Connecticut Superior Court granted Lancia's motion and held that Connecticut lacked personal jurisdiction over Lancia. *Id.* IA did not appeal that decision, and the time period for doing so has expired.

In 2009, the Connecticut legislature passed General Statutes § 52-598(c), which provides:

With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.

In October 2009, IA filed a "Motion to Revive" the Judgment in the Connecticut Superior Court pursuant to that statute. Lancia moved to dismiss for lack of personal jurisdiction. The court simultaneously granted the motion to revive and denied the motion to dismiss, finding that the motion to revive was merely a continuation of the original action and not a new action that

¹ The original of Mr. Lancia's affidavit was filed with the Notice of Defenses To and Motion for Relief from Foreign Judgment. A copy is being attached hereto as a courtesy.

would require Connecticut to obtain personal jurisdiction. *See Investment Associates v. Lancia*, CV91-0309954-S, 2010 Conn. Super. LEXIS 548 (Conn. Super. Ct. March 4, 2010).

Lancia appealed this decision and on August 27, 2013 the Supreme Court of Connecticut issued an opinion affirming the Superior Court. *Investment Assocs. v. Summit Assocs.*, 74 A.3d 1192 (Conn. 2013), **exh. 3**. The Court explained that “a motion to revive under § 52-598 (c) is effectively a continuation of the original proceeding rather than a new action.”² *Id.* at 1201. As such, Connecticut had personal jurisdiction over Lancia for purposes of the motion to revive. *See id.* at 1211.

On January 28, **2014**, IA filed the Judgment in South Carolina for the first time.

II. ARGUMENT

A. Enforcement of the Foreign Judgment Is Barred by the Statute of Limitations, S.C. Code Ann. Section 15-3-600

South Carolina Code Section 15-3-600 is a ten year statute of limitations that applies to the enforcement of foreign judgments. *See Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 483, 517 S.E.2d 235, 238 (Ct. App. 1999) (“the catch-all limitation period of § 15-3-600 applies to the time in which a foreign judgment must be filed . . .”). The ten year clock begins to run when the debtor moves to South Carolina and the courts of this state become empowered to adjudicate between the parties, regardless of when the creditor discovered that the debtor was a South Carolina resident. *Id.* at 482, 517 S.E.2d at 237 (“the limitation period does not begin to run until the judgment debtor moves to South Carolina and the courts of this state become

² In determining that the revival here was merely a continuation of the original Judgment, the Connecticut Supreme Court acknowledged that South Carolina may bar enforcement of the Judgment under its statute of limitations on the grounds that it is a mere continuation. *See Investment Assoc.*, 74 A.3d at 1201 n. 8 (“[w]hether the revived judgment is deemed a continuation of the original judgment or a new judgment may affect whether the foreign jurisdiction will consider Connecticut’s revived judgment to be the operative judgment for purposes of that jurisdiction’s time limit for enforcement.”).

empowered to adjudicate between the parties upon the particular cause of action.”); *id.* at 485-86, 517 S.E.2d at 239 (“We hold the ten year limitations period of § 15-3-600, for enforcement of [creditor’s] foreign judgment under the UEFJA, began to run when [debtor] became a resident of South Carolina, not when [creditor] discovered [debtor] was a South Carolina resident.”). There is no discovery rule. *Id.* at 485-86, 517 S.E.2d at 239.

Here, it is undisputed that Mr. Lancia has been a resident of South Carolina since 1992. (See Lancia Aff. at ¶¶2-7); see also *Investment Assocs.*, 74 A.3d at 1196 (“The following facts are undisputed. . . . In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina.”). In fact, he has resided at the same address continuously since 1992. (Lancia Aff. ¶¶2-3). The following facts are further indicia of Lancia’s South Carolina residency since 1992:

- He has had a South Carolina driver’s license since October 2, 1992 (see Lancia Aff. at ¶5, at exh. A);
- his vehicles have been registered in South Carolina since 1992 (*id.* at ¶6);
- he has paid South Carolina income taxes since the 1992 tax year (¶7);
- he has been a member of the Prince of Peace Church in Taylors since 1992 (¶12);
- his children attended Greenville County schools beginning in 1992 (¶13); and
- all three of his children attended public colleges in South Carolina and he has paid in-state tuition for their attendance (¶14);
- in 1993 Lancia received legal documents in South Carolina in cases arising out of the same basic events that gave rise to the Judgment (Lancia Aff. at ¶¶15-17, at exh. F, G, H).³

³ In fact, Lancia received a document in South Carolina from the Connecticut Superior Court in a related action in which IA was involved and the document is addressed to him in South Carolina. (Lancia Aff. at ¶16, at exh. G). The Clerk of Court would have provided a copy of that document, addressed to Lancia in South Carolina, to IA. See *Keating v. Jordan*, No. 096660, 1991 WL 183058, 1991 Conn. Super. LEXIS 2051 (Conn. Super. Ct. Sept. 10, 1991) (“Connecticut Practice Book Section 398 requires the clerk to give notice to the attorneys of

Lancia became a South Carolina resident in 1992. The courts of South Carolina became empowered to adjudicate this dispute when the Judgment was entered in 1994 and the ten year statutory period began to run at that time. The statutory period expired in 2004. This enforcement action was filed in 2014, almost ten years after the ten year statutory period expired. Consequently, this action is barred.

B. The Granting of the Motion to Revive the Judgment Does Not Alter the Application of South Carolina Code Section 15-3-600

IA's revival of the Judgment under Conn. Gen. Stat. 52-598(c) does not change the conclusion that this action is barred by South Carolina Code Section 15-3-600. A revived judgment under section 52-598(c) of the Connecticut General Statutes is nothing more than a continuation of the original judgment and is not a new judgment. *See Investment Assoc.*, 74 A.3d at 1201. Thus, the revival goes only to the validity of the Judgment in Connecticut and does not impact South Carolina's statute of limitations. *See Owens v. Henry*, 161 U.S. 642, 646 (1896) (holding that a Pennsylvania judgment recovered in 1861 and revived in 1871 was barred in 1880 Louisiana action by Louisiana's ten year statute of limitations since "considered as in continuation of the prior action and a revival of the original judgment for purposes of execution . . . it operated merely to keep in force the local lien, and could not be availed of as removing the statutory bar of *lex fori*") (emphasis added).⁴

record of all judgments and defaults made concerning pending cases *See also* Connecticut General Statutes Section 51-53.").

⁴ *See also Corzo Trucking Corp. v. West*, 674 S.E.2d 414, 415-16 (Ga. App. 2009) ("if a judgment is revived in the rendering state, a forum state is free to refuse enforcement of the revived judgment if the revival is merely an extension of the original judgment and enforcement of that judgment is barred by the forum state's statutory period of enforcement."); *Oakley v. Wagner*, 431 S.E.2d 676 (W. Va. 1993) (holding that enforcement of Ohio judgment was barred by West Virginia's ten year statute despite revival in Ohio three months before West Virginia proceedings since revival was mere continuation of original judgment); *Carter v. Carter*, 349 S.E.2d 95, 97 (Va. 1996) (holding that enforcement of Florida judgment was barred by

South Carolina Code Section 15-3-600 bars the enforcement of a foreign judgment after the statutory time period even where that judgment is still valid in the rendering state. This proposition is proven by *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999). In *Abba Equipment, Inc.*, the plaintiff obtained a Florida judgment against the debtor in 1983. *Id.* at 480, 517 S.E.2d at 237. The debtor became a South Carolina resident by 1985. *See id.* at 480-81, 517 S.E.2d at 236-37. The plaintiff filed the judgment with the Greenville, South Carolina Clerk of Court on December 23, 1996. *Id.* at 480, 517 S.E.2d at 236. Under Florida law, the judgment was valid for 20 years from the date of entry. *See id.* at 480, 517 S.E.2d at 236 n. 2. The *Abba Equipment* Court held that S.C. Code § 15-3-600 barred the plaintiff's enforcement of the judgment even though the Florida judgment was still valid under Florida law when it was filed in South Carolina in 1996 (and even in 1999 when the Court of Appeals issued its opinion). *See id.* at 483, 517 S.E.2d at 238.

The revival of the Judgment was merely a continuation of the validity of the Judgment in Connecticut. Thus, it is no different than the Florida judgment in *Abba Equipment, Inc.*, which continued to be valid in Florida. As such, the Judgment is barred by the statute of limitations in South Carolina Code § 15-3-600, just like the judgment in *Abba Equipment, Inc.*

This analysis is consistent with the law in other jurisdictions (*see* footnote 4, *supra*) and is in line with the Full Faith and Credit clause contained in the United States Constitution. The

Virginia's ten year statute despite revival in Florida four years before Virginia proceedings since revival was "merely a continuation of the original judgment."); *Mundaca Fin. Servs. LLC v. Casella*, 2011 WL 883506, 2011 N.C. App. LEXIS 471, N.C. App. No. COA10-714 (N.C. Ct. App. March 15, 2011) (reversing and remanding the trial court's determination that the judgment was filed within North Carolina's ten year statute of limitations since the trial court erred in holding that the plaintiff's 2009 revival of a New Jersey judgment in New Jersey was a new judgment) (unpublished); *Jacobs v. Sprague*, 280 P.2d 919, 921 (Cal. App. 1955) (concluding "that the Oregon proceedings resulting in the order of revival was not a new suit but merely a continuation of the old, and hence that the instant action was upon the original judgment and barred by limitation.").

United States Supreme Court has repeatedly held that a state may apply its own statute of limitations to bar an action, including an action to enforce a foreign judgment. See *Wells v. Simonds Abrasive Co.*, 345 U.S. 514, 517 (1953) (“the Full Faith and Credit Clause does not compel the forum state to use the period of limitation of a foreign state” and “[i]f action is barred by the statute of limitations of the forum, no action can be maintained though action is not barred in the state where the cause of action arose.”) (quoting *Order of United Commercial Travelers v. Wolfe*, 331 U.S. 586, 607 (1947)); *M’Elmoyle v. Cohen*, 38 U.S. 312, 328 (1839) (“It being settled that the statute of limitations may bar recoveries upon foreign judgments; that the effect intended to be given under our Constitution to judgments, is, that they are conclusive only as regards the merits; the common law principle then applies to suits upon them, that they must be brought within the period prescribed by the local law, the *lex fori*, or the suit will be barred.”).⁵

The application of South Carolina’s statute of limitations on foreign judgments is certainly constitutional since actions on foreign and South Carolina judgments alike must be maintained within ten (10) years. In South Carolina, proceedings to execute on a South Carolina judgment must be brought within ten (10) years. S.C. Code Ann. § 15-39-30; see also *Linda Mc Company, Inc. v. Shore*, 390 S.C. 543, 554-55, 703 S.E.2d 499, 505 (2010). South Carolina judgments “cannot be renewed” or revived. See *LaRosa v. Johnston*, 328 S.C. 293, 300, 493 S.E.2d 100, 103 (Ct. App. 1997) *overruled in part as stated in Linda Mc Company, Inc.*, 390

⁵ More recently, the Supreme Court has found its holdings in these cases to be “sound” and reiterated that a state “may apply its own procedural rules to actions litigated in its courts.” *Sun Oil Co. v. Wortman*, 486 U.S. 717, 722, (1988). South Carolina courts view its statutes of limitation as procedural. See *Capco of Summerville, Inc. v. J.H. Gayle Constr. Co.*, 368 S.C. 137, 143, 628 S.E.2d 38, 41 (2006) (“A statute of limitations is a procedural device . . .”).

S.C. at 554-55 n. 8, 703 S.E.2d at 505 n. 8;⁶ *Home Port Rentals, Inc. v. International Yachting Group*, 95 F.Supp.2d 623, 624 (W.D. La. 2000) (“South Carolina courts interpret [S.C. Code § 15-39-30] to mean what it says: a judgment is utterly extinguished ten years from the date of entry. *There is no procedure for renewal or revival.*”) (emphasis added).

If anything, South Carolina already affords foreign judgments greater rights than South Carolina judgments since a foreign creditor could file the foreign judgment in South Carolina within ten years, at which point the foreign judgment would then be valid for ten (10) years after enrollment in South Carolina. See *Commercial Credit Loans, Inc. v. Riddle*, 334 S.C. 176, 512 S.E.2d 123 (Ct. App. 1999) (holding that the 10-year period in S.C. Code § 15-39-30 begins to run when the creditor enrolls the judgment in South Carolina rather than when it obtained the judgment).⁷ Thus, a foreign judgment could continue to be valid in South Carolina for far longer than a South Carolina judgment. Consequently, the application of South Carolina South Carolina Code § 15-3-600 to bar this action is clearly in line with the Full Faith and Credit Clause. See *Great Western Tel. Co. v. Purdy*, 162 U.S. 329, 338 (1896) (holding that Iowa statute of limitations was proper since “[n]either the statutes nor the decisions of the State of Iowa upon this subject have made any discrimination against the citizens, the contracts or the

⁶ In *Linda Mc Company v. Shore*, a South Carolina judgment was entered against the debtor on June 2, 1995, the creditor filed a petition for supplemental proceedings on July 29, 2004, and the court issued an order to execute and levy on the debtor’s assets on June 3, 2005. The South Carolina Supreme Court held that when a party has filed a petition for supplemental proceedings in South Carolina ***within ten years from entry of the South Carolina judgment***, and “is merely waiting on a court’s order regarding execution and levy, the ten year limitation found in section 15-30-30 is extended to when the court finally issues an order.” *Linda Mc Company*, 390 S.C. at 554, 703 S.E.2d at 505. It overruled *LaRosa v. Johnston* only to the extent inconsistent with that holding. *Id.* at 554-55 n. 8, 703 S.E.2d at 505 n. 8. It does not provide any mechanism for renewal or revival. In any event, the Judgment in the present case was not filed within ten years.

⁷ To the extent the holding in *Commercial Credit Loans, Inc. v. Riddle* is erroneous and the 10 year period in S.C. Code § 15-39-30 begins to run when the judgment is entered in the rendering state, the present action is barred by S.C. Code § 15-39-30 for the same reasons it is barred by §15-3-600.

judgments of other States, or against any right asserted under the Constitution or laws of the United States.”); *Suter v. Suter*, 37 S.E.2d 474 (W. Va. 1946) (“we do not think that, under the full faith and credit clause of our Federal Constitution, a court of any state is required to give to the decree of a court of a foreign state, a higher decree of force or effect than that accorded to the decrees of its own courts.”).

“Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs.” *Moates v. Bobb*, 322 S.C. 172, 176, 470 S.E.2d 402, 404 (Ct. App. 1996). “The cornerstone policy consideration underlying statutes of limitations is the laudable goal of law to promote and achieve finality in litigation.” *Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 175, 609 S.E.2d 548 (Ct. App 2005). They provide defendants with certainty of when they can no longer be haled into court and discourage plaintiffs from sitting on their rights. *Id.* Thus, “[s]tatutes of limitations are, indeed, fundamental to our judicial system.” *Id.*

If South Carolina was to consider revived judgments from the date of revival, then a creditor could potentially “revive” a judgment in the rendering state continuously, in which case there would effectively be no statute of limitations in South Carolina on foreign judgments. As set forth above, this is not the law and creditors cannot sit on their rights as IA did here. Even though no discovery rule applies in this case, IA knew, or should have known, that Lancia was living in South Carolina by 1993 at the latest. Among other things, Lancia was receiving legal documents addressed to him in South Carolina in 1993, including in actions to which IA was a

party. Yet it waited until nearly twenty (20) years after obtaining its Judgment to file it in South Carolina. Its action on the Judgment is, and should be, barred by the statute of limitations.⁸

C. Additional Defenses

For the reasons set forth above, Lancia submits that this action should be dismissed, the Judgment should be stricken from the docket, and any attempts to enforce this action should be denied. Lancia has filed this motion and seeks a ruling on the above arguments since the facts relevant to these arguments are undisputed and should be dispositive of this action. However, should the Plaintiff's action not be dismissed as requested, Lancia also has additional defenses that will require some discovery to further develop. These defenses are set forth in Lancia's Motion for Relief from and Notice of Defenses to Foreign Judgment (at sections IV and V), which is incorporated herein by reference. If the court allows this action to proceed further, Lancia reserves the right to file a motion that more fully sets forth these additional defenses.

III. CONCLUSION

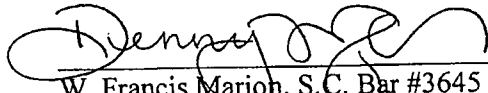
For the reasons set forth above, this action be dismissed, that the foreign judgment be stricken, that any attempts to enforce the foreign judgment in South Carolina be terminated, that

⁸ If for some reason the statute of limitations found in section 15-3-600 is found not to apply despite the Court of Appeals' holding in *Abba Equipment Co.*, Defendant submits that this action is barred by the statute of limitations in S.C. Code § 15-39-30 (see footnote 6, *supra*), S.C. Code § 15-3-530(1) and/or laches. S.C. Code § 15-3-530(1) provides for a three (3) year statute of limitations for "an action upon a contract, obligation, or liability, express or implied" except for certain sealed instruments. Though Lancia is not aware of any case finding that section 15-3-530(1) applies to foreign judgments, to the extent the Judgment is found to be an action upon an obligation or liability, it is barred by S.C. Code § 15-3-530(1). IA knew, or at least should have known, that Lancia was in South Carolina since at least 1993. It certainly knew by 2007, when it sought to renew the Judgment in the Connecticut Superior Court. (*See* Exh. 2). However, it failed to file the Judgment in South Carolina until 2014. Consequently, the Judgment would be barred pursuant to S.C. Code § 15-3-530(1) if it is determined to be an action upon a liability.

the court find the foreign judgment to be void and unenforceable, and that Lancia be granted such other and further relief as this Court deems proper.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

A handwritten signature in cursive script, appearing to read "Denny P. Major", is written over a horizontal line.

W. Francis Marion, S.C. Bar #3645

Denny P. Major, S.C. Bar #74907

HAYNSWORTH SINKLER BOYD, P.A.

P. O. Box 2048

Greenville, SC 29602

Telephone: (864) 240-3220

Fax: (864) 240-3336

Attorneys for Defendant Joseph D. Lancia

March 27, 2014

Greenville, South Carolina

DM: 2242441 V.3

EXHIBIT 1
LANCIA AFFIDAVIT

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) AFFIDAVIT OF JOSEPH LANCIA

PERSONALLY APPEARED BEFORE ME, JOSEPH LANCIA, who, being duly sworn,
deposes and affirms as follows:

1. I have personal knowledge of the facts set forth herein and would testify to the same if called to do so.

2. I have been a resident of South Carolina continuously since August 1992 and am presently a resident of South Carolina.

3. I have resided at the address of 109 Thornblade Boulevard, Greer, South Carolina 29650 since August 1992.

4. I have been working in South Carolina since 1992.

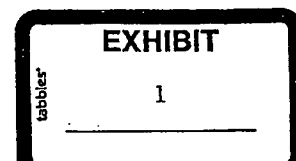
5. I have had a South Carolina driver's license since 1992. Attached hereto as **exhibit A** is a true and accurate copy of my 10 year driver record from the South Carolina DMV. This correctly states that my South Carolina driver's license was first issued on 10/02/1992.

6. My vehicles have been registered in South Carolina since 1992 and I have paid Greenville County, South Carolina vehicle taxes since 1992. Attached hereto is a true and accurate copy of a printout from the Greenville County, South Carolina website (www.greenvillecounty.org) showing my tax payments on my vehicles dating back to 1999.

7. I have paid South Carolina income taxes since the 1992 tax year.

8. Attached hereto as **exhibit C** is a true and accurate copy of my 1994 tax return, which shows my home address as 109 Thornblade Boulevard, Greer, SC 29650.

9. I have been a member of the Thornblade Club in Greer, South Carolina since 1992.



10. I have served as director of the Thornblade Classic golf tournament from 1993 to 2000. Attached hereto as **exhibit D** is a true and accurate copy of two pages contained in the program of the 1994 Thornblade Classic. Attached hereto as **exhibit E** is a true and accurate copy of an article that appeared in the Greenville News on April 19, 2000 regarding my work with the Thornblade Classic and other activities in Greenville County, South Carolina.

11. During the early 1990s, I served as a member of the board of directors for Loaves and Fishes, which is a charitable organization here in Greenville that distributes food to soup kitchens and food pantries throughout Greenville County.

12. I have been a member of the Prince of Peace Church located in Taylors, South Carolina since 1992.

13. I have had three children that attended public school in Greenville County, South Carolina beginning in 1992.

14. All three of my children have attended public colleges in South Carolina and I have paid in-state tuition for their attendance of these South Carolina colleges.

15. In May 1993, I was served with a summons and third party complaint in the Connecticut lawsuit of Aetna Casualty & Surety Company of Illinois v. Investment Associates. The summons is addressed to me in South Carolina. I was served here in South Carolina. Attached hereto as **exhibit F** is a true and accurate copy of the summons.

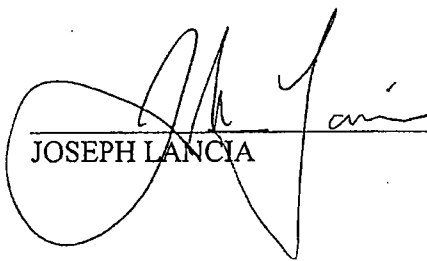
16. In 1993, I received a document from the Connecticut Superior Court regarding a notice of default in the Connecticut lawsuit of Aetna Cas. vs. Investment Assoc., et. al. A true and accurate copy of that document is attached hereto as **exhibit G**. The document is addressed to me in South Carolina. I received that document in South Carolina.

17. In September 1993, I was served with a subpoena for a deposition that took place on September 28, 1993 here in Greenville, South Carolina. I was served at my residence of 109 Thornblade Boulevard, Greer, SC 29650, which was my residence at that time and continues to be my residence today. A true and accurate copy of the subpoena is attached hereto as **exhibit H**. The subpoena itself, which is dated September 8, 1993, correctly listed my address as 109 Thornblade Boulevard, Greer, South Carolina 29650.

18. I have not lived or worked in Connecticut since 1992 and have not transacted any business in Connecticut since at least 1992.

19. I have not owned used or possessed any real estate in Connecticut since 1992.

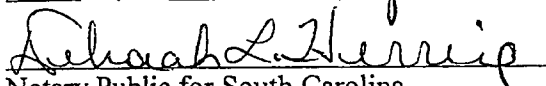
SO ENDETH.



JOSEPH LANCIA

Sworn to before me this

17th day of February, 2014



Deborah L. Herriq

Notary Public for South Carolina

My Commission Expires: 3/12/2019



10 YEAR DRIVER RECORD

Customer No: 24238285
Name: LANCIA, JOSEPH D
Address: 109 THORNBLADE BLVD
City: GREER
County: GREENVILLE
DOB: 08/05/1960

Driver License No: [REDACTED]

State: SC

Zip: 296504427

Sex: M

Driver Training: Y

Status - DL: NO SUSPENSION

CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Restrictions	Endorsements
Current							
DL	D	Renewal	07/26/2006	08/05/2016	10/02/1992	N	N
Prior							
DL	D	Renewal	07/10/2001	08/05/2006	10/02/1992	N	N

Point Summary

Total Current Points: 1
Driver Credit: -0
Adjusted Current Points: 1

VIOL: 421 - Speeding 10-mph or less

Violation: 08/25/2012 Conviction: 09/18/2012

ACD: S51

Conviction State: SC

Ticket#: F637675

Recd: 10/01/2012 Post: 10/05/2012

Conviction Reference:

Court Type: MAG

Violation Points: 2 Current Points: 1

END OF REPORT

2/14/2014 12:26 PM

Data obtained from DMV via South
Carolina State Portal

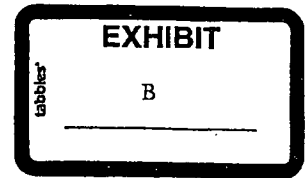
Invoice #13531529

EXHIBIT

A

[Home](#) | [Search](#) | [Services](#) | [Legal Disclaimer](#)

Vehicle Tax Search Results



Search Results For: LANCIA JOSEPH D

Results Found: 43

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	2013 05 0646608 01 001	\$290.70	\$290.70	View Receipt
VIN#: WDDHF9BB3CA644777	2012 MERZ	District: 195	04/18/2013	
LANCIA JOSEPH D	2013 09 0790105 01 001	\$48.80	\$48.80	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	08/26/2013	
LANCIA JOSEPH D	2013 10 0823741 01 001	\$308.10	\$308.10	View Receipt
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195	09/23/2013	
LANCIA JOSEPH D	2012 03 0049323 01 001	\$164.24	\$164.24	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195	03/14/2012	
LANCIA JOSEPH D	2012 05 0150640 01 001	\$802.25	\$802.25	View Receipt
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195	04/16/2012	
LANCIA JOSEPH D	2012 09 0291872 01 001	\$301.27	\$301.27	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	08/23/2012	
LANCIA JOSEPH D	2012 10 0325069 01 001	\$345.72	\$345.72	View Receipt
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195	09/14/2012	
LANCIA JOSEPH D	2011 03 0635033 01 001	\$145.47	\$145.47	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195	02/24/2011	
LANCIA JOSEPH D	2011 05 0701623 01 001	\$957.29	\$957.29	View Receipt
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195	04/27/2011	
LANCIA JOSEPH D	2011 09 0840566 01 001	\$335.06	\$335.06	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	08/17/2011	
LANCIA JOSEPH D	2011 10 0872967 01 001	\$338.66	\$338.66	View Receipt
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195	09/28/2011	
LANCIA JOSEPH D	2010 03 0153705 01 001	\$176.34	\$176.34	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195	02/26/2010	
LANCIA JOSEPH D	2010 05 0286513 01 001	\$976.35	\$976.35	View Receipt
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195	04/30/2010	
LANCIA JOSEPH D	2010 08 0387719 01 001	\$0	\$0	View Receipt
VIN#: SALAE25468A447184	2008 LNDR	District: 195		
LANCIA JOSEPH D	2010 09 0421537 01 001	\$324.63	\$324.63	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	09/16/2010	
LANCIA JOSEPH D	2009 03 0723439 01 001	\$221.75	\$221.75	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195	01/30/2009	
LANCIA JOSEPH D	2009 05 0789326 01 001	\$933.27	\$933.27	View Receipt
VIN#: SALSH23428A185811	2008 LNDR	District: 195	05/06/2009	
LANCIA JOSEPH D	2009 08 0889689 01 001	\$575.48	\$575.48	View Receipt
VIN#: SALAE25468A447184	2008 LNDR	District: 195	07/27/2009	
LANCIA JOSEPH D	2009 09 0923342 01 001	\$469.94	\$469.94	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195	08/31/2009	

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2008 03 0282583 01 001 2005 JEEP	\$270.94 District: 195 02/28/2008	\$270.94	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2008 05 0347469 01 001 2006 LNDR	\$667.32 District: 195 04/25/2008	\$667.32	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2008 08 0445837 01 001 2002 TOYT	\$176.71 District: 195 07/29/2008	\$176.71	View Receipt
LANCIA JOSEPH D VIN#: SALFS24NX8H038976	2008 09 0511362 01 001 2008 LNDR	\$577.93 District: 195 08/25/2008	\$577.93	View Receipt
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2007 03 0885193 01 001 2005 JEEP	\$323.66 District: 195 03/13/2007	\$323.66	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2007 05 0948135 01 001 2006 LNDR	\$803.06 District: 195 05/23/2007	\$803.06	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2007 08 0048486 01 001 2002 TOYT	\$184.51 District: 195 07/30/2007	\$184.51	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2007 09 0081086 01 001 2004 VOLV	\$524.76 District: 195 09/11/2007	\$524.76	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2006 05 0497649 01 001 2006 LNDR	\$939.21 District: 195 04/27/2006	\$939.21	View Receipt
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2006 06 0527429 01 001 2005 JEEP	\$396.42 District: 195 05/31/2006	\$396.42	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2006 08 0620466 01 001 2002 TOYT	\$234.60 District: 195 07/27/2006	\$234.60	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2006 09 0651712 01 001 2004 VOLV	\$694.71 District: 195 09/26/2006	\$694.71	View Receipt
LANCIA JOSEPH D VIN#: YV1CZ59H341035649	2005 05 0128936 01 001 2004 VOLV	\$586.46 District: 195 04/11/2005	\$586.46	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2005 08 0217023 01 001 2002 TOYT	\$244.74 District: 195 08/17/2005	\$244.74	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2005 09 0246750 01 001 2004 VOLV	\$691.55 District: 195 08/17/2005	\$691.55	View Receipt
LANCIA JOSEPH D VIN#: YV1CZ59H341035649	2004 05 0704085 01 001 2004 VOLV	\$717.84 District: 195 04/25/2004	\$717.84	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2004 08 0790231 01 001 2002 TOYT	\$301.36 District: 195 07/22/2004	\$301.36	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2004 09 0819281 01 001 2004 VOLV	\$717.84 District: 195 08/31/2004	\$717.84	View Receipt
LANCIA JOSEPH D VIN#: YV1RH52YX42343242	2003 00 3696218 01 001 2004 VOLV	\$798.81 District: 195 09/18/2003	\$798.81	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2003 08 0411283 01 001 2002 TOYT	\$344.15 District: 195 07/31/2003	\$344.15	View Receipt
LANCIA JOSEPH D VIN#: YV1CZ59H341035649	2003 08 0411284 01 001 2004 VOLV	\$796.44 District: 195 07/31/2003	\$796.44	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2002 11 0092281 01 001 2002 TOYT	\$379.82 District: 195 10/31/2002	\$379.82	View Receipt
LANCIA JOSEPH D VIN#: WP0CA2999TS340098	2000 01 0583042 01 001 1996 PORS	\$183.01 District: 195 01/20/2000	\$183.01	View Receipt

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	1999 05 0170006 01 001	\$1250.82	\$1250.82	View Receipt
VIN#: WP0CA2999TS340098	1996 PORS	District: 195	04/30/1999	

Form 1040

Department of the Treasury - Internal Revenue Service
U.S. Individual Income Tax Return

1994

IRS Use Only - Do not write or staple in this space.

For the year Jan. 1-Dec. 31, 1994, or other tax year beginning , 1994, ending , 19		OMB No. 1545-0074	
Label (See Instructions on page 12.) Use IRS label. Otherwise, please print or type.	Your first name and initial JOSEPH D LANCIA		Last name LANCIA
	If a joint return, spouse's first name and initial KATHRYN M		Last name LANCIA
	Home address (number and street). If you have a P.O. box, see page 12. 109 THORNBLADE BOULEVARD		Apt. no.
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 12. GREER, SC 29650		For Privacy Act and Paperwork Reduction Act Notice, see page 4.
Presidential Election Campaign	Do you want \$3 to go to this fund? If a joint return, does your spouse want \$3 to go to this fund?		Yes No ☒ ☒
Filing Status (See page 12.) Check only one box.	1	Single	
	2	☒ Married filing joint return (even if only one had income)	
	3	Married filing separate return. Enter spouse's soc. sec. no. above and full name here. ▶	
	4	Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here. ▶	
Exemptions (See page 13.)	5	Qualifying widow(er) with dependent child (year spouse died ▶ 19)	
	6a	☒ Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2.	No. of boxes checked on 6a and 6b 2
	b	☒ Spouse	
	c	Dependents: (1) Name (first, initial, and last name) (2) Check if under age 1 (3) If age 1 or older, dependent's social security number (4) Dependent's relationship to you (5) No. of months lived in your home in 1994	No. of your children on 6c who: • lived with you 2 • didn't live with you due to divorce or separation (see page 14)
Income Attach Copy B of your Forms W-2, W-2G, and 1099-R here. If you did not get a W-2, see page 15. Enclose, but do not attach, any payment with your return.	7	Wages, salaries, tips, etc. Attach Form(s) W-2	7
	8a	Taxable interest income. Attach Schedule B if over \$400	8a
	b	Tax-exempt interest (see page 16). DON'T include on line 8a	8b
	9	Dividend income. Attach Schedule B if over \$400	9
	10	Taxable refunds, credits, or offsets of state and local income taxes (see page 16)	10
	11	Alimony received	11
	12	Business income or (loss). Attach Schedule C or C-EZ	12
	13	Capital gain or (loss). If required, attach Schedule D (see page 16).	13
	14	Other gains or (losses). Attach Form 4797	14
	15a	Total IRA distributions	15a
16a	Total pensions and annuities	16a	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation (see page 18)	19	
20a	Social security benefits	20a	
21	Other income. List type and amount - see page 18	21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income		22
Adjustments to Income Caution: See instructions ▶	23a	Your IRA deduction (see page 19)	23a
	b	Spouse's IRA deduction (see page 19)	23b
	24	Moving expenses. Attach Form 3903 or 3903-F	24
	25	One-half of self-employment tax	25
	26	Self-employed health insurance deduction (see page 21)	26
	27	Keogh retirement plan and self-employed SEP deduction	27
	28	Penalty on early withdrawal of savings	28
	29	Alimony paid. Recipient's SSN ▶	29
	30	Add lines 23a through 29. These are your total adjustments	30
	31	Subtract line 30 from line 22. This is your adjusted gross income. If less than \$25,296 and a child lived with you, (less than \$9,000 if a child didn't live with you), see "Earned Income Credit" on page 27.	31

410001
10-20-94 S430
21420411 786735 210533
060 LANCIA, JOSEPH DForm 1040 (1994)
10000001

Tax
Compu-
tation

32	Amount from line 31 (adjusted gross income)	32	
33a	Check if: ☐ You were 65 or older, ☐ Blind; ☐ Spouse was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here	33a	
b	If your parent (or someone else) can claim you as a dependent, check here	33b	
c	If you are married filing separately and your spouse itemizes deductions or you are a dual-status alien, see page 23 and check here	33c	
34	Enter the larger of your: Itemized deductions from Schedule A, line 29, OR Standard deduction shown below for your filing status. But if you checked any box on line 33a or b, go to page 23 to find your standard deduction. If you checked box 33c, your standard deduction is zero. • Single - \$3,800 • Head of household - \$5,600 • Married filing jointly or Qualifying widow(er) - \$6,350 • Married filing separately - \$3,175	34	
35	Subtract line 34 from line 32	35	
36	If line 32 is \$83,850 or less, multiply \$2,450 by the total number of exemptions claimed on line 6e. If line 32 is over \$83,850, see the worksheet on page 24 for the amount to enter	36	
37	Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0-	37	
38	Tax. Check if from a ☒ Tax Table, b ☐ Tax Rate Schedules, c ☐ Capital Gain Tax Worksheet, or d ☐ Form 8615 (see page 24). Amount from Form(s) 8814	38	
39	Additional taxes. Check if from a ☐ Form 4970 b ☐ Form 4972	39	
40	Add lines 38 and 39	40	

Credits

41	Credit for child and dependent care expenses. Attach Form 2441	41	
42	Credit for the elderly or the disabled. Attach Schedule R	42	
43	Foreign tax credit. Attach Form 1116	43	
44	Other credits. Check if from a ☐ Form 3800 b ☐ Form 8396 c ☐ Form 8801 d ☐ Form (specify)	44	
45	Add lines 41 through 44	45	
46	Subtract line 45 from line 40. If line 45 is more than line 40, enter -0-	46	

Other
Taxes

47	Self-employment tax. Attach Schedule SE	47	
48	Alternative minimum tax. Attach Form 6251	48	
49	Reapture taxes. Check if from a ☐ Form 4255 b ☐ Form 8611 c ☐ Form 8828	49	
50	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	50	
51	Tax on qualified retirement plans, including IRAs. If required, attach Form 5329	51	
52	Advance earned income credit payments from Form W-2	52	
53	Add lines 46 through 52. This is your total tax	53	

Payments

Attach
Forms W-2,
W-2G, and
1099-R on
the front.

54	Federal income tax withheld. If any is from Form(s) 1099, check ☐	54	500.
55	1994 estimated tax payments and amount applied from 1993 return	55	
56	Earned income credit. If required, attach Schedule EIC (see page 27). Nontaxable earned income: amount	56	
57	Amount paid with Form 4858 (extension request)	57	
58	Excess social security and RRTA tax withheld (see page 32)	58	
59	Other payments. Check if from a ☐ Form 2439 b ☐ Form 4136	59	
60	Add lines 54 through 59. These are your total payments	60	

Refund or
Amount
You Owe

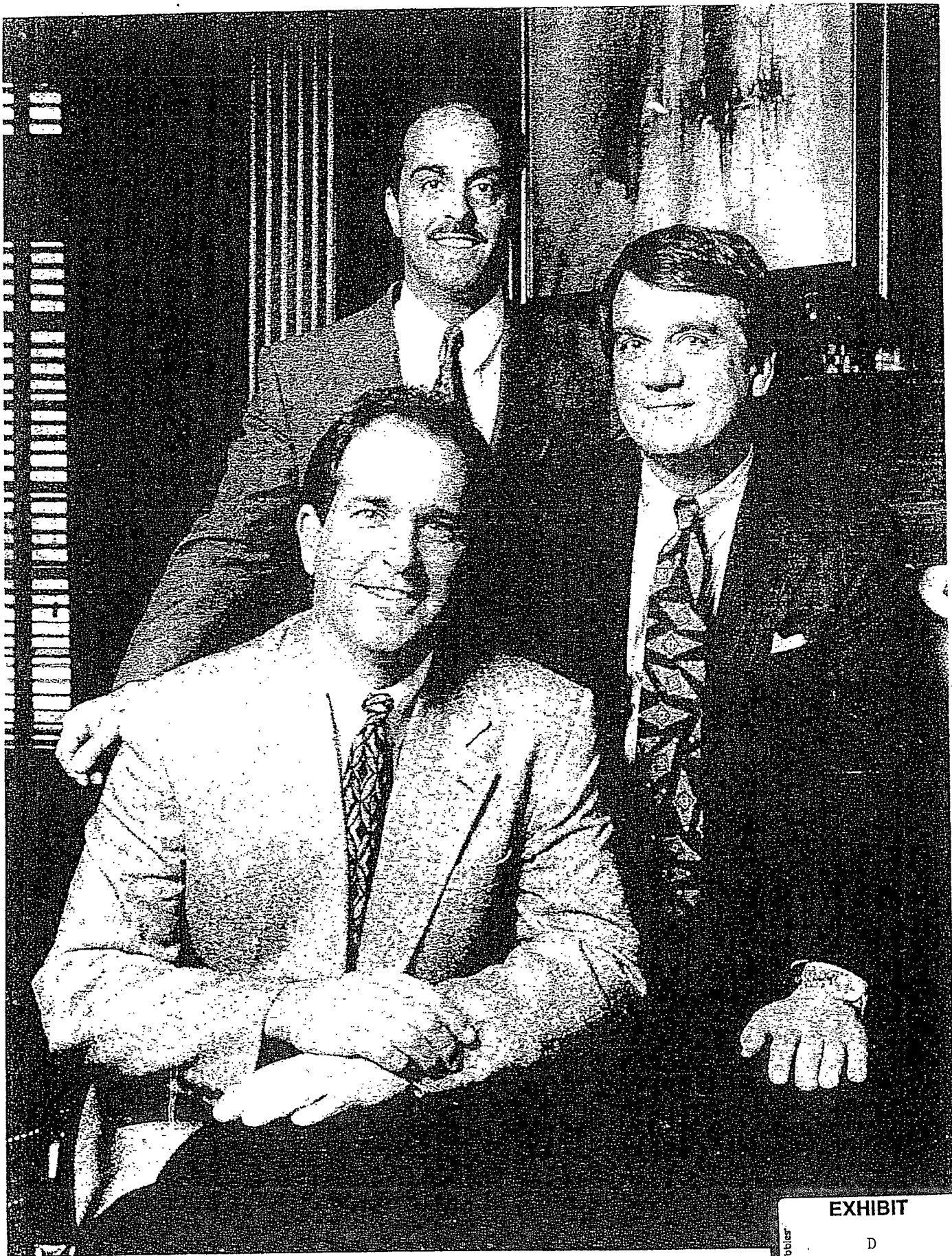
61	If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID	61	
62	Amount of line 61 you want REFUNDED TO YOU	62	
63	Amount of line 61 you want APPLIED TO YOUR 1995 ESTIMATED TAX	63	
64	If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE. For details on how to pay, including what to write on your payment, see page 32	64	
65	Estimated tax penalty (see page 33). Also include on line 64	65	27.

Sign
HereKeep a copy
of this return
for your
records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Your signature	Date	Your occupation	
Spouse's signature. If a joint return, BOTH must sign.	Date	Spouse's occupation	
Preparer's signature	Date	Check if self-employed ☐	Preparer's social security no.

Paid
Preparer's
Use Only

Firm's name (or yours if self-employed) and address	Chris McCraw, C.P.A., P.A. 1200 Woodruff Road, A-3 Greenville, SC	E. I. No.	
		ZIP code	29607



EXHIBIT

D

Welcome to the 1994 Thornblade Classic

We are pleased that you have joined us for the Third Annual Thornblade Classic. Our Tournament has continued to grow because of the wonderful support we receive from several important groups.

First, special thanks to the PGA Tour players who make this event possible. We have been extremely fortunate to feature the most outstanding players in golf. Their presence sets our event apart from all others. It is the key ingredient we need to provide funds to our beneficiaries.

The second group we wish to thank are the corporate sponsors that have annually supported the Thornblade Classic. These many fine companies know that the principle benefit of their involvement in the Thornblade Classic is their association, through the Classic, with our three beneficiaries. Their support makes it possible for the Thornblade Classic to make a generous contribution to The School District of Greenville County, The Governors School for the Arts and the Peace Center.

We also want to thank the many tournament volunteers who help make this day a pleasure for the participants and the spectators. We have never been short of volunteers to assist with the many needs of the event. Few events of this kind can make that claim. We are proud of our association with these community minded individuals who give so freely of their time.

Finally, we are most appreciative of the many thousands of golf fans who have attended the Thornblade Classic. Your support and enthusiastic reception of the Classic has made the Tournament an important event in the upstate.

To the amateurs, spectators, volunteers, sponsors and especially our PGA Tour Professionals, thank you for being here. We know that you will enjoy the day.

Sincerely,



Champ Covington
Founder's Board Chairman



Joe Lancia
Tournament Director



Jay Haas
Director of Golf



ALAN DEVORSEY / S&P

Joe Lancia moved from Connecticut to Greenville in 1992.

Lancia's love of golf reaped rewards for Thornblade Classic

Jimmy Cornettson
City People Writer
jcornett@greenvillenews.com

In his office on the third floor of his Thornblade home, Joe Lancia has collected enough golf memorabilia to start his own PGA museum. The other collectibles scattered about his house could almost complete the museum.

There's a blimp shot of Mark O'Meara sinking his putt on the 18th hole to win the 1998 Masters. It's autographed by O'Meara.

There's also a shot of

Lancia with Phil Michelson, and it appears that Lancia is offering advice to the touring pro. Jokingly, Lancia says he was.

A shadowbox frame holds one of Tiger Woods' golf caps. Another contains one of Arnold Palmer's golf gloves. A copy of the classic golf book, "Little Red Book," by Harry Penick is inscribed by the author.

Photos of Greg Norman, Larry Mize and a host of who's who on the PGA tour, all autographed, are on display along with one of John Daly's drivers.

Most of these things were given to Lancia by players he's met in his seven years as tournament director of the Thornblade Classic, the charity golf event that has raised more than \$1.5 million for local charities.

This year's Classic, to be held at Thornblade Monday, will be the last one.

The idea for the Classic came from Thornblade's touring PGA pro, Jay Haas. He envisioned a one-day event that would have all the ambiance of a

See **WANDLING** on page 3A

EXHIBIT

E

Handling details is Lancia's s

Continued from Page 1

tournament. He would invite friends from the tour and pair them with sponsors to raise money for local charities.

He was assisted in organizing the Classic by a local businessman, Champ Covington.

In 1992, the same year a young man named Joe Lancia moved to Greenville, the first Thornblade Classic was held. For two years, Covington assisted the Thornblade Country Club head golf pro. When the pro moved, Covington was on his own.

One day Lancia and Covington were having lunch, and almost matter-of-factly, Lancia said, "Hey, if you need any help ..."

Lancia found himself appointed volunteer director.

"I had zero experience. I knew nothing about running a golf tournament," he admits with a smile. "But when I started a plastic injection molding company, I knew nothing about that, so I figured I could run a golf tournament. A lot of it is just management."

Jamie McCullough, head golf professional at Thornblade, says Lancia is especially good at getting sponsorships and dealing with vendors.

"He's the reason we've had the

PROFILE

■ Lancia has three children, Jenna, 12, Kara, 10 and Krista, 5.

■ One of the highlights of Lancia's work as tournament director of the Thornblade Classic was chauffeuring Arnold Palmer from the airport in 1994.

■ Though he has a five-handicap, Lancia has never had a golf lesson.

■ To be paired with a top pro at the Classic, a Presenting Patron must contribute \$20,000. Pairings of pros with sponsors are based on how long the sponsor has been involved with the Classic.

■ In 1996, the Thornblade Classic distributed \$240,000 to 29 non-profit organizations and charities in Greenville County.

success we've had," McCullough says. "He has a way of getting people to pitch in and help, and that's what you need in a charity event."

"Joe's an incredible negotiator," agrees Linda Riddle, co-director of the tournament. "He's able to get things at cost or free, which obviously means more money for charities. When he came, the money that went back to the community really increased. After Joe talks to you, you just want to do it."

Lancia was born and raised in Connecticut, a graduate of the Uni-

versity of Southern Connecticut, where he earned a degree in finance and computer science. Out of college, Lancia took a job with Litton Industries, working with computer accounting systems, then moved to another computer software company.

This background allowed Lancia to strike out on his own in Connecticut with a company that bought old and obsolete computers to gut them and sell anything of value.

This venture was followed by the plastic injection molding business. In 1989, still in his 20s, Lancia sold his interest in those businesses and started his own firm, Strategic Investments, specializing in mergers and acquisitions.

"Strategic Investments was the harder one to get started," recalls Lancia. "Most of my peers came from Wall Street investment houses. Getting clients was hard, because I didn't have the ability to contact one and say, 'I was with Morgan Stanley.'"

Still, it all worked because Lancia figures he was in the right place at the right time.

By the early '90s, Lancia and his wife, Kathy, began looking for a new place to live. Since his office was in his home, he would also be relocating his business.

"We had small children and started looking for somewhere warmer," he says. "Because of family, we wanted to stay on the East Coast. Every place we looked at was either a great place to live or not a good place for business, or good place for business and not good place for families."

In the *Wall Street Journal*, Lancia saw an ad for a company for sale in Greenville.

"I'd never heard of Greenville. By 1991, there were the rumors BMW coming, so I visited her

rength

"Two days here, and I started getting a good feeling."

In 1992, the couple bought a home in Thornblade, an ideal location for family, his business and his growing passion for golf.

"I was a baseball player in college. My mom was 45 when she took up golf, and at age 60, she won the Connecticut Senior Amateur Championship," says Lancia.

With athletic ability and good hand-eye coordination, Lancia began teaching himself how to play golf. He watched golf on television and then tried to copy the pros.

Today, he carries a five handicap to go with his smooth swing, and at the Thornblade Classic, he has had the opportunity to meet many of those pros who helped shape his game through their television appearances.

As director of the tournament, Lancia's goal has been the one Haas envisioned — to keep the atmosphere of a regular PGA tour event. He believes he and the 350 tournament volunteers have done that.

A sponsor once told Lancia that his favorite part of the tournament came on the ninth green as he sunk a 25-foot putt, and the crowd cheered.

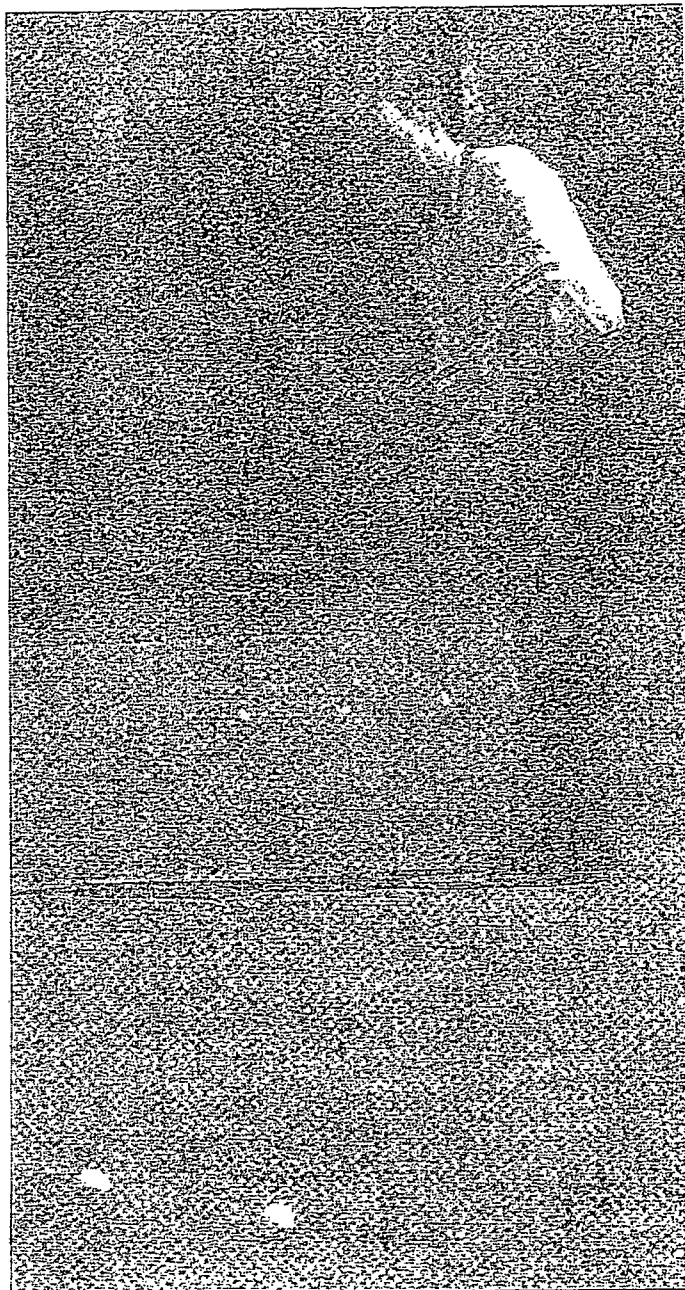
"He said the hairs stood up on his arm, and that he now knew what the pros felt like," says Lancia. "My biggest surprise has been how big this thing has gotten."

In his first year, Arnold Palmer came, and since that time, the tournament has raised \$1.5 million for local charities.

"Everybody knows about the Thornblade Classic. It's been recognized as one of the top charity events on the tour," Lancia points out.

It was because of a chance meeting several years ago at a Greenville County School Board meeting that Lancia came to understand

how much is the school



ALAN DEVORSEY / Staff

Joe Lancia carries a five handicap.

the good the tournament was doing. Lancia had been asked to speak at a public hearing.

"A lady came up to me afterwards and said she just wanted to thank me for what we were doing," says Lancia of the tournament's focus on children's charities and education.

"She said if it wasn't for the Thornblade Classic the school her child attended wouldn't have a computer lab. She wasn't able to afford a computer, and the lab allowed her child to keep up."

Lancia, through his role as tournament director, has also become exposed to many charities in the

What he has realized, he explains, is that there is much happening in Greenville to make the quality of life better. What he saw on his visits to agencies, he describes simply: "Wow!"

During those visits he became so interested in the work of several agencies that he involved himself as a volunteer. Now he serves on the board of Loaves and Fishes, a food rescue agency.

In the summer he will direct the Frank Outlaw Tennis Tournament to raise money for the Red Cross.

It all started with Lancia's chance remark over lunch, "If I can ever help..."

CIVIL (except family actions)

SUPERIOR COURT

JD-CV-1 Rev. 3-91

GEN. STAT. 51-346, 51-347, 51-349, 51-350, 52-45a,

52-48, 52-259

PR. BK. 49, 63, 66

INSTRUCTIONS

1. Prepare on typewriter: sign original summons (top sheet) and conform copies of the summons (sheets 3 and 4).
2. If there is more than one defendant, prepare or photocopy conformed summons for each additional defendant.
3. Attach the original summons, with computer sheet attached (page 2), to the original complaint, and attach a copy of the summons to each copy of the complaint. Also, if there are more than 2 plaintiffs or 4 defendants prepare form JD-CV-2 and attach it to the original and all copies of the complaint.
4. After service has been made by officer, file original papers and officer's return with the clerk of the court.
5. The party recognized to pay costs must appear personally before the authority taking the recognizance.
6. Do not use this form for actions in which an attachment, garnishment or replevy is being sought. See Practice Book Section 49 for other exceptions.

TO: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this Summons and attached Complaint.

"X" ONE OF THE FOLLOWING:

Amount, legal interest or property in demand, exclusive interest and costs is

- a. ☐ less than \$2,500
- b. ☐ \$2,500 through \$14,999.99
- c. ☒ \$15,000 or more
- d. ☒ Claiming other relief in addition to or in lieu of money damages.

☒ JUDICIAL DISTRICT	AT (Town in which writ is returnable) (Gen. Stat. 51-346, 51-349)	RETURN DATE (Mo., day, yr.)
☐ HOUSING SESSION ☐ G.A. _____	NEW HAVEN	MAY 4, 1993
ADDRESS OF CLERK OF COURT WHERE WRIT AND OTHER PAPERS SHALL BE FILED (Gen. Stat. 51-347, 51-350)		CASE TYPE (From Judicial Dept. code list)
235 CHURCH STREET, NEW HAVEN, CT 06510		Major C Minor 20

PARTIES	NOTE: Individual's Names: Last, First, Middle Initial	NAME AND ADDRESS OF EACH PARTY	☐ Form JD-CV-2 attached
THIRD PARTY FIRST NAME PLAINTIFF		AETNA CASUALTY & SURETY COMPANY OF ILLINOIS, 99 HAWLEY LANE, STRATFORD, CT 06497	
THIRD PARTY FIRST NAME DEFENDANT		LANCIA, JOSEPH, P.O. BOX 25278, GREENVILLE, SOUTH CAROLINA 29616-0278 C/O SECRETARY OF STATE, 30 TRINITY STREET, HARTFORD, CT 06106	
Additional Plaintiff		WILSON, NED, B., 3260 PINE VALLEY DRIVE, SARASOTA, FLORIDA 34239, C/O SECRETARY OF STATE, 30 TRINITY STREET, HARTFORD, CT 06106	
Additional Defendant			
Additional Defendant			

EXHIBIT

F

NOTICE to each DEFENDANT

1. You are being sued.
2. This paper is a Summons in a lawsuit.
3. The Complaint attached to these papers, states the claims that each Plaintiff is making against you in this lawsuit.
4. To respond to this summons, or to be informed of further proceedings, you or your attorney must file a form called an "Appearance" with the Clerk of the above named Court at the above Court address on or before the second day after the above Return Date.
5. If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default.
6. The "Appearance" form may be obtained at the above Court address.
7. If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately take the Summons and Complaint to your insurance representative.
8. If you have questions about the Summons and Complaint, you should consult an attorney promptly. The Clerk of Court is not permitted to give advice on legal questions.

DATE	SIGNED (Sign and "X" proper box)	☒ Commissioner of Superior Court ☐ Assistant Clerk	TYPE IN NAME OF PERSON SIGNING AT LEFT
MARCH 25, 1993			PETER D. CLARK

FOR THE PLAINTIFF(S) ENTER THE APPEARANCE OF:

NAME AND ADDRESS OF ATTORNEY, LAW FIRM OR PLAINTIFF IF PRO SE	TELEPHONE NO.	JURIS NO. (if atty. or law firm)
WILLIAMS, COONEY & SHEEHY, ONE LAFAYETTE CIRCLE, BRIDGEPORT, CT 06604	331-0888	106036
NAME AND ADDRESS OF PERSON RECOGNIZED TO PROSECUTE IN THE AMOUNT OF \$250	SIGNATURE OF PLAINTIFF IF PRO SE	
BERNADETTE HEFFERN, ONE LAFAYETTE CIRCLE, BRIDGEPORT, CT 06604		

NO. PLFS.	NO. DEFS.	NO. CNTS.	SIGNED (Official taking recognizance; "X" proper box)	☒ Commissioner of Superior Court ☐ Assistant Clerk
1	2	3		

IF THIS SUMMONS IS SIGNED by a CLERK:

- a. The signing has been done so that the Plaintiff(s) will not be denied access to the courts.
- b. It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law.
- c. The Clerk is not permitted to give any legal advice in connection with any lawsuit.
- d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service thereof.

RECEIPT NO.	For Court Use
	☐ No Fee

FILE DATE

A TRUE COPY
ATTEST:

FRANCIS M. DELUCCO
CHIEF DEPUTY SHERIFF
HARTFORD COUNTY

I hereby certify I have read and understand the above:	SIGNED (Pro se plaintiff)	DATE SIGNED	DOCKET NO.

CONNECTICUT SUPERIOR COURT
OFFICE OF THE CHIEF CLERK
JUDICIAL DISTRICT OF NEW HAVEN



235 Church Street, New Haven, Connecticut 06510

Telephone: (203) 789-7908

Mr. Joseph Lancia
P.O. Box 25278
Greenville, SC 29616 0278

NOTICE OF ENTRY OF DEFAULT FOR FAILURE TO APPEAR

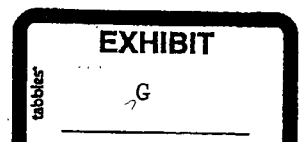
In the matter of: Aetna Cas. vs. Investment Assoc. et als

Docket No.: 30 50 48

You are hereby notified that you have been defaulted for failure to file an appearance in the above captioned case within the time prescribed by statute and rule.

Date default entered: 6-9-93 BY THE CLERK

PURSUANT TO PRACTICE BOOK SEC. 352, IF YOU FILE AN APPEARANCE IN THIS CASE BEFORE JUDGMENT IS ENTERED AGAINST YOU, THE DEFAULT FOR FAILURE TO APPEAR SHALL AUTOMATICALLY BE SET ASIDE BY THE CLERK.



STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF GREENVILLE

Branford Savings Bank

, Plaintiff

SUBPOENA IN A CIVIL CASE

Case Number:

Pending in Greenville County

v.

Aetna Casualty and
Surety Company of Illinois

, Defendant

TO: Joseph Lancia
109 Thornblade Blvd.
Greer, SC 29650

☐ YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM:

DATE AND TIME:

☒ YOU ARE COMMANDED to appear in the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: Haynsworth, Marion,
McKay & Guerard
Two Insignia Financial Plaza, 11th Floor
75 Beattie Place
Greenville, SC 29601

DATE AND TIME: Tuesday,
September 28, 1993
10:00 a.m.

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE:

DATE AND TIME:

☐ YOU ARE COMMANDED to permit inspection of the following premises at the time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30 (b) (6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Caroline W. Mattos, Greenville County, Clerk of Court, Greenville County Courthouse, Greenville, SC 29601, 803-487-8551

Caroline W. Mattos

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45 (c) (1) AND THAT NOTICE AS REQUIRED BY RULE 45 (b) (1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney for Defendant

ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) DATE

SEP 8 1993

SCCA FORM 254 (7/93)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on Reverse)

EXHIBIT

H

PROOF OF SERVICE

SERVED	DATE	FEE AND MILEAGE TENDERED TO WITNESS
	PLACE	YES OR NO AMOUNT \$
SERVED ON (PRINT NAME)		MANNER OF SERVICES
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ DATE _____ SIGNATURE OF SERVER _____
 ADDRESS OF SERVER _____

Rule 45, South Carolina Rules of Civil Procedure, Parts (e) and (f):

(c) PROTECTION OF PERSON SUBJECT TO SUBPOENAS

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or
 (ii) requires a person who is not a party or an officer, director or managing agent of a party to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from the county where the subpoena was served to the place within the state where the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
 (iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
 (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
 (iii) requires a person who is not a party or an officer, director or managing agent of a party to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT 2

MAY 5, 2008 OPINION

Not Reported in A.2d, 2008 WL 2168983 (Conn.Super.), 45 Conn. L. Rptr. 437
(Cite as: 2008 WL 2168983 (Conn.Super.))

▷

UNPUBLISHED OPINION. CHECK COURT
RULES BEFORE CITING.

Superior Court of Connecticut.
INVESTMENT ASSOCIATES

v.

Joseph LANCIA.

No. CV074028746S.
May 5, 2008.

Background: Judgment creditor brought action to enforce prior judgment against out-of-state judgment debtor. Debtor filed motion to dismiss for lack of personal jurisdiction.

Holdings: The Superior Court, Angela C. Robinson, J., held that:

- (1) prior litigation was insufficient to warrant exercise of personal jurisdiction over debtor pursuant to long-arm statute, and
- (2) exercise of personal jurisdiction over debtor in action on prior judgment would violate due process.

Motion to dismiss granted.

West Headnotes

[1] Judgment 228 ⚡901

228 Judgment
228XXI Actions on Judgments
228XXI(A) Domestic Judgments
228k901 k. Statutory provisions. Most Cited
Cases

Judgment 228 ⚡926

228 Judgment
228XXI Actions on Judgments
228XXI(B) Foreign Judgments
228k926 k. Statutory provisions. Most Cited
Cases

Section of Uniform Enforcement Of Foreign Judgments Act, governing the right of a judgment creditor to proceed by an action on the judgment, preserves the common-law right of a judgment creditor to bring an independent action on the judgment. C.G.S.A. § 52-607.

[2] Judgment 228 ⚡900

228 Judgment
228XXI Actions on Judgments
228XXI(A) Domestic Judgments
228k900 k. Judgment as cause of action in general. Most Cited Cases

Judgment 228 ⚡902

228 Judgment
228XXI Actions on Judgments
228XXI(A) Domestic Judgments
228k902 k. Nature and form of remedy.
Most Cited Cases

Although an action on a judgment is not favored as being generally vexatious and oppressive, an allegation of nonpayment is sufficient reason for instituting suit. C.G.S.A. § 52-607.

[3] Limitation of Actions 241 ⚡60(1)

Not Reported in A.2d, 2008 WL 2168983 (Conn.Super.), 45 Conn. L. Rptr. 437

(Cite as: 2008 WL 2168983 (Conn.Super.))

241 Limitation of Actions

241II Computation of Period of Limitation

241II(A) Accrual of Right of Action or Defense

241k60 Equitable Actions and Remedies

241k60(1) k. In general. Most Cited Cases

Statute of limitations on action upon judgment for money damages provides 25-year time limit to institute an action for the collection of damages from the day judgment was entered. C.G.S.A. § 52-598(a).

[4] Courts 106 13.5(1)

106 Courts

106I Nature, Extent, and Exercise of Jurisdiction in General

106I(A) In General

106k13.1 Actions by or Against Nonresidents, Personal Jurisdiction In; "Long-Arm" Jurisdiction

106k13.5 Particular Contexts and Causes of Action

106k13.5(1) k. In general. Most Cited Cases

(Formerly 106k12(2.5))

Prior litigation against out-of-state judgment debtor, concluded 14 years before instigation of action on judgment, was insufficient to warrant exercise of personal jurisdiction over debtor pursuant to long-arm statute, where debtor had not been a resident of state for 15 years and had not had any contact or transactions within state since judgment had been entered against him. C.G.S.A. § 52-59b.

[5] Constitutional Law 92 3965(1)

92 Constitutional Law

92XXVII Due Process

92XXVII(E) Civil Actions and Proceedings

92k3961 Jurisdiction and Venue

92k3965 Particular Parties or Circumstances

92k3965(1) k. In general. Most Cited Cases

Courts 106 13.5(1)

106 Courts

106I Nature, Extent, and Exercise of Jurisdiction in General

106I(A) In General

106k13.1 Actions by or Against Nonresidents, Personal Jurisdiction In; "Long-Arm" Jurisdiction

106k13.5 Particular Contexts and Causes of Action

106k13.5(1) k. In general. Most Cited Cases

(Formerly 106k12(2.5))

Out-of-state judgment debtor who had had no contacts with state since judgment was entered against him 14 years previously lacked minimum contacts with state, and thus exercise of personal jurisdiction over debtor in action on prior judgment would violate due process; even though state had legitimate interest in enforcing valid judgment, debtor had been working in South Carolina exclusively for over 15 years, had not transacted any business in forum state for 15 years, had not owned, used, or possessed any real estate in forum state for 16 years, and did not use a computer or a computer network within forum state. U.S.C.A. Const.Amend. 14.

Berdon Young & Margolis PC, New Haven, for Investment Associates.

Rome McGuigan P.C., Hartford, for Joseph D. Lancia.

ANGELA C. ROBINSON, Judge.

*1 On December 27, 2007, the defendant filed a

Not Reported in A.2d, 2008 WL 2168983 (Conn.Super.), 45 Conn. L. Rptr. 437
(Cite as: 2008 WL 2168983 (Conn.Super.))

timely motion to dismiss for lack of personal jurisdiction, in support of which he submitted an affidavit.^{FN1} In response, the plaintiff filed a memorandum of law in opposition, along with the officer's supplemental return and the summons and complaint from the underlying action, which gave rise to the 1994 judgment. Finally, the defendant filed a supplemental brief and reply memorandum. In support, the defendant included the summons and complaint of the withdrawn action, the 1994 judgment, the officer's return, the summons and complaint of the present action, and the affidavits of service in South Carolina. The matter was heard on the short calendar on January 28, 2008. For reasons more fully set forth, this court grants the motion to dismiss.

FN1. Practice Book § 10-31 states in relevant part that "[a]ny defendant, wishing to contest the court's jurisdiction, may do so even after having entered a general appearance, but must do so by filing a motion to dismiss within thirty days of the filing of an appearance." Specifically, "any claim of lack of jurisdiction over the *person* as a result of an insufficiency of service of process is waived unless it is raised by a motion to dismiss filed within thirty days in the sequence required by Practice Book § 10-6 ..." (Emphasis in original.) *Pitchell v. Hartford*, 247 Conn. 422, 433, 711 A.2d 797 (1999). In the present case, the defendant filed his appearance on November 29, 2007, and the motion to dismiss was filed on December 27, 2007. Accordingly, the defendant's motion to dismiss is timely.

FACTS

The claim in the instant matter arises out of a judgment against the defendant and for the plaintiff rendered on May 17, 1994.^{FN2} The present action, filed on November 13, 2007, seeks to enforce the unpaid prior judgment of \$272,505.03 in damages plus costs taxed at \$201.20. Prior to the present action, the

plaintiff filed an identical action on September 27, 2007, with docket number CV 07 4028072, which was withdrawn on December 3, 2007.

FN2. *Investment Associates v. Summit Associates, Inc.*, Superior Court, judicial district of New Haven, Docket No. CV 91 0309954.

DISCUSSION

"A motion to dismiss ... properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court ... A motion to dismiss tests, *inter alia*, whether, on the face of the record, the court is without jurisdiction." (Internal quotation marks omitted.) *Cox v. Aiken*, 278 Conn. 204, 210-11, 897 A.2d 71 (2006); see also *Kozlowski v. Commissioner of Transportation*, 274 Conn. 497, 501, 876 A.2d 1148 (2005); *Filippi v. Sullivan*, 273 Conn. 1, 8, 866 A.2d 599 (2005). Pursuant to Practice Book § 10-31(a), "a motion to dismiss shall be used to assert ... (2) lack of jurisdiction over the person ... and (5) insufficiency of service of process." The motion, however, "is not designed to test the legal sufficiency of a complaint in terms of whether it states a cause of action." *Pratt v. Old Saybrook*, 225 Conn. 177, 185, 621 A.2d 1322 (1993).

"If a challenge to the court's personal jurisdiction is raised by a defendant, either by a foreign corporation or by a nonresident individual, the plaintiff must bear the burden of proving the court's jurisdiction." *Knipple v. Viking Communications, Ltd.*, 236 Conn. 602, 607, 674 A.2d 426 (1996). "[W]hen a motion to dismiss for lack of personal jurisdiction raises a factual question which is not determinable from the face of the record, the burden of proof is on the plaintiff to present evidence which will establish jurisdiction ... [w]hen jurisdiction is based on constructive service [i.e., service on a foreign corporation or nonresident individual by mail] jurisdiction cannot arise solely from the acts recited in the return. There should be no presumption of the truth of the plaintiff's allegation of

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the additional facts necessary to confer jurisdiction.”
(Citations omitted; internal quotation marks omitted.) *Reiner, Reiner & Bendett, P.C. v. Cadle Co.*, 278 Conn. 92, 109, 897 A.2d 58 (2006).

RIGHT TO BRING A NEW ACTION ON A PRIOR JUDGMENT

*2 The defendant erroneously argues that the plaintiff's action, seeking a judgment based on a prior judgment, is unprecedented. Further, the defendant argues that the plaintiff has missed its window of opportunity to enforce the 1994 judgment against the defendant because under South Carolina law the out-of-state judgment must be filed with the South Carolina court within ten years of the date it was issued. The plaintiff responds that an action seeking a judgment based upon a prior action is proper in Connecticut pursuant to both common law, as well as statutory law.^{FN3} See General Statutes § 52-607.^{FN4} The plaintiff further argues that Connecticut's policy for enforcing judgments is twenty years. See *Nauss v. Pinkus*, 2 Conn.App. 400, 411, 400 A.2d 568 (1984).^{FN5}

FN3. The plaintiff also mistakenly argues that General Statutes § 52-604 supports its argument because it permits the unlimited enforcement of foreign judgments. The judgment in the present case, however, is not foreign judgment. It is a Connecticut judgment to be enforced in Connecticut against an out-of-state defendant.

FN4. General Statutes § 52-607 states: “The right of a judgment creditor to proceed by an action on the judgment or a motion for summary judgment in lieu of complaint instead of proceeding under sections 52-604 to 52-609, inclusive, remains unimpaired.”

FN5. “At common law an action on a judgment may be maintained at any time within

twenty years from the date of the judgment.”
(Internal quotation marks omitted.) *Nauss v. Pinkus*, 2 Conn.App. 400, 411, 480 A.2d 568 (1984).

[1][2] “General Statutes § 52-607 preserve[s] the common-law right of a judgment creditor to bring an independent action on the judgment.” (Internal quotation marks omitted) *Chase Manhattan Bank v. Goldstone*, Superior Court, judicial district of Stamford-Norwalk at Stamford, Docket No. CV 95 0144986 (December 5, 1995, Dean, J.) (15 Conn. L. Rptr. 472). See also *Seaboard Surety Co. v. Waterbury*, 38 Conn.Supp. 468, 470, 451 A.2d 291 (App.Sess.1982). “Although an action on a judgment is not favored as being generally vexatious and oppressive, the weight of authority is to the effect that an allegation of nonpayment is sufficient reason for instituting suit.” *Garguilo v. Moore*, 156 Conn. 359, 361, 242 A.2d 716 (1968).

[3] “General Statutes § 52-598(a) ... provides a twenty-five year time limit to institute an action for the collection of damages” from the day judgment was entered. *Quickpower International Corp. v. Danbury*, 69 Conn.App. 756, 759, 796 A.2d 622 (2002); *Lee v. BSB Greenwich Mortgage, LP*, Superior Court, complex litigation docket at Stamford, Docket No. X08 CV 04 0200344 (August 31, 2007, Jennings, J.).^{FN6}

FN6. General Statutes § 52-598(a) provides in pertinent part: “No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered ...”

The Superior Court has “the general power ... to enforce its own judgments.” *Gentile v. Ives*, 163

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Conn. 281, 282, 303 A.2d 720 (1972). “[A] court must have the authority to enforce its own judgments; it must protect the integrity of its decisions by subsequent orders of enforcement.” *Bailey v. Roubos*, Superior Court, judicial district of Danbury, Docket No. FA 97 0327053 (July 23, 1999, Owens, J.) (25 Conn. L. Rptr. 215, 216); see also *Turgeon v. Turgeon*, 190 Conn. 269, 284, 460 A.2d 1260 (1983).

In the present case, the defendant was engaged in a joint business venture in Connecticut, which gave rise to a legal dispute in 1991, which resulted in a Connecticut judgment in 1994. The plaintiff is within the twenty-five year statute of limitations of bringing an action on the prior judgment, because the present action was brought on November 13, 2007. This confers subject matter jurisdiction upon the court. It does not, however, address issues of personal jurisdiction over the defendant.

PERSONAL JURISDICTION OVER A NONRESIDENT INDIVIDUAL

*3 [4] The defendant argues in his motion to dismiss that the requirements of the long-arm statute were not met because he is not, and at the time of the institution of this action was not, a resident of the state of Connecticut. He attests that he has resided in South Carolina since 1992, and that there is no basis for the court to exercise personal jurisdiction over him. Finally, the defendant argues that, even if long-arm jurisdiction is authorized, personal jurisdiction over him is inconsistent with due process.

The plaintiff counters that the defendant has sufficient contacts with Connecticut arising out of the 1994 judgment in favor of the plaintiff and against the defendant. The plaintiff reasons that the defendant was a Connecticut resident at the time of the prior litigation, 16 years ago; and that utilizing the Connecticut court system meets the statutory requirement of “transacting business” within the state of Connecticut.

“When a defendant challenges personal jurisdiction in a motion to dismiss, the court must undertake a two part inquiry to determine the propriety of its exercising such jurisdiction over the defendant. The trial court must first decide whether the applicable state long-arm statute authorizes the assertion of jurisdiction over the [defendant]. If the statutory requirements [are] met, its second obligation [is] then to decide whether the exercise of jurisdiction over the [defendant] would violate constitutional principles of due process.” (Internal quotation marks omitted.) *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 514-15, 923 A.2d 638 (2007).

First, the court examines the applicability of the Connecticut long-arm statute. “Connecticut courts may assert personal jurisdiction over a nonresident defendant under General Statutes § 52-59b(a)(1),^{FN7} as long as that defendant transacts business within the state.” *Gaudio v. Gaudio*, 23 Conn.App. 287, 298, 580 A.2d 1212, cert. denied, 217 Conn. 803, 584 A.2d 471 (1990). “[A]lthough the term ‘[t]ransacts any business’ is not defined by statute, [the Connecticut Supreme Court] previously ha[s] construed the term to embrace a single purposeful business transaction.” (Internal quotation marks omitted.) *Ryan v. Cerullo*, 282 Conn. 109, 119, 918 A.2d 867 (2007). “A purposeful business transaction is one in which the defendant has engaged in some form of affirmative conduct allowing or promoting the transaction of business within the forum state.” (Internal quotation marks omitted.) *The Cadle Co. v. Sydorowycz*, Superior Court, judicial district of Hartford, Docket No. CV 00 0597714 (June 5, 2001, Hennessey, J.) (30 Conn. L. Rptr. 202, 204). “Moreover, a nonresident individual who has not entered this state physically nevertheless may be subject to jurisdiction in this state under § 52-59b(a)(1) if that individual has invoked the benefits and protection of Connecticut’s laws by virtue of his or her purposeful Connecticut related activity ...” (Internal quotation marks omitted.) *Ryan v. Cerullo*, *supra*, 282 Conn. at 120, 918 A.2d 867.

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FN7. Section 52-59b(a)(1) provides, in pertinent part, that: "... a court may exercise personal jurisdiction over any nonresident individual ... who in person or through an agent transacts any business within the state."

*4 "In determining whether [the defendant's] contacts constitute the transaction of business within the state, [the Connecticut Supreme Court does] not apply a rigid formula but balance[s] considerations of public policy, common sense, and the chronology and geography of the relevant factors." (Internal quotation marks omitted.) *Gaudio v. Gaudio*, *supra*, 23 Conn.App. at 298, 580 A.2d 1212.

In the present case, there is no dispute that the defendant is a nonresident who has not been a resident of this state for over 15 years. And, there are no allegations or claims that the defendant has had any contact with or transactions within Connecticut since the 1994 judgment entered against him. Therefore, the question for this court is: whether or not the 1994 judgment, alone, constitutes a sufficient business transaction within the state of Connecticut to allow this court to exercise personal jurisdiction over the defendant.

Connecticut case law does not provide any precedents for construing the past litigation as constituting a sufficient business transaction to provide personal jurisdiction to a Connecticut court. In fact, although there are no cases directly on point, the cases in which courts have found sufficient contacts to establish personal jurisdiction, generally, involve defendants who have engaged in contemporaneous activities in Connecticut or who have had direct and recent contact with Connecticut. According to the record, the defendant in the instant matter has had no contact with Connecticut since the mid-90s. Accordingly, this court concludes that the prior litigation, which was concluded 14 years ago, is insufficient to provide personal jurisdiction over the defendant under

§ 52-59b.

[5] The second part of the jurisdictional analysis is whether constitutional protections of due process have been violated. "[T]he constitutional due process standard requires that, in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice ... In other words, [t]he Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful contacts, ties, or relations ... By requiring that individuals have fair warning that a particular activity may subject [them] to the jurisdiction of a foreign sovereign ... the Due Process Clause gives a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit ..." *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 523-24, 923 A.2d 638 (2007).

"The due process test for personal jurisdiction has two related components: the minimum contacts inquiry and the reasonableness inquiry. The court must first determine whether the defendant has sufficient contacts with the forum state to justify the court's exercise of personal jurisdiction." (Internal quotation marks omitted.) *Id.*, at 524, 923 A.2d 638. Thereafter, "[w]hile the exercise of jurisdiction is favored where the plaintiff has made a threshold showing of minimum contacts at the first stage of the inquiry, it may be defeated where the defendant presents a compelling case that the presence of some other considerations would render jurisdiction unreasonable." (Internal quotation marks omitted.) *Id.*, at 525, 923 A.2d 638.

*5 Addressing the issue of due process, the same factors noted above, are relevant. The defendant has not had any contact with Connecticut since 1992 out-

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side of the 1994 judgment. The defendant is presently a resident of South Carolina, is employed in South Carolina and has been working there exclusively for over fifteen years. The defendant has not transacted any business in Connecticut in fifteen years; has not owned, used or possessed any real estate in Connecticut since 1992; and does not use a computer or a computer network within the State of Connecticut.

The plaintiff fails to meet its threshold burden of showing minimum contacts. The connection between the defendant's last contact with the forum state and the present action is too remote and too attenuated to constitute the requisite minimum contacts; and that the 1994 judgment does not constitute a recent "transaction of business." Accordingly, this court concludes that it does not have personal jurisdiction over the defendant, even though Connecticut courts would have a valid interest in enforcing a valid judgment.

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EXHIBIT 3

2013 OPINION

H

Supreme Court of Connecticut.
INVESTMENT ASSOCIATES

v.

SUMMIT ASSOCIATES, INC., et al.

No. 18910.

Argued March 18, 2013.

Decided Aug. 27, 2013.

Background: Judgment creditor filed motion to revive judgment against South Carolina judgment debtor. The Superior Court, Judicial District of New Haven, Angela C. Robinson, J., granted motion, 2010 WL 1376471, and judgment debtor appealed. The Appellate Court, 132 Conn.App. 192, 31 A.3d 820, affirmed. Certification to appeal was granted.

Holdings: The Supreme Court, McDonald, J., held that:

- (1) even assuming that joint venture had lacked standing to sue on promissory note, remand for evidentiary hearing to determine whether it had standing to sue as partnership, rather than dismissal of motion to revive judgment obtained in its favor, was appropriate remedy for determining whether original judgment was void for lack of subject matter jurisdiction, and therefore, whether trial court had subject matter jurisdiction over motion to revive;
- (2) judgment in creditor's favor was not void ab initio for lack of subject matter jurisdiction;
- (3) even assuming that judgment creditor no longer existed at time of motion to revive judgment, fact of its nonexistence did not deprive trial court of subject matter jurisdiction over motion;
- (4) statute governing motion to revive judgment was procedural, rather than substantive law, and therefore, applied retroactively to judgment obtained prior to its

effective date; and

(5) judgment creditor was not required to re-establish personal jurisdiction over debtor on motion under long-arm statute and in accordance with due process.

Affirmed.

West Headnotes

[1] Appeal and Error 30 ⇨ 842(1)

30 Appeal and Error

30XVI Review

30XVI(A) Scope, Standards, and Extent, in General

30k838 Questions Considered

30k842 Review Dependent on Whether Questions Are of Law or of Fact

30k842(1) k. In general. Most Cited Cases

A reviewing court exercises plenary review of questions of law.

[2] Judgment 228 ⇨ 876(1)

228 Judgment

228XX Payment, Satisfaction, Merger, and Discharge

228k876 Presumption of Payment from Lapse of Time

228k876(1) k. In general. Most Cited Cases

If not revived within the prescribed period, a conclusive presumption arises that the judgment has been satisfied. C.G.S.A. § 52-598(a, c).

[3] Judgment 228 ⇨ 872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

The manifest purpose of revival is to create a new judgment for the purpose of meeting a foreign jurisdiction's time limits for enforcement. C.G.S.A. § 52-598(c).

[4] Judgment 228 ⚡872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

The object of a revival proceeding is not to obtain a new judgment for a debt, but to enable the judgment creditor to enforce by execution the judgment he has already obtained. C.G.S.A. § 52-598(c).

[5] Judgment 228 ⚡872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

The order to revive a judgment does no more than reinvest the plaintiff with the right to have execution of his original judgment; his cause of action against the defendant is the original judgment, not the order to revive. C.G.S.A. § 52-598(c).

[6] Judgment 228 ⚡872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

An order reviving a judgment merely confers upon the plaintiff the statutory right to issue executions on the judgment after it had become dormant for that purpose. C.G.S.A. § 52-598(c).

[7] Judgment 228 ⚡872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

Judgment 228 ⚡900

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k900 k. Judgment as cause of action in general. Most Cited Cases

Judgment 228 ⚡910(3)

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k910 Time to Sue and Limitations

228k910(3) k. Accrual of cause of action.

Most Cited Cases

The common-law right to sue on the judgment is not enlarged or made to accrue anew by force of a revival order. C.G.S.A. § 52-598(c).

[8] Judgment 228 ⚡868(1)

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k868 Proceedings to Revive Judgment in

General

228k868(1) k. In general. Most Cited Cases

Judgment 228 ⚡900

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k900 k. Judgment as cause of action in general. Most Cited Cases

A new lease of life is not given to cause of action on a judgment by merely affording to the plaintiff the opportunity of resorting to the cumulative and independent remedy for the enforcement of the judgment by means of executions upon it; accordingly, a proceeding to revive a judgment generally is viewed as a continuation of the original action, not a new action. C.G.S.A. § 52-598(c).

[9] Judgment 228 ⚡866

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k866 k. Jurisdiction and venue. Most Cited Cases

Judgment 228 ⚡868(1)

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k868 Proceedings to Revive Judgment in General

228k868(1) k. In general. Most Cited Cases

The circumstances in which a revival proceeding is deemed a new action, for purposes of jurisdiction, are those in which the revival provides a means by which the original judgment may be substantively altered, such as by the addition or deletion of parties or the assertion of new defenses other than satisfaction of the judgment, or in which a new period of limitations attaches to the revived judgment. C.G.S.A. §

52-598(c).

[10] Judgment 228 ⚡27

228 Judgment

228I Nature and Essentials in General

228k26 Effect of Invalidity

228k27 k. In general. Most Cited Cases

Judgment 228 ⚡489

228 Judgment

228XI Collateral Attack

228XI(B) Grounds

228k488 Want of Jurisdiction

228k489 k. In general. Most Cited Cases

A judgment rendered without jurisdiction is void ab initio, not merely voidable, and such a defect can be raised as a defense at any time, even by way of a collateral attack.

[11] Judgment 228 ⚡520

228 Judgment

228XI Collateral Attack

228XI(C) Proceedings

228k520 k. Proceedings to revive judgment. Most Cited Cases

Judgment 228 ⚡869

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k869 k. Motions to revive judgment. Most Cited Cases

At least where the lack of jurisdiction is not entirely obvious, the critical considerations on a motion to revive a judgment are whether the complaining party had the opportunity to litigate the question of

jurisdiction in the original action, and, if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so. C.G.S.A. § 52-598(c).

[12] Judgment 228 ¶349

228 Judgment
228IX Opening or Vacating
228k348 Want of Jurisdiction
228k349 k. In general. Most Cited Cases

Judgment 228 ¶489

228 Judgment
228XI Collateral Attack
228XI(B) Grounds
228k488 Want of Jurisdiction
228k489 k. In general. Most Cited Cases

If a court has never acquired jurisdiction over a defendant or the subject matter, any judgment ultimately entered is void and subject to vacation or collateral attack.

[13] Judgment 228 ¶813

228 Judgment
228XVII Foreign Judgments
228k813 k. Grounds of recognition in general.
Most Cited Cases

Foreign jurisdictions constitutionally are bound to give full faith and credit to Connecticut judgments, but only insofar as such judgments are valid. U.S.C.A. Const. Art. 4, § 1.

[14] Judgment 228 ¶813

228 Judgment
228XVII Foreign Judgments

228k813 k. Grounds of recognition in general.
Most Cited Cases

When a judgment creditor seeks to enforce a Connecticut judgment in a foreign jurisdiction, that jurisdiction will consider jurisdictional challenges to the validity of the judgment, and the foreign jurisdiction will apply Connecticut law in making that determination. C.G.S.A. § 52-598(c).

[15] Judgment 228 ¶813

228 Judgment
228XVII Foreign Judgments
228k813 k. Grounds of recognition in general.
Most Cited Cases

In a motion to revive a Connecticut judgment in a foreign jurisdiction, that foreign jurisdiction would be limited to deciding the jurisdictional challenges to the validity of the underlying judgment on the record as it exists. C.G.S.A. § 52-598(c).

[16] Appeal and Error 30 ¶1178(1)

30 Appeal and Error
30XVII Determination and Disposition of Cause
30XVII(D) Reversal
30k1178 Ordering New Trial, and Directing
Further Proceedings in Lower Court
30k1178(1) k. In general. Most Cited
Cases

Even assuming that joint venture had lacked standing to sue on promissory note, remand for evidentiary hearing to determine whether it had standing to sue as partnership, rather than dismissal of motion to revive judgment obtained in its favor, was appropriate remedy for determining whether original judgment was void for lack of subject matter jurisdiction, and therefore, whether trial court had subject matter jurisdiction over motion to revive. C.G.S.A. §

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52–598(c).

[17] Judgment 228 ↪ 489

228 Judgment
228XI Collateral Attack
228XI(B) Grounds
228k488 Want of Jurisdiction
228k489 k. In general. Most Cited Cases

Judgment 228 ↪ 520

228 Judgment
228XI Collateral Attack
228XI(C) Proceedings
228k520 k. Proceedings to revive judgment.
Most Cited Cases

Judgment creditor, which was joint venture, existed at time it filed original complaint to recover balance of promissory note, and thus, judgment in its favor was not void ab initio for lack of subject matter jurisdiction, and judgment was not subject to collateral attack on creditor's motion to revive, where allegations in complaint established that joint venture was equally owned by joint venturers and had its place of business in Connecticut town. C.G.S.A. § 52–598(c).

[18] Courts 106 ↪ 30

106 Courts
106I Nature, Extent, and Exercise of Jurisdiction in General
106I(A) In General
106k30 k. Loss or divestiture of jurisdiction.
Most Cited Cases

Joint Adventures 224 ↪ 1.14

224 Joint Adventures
224k1.14 k. Commencement, duration and ter-

mination of relation. Most Cited Cases

Judgment 228 ↪ 866

228 Judgment
228XIX Suspension, Enforcement, and Revival
228k866 k. Jurisdiction and venue. Most Cited Cases

Even assuming that judgment creditor, which was joint venture, no longer existed at time of motion to revive judgment, fact of its nonexistence did not deprive trial court of subject matter jurisdiction over motion; motion to revive was not new action, but was continuation of original action, and joint venture remained in force until dissolution, at which time it had authority to conduct all business necessary to wind up its affairs and liquidate assets. C.G.S.A. §§ 34–373(a), 52–598(c).

[19] Joint Adventures 224 ↪ 1.14

224 Joint Adventures
224k1.14 k. Commencement, duration and termination of relation. Most Cited Cases

Although joint ventures are formed for a limited purpose rather than as an ongoing enterprise, the general rule is that a joint venture continues until its purpose is fulfilled or rendered impracticable unless the parties expressly agree otherwise.

[20] Judgment 228 ↪ 869

228 Judgment
228XIX Suspension, Enforcement, and Revival
228k869 k. Motions to revive judgment. Most Cited Cases

Statute governing motion to revive judgment in order to create new judgment for purpose of meeting

foreign jurisdiction's time limits for enforcement was procedural, rather than substantive law, and therefore, applied retroactively to judgment obtained prior to its effective date; reviving judgment imposed no new obligations on judgment debtor, as amount of judgment, party to whom debtor owed obligation, and period for enforcing judgment all remained same, it did not alter foreign jurisdiction's law with respect to period of enforcement, but it merely prescribed method for enforcing rights and obtaining redress. C.G.S.A. §§ 52-598(c), 55-3.

[21] Statutes 361 ⚡ 1556(1)

361 Statutes

361IX Retroactivity

361k1554 Prospective or Retroactive Construction

361k1556 Language and Intent; Express Provisions

361k1556(1) k. In general. Most Cited Cases

In considering the question of whether a statute may be applied retroactively, the court is governed by certain well settled principles, under which the ultimate focus is the intent of the legislature in enacting the statute.

[22] Statutes 361 ⚡ 1558

361 Statutes

361IX Retroactivity

361k1558 k. Effect on substantive rights. Most Cited Cases

A rule of presumed legislative intent exists that statutes affecting substantive rights shall apply prospectively only. C.G.S.A. § 55-3.

[23] Statutes 361 ⚡ 1558

361 Statutes

361IX Retroactivity

361k1558 k. Effect on substantive rights. Most Cited Cases

Statutes 361 ⚡ 1565

361 Statutes

361IX Retroactivity

361k1564 Procedural Statutes

361k1565 k. In general. Most Cited Cases

The rule of presumed legislative intent that statutes affecting substantive rights shall apply prospectively only is rooted in the notion that it would be unfair to impose a substantive amendment that changes the grounds upon which an action may be maintained on parties who have already transacted or who are already committed to litigation; however, in civil cases, unless considerations of good sense and justice dictate otherwise, it is presumed that procedural statutes will be applied retrospectively. C.G.S.A. § 55-3.

[24] Statutes 361 ⚡ 1558

361 Statutes

361IX Retroactivity

361k1558 k. Effect on substantive rights. Most Cited Cases

Statutes 361 ⚡ 1565

361 Statutes

361IX Retroactivity

361k1564 Procedural Statutes

361k1565 k. In general. Most Cited Cases

A "substantive law," for the purposes of retroactivity, creates, defines and regulates rights, while a "procedural law" prescribes the methods of enforcing such rights or obtaining redress, and therefore, leaves

the preexisting scheme intact. C.G.S.A. § 55-3.

[25] Statutes 361 ↪ 1562

361 Statutes

361IX Retroactivity

361k1561 Remedies and Remedial Statutes

361k1562 k. In general. Most Cited Cases

Although it is presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the contrary, a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application. C.G.S.A. § 55-3.

[26] Limitation of Actions 241 ↪ 6(9)

241 Limitation of Actions

241I Statutes of Limitation

241II(A) Nature, Validity, and Construction in General

241k6 Retroactive Operation

241k6(9) k. Revival of causes of action by amendment or repeal of statute. Most Cited Cases

A statute that would modify an expired statute of limitations cannot be applied retroactively.

[27] Constitutional Law 92 ↪ 3965(7)

92 Constitutional Law

92XXVII Due Process

92XXVII(E) Civil Actions and Proceedings

92k3961 Jurisdiction and Venue

92k3965 Particular Parties or Circumstances

92k3965(7) k. Banks, banking, finance, and securities. Most Cited Cases

Courts 106 ↪ 30

106 Courts

106I Nature, Extent, and Exercise of Jurisdiction in General

106I(A) In General

106k30 k. Loss or divestiture of jurisdiction. Most Cited Cases

Judgment 228 ↪ 866

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k866 k. Jurisdiction and venue. Most Cited Cases

Connecticut trial court that entered original judgment against South Carolina judgment debtor in action on promissory note retained its personal jurisdiction over debtor on judgment creditor's subsequent motion to revive, until judgment was satisfied or period of enforcement expired, and therefore, judgment creditor was not required to re-establish personal jurisdiction over debtor on motion under long-arm statute and in accordance with due process. U.S.C.A. Const.Amend. 14; C.G.S.A. §§ 52-350d(a), 52-598(c).

****1195** Proloy K. Das, with whom was Bernard F. Gaffney, Hartford, for the appellant (defendant Joseph D. Lancia).

Pasquale Young, New Haven, for the appellee (plaintiff).

ROGERS, C.J., and NORCOTT, PALMER, ZARELLA, EVELEIGH, McDONALD and ESPINOSA, Js.

McDONALD, J.

***843** In 2009, our legislature created a mechanism whereby a judgment creditor can "revive" an

unsatisfied judgment for money damages at any time before the period for enforcement expires; Public Acts 2009, No. 09-215, § 1(c) (P.A. 09-215); see General Statutes § 52-598(c);^{FN1} the purpose of which was to aid in the **1196 execution of such judgments in foreign jurisdictions. The present case requires us to consider the nature of proceedings under § 52-598(c) regarding questions of subject matter jurisdiction and personal jurisdiction over a nonresident defendant with respect to a judgment rendered before the effective date of § 52-598(c).

FN1. General Statutes § 52-598 provides:

“(a) No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered, except that there shall be no time limitation on the issuance of such execution or the institution of such action if the judgment was rendered in an action to recover damages for personal injury caused by sexual assault where the party legally at fault for such injury was convicted of a violation of section 53a-70 or 53a-70a.

“(b) No execution to enforce a judgment for money damages rendered in a small claims session may be issued after the expiration of ten years from the date the judgment was entered, and no action based upon any such judgment may be instituted after the expiration of fifteen years from the date the judgment was entered.

“(c) With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior

to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.”

*844 Upon our grant of certification, the defendant Joseph D. Lancia^{FN2} appeals from the judgment of the Appellate Court affirming the trial court's 2010 judgment reviving a 1994 judgment in favor of the plaintiff, Investment Associates, pursuant to § 52-598(c). *Investment Associates v. Summit Associates, Inc.*, 132 Conn.App. 192, 31 A.3d 820 (2011) The defendant contends that the Appellate Court improperly determined that: (1) his challenge to the trial court's subject matter jurisdiction on the grounds that the plaintiff was neither a legal entity nor an entity in existence was barred as an improper collateral attack on the original judgment; and (2) § 52-598(c) applies retroactively and provides a proper basis for the trial court's jurisdiction over the defendant for purposes of adjudicating the motion to revive. We affirm the judgment of the Appellate Court.

FN2. The two other defendants named in both the complaint in the original action and the motion to revive, Summit Associates, Inc., and Ned B. Wilson, did not participate in the trial court proceeding to revive the judgment or this certified appeal. Therefore, for convenience, we refer to Lancia as the defendant.

The following facts are undisputed. In 1991, the plaintiff commenced an action to recover on a promissory note executed by Summit Associates, Inc. (Summit), and guaranteed by Ned B. Wilson and the defendant. The complaint identified the plaintiff as

having been at all relevant times a joint venture, equally owned by R.S.S. McKosky and Alton W. Seavey, Jr., and having its usual place of business in North Branford. The complaint further identified the plaintiff as the holder and owner of the note and as the assignee of a related security agreement. In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina. The defendant continued to be represented by counsel at proceedings on the action, at which he asserted various defenses to the merits but no jurisdictional challenges. In 1994, the trial court, *Hon. Frank *845 S. Meadow*, judge trial referee, rendered judgment in the plaintiff's favor in the amount of \$272,530.03 plus costs. Under Connecticut law, the plaintiff had twenty years from the date judgment entered to obtain an execution on the judgment. See General Statutes § 52-598(a). Under South Carolina law, the plaintiff had ten years from that date to obtain an execution in that state's courts. See S.C.Code Ann. § 15-3-600 (2005); *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 481, 517 S.E.2d 235 (App.1999). The plaintiff did not seek an execution of the Connecticut judgment in South Carolina before that state's limitations period expired.^{FN3}

FN3. Michael R. Caporale, Jr., the plaintiff's counsel in the 1994 judgment in the present case, submitted a written statement to the Judiciary Committee in support of the bill eventually enacted and codified as § 52-598(c), indicating that Summit, Wilson and the defendant lacked assets to satisfy the judgment at the time it was rendered. Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6724. He further stated that the plaintiff did not ascertain the defendant's whereabouts in South Carolina until eleven years after that judgment had been rendered. *Id.*

In 2007, the plaintiff commenced a separate action in Connecticut solely against the defendant to enforce the judgment. The defendant filed a motion to

dismiss **1197 the action for lack of personal jurisdiction, which the trial court, *A. Robinson, J.*, granted. *Investment Associates v. Lancia*, Superior Court, judicial district of New Haven, Docket No. CV-07-4028746-S, 2008 WL 2168983 (May 5, 2008) (45 Conn. L. Rptr. 437). The court recognized that Connecticut would have a valid interest in enforcing the judgment. *Id.*, at 440. Nonetheless, it concluded that the defendant's sole contact with Connecticut since leaving the state in 1992—the 1994 judgment—was insufficient to satisfy the requirements of either the long arm statute; General Statutes § 52-59b; or due process to allow the court to exercise personal jurisdiction over him.^{FN4} *Investment Associates v. Lancia*, supra, at 439-40.

FN4. Two subsequent Superior Court decisions have reached a contrary conclusion, relying on case law from other jurisdictions holding that the personal jurisdiction established in the original judgment was a sufficient basis on which to maintain jurisdiction over the defendant for purposes of a proceeding to revive a judgment. See *SCR Joint Venture, L.P. v. Schwartz*, Superior Court, judicial district of Hartford, Docket No. CV-11-6025633-S, 2012 WL 6120660 (November 14, 2012) (*Domnarski, J.*) (54 Conn. L. Rptr. 914) (denying motion to dismiss); *Stingle v. Tuller*, Superior Court, judicial district of Hartford, Docket No. CV-08-5022299-S, 2009 WL 1312709 (April 15, 2009) (*Prescott, J.*) (47 Conn. L. Rptr. 585) (same). The plaintiff in the present case did not appeal from the judgment of dismissal, and the present appeal does not require us to resolve this split of authority.

*846 In June, 2009, the legislature enacted P.A. 09-215, codified as § 52-598, and made effective October 1, 2009. Pursuant to the newly enacted subsection (c) of § 52-598, the plaintiff filed a motion on October 6, 2009, to revive the 1994 judgment, alleging

that the judgment remained unsatisfied and that the period for executing the judgment had not yet expired. In response, the defendant moved to dismiss the motion, claiming that the court lacked personal jurisdiction over him in light of: (1) his South Carolina residency and lack of contact with Connecticut since 1992; (2) the trial court's ruling dismissing the plaintiff's 2007 action for lack of personal jurisdiction as res judicata; (3) the absence of any basis in § 52-598(c) or postjudgment procedure statutes conferring personal jurisdiction; and (4) his lack of minimum contacts with the state to render the exercise of such jurisdiction consonant with due process. The court issued a decision in 2010 concurrently denying the motion to dismiss and granting the motion to revive. The defendant thereafter moved to reargue the motion to revive, claiming that he had not been given an opportunity to assert substantive challenges to the merits of the motion because he could not have advanced such claims without conceding personal jurisdiction. The trial court denied that request, and the defendant appealed from the revived judgment to the Appellate Court.

In that appeal, the defendant renewed claims previously made to the trial court, and, for the first time, challenged the plaintiff's standing to invoke the court's *847 jurisdiction, claiming that the plaintiff, as a joint venture, was neither a legal entity nor in existence at the time it commenced the action. *Investment Associates v. Summit Associates, Inc.*, supra, at 195-96, 31 A.3d 820. Following oral argument, the Appellate Court sua sponte raised the issue of whether the defendant should be precluded from challenging the trial court's subject matter jurisdiction. Id., at 197, 31 A.3d 820. After considering supplemental briefs on that question, the Appellate Court concluded that the defendant was precluded from raising these claims. Id., at 197, 201-202, 31 A.3d 820. The court reasoned that a motion to revive is **1198 not the beginning of a new action, in which the defendant undoubtedly would be able to challenge the court's jurisdiction even for the first time on appeal, but, rather, a con-

tinuation of the original action. Id., at 199-200, 31 A.3d 820. Accordingly, the court concluded that the timeliness of the defendant's challenge must be viewed in light of the original judgment. Id., at 200, 31 A.3d 820. Considering the fact that the defendant had failed to avail himself of the opportunity to challenge the court's jurisdiction in the original proceedings, the Appellate Court concluded that the interest in finality of judgments outweighed the concerns that the defendant had raised regarding the validity of the judgment. Id., at 201-202, 31 A.3d 820. The court further concluded that, because the practical effect of the defendant's challenge to the motion to revive was an attack on the 1994 judgment, the defendant could not challenge the trial court's subject matter jurisdiction over either the original judgment or the motion to revive. Id.

In addition, the Appellate Court rejected the defendant's challenge to the exercise of personal jurisdiction over him and his claim that the trial court's decision on the motion to revive had been made without affording him an opportunity to challenge that motion on the merits. Id., at 202-208, 31 A.3d 820. With respect to the former, the Appellate Court concluded that the trial court had *848 jurisdiction over the defendant when granting the motion to revive because: § 52-598(c) is a procedural statute that may be applied retroactively; a motion filed pursuant to that subsection is not a new action that would require the trial court to obtain personal jurisdiction over the defendant independent of the jurisdiction present at judgment; and the legislature had conferred continuing jurisdiction on the court over parties to post-judgment procedures, which included § 52-598(c). Id., at 203-205, 31 A.3d 820. Accordingly, the Appellate Court affirmed the revived judgment. Id., at 208, 31 A.3d 820.

[1] Thereafter, this court granted the defendant's petition for certification to appeal, limited to the following issues: (1) "Did the Appellate Court properly determine that the trial court had subject matter juris-

diction over the plaintiff's 2009 motion to revive?"; (2) "Did the Appellate Court properly determine that ... § 52-598(c) is procedural in nature, and, therefore, may be applied retroactively?"; and (3) "Did the Appellate Court properly determine that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the plaintiff's 2009 motion to revive?"^{FN5} *Investment Associates v. Summit Associates, Inc.*, 303 Conn. 921, 922, 34 A.3d 396 (2012). Each of these issues raises questions of law over which this court exercises plenary review. *Bateson v. Weddle*, 306 Conn. 1, 7, 48 A.3d 652 (2012) (standing); *Walsh v. Jodoin*, 283 Conn. 187, 195, 925 A.2d 1086 (2007) (retroactivity of statute and statutory construction); *New London County Mutual Ins. Co. v. Nantes*, 303 Conn. 737, 745, 36 A.3d 224 (2012) (personal jurisdiction). Upon such review, we answer the certified questions in the affirmative.

FN5. Although we certified the first and second issues in reverse order, we begin with the question of subject matter jurisdiction before turning to the two issues related to personal jurisdiction, as did the Appellate Court. See *Investment Associates v. Summit Associates, Inc.*, supra, 132 Conn.App. at 196, 202, 31 A.3d 820.

*849 I

We begin with a brief explanation of the nature and effect of § 52-598(c), which is central to our resolution of the issues in this appeal. Under the law existing at the **1199 time the original judgment was rendered in the present case and as it currently exists, a party obtaining a judgment for money damages in Connecticut has two means to enforce that judgment; it may seek an execution of the judgment or it may initiate an independent action. See General Statutes § 52-598(a); see also 30 Am.Jur.2d 84, Executions and Enforcement of Judgments § 47 (2005) (distinguishing between execution and action on judgment). With limited exceptions not applicable to the present case, under § 52-598(a), a party has twenty years to execute

the judgment and twenty-five years to enforce it through a separate action.

Public Act 09-215 added subsection (c) to § 52-598, which provides in relevant part: "With respect to a judgment for money damages rendered in any court of this state ... a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section."

[2] On its face and viewed in isolation, § 52-598(c) appears to have no practical effect. Although an order granting a motion under this provision ostensibly "revive[s]" the judgment, the judgment must be presently enforceable in order to be revived and revival has *850 no effect on the time limit to enforce the judgment.^{FN6} Thus, for example, in the present case, under the original 1994 judgment, the plaintiff had until 2014 to execute the judgment and until 2019 to initiate an independent action to enforce the judgment. Under the 2010 revived judgment, the plaintiff is subject to those same limits.

FN6. In this regard, § 52-598(c) differs from the revival (or renewal) of judgments in other jurisdictions. Although many other jurisdictions have common-law or statutory mechanisms to revive a judgment, such mechanisms are utilized in these jurisdictions when a judgment has or will become "dormant" due to a rebuttable presumption that arises after a prescribed period of time that the judgment has been satisfied. See 46 Am.Jur.2d 698, Judgments § 391(2006) ("[t]he general rule is that a judgment, to be revived, must be dormant; if a judgment is

not dormant, revivor is not necessary"). If not revived within the prescribed period, a conclusive presumption arises that the judgment has been satisfied. See, e.g., *McLendon v. Hepburn*, 876 So.2d 479, 486 (Ala.Civ.App.2003) (judgment rendered dormant after ten years; conclusive presumption of satisfaction after twenty years); *Johnson Bros. Wholesale Liquor Co. v. Clemmons*, 233 Kan. 405, 409, 661 P.2d 1242 (judgment presumed satisfied after ten years), cert. denied, 464 U.S. 936, 104 S.Ct. 345, 78 L.Ed.2d 311 (1983); *In re Stoddard*, 248 B.R. 111, 116–17 (Bankr.N.D. Ohio 2000) (discussing presumption). In some jurisdictions, revival of the judgment extends the ultimate period for enforcing the judgment. See, e.g., *Mundaca Financial Services, LLC v. Casella*, 210 N.C.App. 491, 711 S.E.2d 207 (2011); *McCoy v. Knobler*, 260 S.W.3d 179, 183–84 (Tex.App.2008).

[3] The intended effect of the revived judgment becomes evident upon examination of P.A. 09–215 and its legislative history. Public Act 09–215 enacted House Bill No. 6248, 2009 Sess., entitled "An Act concerning the Time Limit for Enforcing a State Court Judgment in a Foreign Jurisdiction." The explanation of the bill on the floor of the House of Representatives makes clear that the bill's purpose was to ensure that satisfaction of a valid Connecticut judgment was not avoided simply because the judgment debtor (or the debtor's assets) resided in a foreign jurisdiction **1200 having a shorter period for enforcement. See 52 H.R. Proc., Pt. 20, 2009 Sess., pp. 6387–88, remarks of Representative Gerald M. Fox III; ^{FN7} *851 see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 20, 2009 Sess., pp. 6582–83, remarks of Representative Vincent J. Candelora; Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., pp. 6722–23, written testimony of Representative Candelora (citing example of judgment rendered in Connecticut eleven years prior that could not be

enforced under South Carolina's ten year period for enforcing judgment as problem intended to be remedied by bill). Thus, the manifest purpose of revival under § 52–598(c) is to create a new judgment for the purpose of meeting a foreign jurisdiction's time limits for enforcement.

FN7. Representative Fox explained the purpose of the bill as follows: "Under current law, in the [s]tate of Connecticut when one obtains a judgment in Superior Court, they can obtain an execution on that judgment for up to [twenty] years in a [S]uperior [C]ourt case and up to ten years in a small claims case. Mr. Speaker, however, what happens oftentimes is that one may attempt to enforce this judgment in a foreign jurisdiction in a different state, essentially, and sometimes those states have different rules. And what this bill will do is enable the person who receives the judgment, who obtains the judgment, to revive that judgment in order to enforce it in a foreign jurisdiction. And essentially what would happen is the person who has the judgment would go back into court and get a revival of the judgment which would enable the judgment to then be enforced in a foreign jurisdiction. There's nothing in this bill that would enable the ... possessor of the judgment to enforce that judgment beyond the time limit that Connecticut currently has." 52 H.R. Proc., supra, at pp. 6387–88; see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6723, written testimony of Representative Vincent J. Candelora ("[a] [m]otion of [r]evival basically serves to restart the clock for collection in a foreign jurisdiction").

[4][5][6][7][8][9] As one court explained: "The object of the proceeding is not to obtain a new judgment for a debt, but to enable the judgment creditor to

enforce by execution the judgment he has already obtained.... The order to revive does no more than reinvest the plaintiff with the right to have execution of his original judgment. His cause of action against the defendant is the original judgment, not the order to revive. The order merely confers upon the plaintiff the statutory right to issue executions on the judgment after it had become dormant for that purpose. The common-law right to sue on the judgment is *852 not enlarged or made to accrue anew by force of the order.... It is plain that a new lease of life is not given to that cause of action by merely affording to the plaintiff the opportunity of resorting to the cumulative and independent remedy for the enforcement of the judgment by means of executions upon it." (Citation omitted; internal quotation marks omitted.) *Second National Bank v. Allgood*, 234 Ala. 654, 656, 176 So. 363 (1937). Accordingly, a proceeding to revive a judgment generally is viewed as a continuation of the original action, not a new action. See, e.g., *Bank of Edwardsville v. Raffaele*, 381 Ill. 486, 489, 45 N.E.2d 651 (1942); *Bahan v. Youngstown Sheet & Tube Co.*, 191 So.2d 668, 670 (La.App.1966); *State ex rel. Silverman v. Kirkwood*, 361 Mo. 1194, 1200, 239 S.W.2d 332 (1951); *Columbus Check Cashers, Inc. v. Cary*, 196 Ohio App.3d 132, 139, 962 N.E.2d 812 (2011); *Berly v. Sias*, 152 Tex. 176, 181, 255 S.W.2d 505 (1953); *Duffy v. Hartsock*, 187 Va. 406, 415, 46 S.E.2d 570 (1948). A survey of other jurisdictions reveals that the circumstances in which a revival proceeding has been deemed a new action are those in which the revival provides a means by which the original judgment may be substantively**1201 altered, such as by the addition or deletion of parties or the assertion of new defenses other than satisfaction of the judgment, or in which a new period of limitations attaches to the revived judgment.^{FN8} See, e.g., *Johnson Bros. Wholesale Liquor Co. v. Clemmons*, 233 Kan. 405, 408, 661 P.2d 1242, cert. denied, 464 U.S. 936, 104 S.Ct. 345, 78 L.Ed.2d 311 (1983); *Union National Bank v. Lamb*, 360 Mo. 81, 88–89, 227 S.W.2d 60 (1950); *853 *Allen v. Wilson County Investors, LLC*, Docket No. M2002–00540–COA–R3–CV, 2003 WL

21849545, *5 (Tenn.App. August 8, 2003). Accordingly, because proceedings under § 52–598(c) result in no substantive change to the original judgment, a point we discuss in further detail in part III A of this opinion, a motion to revive under § 52–598(c) is effectively a continuation of the original proceeding rather than a new action.^{FN9} With this background and premise in mind, we turn to the defendant's claims.

FN8. Whether the revived judgment is deemed a continuation of the original judgment or a new judgment may affect whether the foreign jurisdiction will consider Connecticut's revived judgment to be the operative judgment for purposes of that jurisdiction's time limit for enforcement. See *Smith v. RJH of Florida, Inc.*, 520 F.Supp.2d 838, 841–43 (S.D.Miss.2007) (explaining reasoning and authority on both sides of this question).

FN9. The defendant's argument to the contrary is predicated on the view that the plaintiff "sought the same substantive relief that it sought through the 2007 lawsuit." We note that the defendant's position is contrary to that of every jurisdiction that has considered this question.

II

[10] We begin with the question of whether the Appellate Court properly determined that the trial court had subject matter jurisdiction over the motion to revive. More precisely, the question is whether the Appellate Court properly determined that the defendant was precluded from attacking the trial court's jurisdiction over the motion because the challenges raised were in fact or effect collateral attacks on the original judgment. The defendant contends that the Appellate Court improperly failed to recognize that, under our case law, a judgment rendered without jurisdiction is void ab initio, not merely voidable, and that such a defect can be raised as a defense at any

time, even by way of a collateral attack and especially when that judgment is being used as a source of a right. The defendant contends that his attack on the motion to revive raised such issues in that he claims that the plaintiff lacked standing to commence the action because: (1) joint ventures are not legal entities and therefore lack the capacity to bring actions in their own names; and (2) the plaintiff failed to establish that it was an *existing* joint venture at the time that it initiated the action. The defendant further asserts that, even if it was proper to preclude his challenges*854 to the trial court's jurisdiction in connection with the 1994 judgment, he should have been permitted to challenge the trial court's jurisdiction to adjudicate the motion to revive because "there is no reason to believe that [the plaintiff] still existed in 2009," when it filed the motion. In response, the plaintiff contends that the Appellate Court properly declined to consider the defendant's claims, that lack of capacity to bring an action is not a jurisdictional defect in any event, and, even if it is, that joint ventures are legal entities that can bring an action.

For purposes of clarity, we characterize the defendant's claims in three parts: (1) whether joint ventures are legal entities capable of bringing an action—a claim that **1202 pertains equally to the original and revived judgments; (2) whether the plaintiff was in existence at the time the original action was commenced; and (3) assuming the plaintiff was then in existence, whether it continued in existence as a joint venture when the motion to revive was filed. With respect to the first two claims, the defendant acknowledges that these defenses to the motion to revive are "collateral challenge[s] to [the] judgment...." For the reasons set forth subsequently in this opinion, we agree with the Appellate Court's conclusion that the defendant is not entitled to review of those claims on the merits. Insofar, however, as the third claim neither directly, nor in effect, attacks the original judgment, we conclude that the defendant is not precluded from raising such a challenge, but that his claim fails on the merits.

[11] We begin with the two claims that undoubtedly are collateral attacks on the original judgment. In precluding the defendant's claims, the Appellate Court relied on principles first articulated by this court in *Vogel v. Vogel*, 178 Conn. 358, 422 A.2d 271 (1979), and reiterated in several later cases. In *Vogel*, the plaintiff had challenged a finding of contempt arising out of his noncompliance*855 with the trial court's order in a judgment rendered approximately twenty years earlier, claiming that, under this court's case law construing the applicable statute, the trial court properly could not have issued such an order under the facts of the case. *Id.*, at 361–64, 422 A.2d 271. In rejecting that challenge, this court concluded: "The plaintiff's collateral attack upon the validity of the 1959 judgment is framed as a challenge to the subject matter jurisdiction of the court which, as we have consistently recognized, can be raised at any time ... and the lack thereof cannot be waived.... As we have only recently observed, however, [t]he modern law of civil procedure suggests that even litigation about subject matter jurisdiction should take into account the importance of the principle of the finality of judgments, particularly when the parties have had a full opportunity originally to contest the jurisdiction of the adjudicatory tribunal.... Under this rationale, at least where the lack of jurisdiction is not entirely obvious, the critical considerations are whether the complaining party had the opportunity to litigate the question of jurisdiction in the original action, and, if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so." (Citations omitted; internal quotation marks omitted.) *Id.*, at 362–63, 422 A.2d 271, citing, *inter alia*, F. James & G. Hazard, *Civil Procedure* (2d Ed.1977) § 13.16, pp. 695–97; Restatement (Second), Judgments § 15 (Tentative Draft No. 5, 1978).

[12] While we continue to agree with the vitality of this rule,^{FN10} two factors give **1203 us pause as to whether this rule *856 should strictly apply in the context of proceedings to revive an earlier judgment.

Numerous jurisdictions provide for revival of judgments and recognize principles limiting collateral attacks on judgments, yet none of them have broadly extended the Restatement (Second) rule to revival proceedings. Rather, these jurisdictions, without exception, appear to permit jurisdictional attacks on the original judgment to be raised in proceedings to revive the judgment, at least to the extent that the judgment can be demonstrated to be void on its face. See 46 Am.Jur.2d 715, Judgments § 415 (2006) (“It is clear that errors or irregularities in obtaining the judgment, which do not render it void, may not be set up as a defense. Ordinarily, however, it is proper to urge, in defense of a proceeding for the revival of a judgment, that the judgment is void for want of jurisdiction of either the parties or of the subject matter.” [Footnotes omitted.]); 50 C.J.S., Judgments § 861(2009) (noting that, in revival proceeding, “defenses may be successfully advanced, including ... incapacity of [the] plaintiff to maintain the proceeding” [footnotes omitted]); see, e.g., *Tingwall v. King Hill Irrigation District*, 66 Idaho 76, 82, 155 P.2d 605 (1945) (in revival *857 proceeding in which debtor sought to attack original judgment, “[a] judgment, although obtained by extrinsic fraud, cannot be collaterally attacked unless such invalidity appears on the face of the judgment”); *Romero v. Sunseri*, 359 So.2d 305, 307 (La.App.) (“in a suit for revival of judgment, no defense short of absolute nullity of the original judgment can be raised”), cert. denied, 362 So.2d 579 (La.1978); *Arthur v. Garcia*, 78 N.M. 381, 383, 431 P.2d 759 (1967) (concluding that collateral attack in revival proceeding on original judgment not permitted unless lack of jurisdiction affirmatively appears in record); *Rindfleisch v. AFT, Inc.*, Docket No. 84551, 2005 WL 110443, *2 (Ohio App. January 20, 2005) (claim preclusion inapplicable to challenge to court’s subject matter jurisdiction over motion to revive judgment if jurisdiction had not previously been determined).

FN10. The defendant argues that this rule is in tension with two principles. The first is that, “[i]f a court has never acquired juris-

diction over a defendant or the subject matter ... any judgment ultimately entered is void and subject to vacation or collateral attack.” (Internal quotation marks omitted.) *Angiolillo v. Buckmiller*, 102 Conn.App. 697, 713, 927 A.2d 312, cert. denied, 284 Conn. 927, 934 A.2d 243 (2007); accord *Feuerman v. Feuerman*, 62 Conn.App. 332, 337, 771 A.2d 230 (2001) (“[u]nless a litigant can show an absence of subject matter jurisdiction that makes the prior judgment of a tribunal entirely invalid, he or she [is limited to] resort[ing] to direct proceedings [i.e., an appeal] to correct perceived wrongs in the tribunal’s conclusive decision” [internal quotation marks omitted]); *Davenport v. Quinn*, 53 Conn.App. 282, 293, 730 A.2d 1184 (1999) (“[A] provision of a judgment that exceeds the jurisdiction of a court is necessarily void and cannot be remedied merely by the lapse of time. Such a judgment is void ab initio and is subject to both direct and collateral attack.... If a court has never acquired jurisdiction over a defendant or the subject matter ... any judgment ultimately entered is void and subject to vacation or collateral attack.” [Internal quotation marks omitted.]). The second is that “[n]o principle is more universal than that the judgment of a court without jurisdiction is a nullity.... Such a judgment, whenever and wherever declared upon as a source of right, may always be challenged....” *Bicio v. Brewer*, 92 Conn.App. 158, 165–67, 884 A.2d 12 (2005).” (Internal quotation marks omitted.) *Angiolillo v. Buckmiller*, supra, at 713, 927 A.2d 312. We disagree. As we explain subsequently in this opinion, if the defendant may prevail on a collateral attack of a void judgment when such invalidity is evident on the face of the record, this line of cases would be consistent with the rule articulated in *Vogel*.

[13][14][15] In addition, as we previously explained, the sole purpose of § 52-598(c) is to advance the enforcement of Connecticut judgments in foreign jurisdictions. Foreign jurisdictions constitutionally are bound to give full faith and credit to Connecticut judgments, but only insofar as such judgments are *valid*. See *Baker v. General Motors Corp.*, 522 U.S. 222, 233, 118 S.Ct. 657, 139 L.Ed.2d 580 (1998) ("Regarding judgments ... the full faith and credit obligation is exacting. A final judgment in one [s]tate, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land."); see also *Durham v. Dept. of Human Services/Child Support Enforcement Unit*, 322 Ark. 789, 793, 912 S.W.2d 412 (1995) (applying this principle in revival proceeding); *Weaver v. Boggs*, 38 Md. 255, 260-61 (1873) (same); *Yorkshire West Capital, Inc. v. Rodman*, 149 P.3d 1088, 1092 (Okla.Civ.App.Div.2006) **1204 (same); *Carter v. Carter*, 232 Va. 166, 169, 349 S.E.2d 95 (1986) (same). Accordingly, when a judgment creditor seeks *858 to enforce a Connecticut judgment in a foreign jurisdiction, that jurisdiction will consider jurisdictional challenges to the validity of the judgment. See *Law Firm of Paul L. Erickson, P.A. v. Boykin*, 383 S.C. 497, 504-505, 681 S.E.2d 575 (2009). Although the foreign jurisdiction will apply Connecticut law in making that determination; see *Roche v. McDonald*, 275 U.S. 449, 453, 48 S.Ct. 142, 72 L.Ed. 365 (1928); *Law Firm of Paul L. Erickson, P.A. v. Boykin*, supra, at 500 n. 2, 681 S.E.2d 575; there is reason to question whether that jurisdiction will treat the judgment as presumptively valid if it is invalid on its face under our laws pertaining to jurisdiction but shielded from such an attack under our law regarding jurisprudential considerations. In any event, that foreign jurisdiction also would be limited to deciding the matter on the record as it exists.

Limiting collateral attacks to those that can be established by the record has support in our case law. In *In re Shamika F.*, 256 Conn. 383, 406-407, 773

A.2d 347 (2001), this court noted: "The reason for the rule against collateral attack is well stated in these words: The law aims to invest judicial transactions with the utmost permanency consistent with justice.... Public policy requires that a term be put to litigation and that judgments, as solemn records upon which valuable rights rest, should not lightly be disturbed or overthrown.... [T]he law has established appropriate proceedings to which a judgment party may always resort when he deems himself wronged by the court's decision.... If he omits or neglects to test the soundness of the judgment by these or other direct methods available for that purpose, he is in no position to urge its defective or erroneous character when it is pleaded or produced in evidence against him in subsequent proceedings. *Unless it is entirely invalid and that fact is disclosed by an inspection of the record itself the judgment is invulnerable to indirect assaults upon it.*" (Emphasis *859 added; internal quotation marks omitted.) Accord *Reiner, Reiner & Bendett, P.C. v. Cadle Co.*, 278 Conn. 92, 99 n. 7, 897 A.2d 58 (2006) ("[a]lthough we generally require that collateral attacks be supported by facts apparent from the record, we have eschewed the application of that rule when a nonresident defendant collaterally challenges the personal jurisdiction of the court rendering judgment"); *Vogel v. Vogel*, supra, 178 Conn. at 362, 422 A.2d 271 (exception to bar on collateral attack when lack of jurisdiction is "entirely obvious"); see also *R.C. Equity Group, LLC v. Zoning Commission*, 285 Conn. 240, 248, 939 A.2d 1122 (2008) (motion to dismiss attacks jurisdiction of court and "tests, inter alia, whether, on the face of the record, the court is without jurisdiction" [internal quotation marks omitted]).

We need not, however, conclusively resolve this question in the present case. Even if we were to assume, arguendo, that the defendant is entitled to review of his claims if he can demonstrate that prevailing on those claims would render the original judgment void on its face, his claims do not meet this standard. As the following discussion illustrates, the defendant cannot establish that he is entitled to a

judgment of dismissal *on the record as it exists*.

ab initio on its face.

[16] We begin with the defendant's first claim, that joint ventures are not legal entities. We agree that this claim implicates a substantial question of subject matter jurisdiction. See 59 Am.Jur.2d 460, Parties § 22 (2012) ("[A] proper party plaintiff is essential to confer jurisdiction on the court. As a general matter, there are three classes of legal entities with the **1205 inherent power to sue and be sued: [1] natural persons; [2] an artificial person; and [3] such quasi-artificial persons as the law recognizes as being capable to sue. Only a party that actually or legally exists may bring a lawsuit. There must be some ascertainable persons, natural or artificial, to whom judgments may be awarded, and no suit can be lawfully *860 prosecuted except in the name of such person." [Footnotes omitted.]). Nonetheless, even if the defendant were correct that joint ventures lack such capacity, a question of first impression in this state, the plaintiff would be entitled to an opportunity to demonstrate that it also is a partnership, an entity that, as the defendant recognizes, is capable of bringing an action in its own name ^{FN11} and universally recognized as sharing substantial similarities with a joint venture. See, e.g., *Doe v. Yale University*, 252 Conn. 641, 673–74, 748 A.2d 834 (2000). Well established authority recognizes that the two types of entities are not mutually exclusive. ^{FN12} There *861 is nothing in the record in the present case that would be inconsistent with such a finding. Indeed, the plaintiff claimed at oral argument **1206 before this court that it is a partnership and merely had referred to itself as a joint venture in the complaint as a matter of convenience, an assertion for which there is some support in the record. ^{FN13} Therefore, the defendant's claim, even if successful, would not require a judgment of dismissal, but instead a remand for an evidentiary hearing. See *Seymour v. Region One Board of Education*, 261 Conn. 475, 489–92, 803 A.2d 318 (2002); *Connecticut Associated Builders & Contractors v. Hartford*, 251 Conn. 169, 181–82, 740 A.2d 813 (1999). Accordingly, this claim *862 could not conclusively demonstrate that the judgment is void

FN11. See General Statutes § 34–313 ("[a] partnership is an entity distinct from its partners"); General Statutes § 34–328(a) ("[a] partnership may sue and be sued in the name of the partnership"). Our legislature enacted the Uniform Partnership Act (1994) (act) in 1995, and made the act effective on July 1, 1997. See Public Acts 1995, No. 95–341, §§ 1, 58; General Statutes § 34–300 et seq. The act's recognition of partnerships as distinct entities from their partners "comport[ed] with recent Connecticut case law involving partnership definition." 38 H.R. Proc., Pt. 20, 1995 Sess., p. 7169, remarks of Representative James W. Abrams.

FN12. See National Conference of Commissioners on Uniform State Laws, Uniform Partnership Act (1997) § 202, comment, p. 31, available at http://www.uniformlaws.org/shared/docs/partnership/upa_final_97.pdf (last visited August 5, 2013) (copy contained in the file of this case in the Supreme Court clerk's office) ("Relationships that are called 'joint ventures' are partnerships if they otherwise fit the definition of a partnership. An association is not classified as a partnership, however, simply because it is called a 'joint venture.' "); see also *In re Webb*, 474 B.R. 891, 893–94 (Bankr.E.D.Ark.2012) ("Notwithstanding the similarity between partnerships and joint ventures, the courts do not treat a joint venture as in all respects identical with a partnership, as they are separate and distinct legal relationships. A joint venture is generally a less formal relationship than a partnership. Also, a joint venture is not a legal entity separate from the participants in the venture as a partnership is, unless, of course, the attributes of the joint venture are such that the venture is in actuality a part-

nership.... In other words, a joint venture is not necessarily a separate entity with a separate legal existence; it is a relationship between two parties which or may not amount to a partnership under partnership law.” [Citations omitted; internal quotation marks omitted.]), *aff’d sub nom. Bank of England v. Rice*, Docket No. 4:12-cv-578 (DPM), 2013 WL 427919, 2013 U.S. Dist. LEXIS 14531 (E.D.Ark. February 4, 2013); *Century Bank of Lee County v. Gillespy*, 399 So.2d 1109, 1110 (Fla.App.1981) (“[w]e hold that, regardless of whatever attributes a joint venture may have which, for other purposes, distinguish it from a traditional partnership, if a ‘joint venture’ in fact meets the definition of a statutory partnership ... it is a partnership for the purpose of acquiring, holding and conveying title to real property in the name of the joint venture [partnership] as an entity separate from its members as provided in ... Florida [s]tatutes”); *Accolades Apartments, L.P. v. Fulton County*, 274 Ga. 28, 29–30, 549 S.E.2d 348 (2001) (“The conflict can be resolved by recognizing that [the plaintiff] primarily relied on the concept that a joint venture is not a legal entity separate from those parties that compose it.... While that concept is correct, it is an incomplete statement of the relevant law. In fact, a joint venture can be a separate legal entity, if the attributes of the joint venture are such that the venture is in actuality a partnership.... Whether a joint venture is actually a partnership is a question of fact and depends on the rights and responsibilities assumed by the joint venturers.... This is so even if the documents controlling the arrangement expressly state that no partnership is formed.” [Citations omitted; internal quotation marks omitted.]).

FN13. McKosky, one of the two joint ven-

turers named in the complaint as an equal “owne[r]” of the plaintiff, filed an affidavit in which he referred to himself as the “[m]anaging [p]artner” of the plaintiff. In the defendant’s revised special defense, he repeatedly referred to McKosky as the plaintiff’s “general partner” or “partner.” See General Statutes § 34–301(12) (“ ‘[p]artnership’ means an association of two or more persons to carry on as co-owners a business for profit formed under section 34–314, predecessor law or comparable law of another jurisdiction, and includes for all purposes of the laws of this state a registered limited liability partnership”); General Statutes § 34–314(a) (“[e]xcept as otherwise provided in subsection [b] of this section, the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership”).

[17] Turning to the defendant’s second claim, that the plaintiff failed to demonstrate that it was in existence at the time that it filed the complaint, this assertion is squarely contradicted by the record. The defendant relies *solely* on the plaintiff’s use of the past tense in the following allegation in the 1991 complaint: “At all times herein, the plaintiff ... was a joint venture equally owned by R.S.S. McKosky and Alton W. Seavey, Jr., having its usual place of business in the town of North Branford....” Not only does the defendant adopt an unduly cramped construction of this allegation in contravention to the rule that we read pleadings liberally in support of jurisdiction; see *Federal Deposit Ins. Corp. v. Peabody, N.E., Inc.*, 239 Conn. 93, 99, 680 A.2d 1321 (1996); *Kelly v. Albertsen*, 114 Conn.App. 600, 605–606, 970 A.2d 787 (2009); he also overlooks allegations in the complaint and other evidence in the record that indicate that the plaintiff was in existence during the original proceedings.^{FN14}

FN14. The complaint similarly referred to Summit, the named defendant in the case: "At all times herein, [Summit] ... was a corporation organized under the laws of the state of Connecticut, having its usual place of business in the town of North Branford...." The complaint thereafter referred to events occurring from 1988 through 1990, and further alleged in the present tense that the "[p]laintiff is the owner and holder of the note...." (Emphasis added.) In addition, in an affidavit filed by the plaintiff in March, 1991, McKosky attested that the plaintiff "is" a joint venture and "is" the holder of the note. In affidavits filed in February, 1991, and May, 1994, McKosky referred to his present ownership stake in the plaintiff. Therefore, in the absence of any evidence to the contrary, had the defendant moved to dismiss for lack of jurisdiction on the ground that the plaintiff was not an existing joint venture, the trial court, reading the pleadings in favor of jurisdiction, undoubtedly would have concluded that the plaintiff sufficiently had established that it was in existence as a joint venture at the time that it filed the complaint and at all earlier relevant periods.

Accordingly, with respect to the aforementioned claims, neither would require a judgment of dismissal *863 because the judgment is not void on its face in light of the record. Therefore, even if we were inclined to permit collateral attacks in the context of motions to revive, the defendant would not be entitled to do so in the present case.

[18] A different lens is required, however, with respect to the defendant's third **1207 claim that, even if we were to presume that the plaintiff was in existence when it commenced the action in 1991 and when it obtained judgment in its favor in 1994, there is no basis to believe that it still was in existence in 2009 when it filed the motion to revive. This claim cannot

be characterized as a collateral attack on the original judgment, either directly or in effect. Even if the defendant were to prevail on this claim, the original judgment would retain its validity, leaving the defendant subject to liability on the full amount of the debt. Therefore, the principles enunciated in *Vogel* have no application to this claim.

The defendant, however, cannot prevail on this claim. The defendant is correct that the plaintiff did not allege any facts in its motion to revive relating to its status as a joint venture. Nonetheless, the defendant has provided no authority to support the proposition that, after having pleaded sufficient facts to establish itself as an existing joint venture in the initial pleading, the plaintiff was required to replead facts in its motion to revive to demonstrate that it retained the status previously established. As we continue to underscore, a proceeding to revive a judgment is a continuation of the original action. Moreover, the defendant made no offer of proof of any evidence that would call into question the plaintiff's existence when it filed the motion to revive.

[19] Although we recognize that joint ventures are formed for a limited purpose rather than as an ongoing enterprise; see *Dolan v. Dolan*, 107 Conn. 342, 349, 140 A. 745 (1928) ("a partnership is formed for the purpose *864 of carrying on a general business of one sort or another, and a joint adventure is more commonly limited to a single transaction or course of transactions"); the general rule is that a joint venture continues until its purpose is fulfilled or rendered impracticable unless the parties expressly agree otherwise. See *Lauth Indiana Resort & Casino, LLC v. Lost River Development, LLC*, 889 N.E.2d 915, 919–20 (Ind.App.2008) ("The parties further agree that this case presents an issue of first impression in Indiana regarding precisely when a joint venture terminates in those cases where the joint venture agreement itself contains no specific termination date. Although research has revealed no Indiana case which has addressed this issue, there does seem to be a

consensus among our sister states and in federal jurisdictions with regard to this issue. Specifically, the generally accepted law of joint ventures is that '[a] joint venture without a termination date remains in force until its purpose is accomplished or that purpose becomes impracticable.' *Scandinavian Airlines [System] Denmark-Norway-Sweden v. McDonald's Corp.*, 129 F.3d 971, 973 [(7th Cir.1997)]; see also 48A C.J.S. Joint Ventures § 15 [2004] [stating that ... general rule is that ... joint venture remains in place unless its primary purpose or contingency has become impracticable or impossible to accomplish.']. In the proceedings culminating in the 1994 judgment, the defendant never challenged the plaintiff's ownership of the debt or its right, as a joint venture, to collect on the debt. Because we have no basis to question that the prosecution of the original action to recover the debt was within the scope of the joint venture's purpose, we see no reason why the collection of the judgment would not also presumptively fall within that scope, in the absence of evidence that the joint venturers had agreed otherwise. Cf. General Statutes § 33-884(a) ("[a] dissolved corporation continues its corporate existence but may *865 not carry on any business except that appropriate to wind up and liquidate its business and affairs, including: [1] [c]ollecting its assets ... and [5] doing **1208 every other act necessary to wind up and liquidate its business and affairs"); General Statutes § 34-373(a) ("[A] partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed."); 60 Am.Jur.2d 111, Partnership § 198 (1972) ("Both under the Uniform Act and at common law it is recognized that after dissolution, the partnership continues only for the purpose of winding up the partnership affairs.... Included in the winding up or liquidation of partnership affairs are the performance of existing contracts, the collection of debts or claims due the firm, and the payment of firm debts." [Emphasis added; footnotes omitted.]). Surely a colorable basis to conclude otherwise is not manifested on the record before us.^{FN15} Therefore, we conclude, albeit for slightly

different reasons than the Appellate Court, that the trial court had subject matter jurisdiction to adjudicate the motion to revive.

FN15. We express no views on what procedures might have been available to the defendant to ascertain facts relevant to this matter had he raised this claim before the trial court in response to the filing to the plaintiff's motion to revive. Irrespective of whatever such measures may be available in such proceedings, however, it is clear that the defendant had ample opportunity in the original proceedings to conduct discovery and examine witnesses to ascertain the plaintiff's purpose and any other relevant terms of its existence.

III

We next turn to the certified questions relating to the trial court's personal jurisdiction over the defendant in the revival proceeding. The defendant challenges the Appellate Court's conclusion that § 52-598(c) provided a basis for such jurisdiction on two grounds: first, that the statute cannot be applied retroactively to revive the 1994 judgment; and second, that the statute does not fall within the postjudgment procedures over which the *866 trial court is statutorily authorized to retain continuing personal jurisdiction of parties thereto. We disagree with both claims.

A

[20] The defendant has marshaled numerous arguments in support of his claim that § 52-598(c) cannot be applied retroactively.^{FN16} Broadly characterized, the defendant**1209 *867 contends that the legislature has manifested such an intention by virtue of the October, 2009 effective date of the statute and legislatively imposed rules of construction. He further contends that § 52-598(c) is substantive, not procedural, because it creates a right, namely, "a right for a judgment creditor to obtain a new judgment date in order to create a right of recovery for Connecticut

judgments in foreign [jurisdictions].” We disagree with the defendant’s characterization of this provision and find none of his other arguments ultimately persuasive.

FN16. Specifically, the defendant contends: (1) the legislature manifested an unambiguous intention for prospective application in the statute’s effective date of October 1, 2009, which is supported by the legislative history to the public act; (2) the legislature generally has directed in General Statutes § 1–1(u) that “[t]he passage or repeal of an act shall not affect any action then pending”; (3) the statute creates a new substantive right; (4) even if this court were to view the provision of a new judgment date as akin to an extension of a statute of limitations, it would fall within the rule that an amendment extending a statute of limitations cannot be applied in a case in which the original statute of limitations has expired; (5) retroactive application would violate the defendant’s due process rights by subjecting him to a new action without requiring the court to obtain personal jurisdiction over him; (6) P.A. 09–215 is not clarifying legislation; and (7) construing § 52–598(c) as procedural would violate the separation of powers doctrine because that doctrine limits the legislature to the creation of substantive rights and the courts to the creation of procedural rules.

We address the first, third, fourth and fifth claims hereinafter in this opinion. With respect to the remaining claims, we reject them for the following reasons. The defendant’s reliance on § 1–1(u) lacks any explanation of how § 52–598(c) could have affected an “action then pending” in the present case when the provision was enacted after the 1994 judgment became final and before the motion to revive was

filed. Moreover, our case law indicates that § 1–1(u) generally has been treated as a reflection of the presumption against retroactive application of laws making substantive changes and the considerations of good sense and justice that may bar retroactive application of procedural statutes. See, e.g., *Moore v. McNamara*, 201 Conn. 16, 25, 513 A.2d 660 (1986); *Jones De-struction, Inc. v. Upjohn*, 161 Conn. 191, 197, 286 A.2d 308 (1971); *Jablon v. Town Planning & Zoning Commission*, 157 Conn. 434, 444, 254 A.2d 914 (1969); *Reese v. Reese*, 136 Conn. 191, 194–95, 70 A.2d 123 (1949). With respect to the defendant’s due process claim, in part I of this opinion we rejected the fundamental premise on which this claim is based, a point that we address further in connection with the defendant’s other arguments in this part of the opinion. With respect to the defendant’s claim that P.A. 09–215 is not clarifying legislation, we agree and therefore do not rely on that status as a basis to apply the statute retroactively. With respect to the defendant’s separation of powers argument, we direct the defendant’s attention to authority recognizing that statutorily created court procedures will pass constitutional muster as long as the legislature does not interfere with the performance of our judicial functions. See, e.g., *Bartholomew v. Schweizer*, 217 Conn. 671, 676, 587 A.2d 1014 (1991); see also *State v. Diaz*, 226 Conn. 514, 558, 628 A.2d 567 (1993) (*Berdon, J.*, dissenting).

[21][22][23][24][25] In considering the question of whether a statute may be applied retroactively, we are governed by certain well settled principles, under which our ultimate focus is “the intent of the legislature in enacting the statute.” (Internal quotation marks omitted.) *D’Eramo v. Smith*, 273 Conn. 610, 620, 872

A.2d 408 (2005). Because all public acts not specifying an effective date automatically are assigned to “take effect on the first day of October following the session of the General Assembly at which they are passed”; General Statutes § 2–32; we never have ascribed particular significance to such dates in ascertaining the legislature’s intent. Rather, “[o]ur point of departure is General Statutes § 55–3, which states: No provision of the general statutes, not previously contained in the statutes of the state, which imposes any new obligation on any person or corporation, shall be construed to have retrospective effect.... [W]e have uniformly interpreted § 55–3 as a rule of presumed legislative intent that statutes affecting substantive rights shall apply prospectively only.... The rule is rooted in the notion that it would be unfair *868 to impose a substantive amendment that changes the grounds upon which an action may be maintained on parties who have already transacted or who are already committed to litigation.... In civil cases, however, unless considerations of good sense and justice dictate otherwise, it is presumed that procedural statutes will be applied retrospectively.... While there is no precise definition of either [substantive or procedural law], it is generally agreed that a substantive law creates, defines and regulates rights while a procedural law prescribes the methods of enforcing such rights or obtaining redress.” (Citations omitted; footnote omitted; internal quotation marks omitted.) *D’Eramo v. Smith*, supra, at 620–21, 872 A.2d 408. “Procedural statutes ... therefore leave the preexisting scheme intact.” (Internal quotation marks omitted.) *Id.*, at 621, 872 A.2d 408. “[A]lthough we have presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the **1210 contrary ... a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application.” (Internal quotation marks omitted.) *Id.*

Several facts indicate that § 52–598(c) is not substantive. Reviving the judgment imposes no obli-

gations on the defendant that did not exist under the original judgment—the amount of the judgment, the party to whom the defendant owes that obligation and the period for enforcing the judgment all remain the same. The plaintiff cannot assert new claims or change the terms of the existing judgment. The defendant retains his defense to an execution or action on the judgment that previously existed, namely, satisfaction of the judgment.

[26] Moreover, although the purpose of the revived judgment is to ensure that a Connecticut judgment creditor will not be deprived of the ability to execute the judgment in a foreign jurisdiction having a shorter period for *869 enforcement than Connecticut, § 52–598(c) obviously does not alter the foreign jurisdiction’s law with respect to the period of enforcement. Even if we were to view the revived judgment as *effectively* extending the period to execute the judgment in a foreign jurisdiction, we are not persuaded that this effect renders § 52–598(c) substantive. See *Fanton v. Middlebrook*, 50 Conn. 44, 45 (1882) (“[A] statute [of limitations] does not extinguish the debt. It merely deprives the creditor of a right of action to recover the debt.”). Authority from other jurisdictions retroactively applying statutes extending the period for executing a judgment lends support to this conclusion.^{FN17} See, e.g., *870 *Angeli v. Lischetti*, 58 Cal.2d 474, 475–76, 374 P.2d 813, 24 Cal.Rptr. 845 (1962); *Balfe v. Rumsey & Sikemeier Co.*, 55 Colo. 97, 103, 133 P. 417 (1913); *Lahman v. Hastings*, 74 S.D. 431, 433, 54 N.W.2d 166 (1952); *State v. Morgan*, 107 Wash.App. 153, 159, 26 P.3d 965 (2001).

FN17. These cases indicate that retroactive application is proper if the period for enforcing the underlying judgment has not yet expired. In this regard, we note that the defendant asserts in his brief to this court that § 52–598(c) is not akin to a statute of limitations, but, “even if the statute were viewed as related to a statute of limitations, a statute

that would modify an *expired* statute of limitations cannot be applied retroactively. See *State v. Skakel*, 276 Conn. 633, 670 [888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S.Ct. 578, 166 L.Ed.2d 428 (2006)]; *State v. Crowell*, 228 Conn. 393, 398–99 [636 A.2d 804] (1994). Accordingly ... because [§ 52–598(c)] was adopted five years after the ten year statute of limitations in South Carolina had expired, it should not have been afforded retroactive application to this case.” (Emphasis in original.) Our review of the record reveals that the defendant never raised this argument in briefing to the trial court or Appellate Court. The first reference to this argument appears in a letter filed by the defendant’s counsel in the Appellate Court on the day of oral argument in that court, alerting that court to the possibility that this issue may come up at oral argument. The Appellate Court did not address this issue in its decision, and the defendant did not seek reargument to obtain a consideration of that issue. In addition to belatedly raising this issue, the defendant has failed to analyze how the principle cited in *Skakel* and *Crowell* applies in a case in which the issuing jurisdiction’s enforcement period has not changed and the underlying judgment still is in effect. See *Angeli v. Lischetti*, 58 Cal.2d 474, 475–76, 374 P.2d 813, 24 Cal.Rptr. 845 (1962) (application of amendment extending period for execution proper after prior period for execution had expired but while underlying judgment still was enforceable). Therefore, we decline to address this issue. See *Commissioner of Correction v. Coleman*, 303 Conn. 800, 832, 38 A.3d 84 (2012) (declining to review issue where “in addition to the fact that the defendant belatedly has raised this claim, he has failed to adequately brief it”); *State v. Duhan*, 194 Conn. 347, 354–55, 481 A.2d 48 (1984) (failure to raise

issue before Appellate Court is ground to deny review in this court).

****1211** In sum, § 52–598(c) does not create, define or regulate a right. Rather, it bears the hallmarks of a procedural statute, leaving the preexisting scheme intact and prescribing a method of enforcing rights or obtaining redress. Considerations of good sense and justice do not militate against retroactive application. The defendant incurred obligations under a valid judgment. Revival of that judgment neither assigns “a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed”; (internal quotation marks omitted) *In re Daniel H.*, 237 Conn. 364, 373, 678 A.2d 462 (1996); nor upsets “any settled rights or reliance interests.” *State v. Skakel*, 276 Conn. 633, 685, 888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S.Ct. 578, 166 L.Ed.2d 428 (2006). Accordingly, the Appellate Court properly determined that § 52–598(c) applies retroactively.

B

[27] We therefore consider whether the trial court has personal jurisdiction over the defendant under § 52–598(c). We begin by noting that the defendant’s position that personal jurisdiction in the original action is not a proper basis on which to maintain jurisdiction in the revival proceeding is largely premised on his presumption that a motion to revive under § 52–598(c) constitutes a new action. As we previously have indicated in part I of this opinion, we agree with the authority from other jurisdictions holding to the contrary. In addition, the defendant points to the legislature’s failure to amend chapter 906 of the General Statutes, which authorizes the trial court to retain jurisdiction over parties to post-judgment*871 procedures, to refer to motions to revive. He contends that this omission demonstrates that the plaintiff must establish the trial court’s personal jurisdiction over the defendant in § 52–598(c) proceedings independent of the original judgment. We disagree.

General Statutes § 52-350d (a) provides in relevant part: "For the purposes of postjudgment procedures, the Superior Court shall have jurisdiction over all parties of record in an action until satisfaction of the judgment or, if sooner, until the statute limiting execution has run...." General Statutes § 52-350a (15) further provides: " 'Postjudgment procedure' means any procedure commenced after rendition of a money judgment, seeking or otherwise involving a discovery procedure, a placing of a lien on property, a modification or discharge of a lien, a property execution under section 52-356a, a turnover order, an installment payment order, a wage execution, a modification of a wage execution, a compliance order, a protective order or a determination of exemption rights."

In our view, proceedings under § 52-598(c) fall squarely within these provisions. A motion to revive is a procedure commenced after rendition of a money judgment. The granting of such a motion permits the plaintiff to seek the various forms of relief enumerated in § 52-350a (15). Therefore, the procedure is one "involving," rather than seeking, such relief. Accordingly, the Appellate Court properly concluded that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the motion to revive.

The judgment of the Appellate Court is affirmed.

In this opinion the other justices concurred.

Conn., 2013.
Investment Associates v. Summit Associates, Inc.
309 Conn. 840, 74 A.3d 1192

END OF DOCUMENT

EXHIBIT 4

**UNPUBLISHED/OUT OF REGION
DECISIONS**

C

NOTE: THIS OPINION WILL NOT APPEAR IN A PRINTED VOLUME. THE DISPOSITION WILL APPEAR IN A REPORTER TABLE.

Court of Appeals of North Carolina.
MUNDACA FINANCIAL SERVICES LLC, a Tennessee Limited Liability Company as Assignee of
Mundaca Investment Corporation, Plaintiff,

v.

Robert M. CASELLA, Defendant.

No. COA10-714.

March 15, 2011.

*1 Appeal by defendant from order entered 24 February 2010 by Judge James U. Downs in Haywood County Superior Court. Heard in the Court of Appeals 1 December 2010.

No brief filed on behalf of plaintiff-appellee.

Robert M. Casella, pro se, defendant-appellant.

HUNTER, ROBERT C., Judge.

Robert M. Casella ("defendant") appeals from the trial court's order granting Mundaca Financial Services' ("plaintiff") motion to enforce a foreign judgment. After careful review, we reverse and remand for further consideration not inconsistent with this opinion.

Background

On 25 October 1995, a "Consent Judgment" in the amount of \$50,000.00 was entered against defendant and in favor of Mundaca Investment Corporation in the Superior Court of Warren County, New Jersey. The judgment was subsequently assigned to plaintiff. On 27 October 2008, plaintiff filed a "Notice of Filing

of Foreign Judgment" in the Superior Court of Haywood County, North Carolina. On or about 12 March 2009, defendant filed a "Motion for Relief from Execution Upon Foreign Judgment[,] For Stay of Execution, to Quash Execution and for Counsel Fees and Costs of the Action." On 13 April 2009, Judge Laura Bridges entered an order in which she ruled that, *inter alia*: (1) "The relief from foreign judgment requested by the Defendant herein is hereby GRANTED"; (2) "Enforcement of said Final Judgment is barred by the applicable statutes of limitations in the State of North Carolina"; and (3) "Any execution or other enforcement of the said foreign judgment is hereby quashed, and said judgment shall not be enforced in the State of North Carolina." ^{FN1}

FN1. The order states that it was entered on 9 April 2009; however, it was file stamped 13 April 2009.

On 27 April 2009, plaintiff filed a "Notice of Motion to Revive Plaintiff's Judgment" in the Superior Court of Warren County, New Jersey. Plaintiff requested that the 25 October 1995 judgment be revived for "an additional 20 years." On 22 July 2009, the Warren County Superior Court granted plaintiff's motion to revive the judgment for 20 years.

On 7 October 2009, plaintiff again filed a "Notice of Filing of Foreign Judgment" in Haywood County Superior Court. On 20 November 2009, plaintiff filed a "Motion to Enforce Foreign Judgment." On 5 November 2009, defendant filed a "Notice of Defense to Foreign Judgment" and accompanying brief in support of his motion. The matter was heard before Judge James U. Downs in Haywood County Superior Court on 19 January 2010. On 24 February 2010, the trial court entered a written order in which it concluded as a matter of law:

210 N.C.App. 491, 711 S.E.2d 207, 2011 WL 883506 (N.C.App.)
(Table, Text in WESTLAW), Unpublished Disposition
(Cite as: 210 N.C.App. 491, 2011 WL 883506 (N.C.App.))

1. It appearing to this court that the 2009 Judgment was entered in the Warren County Superior Court of New Jersey on July 22, 2009, and that said judgment is final and remains unsatisfied in whole or in part. *The 2009 Judgment constitutes a new judgment* under the laws of New Jersey pursuant to N.J.S.A. § 2A:14-5.

2. It further appearing that this action is based upon the 2009 Judgment and not upon the 1995 Judgment and therefore its filing is within the ten year period prescribed by N.C.G.S. § 1-47.

*2 (Emphasis added.) Accordingly, the trial court granted plaintiff's motion to enforce the foreign judgment. Defendant timely appealed to this Court.

Discussion

Defendant argues on appeal that the trial court erred in granting plaintiff's motion to enforce the foreign judgment because the statute of limitations had expired on the original 1995 judgment and the "revived" 2009 judgment did not constitute a new judgment as the trial court determined; rather, the revival constituted a continuance of the 1995 judgment. We agree that the revived judgment did not constitute a new judgment under New Jersey law and we remand for reconsideration by the trial court in light of this holding.

N.C. Gen.Stat. § 1-47(1) (2009) provides a 10-year statute of limitations period for any action "[u]pon a judgment or decree of any court of the United States, or of any state or territory thereof, from the date of its entry. No such action may be brought more than once, or have the effect to continue the lien of the original judgment." This statute "affects foreign and domestic judgments alike." *Wener v. Perrone & Cramer Realty, Inc.*, 137 N.C.App. 362, 364, 528 S.E.2d 65, 66 (2000). "Such a statute as the statute of limitations should be strictly construed and is a complete bar to a motion for leave to issue execution of a

judgment, when such motion is made more than ten years after the rendition of such judgment." *Powles v. Kandasiewicz*, 886 F.Supp. 1261, 1268 (W.D.N.C.1995). It is undisputed that when plaintiff sought to enforce the 1995 judgment in 2008 it was barred by the 10-year statute of limitations in North Carolina. "It has long been established that the enforcement of a judgment of a sister state may be barred by application of the statute of limitations of the forum state." *Matanuska Valley Lines, Inc. v. Molitor*, 365 F.2d 358, 359-60 (9th Cir.1966), *cert. denied*, 386 U.S. 914, 17 L.Ed.2d 786 (1967).

However, under New Jersey law:

A judgment in any court of record in this state may be revived by proper proceedings or an action at law may be commenced thereon within 20 years next after the date thereof, but not thereafter. An action may be commenced on a judgment obtained in any other state or country within 20 years next after the date thereof or within the period in which a like action might be brought thereon in that state or country, whichever period is shorter, but not thereafter.

N.J. Stat. § 2A:14-5 (2009) (emphasis added). According to this statute, which provides a 20-year statute of limitations period, plaintiff's original 1995 judgment was still valid in New Jersey in 2008. *Id.*

After the trial court held that the 1995 judgment was barred by North Carolina's statute of limitations, plaintiff then sought to revive the 1995 judgment "by proper proceedings" when plaintiff filed a "Notice of Motion to Revive Plaintiff's Judgment" within 20 years of the original judgment. On 22 July 2009, the trial court revived the judgment "for a period of (20) years from June 26, 2009 ." Plaintiff then tried to enforce the revived judgment in North Carolina and the trial court held that the revived judgment was a "new judgment" and was, therefore, not barred by the

210 N.C.App. 491, 711 S.E.2d 207, 2011 WL 883506 (N.C.App.)

(Table, Text in WESTLAW), Unpublished Disposition

(Cite as: 210 N.C.App. 491, 2011 WL 883506 (N.C.App.))

statute of limitations. Defendant argues that under N.J. Stat. § 2A:14-5 revival "by proper proceedings[.]" as opposed to "an action at law[.]" is merely a continuation of the prior action and is not a "new judgment." Defendant is correct according to New Jersey law. See *Union Nat. Bank v. Lamb*, 337 U.S. 38, 43-44, 93 L.Ed. 1190, 1195-96 (1949) (noting that a determination as to whether a revival gives rise to a new judgment or merely continues the life of the original judgment is based on the law of the rendering state); *United Leasing Corp. v. Plumides*, 138 N.C.App. 696, 698, 531 S.E.2d 891, 893 (2000) (stating that "the validity and effect of a judgment of another state must be determined by reference to the laws of the state wherein the judgment was rendered" (citation and internal quotation marks omitted)).

*3 In *Kronstadt v. Kronstadt*, 570 A.2d 485, 486 (N.J.Super.Ct.App.Div.1990), the New Jersey intermediate appellate court was charged with determining what constituted a "proper proceeding" under N.J. Stat. § 2A:14-5. There, the plaintiff revived a judgment by "motion procedure" in the trial court. *Id.* at 487. In determining whether the "motion procedure" was a "proper proceeding[.]" the appellate court explained that the "source statute" for the current version of N.J. Stat. § 2A:14-5 provided for revival by *scire facias*, which is, by definition, "merely a continuation of the original action." *Id.* at 486-87 (quoting *Blacks Law Dictionary* 1208 (5th Ed.1979)); see also *Twist v. Woerst*, 127 A. 578, 579 (N.J.Sup.Ct.1925) (stating "that a proceeding by *scire facias* to revive a judgment is not an original proceeding, but a mere continuance of the former suit, or, in other words, it is merely a supplementary remedy to aid in the recovery of the debt evidenced by the original judgment"). The court in *Kronstadt* then determined that the motion procedure employed by plaintiff to revive the judgment "was merely a continuation of the action resulting in the original judgments" and was, therefore, a "proper proceeding" which resulted in a revival of the original judgment. *Kronstadt*, 570 A.2d at 487-88. Accordingly, the motion procedure used by plaintiff in the

present case was a proper proceeding that revived the original judgment for an additional 20 years; however, it is not a new judgment.

Having found that the 2009 revival constituted a new judgment, the trial court determined that plaintiff filed the judgment within the 10-year statute of limitations in North Carolina. We hold that the 2009 revival did not constitute a new judgment and, consequently, we reverse and remand this case to the trial court to reconsider the matter in light of our holding.

Reversed and Remanded.

Judges CALABRIA and ELMORE concur.

Report per Rule 30(e).

N.C.App.,2011.

Mundaca Financial Services LLC v. Casella

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C

Appellate Department, Superior Court, Los Angeles
County, California.

M. JACOBS, Plaintiff, Appellant and Respondent,
v.

Clifford SPRAGUE, Defendant, Respondent and
Appellant.

C. A. 8603.

Feb. 28, 1955.

Action in California on Oregon judgment which had expired and thereafter been renewed. From judgment of Municipal Court, El Monte Judicial District, John K. Otis, J., for plaintiff, both parties appealed. The Superior Court, Appellate Department, Patrosso, J., held that in view of fact that order of revival judgment in Oregon could be made ex parte and without notice, and language of statute in which word 'judgment' as used throughout section referred to original judgment, not a new judgment, proceeding in Oregon resulting in order for revival of judgment was not a new suit, but merely continuation of old, with result that action upon judgment was upon original judgment and was barred by statute of limitations.

Plaintiff's appeal dismissed; judgment reversed.

West Headnotes

[1] Judgment 228 ↪ 928

228 Judgment

228XXI Actions on Judgments

228XXI(B) Foreign Judgments

228k928 k. What law governs. Most Cited

Cases

Whether proceeding for revival of a judgment is a new action or merely continuation of that in which original judgment is rendered is, for purpose of determining whether order or judgment duly entered therein is entitled to full faith and credit, to be determined by law of state where such proceedings were had, and not those of a foreign forum where revival judgment is sought to be enforced.

[2] Judgment 228 ↪ 928

228 Judgment

228XXI Actions on Judgments

228XXI(B) Foreign Judgments

228k928 k. What law governs. Most Cited

Cases

Where original judgment had been rendered in Oregon, California courts would look to law of Oregon to determine whether revival judgment, made on order that judgment be renewed and remain in full force for second ten-year period, constituted new judgment upon which statute of limitations began to run from its rendition, or was merely continuation of original judgment with enforcement of it in California, consequently barred by statute of limitations.

[3] Constitutional Law 92 ↪ 990

92 Constitutional Law

92VI Enforcement of Constitutional Provisions

92VI(C) Determination of Constitutional
Questions

92VI(C)3 Presumptions and Construction as
to Constitutionality

92k990 k. In general. Most Cited Cases
(Formerly 92k48(1), 92k48)

Where statute is susceptible of different con-

structions, that construction will be adopted which will make it valid and constitutional.

[4] Judgment 228 934(1)

228 Judgment

228XXI Actions on Judgments

228XXI(B) Foreign Judgments

228k934 Time to Sue and Limitations

228k934(1) k. In general. Most Cited

Cases

In view of fact that order of revival judgment in Oregon could be made "ex parte" and without notice and in view of language of statute, in which word "judgment" as used throughout section referred to original judgment, proceeding in Oregon resulting in order of revival of judgment was not a new suit but merely continuation of old suit with result that action upon judgment was upon original judgment, and was barred by statute of limitations. O.R.S. 16.730, 18.360.

****919 *886** Marvin A. Burnett, Los Angeles, for appellant Jacobs.

Engene Kelly, Los Angeles, for appellant Sprague.

PATROSSO, Judge.

This action was filed November 14, 1952, upon a judgment obtained by plaintiff's assignor against defendant, in the Circuit Court of the State of Oregon, for the County of Multnomah, and from a judgment in favor of plaintiff both parties appeal. The judgment sued upon was rendered April 27, 1937, and under the applicable Oregon law action thereon would be barred ten years thereafter. However, pursuant to the provisions of an Oregon statute hereafter referred to, the Oregon court by which the judgment was rendered, on April 4, 1949, made an order that the judgment be renewed and remain in full force and effect for a period of ten years from the date of the order.

It is in effect conceded that but for the order last mentioned this action was barred by our statute of limitations, which was unsuccessfully pleaded by defendant. The plaintiff, however, contends that the order ****920** renewing the judgment is in effect a new judgment upon which the statute of limitations begins to run from its rendition, while defendant asserts that the order of April 4, 1949 is not a new judgment, but a continuation of the original judgment.

The authorities are not harmonious upon the question as to whether proceedings for renewal of a judgment by motion or the equivalent of the common-law writ of *scire facias* constitute a new action or a mere continuation of the old, and hence whether the order of revival constitutes a new judgment, as a result of which the statute of limitations commences to run anew from the date of the order of renewal. See 50 C.J.S., Judgments, § 871(2), page 447. The greater weight of authority and the modern view, however, appear to be that such proceedings are but a continuation of the original suit. 49 C.J.S., Judgments, § 548(a), page 1005; Annotation, 36 A.L.R.2d 575, et seq.; Annotation 144 A.L.R. 408, et seq. The adoption of the latter view seems to have been prompted, in some measure at least, by the decision of the Supreme Court of the United ***887** States in *Owens v. McCloskey*, 1896, 161 U.S. 642, 16 S.Ct. 693, 40 L.Ed. 837, wherein it was held that if a revival of a judgment by *scire facias* be treated as a new action, the order of revival is not entitled to full force and credit unless predicated upon personal service upon the judgment debtor within the state of notice of such revival proceedings, which was not had in this case. Thus in *Bank of Edwardsville v. Raffaele*, 1942, 381 Ill. 486, 45 N.E.2d 651, 653, 144 A.L.R. 401, the Supreme Court of Illinois held that a *scire facias* proceeding to revive a judgment was not equivalent 'to the starting of a new suit to secure a personal judgment', and hence that there was no constitutional objection to the entry of an order of revival as against a nonresident defendant pursuant to the service of con-

structive notice of the proceeding by publication.

[1][2] It is now settled that the character of the proceeding for the revival of a judgment, whether a new action or merely a continuation of that in which the original judgment was rendered, is (at least for the purpose of determining whether the order or judgment newly entered therein is entitled to full faith and credit under the federal constitution) to be determined by the law of the state where such proceedings were had and not those of the foreign forum wherein the revival judgment is sought to be enforced. *Union Nat. Bank v. Lamb*, 1949, 337 U.S. 38, 44, 69 S.Ct. 911, 93 L.Ed. 1190, 1195-1196. Hence, we must look to the law of Oregon for a solution of the question which confronts us, and as our search has failed to reveal any decision by the courts of that state determinative thereof, it becomes necessary to consider the statutes of Oregon pursuant to which the order in question was made.

Section 18.360, Oregon Rev. Statutes, reads as follows:

'Whenever, after the entry of a judgment, a period of 10 years shall elapse, the judgment and the lien thereof shall expire. However, before the expiration of 10 years the circuit court in which such judgment was docketed, on motion, may renew such judgment and cause a new entry of the same to be made in the judgment docket, after which entry the lien of the judgment shall continue for another 10 years unless sooner satisfied, and after which entry execution may issue upon such judgment for another 10 years.'

It will be noted that the foregoing section provides that the court may make the order of renewal 'on motion,' and section 16.730 provides that 'Notice of a motion is not necessary*888 except when required by statute, or when directed by the court or judge in pursuance thereof.' Our examination of the Oregon statute fails to reveal any requirement that notice shall be given of the motion mentioned in section 18.360

quoted above, and the transcript of the judgment in evidence contains no statement that notice of any kind was given of the motion upon which the order was made.

[3] The fact that the order of revival may be made ex parte and without notice affords some evidence that it was not intended that the proceeding (motion) should be treated as a new action nor **921 that the order should be considered as a new judgment in view of the grave constitutional question which would thereby be presented. *Owens v. McCloskey*, supra; see also *Thompson v. Cook*, 1942, 20 Cal.2d 564, 569, at seq., 127 P.2d 909. Applicable here is the principle that of different constructions of which a statute is susceptible, that will be adopted which will make it valid and constitutional. See *Swift & Co. v. Peterson*, 1951, 192 Or. 97, 233 P.2d 216, 222. Persuasive to the same result is the language of the statute: '* * * the circuit court in which such judgment was docketed * * * may renew such judgment and cause a new entry of the same to be made in the judgment docket, after which entry the lien of the judgment shall continue for another 10 years * * *.' Thus it would appear that the word 'judgment' as used throughout the section, refers to the original judgment—not a new one. Indeed, there is no provision for the entry of a new judgment, but only 'a new entry' of the old. A reading of the order of revival here also fortifies this view. It reads, in part, as follows: 'It further appearing that plaintiff is entitled to have *said judgment kept alive* by the renewal thereof by order of Court for ten years. It is ordered that the judgment of the plaintiff herein against the defendant herein be and the same is renewed at the date hereof and *shall remain in full force and effect* for a period of ten years from the date of this order * * *.' (Emphasis added.)

Plaintiff contends that a different result is dictated by *Thomas v. Lally*, 1915, 28 Cal.App. 308, 152 P. 53, wherein it was held that the revival by *scire facias* of an Illinois judgment constituted a new cause of action, and that the California statute of limitations com-

131 Cal.App.2d Supp. 885, 280 P.2d 919

(Cite as: 131 Cal.App.2d Supp. 885, 280 P.2d 919)

menced to run from the date of the order of renewal rather than the date of the original judgment. The opinion, however, proceeds upon the erroneous assumption that a proceeding to revive a judgment*889 by *scire facias* in every case constitutes 'a new cause of action,' and seemingly the court was not cognizant of the fact that the contrary is true in Illinois. *Bickerdike v. Allen*, 1895, 157 Ill. 95, 41 N.E. 740, 742, 29 L.R.A. 782, and *Bank of Edwardsville v. Raffaele*, *supra*.

[4] We, therefore, conclude that the Oregon proceedings resulting in the order of revival was not a new suit but merely a continuation of the old, and hence that the instant action was upon the original judgment and barred by limitation. This conclusion renders moot plaintiff's appeal from the judgment, and it is dismissed. The judgment is reversed, defendant to recover his costs of appeal.

BISHOP, Acting P. J., concurs.

Cal.Super. 1955

Jacobs v. Sprague

131 Cal.App.2d Supp. 885, 280 P.2d 919

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Not Reported in A.2d, 1991 WL 183058 (Conn.Super.), 4 Conn. L. Rptr. 483
(Cite as: 1991 WL 183058 (Conn.Super.))

H

UNPUBLISHED OPINION. CHECK COURT
RULES BEFORE CITING.

Superior Court of Connecticut, Judicial District of
Waterbury.

Robert KEATING

v.

Peter JORDAN, et al.

No. 096660.

Sept. 10, 1991.

MEMORANDUM OF DECISION

LANGENBACH, Judge.

*1 On September 4, 1990, the court (Murray, J.) ordered a default against the defendants, Peter Jordan and Linda Drew, in the present action for their failure to plead. On March 3, 1991, the court (Langenbach, J.) granted the motion for judgment after default filed by the plaintiff, Robert Keating.

On August 5, 1991, the defendants filed a motion to set aside and reopen judgment upon default. The defendants have also filed a memorandum of law and affidavit in support of the motion. The defendants argue that due to illness, the defendants' counsel has no recollection of receiving notification of the default. Furthermore, the defendants argue that the defendants' counsel has no evidence of the receipt of any notice of default in his file or office. The defendants also argue that defendants' counsel did not learn of the entry of judgment until after four months from the date of entry of the judgment. Upon subsequent inspection, the defendants' counsel states he discovered defendants' answer, returned by the clerk with a notation that judgment had entered, in a mailbox of a vacant tenant at the defendants' counsels' address.

On July 19, 1991, the plaintiff filed an objection to the defendants' motion to set aside and reopen judgment upon default. The plaintiff argues that the motion to set aside is untimely and the defendants have not set forth a reasonable cause for defendants' delay in asserting their defense in this instant action pursuant to Connecticut Practice Book Section 377.

"Any judgment rendered ... upon a default or nonsuit may be set aside within four months succeeding the date on which it was rendered...." Connecticut Practice Book Section 377; Connecticut General Statutes Section 52-212(a). "[A] trial court lacks jurisdiction to entertain a motion to open filed more than four months after a decision is rendered." *Van Mecklenburg v. Pan American World Airways, Inc.*, 196 Conn. 517, 518 (1985). A trial court may not reopen a judgment after four months have expired unless the parties waive this time limitation, *Van Mecklenburg*, 196 Conn. at 518, or the trial court lacked in personam jurisdiction over the defendant and thus lacked power to render a judgment, *General Motors Acceptance Corp. v. Pumphrey*, 13 Conn.App. 233, 228 (1988). "A trial court's authority to open such judgments does not arise from General Statutes Section 52-212(a) or Practice Book Section 326 but from its inherent power to open a judgment rendered without jurisdiction." *General Motors Acceptance Corp.*, 13 Conn.App. at 228.

Connecticut Practice Book Section 398 requires the clerk to give notice to the attorneys of record of all judgments and defaults made concerning pending cases. *See also* Connecticut General Statutes Section 51-53. When the trial court record contains no entry of the date when notice of the judgment was given, a rebuttable presumption exists that the clerk complied with the statute and sent notice on the date of the entry of judgment. *State ex rel. Baskin v. Bartlett*, 132 Conn.

Not Reported in A.2d, 1991 WL 183058 (Conn.Super.), 4 Conn. L. Rptr. 483
(Cite as: 1991 WL 183058 (Conn.Super.))

623, 627 (1946). In addition to presuming that the clerk sent notification, the court may also presume that, in the absence of a finding to the contrary, the defendants received that notification. *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Cole*, 189 Conn. 518, 533 (1983); *DiSimone v. Vitello*, 6 Conn.App. 390, 393 (1986).

*2 "It is axiomatic that the right to move to open and vacate a judgment assumes that the party who is to exercise the right to be given the opportunity to know that there is a judgment to open." *Noethe v. Noethe*, 18 Conn.App. 589, 595 (1989). In *DiSimone*, 6 Conn.App. 390, the appellate court held that the four month period to file a motion to open started on the date the defendants received actual notice of the judgment. Accord: *Noethe*, 18 Conn.App. at 595-96. "The existence of actual or constructive notice is a question of fact properly within the province of the trial court." *Noethe*, 18 Conn.App. at 596.

The court file in the present case does contain court notice of the entry of default sent to the attorneys of record on September 10, 1990. Although a notation on the corner of the file indicates that notice of the judgment was sent on March 11, 1991, the file itself does not contain a court notice of the judgment or entry of the date when such notice was given. The defendants have rebutted the presumption that notice was sent by the clerk and received by the defendants' counsel by stating that defendants' counsel "learned of the rendering of judgment" only after the four month period. The defendants also state that the defendants' counsel subsequently discovered court "notice" of the judgment upon investigation in response to learning of the entry of judgment. The defendants' counsel states in his affidavit that he discovered the defendants' returned answer with a notation that judgment had entered on March 4, 1991 in a mailbox of a vacant tenant at defendants' counsel's address.

Based upon the holding in *DiSimone*, the four month period in which to file a motion to reopen a

judgment begins when the defendants' counsel first "learned of the rendering of judgment," which would constitute actual notice of the judgment. The defendants' counsel received court notice in the form of the defendants' returned answer subsequent to actual notice. Although the defendants do not state when the defendants' counsel specifically "learned of the rendering of judgment," they do claim that such actual notice was received after the expiration of the four month period after entry of judgment. Based upon the defendants' counsel's representations to the court, it can be inferred that the defendants' counsel learned of the judgment between July 4, 1991, the expiration of the four months, and August 5, 1991 when the motion was filed.

Therefore, the court finds that the defendants filed their motion to open within four months of receiving actual notice. Accordingly, the court entertains the motion to open as timely filed within the four month time period. Cf. *Owens v. Bray*, 1 CTLR 77 (April 4, 1990, Lewis, J.) (when defendant received actual notice of the judgment, the beginning of the four month rule was triggered).

"A ruling on a timely filed motion to open is within the trial court's discretion...." *Batory v. Bajor*, 22 Conn.App. 4, 8, (1990). The party seeking to reopen judgment must show that: (1) a good defense existed at the time judgment was rendered; and (2) the party seeking judgment was prevented from appearing because of mistake, accident or other reasonable cause. *Costello v. Hartford Institute of Accounting, Inc.*, 193 Conn. 160, 167 (1984); Connecticut Practice Book Section 377; Connecticut General Statutes Section 52-212. "While such a motion should not be readily granted nor without strong reasons, it ought to be when there appears cause for which the court stating acting reasonably would feel bound in duty so to do." *Steve Viglione Sheet Metal Co.*, 190 Conn. at 710-11, quoting *McCulloch v. Pittsburgh Plate Glass Co.*, 107 Conn. 164, 167 (1927).

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*3 Accordingly, the date on which the defendants received actual notice of the judgment triggers the beginning of the four month period. The court finds that the defendants received such notice when defendants' counsel "learned of the rendering of judgment" after more than four months after entry of judgment. This date triggers the four month rule and the motion to open was timely filed within that period.

The motion is granted.

Conn.Super.,1991.

Keating v. Jordan

Not Reported in A.2d, 1991 WL 183058
(Conn.Super.), 4 Conn. L. Rptr. 483

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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
Investment Associates,)
Plaintiff,)
vs.)
Joseph D. Lancia,)
Defendant.)

IN THE COURT OF COMMON PLEAS

2014-CP-23-00515

OBJECTION TO MOTION FOR
RELIEF AND REPLY TO NOTICE OF
DEFENSES TO FOREIGN JUDGMENT

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENS
CITY APR 1 AM 8:20

Judgment Creditor, Investment Associates (hereinafter "Plaintiff") hereby objects to the relief requested in Judgment Debtor's (hereinafter "Defendant") Motion for Relief From and Notice of Defenses to Foreign Judgment (hereinafter "Motion"). In support of its Objection, Plaintiff hereby responds to each of the defenses contained in the Defendant's motion as numbered therein.

I. The enforcement of the foreign judgment is not barred by the statute of limitations, S.C. Code Ann 15-3-600. The defenses raised in the Defendant's motion have been previously litigated and decided by the Supreme of Connecticut and found to be without merit. See the Supreme Court of Connecticut's opinion in Investment Associate's, Inc. v. Summit Associates, Inc., 309 Conn. 840 (2013) attached hereto as Exhibit A. In that case, the Connecticut Supreme Court recited the history of this matter beginning with the ruling of the trial court judge, the Honorable Frank S. Meadow, Judge Trial Referee in 1994, whereby he rendered judgment in the Plaintiff's favor in the amount of Two Hundred Seventy-two Thousand, Five Hundred Thirty and 03/100 Dollars (\$272,530.03) plus costs. The Connecticut Supreme Court noted, under Connecticut law, the plaintiff had twenty (20) years from the date the judgment was rendered to obtain an execution on the judgment. See Connecticut General

SCANNED

Statute Section 52-598(a). The court also observed, under South Carolina law, the plaintiff had ten years from that date to obtain an execution in the South Carolina courts, citing S.C. Code Ann. §15-3-600 (2005) and Abba Equipment, Inc. vs. Thomason, 335 S.C. 477, 481, 517 S.E. 2nd 235 (App. 1999). The court also observed that the Plaintiff did not seek an execution of the Connecticut judgment in South Carolina before the South Carolina Statute of Limitations had expired.

However, the court engaged in a detailed analysis of Connecticut General Statute Section 52-598(c) and its application to the case at bar. Conn. Gen. Stat. §52-598(c) began as Connecticut Public Act 09-215, enacted as House Bill no. 6248, 2009 SCSS., entitled "An Act Concerning the Time Limit for Enforcing a State Court Judgment in a Foreign Jurisdiction." The explanation of the bill, on the floor of the Connecticut House of Representatives, made clear that the bill's purpose was to ensure that satisfaction of a valid Connecticut judgment was not avoided simply because the judgment debtor (or the debtor's assets) reside in a foreign jurisdiction having a shorter period for enforcement. See 52 H.R. Proc., Pt. 20, 2009 Sess., pp. 6387-88, remarks of Representative Gerald M. Fox III; see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 20, 2009 Sess., pp. 6582-83, remarks of Representative Vincent J. Candelora; Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., pp. 6722-23, written testimony of Representative Candelora (citing example of judgment rendered in Connecticut eleven years prior that could not be enforced under South Carolina's ten year period for enforcing judgment as problem intended to be remedied by bill). Therefore, the Connecticut Supreme court, in applying the very facts of the case at bar, and the Connecticut State Legislature, citing the very facts of the case at bar for the purpose of enacting this statute, both concluded that the trial judge's revival of the within judgment created a "new" judgment for the purpose of meeting this state's jurisdictional time limits for enforcement.

II. The granting of the motion to revive the judgment indeed alters the application of S.C. Code Ann. 15-3-600. In this section, the Defendant argues that the order reviving the Connecticut judgment constitutes a mere continuation of the original judgment issued in 1994 and is not a new judgment. Assuming this conclusion, the Defendant asserts that S.C. Code Ann. §15-3-600 continues to time bar enforcement, execution, or collection of the 1994 judgment. Support of this conclusion, the defendant cites the unpublished opinion Mundaca Fin. Servs. LLC v. Casella, 2011 WL 883506, 2011 N.C. App. LEXIS 471, N.C. App. No. COA10-714 (N.C. Ct. App. March 15, 2011)

To the contrary, as cited above, the Connecticut Supreme Court, clearly stated that the manifest purpose of revival under Connecticut G.S. §52-598(c) is to create a new judgment for the purpose of meeting a foreign jurisdiction's time limits for enforcement. Investment Associate's, Inc. v. Summit Associates, Inc., 309 Conn. 840 (2013).

III. Personal Jurisdiction

In this section, the Defendant asserts that the Connecticut court lacked personal jurisdiction over him rendering the revival judgment ineffective and unenforceable; however, the defendant made this very same argument before the Connecticut Supreme Court. The defendant inappropriately relies upon a trial court opinion rendered in 2008, prior to the enactment of Connecticut Gen. Stat. §52-598(c) and prior to the independent action to revive the judgment from dormancy which was confirmed by the Connecticut Supreme Court.

In the appeal of the subsequent grant of the revival judgment by the Connecticut lower court, the Connecticut Supreme Court, struck down the Defendant's argument in its August 27, 2013 opinion as follows:

"General Statutes § 52-350d (a) provides in relevant part: "For the purposes of postjudgment procedures, the Superior Court shall have jurisdiction over all parties of

record in an action until satisfaction of the judgment or, if sooner, until the statute limiting execution has run...." General Statutes § 52-350a (15) further provides: "'Postjudgment procedure' means any procedure commenced after rendition of a money judgment, seeking or otherwise involving a discovery procedure, a placing of a lien on property, a modification or discharge of a lien, a property execution under section 52-356a, a turnover order, an installment payment order, a wage execution, a modification of a wage execution, a compliance order, a protective order or a determination of exemption rights.

In our view, proceedings under § 52-598(c) fall squarely within these provisions. A motion to revive is a procedure commenced after rendition of a money judgment. The granting of such a motion permits the plaintiff to seek the various forms of relief enumerated in § 52-350a (15). Therefore, the procedure is one "involving," rather than seeking, such relief. Accordingly, the Appellate Court properly concluded that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the motion to revive."

IV. Subject Matter Jurisdiction

The defendant's claims asserting the lack of subject matter jurisdiction by the Connecticut courts, raised in Section IV, A, B, and D of the present motion, were also actually raised and litigated before the Connecticut Supreme Court. Again, in the August 27, 2013 order, the Connecticut Supreme Court considered a.) whether joint ventures are legal entities capable of bringing an action; b.) whether the plaintiff was in existence at the time the original action was commenced; and, c.) assuming the Plaintiff was then in existence, whether it continued in existence as a joint venture when the Motion to Revive was filed. After considering the defendant's argument, the Connecticut Supreme Court ruled in favor of the Plaintiff. The Connecticut Supreme Court's detailed analysis can be found in Section II of that court order. The Defendant's claim of lack of due process raised in Section IV(c) of the present motion is also without merit given the detailed consideration that the Connecticut Supreme Court gave to each of the arguments made by the Defendant.

As for the alleged misrepresentations made by the plaintiff to the Connecticut Court regarding the defendant's attempts to locate the defendant, such efforts clearly were not necessary nor relevant

given the basis of the Connecticut Supreme Court's conclusion that it retained personal jurisdiction of the defendant.

V. Alternative Defenses

In paragraph 6(a) of his motion, the Defendant asserts that certain assets may have been paid to satisfy the judgment in whole or in part. However, this assertion was not raised before the Connecticut Supreme Court, as recently as August of last year, and the Plaintiff has not received any such assets or payment toward the judgment. Further, the defendant bears the burden of proof that any such assets have been transferred to the Plaintiff that should be applied towards satisfaction of the judgment.

In Section V, paragraph 6(b), the Defendant asserts that the judgment should run from the date of revival rather than the date of the original entry. But see DiLieto v. County Obstetrics & Gynecology Group, 310 Conn. 38, 74 A.3d 1212 (2013) in which the Connecticut Supreme Court gave an exhaustive analysis of post-judgment interest. Also see, e.g., Fox v. Schaeffer, 131 Conn. 439, 446, 41 A.2d 46 (1944) ("[i]nterest would be allowable because of the wrongful withholding from the plaintiffs after that day of money which they were entitled to receive"); Wight v. Lee, 101 Conn. 401, 405, 126 A. 218 (1924) ("[when] money belonging to another is not paid over to the person entitled to receive it at the time it should be paid over, interest is generally allowed as damages for such wrongful withholding thereof" [internal quotation marks omitted]); Loomis v. Gillett, 75 Conn. 298, 300-301, 53 A. 581 (1902) ("[u]pon an action to recover damage[s] for the nonpayment of [a] debt, the plaintiff is entitled to recover damage[s] for the unlawful detention of the sum due, measured by the amount of interest thereon from the time it became due to the date of judgment"); Bertozi v. McCarthy, 164 Conn. 463, 466, 323 A.2d 553 (1973); see also 1 J. Berryman, *Sutherland on the Law of Damages* (4th Ed. 1916) § 329, pp. 1030-31 ("[Interest is [permitted] . . . as damages for not discharging a debt when it ought to be paid. In this country the principle has long been settled that if a debt ought to be paid at a particular time and is not

then paid through the default of the debtor, compensation in damages equal to the value of money, which is the legal interest upon it, [ought to] be paid during such time as the party is in default. The important practical inquiry, therefore, in each case in which interest is in question is, what is the date at which this legal duty to pay, as an absolute present duty, arose." [Footnote omitted.]]; the policy behind any such provision is to compensate the successful party for "the loss of the use of the money that he or she is awarded from the time of the award until the award is paid in full." *Thames Talent, Ltd. v. Commission on Human Rights & Opportunities*, 265 Conn. 127, 144, 827 A.2d 659 (2003); see also *Poleto v. Consolidated Rail Corp.*, 826 F.2d 1270, 1280 (3d Cir. 1987) ("[p]ostjudgment interest represents the cost of withholding the amount owed the plaintiff once that sum has been determined in a court proceeding"); *Life Ins. Co. of Georgia v. Johnson*, 725 So. 2d 934, 943 (Ala. 1998) (postjudgment interest is "just compensation to ensure that a money judgment will be worth the same when it is actually received as when it was awarded" [internal quotation marks omitted]).

Therefore, the interest on the judgment at bar should be calculated from the 1994 entry rather than the revival judgment which was confirmed in 2010.

In Section V, paragraph 7, the Defendant, for the first time, raises the equitable defense of laches; however, no such defense was raised in the Connecticut courts and the issue has not been raised until the within motion.

The Defendant has also raised the S.C. Statute of Limitations for the original institution of an action for negligence under S.C. Code Ann. §15-3-530(1). However, this statute is clearly inapplicable in since the cause of action accrued in the state of Connecticut and was obviously commenced within the statute of limitations for the initiation of such an action in that state.

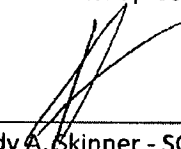
Furthermore, the Defendant has raised the defense of S.C. Code §15-39-30, which prescribes the period of life of a judgment initiated in the State of South Carolina. Again, this code section is

inapplicable in that the judgment at bar was initiated and granted by a foreign jurisdiction and, therefore, only S.C. Code §15-3-600 should apply.

Finally, the Defendant asserts that he may have claims under S.C. Consumer Protection Code § 37-5-108. However, that title is limited to consumer transactions as defined by S.C. Code §37-1-301(11). The present matter hardly falls within the definition contained in this statute.

Wherefore, having responded to the Defendant's Motion for Relief From and Notice of Defenses to Foreign Judgment, the Plaintiff prays as follows:

- a. That the Defendant's motion be denied;
- b. That the Plaintiff's judgment to be enrolled in the Greenville County court records as a properly domesticated foreign judgment; and,
- c. That the plaintiff be allowed to begin execution and enforcement proceedings thereon.

By: 

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Date: April 1, 2014

Greenville, South Carolina

Attorney for Investment Associates

EXHIBIT A

Supreme Court of Connecticut.
INVESTMENT ASSOCIATES v. SUMMIT ASSOCIATES, INC., et al.

No. 18910.

Argued March 18, 2013. -- August 27, 2013

ROGERS, C.J., and NORCOTT, PALMER, ZARELLA, EVELEIGH, McDONALD and ESPINOSA, Js.
Proloy K. Das, with whom was Bernard F. Gaffney, for the appellant (defendant Joseph D. Lancia).
Pasquale Young, for the appellee (plaintiff).

Opinion

In 2009, our legislature created a mechanism whereby a judgment creditor can “revive” an unsatisfied judgment for money damages at any time before the period for enforcement expires; Public Acts 2009, No. 09-215, § 1(c) (P.A. 09-215); see General Statutes § 52-598(c);¹ the purpose of which was to aid in the execution of such judgments in foreign jurisdictions. The present case requires us to consider the nature of proceedings under § 52-598(c) regarding questions of subject matter jurisdiction and personal jurisdiction over a nonresident defendant with respect to a judgment rendered before the effective date of § 52-598(c).

Upon our grant of certification, the defendant Joseph D. Lancia² appeals from the judgment of the Appellate Court affirming the trial court's 2010 judgment reviving a 1994 judgment in favor of the plaintiff, Investment Associates, pursuant to § 52-598(c). *Investment Associates v. Summit Associates, Inc.*, 132 Conn.App. 192, 31 A.3d 820 (2011) The defendant contends that the Appellate Court improperly determined that: (1) his challenge to the trial court's subject matter jurisdiction on the grounds that the plaintiff was neither a legal entity nor an entity in existence was barred as an improper collateral attack on the original judgment; and (2) § 52-598(c) applies retroactively and provides a proper basis for the trial court's jurisdiction over the defendant for purposes of adjudicating the motion to revive. We affirm the judgment of the Appellate Court.

The following facts are undisputed. In 1991, the plaintiff commenced an action to recover on a promissory note executed by Summit Associates, Inc. (Summit), and guaranteed by Ned B. Wilson and the defendant. The complaint identified the plaintiff as having been at all relevant times a joint venture, equally owned by R.S.S. McKosky and Alton W. Seavey, Jr., and having its usual place of business in North Branford. The complaint further identified the plaintiff as the holder and owner of the note and as the assignee of a related security agreement. In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina. The defendant continued to be represented by counsel at proceedings on the action, at which he asserted various defenses to the merits but no jurisdictional challenges. In 1994, the trial court, Hon. Frank S. Meadow, judge trial referee, rendered judgment in the plaintiff's favor in the amount of \$272,530.03 plus costs. Under Connecticut law, the plaintiff had twenty years from the date judgment entered to obtain an execution on the judgment. See General Statutes § 52-598(a). Under South Carolina law, the plaintiff had ten years from that date to obtain an execution in that state's courts. See S.C.Code Ann. § 15-3-600 (2005); *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 481, 517 S.E.2d 235 (App.1999). The plaintiff did not seek an execution of the Connecticut judgment in South Carolina before that state's limitations period expired.³

In 2007, the plaintiff commenced a separate action in Connecticut solely against the defendant to enforce the judgment. The defendant filed a motion to dismiss the action for lack of personal jurisdiction, which the trial court, A. Robinson, J., granted. *Investment Associates v. Lancia*, Superior Court, judicial district of New Haven, Docket No. CV-07-4028746-S (May 5, 2008) (45 Conn. L. Rptr. 437). The court recognized that Connecticut would have a valid interest in enforcing the judgment. *Id.*, at 440. Nonetheless, it concluded that the defendant's sole contact with Connecticut since leaving the state in 1992—the 1994 judgment—was insufficient to satisfy the requirements of either the long arm statute; General Statutes § 52-59b; or due process to allow the court to exercise personal jurisdiction over him.⁴ *Investment Associates v. Lancia*, *supra*, at 439-40.

In June, 2009, the legislature enacted P.A. 09-215, codified as § 52-598, and made effective October 1, 2009. Pursuant to the newly enacted subsection (c) of § 52-598, the plaintiff filed a motion on October 6, 2009, to revive the 1994 judgment, alleging that the judgment remained unsatisfied and that the period for executing the judgment had not yet expired. In response, the defendant moved to dismiss the motion, claiming that the court lacked personal jurisdiction over him in light of: (1) his South Carolina residency and lack of contact with Connecticut since 1992; (2) the trial court's ruling dismissing the plaintiff's 2007 action for lack of personal jurisdiction as *res judicata*; (3) the absence of any basis in § 52-598(c) or postjudgment procedure statutes conferring personal jurisdiction; and (4) his lack of minimum contacts with the state to render the exercise of such jurisdiction consonant with due process. The court issued a decision in 2010 concurrently denying the motion to dismiss and granting the motion to revive. The defendant thereafter moved to reargue the motion to revive, claiming that he had not been given an opportunity to assert substantive challenges to the merits of the motion because he could not have advanced such claims without conceding personal jurisdiction. The trial court denied that request, and the defendant appealed from the revived judgment to the Appellate Court.

In that appeal, the defendant renewed claims previously made to the trial court, and, for the first time, challenged the plaintiff's standing to invoke the court's jurisdiction, claiming that the plaintiff, as a joint venture, was neither a legal entity nor in existence at the time it commenced the action. *Investment Associates v. Summit Associates, Inc.*, *supra*, at 132 Conn.App. 195-96. Following oral argument, the Appellate Court *sua sponte* raised the issue of whether the defendant should be precluded from challenging the trial court's subject matter jurisdiction. *Id.*, at 197. After considering supplemental briefs on that question, the Appellate Court concluded that the defendant was precluded from raising these claims. *Id.*, at 197, 201-202. The court reasoned that a motion to revive is not the beginning of a new action, in which the defendant undoubtedly would be able to challenge the court's jurisdiction even for the first time on appeal, but, rather, a continuation of the original action. *Id.*, at 199-200. Accordingly, the court concluded that the timeliness of the defendant's challenge must be viewed in light of the original judgment. *Id.*, 200. Considering the fact that the defendant had failed to avail himself of the opportunity to challenge the court's jurisdiction in the original proceedings, the Appellate Court concluded that the interest in finality of judgments outweighed the concerns that the defendant had raised regarding the validity of the judgment. *Id.*, at 201-202. The court further concluded that, because the practical effect of the defendant's challenge to the motion to revive was an attack on the 1994 judgment, the defendant could not challenge the trial court's subject matter jurisdiction over either the original judgment or the motion to revive. *Id.*

In addition, the Appellate Court rejected the defendant's challenge to the exercise of personal jurisdiction over him and his claim that the trial court's decision on the motion to revive had been made without affording him an opportunity to challenge that motion on the merits. *Id.*, at 202–208. With respect to the former, the Appellate Court concluded that the trial court had jurisdiction over the defendant when granting the motion to revive because: § 52–598(c) is a procedural statute that may be applied retroactively; a motion filed pursuant to that subsection is not a new action that would require the trial court to obtain personal jurisdiction over the defendant independent of the jurisdiction present at judgment; and the legislature had conferred continuing jurisdiction on the court over parties to post-judgment procedures, which included § 52–598(c). *Id.*, at 203–205. Accordingly, the Appellate Court affirmed the revived judgment. *Id.*, at 208.

Thereafter, this court granted the defendant's petition for certification to appeal, limited to the following issues: (1) “Did the Appellate Court properly determine that the trial court had subject matter jurisdiction over the plaintiff's 2009 motion to revive?”; (2) “Did the Appellate Court properly determine that . § 52–598(c) is procedural in nature, and, therefore, may be applied retroactively?”; and (3) “Did the Appellate Court properly determine that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the plaintiff's 2009 motion to revive?”⁵ *Investment Associates v. Summit Associates, Inc.*, 303 Conn. 921, 922, 34 A.3d 396 (2012). Each of these issues raises questions of law over which this court exercises plenary review. *Bateson v. Weddle*, 306 Conn. 1, 7, 48 A.3d 652 (2012) (standing); *Walsh v. Jodoin*, 283 Conn. 187, 195, 925 A.2d 1086 (2007) (retroactivity of statute and statutory construction); *New London County Mutual Ins. Co. v. Nantes*, 303 Conn. 737, 745, 36 A.3d 224 (2012) (personal jurisdiction). Upon such review, we answer the certified questions in the affirmative.

I

We begin with a brief explanation of the nature and effect of § 52–598(c), which is central to our resolution of the issues in this appeal. Under the law existing at the time the original judgment was rendered in the present case and as it currently exists, a party obtaining a judgment for money damages in Connecticut has two means to enforce that judgment; it may seek an execution of the judgment or it may initiate an independent action. See General Statutes § 52–598(a); see also 30 Am.Jur.2d 84, *Executions and Enforcement of Judgments* § 47 (2005) (distinguishing between execution and action on judgment). With limited exceptions not applicable to the present case, under § 52–598(a), a party has twenty years to execute the judgment and twenty-five years to enforce it through a separate action.

Public Act 09–215 added subsection (c) to § 52–598, which provides in relevant part: “With respect to a judgment for money damages rendered in any court of this state . a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.”

On its face and viewed in isolation, § 52–598(c) appears to have no practical effect. Although an order granting a motion under this provision ostensibly “revive[s]” the judgment, the judgment must be

presently enforceable in order to be revived and revival has no effect on the time limit to enforce the judgment.⁶ Thus, for example, in the present case, under the original 1994 judgment, the plaintiff had until 2014 to execute the judgment and until 2019 to initiate an independent action to enforce the judgment. Under the 2010 revived judgment, the plaintiff is subject to those same limits.

The intended effect of the revived judgment becomes evident upon examination of P.A. 09-215 and its legislative history. Public Act 09-215 enacted House Bill No. 6248, 2009 Sess., entitled "An Act concerning the Time Limit for Enforcing a State Court Judgment in a Foreign Jurisdiction." The explanation of the bill on the floor of the House of Representatives makes clear that the bill's purpose was to ensure that satisfaction of a valid Connecticut judgment was not avoided simply because the judgment debtor (or the debtor's assets) resided in a foreign jurisdiction having a shorter period for enforcement. See 52 H.R. Proc., Pt. 20, 2009 Sess., pp. 6387-88, remarks of Representative Gerald M. Fox III;⁷ see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 20, 2009 Sess., pp. 6582-83, remarks of Representative Vincent J. Candelora; Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., pp. 6722-23, written testimony of Representative Candelora (citing example of judgment rendered in Connecticut eleven years prior that could not be enforced under South Carolina's ten year period for enforcing judgment as problem intended to be remedied by bill). Thus, the manifest purpose of revival under § 52-598(c) is to create a new judgment for the purpose of meeting a foreign jurisdiction's time limits for enforcement.

As one court explained: "The object of the proceeding is not to obtain a new judgment for a debt, but to enable the judgment creditor to enforce by execution the judgment he has already obtained. The order to revive does no more than reinvest the plaintiff with the right to have execution of his original judgment. His cause of action against the defendant is the original judgment, not the order to revive. The order merely confers upon the plaintiff the statutory right to issue executions on the judgment after it had become dormant for that purpose. The common-law right to sue on the judgment is not enlarged or made to accrue anew by force of the order. It is plain that a new lease of life is not given to that cause of action by merely affording to the plaintiff the opportunity of resorting to the cumulative and independent remedy for the enforcement of the judgment by means of executions upon it." (Citation omitted; internal quotation marks omitted.) *Second National Bank v. Allgood*, 234 Ala. 654, 656, 176 So. 363 (1937). Accordingly, a proceeding to revive a judgment generally is viewed as a continuation of the original action, not a new action. See, e.g., *Bank of Edwardsville v. Raffaele*, 381 Ill. 486, 489, 45 N.E.2d 651 (1942); *Bahan v. Youngstown Sheet & Tube Co.*, 191 So.2d 668, 670 (La.App.1966); *State ex rel. Silverman v. Kirkwood*, 361 Mo. 1194, 1200, 239 S. W.2d 332 (1951); *Columbus Check Cashers, Inc. v. Cary*, 196 Ohio App.3d 132, 139, 962 N.E.2d 812 (2011); *Berly v. Sias*, 152 Tex. 176, 181, 255 S.W. 2d 505 (1953); *Duffy v. Hartsock*, 187 Va. 406, 415, 46 S.E.2d 570 (1948). A survey of other jurisdictions reveals that the circumstances in which a revival proceeding has been deemed a new action are those in which the revival provides a means by which the original judgment may be substantively altered, such as by the addition or deletion of parties or the assertion of new defenses other than satisfaction of the judgment, or in which a new period of limitations attaches to the revived judgment.⁸ See, e.g., *Johnson Bros. Wholesale Liquor Co. v. Clemmons*, 233 Kan. 405, 408, 661 P.2d 1242, cert. denied, 464 U.S. 936, 104 S.Ct. 345, 78 L.Ed.2d 311 (1983); *Union National Bank v. Lamb*, 360 Mo. 81, 88-89, 227 S.W.2d 60 (1950); *Allen v. Wilson County Investors, LLC*, Docket No. M2002-00540-COA-R3-CV, 2003 WL 21849545, *5 (Tenn.App. August 8,

2003). Accordingly, because proceedings under § 52-598(c) result in no substantive change to the original judgment, a point we discuss in further detail in part III A of this opinion, a motion to revive under § 52-598(c) is effectively a continuation of the original proceeding rather than a new action.⁹ With this background and premise in mind, we turn to the defendant's claims.

II

We begin with the question of whether the Appellate Court properly determined that the trial court had subject matter jurisdiction over the motion to revive. More precisely, the question is whether the Appellate Court properly determined that the defendant was precluded from attacking the trial court's jurisdiction over the motion because the challenges raised were in fact or effect collateral attacks on the original judgment. The defendant contends that the Appellate Court improperly failed to recognize that, under our case law, a judgment rendered without jurisdiction is void ab initio, not merely voidable, and that such a defect can be raised as a defense at any time, even by way of a collateral attack and especially when that judgment is being used as a source of a right. The defendant contends that his attack on the motion to revive raised such issues in that he claims that the plaintiff lacked standing to commence the action because: (1) joint ventures are not legal entities and therefore lack the capacity to bring actions in their own names; and (2) the plaintiff failed to establish that it was an existing joint venture at the time that it initiated the action. The defendant further asserts that, even if it was proper to preclude his challenges to the trial court's jurisdiction in connection with the 1994 judgment, he should have been permitted to challenge the trial court's jurisdiction to adjudicate the motion to revive because "there is no reason to believe that [the plaintiff] still existed in 2009," when it filed the motion. In response, the plaintiff contends that the Appellate Court properly declined to consider the defendant's claims, that lack of capacity to bring an action is not a jurisdictional defect in any event, and, even if it is, that joint ventures are legal entities that can bring an action.

For purposes of clarity, we characterize the defendant's claims in three parts: (1) whether joint ventures are legal entities capable of bringing an action—a claim that pertains equally to the original and revived judgments; (2) whether the plaintiff was in existence at the time the original action was commenced; and (3) assuming the plaintiff was then in existence, whether it continued in existence as a joint venture when the motion to revive was filed. With respect to the first two claims, the defendant acknowledges that these defenses to the motion to revive are "collateral challenge[s] to [the] judgment." For the reasons set forth subsequently in this opinion, we agree with the Appellate Court's conclusion that the defendant is not entitled to review of those claims on the merits. Insofar, however, as the third claim neither directly, nor in effect, attacks the original judgment, we conclude that the defendant is not precluded from raising such a challenge, but that his claim fails on the merits.

We begin with the two claims that undoubtedly are collateral attacks on the original judgment. In precluding the defendant's claims, the Appellate Court relied on principles first articulated by this court in *Vogel v. Vogel*, 178 Conn. 358, 422 A.2d 271 (1979), and reiterated in several later cases. In *Vogel*, the plaintiff had challenged a finding of contempt arising out of his noncompliance with the trial court's order in a judgment rendered approximately twenty years earlier, claiming that, under this court's case law construing the applicable statute, the trial court properly could not have issued such an order under the facts of the case. *Id.*, at 361-64. In rejecting that challenge, this court concluded: "The plaintiff's collateral

attack upon the validity of the 1959 judgment is framed as a challenge to the subject matter jurisdiction of the court which, as we have consistently recognized, can be raised at any time . and the lack thereof cannot be waived. As we have only recently observed, however, [t]he modern law of civil procedure suggests that even litigation about subject matter jurisdiction should take into account the importance of the principle of the finality of judgments, particularly when the parties have had a full opportunity originally to contest the jurisdiction of the adjudicatory tribunal. Under this rationale, at least where the lack of jurisdiction is not entirely obvious, the critical considerations are whether the complaining party had the opportunity to litigate the question of jurisdiction in the original action, and, if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so.” (Citations omitted; internal quotation marks omitted.) *Id.*, at 362–63, citing, *inter alia*, F. James & G. Hazard, *Civil Procedure* (2d Ed.1977) § 13.16, pp. 695–97; *Restatement (Second), Judgments* § 15 (Tentative Draft No. 5, 1978).

While we continue to agree with the vitality of this rule,¹⁰ two factors give us pause as to whether this rule should strictly apply in the context of proceedings to revive an earlier judgment. Numerous jurisdictions provide for revival of judgments and recognize principles limiting collateral attacks on judgments, yet none of them have broadly extended the *Restatement (Second)* rule to revival proceedings. Rather, these jurisdictions, without exception, appear to permit jurisdictional attacks on the original judgment to be raised in proceedings to revive the judgment, at least to the extent that the judgment can be demonstrated to be void on its face. See 46 *Am.Jur.2d* 715, *Judgments* § 415 (2006) (“It is clear that errors or irregularities in obtaining the judgment, which do not render it void, may not be set up as a defense. Ordinarily, however, it is proper to urge, in defense of a proceeding for the revival of a judgment, that the judgment is void for want of jurisdiction of either the parties or of the subject matter.” [Footnotes omitted.]); 50 *C.J.S.*, *Judgments* § 861(2009) (noting that, in revival proceeding, “defenses may be successfully advanced, including . incapacity of [the] plaintiff to maintain the proceeding” [footnotes omitted]); see, e.g., *Tingwall v. King Hill Irrigation District*, 66 *Idaho* 76, 82, 155 *P.2d* 605 (1945) (in revival proceeding in which debtor sought to attack original judgment, “[a] judgment, although obtained by extrinsic fraud, cannot be collaterally attacked unless such invalidity appears on the face of the judgment”); *Romero v. Sunseri*, 359 *So.2d* 305, 307 (*La.App.*) (“in a suit for revival of judgment, no defense short of absolute nullity of the original judgment can be raised”), cert. denied, 362 *So.2d* 579 (*La.*1978); *Arthur v. Garcia*, 78 *N.M.* 381, 383, 431 *P.2d* 759 (1967) (concluding that collateral attack in revival proceeding on original judgment not permitted unless lack of jurisdiction affirmatively appears in record); *Rindfleisch v. AFT, Inc.*, Docket No. 84551, 2005 *WL* 110443, *2 (*Ohio App.* January 20, 2005) (claim preclusion inapplicable to challenge to court's subject matter jurisdiction over motion to revive judgment if jurisdiction had not previously been determined).

In addition, as we previously explained, the sole purpose of § 52–598(c) is to advance the enforcement of Connecticut judgments in foreign jurisdictions. Foreign jurisdictions constitutionally are bound to give full faith and credit to Connecticut judgments, but only insofar as such judgments are valid. See *Baker v. General Motors Corp.*, 522 *U.S.* 222, 233, 118 *S.Ct.* 657, 139 *L.Ed.2d* 580 (1998) (“Regarding judgments . the full faith and credit obligation is exacting. A final judgment in one [s]tate, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.”); see also *Durham v. Dept. of Human Services/Child Support*

Enforcement Unit, 322 Ark. 789, 793, 912 S.W.2d 412 (1995) (applying this principle in revival proceeding); *Weaver v. Boggs*, 38 Md. 255, 260–61 (1873) (same); *Yorkshire West Capital, Inc. v. Rodman*, 149 P.3d 1088, 1092 (Okla.App.2006) (same); *Carter v. Carter*, 232 Va. 166, 169, 349 S.E.2d 95 (1986) (same). Accordingly, when a judgment creditor seeks to enforce a Connecticut judgment in a foreign jurisdiction, that jurisdiction will consider jurisdictional challenges to the validity of the judgment. See *Law Firm of Paul L. Erickson, P.A. v. Boykin*, 383 S.C. 497, 504–505, 681 S.E.2d 575 (2009). Although the foreign jurisdiction will apply Connecticut law in making that determination; see *Roche v. McDonald*, 275 U.S. 449, 453, 48 S.Ct. 142, 72 L.Ed. 365 (1928); *Law Firm of Paul L. Erickson, P.A. v. Boykin*, supra, at 500 n.2; there is reason to question whether that jurisdiction will treat the judgment as presumptively valid if it is invalid on its face under our laws pertaining to jurisdiction but shielded from such an attack under our law regarding jurisprudential considerations. In any event, that foreign jurisdiction also would be limited to deciding the matter on the record as it exists.

Limiting collateral attacks to those that can be established by the record has support in our case law. In *In re Shamika F.*, 256 Conn. 383, 406–407, 773 A.2d 347 (2001), this court noted: “The reason for the rule against collateral attack is well stated in these words: The law aims to invest judicial transactions with the utmost permanency consistent with justice. Public policy requires that a term be put to litigation and that judgments, as solemn records upon which valuable rights rest, should not lightly be disturbed or overthrown. [T]he law has established appropriate proceedings to which a judgment party may always resort when he deems himself wronged by the court’s decision. If he omits or neglects to test the soundness of the judgment by these or other direct methods available for that purpose; he is in no position to urge its defective or erroneous character when it is pleaded or produced in evidence against him in subsequent proceedings. Unless it is entirely invalid and that fact is disclosed by an inspection of the record itself the judgment is invulnerable to indirect assaults upon it.” (Emphasis added; internal quotation marks omitted.) *Accord Reiner, Reiner & Bendett, P.C. v. Cadle Co.*, 278 Conn. 92, 99 n.7, 897 A.2d 58 (2006) (“[a]lthough we generally require that collateral attacks be supported by facts apparent from the record, we have eschewed the application of that rule when a nonresident defendant collaterally challenges the personal jurisdiction of the court rendering judgment”); *Vogel v. Vogel*, supra, 178 Conn. at 362 (exception to bar on collateral attack when lack of jurisdiction is “entirely obvious”); see also *R.C. Equity Group, LLC v. Zoning Commission*, 285 Conn. 240, 248, 939 A.2d 1122 (2008) (motion to dismiss attacks jurisdiction of court and “tests, inter alia, whether, on the face of the record, the court is without jurisdiction” [internal quotation marks omitted]).

We need not, however, conclusively resolve this question in the present case. Even if we were to assume, *arguendo*, that the defendant is entitled to review of his claims if he can demonstrate that prevailing on those claims would render the original judgment void on its face, his claims do not meet this standard. As the following discussion illustrates, the defendant cannot establish that he is entitled to a judgment of dismissal on the record as it exists.

We begin with the defendant’s first claim, that joint ventures are not legal entities. We agree that this claim implicates a substantial question of subject matter jurisdiction. See 59 Am.Jur.2d 460, Parties § 22 (2012) (“[A] proper party plaintiff is essential to confer jurisdiction on the court. As a general matter, there are three classes of legal entities with the inherent power to sue and be sued: [1] natural persons; [2]

an artificial person; and [3] such quasi-artificial persons as the law recognizes as being capable to sue. Only a party that actually or legally exists may bring a lawsuit. There must be some ascertainable persons, natural or artificial, to whom judgments may be awarded, and no suit can be lawfully prosecuted except in the name of such person." [Footnotes omitted.]). Nonetheless, even if the defendant were correct that joint ventures lack such capacity, a question of first impression in this state, the plaintiff would be entitled to an opportunity to demonstrate that it also is a partnership, an entity that, as the defendant recognizes, is capable of bringing an action in its own name¹¹ and universally recognized as sharing substantial similarities with a joint venture. See, e.g., *Doe v. Yale University*, 252 Conn. 641, 673–74, 748 A.2d 834 (2000). Well established authority recognizes that the two types of entities are not mutually exclusive.¹² There is nothing in the record in the present case that would be inconsistent with such a finding. Indeed, the plaintiff claimed at oral argument before this court that it is a partnership and merely had referred to itself as a joint venture in the complaint as a matter of convenience, an assertion for which there is some support in the record.¹³ Therefore, the defendant's claim, even if successful, would not require a judgment of dismissal, but instead a remand for an evidentiary hearing. See *Seymour v. Region One Board of Education*, 261 Conn. 475, 489–92, 803 A.2d 318 (2002); *Connecticut Associated Builders & Contractors v. Hartford*, 251 Conn. 169, 181–82, 740 A.2d 813 (1999). Accordingly, this claim could not conclusively demonstrate that the judgment is void ab initio on its face.

Turning to the defendant's second claim, that the plaintiff failed to demonstrate that it was in existence at the time that it filed the complaint, this assertion is squarely contradicted by the record. The defendant relies solely on the plaintiff's use of the past tense in the following allegation in the 1991 complaint: "At all times herein, the plaintiff . was a joint venture equally owned by R.S.S. McKosky and Alton W. Seavey, Jr., having its usual place of business in the town of North Branford." Not only does the defendant adopt an unduly cramped construction of this allegation in contravention to the rule that we read pleadings liberally in support of jurisdiction; see *Federal Deposit Ins. Corp. v. Peabody, N.E., Inc.*, 239 Conn. 93, 99, 680 A.2d 1321 (1996); *Kelly v. Albertsen*, 114 Conn.App. 600, 605–606, 970 A.2d 787 (2009); he also overlooks allegations in the complaint and other evidence in the record that indicate that the plaintiff was in existence during the original proceedings.¹⁴

Accordingly, with respect to the aforementioned claims, neither would require a judgment of dismissal because the judgment is not void on its face in light of the record. Therefore, even if we were inclined to permit collateral attacks in the context of motions to revive, the defendant would not be entitled to do so in the present case.

A different lens is required, however, with respect to the defendant's third claim that, even if we were to presume that the plaintiff was in existence when it commenced the action in 1991 and when it obtained judgment in its favor in 1994, there is no basis to believe that it still was in existence in 2009 when it filed the motion to revive. This claim cannot be characterized as a collateral attack on the original judgment, either directly or in effect. Even if the defendant were to prevail on this claim, the original judgment would retain its validity, leaving the defendant subject to liability on the full amount of the debt. Therefore, the principles enunciated in *Vogel* have no application to this claim.

The defendant, however, cannot prevail on this claim. The defendant is correct that the plaintiff did not allege any facts in its motion to revive relating to its status as a joint venture. Nonetheless, the defendant

has provided no authority to support the proposition that, after having pleaded sufficient facts to establish itself as an existing joint venture in the initial pleading, the plaintiff was required to replead facts in its motion to revive to demonstrate that it retained the status previously established. As we continue to underscore, a proceeding to revive a judgment is a continuation of the original action. Moreover, the defendant made no offer of proof of any evidence that would call into question the plaintiff's existence when it filed the motion to revive.

Although we recognize that joint ventures are formed for a limited purpose rather than as an ongoing enterprise; see *Dolan v. Dolan*, 107 Conn. 342, 349, 140 A. 745 (1928) ("a partnership is formed for the purpose of carrying on a general business of one sort or another, and a joint adventure is more commonly limited to a single transaction or course of transactions"); the general rule is that a joint venture continues until its purpose is fulfilled or rendered impracticable unless the parties expressly agree otherwise. See *Lauth Indiana Resort & Casino, LLC v. Lost River Development, LLC*, 889 N.E.2d 915, 919–20 (Ind.App.2008) ("The parties further agree that this case presents an issue of first impression in Indiana regarding precisely when a joint venture terminates in those cases where the joint venture agreement itself contains no specific termination date. Although research has revealed no Indiana case which has addressed this issue, there does seem to be a consensus among our sister states and in federal jurisdictions with regard to this issue. Specifically, the generally accepted law of joint ventures is that '[a] joint venture without a termination date remains in force until its purpose is accomplished or that purpose becomes impracticable.' *Scandinavian Airlines [System] Denmark–Norway–Sweden v. McDonald's Corp.*, 129 F.3d 971, 973 [7th Cir.1997]; see also 48A C.J.S. Joint Ventures § 15 [2004] [stating that . general rule is that . joint venture remains in place unless its primary purpose or contingency has become impracticable or impossible to accomplish.]."). In the proceedings culminating in the 1994 judgment, the defendant never challenged the plaintiff's ownership of the debt or its right, as a joint venture, to collect on the debt. Because we have no basis to question that the prosecution of the original action to recover the debt was within the scope of the joint venture's purpose, we see no reason why the collection of the judgment would not also presumptively fall within that scope, in the absence of evidence that the joint venturers had agreed otherwise. Cf. General Statutes § 33–884(a) ("[a] dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including: [1][c]ollecting its assets . and [5] doing every other act necessary to wind up and liquidate its business and affairs"); General Statutes § 34–373(a) ("[A] partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed."); 60 Am.Jur.2d 111, Partnership § 198 (1972) ("Both under the Uniform Act and at common law it is recognized that after dissolution, the partnership continues only for the purpose of winding up the partnership affairs. Included in the winding up or liquidation of partner ship affairs are the performance of existing contracts, the collection of debts or claims due the firm, and the payment of firm debts." [Emphasis added; footnotes omitted.]). Surely a colorable basis to conclude otherwise is not manifested on the record before us.¹⁵ Therefore, we conclude, albeit for slightly different reasons than the Appellate Court, that the trial court had subject matter jurisdiction to adjudicate the motion to revive.

III

We next turn to the certified questions relating to the trial court's personal jurisdiction over the defendant in the revival proceeding. The defendant challenges the Appellate Court's conclusion that § 52–598(c) provided a basis for such jurisdiction on two grounds: first, that the statute cannot be applied retroactively to revive the 1994 judgment; and second, that the statute does not fall within the postjudgment procedures over which the trial court is statutorily authorized to retain continuing personal jurisdiction of parties thereto. We disagree with both claims.

A

The defendant has marshaled numerous arguments in support of his claim that § 52–598(c) cannot be applied retroactively.¹⁶ Broadly characterized, the defendant contends that the legislature has manifested such an intention by virtue of the October, 2009 effective date of the statute and legislatively imposed rules of construction. He further contends that § 52–598(c) is substantive, not procedural, because it creates a right, namely, “a right for a judgment creditor to obtain a new judgment date in order to create a right of recovery for Connecticut judgments in foreign [jurisdictions].” We disagree with the defendant's characterization of this provision and find none of his other arguments ultimately persuasive.

In considering the question of whether a statute may be applied retroactively, we are governed by certain well settled principles, under which our ultimate focus is “the intent of the legislature in enacting the statute.” (Internal quotation marks omitted.) *D'Eramo v. Smith*, 273 Conn. 610, 620, 872 A.2d 408 (2005). Because all public acts not specifying an effective date automatically are assigned to “take effect on the first day of October following the session of the General Assembly at which they are passed”; General Statutes § 2–32; we never have ascribed particular significance to such dates in ascertaining the legislature's intent. Rather, “[o]ur point of departure is General Statutes § 55–3, which states: No provision of the general statutes, not previously contained in the statutes of the state, which imposes any new obligation on any person or corporation, shall be construed to have retrospective effect. [W]e have uniformly interpreted § 55–3 as a rule of presumed legislative intent that statutes affecting substantive rights shall apply prospectively only. The rule is rooted in the notion that it would be unfair to impose a substantive amendment that changes the grounds upon which an action may be maintained on parties who have already transacted or who are already committed to litigation. In civil cases, however, unless considerations of good sense and justice dictate otherwise, it is presumed that procedural statutes will be applied retrospectively. While there is no precise definition of either [substantive or procedural law], it is generally agreed that a substantive law creates, defines and regulates rights while a procedural law prescribes the methods of enforcing such rights or obtaining redress.” (Citations omitted; footnote omitted; internal quotation marks omitted.) *D'Eramo v. Smith*, *supra*, at 620–21. “Procedural statutes therefore leave the preexisting scheme intact.” (Internal quotation marks omitted.) *Id.*, at 621. “[A]lthough we have presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the contrary . . . a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application.” (Internal quotation marks omitted.) *Id.*

Several facts indicate that § 52–598(c) is not substantive. Reviving the judgment imposes no obligations on the defendant that did not exist under the original judgment—the amount of the judgment, the party to whom the defendant owes that obligation and the period for enforcing the judgment all remain the same.

The plaintiff cannot assert new claims or change the terms of the existing judgment. The defendant retains his defense to an execution or action on the judgment that previously existed, namely, satisfaction of the judgment.

Moreover, although the purpose of the revived judgment is to ensure that a Connecticut judgment creditor will not be deprived of the ability to execute the judgment in a foreign jurisdiction having a shorter period for enforcement than Connecticut, § 52-598(c) obviously does not alter the foreign jurisdiction's law with respect to the period of enforcement. Even if we were to view the revived judgment as effectively extending the period to execute the judgment in a foreign jurisdiction, we are not persuaded that this effect renders § 52-598(c) substantive. See *Fanton v. Middlebrook*, 50 Conn. 44, 45 (1882) ("[A] statute [of limitations] does not extinguish the debt. It merely deprives the creditor of a right of action to recover the debt."). Authority from other jurisdictions retroactively applying statutes extending the period for executing a judgment lends support to this conclusion.¹⁷ See, e.g., *Angeli v. Lischetti*, 58 Cal.2d 474, 475-76, 374 P.2d 813, 24 Cal.Rptr. 845 (1962); *Balfe v. Rumsey & Sikemeier Co.*, 55 Colo. 97, 103, 133 P. 417 (1913); *Lahman v. Hastings*, 74 S.D. 431, 433, 54 N.W.2d 166 (1952); *State v. Morgan*, 107 Wn.App. 153, 159, 26 P.3d 965 (2001).

In sum, § 52-598(c) does not create, define or regulate a right. Rather, it bears the hallmarks of a procedural statute, leaving the preexisting scheme intact and prescribing a method of enforcing rights or obtaining redress. Considerations of good sense and justice do not militate against retroactive application. The defendant incurred obligations under a valid judgment. Revival of that judgment neither assigns "a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed"; (internal quotation marks omitted) *In re Daniel H.*, 237 Conn. 364, 373, 678 A.2d 462 (1996); nor upsets "any settled rights or reliance interests." *State v. Skakel*, 276 Conn. 633, 685, 888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S.Ct. 578, 166 L.Ed.2d 428 (2006). Accordingly, the Appellate Court properly determined that § 52-598(c) applies retroactively.

B

We therefore consider whether the trial court has personal jurisdiction over the defendant under § 52-598(c). We begin by noting that the defendant's position that personal jurisdiction in the original action is not a proper basis on which to maintain jurisdiction in the revival proceeding is largely premised on his presumption that a motion to revive under § 52-598(c) constitutes a new action. As we previously have indicated in part I of this opinion, we agree with the authority from other jurisdictions holding to the contrary. In addition, the defendant points to the legislature's failure to amend chapter 906 of the General Statutes, which authorizes the trial court to retain jurisdiction over parties to post-judgment procedures, to refer to motions to revive. He contends that this omission demonstrates that the plaintiff must establish the trial court's personal jurisdiction over the defendant in § 52-598(c) proceedings independent of the original judgment. We disagree.

General Statutes § 52-350d (a) provides in relevant part: "For the purposes of postjudgment procedures, the Superior Court shall have jurisdiction over all parties of record in an action until satisfaction of the judgment or, if sooner, until the statute limiting execution has run." General Statutes § 52-350a (15) further provides: " 'Postjudgment procedure' means any procedure commenced after rendition of a money

judgment, seeking or otherwise involving a discovery procedure, a placing of a lien on property, a modification or discharge of a lien, a property execution under section 52-356a, a turnover order, an installment payment order, a wage execution, a modification of a wage execution, a compliance order, a protective order or a determination of exemption rights."

In our view, proceedings under § 52-598(c) fall squarely within these provisions. A motion to revive is a procedure commenced after rendition of a money judgment. The granting of such a motion permits the plaintiff to seek the various forms of relief enumerated in § 52-350a (15). Therefore, the procedure is one "involving," rather than seeking, such relief. Accordingly, the Appellate Court properly concluded that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the motion to revive.

The judgment of the Appellate Court is affirmed.

In this opinion the other justices concurred.

FOOTNOTES

1. General Statutes § 52-598 provides: "(a) No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered, except that there shall be no time limitation on the issuance of such execution or the institution of such action if the judgment was rendered in an action to recover damages for personal injury caused by sexual assault where the party legally at fault for such injury was convicted of a violation of section 53a-70 or 53a-70a." (b) No execution to enforce a judgment for money damages rendered in a small claims session may be issued after the expiration of ten years from the date the judgment was entered, and no action based upon any such judgment may be instituted after the expiration of fifteen years from the date the judgment was entered." (c) With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section."

2. The two other defendants named in both the complaint in the original action and the motion to revive, Summit Associates, Inc., and Ned B. Wilson, did not participate in the trial court proceeding to revive the judgment or this certified appeal. Therefore, for convenience, we refer to Lancia as the defendant.

3. Michael R. Caporale, Jr., the plaintiff's counsel in the 1994 judgment in the present case, submitted a written statement to the Judiciary Committee in support of the bill eventually enacted and codified as § 52-598(c), indicating that Summit, Wilson and the defendant lacked assets to satisfy the judgment at the time it was rendered. Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6724. He further stated that the plaintiff did not ascertain the defendant's whereabouts in South Carolina until eleven years after that judgment had been rendered. *Id.*

4. Two subsequent Superior Court decisions have reached a contrary conclusion, relying on case law from other jurisdictions holding that the personal jurisdiction established in the original judgment was a sufficient basis on which to maintain jurisdiction over the defendant for purposes of a proceeding to revive a judgment. See *SCR Joint Venture, L.P. v. Schwartz*, Superior Court, judicial district of Hartford, Docket No. CV-11-6025633-S (November 14, 2012) (Domnarski, J.) (54 Conn. L. Rptr. 914) (denying motion to dismiss); *Stingle v. Tuller*, Superior Court, judicial district of Hartford, Docket No. CV-08-5022299-S (April 15, 2009) (Prescott, J.) (47 Conn. L. Rptr. 585) (same). The plaintiff in the present case did not appeal from the judgment of dismissal, and the present appeal does not require us to resolve this split of authority.

5. Although we certified the first and second issues in reverse order, we begin with the question of subject matter jurisdiction before turning to the two issues related to personal jurisdiction, as did the Appellate Court. See *Investment Associates v. Summit Associates, Inc.*, supra, 132 Conn.App. at 196, 202.

6. In this regard, § 52-598(c) differs from the revival (or renewal) of judgments in other jurisdictions. Although many other jurisdictions have common-law or statutory mechanisms to revive a judgment, such mechanisms are utilized in these jurisdictions when a judgment has or will become “dormant” due to a rebuttable presumption that arises after a prescribed period of time that the judgment has been satisfied. See 46 Am.Jur.2d 698, Judgments § 391(2006) (“[t]he general rule is that a judgment, to be revived, must be dormant; if a judgment is not dormant, revivor is not necessary”). If not revived within the prescribed period, a conclusive presumption arises that the judgment has been satisfied. See, e.g., *McLendon v. Hepburn*, 876 So.2d 479, 486 (Ala.Civ.App.2003) (judgment rendered dormant after ten years; conclusive presumption of satisfaction after twenty years); *Johnson Bros. Wholesale Liquor Co. v. Clemmons*, 233 Kan. 405, 409, 661 P.2d 1242 (judgment presumed satisfied after ten years), cert. denied, 464 U.S. 936, 104 S.Ct. 345, 78 L.Ed.2d 311 (1983); *In re Stoddard*, 248 B.R. 111, 116-17 (Bankr.N.D. Ohio 2000) (discussing presumption). In some jurisdictions, revival of the judgment extends the ultimate period for enforcing the judgment. See, e.g., *Mundaca Financial Services, LLC v. Casella*, 210 N.C.App. 491, 711 S.E.2d 207 (2011); *McCoy v. Knobler*, 260 S.W.3d 179, 183-84 (Tex.App.2008).

7. Representative Fox explained the purpose of the bill as follows: “Under current law, in the [s]tate of Connecticut when one obtains a judgment in Superior Court, they can obtain an execution on that judgment for up to [twenty] years in a [S]uperior [C]ourt case and up to ten years in a small-claims case. Mr. Speaker, however, what happens oftentimes is that one may attempt to enforce this judgment in a foreign jurisdiction in a different state, essentially, and sometimes those states have different rules. And what this bill will do is enable the person who receives the judgment, who obtains the judgment, to revive that judgment in order to enforce it in a foreign jurisdiction. And essentially what would happen is the person who has the judgment would go back into court and get a revival of the judgment which would enable the judgment to then be enforced in a foreign jurisdiction. There's nothing in this bill that would enable the . possessor of the judgment to enforce that judgment beyond the time limit that Connecticut currently has.” 52 H.R. Proc., supra, at pp. 6387-88; see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6723, written testimony of Representative Vincent J. Candelora (“[a][m]otion of [r]evival basically serves to restart the clock for collection in a foreign jurisdiction”).

8. Whether the revived judgment is deemed a continuation of the original judgment or a new judgment may affect whether the foreign jurisdiction will consider Connecticut's revived judgment to be the operative judgment for purposes of that jurisdiction's time limit for enforcement. See *Smith v. RJH of Florida, Inc.*, 520 F.Supp.2d 838,841–43 (S.D.Miss.2007) (explaining reasoning and authority on both sides of this question).

9. The defendant's argument to the contrary is predicated on the view that the plaintiff “sought the same substantive relief that it sought through the 2007 lawsuit.” We note that the defendant's position is contrary to that of every jurisdiction that has considered this question.

10. The defendant argues that this rule is in tension with two principles. The first is that, “[i]f a court has never acquired jurisdiction over a defendant or the subject matter . . . any judgment ultimately entered is void and subject to vacation or collateral attack.” (Internal quotation marks omitted.) *Angiolillo v. Buckmiller*, 102 Conn.App. 697, 713, 927 A.2d 312, cert. denied, 284 Conn. 927, 934 A.2d 243 (2007); accord *Feuerman v. Feuerman*, 62 Conn.App. 332, 337, 771 A.2d 230 (2001) (“[u]nless a litigant can show an absence of subject matter jurisdiction that makes the prior judgment of a tribunal entirely invalid, he or she [is limited to] resort[ing] to direct proceedings [i.e., an appeal] to correct perceived wrongs in the tribunal's conclusive decision” [internal quotation marks omitted]); *Davenport v. Quinn*, 53 Conn.App. 282, 293, 730 A.2d 1184 (1999) (“[A] provision of a judgment that exceeds the jurisdiction of a court is necessarily void and cannot be remedied merely by the lapse of time. Such a judgment is void ab initio and is subject to both direct and collateral attack. If a court has never acquired jurisdiction over a defendant or the subject matter . . . any judgment ultimately entered is void and subject to vacation or collateral attack.” [Internal quotation marks omitted.]). The second is that “[n]o principle is more universal than that the judgment of a court without jurisdiction is a nullity. Such a judgment, whenever and wherever declared upon as a source of right, may always be challenged. *Bicio v. Brewer*, 92 Conn.App. 158, 165–67, 884 A.2d 12 (2005).” (Internal quotation marks omitted.) *Angiolillo v. Buckmiller*, supra, at 713. We disagree. As we explain subsequently in this opinion, if the defendant may prevail on a collateral attack of a void judgment when such invalidity is evident on the face of the record, this line of cases would be consistent with the rule articulated in *Vogel*.

11. See General Statutes § 34–313 (“[a] partnership is an entity distinct from its partners”); General Statutes § 34–328(a) (“[a] partnership may sue and be sued in the name of the partnership”). Our legislature enacted the Uniform Partnership Act (1994) (act) in 1995, and made the act effective on July 1, 1997. See Public Acts 1995, No. 95–341, §§ 1, 58; General Statutes § 34–300 et seq. The act's recognition of partnerships as distinct entities from their partners “comport[ed] with recent Connecticut case law involving partnership definition.” 38 H.R. Proc., Pt. 20, 1995 Sess., p. 7169, remarks of Representative James W. Abrams.

12. See National Conference of Commissioners on Uniform State Laws, Uniform Partnership Act (1997) § 202, comment, p. 31, available at http://www.uniformlaws.org/shared/docs/partnership/upa_final_97.pdf (last visited August 5, 2013) (copy contained in the file of this case in the Supreme Court clerk's office) (“Relationships that are called ‘joint ventures’ are partnerships if they otherwise fit the definition of a partnership. An association is not classified as a partnership, however, simply because it is called a ‘joint venture.’ ”); see also *In re Webb*, 474 B.R. 891,

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Investment Associates,)

Plaintiff,)

v.)

Joseph D. Lancia,)

Defendant .)

IN THE COURT OF COMMON PLEAS

C.A. No.: 2014-CP-23-00515

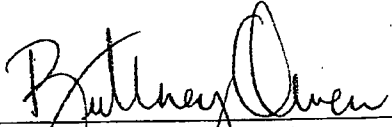
**OBJECTION TO MOTION FOR
RELIEF AND REPLY TO NOTICE OF
DEFENSES TO FOREIGN JUDGMENT**

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
APR 1 PM 9 00
J. B. WICKENSIMMER

CERTIFICATE OF MAILING

The undersigned hereby certifies that she is the paralegal for the attorney for the Plaintiff, Investment Associates, in the within matter and that the within **OBJECTION TO MOTION FOR RELIEF AND REPLY TO NOTICE OF DEFENSES TO FOREIGN JUDGMENT** was served upon the applicable parties listed below, by depositing copies of same in the United States Mail, with sufficient postage annexed thereto, on the 1ST of April 2014, addressed as follows:

Denny P. Major
Haynsworth Sinkler Boyd
P.O. Box 2048
Greenville, SC 29602


Brittney Owen, Paralegal
Skinner Law Firm, LLC
300 North Main Street, Suite 201
Greenville, SC 29601
(864) 232-2007 (Telephone)
(864) 232-8496 (Facsimile)
brittney@skinnerlawfirm.com

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

INVESTMENT ASSOCIATES

IN THE COURT OF COMMON PLEAS

FILED CLERK OF COURT
Plaintiff(s)
GREENVILLE CO. S.C.
PAUL B. WICKENHUISER

CIVIL ACTION COVERSHEET

2014-CP - 23- 02705

vs.

JOSEPH D. LANCIA

2014 MAY 15 PM 3 00

Defendant(s)

Submitted By: Randy A. Skinner
Address: Skinner Law Firm, LLC
300 N. Main St., Suite 201 Greenville SC 29601

SC Bar #: 62988
Telephone #: 864-232-2007
Fax #: 864-232-8496

Other:

E-mail: main@skinnerlawfirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ Employment (120) ☐ General (130) ☐ Breach of Contract (140) ☐ Other (199)	Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) Previous Notice of Intent Case # 20__-CP-_____ ☐ Notice/ File Med Mal (230) ☐ Other (299)	Torts - Personal Injury ☐ Assault/Slander/Libel (300) ☐ Conversion (310) ☐ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☐ Wrongful Death (360) ☐ Other (399)	Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☐ Other (499)
Inmate Petitions ☐ PCR (500) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599)	Administrative Law/Relief ☐ Reinstat Drv. License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture-Petition (840) ☐ Forfeiture-Consent Order (850) ☐ Other (899)	Judgments/Settlements ☐ Death Settlement (700) ☒ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Transfer of Structured Settlement Payment Rights Application (760) ☐ Confession of Judgment (770) ☐ Petition for Workers Compensation Settlement Approval (780) ☒ Other (799)	Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCDOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Public Service Comm. (990) ☐ Employment Security Comm (991) ☐ Other (999)
Special/Complex /Other ☐ Environmental (600) ☐ Automobile Arb. (610) ☐ Medical (620) ☐ Other (699)	☐ Pharmaceuticals (630) ☐ Unfair Trade Practices (640) ☐ Out-of State Depositions (650) ☐ Motion to Quash Subpoena in an Out-of-County Action (660) ☐ Sexual Predator (510)		

Submitting Party Signature: _____

Date: 5/15/2014

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

) FILED - CLERK OF COURT No.: 2014-CP-23-02705

Investment Associates,

) GREENVILLE CO. S.C.

) PAUL B. WICKENSIMER

Plaintiff,

) 2014 MAY 15 PM 3 00

) SUMMONS

v.

Joseph D. Lancia,

Defendant.

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Plaintiff upon the subscriber, at his office at 300 North Main Street, Suite 201, Greenville, South Carolina, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully submitted,

Randy A. Skinner
Skinner Law Firm, LLC
300 N. Main Street, Suite 201
Greenville, SC 29601
Telephone: (864) 232-2007
Facsimile: (864) 232-8496
E-mail: main@skinnerlawfirm.com
SC Bar No.: 62988

Greenville, SC
May 15, 2014

Attorney for Plaintiff

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	C.A. No.: 2014-CP-23-02705
	)	
Investment Associates,	)	
	)	FILED-CLERK OF COURT
	)	GREENVILLE CO. S.C.
	)	PAUL B. WICKENSIMER
Plaintiff,	)	
	)	2014 MAY 15) PM 2:00
v.	)	CIVIL ACTION TO ENFORCE FOREIGN
	)	JUDGMENT PURSUANT TO
Joseph D. Lancia,	)	S.C. CODE § 15-35-950
	)	
Defendant.	)	

Plaintiff, complaining of the Defendant, alleges that:

1. The Plaintiff is a joint venture equally owned by R.S.S. McKosky and Alton W. Seavey, Jr. organized and existing pursuant to the laws of the state of Connecticut.
2. On information and belief, the Defendant, Joseph D. Lancia, is a citizen and resident of Greenville County, South Carolina and does business in Greenville County, South Carolina.
3. Accordingly, jurisdiction and venue are proper in this court.
4. The within complaint is a civil action to enforce a foreign judgment obtained by the Plaintiff against the Defendant in the state of Connecticut pursuant to S.C. Code § 15-35-950.
5. In 1991, the Plaintiff commenced an action, in the state of Connecticut, to recover on a promissory note guaranteed by the Defendant. The complaint further identified the Plaintiff as the holder and owner of the note and as the assignee of the related security agreement.
6. The Defendant responded to the complaint and was represented by counsel at proceedings on the action, at which he asserted various defenses to the merits but no jurisdictional challenges.
7. On May 17, 1994, the Honorable Frank S. Meadow, Judge Trial Referee, rendered judgment in the Plaintiff's favor in the amount of \$272,530.03 plus costs taxed at \$201.20. See attached hereto as Exhibit A and incorporated herein by reference.

8. Thereafter, the Plaintiff filed a Motion to Revive Judgment with the Superior Court for the Judicial District of New Haven, Connecticut, Docket No. CV-91-0309954-S, pursuant to Connecticut General Statutes § 52-598(c).

9. In response to the Plaintiff's Motion to Revive Judgment, the Defendant made appearance and moved to dismiss the motion on November 5, 2009.

10. After reviewing the Plaintiff's Memorandum in Opposition to the Motion to Dismiss, supplemental briefs, and oral argument on November 23, 2009, the Superior Court for the Judicial District of New Haven in Connecticut granted the Plaintiff's Motion to Revive Judgment and denied the Defendant's Motion to Dismiss the motion. See attached hereto as Exhibit B and incorporated herein by reference.

11. The Defendant appealed from the revived judgment to the Appellate Court for the State of Connecticut renewing his claims previously made to the trial court, and for the first time, challenging the Plaintiff's standing to invoke the court's jurisdiction.

12. Following oral arguments, the Appellate Court affirmed the revived judgment by a recorded opinion at 132 CONN.APP. 192.

13. Thereafter, the Supreme Court of Connecticut granted the Defendant's Petition for Certification to Appeal.

14. After reviewing the briefs of all parties and oral argument, the Supreme Court of Connecticut affirmed the judgment of the Appellate Court by order dated August 27, 2013 by recorded opinion in Investment Associates v. Summit Associates, Inc., et al, 309 Conn. 840 (2013). See attached hereto as Exhibit C and incorporated herein by reference. This order of the Connecticut Supreme Court has not been appealed by the Defendant.

15. The judgment of the Connecticut Supreme Court, rendered on August 27, 2013, constitutes a final judgment which has not been appealed from, has not been stayed by the Connecticut courts, and has not been further contested by the Defendant in the courts which have rendered such verdict.

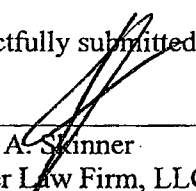
16. The judgment of the Plaintiff against the Defendant constitutes a civil action which has been reduced to a money judgment and is to be recognized by this state with full faith and credit and with the same effect of a judgment of the state of South Carolina and must be enforced or satisfied in like manner pursuant to the Full Faith and Credit Clause in the United States Constitution.

17. The subject judgment, constituting a final judgment as a May 17, 1994, has remained wholly unsatisfied and has continued to accrue interest at the statutory rate of 12% per annum pursuant to Connecticut state law resulting in an existing balance of the judgment in the amount of \$906,755.40 as September 30, 2013 with continuing interest to accrue at 12% per annum.

WHEREFORE, the Plaintiff in the herein action prays as follows:

- a. A copy of the subject foreign judgment be filed in the office of the Clerk of Court of Greenville County;
- b. Upon the filing of the foreign judgment, the foreign judgment be docketed and indexed in the same manner as a judgment of this state;
- c. The judgment so filed shall have the same effect as a judgment of this state and be enforced in like manner; and
- d. For such other and further relief as this Court may deem just and proper.

Respectfully submitted,



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Attorney for Plaintiff

Greenville, SC
May 15, 2014

EXHIBIT A

STATE OF CONNECTICUT

CV091-0309954 S

SUPERIOR COURT

INVESTMENT ASSOCIATES
Northford, CT

JUDICIAL DISTRICT

OF NEW HAVEN

VS

AT NEW HAVEN

SUMMIT ASSOCIATES, INC.
Branford, CT
NED B. WILSON
Branford, CT
JOSEPH D. LANCIA
Old Saybrook, CT

MAY 17, 1994

PRESENT: Hon. Frank Meadow, Judge Trial Referee

JUDGMENT

This Action by writ and complaint, as amended, claiming damages came to this Court on February 5, 1991, thence to later dates when the defendant appeared, file answers and special defenses, when the plaintiff filed a reply to special defenses, and when said action was claimed to the non-jury trial list, thence to the present time when the parties appeared.

The court, having heard the parties, finds the plaintiff has sustained damages as alleged in the complaint in the amount of \$272,530.03.

Whereupon it is adjudged that the plaintiff recover of the defendants \$272,530.03 damages plus costs taxed at \$201.20.

BY THE COURT



Deputy Chief Clerk

EXHIBIT B

DOCKET NO. CV 91 0309954 : SUPERIOR COURT
INVESTMENT ASSOCIATES : JUDICIAL DISTRICT OF NEW HAVEN
V. : AT NEW HAVEN
SUMMIT ASSOCIATE, ET AL : MARCH 4, 2010

MEMORANDUM OF DECISION RE MOTION TO REVIVE JUDGMENT (#136)

On October 6, 2009, the plaintiff, Investment Associates, filed a Motion to Revive Judgment pursuant to the newly enacted statute, General Statutes § 52-598(c). The defendant, Joseph D. Lancia, moved to dismiss the motion on November 5, 2009. The plaintiff filed a memorandum in opposition to the motion to dismiss on November 12, 2009 to which the defendant replied on November 23, 2009. Finally, the plaintiff filed a supplemental brief on November 23, 2009. The court heard oral argument on November 23, 2009. For reasons more fully set forth herein, this court grants the motion to revive and denies the defendant's motion to dismiss the motion.

In it's motion to revive, the plaintiff alleges that judgment was entered in its favor against defendants Summit Associates Incorporated, Ned B. Wilson and Joseph D. Lancia, in the amount of \$272,530.03 on May 17, 1994. The plaintiff further alleges that no part of said judgment has been paid. By virtue of General Statutes § 52-598 (c), the plaintiff moves to "revive" the May 17, 1994 judgment.

* Plus \$ 201.20 COSTS

Judicial District of New
SUPERIOR COURT
FILED

MAR 04 2010

Judgment entered _____ 20-
Counsel/self-rep. ind. notified 3-8-20
By ☐ JDNO ☒ copy of memo ☐ other
* Copy to Reporter of Judicial Decisions

OFF CLERK'S C

Defendant Lancia argues that he is entitled to dismissal for several reasons. First, he has resided in South Carolina since 1992 and is therefore, a non-resident individual over whom this court cannot exercise personal jurisdiction. Second, the defendant relies upon this court's ruling that it could not exercise personal jurisdiction over him in the matter of *Investment Associates v. Lancia*, Superior Court, judicial district of New Haven, Docket No. CV 07 4028746 (May 5, 2008, *Robinson, J.*) (45 Conn. L. Rptr. 437) as res judicata in this case. Third, the defendant argues that § 52-598 (c) does not provide any provision pursuant to which this court can exercise personal jurisdiction over him. And finally, the defendant argues that General Statutes § 52-347 et. seq., which describes postjudgment procedures, is also inapplicable to the present case.

"A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court. . . . A motion to dismiss tests, inter alia, whether, on the face of the record, the court is without jurisdiction." (Internal quotation marks omitted.) *Beecher v. Mohegan Tribe of Indians of Connecticut*, 282 Conn. 130, 134, 918 A.2d 880 (2007). "If the defendant challenging the court's personal jurisdiction is a foreign corporation or a nonresident individual, it is the plaintiff's burden to prove the court's jurisdiction." *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 515, 923 A.2d 638 (2007).

Section 52-598 (c), which became effective October 1, 2009, states: "With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the superior court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section."

The plaintiff claims, and the defendant does not dispute, that the period of time for enforcement of the judgment does not expire until May 16, 2014.¹ Instead, the defendant argues that § 52-598 (c) does not include any provision which would provide the court personal jurisdiction over him; and that the postjudgment provisions in the General Statutes are inapplicable to this action.

Section 52-598 (c) went into effect on October 1, 2009. As a newly enacted statutory section, there are no decisions addressing it. As such, the court will consider, as a matter of first impression, the language and legislative intent of § 52-598 9 (c). The

¹ Section 52-598 (a), in relevant part, states: "No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered . . ."

language of the statute is clear. Pursuant to the clear and unambiguous terms of the statute, as long as an action is still within the applicable period to enforce the judgment, a motion to revive it may be granted by the court. Therefore, this court concludes that the language of the statute is plain and clear, and that the statute is directly applicable to this lawsuit.

Even if one considered the language of the text to be ambiguous, the legislative history supports the application of the statute to this case. That history provides, in part, that “[t]his bill allows a party to file a motion to revive a judgment for money damages in Superior Court. The court can grant the motion if it finds that the time period to enforce the judgment has not expired. The bill prohibits an order to revive from extending the time period to enforce the judgment already set by law. The bill applies to judgments issued by Connecticut courts, including small claims cases.” Number 09-215 § 1 of the 2009 Public Acts amended § 52-598 by adding subsection (c). Judiciary Committee File No. 737, concerning House Bill 6248, “An Act Concerning the Time Limit For Enforcing a State Court Judgment in a Foreign Jurisdiction.”

Additionally, the Joint Favorable Report concerning House Bill 6248 states that the bill’s enactment “[a]ffords residents with another tool to collect a valid judgment against a nonresident, for example if a judgment was rendered 11 years ago in Connecticut and the plaintiff seeks to enforce it in South Carolina, he or she cannot

enforce the judgment because it is beyond the ten year period of collection allowed by South Carolina. This is despite the fact that the judgment is still enforceable in Connecticut.” One of the bill’s supporters was Michael R. Caporale, Jr., the lawyer who originally represented the plaintiff in this action. He reported the postjudgment history in this case as a reason for supporting the bill.²

It is clear from both the express language of the statute and the legislative history that § 52-598 (c) was enacted in order to allow a plaintiff to revive judgments, such as the one presently before the court, within the allowable time period. Therefore, this court finds that § 52-598 (c) confers jurisdiction over the defendant based upon the May 17, 1994 judgment entered by this court. In other words, § 52-598 (c) appears to be a “revival statute,” which confers the court’s continuing jurisdiction, both subject matter and personal, resulting from the defendant’s participation in the action in which judgment was originally rendered against him.

² “I obtained a judgment in New Haven Superior Court for \$272,731 but did not seek enforcement of the judgment at that time because the defendants lacked assets. Defendant then moved outside Connecticut. Some months later one defendant filed for bankruptcy while the other defendant’s location in South Carolina was not ascertained until 11 years after the judgment. I was advised by the attorney from South Carolina I obtained to represent my clients that according to South Carolina law the time limit enforcing a judgment was ten years. Therefore, any attempt to enforce the judgment in South Carolina was doomed to fail.” See Joint Favorable Report, concerning House Bill 6248.

In this way, this action is distinguishable from *Investment Associates v. Lancia*, supra, 45 Conn. L. Rptr. 437, where the court found that although there was subject matter jurisdiction over the defendant to enforce the 1994 judgment,³ the prior litigation was insufficient to provide personal jurisdiction over the defendant under § 52-59b, Connecticut's long arm statute.⁴ In *Investment Associates v. Lancia*, supra, 45 Conn. L. Rptr. 437, the plaintiff commenced a new action in 2007, to enforce the 1994 judgment.

³ In regard to subject matter jurisdiction, the court stated: "[T]he defendant was engaged in a joint business venture in Connecticut, which gave rise to a legal dispute in 1991, which resulted in a Connecticut judgment in 1994. The plaintiff is within the twenty-five year statute of limitations of bringing an action on the prior judgment [pursuant to § 52-598 (a)], because the present action was brought on November 13, 2007. This confers subject matter jurisdiction upon the court." *Id.*, 438.

⁴ In regard to personal jurisdiction, the court stated: "[T]here is no dispute that the defendant is a nonresident who has not been a resident of this state for over 15 years. And, there are no allegations or claims that the defendant has had any contact with or transactions within Connecticut since the 1994 judgment entered against him. Therefore, the question for this court is: whether or not the 1994 judgment, alone, constitutes a sufficient business transaction within the state of Connecticut to allow this court to exercise personal jurisdiction over the defendant." *Id.*, 439. "Connecticut case law does not provide any precedents for construing the past litigation as constituting a sufficient business transaction to provide personal jurisdiction to a Connecticut court. In fact, although there are no cases directly on point, the cases in which courts have found sufficient contacts to establish personal jurisdiction, generally, involve defendants who have engaged in contemporaneous activities in Connecticut or who have had direct and recent contact with Connecticut. According to the record, the defendant in the instant matter has had no contact with Connecticut since the mid-90s. Accordingly, this court concludes that the prior litigation, which was concluded 14 years ago, is insufficient to provide personal jurisdiction over the defendant under § 52-59b." *Id.* The court then went on to address the issue of due process and noted that the same factors were relevant. See *id.* Therefore, the court found that the plaintiff failed to meet its threshold burden of showing minimum contacts and ultimately held that it did have personal jurisdiction over the defendant, even though Connecticut courts had a valid interest in enforcing a valid judgment. See *id.*, 440.

In the instant matter, unlike in the previous lawsuit, the court is confronted with a motion to revive the 1994 judgment, based upon the newly enacted § 52-598 (c). Thus, the court's previous finding in the prior action that it lacked personal jurisdiction over the defendant, does not preclude a finding that § 52-598 (c) confers personal jurisdiction over the defendant in this action.

In addition, the court notes that revival of judgment procedures and/or statutes have passed constitutional muster in other jurisdictions. See, e.g. *Watkins v. Conway*, 385 U.S. 188, 17 L. Ed. 2d 286 (1966), *Huff v Pharr*, 748 F.2d 1553 (11th Cir, 1984); *Cadle Co. v Fiscus* 163 Cal. App. 4th 1232 (2008), *Kronstadt v Kronstadt*, 238 N.J. Super. 614, 570 A.2d 485 (App. Div. 1990). See, also *Von Hake v Thomas*, 858 P.2d 193, 195 (Utah App. 1993), ("The adherence of American jurisdictions to this position is unmistakable in cases dealing with questions of in personam jurisdiction. See, e.g., *Bank of Edwardsville v Raffaele*, 381 Ill. 486, 45 N.E.2d 653 (1942) (Action to renew money judgment is not a new suit but a continuation of the old one); *Bahan v Youngstown Sheet & Tube Co.*, 191 So.2d 668, 670 (La.App 1966) (proceeding to revive a money judgment entered against a nonresident judgment debtor is not a new action but is only a proceeding to continue the original action); *State v Kirkwood*, 361 Mo.1194, 239 S.W.2d 332, 334 (1951) (en banc) (action to revive a divorce is not a new action but is merely a continuation of and supplementary to the original proceeding)...*Berly v Sias*, 152 Tex.

176, 255 S.W.2d 505, 508 (1953) (action to renew a money judgment is not an independent suit but merely a continuation of the original suit); *Duffy v Hartsock*, 187 Va. 406, 46 S.E.2d 570, 574 (1948) (proceeding to revive a judgment lien against real estate is to be treated as a continuation of the original suit).”)

In *Watkins v Conway*, supra 385 U.S. 188, the United States Supreme Court noted with favorability Florida’s procedure to revive judgments. In *Watkins*, the plaintiff was unable to pursue a post-judgment claim because the Georgia statute of limitations for non-resident debtors was shorter than the one for resident debtors. The Supreme Court declined to find that this violated equal protection by drawing an impermissible distinction between foreign and domestic judgments. See *id.*, 190. In doing so, it noted that all the plaintiff needed to do was return to Florida, where the original judgment was rendered, and revive his judgment. See *id.* Because the Florida statute of limitations on domestic judgments was twenty years, he had ample time to revive his judgment and could then come back to Georgia within five years and file suit. See *id.*

In *Huff v. Pharr*, supra 748 F.2d 1553, the Eleventh Circuit allowed a California debtor to revive a 1975 California judgment against a debtor who resided in Florida. After the creditor was unable to domesticate the judgment in Florida because the limitations period had expired, he returned to California and obtained a “renewed 1975 judgment” which resulted in the entry of a default judgment against the debtor. See *id.* In

reliance upon *Watkins v. Conway*, supra, 385 U.S. 188, the Eleventh Circuit found that California had jurisdiction to enter the new judgment because the debtor had the requisite minimum contacts with California for the courts to exercise personal jurisdiction over him. Since the action involved a claim uniquely connected with the debtor's previous forum-related activities, it was not unfair to require him, when properly served, to submit again to the jurisdiction of the California courts in a suit based upon a judgment previously entered in an action involving the same claim. See *id.*, 1555.

Likewise, the California Appellate Court in *The Cadle Co. v Fiscus*, supra 163 Cal. App. 4th 1232, allowed the initiation of an independent and separate action against the out-of state defendant to enforce a judgment previously obtained in California. Relying on reasoning applied in cases arising out of revival or renewal actions, the California Appellate Court held that "[t]here is nothing unreasonable about subjecting [the out of state defendant] to the jurisdiction of California courts in an independent action to renew the 1992 judgment...Money judgment was entered against [the out of state defendant] in California, and he failed to pay his obligations. We cannot agree the passage of time between the original California litigation and the revival action, during which [the out of state defendant] had no additional contacts with the State of California, defeats personal jurisdiction as concerns the enforcement of the 1992 judgment." *Id.*, 1240-41.

Similarly, in *Kronstadt v. Kronstadt*, supra 238 N.J. Super. 614, the Appellate Court of New Jersey concluded that revival action was merely a continuation of the previous action. In that case, the plaintiff ex-wife sought and obtained at the trial court the revival of two judgments that she earlier obtained against defendant ex-husband in New Jersey. Both judgments were entered in 1982. See *id.* When the plaintiff obtained the revival, the defendant was residing in Florida, which permitted enforcement of foreign judgments only within five years of the judgment's original rendering. See *id.* The defendant contended that from a time shortly after the entry of the original judgments he had been a resident of Florida and had no substantial contacts with New Jersey since that time. See *id.* The plaintiff argued that the original jurisdiction obtained over the defendant was sufficient to warrant the revival of the judgments. See *id.* The court affirmed the trial court's ruling, and held that because the procedure was merely a continuation of the action that resulted in the original judgments, the renewal judgment was properly entered. See *id.*, 618. The court also noted that "the elements to be proven when a judgment is revived are: (1) the judgment is valid and subsisting; (2) it remains unpaid in full, or, in part...; and (3) there is no outstanding impediment to its judicial enforcement, e.g., a stay, a pending bankruptcy proceeding, an outstanding injunctive order, or the like." *Id.*

The court agrees with the above-cited reasoning of courts in other jurisdictions and concludes that conferring personal jurisdiction over the defendant pursuant to § 52-598 (c) in the present action does not violate due process. The court has both subject matter jurisdiction over the action, pursuant to § 52-598 (a), and personal jurisdiction, pursuant to § 52-598 (c). Furthermore, the finding by this court on the issue of personal jurisdiction in *Investment Associates v. Lancia*, supra, 45 Conn. L. Rptr. 437, does not constitute res judicata.

In conclusion, the court grants the plaintiff's motion to revive the May 17, 1994 judgment, pursuant to the newly enacted § 52-598(c) and denies the defendant's motion to dismiss the motion to revive for lack of personal jurisdiction.

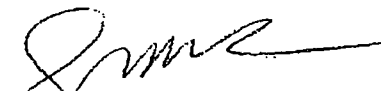

Robinson, A., J.

EXHIBIT C

Supreme Court of Connecticut.
INVESTMENT ASSOCIATES v. SUMMIT ASSOCIATES, INC., et al.

No. 18910.

Argued March 18, 2013. -- August 27, 2013

ROGERS, C.J., and NORCOTT, PALMER, ZARELLA, EVELEIGH, McDONALD and ESPINOSA, Js.
Proloy K. Das, with whom was Bernard F. Gaffney, for the appellant (defendant Joseph D. Lancia).
Pasquale Young, for the appellee (plaintiff).

Opinion

In 2009, our legislature created a mechanism whereby a judgment creditor can “revive” an unsatisfied judgment for money damages at any time before the period for enforcement expires; Public Acts 2009, No. 09–215, § 1(c) (P.A. 09–215); see General Statutes § 52–598(c);¹ the purpose of which was to aid in the execution of such judgments in foreign jurisdictions. The present case requires us to consider the nature of proceedings under § 52–598(c) regarding questions of subject matter jurisdiction and personal jurisdiction over a nonresident defendant with respect to a judgment rendered before the effective date of § 52–598(c).

Upon our grant of certification, the defendant Joseph D. Lancia² appeals from the judgment of the Appellate Court affirming the trial court's 2010 judgment reviving a 1994 judgment in favor of the plaintiff, Investment Associates, pursuant to § 52–598(c). *Investment Associates v. Summit Associates, Inc.*, 132 Conn.App. 192, 31 A.3d 820 (2011) The defendant contends that the Appellate Court improperly determined that: (1) his challenge to the trial court's subject matter jurisdiction on the grounds that the plaintiff was neither a legal entity nor an entity in existence was barred as an improper collateral attack on the original judgment; and (2) § 52–598(c) applies retroactively and provides a proper basis for the trial court's jurisdiction over the defendant for purposes of adjudicating the motion to revive. We affirm the judgment of the Appellate Court.

The following facts are undisputed. In 1991, the plaintiff commenced an action to recover on a promissory note executed by Summit Associates, Inc. (Summit), and guaranteed by Ned B. Wilson and the defendant. The complaint identified the plaintiff as having been at all relevant times a joint venture, equally owned by R.S.S. McKosky and Alton W. Seavey, Jr., and having its usual place of business in North Branford. The complaint further identified the plaintiff as the holder and owner of the note and as the assignee of a related security agreement. In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina. The defendant continued to be represented by counsel at proceedings on the action, at which he asserted various defenses to the merits but no jurisdictional challenges. In 1994, the trial court, Hon. Frank S. Meadow, judge trial referee, rendered judgment in the plaintiff's favor in the amount of \$272,530.03 plus costs. Under Connecticut law, the plaintiff had twenty years from the date judgment entered to obtain an execution on the judgment. See General Statutes § 52–598(a). Under South Carolina law, the plaintiff had ten years from that date to obtain an execution in that state's courts. See S.C.Code Ann. § 15–3–600 (2005); *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 481, 517 S.E.2d 235 (App.1999). The plaintiff did not seek an execution of the Connecticut judgment in South Carolina before that state's limitations period expired.³

In 2007, the plaintiff commenced a separate action in Connecticut solely against the defendant to enforce the judgment. The defendant filed a motion to dismiss the action for lack of personal jurisdiction, which the trial court, A. Robinson, J., granted. *Investment Associates v. Lancia*, Superior Court, judicial district of New Haven, Docket No. CV-07-4028746-S (May 5, 2008) (45 Conn. L. Rptr. 437). The court recognized that Connecticut would have a valid interest in enforcing the judgment. *Id.*, at 440. Nonetheless, it concluded that the defendant's sole contact with Connecticut since leaving the state in 1992—the 1994 judgment—was insufficient to satisfy the requirements of either the long arm statute; General Statutes § 52-59b; or due process to allow the court to exercise personal jurisdiction over him.⁴ *Investment Associates v. Lancia*, *supra*, at 439-40.

In June, 2009, the legislature enacted P.A. 09-215, codified as § 52-598, and made effective October 1, 2009. Pursuant to the newly enacted subsection (c) of § 52-598, the plaintiff filed a motion on October 6, 2009, to revive the 1994 judgment, alleging that the judgment remained unsatisfied and that the period for executing the judgment had not yet expired. In response, the defendant moved to dismiss the motion, claiming that the court lacked personal jurisdiction over him in light of: (1) his South Carolina residency and lack of contact with Connecticut since 1992; (2) the trial court's ruling dismissing the plaintiff's 2007 action for lack of personal jurisdiction as *res judicata*; (3) the absence of any basis in § 52-598(c) or postjudgment procedure statutes conferring personal jurisdiction; and (4) his lack of minimum contacts with the state to render the exercise of such jurisdiction consonant with due process. The court issued a decision in 2010 concurrently denying the motion to dismiss and granting the motion to revive. The defendant thereafter moved to reargue the motion to revive, claiming that he had not been given an opportunity to assert substantive challenges to the merits of the motion because he could not have advanced such claims without conceding personal jurisdiction. The trial court denied that request, and the defendant appealed from the revived judgment to the Appellate Court.

In that appeal, the defendant renewed claims previously made to the trial court, and, for the first time, challenged the plaintiff's standing to invoke the court's jurisdiction, claiming that the plaintiff, as a joint venture, was neither a legal entity nor in existence at the time it commenced the action. *Investment Associates v. Summit Associates, Inc.*, *supra*, at 132 Conn.App. 195-96. Following oral argument, the Appellate Court *sua sponte* raised the issue of whether the defendant should be precluded from challenging the trial court's subject matter jurisdiction. *Id.*, at 197. After considering supplemental briefs on that question, the Appellate Court concluded that the defendant was precluded from raising these claims. *Id.*, at 197, 201-202. The court reasoned that a motion to revive is not the beginning of a new action, in which the defendant undoubtedly would be able to challenge the court's jurisdiction even for the first time on appeal, but, rather, a continuation of the original action. *Id.*, at 199-200. Accordingly, the court concluded that the timeliness of the defendant's challenge must be viewed in light of the original judgment. *Id.*, 200. Considering the fact that the defendant had failed to avail himself of the opportunity to challenge the court's jurisdiction in the original proceedings, the Appellate Court concluded that the interest in finality of judgments outweighed the concerns that the defendant had raised regarding the validity of the judgment. *Id.*, at 201-202. The court further concluded that, because the practical effect of the defendant's challenge to the motion to revive was an attack on the 1994 judgment, the defendant could not challenge the trial court's subject matter jurisdiction over either the original judgment or the motion to revive. *Id.*

In addition, the Appellate Court rejected the defendant's challenge to the exercise of personal jurisdiction over him and his claim that the trial court's decision on the motion to revive had been made without affording him an opportunity to challenge that motion on the merits. *Id.*, at 202–208. With respect to the former, the Appellate Court concluded that the trial court had jurisdiction over the defendant when granting the motion to revive because: § 52–598(c) is a procedural statute that may be applied retroactively; a motion filed pursuant to that subsection is not a new action that would require the trial court to obtain personal jurisdiction over the defendant independent of the jurisdiction present at judgment; and the legislature had conferred continuing jurisdiction on the court over parties to post-judgment procedures, which included § 52–598(c). *Id.*, at 203–205. Accordingly, the Appellate Court affirmed the revived judgment. *Id.*, at 208.

Thereafter, this court granted the defendant's petition for certification to appeal, limited to the following issues: (1) “Did the Appellate Court properly determine that the trial court had subject matter jurisdiction over the plaintiff's 2009 motion to revive?”; (2) “Did the Appellate Court properly determine that . . . § 52–598(c) is procedural in nature, and, therefore, may be applied retroactively?”; and (3) “Did the Appellate Court properly determine that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the plaintiff's 2009 motion to revive?”⁵ *Investment Associates v. Summit Associates, Inc.*, 303 Conn. 921, 922, 34 A.3d 396 (2012). Each of these issues raises questions of law over which this court exercises plenary review. *Bateson v. Weddle*, 306 Conn. 1, 7, 48 A.3d 652 (2012) (standing); *Walsh v. Jodoin*, 283 Conn. 187, 195, 925 A.2d 1086 (2007) (retroactivity of statute and statutory construction); *New London County Mutual Ins. Co. v. Nantes*, 303 Conn. 737, 745, 36 A.3d 224 (2012) (personal jurisdiction). Upon such review, we answer the certified questions in the affirmative.

I

We begin with a brief explanation of the nature and effect of § 52–598(c), which is central to our resolution of the issues in this appeal. Under the law existing at the time the original judgment was rendered in the present case and as it currently exists, a party obtaining a judgment for money damages in Connecticut has two means to enforce that judgment; it may seek an execution of the judgment or it may initiate an independent action. See General Statutes § 52–598(a); see also 30 Am.Jur.2d 84, *Executions and Enforcement of Judgments* § 47 (2005) (distinguishing between execution and action on judgment). With limited exceptions not applicable to the present case, under § 52–598(a), a party has twenty years to execute the judgment and twenty-five years to enforce it through a separate action.

Public Act 09–215 added subsection (c) to § 52–598, which provides in relevant part: “With respect to a judgment for money damages rendered in any court of this state . . . a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.”

On its face and viewed in isolation, § 52–598(c) appears to have no practical effect. Although an order granting a motion under this provision ostensibly “revive[s]” the judgment, the judgment must be

presently enforceable in order to be revived and revival has no effect on the time limit to enforce the judgment.⁶ Thus, for example, in the present case, under the original 1994 judgment, the plaintiff had until 2014 to execute the judgment and until 2019 to initiate an independent action to enforce the judgment. Under the 2010 revived judgment, the plaintiff is subject to those same limits.

The intended effect of the revived judgment becomes evident upon examination of P.A. 09-215 and its legislative history. Public Act 09-215 enacted House Bill No. 6248, 2009 Sess., entitled “An Act concerning the Time Limit for Enforcing a State Court Judgment in a Foreign Jurisdiction.” The explanation of the bill on the floor of the House of Representatives makes clear that the bill’s purpose was to ensure that satisfaction of a valid Connecticut judgment was not avoided simply because the judgment debtor (or the debtor’s assets) resided in a foreign jurisdiction having a shorter period for enforcement. See 52 H.R. Proc., Pt. 20, 2009 Sess., pp. 6387-88, remarks of Representative Gerald M. Fox III;⁷ see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 20, 2009 Sess., pp. 6582-83, remarks of Representative Vincent J. Candelora; Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., pp. 6722-23, written testimony of Representative Candelora (citing example of judgment rendered in Connecticut eleven years prior that could not be enforced under South Carolina’s ten year period for enforcing judgment as problem intended to be remedied by bill). Thus, the manifest purpose of revival under § 52-598(c) is to create a new judgment for the purpose of meeting a foreign jurisdiction’s time limits for enforcement.

As one court explained: “The object of the proceeding is not to obtain a new judgment for a debt, but to enable the judgment creditor to enforce by execution the judgment he has already obtained. The order to revive does no more than reinvest the plaintiff with the right to have execution of his original judgment. His cause of action against the defendant is the original judgment, not the order to revive. The order merely confers upon the plaintiff the statutory right to issue executions on the judgment after it had become dormant for that purpose. The common-law right to sue on the judgment is not enlarged or made to accrue anew by force of the order. It is plain that a new lease of life is not given to that cause of action by merely affording to the plaintiff the opportunity of resorting to the cumulative and independent remedy for the enforcement of the judgment by means of executions upon it.” (Citation omitted; internal quotation marks omitted.) *Second National Bank v. Allgood*, 234 Ala. 654, 656, 176 So. 363 (1937). Accordingly, a proceeding to revive a judgment generally is viewed as a continuation of the original action, not a new action. See, e.g., *Bank of Edwardsville v. Raffaele*, 381 Ill. 486, 489, 45 N.E.2d 651 (1942); *Bahan v. Youngstown Sheet & Tube Co.*, 191 So.2d 668, 670 (La.App.1966); *State ex rel. Silverman v. Kirkwood*, 361 Mo. 1194, 1200, 239 S. W.2d 332 (1951); *Columbus Check Cashers, Inc. v. Cary*, 196 Ohio App.3d 132, 139, 962 N.E.2d 812 (2011); *Berly v. Sias*, 152 Tex. 176, 181, 255 S.W. 2d 505 (1953); *Duffy v. Hartsock*, 187 Va. 406, 415, 46 S.E.2d 570 (1948). A survey of other jurisdictions reveals that the circumstances in which a revival proceeding has been deemed a new action are those in which the revival provides a means by which the original judgment may be substantively altered, such as by the addition or deletion of parties or the assertion of new defenses other than satisfaction of the judgment, or in which a new period of limitations attaches to the revived judgment.⁸ See, e.g., *Johnson Bros. Wholesale Liquor Co. v. Clemmons*, 233 Kan. 405, 408, 661 P.2d 1242, cert. denied, 464 U.S. 936, 104 S.Ct. 345, 78 L.Ed.2d 311 (1983); *Union National Bank v. Lamb*, 360 Mo. 81, 88-89, 227 S.W.2d 60 (1950); *Allen v. Wilson County Investors, LLC*, Docket No. M2002-00540-COA-R3-CV, 2003 WL 21849545, *5 (Tenn.App. August 8,

2003). Accordingly, because proceedings under § 52–598(c) result in no substantive change to the original judgment, a point we discuss in further detail in part III A of this opinion, a motion to revive under § 52–598(c) is effectively a continuation of the original proceeding rather than a new action.⁹ With this background and premise in mind, we turn to the defendant's claims.

II

We begin with the question of whether the Appellate Court properly determined that the trial court had subject matter jurisdiction over the motion to revive. More precisely, the question is whether the Appellate Court properly determined that the defendant was precluded from attacking the trial court's jurisdiction over the motion because the challenges raised were in fact or effect collateral attacks on the original judgment. The defendant contends that the Appellate Court improperly failed to recognize that, under our case law, a judgment rendered without jurisdiction is void ab initio, not merely voidable, and that such a defect can be raised as a defense at any time, even by way of a collateral attack and especially when that judgment is being used as a source of a right. The defendant contends that his attack on the motion to revive raised such issues in that he claims that the plaintiff lacked standing to commence the action because: (1) joint ventures are not legal entities and therefore lack the capacity to bring actions in their own names; and (2) the plaintiff failed to establish that it was an existing joint venture at the time that it initiated the action. The defendant further asserts that, even if it was proper to preclude his challenges to the trial court's jurisdiction in connection with the 1994 judgment, he should have been permitted to challenge the trial court's jurisdiction to adjudicate the motion to revive because "there is no reason to believe that [the plaintiff] still existed in 2009," when it filed the motion. In response, the plaintiff contends that the Appellate Court properly declined to consider the defendant's claims, that lack of capacity to bring an action is not a jurisdictional defect in any event, and, even if it is, that joint ventures are legal entities that can bring an action.

For purposes of clarity, we characterize the defendant's claims in three parts: (1) whether joint ventures are legal entities capable of bringing an action—a claim that pertains equally to the original and revived judgments; (2) whether the plaintiff was in existence at the time the original action was commenced; and (3) assuming the plaintiff was then in existence, whether it continued in existence as a joint venture when the motion to revive was filed. With respect to the first two claims, the defendant acknowledges that these defenses to the motion to revive are "collateral challenge[s] to [the] judgment." For the reasons set forth subsequently in this opinion, we agree with the Appellate Court's conclusion that the defendant is not entitled to review of those claims on the merits. Insofar, however, as the third claim neither directly, nor in effect, attacks the original judgment, we conclude that the defendant is not precluded from raising such a challenge, but that his claim fails on the merits.

We begin with the two claims that undoubtedly are collateral attacks on the original judgment. In precluding the defendant's claims, the Appellate Court relied on principles first articulated by this court in *Vogel v. Vogel*, 178 Conn. 358, 422 A.2d 271 (1979), and reiterated in several later cases. In *Vogel*, the plaintiff had challenged a finding of contempt arising out of his noncompliance with the trial court's order in a judgment rendered approximately twenty years earlier, claiming that, under this court's case law construing the applicable statute, the trial court properly could not have issued such an order under the facts of the case. *Id.*, at 361–64. In rejecting that challenge, this court concluded: "The plaintiff's collateral

attack upon the validity of the 1959 judgment is framed as a challenge to the subject matter jurisdiction of the court which, as we have consistently recognized, can be raised at any time . and the lack thereof cannot be waived. As we have only recently observed, however, [t]he modern law of civil procedure suggests that even litigation about subject matter jurisdiction should take into account the importance of the principle of the finality of judgments, particularly when the parties have had a full opportunity originally to contest the jurisdiction of the adjudicatory tribunal. Under this rationale, at least where the lack of jurisdiction is not entirely obvious, the critical considerations are whether the complaining party had the opportunity to litigate the question of jurisdiction in the original action, and, if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so.” (Citations omitted; internal quotation marks omitted.) *Id.*, at 362–63, citing, *inter alia*, F. James & G. Hazard, *Civil Procedure* (2d Ed.1977) § 13.16, pp. 695–97; Restatement (Second), Judgments § 15 (Tentative Draft No. 5, 1978).

While we continue to agree with the vitality of this rule,¹⁰ two factors give us pause as to whether this rule should strictly apply in the context of proceedings to revive an earlier judgment. Numerous jurisdictions provide for revival of judgments and recognize principles limiting collateral attacks on judgments, yet none of them have broadly extended the Restatement (Second) rule to revival proceedings. Rather, these jurisdictions, without exception, appear to permit jurisdictional attacks on the original judgment to be raised in proceedings to revive the judgment, at least to the extent that the judgment can be demonstrated to be void on its face. See 46 Am.Jur.2d 715, Judgments § 415 (2006) (“It is clear that errors or irregularities in obtaining the judgment, which do not render it void, may not be set up as a defense. Ordinarily, however, it is proper to urge, in defense of a proceeding for the revival of a judgment, that the judgment is void for want of jurisdiction of either the parties or of the subject matter.” [Footnotes omitted.]); 50 C.J.S., Judgments § 861(2009) (noting that, in revival proceeding, “defenses may be successfully advanced, including . incapacity of [the] plaintiff to maintain the proceeding” [footnotes omitted]); see, e.g., *Tingwall v. King Hill Irrigation District*, 66 Idaho 76, 82, 155 P.2d 605 (1945) (in revival proceeding in which debtor sought to attack original judgment, “[a] judgment, although obtained by extrinsic fraud, cannot be collaterally attacked unless such invalidity appears on the face of the judgment”); *Romero v. Sunseri*, 359 So.2d 305, 307 (La.App.) (“in a suit for revival of judgment, no defense short of absolute nullity of the original judgment can be raised”), cert. denied, 362 So.2d 579 (La.1978); *Arthur v. Garcia*, 78 N.M. 381, 383, 431 P.2d 759 (1967) (concluding that collateral attack in revival proceeding on original judgment not permitted unless lack of jurisdiction affirmatively appears in record); *Rindfleisch v. AFT, Inc.*, Docket No. 84551, 2005 WL 110443, *2 (Ohio App. January 20, 2005) (claim preclusion inapplicable to challenge to court’s subject matter jurisdiction over motion to revive judgment if jurisdiction had not previously been determined).

In addition, as we previously explained, the sole purpose of § 52–598(c) is to advance the enforcement of Connecticut judgments in foreign jurisdictions. Foreign jurisdictions constitutionally are bound to give full faith and credit to Connecticut judgments, but only insofar as such judgments are valid. See *Baker v. General Motors Corp.*, 522 U.S. 222, 233, 118 S.Ct. 657, 139 L.Ed.2d 580 (1998) (“Regarding judgments . the full faith and credit obligation is exacting. A final judgment in one [s]tate, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.”); see also *Durham v. Dept. of Human Services/Child Support*

Enforcement Unit, 322 Ark. 789, 793, 912 S.W.2d 412 (1995) (applying this principle in revival proceeding); *Weaver v. Boggs*, 38 Md. 255, 260–61 (1873) (same); *Yorkshire West Capital, Inc. v. Rodman*, 149 P.3d 1088, 1092 (Okla.App.2006) (same); *Carter v. Carter*, 232 Va. 166, 169, 349 S.E.2d 95 (1986) (same). Accordingly, when a judgment creditor seeks to enforce a Connecticut judgment in a foreign jurisdiction, that jurisdiction will consider jurisdictional challenges to the validity of the judgment. See *Law Firm of Paul L. Erickson, P.A. v. Boykin*, 383 S.C. 497, 504–505, 681 S.E.2d 575 (2009). Although the foreign jurisdiction will apply Connecticut law in making that determination; see *Roche v. McDonald*, 275 U.S. 449, 453, 48 S.Ct. 142, 72 L.Ed. 365 (1928); *Law Firm of Paul L. Erickson, P.A. v. Boykin*, supra, at 500 n.2; there is reason to question whether that jurisdiction will treat the judgment as presumptively valid if it is invalid on its face under our laws pertaining to jurisdiction but shielded from such an attack under our law regarding jurisprudential considerations. In any event, that foreign jurisdiction also would be limited to deciding the matter on the record as it exists.

Limiting collateral attacks to those that can be established by the record has support in our case law. In *In re Shamika F.*, 256 Conn. 383, 406–407, 773 A.2d 347 (2001), this court noted: “The reason for the rule against collateral attack is well stated in these words: The law aims to invest judicial transactions with the utmost permanency consistent with justice. Public policy requires that a term be put to litigation and that judgments, as solemn records upon which valuable rights rest, should not lightly be disturbed or overthrown. [T]he law has established appropriate proceedings to which a judgment party may always resort when he deems himself wronged by the court’s decision. If he omits or neglects to test the soundness of the judgment by these or other direct methods available for that purpose, he is in no position to urge its defective or erroneous character when it is pleaded or produced in evidence against him in subsequent proceedings. Unless it is entirely invalid and that fact is disclosed by an inspection of the record itself the judgment is invulnerable to indirect assaults upon it.” (Emphasis added; internal quotation marks omitted.) Accord *Reiner, Reiner & Bendett, P.C. v. Cadle Co.*, 278 Conn. 92, 99 n.7, 897 A.2d 58 (2006) (“[a]lthough we generally require that collateral attacks be supported by facts apparent from the record, we have eschewed the application of that rule when a nonresident defendant collaterally challenges the personal jurisdiction of the court rendering judgment”); *Vogel v. Vogel*, supra, 178 Conn. at 362 (exception to bar on collateral attack when lack of jurisdiction is “entirely obvious”); see also *R.C. Equity Group, LLC v. Zoning Commission*, 285 Conn. 240, 248, 939 A.2d 1122 (2008) (motion to dismiss attacks jurisdiction of court and “tests, inter alia, whether, on the face of the record, the court is without jurisdiction” [internal quotation marks omitted]).

We need not, however, conclusively resolve this question in the present case. Even if we were to assume, *arguendo*, that the defendant is entitled to review of his claims if he can demonstrate that prevailing on those claims would render the original judgment void on its face, his claims do not meet this standard. As the following discussion illustrates, the defendant cannot establish that he is entitled to a judgment of dismissal on the record as it exists.

We begin with the defendant’s first claim, that joint ventures are not legal entities. We agree that this claim implicates a substantial question of subject matter jurisdiction. See 59 Am.Jur.2d 460, Parties § 22 (2012) (“[A] proper party plaintiff is essential to confer jurisdiction on the court. As a general matter, there are three classes of legal entities with the inherent power to sue and be sued: [1] natural persons; [2]

an artificial person; and [3] such quasi-artificial persons as the law recognizes as being capable to sue. Only a party that actually or legally exists may bring a lawsuit. There must be some ascertainable persons, natural or artificial, to whom judgments may be awarded, and no suit can be lawfully prosecuted except in the name of such person." [Footnotes omitted.]). Nonetheless, even if the defendant were correct that joint ventures lack such capacity, a question of first impression in this state, the plaintiff would be entitled to an opportunity to demonstrate that it also is a partnership, an entity that, as the defendant recognizes, is capable of bringing an action in its own name¹¹ and universally recognized as sharing substantial similarities with a joint venture. See, e.g., *Doe v. Yale University*, 252 Conn. 641, 673–74, 748 A.2d 834 (2000). Well established authority recognizes that the two types of entities are not mutually exclusive.¹² There is nothing in the record in the present case that would be inconsistent with such a finding. Indeed, the plaintiff claimed at oral argument before this court that it is a partnership and merely had referred to itself as a joint venture in the complaint as a matter of convenience, an assertion for which there is some support in the record.¹³ Therefore, the defendant's claim, even if successful, would not require a judgment of dismissal, but instead a remand for an evidentiary hearing. See *Seymour v. Region One Board of Education*, 261 Conn. 475, 489–92, 803 A.2d 318 (2002); *Connecticut Associated Builders & Contractors v. Hartford*, 251 Conn. 169, 181–82, 740 A.2d 813 (1999). Accordingly, this claim could not conclusively demonstrate that the judgment is void ab initio on its face.

Turning to the defendant's second claim, that the plaintiff failed to demonstrate that it was in existence at the time that it filed the complaint, this assertion is squarely contradicted by the record. The defendant relies solely on the plaintiff's use of the past tense in the following allegation in the 1991 complaint: "At all times herein, the plaintiff . was a joint venture equally owned by R.S.S. McKosky and Alton W. Seavey, Jr., having its usual place of business in the town of North Branford." Not only does the defendant adopt an unduly cramped construction of this allegation in contravention to the rule that we read pleadings liberally in support of jurisdiction; see *Federal Deposit Ins. Corp. v. Peabody, N.E., Inc.*, 239 Conn. 93, 99, 680 A.2d 1321 (1996); *Kelly v. Albertsen*, 114 Conn.App. 600, 605–606, 970 A.2d 787 (2009); he also overlooks allegations in the complaint and other evidence in the record that indicate that the plaintiff was in existence during the original proceedings.¹⁴

Accordingly, with respect to the aforementioned claims, neither would require a judgment of dismissal because the judgment is not void on its face in light of the record. Therefore, even if we were inclined to permit collateral attacks in the context of motions to revive, the defendant would not be entitled to do so in the present case.

A different lens is required, however, with respect to the defendant's third claim that, even if we were to presume that the plaintiff was in existence when it commenced the action in 1991 and when it obtained judgment in its favor in 1994, there is no basis to believe that it still was in existence in 2009 when it filed the motion to revive. This claim cannot be characterized as a collateral attack on the original judgment, either directly or in effect. Even if the defendant were to prevail on this claim, the original judgment would retain its validity, leaving the defendant subject to liability on the full amount of the debt. Therefore, the principles enunciated in *Vogel* have no application to this claim.

The defendant, however, cannot prevail on this claim. The defendant is correct that the plaintiff did not allege any facts in its motion to revive relating to its status as a joint venture. Nonetheless, the defendant

has provided no authority to support the proposition that, after having pleaded sufficient facts to establish itself as an existing joint venture in the initial pleading, the plaintiff was required to replead facts in its motion to revive to demonstrate that it retained the status previously established. As we continue to underscore, a proceeding to revive a judgment is a continuation of the original action. Moreover, the defendant made no offer of proof of any evidence that would call into question the plaintiff's existence when it filed the motion to revive.

Although we recognize that joint ventures are formed for a limited purpose rather than as an ongoing enterprise; see *Dolan v. Dolan*, 107 Conn. 342, 349, 140 A. 745 (1928) ("a partnership is formed for the purpose of carrying on a general business of one sort or another, and a joint adventure is more commonly limited to a single transaction or course of transactions"); the general rule is that a joint venture continues until its purpose is fulfilled or rendered impracticable unless the parties expressly agree otherwise. See *Lauth Indiana Resort & Casino, LLC v. Lost River Development, LLC*, 889 N.E.2d 915, 919–20 (Ind.App.2008) ("The parties further agree that this case presents an issue of first impression in Indiana regarding precisely when a joint venture terminates in those cases where the joint venture agreement itself contains no specific termination date. Although research has revealed no Indiana case which has addressed this issue, there does seem to be a consensus among our sister states and in federal jurisdictions with regard to this issue. Specifically, the generally accepted law of joint ventures is that '[a] joint venture without a termination date remains in force until its purpose is accomplished or that purpose becomes impracticable.' *Scandinavian Airlines [System] Denmark–Norway–Sweden v. McDonald's Corp.*, 129 F.3d 971, 973 [7th Cir.1997]; see also 48A C.J.S. Joint Ventures § 15 [2004] [stating that 'general rule is that ' joint venture remains in place unless its primary purpose or contingency has become impracticable or impossible to accomplish.']. In the proceedings culminating in the 1994 judgment, the defendant never challenged the plaintiff's ownership of the debt or its right, as a joint venture, to collect on the debt. Because we have no basis to question that the prosecution of the original action to recover the debt was within the scope of the joint venture's purpose, we see no reason why the collection of the judgment would not also presumptively fall within that scope, in the absence of evidence that the joint venturers had agreed otherwise. Cf. General Statutes § 33–884(a) ("[a] dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including: [1][c]ollecting its assets . and [5] doing every other act necessary to wind up and liquidate its business and affairs"); General Statutes § 34–373(a) ("[A] partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed."); 60 Am.Jur.2d 111, Partnership § 198 (1972) ("Both under the Uniform Act and at common law it is recognized that after dissolution, the partnership continues only for the purpose of winding up the partnership affairs. Included in the winding up or liquidation of partnership affairs are the performance of existing contracts, the collection of debts or claims due the firm, and the payment of firm debts." [Emphasis added; footnotes omitted.]). Surely a colorable basis to conclude otherwise is not manifested on the record before us.¹⁵ Therefore, we conclude, albeit for slightly different reasons than the Appellate Court, that the trial court had subject matter jurisdiction to adjudicate the motion to revive.

III

We next turn to the certified questions relating to the trial court's personal jurisdiction over the defendant in the revival proceeding. The defendant challenges the Appellate Court's conclusion that § 52-598(c) provided a basis for such jurisdiction on two grounds: first, that the statute cannot be applied retroactively to revive the 1994 judgment; and second, that the statute does not fall within the postjudgment procedures over which the trial court is statutorily authorized to retain continuing personal jurisdiction of parties thereto. We disagree with both claims.

A

The defendant has marshaled numerous arguments in support of his claim that § 52-598(c) cannot be applied retroactively.¹⁶ Broadly characterized, the defendant contends that the legislature has manifested such an intention by virtue of the October, 2009 effective date of the statute and legislatively imposed rules of construction. He further contends that § 52-598(c) is substantive, not procedural, because it creates a right, namely, "a right for a judgment creditor to obtain a new judgment date in order to create a right of recovery for Connecticut judgments in foreign [jurisdictions]." We disagree with the defendant's characterization of this provision and find none of his other arguments ultimately persuasive.

In considering the question of whether a statute may be applied retroactively, we are governed by certain well settled principles, under which our ultimate focus is "the intent of the legislature in enacting the statute." (Internal quotation marks omitted.) *D'Eramo v. Smith*, 273 Conn. 610, 620; 872 A.2d 408 (2005). Because all public acts not specifying an effective date automatically are assigned to "take effect on the first day of October following the session of the General Assembly at which they are passed"; General Statutes § 2-32; we never have ascribed particular significance to such dates in ascertaining the legislature's intent. Rather, "[o]ur point of departure is General Statutes § 55-3, which states: No provision of the general statutes, not previously contained in the statutes of the state, which imposes any new obligation on any person or corporation, shall be construed to have retrospective effect. [W]e have uniformly interpreted § 55-3 as a rule of presumed legislative intent that statutes affecting substantive rights shall apply prospectively only. The rule is rooted in the notion that it would be unfair to impose a substantive amendment that changes the grounds upon which an action may be maintained on parties who have already transacted or who are already committed to litigation. In civil cases, however, unless considerations of good sense and justice dictate otherwise, it is presumed that procedural statutes will be applied retrospectively. While there is no precise definition of either [substantive or procedural law], it is generally agreed that a substantive law creates, defines and regulates rights while a procedural law prescribes the methods of enforcing such rights or obtaining redress." (Citations omitted; footnote omitted; internal quotation marks omitted.) *D'Eramo v. Smith*, *supra*, at 620-21. "Procedural statutes . . . therefore leave the preexisting scheme intact." (Internal quotation marks omitted.) *Id.*, at 621. "[A]lthough we have presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the contrary . . . a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application." (Internal quotation marks omitted.) *Id.*

Several facts indicate that § 52-598(c) is not substantive. Reviving the judgment imposes no obligations on the defendant that did not exist under the original judgment—the amount of the judgment, the party to whom the defendant owes that obligation and the period for enforcing the judgment all remain the same.

The plaintiff cannot assert new claims or change the terms of the existing judgment. The defendant retains his defense to an execution or action on the judgment that previously existed, namely, satisfaction of the judgment.

Moreover, although the purpose of the revived judgment is to ensure that a Connecticut judgment creditor will not be deprived of the ability to execute the judgment in a foreign jurisdiction having a shorter period for enforcement than Connecticut, § 52-598(c) obviously does not alter the foreign jurisdiction's law with respect to the period of enforcement. Even if we were to view the revived judgment as effectively extending the period to execute the judgment in a foreign jurisdiction, we are not persuaded that this effect renders § 52-598(c) substantive. See *Fanton v. Middlebrook*, 50 Conn. 44, 45 (1882) (“[A] statute [of limitations] does not extinguish the debt. It merely deprives the creditor of a right of action to recover the debt.”). Authority from other jurisdictions retroactively applying statutes extending the period for executing a judgment lends support to this conclusion.¹⁷ See, e.g., *Angeli v. Lischetti*, 58 Cal.2d 474, 475-76, 374 P.2d 813, 24 Cal.Rptr. 845 (1962); *Balfe v. Rumsey & Sikemeier Co.*, 55 Colo. 97, 103, 133 P. 417 (1913); *Lahman v. Hastings*, 74 S.D. 431, 433, 54 N.W.2d 166 (1952); *State v. Morgan*, 107 Wn.App. 153, 159, 26 P.3d 965 (2001).

In sum, § 52-598(c) does not create, define or regulate a right. Rather, it bears the hallmarks of a procedural statute, leaving the preexisting scheme intact and prescribing a method of enforcing rights or obtaining redress. Considerations of good sense and justice do not militate against retroactive application. The defendant incurred obligations under a valid judgment. Revival of that judgment neither assigns “a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed”; (internal quotation marks omitted) *In re Daniel H.*, 237 Conn. 364, 373, 678 A.2d 462 (1996); nor upsets “any settled rights or reliance interests.” *State v. Skakel*, 276 Conn. 633, 685, 888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S.Ct. 578, 166 L.Ed.2d 428 (2006). Accordingly, the Appellate Court properly determined that § 52-598(c) applies retroactively.

B

We therefore consider whether the trial court has personal jurisdiction over the defendant under § 52-598(c). We begin by noting that the defendant's position that personal jurisdiction in the original action is not a proper basis on which to maintain jurisdiction in the revival proceeding is largely premised on his presumption that a motion to revive under § 52-598(c) constitutes a new action. As we previously have indicated in part I of this opinion, we agree with the authority from other jurisdictions holding to the contrary. In addition, the defendant points to the legislature's failure to amend chapter 906 of the General Statutes, which authorizes the trial court to retain jurisdiction over parties to post-judgment procedures, to refer to motions to revive. He contends that this omission demonstrates that the plaintiff must establish the trial court's personal jurisdiction over the defendant in § 52-598(c) proceedings independent of the original judgment. We disagree.

General Statutes § 52-350d (a) provides in relevant part: “For the purposes of postjudgment procedures, the Superior Court shall have jurisdiction over all parties of record in an action until satisfaction of the judgment or, if sooner, until the statute limiting execution has run.” General Statutes § 52-350a (15) further provides: “ ‘Postjudgment procedure’ means any procedure commenced after rendition of a money

judgment, seeking or otherwise involving a discovery procedure, a placing of a lien on property, a modification or discharge of a lien, a property execution under section 52-356a, a turnover order, an installment payment order, a wage execution, a modification of a wage execution, a compliance order, a protective order or a determination of exemption rights.”

In our view, proceedings under § 52-598(c) fall squarely within these provisions. A motion to revive is a procedure commenced after rendition of a money judgment. The granting of such a motion permits the plaintiff to seek the various forms of relief enumerated in § 52-350a (15). Therefore, the procedure is one “involving,” rather than seeking, such relief. Accordingly, the Appellate Court properly concluded that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the motion to revive.

The judgment of the Appellate Court is affirmed.

In this opinion the other justices concurred.

FOOTNOTES

1. General Statutes § 52-598 provides: “(a) No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered, except that there shall be no time limitation on the issuance of such execution or the institution of such action if the judgment was rendered in an action to recover damages for personal injury caused by sexual assault where the party legally at fault for such injury was convicted of a violation of section 53a-70 or 53a-70a.” (b) No execution to enforce a judgment for money damages rendered in a small claims session may be issued after the expiration of ten years from the date the judgment was entered, and no action based upon any such judgment may be instituted after the expiration of fifteen years from the date the judgment was entered.” (c) With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.”
2. The two other defendants named in both the complaint in the original action and the motion to revive, Summit Associates, Inc., and Ned B. Wilson, did not participate in the trial court proceeding to revive the judgment or this certified appeal. Therefore, for convenience, we refer to Lancia as the defendant.
3. Michael R. Caporale, Jr., the plaintiff’s counsel in the 1994 judgment in the present case, submitted a written statement to the Judiciary Committee in support of the bill eventually enacted and codified as § 52-598(c), indicating that Summit, Wilson and the defendant lacked assets to satisfy the judgment at the time it was rendered. Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6724. He further stated that the plaintiff did not ascertain the defendant’s whereabouts in South Carolina until eleven years after that judgment had been rendered. *Id.*

4. Two subsequent Superior Court decisions have reached a contrary conclusion, relying on case law from other jurisdictions holding that the personal jurisdiction established in the original judgment was a sufficient basis on which to maintain jurisdiction over the defendant for purposes of a proceeding to revive a judgment. See *SCR Joint Venture, L.P. v. Schwartz*, Superior Court, judicial district of Hartford, Docket No. CV-11-6025633-S (November 14, 2012) (Domnarski, J.) (54 Conn. L. Rptr. 914) (denying motion to dismiss); *Stingle v. Tuller*, Superior Court, judicial district of Hartford, Docket No. CV-08-5022299-S (April 15, 2009) (Prescott, J.) (47 Conn. L. Rptr. 585) (same). The plaintiff in the present case did not appeal from the judgment of dismissal, and the present appeal does not require us to resolve this split of authority.

5. Although we certified the first and second issues in reverse order, we begin with the question of subject matter jurisdiction before turning to the two issues related to personal jurisdiction, as did the Appellate Court. See *Investment Associates v. Summit Associates, Inc.*, supra, 132 Conn.App. at 196, 202.

6. In this regard, § 52-598(c) differs from the revival (or renewal) of judgments in other jurisdictions. Although many other jurisdictions have common-law or statutory mechanisms to revive a judgment, such mechanisms are utilized in these jurisdictions when a judgment has or will become “dormant” due to a rebuttable presumption that arises after a prescribed period of time that the judgment has been satisfied. See 46 Am.Jur.2d 698, Judgments § 391(2006) (“[t]he general rule is that a judgment, to be revived, must be dormant; if a judgment is not dormant, revivor is not necessary”). If not revived within the prescribed period, a conclusive presumption arises that the judgment has been satisfied. See, e.g., *McLendon v. Hepburn*, 876 So.2d 479, 486 (Ala.Civ.App.2003) (judgment rendered dormant after ten years; conclusive presumption of satisfaction after twenty years); *Johnson Bros. Wholesale Liquor Co. v. Clemmons*, 233 Kan. 405, 409, 661 P.2d 1242 (judgment presumed satisfied after ten years), cert. denied, 464 U.S. 936, 104 S.Ct. 345, 78 L.Ed.2d 311 (1983); *In re Stoddard*, 248 B.R. 111, 116-17 (Bankr.N.D.Ohio 2000) (discussing presumption). In some jurisdictions, revival of the judgment extends the ultimate period for enforcing the judgment. See, e.g., *Mundaca Financial Services, LLC v. Casella*, 210 N.C.App. 491, 711 S.E.2d 207 (2011); *McCoy v. Knobler*, 260 S.W.3d 179, 183-84 (Tex.App.2008).

7. Representative Fox explained the purpose of the bill as follows: “Under current law, in the [s]tate of Connecticut when one obtains a judgment in Superior Court, they can obtain an execution on that judgment for up to [twenty] years in a [S]uperior [C]ourt case and up to ten years in a small claims case. Mr. Speaker, however, what happens oftentimes is that one may attempt to enforce this judgment in a foreign jurisdiction in a different state, essentially, and sometimes those states have different rules. And what this bill will do is enable the person who receives the judgment, who obtains the judgment, to revive that judgment in order to enforce it in a foreign jurisdiction. And essentially what would happen is the person who has the judgment would go back into court and get a revival of the judgment which would enable the judgment to then be enforced in a foreign jurisdiction. There's nothing in this bill that would enable the . . . possessor of the judgment to enforce that judgment beyond the time limit that Connecticut currently has.” 52 H.R. Proc., supra, at pp. 6387-88; see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6723, written testimony of Representative Vincent J. Candelora (“[a][m]otion of [r]evival basically serves to restart the clock for collection in a foreign jurisdiction”).

8. Whether the revived judgment is deemed a continuation of the original judgment or a new judgment may affect whether the foreign jurisdiction will consider Connecticut's revived judgment to be the operative judgment for purposes of that jurisdiction's time limit for enforcement. See *Smith v. RJH of Florida, Inc.*, 520 F.Supp.2d 838,841–43 (S.D.Miss.2007) (explaining reasoning and authority on both sides of this question).
9. The defendant's argument to the contrary is predicated on the view that the plaintiff "sought the same substantive relief that it sought through the 2007 lawsuit." We note that the defendant's position is contrary to that of every jurisdiction that has considered this question.
10. The defendant argues that this rule is in tension with two principles. The first is that, "[i]f a court has never acquired jurisdiction over a defendant or the subject matter . . . any judgment ultimately entered is void and subject to vacation or collateral attack." (Internal quotation marks omitted.) *Angiolillo v. Buckmiller*, 102 Conn.App. 697, 713, 927 A.2d 312, cert. denied, 284 Conn. 927, 934 A.2d 243 (2007); accord *Feuerman v. Feuerman*, 62 Conn.App. 332, 337, 771 A.2d 230 (2001) ("[u]nless a litigant can show an absence of subject matter jurisdiction that makes the prior judgment of a tribunal entirely invalid, he or she [is limited to] resort[ing] to direct proceedings [i.e., an appeal] to correct perceived wrongs in the tribunal's conclusive decision" [internal quotation marks omitted]); *Davenport v. Quinn*, 53 Conn.App. 282, 293, 730 A.2d 1184 (1999) ("[A] provision of a judgment that exceeds the jurisdiction of a court is necessarily void and cannot be remedied merely by the lapse of time. Such a judgment is void ab initio and is subject to both direct and collateral attack. If a court has never acquired jurisdiction over a defendant or the subject matter . . . any judgment ultimately entered is void and subject to vacation or collateral attack." [Internal quotation marks omitted.]). The second is that "[n]o principle is more universal than that the judgment of a court without jurisdiction is a nullity. Such a judgment, whenever and wherever declared upon as a source of right, may always be challenged. *Bicio v. Brewer*, 92 Conn.App. 158, 165–67, 884 A.2d 12 (2005)." (Internal quotation marks omitted.) *Angiolillo v. Buckmiller*, supra, at 713. We disagree. As we explain subsequently in this opinion, if the defendant may prevail on a collateral attack of a void judgment when such invalidity is evident on the face of the record, this line of cases would be consistent with the rule articulated in *Vogel*.
11. See General Statutes § 34–313 ("[a] partnership is an entity distinct from its partners"); General Statutes § 34–328(a) ("[a] partnership may sue and be sued in the name of the partnership"). Our legislature enacted the Uniform Partnership Act (1994) (act) in 1995, and made the act effective on July 1, 1997. See Public Acts 1995, No. 95–341, §§ 1, 58; General Statutes § 34–300 et seq. The act's recognition of partnerships as distinct entities from their partners "comport[ed] with recent Connecticut case law involving partnership definition." 38 H.R. Proc., Pt. 20, 1995 Sess., p. 7169, remarks of Representative James W. Abrams.
12. See National Conference of Commissioners on Uniform State Laws, Uniform Partnership Act (1997) § 202, comment, p. 31, available at http://www.uniformlaws.org/shared/docs/partnership/upa_final_97.pdf (last visited August 5, 2013) (copy contained in the file of this case in the Supreme Court clerk's office) ("Relationships that are called 'joint ventures' are partnerships if they otherwise fit the definition of a partnership. An association is not classified as a partnership, however, simply because it is called a 'joint venture.' "); see also *In re Webb*, 474 B.R. 891,

893-94 (Bankr.E.D.Ark.2012) (“Notwithstanding the similarity between partnerships and joint ventures, the courts do not treat a joint venture as in all respects identical with a partnership, as they are separate and distinct legal relationships. A joint venture is generally a less formal relationship than a partnership. Also, a joint venture is not a legal entity separate from the participants in the venture as a partnership is, unless, of course, the attributes of the joint venture are such that the venture is in actuality a partnership. In other words, a joint venture is not necessarily a separate entity with a separate legal existence; it is a relationship between two parties which or may not amount to a partnership under partnership law.” [Citations omitted; internal quotation marks omitted.]), *aff’d sub nom. Bank of England v. Rice*, Docket No. 4:12-cv-578 (DPM), 2013 U.S. Dist. LEXIS 14531 (E.D.Ark. February 4, 2013); *Century Bank of Lee County v. Gillespy*, 399 So.2d 1109, 1110 (Fla.App.1981) (“[w]e hold that, regardless of whatever attributes a joint venture may have which, for other purposes, distinguish it from a traditional partnership, if a ‘joint venture’ in fact meets the definition of a statutory partnership . it is a partnership for the purpose of acquiring, holding and conveying title to real property in the name of the joint venture [partnership] as an entity separate from its members as provided in . Florida [s]tatutes”); *Accolades Apartments, L.P. v. Fulton County*, 274 Ga. 28, 29-30, 549 S.E.2d 348 (2001) (“The conflict can be resolved by recognizing that [the plaintiff] primarily relied on the concept that a joint venture is not a legal entity separate from those parties that compose it. While that concept is correct, it is an incomplete statement of the relevant law. In fact, a joint venture can be a separate legal entity, if the attributes of the joint venture are such that the venture is in actuality a partnership. Whether a joint venture is actually a partnership is a question of fact and depends on the rights and responsibilities assumed by the joint venturers. This is so even if the documents controlling the arrangement expressly state that no partnership is formed.” [Citations omitted; internal quotation marks omitted.]).

13. McKosky, one of the two joint venturers named in the complaint as an equal “owne[r]” of the plaintiff, filed an affidavit in which he referred to himself as the “[m]anaging [p]artner” of the plaintiff. In the defendant’s revised special defense, he repeatedly referred to McKosky as the plaintiff’s “general partner” or “partner.” See General Statutes § 34-301(12) (“‘[p]artnership’ means an association of two or more persons to carry on as co-owners a business for profit formed under section 34-314, predecessor law or comparable law of another jurisdiction, and includes for all purposes of the laws of this state a registered limited liability partnership”); General Statutes § 34-314(a) (“[e]xcept as otherwise provided in subsection [b] of this section, the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership”).

14. The complaint similarly referred to Summit, the named defendant in the case: “At all times herein, [Summit] . was a corporation organized under the laws of the state of Connecticut, having its usual place of business in the town of North Branford.” The complaint thereafter referred to events occurring from 1988 through 1990, and further alleged in the present tense that the “[p]laintiff is the owner and holder of the note.” (Emphasis added.) In addition, in an affidavit filed by the plaintiff in March, 1991, McKosky attested that the plaintiff “is” a joint venture and “is” the holder of the note. In affidavits filed in February, 1991, and May, 1994, McKosky referred to his present ownership stake in the plaintiff. Therefore, in the absence of any evidence to the contrary, had the defendant moved to dismiss for lack of jurisdiction on the ground that the plaintiff was not an existing joint venture, the trial court, reading the pleadings in favor of

jurisdiction, undoubtedly would have concluded that the plaintiff sufficiently had established that it was in existence as a joint venture at the time that it filed the complaint and at all earlier relevant periods.

15. We express no views on what procedures might have been available to the defendant to ascertain facts relevant to this matter had he raised this claim before the trial court in response to the filing to the plaintiff's motion to revive. Irrespective of whatever such measures may be available in such proceedings, however, it is clear that the defendant had ample opportunity in the original proceedings to conduct discovery and examine witnesses to ascertain the plaintiff's purpose and any other relevant terms of its existence.

16. Specifically, the defendant contends: (1) the legislature manifested an unambiguous intention for prospective application in the statute's effective date of October 1, 2009, which is supported by the legislative history to the public act; (2) the legislature generally has directed in General Statutes § 1-1(u) that "[t]he passage or repeal of an act shall not affect any action then pending"; (3) the statute creates a new substantive right; (4) even if this court were to view the provision of a new judgment date as akin to an extension of a statute of limitations, it would fall within the rule that an amendment extending a statute of limitations cannot be applied in a case in which the original statute of limitations has expired; (5) retroactive application would violate the defendant's due process rights by subjecting him to a new action without requiring the court to obtain personal jurisdiction over him; (6) P.A. 09-215 is not clarifying legislation; and (7) construing § 52-598(c) as procedural would violate the separation of powers doctrine because that doctrine limits the legislature to the creation of substantive rights and the courts to the creation of procedural rules. We address the first, third, fourth and fifth claims hereinafter in this opinion. With respect to the remaining claims, we reject them for the following reasons. The defendant's reliance on § 1-1(u) lacks any explanation of how § 52-598(c) could have affected an "action then pending" in the present case when the provision was enacted after the 1994 judgment became final and before the motion to revive was filed. Moreover, our case law indicates that § 1-1(u) generally has been treated as a reflection of the presumption against retroactive application of laws making substantive changes and the considerations of good sense and justice that may bar retroactive application of procedural statutes. See, e.g., *Moore v. McNamara*, 201 Conn. 16, 25, 513 A.2d 660 (1986); *Jones Destruction, Inc. v. Upjohn*, 161 Conn. 191, 197, 286 A.2d 308 (1971); *Jablon v. Town Planning & Zoning Commission*, 157 Conn. 434, 444, 254 A.2d 914 (1969); *Reese v. Reese*, 136 Conn. 191, 194-95, 70 A.2d 123 (1949). With respect to the defendant's due process claim, in part I of this opinion we rejected the fundamental premise on which this claim is based, a point that we address further in connection with the defendant's other arguments in this part of the opinion. With respect to the defendant's claim that P.A. 09-215 is not clarifying legislation, we agree and therefore do not rely on that status as a basis to apply the statute retroactively. With respect to the defendant's separation of powers argument, we direct the defendant's attention to authority recognizing that statutorily created court procedures will pass constitutional muster as long as the legislature does not interfere with the performance of our judicial functions. See, e.g., *Bartholomew v. Schweizer*, 217 Conn. 671, 676, 587 A.2d 1014 (1991); see also *State v. Diaz*, 226 Conn. 514, 558, 628 A.2d 567 (1993) (Berdon, J., dissenting).

17. These cases indicate that retroactive application is proper if the period for enforcing the underlying judgment has not yet expired. In this regard, we note that the defendant asserts in his brief to this court

that § 52-598(c) is not akin to a statute of limitations, but, “even if the statute were viewed as related to a statute of limitations, a statute that would modify an expired statute of limitations cannot be applied retroactively. See *State v. Skakel*, 276 Conn. 633, 670 [888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S.Ct. 578, 166 L.Ed.2d 428 (2006)]; *State v. Crowell*, 228 Conn. 393, 398-99 [636 A.2d 804] (1994). Accordingly . because [§ 52-598(c)] was adopted five years after the ten year statute of limitations in South Carolina had expired, it should not have been afforded retroactive application to this case.” (Emphasis in original.) Our review of the record reveals that the defendant never raised this argument in briefing to the trial court or Appellate Court. The first reference to this argument appears in a letter filed by the defendant's counsel in the Appellate Court on the day of oral argument in that court, alerting that court to the possibility that this issue may come up at oral argument. The Appellate Court did not address this issue in its decision, and the defendant did not seek reargument to obtain a consideration of that issue. In addition to belatedly raising this issue, the defendant has failed to analyze how the principle cited in *Skakel* and *Crowell* applies in a case in which the issuing jurisdiction's enforcement period has not changed and the underlying judgment still is in effect. See *Angeli v. Lischetti*, 58 Cal.2d 474, 475-76, 374 P.2d 813, 24 Cal.Rptr. 845 (1962) (application of amendment extending period for execution proper after prior period for execution had expired but while underlying judgment still was enforceable). Therefore, we decline to address this issue. See *Commissioner of Correction v. Coleman*, 303 Conn. 800, 832, 38 A.3d 84 (2012) (declining to review issue where “in addition to the fact that the defendant belatedly has raised this claim, he has failed to adequately brief it”); *State v. Duhan*, 194 Conn. 347, 354-55, 481 A.2d 48 (1984) (failure to raise issue before Appellate Court is ground to deny review in this court).

McDONALD, J.

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

REC'D JUN 16 2014

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June 13, 2014

VIA HAND DELIVERY

The Honorable Paul B. Wickensimer
Greenville County Clerk of Court
305 East North Street
Greenville, SC 29601-2120

Re: Investment Associates v. Joseph D. Lancia
C.A. No. 2014-CP-23-02705

Dear Mr. Wickensimer:

I have enclosed for filing the original and one copy each of a Motion to Dismiss and/or Motion for Relief from Foreign Judgment in the above matter, together with our Certificate of Service of same.

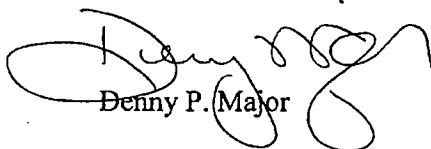
By copy of this letter, I am serving a copy of same upon counsel for the Plaintiff, Randy A. Skinner, Esq.

Please return file-stamped copies to me via my courier.

If you have any questions, please feel free to contact me.

Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.



Denny P. Major

DPM:dlh

Enclosure

cc: Randy A. Skinner, Esq. (Via U.S. Mail) ✓

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Investment Associates,

☐ Plaintiff

v.

Joseph D. Lancia,

☐ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2014-CP-23-02705

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:

Randy A. Skinner, Bar No. 62988

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☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Dismiss and/or Motion for Relief from Foreign Judgment

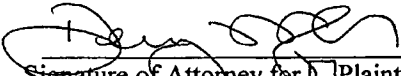
Estimated Time Needed: 30 mins. Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☐ Plaintiff / ☒ Defendant

June 13, 2014

Date submitted

SECTION III: Motion Fee

☒ PAID - AMOUNT: \$25.00

☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support

(check reason) ☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
INVESTMENT ASSOCIATES,	)	C.A. No. 2014-CP-23-02705
	)	
Plaintiff,	)	
	)	MOTION TO DISMISS AND/OR MOTION
vs.	)	FOR RELIEF FROM FOREIGN JUDGMENT
	)	
JOSEPH D. LANCIA	)	
	)	
Defendant.	)	
_____	)	

PLEASE TAKE NOTICE that Defendant Joseph D. Lancia, by and through his undersigned counsel, hereby moves this Court for an order dismissing this action, striking the foreign judgment, finding that the foreign judgment is unenforceable, and terminating any attempts to enforce the foreign judgment. The Grounds for this Motion are as follows:

I. Another Action is Pending Between the Same Parties for the Same Claim

1. The present action seeks to enforce a foreign judgment that was entered in the State of Connecticut Superior Court, number CV091-0309954, on May 17, 1994 (hereinafter the "Judgment").

2. On January 28, 2014, Plaintiff Investment Associates (IA) served Lancia and filed with the Clerk of Court in Greenville County a Notice of Filing of Foreign Judgment. Investment Associates is the plaintiff in that action and Lancia is the defendant. The action bears civil action number 2014-CP-23-00515 (hereafter "the January 28, 2014 Action"). A true and accurate copy of the Notice of Filing of Foreign Judgment in the January 28, 2014 matter is attached hereto as **Exhibit A**.

3. In the January 28, 2014 Action, IA is seeking to enforce the Judgment- the very same Judgment that IA is seeking to enforce in the present action.

4. In both the January 28, 2014 Action and the present action, IA is the plaintiff, Joseph D. Lancia is the defendant, and IA is seeking to enforce the Judgment.

5. The January 28, 2014 Action and the present action are between the same parties in their same capacities for the same claim, which is based on the same facts and circumstances. Consequently, the present action must be dismissed pursuant to Rule 12(b)(8), SCRCp. *See Corbett v. City of Myrtle Beach*, 336 S.C. 601, 610, 521 S.E.2d 276, 281 (Ct.App.1999).

**II. Enforcement of the Foreign Judgment Is Barred
by the Statute of Limitations, S.C. Code Ann. Section 15-3-600**

6. As set forth in Lancia's Motion for Relief from and Notice of Defenses to Foreign Judgment, a true and accurate copy of which is attached hereto as **Exhibit B**, the Judgment that IA attempts to enforce is barred by South Carolina Code Ann. § 15-3-600 because more than ten (10) years have passed since South Carolina became empowered to adjudicate this dispute. *See Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999). The undisputed record which bars enforcement is as follows:

- a. The Judgment was entered in the State of Connecticut Superior Court, number CV091-0309954, on May 17, 1994.
- b. Lancia moved to South Carolina, in 1992 and has been a resident of South Carolina since August 1992. (Lancia Aff., attached as exhibit 1 to **Exhibit B** hereto). Lancia and his family have resided at the address of 109 Thornblade Blvd., Greer, South Carolina continuously since August 1992 and has been active in the Greenville County, South Carolina community ever since. (*See id.*). Lancia's affidavit discusses Lancia's South Carolina residency and some of his South Carolina activities.

- c. IA did not file or seek to enforce the Judgment in South Carolina until January 28, 2014, more than ten (10) years (nearly 20 years) after Lancia became a South Carolina resident and the courts of South Carolina became empowered to adjudicate this dispute. The ten (10) year period began to run in 1994, at the latest, and expired in 2004. Consequently, enforcement of the Judgment is barred by South Carolina Code Ann. § 15-3-600.
- d. Lancia's arguments as to the statute of limitations bar are further set forth in his Memorandum in Support of Motion for Relief from Foreign Judgment filed in the January 28, 2014 Action, a copy of which is attached hereto as **Exhibit C**. Lancia incorporates by reference that Memorandum, and the arguments contained therein, as if set forth fully herein.

7. The granting of the motion to revive the judgment pursuant to Conn. Gen. Stat. 52-598(c) does not alter the bar of the ten year statute of limitations in South Carolina Code Ann. § 15-3-600 for the following reasons:

- a. As indicated in the attachments to the Notice of Filing of Judgment, IA filed a Motion to Revive Judgment pursuant to section 52-598(c) of the Connecticut General Statutes in the Connecticut Superior Court on October 6, 2009. That motion was granted on March 4, 2010.
- b. Sub-section 52-598(c) of the Connecticut General Statutes, which was added in 2009, provides:

With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that

the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.

- c. A revived judgment under section 52-598(c) of the Connecticut General Statutes is a continuation of the original judgment in Connecticut and is not a new judgment.¹ See Investment Assoc. v. Summit Assoc., Inc., 74 A.3d 1192, 1201 (Conn. 2013). Consequently, it is barred under South Carolina Code Ann. § 15-3-600. See Abba Equipment, Inc. v. Thomason, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999) (holding that a Florida judgment entered in Florida in 1983 and filed in South Carolina in 1996 against the defendant who became a South Carolina resident in 1985 was barred by S.C. Code Ann. § 15-3-600 even though the judgment was valid 20 years under Florida law); Owens v. Henry, 161 U.S. 642, 646 (1896) (holding that the revival of a judgment in Pennsylvania “had no binding force in Louisiana” due to lack of personal jurisdiction when viewed as a new judgment and when viewed as a continuation of the prior action, “operated merely to keep in force the local lien, and could not be availed of as removing” Louisiana’s 10 year statute of limitations).² Defendant also incorporates by reference the arguments and authorities contained in his Memorandum in Support of Motion for Relief

¹ In response to the motion to revive the Judgment in the Connecticut Superior Court, Lancia argued, among other things, that the Court lacked personal jurisdiction over Lancia since he had become a resident in S.C. in 1992 and lacked contacts with Connecticut. The Court rejected this argument on the grounds that the motion to revive is a continuation of the original judgment rather than a new action or new judgment, therefore there need not be personal jurisdiction. The Connecticut Superior Court’s ruling was affirmed by the Connecticut Supreme Court See Investment Assoc. v. Summit Assoc., Inc., 74 A.3d 1192 (Conn. 2013).

² Similarly here, the revival of the Judgment in this case fails for lack of personal jurisdiction to the extent it is viewed as a new case. This argument is set forth below.

from Foreign Judgment filed in the January 28, 2014 Action, a copy of which is attached hereto as **Exhibit C**.

8. The Judgment is ineffective for the additional reason that it was not revived until after the ten (10) year time period in S.C. Code § 15-3-600 expired.

III. If IA Argues that the revival of the Judgment Is a New Judgment, then the Judgment Is Unenforceable Because Connecticut Lacked Personal Jurisdiction Over Lancia

9. In 2007, IA commenced a separate action in Connecticut solely against Lancia to enforce the Judgment. Lancia moved to dismiss for lack of personal jurisdiction. By decision dated May 5, 2008, the court granted Lancia's motion to dismiss and found that Connecticut lacked personal jurisdiction over Lancia. *See Investment Associates v. Lancia*, CV074028746S, 2008 WL 2168983, 2008 Conn. Super Lexis 1112 (Conn. Super. Ct. May 5, 2008).³ IA did not appeal that decision, and the time period for doing so has expired. Consequently, there is no question that the courts of Connecticut lacked personal jurisdiction over Lancia as of at least 2007 and lacked personal jurisdiction over Lancia when the motion to revive was granted. Thus, the revived Judgment is ineffective and unenforceable.

10. The Judgment is clearly ineffective and unenforceable to the extent the revival is viewed as a renewal rather than a continuation. If the revival is viewed as a continuation, then it is clearly barred by the statute of limitations as set forth above. Either way, the Judgment is clearly unenforceable. *See Owens*, 161 U.S. at 646.

IV. IA Lacks Standing to Bring this Action and this Court Lacks Subject Matter Jurisdiction over this Action Since IA Is Not a Valid Entity Capable of Bringing Suit

11. IA lacks standing to bring this action and/or this court lacks subject matter jurisdiction over this action since IA is not, and at all relevant times was not, an existing legal

³ A copy of this opinion is attached as exhibit 2 to the Memorandum in Support of Motion for Relief from Foreign Judgment in the January 28, 2014 Action, which is attached hereto as **Exhibit C**.

entity capable of filing suit or enforcing the Judgment. The Complaint giving rise to the Judgment alleges that IA was a joint venture equally owned by R.S.S. McKosky and Alton W. Seavey, Jr. This is insufficient to confer standing upon IA and the court lacks subject matter jurisdiction over the action since IA is not an existing entity.

12. Further, IA lacked standing, and the Connecticut Superior Court lacked subject matter jurisdiction when it rendered the Judgment and granted the motion to revive the Judgment, since joint ventures are not capable of filing suit in Connecticut.⁴ To the extent IA is construed to be a partnership, it was not a legal entity capable of filing suit. See Fidelity Trust Co. v. BVD Associates, 196 Conn. 270, 273 (1985) (“Because the partnership is not regarded as a legal entity it could not take or hold title to real estate in the firm name.”). While Connecticut General Statutes section 34-328(a) permits partnerships to bring actions in their own name, Connecticut General Statutes section 34-399 provides that “Sections 34-300 to 34-399, inclusive, do not affect an action or proceeding commenced or right accrued before July 1, 1997.” There is no dispute that the lawsuit was filed in 1991 and accrued before July 1, 1997. Thus, under Fidelity Trust Co. v. BVD Associates, *supra*, the partnership could not file suit. As such, the court lacked subject matter jurisdiction over the suit, rendering the Judgment void.

This Motion will be further based upon the pleadings, record herein, applicable law, affidavits and any memorandum of law to be filed subsequently and other material the Court

⁴ See American Lines, LLC v. CIC Ins. Co., A.V.V. SA, 2004 WL 3281717 (D. Conn. Sept. 30, 2004) (plaintiff has the burden to establish its corporate existence); Coldwell Banker Manning Realty, Inc. v. Computer Sciences Corp., Superior Court, judicial district of Hartford, Docket No. CV 03 0825180 (Nov. 12, 2010) (the plaintiff must be a corporation registered with the Secretary of State to have standing to invoke the court’s jurisdiction); GMA Yacht Sales v. Skagit Marine Distributing, Inc., Superior Court, judicial district of Fairfield at Bridgeport, Docket No. CV 99-0364155 (Sept. 7, 2010) (mere trade name cannot invoke jurisdiction of the trial court since trade name is not a legal entity); Isaac v. Mount Sinai Hospital, 3 Conn. App. 598, 600 (1985) (“to confer jurisdiction on the court the plaintiff must have an actual legal existence, that is he or it must be a person in law or a legal entity with legal capacity to sue.”); Argent Mortgage Co., LLC v. Huertas, 288 Conn. 568, 576 (2008) (“No principle is more universal than that the judgment of a court without jurisdiction is a nullity . . . Such a judgment, whenever and wherever declared upon as a source of a right, may always be challenged.”). Further, IA lacks standing to enforce the judgment for this same reason.

may receive.

HAYNSWORTH SINKLER BOYD, P.A.



W. Francis Marion, S.C. Bar #3645
Denny P. Major, S.C. Bar #74907
HAYNSWORTH SINKLER BOYD, P.A.
P. O. Box 2048
Greenville, SC 29602
Telephone: (864) 240-3220
Fax: (864) 240-3336

Attorneys for Defendant Joseph D. Lancia

June 13, 2014

Greenville, South Carolina

DM: 3722765 V.1

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

INVESTMENT ASSOCIATES

Plaintiff(s)

vs.

JOSEPH D. LANCIA

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP-23-00515

Submitted By: Jason M. Ward
Address: Skinner Law Firm, LLC
300 N. Main St.- Suite 201 Greenville SC 29601

SC Bar #: 100782
Telephone #: 864-232-2007
Fax #: 864-232-8496
Other:
E-mail: jward@skinnerlawfirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

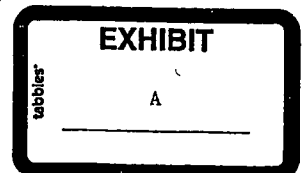
NATURE OF ACTION (Check One Box Below)

☐ Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ Employment (120) ☐ General (130) ☐ Breach of Contract (140) ☐ Other (199)	☐ Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) Previous Notice of Intent Case # 20__-CP-_____ ☐ Notice/ File Med Mal (230) ☐ Other (299)	☐ Torts - Personal Injury ☐ Assault/Slander/Libel (300) ☐ Conversion (310) ☐ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☐ Wrongful Death (360) ☐ Other (399)	☐ Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☐ Other (499)
☐ Inmate Petitions ☐ PCR (500) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599)	☐ Administrative Law/Relief ☐ Reinstale Drv. License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture-Petition (840) ☐ Forfeiture-Consent Order (850) ☐ Other (899)	☐ Judgments/Settlements ☐ Death Settlement (700) ☒ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Transfer of Structured Settlement Payment Rights Application (760) ☐ Confession of Judgment (770) ☐ Petition for Workers Compensation Settlement Approval (780) ☐ Other (799)	☐ Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCBOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Public Service Comm. (990) ☐ Employment Security Comm (991) ☐ Other (999)
☐ Special/Complex /Other ☐ Environmental (600) ☐ Automobile Arb. (610) ☐ Medical (620) ☐ Other (699)	☐ Pharmaceuticals (630) ☐ Unfair Trade Practices (640) ☐ Out-of State Depositions (650) ☐ Motion to Quash Subpoena in an Out-of-County Action (660) ☐ Sexual Predator (510)		

Submitting Party Signature: _____

Date: 01/28/2014

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.



FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
Investment Associates)
Plaintiff,)
vs.)
Joseph D. Lancia)
Defendant.)

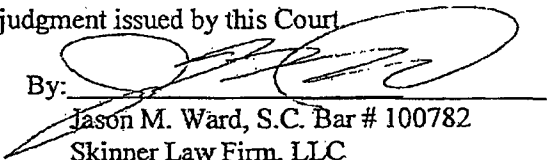
IN THE COURT OF COMMON PLEAS
2014-CP-23-00515

NOTICE OF FILING OF JUDGMENT

FILED-CLERK OF COURT
GREENVILLE, S.C.
PAUL B. WICKER
JAN 28 AM 11:31

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED that the judgment attached hereto, rendered against you in the Superior Court of New Haven, State of Connecticut in the matter entitled "Investment Associates v. Summit Associates, et. al" bearing Case No. CV091-0309954 S, has been filed with the Clerk of Court for the County of Greenville, State of South Carolina. You may seek relief from the enforcement of this judgment within thirty (30) days of the service of this notice by serving your grounds therefore upon the Clerk of Court for Greenville County and the undersigned attorney for the Plaintiff at his office located at 300 North Main Street Suite 201A Greenville SC 29601). Should you fail to either seek such relief or satisfy the judgment within such period, the judgment will be enforced in this State in the same manner as a judgment issued by this Court

By: 
Jason M. Ward, S.C. Bar # 100782
Skinner Law Firm, LLC
300 N. Main St. Suite 201
Greenville, SC 29601
Telephone: 864-232-2007
Facsimile: 864-232-8496
Email jward@skinnerlawfirm.com

Date: 1/28, 2014

Greenville, South Carolina

Attorneys for Investment Associates

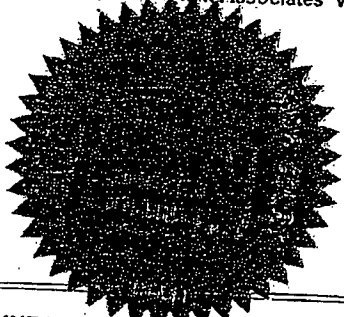
STATE OF CONNECTICUT
JUDICIAL DISTRICT OF NEW HAVEN
SUPERIOR COURT

EXEMPLIFIED COPY



www.jud.ct.gov

I, Louis Fagnani, Deputy Chief Clerk of the Superior Court within and for said Judicial District, in the State of Connecticut, and keeper of the records and seal thereof, hereby certify that the above and foregoing is a true copy of the Judgment entered by the Court, (Frank Meadow, J) on May 17, 1994 as on file in the records of this Court in the matter of CV91 030 9954, Investment Associates vs Summit Associates, Inc.



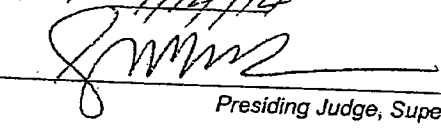
In testimony whereof I hereunto set my hand and affix the seal of said Court at New Haven in said Judicial District and State on (date): 1/14/14


Clerk

STATE OF CONNECTICUT
JUDICIAL DISTRICT OF NEW HAVEN } ss. New Haven, CT

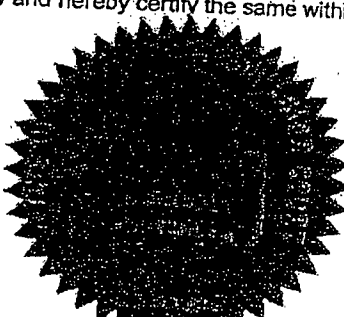
I, Angela C. Robinson Presiding Judge of the Superior Court for the State of Connecticut, in said Judicial District, do hereby certify that Louis Fagnani whose name is above written and subscribed, is and was at the date thereof Deputy Chief Clerk of said Superior Court duly appointed, commissioned and sworn, and keeper of the records and seal thereof, and that the above certificate, and attestation of record thereof, is in due form of law.

In testimony whereof I have hereunto set my hand on (date): 1/14/14

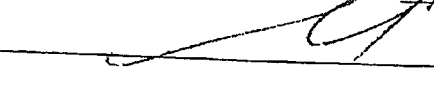

Presiding Judge, Superior Court

STATE OF CONNECTICUT
JUDICIAL DISTRICT OF NEW HAVEN } ss. New Haven, CT

I, Louis Fagnani, Deputy Chief Clerk of the Superior Court of the State of Connecticut, within and for said Judicial District, and keeper of the seal thereof, hereby certify that the Honorable Angela C. Robinson whose name is within written and subscribed, was on the day of 1/14/14 and now is Presiding Judge of said court, duly appointed, commissioned, and sworn, and qualified, and that I am well acquainted with the above-named individual's handwriting and official signature and know and hereby certify the same within written to be said individual's.



In testimony whereof I hereunto set my hand and affix the seal of said court at New Haven in said Judicial District and State on (date): 1/14/14


Clerk

STATE OF CONNECTICUT

CV091-0309954 S

INVESTMENT ASSOCIATES
Northford, CT

VS

SUMMIT ASSOCIATES, INC.
Branford, CT
NED B. WILSON
Branford, CT
JOSEPH D. LANCIA
Old Saybrook, CT

SUPERIOR COURT

JUDICIAL DISTRICT

OF NEW HAVEN

AT NEW HAVEN

MAY 17, 1994

FILED-CLERK OF COURT
GREENVILLE, CT, S.C.
PAUL B. MICHOLINER
2019 JAN 28 AM 11 53

PRESENT: Hon. Frank Meadow, Judge Trial Referee

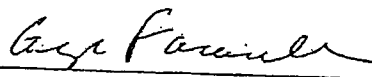
JUDGMENT

This Action by writ and complaint, as amended, claiming damages came to this Court on February 5, 1991, thence to later dates when the defendant appeared, file answers and special defenses, when the plaintiff filed a reply to special defenses, and when said action was claimed to the non-jury trial list, thence to the present time when the parties appeared.

The court, having heard the parties, finds the plaintiff has sustained damages as alleged in the complaint in the amount of \$272,530.03.

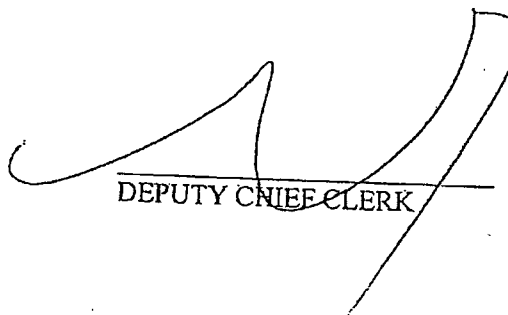
Whereupon it is adjudged that the plaintiff recover of the defendants \$272,530.03 damages plus costs taxed at \$201.20.

BY THE COURT


Deputy Chief Clerk

Thereafter on October 6, 2009 the plaintiff filed a Motion to Revive Judgment pursuant to section 52-598(c) of the Connecticut General Statutes, thereafter the defendant Joseph Lancia filed a Motion to Dismiss the Motion to Revive. The Court (A. Robinson, J.) having heard argument granted the Motion to Revive Judgment and denied the Motion to Dismiss the Motion to Revive on March 4, 2010.

BY THE COURT



DEPUTY CHIEF CLERK

20954
SUPREME COURT
STATE OF CONNECTICUT

NO. S.C. 18910

INVESTMENT ASSOCIATES

v.

SUMMIT ASSOCIATES, INC., ET AL. : NOVEMBER 13, 2013

ORDER

THE MOTION OF THE DEFENDANT, FILED OCTOBER 7, 2013, FOR
RECONSIDERATION/RE-ARGUMENT AND/OR RECONSIDERATION/
RE-ARGUMENT EN BANC, HAVING BEEN PRESENTED TO THE COURT, IT IS
HEREBY ORDERED DENIED.

BY THE COURT,


L. JEANNE DULLEA
ASSISTANT CLERK-APPELLATE

NOTICE SENT: NOVEMBER 14, 2013
HON. ANGELA C. ROBINSON
CLERK, NEW HAVEN SUPERIOR COURT, (CV91-0309954S)
ROME MCGUIGAN, PC
BERDON, YOUNG & MARGOLIS
REPORTER OF JUDICIAL DECISIONS
ct

130189

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Investment Associates

Plaintiff,

vs.

Joseph D. Lancia

Defendant.

IN THE COURT OF COMMON PLEAS

2014-CP - 23-00515

AFFIDAVIT OF JASON M. WARD

FILED-CLERK OF COURT
GREENVILLE, S.C.
PAUL B. WICKENBARGER
2014 JAN 28 AM 11 51

PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED, Jason M. Ward, who being first duly sworn, deposes, and says:

1. The attached Exemplification of Judgment against Joseph D. Lancia, Case No.: CV091-0309954 S, is filed with the Superior Court of New Haven, State of Connecticut. The Judgment is final and said Judgment is unsatisfied in whole and has not been contested.
2. That neither the Plaintiff, nor the attorney, has received any payments to apply to the judgment amount. An accounting of the amount due and owing is attached hereto as "Exhibit A".
3. As ordered, Defendant Joseph D. Lancia, owes the Plaintiff the total amount of Two Hundred Seventy Two Thousand Five Hundred Thirty and 03/100 (\$272,530.03) Dollars, plus costs awarded of Two Hundred One and 20/100 (\$201.20) Dollars, plus post-judgment interest at the statutory rate since the Judgment was filed on May 17, 1994.
4. That the last known address for Joseph D. Lancia is 109 Thornblade Boulevard, Greer, SC 29650-4427.

Jason M. Ward

Attorney for Investment Associates

SWORN to before me this
28th day of January, 2014.

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 12-22-21

EXHIBIT A

Investment Associates v. Summit Associates, et. al.

Original Judgment Dated May 17, 1994 \$ 272,731.23

Post Judgment Interest at 10% Statutory Rate \$ 537,616.77

Yearly: $\$272,731.23 \times .10 = 27,273.12$

Daily: $27,273.12/365 = \$74.72$

Days since Judgment: 7,195

Total Interest Since Judgment: $74.72 \times 7195 = \$537,616.77$

Costs of Collection: \$ 13,550.00

Total Owed: \$ 823,898.00

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Investment Associates,
☐ Plaintiff

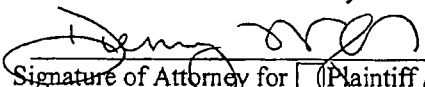
v.

Joseph D. Lancia,
☐ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.
2014-CP-23-00515

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Jason M. Ward, Bar No. 100782 Address: Skinner Law Firm, LLC 300 N. Main St., Suite 201, Greenville, SC 29601 phone: 864.232.2007 fax: 864.232.8496 e-mail: jward@skinnerlawfirm.com other:		Defendant's Attorney: Denny P. Major, Bar No. 74907 Address: Haynsworth Sinkler Boyd, P.A. Post Office Box 2048, Greenville, SC 29602-2048 phone: 864.240.3296 fax: 864.240.3336 e-mail: dmajor@hsblawfirm.com other:	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and II) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information Nature of Motion: Motion for Relief from and Notice of Defenses to Foreign Judgment Estimated Time Needed: 30 mins. Court Reporter Needed: ☒ YES / ☐ NO			
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for ☐ Plaintiff / ☒ Defendant February 18, 2014 Date submitted			
SECTION III: Motion Fee ☒ PAID - AMOUNT: \$25.00 ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: ☐ Other:			
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:		EXHIBIT B JUDGE _____ CODE: _____ Date: _____	
CLERK'S VERIFICATION Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED - AMOUNT DUE: _____			

SCCA/233 (11-03)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

INVESTMENT ASSOCIATES,)
Plaintiff,)

C.A. No. 2014-CP-23-00515

vs.)

MOTION FOR RELIEF FROM AND
NOTICE OF DEFENSES TO FOREIGN
JUDGMENT

JOSEPH D. LANCIA)
Defendant.)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
FEB 18 PM 4:22
JUL B. WICKENSINGER

PLEASE TAKE NOTICE that, pursuant to S.C. Code Ann. § 15-35-940, Defendant Joseph D. Lancia (Lancia) hereby moves for relief from, and gives notice of his defenses to, the Notice of Filing of Foreign Judgment filed by Investment Associates (IA) on January 28, 2014 with the Clerk of Court in Greenville County. Lancia seeks an order striking the foreign judgment, finding that the foreign judgment is void and unenforceable, dismissing this action, and terminating any attempts to enforce the foreign judgment. While Lancia believes that all matter raised to dismiss the action are legal in nature and should be decided by the court, should the court determine a question of material fact exists, a jury is requested to decide such facts. Lancia's defenses, and the grounds for this motion, are set forth herein.

I.

**Enforcement of the Foreign Judgment Is Barred
by the Statute of Limitations, S.C. Code Ann. Section 15-3-600**

1. The Foreign Judgment at issue (hereafter the "Judgment") IA attempts to enforce is barred by South Carolina Code Ann. § 15-3-600 because more than ten (10) years have passed since South Carolina became empowered to adjudicate this dispute. See Abba Equipment, Inc. v.

Thomason, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999). The undisputed record which bars enforcement is as follows:

- a. The Judgment was entered in the State of Connecticut Superior Court, number CV091-0309954, on May 17, 1994.
- b. Lancia moved to South Carolina, in 1992 and has been a resident of South Carolina since August 1992. (Lancia Aff., **Exh. 1**). Lancia and his family have resided at the address of 109 Thornblade Blvd, Greer, South Carolina continuously since August 1992 and has been active in the Greenville County, South Carolina community ever since. (*See id.*). Lancia's affidavit discusses Lancia's South Carolina residency and some of his South Carolina activities.
- c. IA did not file or seek to enforce the Judgment in South Carolina until January 28, 2014, more than ten (10) years (nearly 20 years) after Lancia became a South Carolina resident and the courts of South Carolina became empowered to adjudicate this dispute. The ten (10) year period began to run in 1994, at the latest, and expired in 2004. Consequently, enforcement of the Judgment is barred by South Carolina Code Ann. § 15-3-600.

II.

The Granting of the Motion to Revive Judgment Does Not Alter the Application of South Carolina Code Section 15-3-600

2. The granting of the motion to revive the judgment pursuant to Conn. Gen. Stat. 52-598(c) does not alter the bar of the ten year statute of limitations in South Carolina Code Ann. § 15-3-600 for the following reasons:

- a. As indicated in the attachments to the Notice of Filing of Judgment, IA filed a Motion to Revive Judgment pursuant to section 52-598(c) of the Connecticut General Statutes in the Connecticut Superior Court on October 6, 2009. That motion was granted on March 4, 2010.

Sub-section 52-598(c) of the Connecticut General Statutes, which was added in 2009, provides:

With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.

A revived judgment under section 52-598(c) of the Connecticut General Statutes is a continuation of the original judgment in Connecticut and is not a new judgment.¹ See Investment Assoc. v. Summit Assoc., Inc., 74 A.3d 1192, 1201 (Conn. 2013). Consequently, it is barred under South Carolina Code Ann. § 15-3-600. See Abba Equipment, Inc. v. Thomason, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999) (holding that a Florida judgment entered in Florida in 1983 and filed in South Carolina in 1996 against the defendant who became a South Carolina resident in 1985 was barred by S.C. Code Ann. § 15-3-600 even though the judgment was valid 20 years under Florida law); Owens v. Henry, 161 U.S. 642, 646 (1896) (holding that the revival of a

¹ In response to the motion to revive the Judgment in the Connecticut Superior Court, Lancia argued, among other things, that the Court lacked personal jurisdiction over Lancia since he had become a resident in S.C. in 1992 and lacked contacts with Connecticut. The Court rejected this argument on the grounds that the motion to revive is a continuation of the original judgment rather than a new action or new judgment, therefore there need not be personal jurisdiction. The Connecticut Superior Court's ruling was affirmed by the Connecticut Supreme Court See Investment Assoc. v. Summit Assoc., Inc., 74 A.3d 1192 (Conn. 2013). Lancia raises this as a defense to the extent this court views the revival as a renewal rather than a continuation.

judgment in Pennsylvania “had no binding force in Louisiana” due to lack of personal jurisdiction when viewed as a new judgment and when viewed as a continuation of the prior action, “operated merely to keep in force the local lien, and could not be availed of as removing” Louisiana’s 10 year statute of limitations);² Mundaca Fin. Servs. LLC v. Casella, 2011 WL 883506, 2011 N.C. App. LEXIS 471, N.C. App. No. COA10-714 (N.C. Ct. App. March 15, 2011) (holding that the plaintiff’s 2009 revival of a New Jersey judgment in New Jersey was merely a continuation of the prior action and “did not constitute a new judgment,” and reversing the trial court’s determination that the judgment was filed within North Carolina’s ten year statute of limitations) (unpublished).

- b. The Judgment is ineffective for the additional reason that it was not revived until after the ten (10) year time period in S.C. Code § 15-3-600 expired.

III.

**If Investment Associates Argue That The Judgment Is A “Revived Judgment”,
Then The Judgment Is Unenforceable Because Connecticut Lacked
Personal Jurisdiction Over Lancia**

3. In 2007, IA commenced a separate action in Connecticut solely against Lancia to enforce the Judgment. Lancia moved to dismiss for lack of personal jurisdiction. By decision dated May 5, 2008, the court granted Lancia’s motion to dismiss and found that Connecticut lacked personal jurisdiction over Lancia. A true and accurate copy of that decision is attached hereto as **Exhibit 2**. IA did not appeal that decision, and the time period for doing so has expired. Consequently, there is no question that the courts of Connecticut lacked personal

² Similarly here, the revival of the Judgment in this case fails for lack of personal jurisdiction to the extent it is viewed as a new case. This argument is set forth below.

jurisdiction over Lancia as of at least 2007 and lacked personal jurisdiction over Lancia when the motion to revive was granted. Thus, the revived Judgment is ineffective and unenforceable.

4. The Judgment is clearly ineffective and unenforceable to the extent the revival is viewed as a renewal rather than a continuation. If the revival is viewed as a continuation, then it is clearly barred by the statute of limitations as set forth above. Either way, the Judgment is clearly unenforceable. See Owens, 161 U.S. at 646.

IV.

Additional Defenses

5. Lancia submits that the above defenses are conclusive of this action to enforce the Judgment and that this action should be dismissed on the basis of the above defenses alone. Nevertheless, Lancia has additional defenses and is providing notice of those as follows:

- a. The Connecticut Superior Court lacked subject matter jurisdiction when it rendered the Judgment and granted the motion to revive the Judgment.

Lancia is informed and believes that IA is not, and at all relevant times was not, an existing legal entity capable of filing suit or enforcing the Judgment. The Complaint giving rise to the Judgment alleges that IA was a joint venture equally owned by R.S.S. McKosky and Alton W. Seavey, Jr. This is insufficient to confer standing upon IA and the court lacked subject matter jurisdiction over the action since IA is not an existing entity. See American Lines, LLC v. CIC Ins. Co., A.V.V. SA, 2004 WL 3281717 (D. Conn. Sept. 30, 2004) (plaintiff has the burden to establish its corporate existence); Coldwell Banker Manning Realty, Inc. v. Computer Sciences Corp., Superior Court, judicial district of Hartford, Docket No. CV 03 0825180 (Nov. 12, 2010) (the plaintiff must be a corporation registered with the Secretary of State to have standing to invoke the court's jurisdiction); GMA Yacht Sales v. Skagit Marine Distributing, Inc., Superior Court, judicial district of Fairfield at Bridgeport, Docket No. CV 99-0364155 (Sept. 7, 2010) (mere trade name cannot invoke jurisdiction of the trial court since trade name is not a legal entity); Isaac v. Mount Sinai Hospital, 3 Conn. App. 598, 600 (1985) ("to confer jurisdiction on the court the plaintiff must have an actual legal existence, that is he or it must be a person in law or a legal entity with legal capacity to sue."); Argent Mortgage Co., LLC v. Huertas, 288 Conn. 568, 576 (2008) ("No principle is more universal than that the judgment of a court without jurisdiction is a nullity . . . Such a judgment, whenever and wherever declared upon as a source of a right, may always be challenged."). Further, IA lacks standing to enforce the judgment for this same reason.

- b. To the extent IA is construed to be a partnership, it is not a legal entity capable of filing suit. See Fidelity Trust Co. v. BVD Associates, 196 Conn. 270, 273 (1985) (“Because the partnership is not regarded as a legal entity it could not take or hold title to real estate in the firm name.”).

While Connecticut General Statutes section 34-328(a) permits partnerships to bring actions in their own name, Connecticut General Statutes section 34-399 provides that “Sections 34-300 to 34-399, inclusive, do not affect an action or proceeding commenced or right accrued before July 1, 1997.” There is no dispute that the lawsuit was filed in 1991 and accrued before July 1, 1997. Thus, under Fidelity Trust Co. v. BVD Associates, *supra*, the partnership could not file suit. As such, the court lacked subject matter jurisdiction over the suit, rendering the Judgment void.

- c. Lancia was deprived of a hearing as to the status of IA in violation of his due process rights. See, e.g., Hege v. Aegon USA, LLC, 780 F. Supp.2d 416, 425 (D.S.C. 2011) (“in order for the judgment to acquire the presumption of full faith and credit, the court entering the judgment must have complied with the Due Process Clause.”).
- d. The Connecticut court lacked subject matter jurisdiction to revive this action, and IA lacks standing to enforce the Judgment on the basis that Lancia is informed and believes that IA did not have the consent of both partners/joint venturers in filing the motion to revive the Judgment or seeking to enforce the Judgment.
- e. Upon information and belief, Lancia asserts that the representative from IA misrepresented to the trial court his efforts in locating Lancia within the ten time period proscribed by the S.C. Statute, thereby rendering the Judgment invalid and unenforceable.

IA represented to the Connecticut court during proceedings on the motion to revive the Judgment, that IA was unable to locate Lancia and did not know he was in South Carolina. However, Lancia had been openly in South Carolina since August 1992 as set forth in **exhibit 1**. Further, his location in South Carolina was set forth in public records relating to a lawsuit to which IA was a party. (See Exhibit 1).

V.

Alternative Defenses

6. Should this action not be dismissed as requested above, Lancia asserts the following alternative defenses:

- a. Lancia is entitled to a setoff of the Judgment on the basis that he is informed and believes that certain assets may have been paid to satisfy the Judgment in whole or in part.
- b. Lancia would should that the Judgment is deficient in that the interest should be calculated to run from the date of revival, March 4, 2010, rather than the date of original entry.

7. As an alternative argument to the statute of limitations argument set forth in section I, above, Defendant submits that enforcement of the Judgment is barred by the statutes of limitations set forth in S.C. Code §15-3-530(1), S.C. Code §15-39-30, and/or laches. Further, IA knew or should have known since August 1992 that Mr. Lancia was residing in South Carolina.

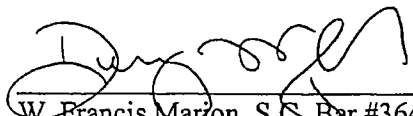
8. In addition, Lancia is informed and believes that he may have counterclaims against IA and/or Ron McKosky that he may assert in this action in the event that his motion for relief is denied and this action moves forward. Upon information, these claims may include, without limitation, engaging in unconscionable conduct in collecting a debt in violation of the South Carolina Consumer Protection Code §37-5-108.

WHEREFORE, having submitted this Motion for Relief From, and Notice of Defenses To, the Foreign Judgment, Defendant Joseph Lancia prays this action be dismissed, that the foreign judgment be stricken, that any attempts to enforce the foreign judgment in South Carolina be terminated, that the court find the foreign judgment to be void and unenforceable, and that Lancia be granted such other and further relief as this Court deems proper. Lancia further requests that a hearing be held on this motion for relief, if the court finds such hearing to

be necessary.

This Motion will be further based upon the pleadings, record herein, applicable law, affidavits and any memorandum of law to be filed subsequently and other material the Court may receive.

HAYNSWORTH SINKLER BOYD, P.A.



W. Francis Marion, S.C. Bar #3645
Denny P. Major, S.C. Bar #74907
HAYNSWORTH SINKLER BOYD, P.A.
P. O. Box 2048
Greenville, SC 29602
Telephone: (864) 240-3220
Fax: (864) 240-3336

Attorneys for Defendant Joseph D. Lancia

February 18, 2014

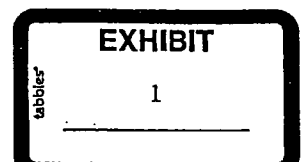
Greenville, South Carolina

DM: 2213984 V.4

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) AFFIDAVIT OF JOSEPH LANCIA

PERSONALLY APPEARED BEFORE ME, JOSEPH LANCIA, who, being duly sworn,
deposes and affirms as follows:

1. I have personal knowledge of the facts set forth herein and would testify to the same if called to do so.
2. I have been a resident of South Carolina continuously since August 1992 and am presently a resident of South Carolina.
3. I have resided at the address of 109 Thornblade Boulevard, Greer, South Carolina 29650 since August 1992.
4. I have been working in South Carolina since 1992.
5. I have had a South Carolina driver's license since 1992. Attached hereto as **exhibit A** is a true and accurate copy of my 10 year driver record from the South Carolina DMV. This correctly states that my South Carolina driver's license was first issued on 10/02/1992.
6. My vehicles have been registered in South Carolina since 1992 and I have paid Greenville County, South Carolina vehicle taxes since 1992. Attached hereto is a true and accurate copy of a printout from the Greenville County, South Carolina website (www.greenvillecounty.org) showing my tax payments on my vehicles dating back to 1999.
7. I have paid South Carolina income taxes since the 1992 tax year.
8. Attached hereto as **exhibit C** is a true and accurate copy of my 1994 tax return, which shows my home address as 109 Thornblade Boulevard, Greer, SC 29650.
9. I have been a member of the Thornblade Club in Greer, South Carolina since 1992.



10. I have served as director of the Thornblade Classic golf tournament from 1993 to 2000. Attached hereto as **exhibit D** is a true and accurate copy of two pages contained in the program of the 1994 Thornblade Classic. Attached hereto as **exhibit E** is a true and accurate copy of an article that appeared in the Greenville News on April 19, 2000 regarding my work with the Thornblade Classic and other activities in Greenville County, South Carolina.

11. During the early 1990s, I served as a member of the board of directors for Loaves and Fishes, which is a charitable organization here in Greenville that distributes food to soup kitchens and food pantries throughout Greenville County.

12. I have been a member of the Prince of Peace Church located in Taylors, South Carolina since 1992.

13. I have had three children that attended public school in Greenville County, South Carolina beginning in 1992.

14. All three of my children have attended public colleges in South Carolina and I have paid in-state tuition for their attendance of these South Carolina colleges.

15. In May 1993, I was served with a summons and third party complaint in the Connecticut lawsuit of Aetna Casualty & Surety Company of Illinois v. Investment Associates. The summons is addressed to me in South Carolina. I was served here in South Carolina. Attached hereto as **exhibit F** is a true and accurate copy of the summons.

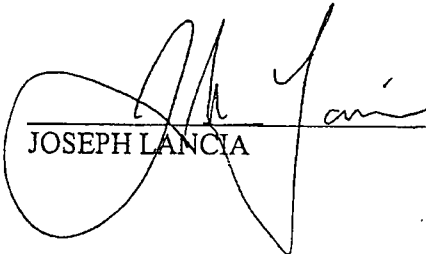
16. In 1993, I received a document from the Connecticut Superior Court regarding a notice of default in the Connecticut lawsuit of Aetna Cas. vs. Investment Assoc., et. al. A true and accurate copy of that document is attached hereto as **exhibit G**. The document is addressed to me in South Carolina. I received that document in South Carolina.

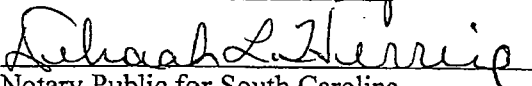
17. In September 1993, I was served with a subpoena for a deposition that took place on September 28, 1993 here in Greenville, South Carolina. I was served at my residence of 109 Thornblade Boulevard, Greer, SC 29650, which was my residence at that time and continues to be my residence today. A true and accurate copy of the subpoena is attached hereto as **exhibit H**. The subpoena itself, which is dated September 8, 1993, correctly listed my address as 109 Thornblade Boulevard, Greer, South Carolina 29650.

18. I have not lived or worked in Connecticut since 1992 and have not transacted any business in Connecticut since at least 1992.

19. I have not owned used or possessed any real estate in Connecticut since 1992.

SO ENDETH.


JOSEPH LANCIA

Sworn to before me this
17th day of February, 2014

Notary Public for South Carolina
My Commission Expires: 3/12/2019



10 YEAR DRIVER RECORD

Customer No: 24238285 Driver License No: ~~24238285~~
Name: LANCIA, JOSEPH D
Address: 109 THORNBLADE BLVD
City: GREER State: SC Zip: 296504427
County: GREENVILLE
DOB: 08/05/1960 Sex: M Driver Training: Y

Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Restrictions	Endorsements
Current							
DL	D	Renewal	07/26/2006	08/05/2016	10/02/1992	N	N
Prior							
DL	D	Renewal	07/10/2001	08/05/2006	10/02/1992	N	N

Point Summary

Total Current Points: 1
Driver Credit: -0
Adjusted Current Points: 1

VIOL: 421 - Speeding 10-mph or less

Violation: 08/25/2012 Conviction: 09/18/2012

ACD: S51

Conviction State: SC

Ticket#: F637675

Recd: 10/01/2012 Post: 10/05/2012

Conviction Reference:

Court Type: MAG

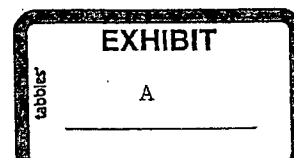
Violation Points: 2 Current Points: 1

END OF REPORT

2/14/2014 12:26 PM

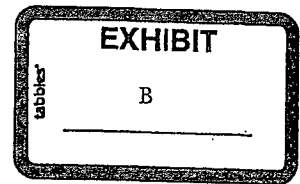
Data obtained from DMV via South
Carolina State Portal

Invoice #13531529



[Home](#) | [Search](#) | [Services](#) | [Legal Disclaimer](#)

Vehicle Tax Search Results



Search Results For: LANCIA JOSEPH D

Results Found: 43

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	2013 05 0646608 01 001	\$290.70	\$290.70	
VIN#: WDDHF9BB3CA644777	2012 MERZ	District: 195 04/18/2013		View Receipt
LANCIA JOSEPH D	2013 09 0790105 01 001	\$48.80	\$48.80	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/26/2013		View Receipt
LANCIA JOSEPH D	2013 10 0823741 01 001	\$308.10	\$308.10	
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195 09/23/2013		View Receipt
LANCIA JOSEPH D	2012 03 0049323 01 001	\$164.24	\$164.24	
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 03/14/2012		View Receipt
LANCIA JOSEPH D	2012 05 0150640 01 001	\$802.25	\$802.25	
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195 04/16/2012		View Receipt
LANCIA JOSEPH D	2012 09 0291872 01 001	\$301.27	\$301.27	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/23/2012		View Receipt
LANCIA JOSEPH D	2012 10 0325069 01 001	\$345.72	\$345.72	
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195 09/14/2012		View Receipt
LANCIA JOSEPH D	2011 03 0635033 01 001	\$145.47	\$145.47	
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 02/24/2011		View Receipt
LANCIA JOSEPH D	2011 05 0701623 01 001	\$957.29	\$957.29	
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195 04/27/2011		View Receipt
LANCIA JOSEPH D	2011 09 0840566 01 001	\$335.06	\$335.06	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/17/2011		View Receipt
LANCIA JOSEPH D	2011 10 0872967 01 001	\$338.66	\$338.66	
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195 09/28/2011		View Receipt
LANCIA JOSEPH D	2010 03 0153705 01 001	\$176.34	\$176.34	
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 02/26/2010		View Receipt
LANCIA JOSEPH D	2010 05 0286513 01 001	\$976.35	\$976.35	
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195 04/30/2010		View Receipt
LANCIA JOSEPH D	2010 08 0387719 01 001	\$0	\$0	
VIN#: SALAE25468A447184	2008 LNDR	District: 195		View Receipt
LANCIA JOSEPH D	2010 09 0421537 01 001	\$324.63	\$324.63	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 09/16/2010		View Receipt
LANCIA JOSEPH D	2009 03 0723439 01 001	\$221.75	\$221.75	
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 01/30/2009		View Receipt
LANCIA JOSEPH D	2009 05 0789326 01 001	\$933.27	\$933.27	
VIN#: SALSH23428A185811	2008 LNDR	District: 195 05/06/2009		View Receipt
LANCIA JOSEPH D	2009 08 0889689 01 001	\$575.48	\$575.48	
VIN#: SALAE25468A447184	2008 LNDR	District: 195 07/27/2009		View Receipt
LANCIA JOSEPH D	2009 09 0923342 01 001	\$469.94	\$469.94	
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/31/2009		View Receipt

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2008 03 0282583 01 001 2005 JEEP	\$270.94 District: 195 02/28/2008	\$270.94	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2008 05 0347469 01 001 2006 LNDR	\$667.32 District: 195 04/25/2008	\$667.32	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2008 08 0445837 01 001 2002 TOYT	\$176.71 District: 195 07/29/2008	\$176.71	View Receipt
LANCIA JOSEPH D VIN#: SALFS24NX8H038976	2008 09 0511362 01 001 2008 LNDR	\$577.93 District: 195 08/25/2008	\$577.93	View Receipt
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2007 03 0885193 01 001 2005 JEEP	\$323.66 District: 195 03/13/2007	\$323.66	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2007 05 0948135 01 001 2006 LNDR	\$803.06 District: 195 05/23/2007	\$803.06	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2007 08 0048486 01 001 2002 TOYT	\$184.51 District: 195 07/30/2007	\$184.51	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2007 09 0081086 01 001 2004 VOLV	\$524.76 District: 195 09/11/2007	\$524.76	View Receipt
LANCIA JOSEPH D VIN#: SALSF25466A914263	2006 05 0497649 01 001 2006 LNDR	\$939.21 District: 195 04/27/2006	\$939.21	View Receipt
LANCIA JOSEPH D VIN#: 1J4HS58N65C731607	2006 06 0527429 01 001 2005 JEEP	\$396.42 District: 195 05/31/2006	\$396.42	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2006 08 0620466 01 001 2002 TOYT	\$234.60 District: 195 07/27/2006	\$234.60	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2006 09 0651712 01 001 2004 VOLV	\$694.71 District: 195 09/26/2006	\$694.71	View Receipt
LANCIA JOSEPH D VIN#: YV1CZ59H341035649	2005 05 0128936 01 001 2004 VOLV	\$586.46 District: 195 04/11/2005	\$586.46	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2005 08 0217023 01 001 2002 TOYT	\$244.74 District: 195 08/17/2005	\$244.74	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2005 09 0246750 01 001 2004 VOLV	\$691.55 District: 195 08/17/2005	\$691.55	View Receipt
LANCIA JOSEPH D VIN#: YV1CZ59H341035649	2004 05 0704085 01 001 2004 VOLV	\$717.84 District: 195 04/25/2004	\$717.84	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2004 08 0790231 01 001 2002 TOYT	\$301.36 District: 195 07/22/2004	\$301.36	View Receipt
LANCIA JOSEPH D VIN#: YV1TR91Z641372876	2004 09 0819281 01 001 2004 VOLV	\$717.84 District: 195 08/31/2004	\$717.84	View Receipt
LANCIA JOSEPH D VIN#: YV1RH52YX42343242	2003 00 3696218 01 001 2004 VOLV	\$798.81 District: 195 09/18/2003	\$798.81	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2003 08 0411283 01 001 2002 TOYT	\$344.15 District: 195 07/31/2003	\$344.15	View Receipt
LANCIA JOSEPH D VIN#: YV1CZ59H341035649	2003 08 0411284 01 001 2004 VOLV	\$796.44 District: 195 07/31/2003	\$796.44	View Receipt
LANCIA JOSEPH D VIN#: JTEGH20V120075268	2002 11 0092281 01 001 2002 TOYT	\$379.82 District: 195 10/31/2002	\$379.82	View Receipt
LANCIA JOSEPH D VIN#: WP0CA2999TS340098	2000 01 0583042 01 001 1996 PORS	\$183.01 District: 195 01/20/2000	\$183.01	View Receipt

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	1999.05 0170006 01 001	\$1250.82	\$1250.82	View Receipt
VIN#: WP0CA2999TS340098	1996 PORS	District: 195	04/30/1999	

Form 1040

Department of the Treasury - Internal Revenue Service
U.S. Individual Income Tax Return

1994

IRS Use Only - Do not write or staple in this space.

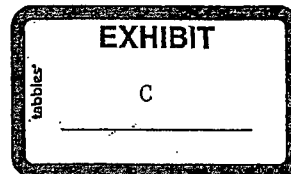
Label (See Instructions on page 12.)	For the year Jan. 1-Dec. 31, 1994, or other tax year beginning , 1994, ending , 19		OMB No. 1545-0074
	Your first name and initial JOSEPH D LANCIA	Last name	Your social security number [REDACTED]
	If a joint return, spouse's first name and initial KATHRYN M	Last name	Spouse's social security number [REDACTED]
	Home address (number and street). If you have a P.O. box, see page 12. 109 THORNBLADE BOULEVARD		Apt. no.
Use IRS label. Otherwise, please print or type.	City, town or post office, state, and ZIP code. If you have a foreign address, see page 12. GREER, SC 29650		For Privacy Act and Paperwork Reduction Act Notice, see page 4.
Presidential Election Campaign	Do you want \$3 to go to this fund? ☐		Yes ☐ No ☒
	If a joint return, does your spouse want \$3 to go to this fund? ☐		Yes ☐ No ☒

Filing Status (See page 12.) Check only one box.	1 ☐ Single
	2 ☒ Married filing joint return (even if only one had income)
	3 ☐ Married filing separate return. Enter spouse's soc. sec. no. above and full name here. ▶
	4 ☐ Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here. ▶
	5 ☐ Qualifying widow(er) with dependent child (year spouse died ▶ 19).

Exemptions (See page 13.)	6a ☒ Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2	No. of boxes checked on 6a and 6b 2				
	b ☒ Spouse					
If more than six dependents, see page 14.	c Dependents:		(3) If age 1 or older, dependent's social security number	(4) Dependent's relationship to you	(5) No. of months lived in your home in 1994	No. of your children on 6c who: • lived with you 2 • didn't live with you due to divorce or separation (see page 14)
	(1) Name (first, initial, and last name)	(2) Check if under age 1				
	[REDACTED]		[REDACTED]	DAUGHTER	[REDACTED]	
	[REDACTED]		[REDACTED]	DAUGHTER	[REDACTED]	
d If your child didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here ☐						

Income Attach Copy B of your Forms W-2, W-2G, and 1099-R here. If you did not get a W-2, see page 15. Enclose, but do not attach, any payment with your return.	7 Wages, salaries, tips, etc. Attach Form(s) W-2	7	[REDACTED]
	8a Taxable interest income. Attach Schedule B if over \$400	8a	[REDACTED]
	b Tax-exempt interest (see page 16). DON'T include on line 8a	8b	
	9 Dividend income. Attach Schedule B if over \$400	9	[REDACTED]
	10 Taxable refunds, credits, or offsets of state and local income taxes (see page 16)	10	
	11 Alimony received	11	
	12 Business income or (loss). Attach Schedule C or C-EZ	12	
	13 Capital gain or (loss). If required, attach Schedule D (see page 16).	13	[REDACTED]
	14 Other gains or (losses). Attach Form 4797	14	
	15a Total IRA distributions	15a	
	b Taxable amount (see page 17)	15b	
	16a Total pensions and annuities	16a	
	b Taxable amount (see page 17)	16b	
	17 Rental real estate; royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	[REDACTED]
	18 Farm income or (loss). Attach Schedule F	18	
19 Unemployment compensation (see page 18)	19		
20a Social security benefits	20a		
b Taxable amount (see page 18)	20b		
21 Other income. List type and amount - see page 18	21		

Adjustments to Income Caution: See instructions ▶	22 Add the amounts in the far right column for lines 7 through 21. This is your total income	22	[REDACTED]
	23a Your IRA deduction (see page 19)	23a	[REDACTED]
	b Spouse's IRA deduction (see page 19)	23b	[REDACTED]
	24 Moving expenses. Attach Form 3903 or 3903-F	24	
	25 One-half of self-employment tax	25	
	26 Self-employed health insurance deduction (see page 21)	26	
	27 Keogh retirement plan and self-employed SEP deduction	27	
	28 Penalty on early withdrawal of savings	28	
	29 Alimony paid. Recipient's SSN ▶	29	
	30 Add lines 23a through 29. These are your total adjustments	30	[REDACTED]
Adjusted Gross Income	31 Subtract line 30 from line 22. This is your adjusted gross income. If less than \$25,296 and a child lived with you, (less than \$9,000 if a child didn't live with you), see "Earned Income Credit" on page 27.	31	[REDACTED]

410001
16-20-94 S430
21420411 786735 21053

060 LANCIA, JOSEPH D

Form 1040 (1994)
10000001

Tax Computation

32 Amount from line 31 (adjusted gross income) **32** [REDACTED]

33a Check if: ☐ You were 65 or older, ☐ Blind, ☐ Spouse was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here **33a** [REDACTED]

b If your parent (or someone else) can claim you as a dependent, check here **33b** ☐

c If you are married filing separately and your spouse itemizes deductions or you are a dual-status alien, see page 23 and check here **33c** ☐

34 Enter the larger of your:
 { Itemized deductions from Schedule A, line 29, OR
 Standard deduction shown below for your filing status. But if you checked any box on line 33a or b, go to page 23 to find your standard deduction.
 If you checked box 33c, your standard deduction is zero.
 • Single - \$3,800 • Head of household - \$5,600
 • Married filing jointly or Qualifying widow(er) - \$6,350
 • Married filing separately - \$3,175 } **34** [REDACTED]

35 Subtract line 34 from line 32 **35** [REDACTED]

36 If line 32 is \$83,850 or less, multiply \$2,450 by the total number of exemptions claimed on line 6e. If line 32 is over \$83,850, see the worksheet on page 24 for the amount to enter **36** [REDACTED]

37 Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0- **37** [REDACTED]

38 Tax. Check if from a ☒ Tax Table, b ☐ Tax Rate Schedules, c ☐ Capital Gain Tax Worksheet, or d ☐ Form 8615 (see page 24). Amount from Form(s) 8814 **38** [REDACTED]

39 Additional taxes. Check if from a ☐ Form 4970 b ☐ Form 4972 **39** [REDACTED]

40 Add lines 38 and 39 **40** [REDACTED]

Credits

41 Credit for child and dependent care expenses. Attach Form 2441 **41** [REDACTED]

42 Credit for the elderly or the disabled. Attach Schedule R **42** [REDACTED]

43 Foreign tax credit. Attach Form 1116 **43** [REDACTED]

44 Other credits. Check if from a ☐ Form 3800 b ☐ Form 8396 c ☐ Form 8801 d ☐ Form (Specify) **44** [REDACTED]

45 Add lines 41 through 44 **45** [REDACTED]

46 Subtract line 45 from line 40. If line 45 is more than line 40, enter -0- **46** [REDACTED]

Other Taxes

47 Self-employment tax. Attach Schedule SE **47** [REDACTED]

48 Alternative minimum tax. Attach Form 6251 **48** [REDACTED]

49 Recapture taxes. Check if from a ☐ Form 4255 b ☐ Form 8611 c ☐ Form 8828 **49** [REDACTED]

50 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137 **50** [REDACTED]

51 Tax on qualified retirement plans, including IRAs. If required, attach Form 5329 **51** [REDACTED]

52 Advance earned income credit payments from Form W-2 **52** [REDACTED]

53 Add lines 46 through 52. This is your total tax **53** [REDACTED]

Payments

54 Federal income tax withheld. If any is from Form(s) 1099, check ☐ **54** 500.

55 1994 estimated tax payments and amount applied from 1993 return **55** [REDACTED]

56 Earned income credit. If required, attach Schedule EIC (see page 27). Nontaxable earned income: amount ☐ and type ☐ **56** [REDACTED]

57 Amount paid with Form 4868 (extension request) **57** [REDACTED]

58 Excess social security and RRTA tax withheld (see page 32) **58** [REDACTED]

59 Other payments. Check if from a ☐ Form 2439 b ☐ Form 4136 **59** [REDACTED]

60 Add lines 54 through 59. These are your total payments **60** [REDACTED]

Refund or Amount You Owe

61 If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID **61** [REDACTED]

62 Amount of line 61 you want REFUNDED TO YOU **62** [REDACTED]

63 Amount of line 61 you want APPLIED TO YOUR 1995 ESTIMATED TAX **63** [REDACTED]

64 If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE. For details on how to pay, including what to write on your payment, see page 32 **64** [REDACTED]

65 Estimated tax penalty (see page 33). Also include on line 64 **65** 27.

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature _____ Date _____ Your occupation _____

Spouse's signature. If a joint return, BOTH must sign. _____ Date _____ Spouse's occupation _____

Paid Preparer's Use Only

Preparer's signature _____ Date _____ Check if self-employed ☐ Preparer's social security no. [REDACTED]

Firm's name (or yours if self-employed) and address **Chris McCraw, C.P.A., P.A.** E. I. No. [REDACTED]

1200 Woodruff Road, A-3 ZIP code **29607**

Greenville, SC



EXHIBIT

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Welcome to the 1994 Thornblade Classic

We are pleased that you have joined us for the Third Annual Thornblade Classic. Our Tournament has continued to grow because of the wonderful support we receive from several important groups.

First, special thanks to the PGA Tour players who make this event possible. We have been extremely fortunate to feature the most outstanding players in golf. Their presence sets our event apart from all others. It is the key ingredient we need to provide funds to our beneficiaries.

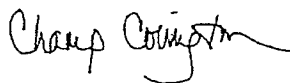
The second group we wish to thank are the corporate sponsors that have annually supported the Thornblade Classic. These many fine companies know that the principle benefit of their involvement in the Thornblade Classic is their association, through the Classic, with our three beneficiaries. Their support makes it possible for the Thornblade Classic to make a generous contribution to The School District of Greenville County, The Governors School for the Arts and the Peace Center.

We also want to thank the many tournament volunteers who help make this day a pleasure for the participants and the spectators. We have never been short of volunteers to assist with the many needs of the event. Few events of this kind can make that claim. We are proud of our association with these community minded individuals who give so freely of their time.

Finally, we are most appreciative of the many thousands of golf fans who have attended the Thornblade Classic. Your support and enthusiastic reception of the Classic has made the Tournament an important event in the upstate.

To the amateurs, spectators, volunteers, sponsors and especially our PGA Tour Professionals, thank you for being here. We know that you will enjoy the day.

Sincerely,



Champ Covington
Founder's Board Chairman



Joe Lancia
Tournament Director



Jay Haas
Director of Golf



ALAN LEVORSEY - Staff

Joe Lancia moved from Connecticut to Greenville in 1992.

Lancia's love of golf reaped rewards for Thornblade Classic

Jimmy Cornelison
City People Writer
jcornell@greenvillenews.com

In his office on the third floor of his Thornblade home, Joe Lancia has collected enough golf memorabilia to start his own PGA museum. The other collectibles scattered about his house could almost complete the museum.

There's a blimp shot of Mark O'Meara sinking his putt on the 18th hole to win the 1998 Masters. It's autographed by O'Meara. There's also a shot of

Lancia with Phil Michelson, and it appears that Lancia is offering advice to the touring pro. Jokingly, Lancia says he was.

A shadowbox frame holds one of Tiger Woods' golf caps. Another contains one of Arnold Palmer's golf gloves. A copy of the classic golf book, "Little Red Book," by Harry Penick is inscribed by the author.

Photos of Greg Norman, Larry Mize and a host of who's who on the PGA tour, all autographed, are on display along with one of John Daly's drivers.

Most of these things were given to Lancia by players he's met in his seven years as tournament director of the Thornblade Classic, the charity golf event that has raised more than \$1.5 million for local charities.

This year's Classic, to be held at Thornblade Monday, will be the last one.

The idea for the Classic came from Thornblade's touring PGA pro, Jay Haas. He envisioned a one-day event that would have all the ambience of a

See WANDLING on page 34

EXHIBIT

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Handling details is Lancia's s

Continued from Page 1

tournament. He would invite friends from the tour and pair them with sponsors to raise money for local charities.

He was assisted in organizing the Classic by a local businessman, Champ Covington.

In 1992, the same year a young man named Joe Lancia moved to Greenville, the first Thornblade Classic was held. For two years, Covington assisted the Thornblade Country Club head golf pro. When the pro moved, Covington was on his own.

One day Lancia and Covington were having lunch, and almost matter-of-factly, Lancia said, "Hey, if you need any help..."

Lancia found himself appointed volunteer director.

"I had zero experience. I knew nothing about running a golf tournament," he admits with a smile. "But when I started a plastic injection molding company, I knew nothing about that, so I figured I could run a golf tournament. A lot of it is just management."

Jamie McCullough, head golf professional at Thornblade, says Lancia is especially good at getting sponsorships and dealing with vendors.

"He's the reason we've had the

PROFILE

■ Lancia has three children, Jenna, 12; Kara, 10 and Krista, 5.

■ One of the highlights of Lancia's work as tournament director of the Thornblade Classic was chauffeuring Arnold Palmer from the airport in 1994.

■ Though he has a five-handicap, Lancia has never had a golf lesson.

■ To be paired with a top pro at the Classic, a Presenting Patron must contribute \$20,000. Pairings of pros with sponsors are based on how long the sponsor has been involved with the Classic.

■ In 1999, the Thornblade Classic distributed \$240,000 to 20 non-profit organizations and charities in Greenville County.

success we've had," McCullough says. "He has a way of getting people to pitch in and help, and that's what you need in a charity event."

"Joe's an incredible negotiator," agrees Linda Riddle, co-director of the tournament. "He's able to get things at cost or free, which obviously means more money for charities. When he came, the money that went back to the community really increased. After Joe talks to you, you just want to do it."

Lancia was born and raised in Connecticut, a graduate of the Uni-

versity of Southern Connecticut, where he earned a degree in finance and computer science. Out of college, Lancia took a job with Litton Industries, working with computer accounting systems, then moved to another computer software company.

This background allowed Lancia to strike out on his own in Connecticut with a company that bought old and obsolete computers to gut them and sell anything of value.

This venture was followed by the plastic injection molding business. In 1989, still in his 20s, Lancia sold his interest in those businesses and started his own firm, Strategic Investments, specializing in mergers and acquisitions.

"Strategic Investments was the harder one to get started," recalls Lancia. "Most of my peers came from Wall Street investment houses. Getting clients was hard, because I didn't have the ability to contact one and say, 'I was with Morgan Stanley.'"

Still, it all worked because Lancia figures he was in the right place at the right time.

By the early '90s, Lancia and his wife, Kathy, began looking for a new place to live. Since his office was in his home, he would also be relocating his business.

"We had small children and started looking for somewhere warmer," he says. "Because of family, we wanted to stay on the East Coast. Every place we looked at was either a great place to live or not a good place for business, or good place for business and not good place for families."

In the *Wall Street Journal*, Lancia saw an ad for a company for sale in Greenville.

"I'd never heard of Greenville. By 1991, there were the rumors BMW coming, so I visited her

rength

so days here, and I started getting a good feeling."

In 1992, the couple bought a home in Thornblade, an ideal location for family, his business and his growing passion for golf.

"I was a baseball player in college. My mom was 45 when she took up golf, and at age 60, she won the Connecticut Senior Amateur Championship," says Lancia.

With athletic ability and good hand-eye coordination, Lancia began teaching himself how to play golf. He watched golf on television and then tried to copy the pros.

Today, he carries a five handicap to go with his smooth swing, and at the Thornblade Classic, he has had the opportunity to meet many of those pros who helped shape his game through their television appearances.

As director of the tournament, Lancia's goal has been the one fans envisioned — to keep the atmosphere of a regular PGA tournament. He believes he and the 350 tournament volunteers have done that.

A sponsor once told Lancia that his favorite part of the tournament came on the ninth green as he sunk a 25-foot putt, and the crowd cheered.

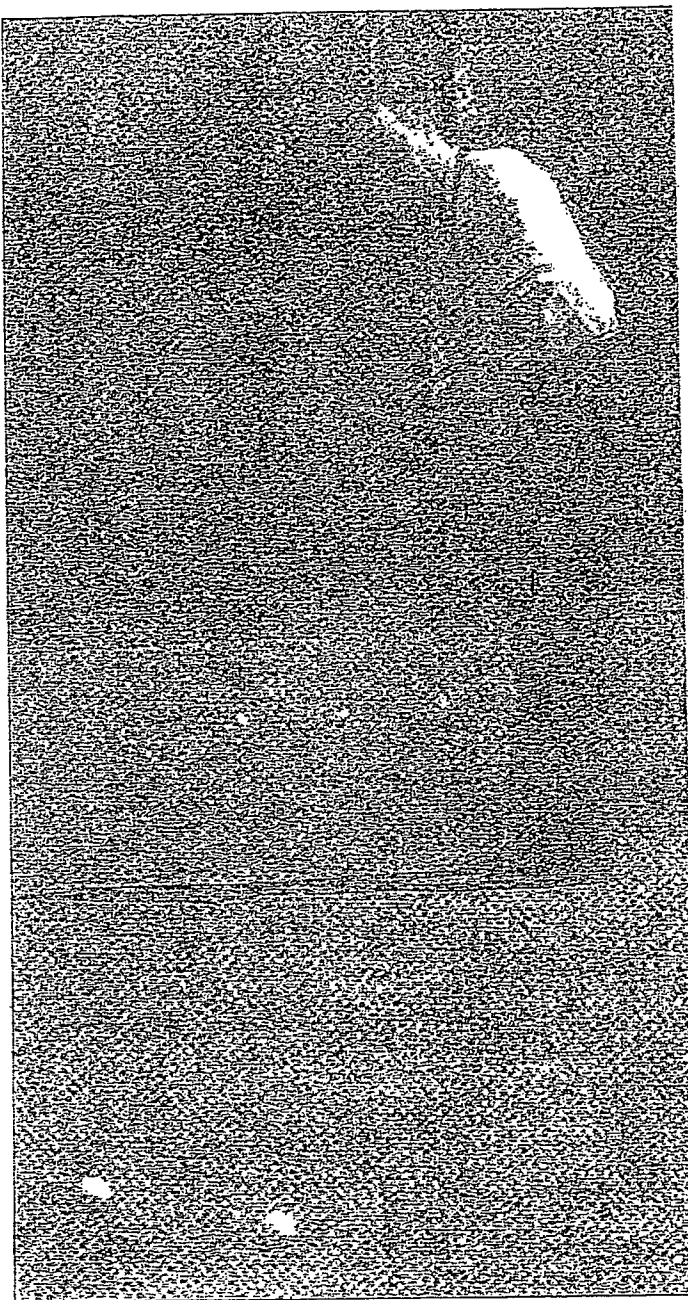
"He said the hairs stood up on his arm, and that he now knew what the pros felt like," says Lancia. "My biggest surprise has been how big this thing has gotten."

In his first year, Arnold Palmer came, and since that time, the tournament has raised \$1.5 million for local charities.

"Everybody knows about the Thornblade Classic. It's been recognized as one of the top charity events on the tour," Lancia points out.

It was because of a chance meeting several years ago at a Greenville County School Board meeting that Lancia came to understand

how big the school



ALAN DEVORSEY / Staff

Joe Lancia carries a five handicap.

the good the tournament was doing. Lancia had been asked to speak at a public hearing.

"A lady came up to me afterwards and said she just wanted to thank me for what we were doing," says Lancia of the tournament's focus on children's charities and education.

"She said if it wasn't for the Thornblade Classic the school her child attended wouldn't have a computer lab. She wasn't able to afford a computer, and the lab allowed her child to keep up."

Lancia, through his role as tournament director, has also become exposed to many charities in the

What he has realized, he explains, is that there is much happening in Greenville to make the quality of life better. What he saw on his visits to agencies, he describes simply: "Wow!"

During those visits he became so interested in the work of several agencies that he involved himself as a volunteer. Now he serves on the board of Loaves and Fishes, a food rescue agency.

In the summer he will direct the Frank Outlaw Tennis Tournament to raise money for the Red Cross.

It all started with Lancia's chance remark over lunch, "If I can ever help..."

INSTRUCTIONS

- Prepare on typewriter: sign original summons (top sheet) and conform copies of the summons (sheets 3 and 4).
- If there is more than one defendant, prepare or photocopy conformed summons for each additional defendant.
- Attach the original summons, with computer sheet attached (page 2), to the original complaint, and attach a copy of the summons to each copy of the complaint. Also, if there are more than 2 plaintiffs or 4 defendants prepare form JD-CV-2 and attach it to the original and all copies of the complaint.
- After service has been made by officer, file original papers and officer's return with the clerk of the court.
- The party recognized to pay costs must appear personally before the authority taking the recognizance.
- Do not use this form for actions in which an attachment, garnishment or replevy is being sought. See Practice Book Section 49 for other exceptions.

O: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this summons and attached Complaint.

A. ONE OF THE FOLLOWING:
Amount, legal interest or property in demand, exclusive interest and costs is

- a. ☐ less than \$2,500
- b. ☐ \$2,500 through \$14,999.99
- c. ☒ \$15,000 or more
- d. ☒ Claiming other relief in addition to or in lieu of money damages.

JUDICIAL DISTRICT		AT (Town in which writ is returnable) (Gen. Stat. 51-346, 51-349)		RETURN DATE (Mo., day, yr.)	
HOUSING SESSION ☐ G.A. ☐		NEW HAVEN		MAY 4, 1993	
ADDRESS OF CLERK OF COURT WHERE WRIT AND OTHER PAPERS SHALL BE FILED (Gen. Stat. 51-347, 51-350)				CASE TYPE (From Judicial Dept. code list)	
35 CHURCH STREET, NEW HAVEN, CT 06510				Major ☒ Minor ☐	
PARTIES		NOTE: Individual's Names: Last, First, Middle Initial		NAME AND ADDRESS OF EACH PARTY	
HYPER PARTY PLAINTIFF		AETNA CASUALTY & SURETY COMPANY OF ILLINOIS, 99 HAWLEY LANE, STRATFORD, CT 06497		☐ Form JD-CV-2 attached	
ADDITIONAL PLAINTIFF					
HYPER PARTY DEFENDANT		LANCIA, JOSEPH, P.O. BOX 25278, GREENVILLE, SOUTH CAROLINA 29616-0278 C/O SECRETARY OF STATE, 30 TRINITY STREET, HARTFORD, CT 06106			
ADDITIONAL DEFENDANT		WILSON, RED, B., 3260 PINE VALLEY DRIVE, SPRASOTA, FLORIDA 34239, C/O SECRETARY OF STATE, 30 TRINITY STREET, HARTFORD, CT 06106			
ADDITIONAL DEFENDANT					
ADDITIONAL DEFENDANT					

EXHIBIT

F

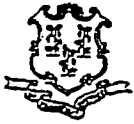
NOTICE to each DEFENDANT

- You are being sued.
- This paper is a Summons in a lawsuit.
- The Complaint attached to these papers states the claims that each Plaintiff is making against you in this lawsuit.
- To respond to this summons, or to be informed of further proceedings, you or your attorney must file a form called an "Appearance" with the Clerk of the above named Court at the above Court address on or before the second day after the above Return Date.
- If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default.
- The "Appearance" form may be obtained at the above Court address.
- If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately take the Summons and Complaint to your insurance representative.
- If you have questions about the Summons and Complaint, you should consult an attorney promptly. The Clerk of Court is not permitted to give advice on legal questions.

DATE		SIGNED (sign and "X" proper box)		TYPE IN NAME OF PERSON SIGNING AT LEFT	
MARCH 25, 1993		☒ Commissioner of Superior Court ☐ Assistant Clerk		PETER D. CLARK	
OR THE PLAINTIFF(S) ENTER THE APPEARANCE OF:					
NAME AND ADDRESS OF ATTORNEY, LAW FIRM OR PLAINTIFF IF PRO SE					
WILLIAMS, COONEY & SHEEHY, ONE LAFAYETTE CIRCLE, BRIDGEPORT, CT 06604				TELEPHONE NO. 331-0888	
NAME AND ADDRESS OF PERSON RECOGNIZED TO PROSECUTE IN THE AMOUNT OF \$250				JURIS NO. (if atty. or law firm) 106036	
ERNADETTE HEFFERN, ONE LAFAYETTE CIRCLE, BRIDGEPORT, CT 06604				SIGNATURE OF PLAINTIFF IF PRO SE	
PLFS.		NO. DEFS.		NO. CNTS.	
1		2		3	
SIGNED (Official taking recognizance; "X" proper box)					
☒ Commissioner of Superior Court ☐ Assistant Clerk					
THIS SUMMONS IS SIGNED by a CLERK:					
The signing has been done so that the Plaintiff(s) will not be denied access to the courts. It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law. The Clerk is not permitted to give any legal advice in connection with any lawsuit. d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service thereof.					
I hereby certify I have read and understand the above:					
SIGNED (Pro se plaintiff)		DATE SIGNED		DOCKET NO.	

A TRUE COPY
ATTEST:FRANCIS M. DELUCCO
CHIEF DEPUTY SHERIFF
HARTFORD COUNTY

CONNECTICUT SUPERIOR COURT
OFFICE OF THE CHIEF CLERK
JUDICIAL DISTRICT OF NEW HAVEN



235 Church Street, New Haven, Connecticut 06510

Telephone: (203) 789-7908

Mr. Joseph Lancia
P.O. Box 25278
Greenville, SC 29616 0278

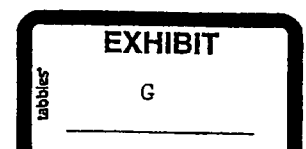
NOTICE OF ENTRY OF DEFAULT FOR FAILURE TO APPEAR

In the matter of: Aetna Cas. vs. Investment Assoc. et. als
Docket No.: 30 50 48

You are hereby notified that you have been defaulted for failure to file an appearance in the above captioned case within the time prescribed by statute and rule.

Date default entered: 6-9-93 BY THE CLERK

PURSUANT TO PRACTICE BOOK SEC. 352, IF YOU FILE AN APPEARANCE IN THIS CASE BEFORE JUDGMENT IS ENTERED AGAINST YOU, THE DEFAULT FOR FAILURE TO APPEAR SHALL AUTOMATICALLY BE SET ASIDE BY THE CLERK.



STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF GREENVILLE

Branford Savings Bank

, Plaintiff

v.

Aetna Casualty and
Surety Company of Illinois

, Defendant

SUBPOENA IN A CIVIL CASE

Case Number:

Pending in Greenville County

TO: Joseph Lancia
109 Thornblade Blvd.
Greer, SC 29650

☐ YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM:

DATE AND TIME:

☒ YOU ARE COMMANDED to appear in the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: Haynsworth, Marion,
McKay & Guarard
Two Insignia Financial Plaza, 11th Floor
75 Beattie Place
Greenville, SC 29601

DATE AND TIME: Tuesday,
September 28, 1993
10:00 a.m.

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE:

DATE AND TIME:

☐ YOU ARE COMMANDED to permit inspection of the following premises at the time specified below.

PREMISES

DATE AND TIME:

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30 (b) (6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Caroline W. Mattos, Greenville County, Clerk of Court, Greenville County Courthouse, Greenville, SC 29601, 803-487-8551

Caroline W. Mattos

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45 (c) (1) AND THAT NOTICE AS REQUIRED BY RULE 45 (b) (1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney for Defendant

ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) DATE **SEP 8 1993**
SCCA FORM 254 (7/93) (See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on Reverse)

EXHIBIT

H

PROOF OF SERVICE		
SERVED	DATE	FEE AND MILEAGE TENDERED TO WITNESS YES NO AMOUNT \$
	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICES
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ DATE _____

SIGNATURE OF SERVER _____

ADDRESS OF SERVER _____

Rule 48, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) PROTECTION OF PERSON SUBJECT TO SUBPOENAS

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or
(ii) requires a person who is not a party or an officer, director or managing agent of a party to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from the county where the subpoena was served to the place within the state where the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer, director or managing agent of a party to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

DOCKET NO. CV07-4028746S : SUPERIOR COURT
INVESTMENT ASSOCIATES : JUDICIAL DISTRICT OF NEW HAVEN
V. : AT NEW HAVEN
JOSEPH LANCIA : MAY 5, 2008

MEMORANDUM OF DECISION RE MOTION TO DISMISS #102

On December 27, 2007, the defendant filed a timely motion to dismiss for lack of personal jurisdiction, in support of which he submitted an affidavit.¹ In response, the plaintiff filed a memorandum of law in opposition, along with the officer's supplemental return and the summons and complaint from the underlying action, which gave rise to the 1994 judgment. Finally, the defendant filed a supplemental brief and reply memorandum. In support, the defendant included the summons and complaint of the withdrawn action, the 1994 judgment, the officer's return, the summons and complaint of the present action, and

¹ Practice Book § 10-31 states in relevant part that "[a]ny defendant, wishing to contest the court's jurisdiction, may do so even after having entered a general appearance, but must do so by filing a motion to dismiss within thirty days of the filing of an appearance." Specifically, "any claim of lack of jurisdiction over the person as a result of an insufficiency of service of process is waived unless it is raised by a motion to dismiss filed within thirty days in the sequence required by Practice Book § 10-6" (Emphasis in original.) *Pitchell v. Hartford*, 247 Conn. 422, 433, 711 A.2d 797 (1999). In the present case, the defendant filed his appearance on November 29, 2007, and the motion to dismiss was filed on December 27, 2007. Accordingly, the defendant's motion to dismiss is timely.

Counsel/Pro Se Parties notified 5/6 2008

By ☐ JDNC ☒ Copy of Memo ☐ Other

NEW HAVEN J.D.
SUPERIOR COURT
CLERK'S OFFICE
MAY 5 - 5 P 3:56 PM

EXHIBIT

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the affidavits of service in South Carolina. The matter was heard on the short calendar on January 28, 2008. For reasons more fully set forth, this court grants the motion to dismiss.

FACTS

The claim in the instant matter arises out of a judgment against the defendant and for the plaintiff rendered on May 17, 1994.² The present action, filed on November 13, 2007, seeks to enforce the unpaid prior judgment of \$272,505.03 in damages plus costs taxed at \$201.20. Prior to the present action, the plaintiff filed an identical action on September 27, 2007, with docket number CV-07-4028072, which was withdrawn on December 3, 2007.

DISCUSSION

"A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court. . . . A motion to dismiss tests, inter alia, whether, on the face of the record, the court is without jurisdiction." (Internal quotation marks omitted.) *Cox v. Aiken*, 278 Conn. 204, 210-11, 897 A.2d 71 (2006); see also *Kozlowski v. Commissioner of Transportation*, 274 Conn. 497, 501, 876 A.2d 1148 (2005); *Filippi v. Sullivan*, 273 Conn. 1, 8, 866 A.2d 599 (2005). Pursuant to Practice Book § 10-31 (a), "a motion to dismiss shall be used to assert . . . (2) lack of jurisdiction over the person . . . and (5) insufficiency of

² *Investment Associates v. Summit Associates Inc.*, Superior Court, judicial district of New Haven, Docket No. CV 91 0309954.

service of process." The motion, however, "is not designed to test the legal sufficiency of a complaint in terms of whether it states a cause of action." *Pratt v. Old Saybrook*, 225 Conn. 177, 185, 621 A.2d 1322 (1993).

"If a challenge to the court's personal jurisdiction is raised by a defendant, either by a foreign corporation or by a nonresident individual, the plaintiff must bear the burden of proving the court's jurisdiction." *Knipple v. Viking Communications, Ltd.*, 236 Conn. 602, 607, 674 A.2d 426 (1996). "[W]hen a motion to dismiss for lack of personal jurisdiction raises a factual question which is not determinable from the face of the record, the burden of proof is on the plaintiff to present evidence which will establish jurisdiction. . . . [w]hen jurisdiction is based on constructive service [i.e., service on a foreign corporation or nonresident individual by mail] jurisdiction cannot arise solely from the acts recited in the return. There should be no presumption of the truth of the plaintiff's allegation of the additional facts necessary to confer jurisdiction." (Citations omitted; internal quotation marks omitted.) *Reiner, Reiner & Bendett, P.C. v. Cadle Co.*, 278 Conn. 92, 109, 897 A.2d 58 (2006).

RIGHT TO BRING A NEW ACTION ON A PRIOR JUDGMENT

The defendant erroneously argues that the plaintiff's action, seeking a judgment based on a prior judgment, is unprecedented. Further, the defendant argues that the plaintiff has missed its window of opportunity to enforce the 1994 judgment against the defendant.

because under South Carolina law the out-of-state judgment must be filed with the South Carolina court within ten years of the date it was issued. The plaintiff responds that an action seeking a judgment based upon a prior action is proper in Connecticut pursuant to both common law, as well as statutory law³. See General Statutes § 52-607⁴. The plaintiff further argues that Connecticut's policy for enforcing judgments is twenty years. See *Nauss v. Pinkus*, 2 Conn. App. 400, 411, 400 A.2d 568 (1984).⁵

"General Statutes § 52-607 preserve[s] the common-law right of a judgment creditor to bring an independent action on the judgment." (Internal quotation marks omitted.) *Chase Manhattan Bank v. Goldstone*, Superior Court, judicial district of Stamford-Norwalk at Stamford, Docket No. CV 95 0144986 (December 5, 1995, Dean, J.) (15 Conn. L. Rptr. 472). See also *Seaboard Surety Co. v. Waterbury*, 38 Conn. Sup. 468, 470, 451 A.2d 291 (App. Sess. 1982). "Although an action on a judgment is not favored as being generally vexatious and oppressive, the weight of authority is to the effect that an allegation of nonpayment is

³ The plaintiff also mistakenly argues that General Statutes § 52-604 supports its argument because it permits the unlimited enforcement of foreign judgments. The judgment in the present case, however, is not foreign judgment. It is a Connecticut judgment to be enforced in Connecticut against an out-of-state defendant.

⁴ General Statutes § 52-607 states: "The right of a judgment creditor to proceed by an action on the judgment or a motion for summary judgment in lieu of complaint instead of proceeding under sections 52-604 to 52-609, inclusive, remains unimpaired."

⁵ "At common law an action on a judgment may be maintained at any time within twenty years from the date of the judgment." (Internal quotation marks omitted.) *Nauss v. Pinkes*, 2 Conn. App. 400, 411, 480 A.2d 568 (1984).

sufficient reason for instituting suit.” *Garguilo v. Moore*, 156 Conn. 359, 361, 242 A.2d 716 (1968).

“General Statutes § 52-598 (a) . . . provides a twenty-five year time limit to institute an action for the collection of damages” from the day judgment was entered. *Quickpower International Corp. v. Danbury*, 69 Conn. App. 756, 759, 796 A.2d 622 (2002); *Lee v. BSB Greenwich Mortgage, LP*, Superior Court, complex litigation docket at Stamford, Docket No. X08 CV 04 0200344 (August 31, 2007, Jennings, J.).⁶

The Superior Court has “the general power . . . to enforce its own judgments.” *Gentile v. Ives*, 163 Conn. 281, 282, 303 A.2d 720 (1972). “[A] court must have the authority to enforce its own judgments; it must protect the integrity of its decisions by subsequent orders of enforcement.” *Bailey v. Roubos*, Superior Court, judicial district of Danbury, Docket No. FA 97 0327053 (July 23, 1999, Owens, J.) (25 Conn. L. Rptr. 215, 216); see also *Turgeon v. Turgeon*, 190 Conn. 269, 284, 460 A.2d 1260 (1983).

In the present case, the defendant was engaged in a joint business venture in Connecticut, which gave rise to a legal dispute in 1991, which resulted in a Connecticut judgment in 1994. The plaintiff is within the twenty-five year statute of limitations of

⁶ General Statutes § 52-598 (a) provides in pertinent part: “No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered”

bringing an action on the prior judgment, because the present action was brought on November 13, 2007. This confers subject matter jurisdiction upon the court. It does not, however, address issues of personal jurisdiction over the defendant.

PERSONAL JURISDICTION OVER A NONRESIDENT INDIVIDUAL

The defendant argues in his motion to dismiss that the requirements of the long-arm statute were not met because he is not, and at the time of the institution of this action was not, a resident of the state of Connecticut. He attests that he has resided in South Carolina since 1992, and that there is no basis for the court to exercise personal jurisdiction over him. Finally, the defendant argues that, even if long-arm jurisdiction is authorized, personal jurisdiction over him is inconsistent with due process.

The plaintiff, counters that the defendant has sufficient contacts with Connecticut arising out of the 1994 judgment in favor of the plaintiff and against the defendant. The plaintiff reasons that the defendant was a Connecticut resident at the time of the prior litigation, 16 years ago; and that utilizing the Connecticut court system meets the statutory requirement of "transacting business" within the state of Connecticut.

"When a defendant challenges personal jurisdiction in a motion to dismiss, the court must undertake a two part inquiry to determine the propriety of its exercising such jurisdiction over the defendant. The trial court must first decide whether the applicable state long-arm statute authorizes the assertion of jurisdiction over the [defendant]. If the statutory

requirements [are] met, its second obligation [is] then to decide whether the exercise of jurisdiction over the [defendant] would violate constitutional principles of due process.” (Internal quotation marks omitted.) *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 514-15, 923 A.2d 638 (2007).

First, the court examines the applicability of the Connecticut long-arm statute. “Connecticut courts may assert personal jurisdiction over a nonresident defendant under General Statutes § 52-59b (a) (1)⁷, as long as that defendant transacts business within the state.” *Gaudio v. Gaudio*, 23 Conn. App. 287, 298, 580 A.2d 1212, cert. denied, 217 Conn. 803, 584 A.2d 471 (1990). “[A]lthough the term ‘[t]ransacts any business’ is not defined by statute, [the Connecticut Supreme Court] previously ha[s] construed the term to embrace a single purposeful business transaction.” (Internal quotation marks omitted.) *Ryan v. Cerullo*, 282 Conn. 109, 119, 918 A.2d 867 (2007). “A purposeful business transaction is one in which the defendant has engaged in some form of affirmative conduct allowing or promoting the transaction of business within the forum state.” (Internal quotation marks omitted.) *The Cadle Co. v. Sydorowycz*, Superior Court, judicial district of Hartford, Docket No. CV 00 0597714 (June 5, 2001, Hennessey, J.) (30 Conn. L. Rptr. 202, 204). “Moreover, a

⁷ Section 52-59b(a) (1) provides, in pertinent part, that: “...a court may exercise personal jurisdiction over any nonresident individual....who in person or through an agent transacts any business within the state.”

nonresident individual who has not entered this state physically nevertheless may be subject to jurisdiction in this state under § 52-59b (a) (1) if that individual has invoked the benefits and protection of Connecticut's laws by virtue of his or her purposeful Connecticut related activity" (Internal quotation marks omitted.) *Ryan v. Cerullo*, supra, 282 Conn. 120.

"In determining whether [the defendant's] contacts constitute the transaction of business within the state, [the Connecticut Supreme Court does] not apply a rigid formula but balance[s] considerations of public policy, common sense, and the chronology and geography of the relevant factors." (Internal quotation marks omitted.) *Gaudio v. Gaudio*, supra, 23 Conn. App. 298.

In the present case, there is no dispute that the defendant is a nonresident who has not been a resident of this state for over 15 years. And, there are no allegations or claims that the defendant has had any contact with or transactions within Connecticut since the 1994 judgment entered against him. Therefore, the question for this court is: whether or not the 1994 judgment, alone, constitutes a sufficient business transaction within the state of Connecticut to allow this court to exercise personal jurisdiction over the defendant.

Connecticut case law does not provide any precedents for construing the past litigation as constituting a sufficient business transaction to provide personal jurisdiction to a Connecticut court. In fact, although there are no cases directly on point, the cases in which courts have found sufficient contacts to establish personal jurisdiction, generally, involve

defendants who have engaged in contemporaneous activities in Connecticut or who have had direct and recent contact with Connecticut. According to the record, the defendant in the instant matter has had no contact with Connecticut since the mid 90s. Accordingly, this court concludes that the prior litigation, which was concluded 14 years ago, is insufficient to provide personal jurisdiction over the defendant under § 52-59b.

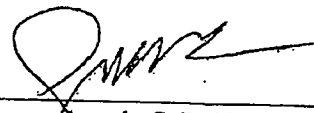
The second part of the jurisdictional analysis is whether constitutional protections of due process have been violated. "[T]he constitutional due process standard requires that, in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice. . . . In other words, [t]he Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful contacts, ties, or relations. . . . By requiring that individuals have fair warning that a particular activity may subject [them] to the jurisdiction of a foreign sovereign . . . the Due Process Clause gives a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit" *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 523-24, 923 A.2d 638 (2007).

"The due process test for personal jurisdiction has two related components: the minimum contacts inquiry and the reasonableness inquiry. The court must first determine whether the defendant has sufficient contacts with the forum state to justify the court's exercise of personal jurisdiction." (Internal quotation marks omitted.) Id., 524. Thereafter, "[w]hile the exercise of jurisdiction is favored where the plaintiff has made a threshold showing of minimum contacts at the first stage of the inquiry, it may be defeated where the defendant presents a compelling case that the presence of some other considerations would render jurisdiction unreasonable." (Internal quotation marks omitted.) Id., 525.

Addressing the issue of due process, the same factors noted above, are relevant. The defendant has not had any contact with Connecticut since 1992 outside of the 1994 judgment. The defendant is presently a resident of South Carolina, is employed in South Carolina and has been working there exclusively for over fifteen years. The defendant has not transacted any business in Connecticut in fifteen years; has not owned, used or possessed any real estate in Connecticut since 1992; and does not use a computer or a computer network within the State of Connecticut.

The plaintiff fails to meet its threshold burden of showing minimum contacts. The connection between the defendant's last contact with the forum state and the present action is too remote and too attenuated to constitute the requisite minimum contacts; and that the 1994 judgment does not constitute a recent 'transaction of business.' Accordingly, this court

concludes that it does not have personal jurisdiction over the defendant, even though Connecticut courts would have a valid interest in enforcing a valid judgment.



Angela C. Robinson, Judge

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

INVESTMENT ASSOCIATES,

Plaintiff,

vs.

JOSEPH D. LANCIA

Defendant.

FILED-CLERK OF COURT
GREENVILLE CO. SOUTH
PAUL B. WICKENSIMER
THIRTEENTH JUDICIAL CIRCUIT

2014 MAR 27 PM 4 23

C.A. No. 2014-CP-23-00515

**MEMORANDUM IN SUPPORT OF
MOTION FOR RELIEF FROM FOREIGN
JUDGMENT**

This action is barred by the statute of limitations contained in South Carolina Code Section 15-3-600. Plaintiff Investment Associates ("IA") is seeking to enforce a judgment (hereinafter "the Judgment") rendered in Connecticut on May 17, 1994. Defendant Joseph D. Lancia ("Lancia") has been a South Carolina resident since 1992. The Judgment was not filed in South Carolina until January 28, 2014. Consequently, enforcement of the judgment is barred by the ten year statute of limitations contained in South Carolina Code Section 15-3-600.

The above paragraph is all the information needed to rule on this matter. Nevertheless, in anticipation of arguments from IA regarding a "revival" of the Judgment, Defendant is setting forth a more detailed background relating to this matter and presenting its arguments in the context of that background.

I. FACTUAL AND PROCEDURAL BACKGROUND

On May 17, 1994, the State of Connecticut Superior Court entered the Judgment against Lancia and two others. Lancia moved from Connecticut to South Carolina in 1992 and has been a resident of South Carolina since August 1992, residing continuously at the address of 109

EXHIBIT

C

Thornblade Blvd in Greer, South Carolina. (Lancia Affidavit at ¶¶2-3, **exh. 1**).¹ Lancia has been active in the Greenville community since he moved to South Carolina. (*See id.* at ¶¶9-12).

In an attempt to circumvent South Carolina's ten year statute of limitations for enforcement of foreign judgments, IA filed an action in 2007 with the Connecticut Superior Court seeking a new judgment based on the Judgment. *See Investment Associates v. Lancia*, CV074028746S, 2008 WL 2168983, 2008 Conn. Super Lexis 1112 (Conn. Super. Ct. May 5, 2008), **exh. 2**. Lancia moved to dismiss for lack of personal jurisdiction on the grounds that he had been a resident of South Carolina since 1992, had worked in South Carolina exclusively during that time, and did not have any contacts with Connecticut since his move to South Carolina in 1992. *See id.* The Connecticut Superior Court granted Lancia's motion and held that Connecticut lacked personal jurisdiction over Lancia. *Id.* IA did not appeal that decision, and the time period for doing so has expired.

In 2009, the Connecticut legislature passed General Statutes § 52-598(c), which provides:

With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.

In October 2009, IA filed a "Motion to Revive" the Judgment in the Connecticut Superior Court pursuant to that statute. Lancia moved to dismiss for lack of personal jurisdiction. The court simultaneously granted the motion to revive and denied the motion to dismiss, finding that the motion to revive was merely a continuation of the original action and not a new action that

¹ The original of Mr. Lancia's affidavit was filed with the Notice of Defenses To and Motion for Relief from Foreign Judgment. A copy is being attached hereto as a courtesy.

would require Connecticut to obtain personal jurisdiction. See *Investment Associates v. Lancia*, CV91-0309954-S, 2010 Conn. Super. LEXIS 548 (Conn. Super. Ct. March 4, 2010).

Lancia appealed this decision and on August 27, 2013 the Supreme Court of Connecticut issued an opinion affirming the Superior Court. *Investment Assocs. v. Summit Assocs.*, 74 A.3d 1192 (Conn. 2013), *exh. 3*. The Court explained that “a motion to revive under § 52-598 (c) is effectively a continuation of the original proceeding rather than a new action.”² *Id.* at 1201. As such, Connecticut had personal jurisdiction over Lancia for purposes of the motion to revive. See *id.* at 1211.

On January 28, 2014, IA filed the Judgment in South Carolina for the first time.

II. ARGUMENT

A. Enforcement of the Foreign Judgment Is Barred by the Statute of Limitations, S.C. Code Ann. Section 15-3-600

South Carolina Code Section 15-3-600 is a ten year statute of limitations that applies to the enforcement of foreign judgments. See *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 483, 517 S.E.2d 235, 238 (Ct. App. 1999) (“the catch-all limitation period of § 15-3-600 applies to the time in which a foreign judgment must be filed . . .”). The ten year clock begins to run when the debtor moves to South Carolina and the courts of this state become empowered to adjudicate between the parties, regardless of when the creditor discovered that the debtor was a South Carolina resident. *Id.* at 482, 517 S.E.2d at 237 (“the limitation period does not begin to run until the judgment debtor moves to South Carolina and the courts of this state become

² In determining that the revival here was merely a continuation of the original Judgment, the Connecticut Supreme Court acknowledged that South Carolina may bar enforcement of the Judgment under its statute of limitations on the grounds that it is a mere continuation. See *Investment Assoc.*, 74 A.3d at 1201 n. 8 (“[w]hether the revived judgment is deemed a continuation of the original judgment or a new judgment may affect whether the foreign jurisdiction will consider Connecticut’s revived judgment to be the operative judgment for purposes of that jurisdiction’s time limit for enforcement.”).

empowered to adjudicate between the parties upon the particular cause of action.”); *id.* at 485-86, 517 S.E.2d at 239 (“We hold the ten year limitations period of § 15-3-600, for enforcement of [creditor’s] foreign judgment under the UEFJA, began to run when [debtor] became a resident of South Carolina, not when [creditor] discovered [debtor] was a South Carolina resident.”). There is no discovery rule. *Id.* at 485-86, 517 S.E.2d at 239.

Here, it is undisputed that Mr. Lancia has been a resident of South Carolina since 1992. (See *Lancia Aff.* at ¶¶2-7); *see also Investment Assocs.*, 74 A.3d at 1196 (“The following facts are undisputed. . . . In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina.”). In fact, he has resided at the same address continuously since 1992. (*Lancia Aff.* ¶¶2-3). The following facts are further indicia of Lancia’s South Carolina residency since 1992:

- He has had a South Carolina driver’s license since October 2, 1992 (*see Lancia Aff.* at ¶5, at exh. A);
- his vehicles have been registered in South Carolina since 1992 (*id.* at ¶6);
- he has paid South Carolina income taxes since the 1992 tax year (¶7);
- he has been a member of the Prince of Peace Church in Taylors since 1992 (¶12);
- his children attended Greenville County schools beginning in 1992 (¶13); and
- all three of his children attended public colleges in South Carolina and he has paid in-state tuition for their attendance (¶14);
- in 1993 Lancia received legal documents in South Carolina in cases arising out of the same basic events that gave rise to the Judgment (*Lancia Aff.* at ¶¶15-17, at exh. F, G, H).³

³ In fact, Lancia received a document in South Carolina from the Connecticut Superior Court in a related action in which IA was involved and the document is addressed to him in South Carolina. (*Lancia Aff.* at ¶16, at exh. G). The Clerk of Court would have provided a copy of that document, addressed to Lancia in South Carolina, to IA. *See Keating v. Jordan*, No. 096660, 1991 WL 183058, 1991 Conn. Super. LEXIS 2051 (Conn. Super. Ct. Sept. 10, 1991) (“Connecticut Practice Book Section 398 requires the clerk to give notice to the attorneys of

Lancia became a South Carolina resident in 1992. The courts of South Carolina became empowered to adjudicate this dispute when the Judgment was entered in 1994 and the ten year statutory period began to run at that time. The statutory period expired in 2004. This enforcement action was filed in 2014, almost ten years after the ten year statutory period expired. Consequently, this action is barred.

B. The Granting of the Motion to Revive the Judgment Does Not Alter the Application of South Carolina Code Section 15-3-600

IA's revival of the Judgment under Conn. Gen. Stat. 52-598(c) does not change the conclusion that this action is barred by South Carolina Code Section 15-3-600. A revived judgment under section 52-598(c) of the Connecticut General Statutes is nothing more than a continuation of the original judgment and is not a new judgment. *See Investment Assoc.*, 74 A.3d at 1201. Thus, the revival goes only to the validity of the Judgment in Connecticut and does not impact South Carolina's statute of limitations. *See Owens v. Henry*, 161 U.S. 642, 646 (1896) (holding that a Pennsylvania judgment recovered in 1861 and revived in 1871 was barred in 1880 Louisiana action by Louisiana's ten year statute of limitations since "considered as in continuation of the prior action and a revival of the original judgment for purposes of execution . . . it operated merely to keep in force the local lien, and could not be availed of as removing the statutory bar of *lex fori*") (emphasis added).⁴

record of all judgments and defaults made concerning pending cases *See also* Connecticut General Statutes Section 51-53.").

⁴ *See also Corzo Trucking Corp. v. West*, 674 S.E.2d 414, 415-16 (Ga. App. 2009) ("if a judgment is revived in the rendering state, a forum state is free to refuse enforcement of the revived judgment if the revival is merely an extension of the original judgment and enforcement of that judgment is barred by the forum state's statutory period of enforcement."); *Oakley v. Wagner*, 431 S.E.2d 676 (W. Va. 1993) (holding that enforcement of Ohio judgment was barred by West Virginia's ten year statute despite revival in Ohio three months before West Virginia proceedings since revival was mere continuation of original judgment); *Carter v. Carter*, 349 S.E.2d 95, 97 (Va. 1996) (holding that enforcement of Florida judgment was barred by

South Carolina Code Section 15-3-600 bars the enforcement of a foreign judgment after the statutory time period even where that judgment is still valid in the rendering state. This proposition is proven by *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999). In *Abba Equipment, Inc.*, the plaintiff obtained a Florida judgment against the debtor in 1983. *Id.* at 480, 517 S.E.2d at 237. The debtor became a South Carolina resident by 1985. *See id.* at 480-81, 517 S.E.2d at 236-37. The plaintiff filed the judgment with the Greenville, South Carolina Clerk of Court on December 23, 1996. *Id.* at 480, 517 S.E.2d at 236. Under Florida law, the judgment was valid for 20 years from the date of entry. *See id.* at 480, 517 S.E.2d at 236 n. 2. The *Abba Equipment* Court held that S.C. Code § 15-3-600 barred the plaintiff's enforcement of the judgment even though the Florida judgment was still valid under Florida law when it was filed in South Carolina in 1996 (and even in 1999 when the Court of Appeals issued its opinion). *See id.* at 483, 517 S.E.2d at 238.

The revival of the Judgment was merely a continuation of the validity of the Judgment in Connecticut. Thus, it is no different than the Florida judgment in *Abba Equipment, Inc.*, which continued to be valid in Florida. As such, the Judgment is barred by the statute of limitations in South Carolina Code § 15-3-600, just like the judgment in *Abba Equipment, Inc.*

This analysis is consistent with the law in other jurisdictions (*see* footnote 4, *supra*) and is in line with the Full Faith and Credit clause contained in the United States Constitution. The

Virginia's ten year statute despite revival in Florida four years before Virginia proceedings since revival was "merely a continuation of the original judgment."); *Mundaca Fin. Servs. LLC v. Casella*, 2011 WL 883506, 2011 N.C. App. LEXIS 471, N.C. App. No. COA10-714 (N.C. Ct. App. March 15, 2011) (reversing and remanding the trial court's determination that the judgment was filed within North Carolina's ten year statute of limitations since the trial court erred in holding that the plaintiff's 2009 revival of a New Jersey judgment in New Jersey was a new judgment) (unpublished); *Jacobs v. Sprague*, 280 P.2d 919, 921 (Cal. App. 1955) (concluding "that the Oregon proceedings resulting in the order of revival was not a new suit but merely a continuation of the old, and hence that the instant action was upon the original judgment and barred by limitation.").

United States Supreme Court has repeatedly held that a state may apply its own statute of limitations to bar an action, including an action to enforce a foreign judgment. *See Wells v. Simonds Abrasive Co.*, 345 U.S. 514, 517 (1953) (“the Full Faith and Credit Clause does not compel the forum state to use the period of limitation of a foreign state” and “[i]f action is barred by the statute of limitations of the forum, no action can be maintained though action is not barred in the state where the cause of action arose.”) (quoting *Order of United Commercial Travelers v. Wolfe*, 331 U.S. 586, 607 (1947)); *M’Elmoyle v. Cohen*, 38 U.S. 312, 328 (1839) (“It being settled that the statute of limitations may bar recoveries upon foreign judgments; that the effect intended to be given under our Constitution to judgments, is, that they are conclusive only as regards the merits; the common law principle then applies to suits upon them, that they must be brought within the period prescribed by the local law, the *lex fori*, or the suit will be barred.”).⁵

The application of South Carolina’s statute of limitations on foreign judgments is certainly constitutional since actions on foreign and South Carolina judgments alike must be maintained within ten (10) years. In South Carolina, proceedings to execute on a South Carolina judgment must be brought within ten (10) years. S.C. Code Ann. § 15-39-30; *see also Linda Mc Company, Inc. v. Shore*, 390 S.C. 543, 554-55, 703 S.E.2d 499, 505 (2010). South Carolina judgments “cannot be renewed” or revived. *See LaRosa v. Johnston*, 328 S.C. 293, 300, 493 S.E.2d 100, 103 (Ct. App. 1997) *overruled in part as stated in Linda Mc Company, Inc.*, 390

⁵ More recently, the Supreme Court has found its holdings in these cases to be “sound” and reiterated that a state “may apply its own procedural rules to actions litigated in its courts.” *Sun Oil Co. v. Wortman*, 486 U.S. 717, 722, (1988). South Carolina courts view its statutes of limitation as procedural. *See Capco of Summerville, Inc. v. J.H. Gayle Constr. Co.*, 368 S.C. 137, 143, 628 S.E.2d 38, 41 (2006) (“A statute of limitations is a procedural device . . .”).

S.C. at 554-55 n. 8, 703 S.E.2d at 505 n. 8;⁶ *Home Port Rentals, Inc. v. International Yachting Group*, 95 F.Supp.2d 623, 624 (W.D. La. 2000) (“South Carolina courts interpret [S.C. Code § 15-39-30] to mean what it says: a judgment is utterly extinguished ten years from the date of entry. *There is no procedure for renewal or revival.*”) (emphasis added).

If anything, South Carolina already affords foreign judgments greater rights than South Carolina judgments since a foreign creditor could file the foreign judgment in South Carolina within ten years, at which point the foreign judgment would then be valid for ten (10) years after enrollment in South Carolina. See *Commercial Credit Loans, Inc. v. Riddle*, 334 S.C. 176, 512 S.E.2d 123 (Ct. App. 1999) (holding that the 10-year period in S.C. Code § 15-39-30 begins to run when the creditor enrolls the judgment in South Carolina rather than when it obtained the judgment).⁷ Thus, a foreign judgment could continue to be valid in South Carolina for far longer than a South Carolina judgment. Consequently, the application of South Carolina South Carolina Code § 15-3-600 to bar this action is clearly in line with the Full Faith and Credit Clause. See *Great Western Tel. Co. v. Purdy*, 162 U.S. 329, 338 (1896) (holding that Iowa statute of limitations was proper since “[n]either the statutes nor the decisions of the State of Iowa upon this subject have made any discrimination against the citizens, the contracts or the

⁶ In *Linda Mc Company v. Shore*, a South Carolina judgment was entered against the debtor on June 2, 1995, the creditor filed a petition for supplemental proceedings on July 29, 2004, and the court issued an order to execute and levy on the debtor’s assets on June 3, 2005. The South Carolina Supreme Court held that when a party has filed a petition for supplemental proceedings in South Carolina *within ten years from entry of the South Carolina judgment*, and “is merely waiting on a court’s order regarding execution and levy, the ten year limitation found in section 15-30-30 is extended to when the court finally issues an order.” *Linda Mc Company*, 390 S.C. at 554, 703 S.E.2d at 505. It overruled *LaRosa v. Johnston* only to the extent inconsistent with that holding. *Id.* at 554-55 n. 8, 703 S.E.2d at 505 n. 8. It does not provide any mechanism for renewal or revival. In any event, the Judgment in the present case was not filed within ten years.

⁷ To the extent the holding in *Commercial Credit Loans, Inc. v. Riddle* is erroneous and the 10 year period in S.C. Code § 15-39-30 begins to run when the judgment is entered in the rendering state, the present action is barred by S.C. Code § 15-39-30 for the same reasons it is barred by §15-3-600.

judgments of other States, or against any right asserted under the Constitution or laws of the United States.”); *Suter v. Suter*, 37 S.E.2d 474 (W. Va. 1946) (“we do not think that, under the full faith and credit clause of our Federal Constitution, a court of any state is required to give to the decree of a court of a foreign state, a higher decree of force or effect than that accorded to the decrees of its own courts.”).

“Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs.” *Moates v. Bobb*, 322 S.C. 172, 176, 470 S.E.2d 402, 404 (Ct. App. 1996). “The cornerstone policy consideration underlying statutes of limitations is the laudable goal of law to promote and achieve finality in litigation.” *Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 175, 609 S.E.2d 548 (Ct. App 2005). They provide defendants with certainty of when they can no longer be haled into court and discourage plaintiffs from sitting on their rights. *Id.* Thus, “[s]tatutes of limitations are, indeed, fundamental to our judicial system.” *Id.*

If South Carolina was to consider revived judgments from the date of revival, then a creditor could potentially “revive” a judgment in the rendering state continuously, in which case there would effectively be no statute of limitations in South Carolina on foreign judgments. As set forth above, this is not the law and creditors cannot sit on their rights as IA did here. Even though no discovery rule applies in this case, IA knew, or should have known, that Lancia was living in South Carolina by 1993 at the latest. Among other things, Lancia was receiving legal documents addressed to him in South Carolina in 1993, including in actions to which IA was a

party. Yet it waited until nearly twenty (20) years after obtaining its Judgment to file it in South Carolina. Its action on the Judgment is, and should be, barred by the statute of limitations.⁸

C. Additional Defenses

For the reasons set forth above, Lancia submits that this action should be dismissed, the Judgment should be stricken from the docket, and any attempts to enforce this action should be denied. Lancia has filed this motion and seeks a ruling on the above arguments since the facts relevant to these arguments are undisputed and should be dispositive of this action. However, should the Plaintiff's action not be dismissed as requested, Lancia also has additional defenses that will require some discovery to further develop. These defenses are set forth in Lancia's Motion for Relief from and Notice of Defenses to Foreign Judgment (at sections IV and V), which is incorporated herein by reference. If the court allows this action to proceed further, Lancia reserves the right to file a motion that more fully sets forth these additional defenses.

III. CONCLUSION

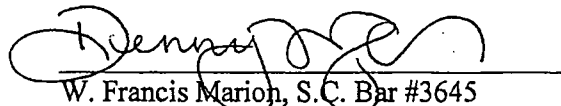
For the reasons set forth above, this action be dismissed, that the foreign judgment be stricken, that any attempts to enforce the foreign judgment in South Carolina be terminated, that

⁸ If for some reason the statute of limitations found in section 15-3-600 is found not to apply despite the Court of Appeals' holding in *Abba Equipment Co.*, Defendant submits that this action is barred by the statute of limitations in S.C. Code § 15-39-30 (see footnote 6, *supra*), S.C. Code § 15-3-530(1) and/or laches. S.C. Code § 15-3-530(1) provides for a three (3) year statute of limitations for "an action upon a contract, obligation, or liability, express or implied" except for certain sealed instruments. Though Lancia is not aware of any case finding that section 15-3-530(1) applies to foreign judgments, to the extent the Judgment is found to be an action upon an obligation or liability, it is barred by S.C. Code § 15-3-530(1). IA knew, or at least should have known, that Lancia was in South Carolina since at least 1993. It certainly knew by 2007, when it sought to renew the Judgment in the Connecticut Superior Court. (*See* Exh. 2). However, it failed to file the Judgment in South Carolina until 2014. Consequently, the Judgment would be barred pursuant to S.C. Code § 15-3-530(1) if it is determined to be an action upon a liability.

the court find the foreign judgment to be void and unenforceable, and that Lancia be granted such other and further relief as this Court deems proper.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.



W. Francis Marion, S.C. Bar #3645
Denny P. Major, S.C. Bar #74907
HAYNSWORTH SINKLER BOYD, P.A.
P. O. Box 2048
Greenville, SC 29602
Telephone: (864) 240-3220
Fax: (864) 240-3336

Attorneys for Defendant Joseph D. Lancia

March 27, 2014

Greenville, South Carolina

DM: 2242441 V.3

EXHIBIT 1

LANCIA AFFIDAVIT

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) AFFIDAVIT OF JOSEPH LANCIA

PERSONALLY APPEARED BEFORE ME, JOSEPH LANCIA, who, being duly sworn,
deposes and affirms as follows:✓

1. I have personal knowledge of the facts set forth herein and would testify to the same if called to do so.

2. I have been a resident of South Carolina continuously since August 1992 and am presently a resident of South Carolina.

3. I have resided at the address of 109 Thornblade Boulevard, Greer, South Carolina 29650 since August 1992.

4. I have been working in South Carolina since 1992.

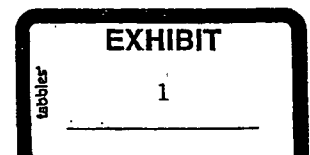
5. I have had a South Carolina driver's license since 1992. Attached hereto as **exhibit A** is a true and accurate copy of my 10 year driver record from the South Carolina DMV. This correctly states that my South Carolina driver's license was first issued on 10/02/1992.

6. My vehicles have been registered in South Carolina since 1992 and I have paid Greenville County, South Carolina vehicle taxes since 1992. Attached hereto is a true and accurate copy of a printout from the Greenville County, South Carolina website (www.greenvillegov.org) showing my tax payments on my vehicles dating back to 1999.

7. I have paid South Carolina income taxes since the 1992 tax year.

8. Attached hereto as **exhibit C** is a true and accurate copy of my 1994 tax return, which shows my home address as 109 Thornblade Boulevard, Greer, SC 29650.

9. I have been a member of the Thornblade Club in Greer, South Carolina since 1992.



10. I have served as director of the Thornblade Classic golf tournament from 1993 to 2000. Attached hereto as **exhibit D** is a true and accurate copy of two pages contained in the program of the 1994 Thornblade Classic. Attached hereto as **exhibit E** is a true and accurate copy of an article that appeared in the Greenville News on April 19, 2000 regarding my work with the Thornblade Classic and other activities in Greenville County, South Carolina.

11. During the early 1990s, I served as a member of the board of directors for Loaves and Fishes, which is a charitable organization here in Greenville that distributes food to soup kitchens and food pantries throughout Greenville County.

12. I have been a member of the Prince of Peace Church located in Taylors, South Carolina since 1992.

13. I have had three children that attended public school in Greenville County, South Carolina beginning in 1992.

14. All three of my children have attended public colleges in South Carolina and I have paid in-state tuition for their attendance of these South Carolina colleges.

15. In May 1993, I was served with a summons and third party complaint in the Connecticut lawsuit of Aetna Casualty & Surety Company of Illinois v. Investment Associates. The summons is addressed to me in South Carolina. I was served here in South Carolina. Attached hereto as **exhibit F** is a true and accurate copy of the summons.

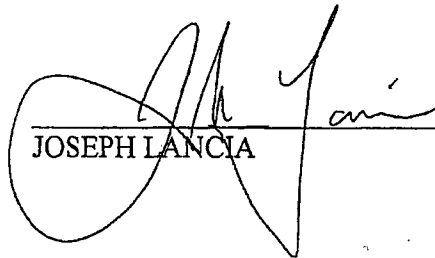
16. In 1993, I received a document from the Connecticut Superior Court regarding a notice of default in the Connecticut lawsuit of Aetna Cas. vs. Investment Assoc., et. al. A true and accurate copy of that document is attached hereto as **exhibit G**. The document is addressed to me in South Carolina. I received that document in South Carolina.

17. In September 1993, I was served with a subpoena for a deposition that took place on September 28, 1993 here in Greenville, South Carolina. I was served at my residence of 109 Thornblade Boulevard, Greer, SC 29650, which was my residence at that time and continues to be my residence today. A true and accurate copy of the subpoena is attached hereto as exhibit H. The subpoena itself, which is dated September 8, 1993, correctly listed my address as 109 Thornblade Boulevard, Greer, South Carolina 29650.

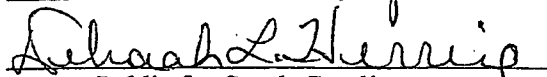
18. I have not lived or worked in Connecticut since 1992 and have not transacted any business in Connecticut since at least 1992.

19. I have not owned used or possessed any real estate in Connecticut since 1992.

SO ENDETH.


JOSEPH LANCIA

Sworn to before me this
17th day of February, 2014


Notary Public for South Carolina

My Commission Expires: 3/12/2019



10 YEAR DRIVER RECORD

Customer No: 24238285 Driver License No: ~~XXXXXXXXXX~~
Name: LANCIA, JOSEPH D
Address: 109 THORNBLADE BLVD
City: GREER State: SC Zip: 296504427
County: GREENVILLE
DOB: 08/05/1960 Sex: M Driver Training: Y

Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Restrictions	Endorsements
Current							
DL	D	Renewal	07/26/2006	08/05/2016	10/02/1992	N	N
Prior							
DL	D	Renewal	07/10/2001	08/05/2006	10/02/1992	N	N

Point Summary

Total Current Points: 1
Driver Credit: -0
Adjusted Current Points: 1

VIOL: 421 - Speeding 10-mph or less

Violation: 08/25/2012 Conviction: 09/18/2012

ACD: S51

Conviction State: SC

Ticket#: F637675

Recd: 10/01/2012 Post: 10/05/2012

Conviction Reference:

Court Type: MAG

Violation Points: 2 Current Points: 1

END OF REPORT

2/14/2014 12:26 PM

Data obtained from DMV via South
Carolina State Portal

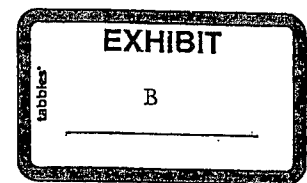
Invoice #13531529

EXHIBIT

A

[Home](#) | [Search](#) | [Services](#) | [Legal Disclaimer](#)

Vehicle Tax Search Results



Search Results For: LANCIA JOSEPH D
Results Found: 43

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	2013 05 0646608 01 001	\$290.70	\$290.70	View Receipt
VIN#: WDDHF9BB3CA644777	2012 MERZ	District: 195 04/18/2013		
LANCIA JOSEPH D	2013 09 0790105 01 001	\$48.80	\$48.80	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/26/2013		
LANCIA JOSEPH D	2013 10 0823741 01 001	\$308.10	\$308.10	View Receipt
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195 09/23/2013		
LANCIA JOSEPH D	2012 03 0049323 01 001	\$164.24	\$164.24	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 03/14/2012		
LANCIA JOSEPH D	2012 05 0150640 01 001	\$802.25	\$802.25	View Receipt
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195 04/16/2012		
LANCIA JOSEPH D	2012 09 0291872 01 001	\$301.27	\$301.27	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/23/2012		
LANCIA JOSEPH D	2012 10 0325069 01 001	\$345.72	\$345.72	View Receipt
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195 09/14/2012		
LANCIA JOSEPH D	2011 03 0635033 01 001	\$145.47	\$145.47	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 02/24/2011		
LANCIA JOSEPH D	2011 05 0701623 01 001	\$957.29	\$957.29	View Receipt
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195 04/27/2011		
LANCIA JOSEPH D	2011 09 0840566 01 001	\$335.06	\$335.06	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/17/2011		
LANCIA JOSEPH D	2011 10 0872967 01 001	\$338.66	\$338.66	View Receipt
VIN#: SALFR24NX8H091818	2008 LNDR	District: 195 09/28/2011		
LANCIA JOSEPH D	2010 03 0153705 01 001	\$176.34	\$176.34	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 02/26/2010		
LANCIA JOSEPH D	2010 05 0286513 01 001	\$976.35	\$976.35	View Receipt
VIN#: SALSK2D40AA229603	2010 LNDR	District: 195 04/30/2010		
LANCIA JOSEPH D	2010 08 0387719 01 001	\$0	\$0	View Receipt
VIN#: SALAE25468A447184	2008 LNDR	District: 195		
LANCIA JOSEPH D	2010 09 0421537 01 001	\$324.63	\$324.63	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 09/16/2010		
LANCIA JOSEPH D	2009 03 0723439 01 001	\$221.75	\$221.75	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 01/30/2009		
LANCIA JOSEPH D	2009 05 0789326 01 001	\$933.27	\$933.27	View Receipt
VIN#: SALSH23428A185811	2008 LNDR	District: 195 05/06/2009		
LANCIA JOSEPH D	2009 08 0889689 01 001	\$575.48	\$575.48	View Receipt
VIN#: SALAE25468A447184	2008 LNDR	District: 195 07/27/2009		
LANCIA JOSEPH D	2009 09 0923342 01 001	\$469.94	\$469.94	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/31/2009		

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	2008 03 0282583 01 001	\$270.94	\$270.94	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 02/28/2008		
LANCIA JOSEPH D	2008 05 0347469 01 001	\$667.32	\$667.32	View Receipt
VIN#: SALSF25466A914263	2006 LNDR	District: 195 04/25/2008		
LANCIA JOSEPH D	2008 08 0445837 01 001	\$176.71	\$176.71	View Receipt
VIN#: JTEGH20V120075268	2002 TOYT	District: 195 07/29/2008		
LANCIA JOSEPH D	2008 09 0511362 01 001	\$577.93	\$577.93	View Receipt
VIN#: SALFS24NX8H038976	2008 LNDR	District: 195 08/25/2008		
LANCIA JOSEPH D	2007 03 0885193 01 001	\$323.66	\$323.66	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 03/13/2007		
LANCIA JOSEPH D	2007 05 0948135 01 001	\$803.06	\$803.06	View Receipt
VIN#: SALSF25466A914263	2006 LNDR	District: 195 05/23/2007		
LANCIA JOSEPH D	2007 08 0048486 01 001	\$184.51	\$184.51	View Receipt
VIN#: JTEGH20V120075268	2002 TOYT	District: 195 07/30/2007		
LANCIA JOSEPH D	2007 09 0081086 01 001	\$524.76	\$524.76	View Receipt
VIN#: YV1TR91Z641372876	2004 VOLV	District: 195 09/11/2007		
LANCIA JOSEPH D	2006 05 0497649 01 001	\$939.21	\$939.21	View Receipt
VIN#: SALSF25466A914263	2006 LNDR	District: 195 04/27/2006		
LANCIA JOSEPH D	2006 06 0527429 01 001	\$396.42	\$396.42	View Receipt
VIN#: 1J4HS58N65C731607	2005 JEEP	District: 195 05/31/2006		
LANCIA JOSEPH D	2006 08 0620466 01 001	\$234.60	\$234.60	View Receipt
VIN#: JTEGH20V120075268	2002 TOYT	District: 195 07/27/2006		
LANCIA JOSEPH D	2006 09 0651712 01 001	\$694.71	\$694.71	View Receipt
VIN#: YV1TR91Z641372876	2004 VOLV	District: 195 09/26/2006		
LANCIA JOSEPH D	2005 05 0128936 01 001	\$586.46	\$586.46	View Receipt
VIN#: YV1CZ59H341035649	2004 VOLV	District: 195 04/11/2005		
LANCIA JOSEPH D	2005 08 0217023 01 001	\$244.74	\$244.74	View Receipt
VIN#: JTEGH20V120075268	2002 TOYT	District: 195 08/17/2005		
LANCIA JOSEPH D	2005 09 0246750 01 001	\$691.55	\$691.55	View Receipt
VIN#: YV1TR91Z641372876	2004 VOLV	District: 195 08/17/2005		
LANCIA JOSEPH D	2004 05 0704085 01 001	\$717.84	\$717.84	View Receipt
VIN#: YV1CZ59H341035649	2004 VOLV	District: 195 04/25/2004		
LANCIA JOSEPH D	2004 08 0790231 01 001	\$301.36	\$301.36	View Receipt
VIN#: JTEGH20V120075268	2002 TOYT	District: 195 07/22/2004		
LANCIA JOSEPH D	2004 09 0819281 01 001	\$717.84	\$717.84	View Receipt
VIN#: YV1TR91Z641372876	2004 VOLV	District: 195 08/31/2004		
LANCIA JOSEPH D	2003 00 3696218 01 001	\$798.81	\$798.81	View Receipt
VIN#: YV1RH52YX42343242	2004 VOLV	District: 195 09/18/2003		
LANCIA JOSEPH D	2003 08 0411283 01 001	\$344.15	\$344.15	View Receipt
VIN#: JTEGH20V120075268	2002 TOYT	District: 195 07/31/2003		
LANCIA JOSEPH D	2003 08 0411284 01 001	\$796.44	\$796.44	View Receipt
VIN#: YV1CZ59H341035649	2004 VOLV	District: 195 07/31/2003		
LANCIA JOSEPH D	2002 11 0092281 01 001	\$379.82	\$379.82	View Receipt
VIN#: JTEGH20V120075268	2002 TOYT	District: 195 10/31/2002		
LANCIA JOSEPH D	2000 01 0583042 01 001	\$183.01	\$183.01	View Receipt
VIN#: WP0CA2999TS340098	1996 PORS	District: 195 01/20/2000		

Name	Account #	Taxes	Paid	Amount Due
LANCIA JOSEPH D	1999 05 0170006 01 001	\$1250.82	\$1250.82	View Receipt
VIN#: WP0CA2999TS340098	1996 PORS	District: 195 04/30/1999		

Form 1040

Department of the Treasury - Internal Revenue Service
U.S. Individual Income Tax Return

1994

IRS Use Only - Do not write or staple in this space.

Label

(See Instructions on page 12.)

Use IRS label. Otherwise, please print or type.

Presidential Election Campaign

For the year Jan. 1-Dec. 31, 1994, or other tax year beginning 1994, ending 19		DMB No. 1545-0074
Your first name and initial JOSEPH D LANCIA		Your social security number [REDACTED]
Last name LANCIA		Spouse's social security number [REDACTED]
If a joint return, spouse's first name and initial KATHRYN M		
Last name LANCIA		
Home address (number and street). If you have a P.O. box, see page 12. 109 THORNBLADE BOULEVARD		Apt. no. [REDACTED]
City, town or post office, state, and ZIP code. If you have a foreign address, see page 12. GREER, SC 29650		
Do you want \$3 to go to this fund? If a joint return, does your spouse want \$3 to go to this fund?		Yes No [X] [X] Note: Checking "Yes" will not change your tax or reduce your refund.

Filing Status

(See page 12.)

Check only one box.

1	Single
2	☒ Married filing joint return (even if only one had income)
3	Married filing separate return. Enter spouse's soc. sec. no. above and full name here. ▶
4	Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5	Qualifying widow(er) with dependent child (year spouse died ▶ 19)

Exemptions

(See page 13.)

6a	☒ Yourself. If your person (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2.	No. of boxes checked on 6a and 6b	2	
b	☒ Spouse			
c Dependents:		(5) No. of months lived in your home in 1994	No. of your children on 6c who: ♦ lived with you	
(1) Name (first, initial, and last name)	(2) Check if under age 1	(3) If age 1 or older, dependent's social security number	(4) Dependent's relationship to you	
[REDACTED]		[REDACTED]	DAUGHTER	2
[REDACTED]		[REDACTED]	DAUGHTER	
d If your child didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here ▶				
e Total number of exemptions claimed				4

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 15.

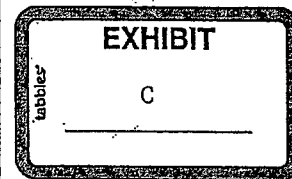
Enclose, but do not attach, any payment with your return.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	[REDACTED]
8a	Taxable interest income. Attach Schedule B if over \$400	8a	[REDACTED]
b	Tax-exempt interest (see page 16). DON'T include on line 8a	8b	[REDACTED]
9	Dividend income. Attach Schedule B if over \$400	9	[REDACTED]
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 16)	10	[REDACTED]
11	Alimony received	11	[REDACTED]
12	Business income or (loss). Attach Schedule C or C-EZ	12	[REDACTED]
13	Capital gain or (loss). If required, attach Schedule D (see page 16).	13	[REDACTED]
14	Other gains or (losses). Attach Form 4797	14	[REDACTED]
15a	Total IRA distributions	15a	[REDACTED]
b	Taxable amount (see page 17)	15b	[REDACTED]
16a	Total pensions and annuities	16a	[REDACTED]
b	Taxable amount (see page 17)	16b	[REDACTED]
17	Rental real estate; royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	[REDACTED]
18	Farm income or (loss). Attach Schedule F	18	[REDACTED]
19	Unemployment compensation (see page 18)	19	[REDACTED]
20a	Social security benefits	20a	[REDACTED]
b	Taxable amount (see page 18)	20b	[REDACTED]
21	Other income. List type and amount - see page 18	21	[REDACTED]
22	Add the amounts in the far right column for lines 7 through 21. This is your total income	22	[REDACTED]

Adjustments to Income

Caution: See instructions ▶

23a	Your IRA deduction (see page 19)	23a	[REDACTED]
b	Spouse's IRA deduction (see page 19)	23b	[REDACTED]
24	Moving expenses. Attach Form 3903 or 3903-F	24	[REDACTED]
25	One-half of self-employment tax	25	[REDACTED]
26	Self-employed health insurance deduction (see page 21)	26	[REDACTED]
27	Keogh retirement plan and self-employed SEP deduction	27	[REDACTED]
28	Penalty on early withdrawal of savings	28	[REDACTED]
29	Alimony paid. Recipient's SSN ▶	29	[REDACTED]
30	Add lines 23a through 29. These are your total adjustments	30	[REDACTED]
Adjusted Gross Income	31 Subtract line 30 from line 22. This is your adjusted gross income. If less than \$25,296 and a child lived with you, (less than \$9,000 if a child didn't live with you), see "Earned Income Credit" on page 27.	31	[REDACTED]

4:0001
10-20-94 \$430
21420411 786735 21053

060 LANCIA, JOSEPH D

Form 1040 (1994)
10000001

Tax
Compu-
tation

32 Amount from line 31 (adjusted gross income) 32

33a Check if: ☐ You were 65 or older, ☐ Blind; ☐ Spouse was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here 33a

b If your parent (or someone else) can claim you as a dependent, check here 33b

c If you are married filing separately and your spouse itemizes deductions or you are a dual-status alien, see page 23 and check here 33c

34 Enter the larger of your:
 Itemized deductions from Schedule A, line 29, OR
 Standard deduction shown below for your filing status. But if you checked any box on line 33a or b, go to page 23 to find your standard deduction.
 If you checked box 33c, your standard deduction is zero.
 • Single - \$3,800 • Head of household - \$5,600
 • Married filing jointly or Qualifying widow(er) - \$6,350
 • Married filing separately - \$3,175 34

35 Subtract line 34 from line 32 35

36 If line 32 is \$83,850 or less, multiply \$2,450 by the total number of exemptions claimed on line 6e. If line 32 is over \$83,850, see the worksheet on page 24 for the amount to enter 36

37 Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0- 37

38 Tax. Check if from a ☒ Tax Table, b ☐ Tax Rate Schedules, c ☐ Capital Gain Tax Worksheet, or d ☐ Form 8615 (see page 24). Amount from Form(s) 8814 38

39 Additional taxes. Check if from a ☐ Form 4970 b ☐ Form 4972 39

40 Add lines 38 and 39 40

Credits

41 Credit for child and dependent care expenses. Attach Form 2441 41

42 Credit for the elderly or the disabled. Attach Schedule R 42

43 Foreign tax credit. Attach Form 1116 43

44 Other credits. Check if from a ☐ Form 3800 b ☐ Form 8396 c ☐ Form 8801 d ☐ Form (Specify) 44

45 Add lines 41 through 44 45

46 Subtract line 45 from line 40. If line 45 is more than line 40, enter -0- 46

Other
Taxes

47 Self-employment tax. Attach Schedule SE 47

48 Alternative minimum tax. Attach Form 6251 48

49 Recapture taxes. Check if from a ☐ Form 4255 b ☐ Form 8611 c ☐ Form 8828 49

50 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137 50

51 Tax on qualified retirement plans, including IRAs. If required, attach Form 5329 51

52 Advance earned income credit payments from Form W-2 52

53 Add lines 46 through 52. This is your total tax 53

Payments

Attach
Forms W-2,
W-2G, and
1099-R on
the front.

54 Federal income tax withheld. If any is from Form(s) 1099, check ☐ 54 500.

55 1994 estimated tax payments and amount applied from 1993 return 55

56 Earned income credit. If required, attach Schedule EIC (see page 27).
 Nontaxable earned income: amount 56

57 Amount paid with Form 4868 (extension request) 57

58 Excess social security and RRTA tax withheld (see page 32) 58

59 Other payments. Check if from a ☐ Form 2439 b ☐ Form 4136 59

60 Add lines 54 through 59. These are your total payments 60

Refund or
Amount
You Owe

61 If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID 61

62 Amount of line 61 you want REFUNDED TO YOU 62

63 Amount of line 61 you want APPLIED TO YOUR 1995 ESTIMATED TAX 63

64 If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE.
 For details on how to pay, including what to write on your payment, see page 32. 64

65 Estimated tax penalty (see page 33). Also include on line 64 65 27.

Sign
HereKeep a copy
of this return
for your
records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature _____ Date _____ Your occupation _____

Spouse's signature. If a joint return, BOTH must sign. _____ Date _____ Spouse's occupation _____

Preparer's signature _____ Date _____ Check if self-employed ☐ Preparer's social security no. _____

Paid Preparer's Use Only Firm's name (or yours if self-employed) and address Chris McCraw, C.P.A., P.A. E. I. No. _____
 1200 Woodruff Road, A-3 ZIP code 29607
 Greenville, SC



EXHIBIT

D

Welcome to the 1994 Thornblade Classic

We are pleased that you have joined us for the Third Annual Thornblade Classic. Our Tournament has continued to grow because of the wonderful support we receive from several important groups.

First, special thanks to the PGA Tour players who make this event possible. We have been extremely fortunate to feature the most outstanding players in golf. Their presence sets our event apart from all others. It is the key ingredient we need to provide funds to our beneficiaries.

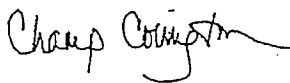
The second group we wish to thank are the corporate sponsors that have annually supported the Thornblade Classic. These many fine companies know that the principle benefit of their involvement in the Thornblade Classic is their association, through the Classic, with our three beneficiaries. Their support makes it possible for the Thornblade Classic to make a generous contribution to The School District of Greenville County, The Governors School for the Arts and the Peace Center.

We also want to thank the many tournament volunteers who help make this day a pleasure for the participants and the spectators. We have never been short of volunteers to assist with the many needs of the event. Few events of this kind can make that claim. We are proud of our association with these community minded individuals who give so freely of their time.

Finally, we are most appreciative of the many thousands of golf fans who have attended the Thornblade Classic. Your support and enthusiastic reception of the Classic has made the Tournament an important event in the upstate.

To the amateurs, spectators, volunteers, sponsors and especially our PGA Tour Professionals, thank you for being here. We know that you will enjoy the day.

Sincerely,



Champ Covington
Founder's Board Chairman



Joe Lancia
Tournament Director



Jay Haas
Director of Golf



ALAN DEVORSEY / Staff

Joe Lancia moved from Connecticut to Greenville in 1992.

Lancia's love of golf reaped rewards for Thornblade Classic

Jimmy Cornelissen
City People Writer
jcornel@greenvillenews.com

In his office on the third floor of his Thornblade home, Joe Lancia has collected enough golf memorabilia to start his own PGA museum. The other collectibles scattered about his house could almost complete the museum.

There's a blimp shot of Mark O'Meara sinking his putt on the 18th hole to win the 1998 Masters. It's autographed by O'Meara. There's also a shot of

Lancia with Phil Michelson, and it appears that Lancia is offering advice to the touring pro. Jokingly, Lancia says he was.

A shadowbox frame holds one of Tiger Woods' golf caps. Another contains one of Arnold Palmer's golf gloves. A copy of the classic golf book, "Little Red Book," by Harry Penick is inscribed by the author.

Photos of Greg Norman, Larry Mize and a host of who's who on the PGA tour, all autographed, are on display along with one of John Daly's drivers.

Most of these things were given to Lancia by players he's met in his seven years as tournament director of the Thornblade Classic, the charity golf event that has raised more than \$1.5 million for local charities.

This year's Classic, to be held at Thornblade Monday, will be the last one.

The idea for the Classic came from Thornblade's touring PGA pro, Jay Haas. He envisioned a one-day event that would have all the ambiance of a

See **HANDLING** on page 38

EXHIBIT

E

Handling details is Lancia's s

Continued from Page 1

tournament. He would invite friends from the tour and pair them with sponsors to raise money for local charities.

He was assisted in organizing the Classic by a local businessman, Champ Covington.

In 1992, the same year a young man named Joe Lancia moved to Greenville, the first Thornblade Classic was held. For two years, Covington assisted the Thornblade Country Club head golf pro. When the pro moved, Covington was on his own.

One day Lancia and Covington were having lunch, and almost matter-of-factly, Lancia said, "Hey, if you need any help ..."

Lancia found himself appointed volunteer director.

"I had zero experience. I knew nothing about running a golf tournament," he admits with a smile. "But when I started a plastic injection molding company, I knew nothing about that, so I figured I could run a golf tournament. A lot of it is just management."

Jamie McCullough, head golf professional at Thornblade, says Lancia is especially good at getting sponsorships and dealing with vendors.

"He's the reason we've had the

Lancia has three children, Jenna, 12; Kara, 10 and Krista, 5.

One of the highlights of Lancia's work as tournament director of the Thornblade Classic was chauffeuring Arnold Palmer from the airport in 1994.

Though he has a five-handicap, Lancia has never had a golf lesson.

To be paired with a top pro at the Classic, a Presenting Patron must contribute \$20,000. Pairings of pros with sponsors are based on how long the sponsor has been involved with the Classic.

In 1999, the Thornblade Classic distributed \$240,000 to 29 non-profit organizations and charities in Greenville County.

success we've had," McCullough says. "He has a way of getting people to pitch in and help, and that's what you need in a charity event."

Joe's an incredible negotiator," agrees Linda Riddle, co-director of the tournament. "He's able to get things at cost or free, which obviously means more money for charities. When he came, the money that went back to the community really increased. After Joe talks to you, you just want to do it."

Lancia was born and raised in Connecticut, a graduate of the Uni-

versity of Southern Connecticut, where he earned a degree in finance and computer science. Out of college, Lancia took a job with Litton Industries, working with computer accounting systems, then moved to another computer software company.

This background allowed Lancia to strike out on his own in Connecticut with a company that bought old and obsolete computers to gut them and sell anything of value.

This venture was followed by the plastic injection molding business. In 1989, still in his 20s, Lancia sold his interest in those businesses and started his own firm, Strategic Investments, specializing in mergers and acquisitions.

"Strategic Investments was the harder one to get started," recalls Lancia. "Most of my peers came from Wall Street investment houses. Getting clients was hard, because I didn't have the ability to contact one and say, 'I was with Morgan Stanley.'"

Still, it all worked because Lancia figures he was in the right place at the right time.

By the early '90s, Lancia and his wife, Kathy, began looking for a new place to live. Since his office was in his home, he would also be relocating his business.

"We had small children and started looking for somewhere warmer," he says. "Because of family, we wanted to stay on the East Coast. Every place we looked at was either a great place to live or not a good place for business, or good place for business and not good place for families."

In the *Wall Street Journal*, Lancia saw an ad for a company for sale in Greenville.

"I'd never heard of Greenville. By 1991, there were the rumors BMW coming, so I visited him

rength

vo days here, and I started get-
g a good feeling."

In 1992, the couple bought a
me in Thornblade, an ideal loca-
m for family, his business and his
owing passion for golf.

"I was a baseball player in col-
ge. My mom was 45 when she
ok up golf, and at age 60, she
on the Connecticut Senior Ama-
ur Championship," says Lancia.

With athletic ability and good
ind-eye coordination, Lancia be-
an teaching himself how to play
xif. He watched golf on television
ad then tried to copy the pros.

Today, he carries a five handicap
go with his smooth swing, and
t the Thornblade Classic, he has
ad the opportunity to meet many
f those pros who helped shape his
ame through their television ap-
earances.

As director of the tournament,
Lancia's goal has been the one
iaas envisioned — to keep the at-
mosphere of a regular PGA tour
went. He believes he and the 350
ournament volunteers have done
hat.

A sponsor once told Lancia that
his favorite part of the tournament
ame on the ninth green as he
unk a 25-foot putt, and the crowd
cheered.

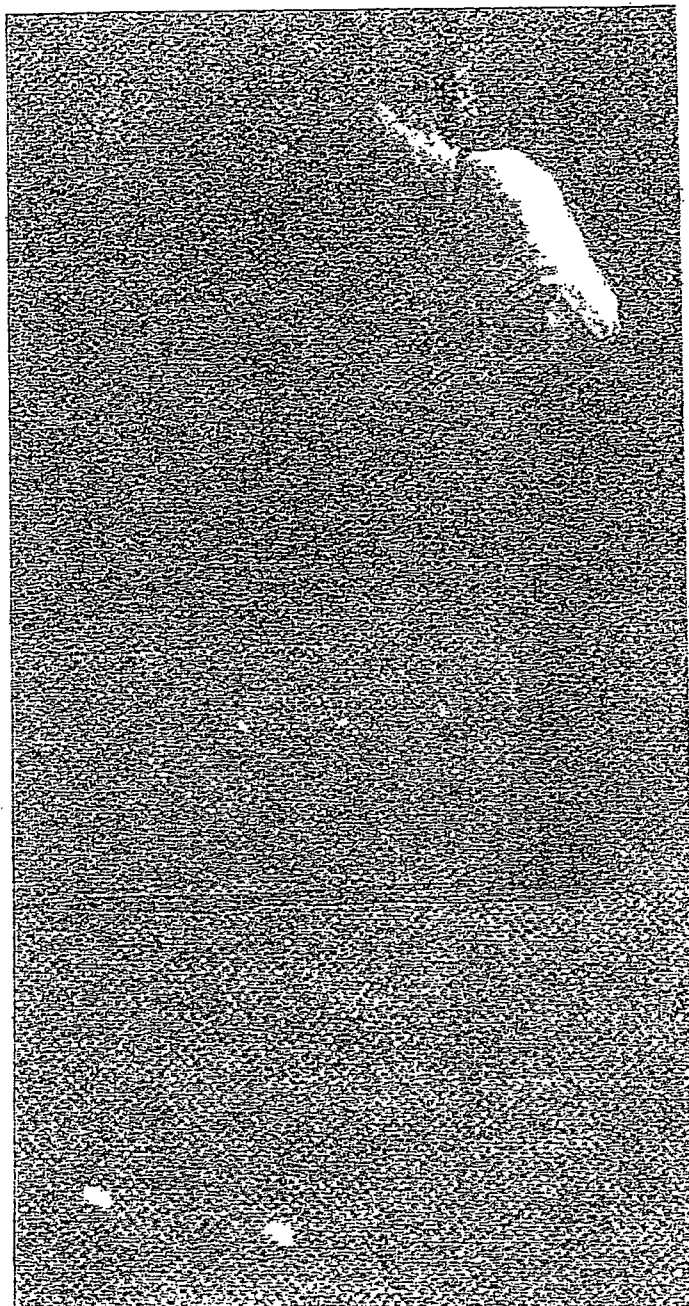
"He said the hairs stood up on
his arm, and that he now knew
what the pros felt like," says Lan-
cia. "My biggest surprise has been
ow big this thing has gotten."

In his first year, Arnold Palmer
ame, and since that time, the
ournament has raised \$1.5 million
or local charities.

"Everybody knows about the
Thornblade Classic. It's been re-
cognized as one of the top charity
events on the tour," Lancia points
out.

It was because of a chance meet-
ing several years ago at a Green-
ville County School Board meeting
hat Lancia came to understand

ellow jacket is the school



ALAN DEVORSEY / Staff

Joe Lancia carries a five handicap.

the good the tournament was
doing. Lancia had been asked to
speak at a public hearing.

"A lady came up to me after-
wards and said she just wanted to
thank me for what we were doing,"
says Lancia of the tournament's fo-
cus on children's charities and edu-
cation.

"She said if it wasn't for the
Thornblade Classic the school her
child attended wouldn't have a
computer lab. She wasn't able to
afford a computer, and the lab al-
lowed her child to keep up."

Lancia, through his role as tour-
nament director, has also become
exposed to many charities in the

What he has realized, he ex-
plains, is that there is much hap-
pening in Greenville to make the
quality of life better. What he saw
on his visits to agencies, he de-
scribes simply: "Wow!"

During those visits he became so
interested in the work of several
agencies that he involved himself
as a volunteer. Now he serves on
the board of Loaves and Fishes, a
food rescue agency.

In the summer he will direct the
Frank Outlaw Tennis Tournament
to raise money for the Red Cross.

It all started with Lancia's
chance remark over lunch, "If I can
ever help . . ."

JUDICIAL DISTRICT
D-CV-1 Rev. 3-91
EN. STAT. 51-346, 51-347, 51-349, 51-350, 52-45a,
52-48, 52-259
P. BK. 49, 63, 66

INSTRUCTIONS

Prepare on typewriter: sign original summons (top sheet) and conform copies of the summons (sheets 3 and 4).
If there is more than one defendant, prepare or photocopy conformed summons for each additional defendant.
Attach the original summons, with computer sheet attached (page 2), to the original complaint, and attach a copy of the summons to each copy of the complaint. Also, if there are more than 2 plaintiffs or 4 defendants prepare form JD-CV-2 and attach it to the original and all copies of the complaint.
After service has been made by officer, file original papers and officer's return with the clerk of the court.
The party recognized to pay costs must appear personally before the authority taking the recognizance.
Do not use this form for actions in which an attachment, garnishment or replevy is being sought. See Practice Book Section 49 for other exceptions.

O: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this summons and attached Complaint.

ONE OF THE FOLLOWING:
Amount, legal interest or property in demand, exclusive interest and costs is
a. ☐ less than \$2,500
b. ☐ \$2,500 through \$14,999.99
c. ☒ \$15,000 or more
d. ☒ Claiming other relief in addition to or in lieu of money damages.

JUDICIAL DISTRICT		AT (Town in which writ is returnable) (Gen. Stat. 51-346, 51-349)		RETURN DATE (Mo., day, yr.)	
HOUSING SESSION ☐ G.A. ☐		NEW HAVEN		MAY 4 1993	
ADDRESS OF CLERK OF COURT WHERE WRIT AND OTHER PAPERS SHALL BE FILED (Gen. Stat. 51-347, 51-350)				CASE TYPE (From Judicial Dept. code list)	
35 CHURCH STREET, NEW HAVEN, CT 06510				Major ☒ Minor ☐	
PARTIES		NOTE: Individual's Names: Last, First, Middle Initial		NAME AND ADDRESS OF EACH PARTY	
HIRE PARTY					
ESTIMATED					
LAINTIFF					
Additional Plaintiff					
HIRE PARTY					
DEFENDANT					
Additional Defendant					
Additional Defendant					
Additional Defendant					

LAETNA CASUALTY & SURETY COMPANY OF ILLINOIS, 99 HAWLEY LANE, STRATFORD, CT 06497

LANCIA, JOSEPH, P.O. BOX 25278, GREENVILLE, SOUTH CAROLINA 29616-0278
C/O SECRETARY OF STATE, 30 TRINITY STREET, HARTFORD, CT 06106

WILSON, RED, B., 3260 PINE VALLEY DRIVE, SARASOTA, FLORIDA 34239,
C/O SECRETARY OF STATE, 30 TRINITY STREET, HARTFORD, CT 06106

EXHIBIT

F

NOTICE to each DEFENDANT

- You are being sued.
This paper is a Summons in a lawsuit.
The Complaint attached to these papers states the claims that each Plaintiff is making against you in this lawsuit.
To respond to this summons, or to be informed of further proceedings, you or your attorney must file a form called an "Appearance" with the Clerk of the above named Court at the above Court address on or before the second day after the above Return Date.
If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default.
6. The "Appearance" form may be obtained at the above Court address.
7. If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately take the Summons and Complaint to your insurance representative.
8. If you have questions about the Summons and Complaint, you should consult an attorney promptly. The Clerk of Court is not permitted to give advice on legal questions.

DATE		SIGNED (sign and "X" proper box)		TYPE IN NAME OF PERSON SIGNING AT LEFT	
MARCH 25, 1993				PETER D. CLARK	
OR THE PLAINTIFF(S) ENTER THE APPEARANCE OF:					
NAME AND ADDRESS OF ATTORNEY, LAW FIRM OR PLAINTIFF IF PRO SE				TELEPHONE NO.	
WILLIAMS, COONEY & SHEEHY, ONE LAFAYETTE CIRCLE, BRIDGEPORT, CT				331-0888	
NAME AND ADDRESS OF PERSON RECOGNIZED TO PROSECUTE IN THE AMOUNT OF \$250				JURIS NO. (if atty. or law firm)	
ERNADETTE HEFFERN, ONE LAFAYETTE CIRCLE, BRIDGEPORT, CT 06604				106036	
PLFS.		NO. DEFS.		NO. CNTS.	
1		2		3	
SIGNED (Official taking recognizance; "X" proper box)		SIGNED (Official taking recognizance; "X" proper box)		SIGNATURE OF PLAINTIFF IF PRO SE	
☒ Commissioner of Superior Court		☒ Commissioner of Superior Court			
☐ Assistant Clerk		☐ Assistant Clerk			

THIS SUMMONS IS SIGNED by a CLERK:

The signing has been done so that the Plaintiff(s) will not be denied access to the courts.
It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law.
The Clerk is not permitted to give any legal

advice in connection with any lawsuit.

- d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service thereof.

A TRUE COPY
ATTEST:

FRANCIS M. DELUCCO
CHIEF DEPUTY SHERIFF
HARTFORD COUNTY

hereby certify I have read and understand the above:	SIGNED (Pro se plaintiff)	DATE SIGNED	DOCKET NO.

CONNECTICUT SUPERIOR COURT
OFFICE OF THE CHIEF CLERK
JUDICIAL DISTRICT OF NEW HAVEN



235 Church Street, New Haven, Connecticut 06510

Telephone: (203) 789-7908

Mr. Joseph Lancia
P.O. Box 25278
Greenville, SC 29616 0278

NOTICE OF ENTRY OF DEFAULT FOR FAILURE TO APPEAR

In the matter of: Aetna Cas. vs. Investment Assoc. et als

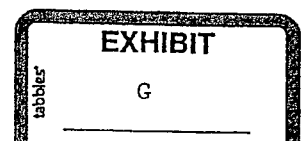
Docket No.: 30 50 48

You are hereby notified that you have been defaulted for failure to file an appearance in the above captioned case within the time prescribed by statute and rule.

Date default entered: 6-9-93

BY THE CLERK

PURSUANT TO PRACTICE BOOK SEC. 352, IF YOU FILE AN APPEARANCE IN THIS CASE BEFORE JUDGMENT IS ENTERED AGAINST YOU, THE DEFAULT FOR FAILURE TO APPEAR SHALL AUTOMATICALLY BE SET ASIDE BY THE CLERK.



STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF GREENVILLE

Branford Savings Bank

, Plaintiff

SUBPOENA IN A CIVIL CASE

Case Number:

Pending in Greenville County

v.

Aetna Casualty and
Surety Company of Illinois

, Defendant

TO: Joseph Lancia
109 Thornblade Blvd.
Greer, SC 29650

☐ YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM:

DATE AND TIME:

☒ YOU ARE COMMANDED to appear in the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: Haynsworth, Marion,
McKay & Guerard
Two Insignia Financial Plaza, 11th Floor
75 Beattie Place
Greenville, SC 29601

DATE AND TIME: Tuesday,
September 28, 1993
10:00 a.m.

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE:

DATE AND TIME:

☐ YOU ARE COMMANDED to permit inspection of the following premises at the time specified below.

PREMISES

DATE AND TIME:

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30 (b) (6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Caroline W. Mattos, Greenville County, Clerk of Court, Greenville County Courthouse, Greenville, SC 29601, 803-467-8551

Caroline W. Mattos

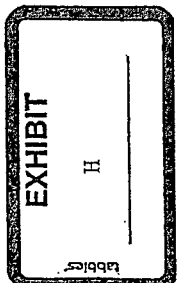
I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45 (c) (1) AND THAT NOTICE AS REQUIRED BY RULE 45 (b) (1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney for Defendant

ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) DATE **SEP 8 1993**

SCCA FORM 254 (7/93)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on Reverse)



PROOF OF SERVICE		
SERVED A	DATE	FEE AND MILEAGE TENDERED TO WITNESS
	PLACE	YES OR NO AMOUNT \$
SERVED ON (PRINT NAME)		MANNER OF SERVICES
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ DATE _____ SIGNATURE OF SERVER _____
 ADDRESS OF SERVER _____

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) PROTECTION OF PERSON SUBJECT TO SUBPOENAS

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or
 (ii) requires a person who is not a party or an officer, director or managing agent of a party to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from the county where the subpoena was served to the place within the state where the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
 (iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
 (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made just at the request of any party, or
 (iii) requires a person who is not a party or an officer, director or managing agent of a party to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT 2
MAY 5, 2008 OPINION

Not Reported in A.2d, 2008 WL 2168983 (Conn.Super.), 45 Conn. L. Rptr. 437
(Cite as: 2008 WL 2168983 (Conn.Super.))



UNPUBLISHED OPINION. CHECK COURT
RULES BEFORE CITING.

Superior Court of Connecticut.
INVESTMENT ASSOCIATES

v.

Joseph LANCIA.

No. CV074028746S.

May 5, 2008.

Background: Judgment creditor brought action to enforce prior judgment against out-of-state judgment debtor. Debtor filed motion to dismiss for lack of personal jurisdiction.

Holdings: The Superior Court, Angela C. Robinson, J., held that:

- (1) prior litigation was insufficient to warrant exercise of personal jurisdiction over debtor pursuant to long-arm statute, and
- (2) exercise of personal jurisdiction over debtor in action on prior judgment would violate due process.

Motion to dismiss granted.

West Headnotes

[1] Judgment 228 ⚡901

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k901 k. Statutory provisions. Most Cited

Cases

Judgment 228 ⚡926

228 Judgment

228XXI Actions on Judgments

228XXI(B) Foreign Judgments

228k926 k. Statutory provisions. Most Cited

Cases

Section of Uniform Enforcement Of Foreign Judgments Act, governing the right of a judgment creditor to proceed by an action on the judgment, preserves the common-law right of a judgment creditor to bring an independent action on the judgment. C.G.S.A. § 52-607.

[2] Judgment 228 ⚡900

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k900 k. Judgment as cause of action in general. Most Cited Cases

Judgment 228 ⚡902

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k902 k. Nature and form of remedy.

Most Cited Cases

Although an action on a judgment is not favored as being generally vexatious and oppressive, an allegation of nonpayment is sufficient reason for instituting suit. C.G.S.A. § 52-607.

[3] Limitation of Actions 241 ⚡60(1)

Not Reported in A.2d, 2008 WL 2168983 (Conn.Super.), 45 Conn. L. Rptr. 437

(Cite as: 2008 WL 2168983 (Conn.Super.))

241 Limitation of Actions

241II Computation of Period of Limitation

241II(A) Accrual of Right of Action or Defense

241k60 Equitable Actions and Remedies

241k60(1) k. In general. Most Cited Cases

Statute of limitations on action upon judgment for money damages provides 25-year time limit to institute an action for the collection of damages from the day judgment was entered. C.G.S.A. § 52-598(a).

[4] Courts 106 13.5(1)

106 Courts

106I Nature, Extent, and Exercise of Jurisdiction in General

106I(A) In General

106k13.1 Actions by or Against Nonresidents, Personal Jurisdiction In; "Long-Arm" Jurisdiction

106k13.5 Particular Contexts and Causes of Action

106k13.5(1) k. In general. Most Cited Cases

(Formerly 106k12(2.5))

Prior litigation against out-of-state judgment debtor, concluded 14 years before instigation of action on judgment, was insufficient to warrant exercise of personal jurisdiction over debtor pursuant to long-arm statute, where debtor had not been a resident of state for 15 years and had not had any contact or transactions within state since judgment had been entered against him. C.G.S.A. § 52-59b.

[5] Constitutional Law 92 3965(1)

92 Constitutional Law

92XXVII Due Process

92XXVII(E) Civil Actions and Proceedings

92k3961 Jurisdiction and Venue

92k3965 Particular Parties or Circumstances

92k3965(1) k. In general. Most Cited Cases

Courts 106 13.5(1)

106 Courts

106I Nature, Extent, and Exercise of Jurisdiction in General

106I(A) In General

106k13.1 Actions by or Against Nonresidents, Personal Jurisdiction In; "Long-Arm" Jurisdiction

106k13.5 Particular Contexts and Causes of Action

106k13.5(1) k. In general. Most Cited Cases

(Formerly 106k12(2.5))

Out-of-state judgment debtor who had had no contacts with state since judgment was entered against him 14 years previously lacked minimum contacts with state, and thus exercise of personal jurisdiction over debtor in action on prior judgment would violate due process; even though state had legitimate interest in enforcing valid judgment, debtor had been working in South Carolina exclusively for over 15 years, had not transacted any business in forum state for 15 years, had not owned, used, or possessed any real estate in forum state for 16 years, and did not use a computer or a computer network within forum state. U.S.C.A. Const.Amend. 14.

Berdon Young & Margolis PC, New Haven, for Investment Associates.

Rome McGuigan P.C., Hartford, for Joseph D. Lancia.

ANGELA C. ROBINSON, Judge.

*1 On December 27, 2007, the defendant filed a

Not Reported in A.2d, 2008 WL 2168983 (Conn.Super.), 45 Conn. L. Rptr. 437
(Cite as: 2008 WL 2168983 (Conn.Super.))

timely motion to dismiss for lack of personal jurisdiction, in support of which he submitted an affidavit.^{FN1} In response, the plaintiff filed a memorandum of law in opposition, along with the officer's supplemental return and the summons and complaint from the underlying action, which gave rise to the 1994 judgment. Finally, the defendant filed a supplemental brief and reply memorandum. In support, the defendant included the summons and complaint of the withdrawn action, the 1994 judgment, the officer's return, the summons and complaint of the present action, and the affidavits of service in South Carolina. The matter was heard on the short calendar on January 28, 2008. For reasons more fully set forth, this court grants the motion to dismiss.

FN1. Practice Book § 10-31 states in relevant part that "[a]ny defendant, wishing to contest the court's jurisdiction, may do so even after having entered a general appearance, but must do so by filing a motion to dismiss within thirty days of the filing of an appearance." Specifically, "any claim of lack of jurisdiction over the *person* as a result of an insufficiency of service of process is waived unless it is raised by a motion to dismiss filed within thirty days in the sequence required by Practice Book § 10-6 ..." (Emphasis in original.) *Pitchell v. Hartford*, 247 Conn. 422, 433, 711 A.2d 797 (1999). In the present case, the defendant filed his appearance on November 29, 2007, and the motion to dismiss was filed on December 27, 2007. Accordingly, the defendant's motion to dismiss is timely.

FACTS

The claim in the instant matter arises out of a judgment against the defendant and for the plaintiff rendered on May 17, 1994.^{FN2} The present action, filed on November 13, 2007, seeks to enforce the unpaid prior judgment of \$272,505.03 in damages plus costs taxed at \$201.20. Prior to the present action, the

plaintiff filed an identical action on September 27, 2007, with docket number CV 07 4028072, which was withdrawn on December 3, 2007.

FN2. *Investment Associates v. Summit Associates, Inc.*, Superior Court, judicial district of New Haven, Docket No. CV 91 0309954.

DISCUSSION

"A motion to dismiss ... properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court ... A motion to dismiss tests, *inter alia*, whether, on the face of the record, the court is without jurisdiction." (Internal quotation marks omitted.) *Cox v. Aiken*, 278 Conn. 204, 210-11, 897 A.2d 71 (2006); see also *Kozłowski v. Commissioner of Transportation*, 274 Conn. 497, 501, 876 A.2d 1148 (2005); *Filippi v. Sullivan*, 273 Conn. 1, 8, 866 A.2d 599 (2005). Pursuant to Practice Book § 10-31(a), "a motion to dismiss shall be used to assert ... (2) lack of jurisdiction over the person ... and (5) insufficiency of service of process." The motion, however, "is not designed to test the legal sufficiency of a complaint in terms of whether it states a cause of action." *Pratt v. Old Saybrook*, 225 Conn. 177, 185, 621 A.2d 1322 (1993).

"If a challenge to the court's personal jurisdiction is raised by a defendant, either by a foreign corporation or by a nonresident individual, the plaintiff must bear the burden of proving the court's jurisdiction." *Knipple v. Viking Communications, Ltd.*, 236 Conn. 602, 607, 674 A.2d 426 (1996). "[W]hen a motion to dismiss for lack of personal jurisdiction raises a factual question which is not determinable from the face of the record, the burden of proof is on the plaintiff to present evidence which will establish jurisdiction ... [w]hen jurisdiction is based on constructive service [i.e., service on a foreign corporation or nonresident individual by mail] jurisdiction cannot arise solely from the acts recited in the return. There should be no presumption of the truth of the plaintiff's allegation of

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the additional facts necessary to confer jurisdiction.”
(Citations omitted; internal quotation marks omitted.) *Reiner, Reiner & Bendett, P.C. v. Cadle Co.*,
278 Conn. 92, 109, 897 A.2d 58 (2006).

RIGHT TO BRING A NEW ACTION ON A PRIOR JUDGMENT

*2 The defendant erroneously argues that the plaintiff's action, seeking a judgment based on a prior judgment, is unprecedented. Further, the defendant argues that the plaintiff has missed its window of opportunity to enforce the 1994 judgment against the defendant because under South Carolina law the out-of-state judgment must be filed with the South Carolina court within ten years of the date it was issued. The plaintiff responds that an action seeking a judgment based upon a prior action is proper in Connecticut pursuant to both common law, as well as statutory law.^{FN3} See General Statutes § 52-607.^{FN4} The plaintiff further argues that Connecticut's policy for enforcing judgments is twenty years. See *Nauss v. Pinkus*, 2 Conn.App. 400, 411, 400 A.2d 568 (1984).^{FN5}

FN3. The plaintiff also mistakenly argues that General Statutes § 52-604 supports its argument because it permits the unlimited enforcement of foreign judgments. The judgment in the present case, however, is not foreign judgment. It is a Connecticut judgment to be enforced in Connecticut against an out-of-state defendant.

FN4. General Statutes § 52-607 states: “The right of a judgment creditor to proceed by an action on the judgment or a motion for summary judgment in lieu of complaint instead of proceeding under sections 52-604 to 52-609, inclusive, remains unimpaired.”

FN5. “At common law an action on a judgment may be maintained at any time within

twenty years from the date of the judgment.”
(Internal quotation marks omitted.) *Nauss v. Pinkus*, 2 Conn.App. 400, 411, 480 A.2d 568 (1984).

[1][2] “General Statutes § 52-607 preserve[s] the common-law right of a judgment creditor to bring an independent action on the judgment.” (Internal quotation marks omitted) *Chase Manhattan Bank v. Goldstone*, Superior Court, judicial district of Stamford-Norwalk at Stamford, Docket No. CV 95 0144986 (December 5, 1995, Dean, J.) (15 Conn. L. Rptr. 472). See also *Seaboard Surety Co. v. Waterbury*, 38 Conn.Supp. 468, 470, 451 A.2d 291 (App.Sess.1982). “Although an action on a judgment is not favored as being generally vexatious and oppressive, the weight of authority is to the effect that an allegation of nonpayment is sufficient reason for instituting suit.” *Garguilo v. Moore*, 156 Conn. 359, 361, 242 A.2d 716 (1968).

[3] “General Statutes § 52-598(a) ... provides a twenty-five year time limit to institute an action for the collection of damages” from the day judgment was entered. *Quickpower International Corp. v. Danbury*, 69 Conn.App. 756, 759, 796 A.2d 622 (2002); *Lee v. BSB Greenwich Mortgage, LP*, Superior Court, complex litigation docket at Stamford, Docket No. X08 CV 04 0200344 (August 31, 2007, Jennings, J.).^{FN6}

FN6. General Statutes § 52-598(a) provides in pertinent part: “No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered ...”

The Superior Court has “the general power ... to enforce its own judgments.” *Gentile v. Ives*, 163

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Conn. 281, 282, 303 A.2d 720 (1972). “[A] court must have the authority to enforce its own judgments; it must protect the integrity of its decisions by subsequent orders of enforcement.” *Bailey v. Roubos*, Superior Court, judicial district of Danbury, Docket No. FA 97 0327053 (July 23, 1999, Owens, J.) (25 Conn. L. Rptr. 215, 216); see also *Turgeon v. Turgeon*, 190 Conn. 269, 284, 460 A.2d 1260 (1983).

In the present case, the defendant was engaged in a joint business venture in Connecticut, which gave rise to a legal dispute in 1991, which resulted in a Connecticut judgment in 1994. The plaintiff is within the twenty-five year statute of limitations of bringing an action on the prior judgment, because the present action was brought on November 13, 2007. This confers subject matter jurisdiction upon the court. It does not, however, address issues of personal jurisdiction over the defendant.

PERSONAL JURISDICTION OVER A NONRESIDENT INDIVIDUAL

*3 [4] The defendant argues in his motion to dismiss that the requirements of the long-arm statute were not met because he is not, and at the time of the institution of this action was not, a resident of the state of Connecticut. He attests that he has resided in South Carolina since 1992, and that there is no basis for the court to exercise personal jurisdiction over him. Finally, the defendant argues that, even if long-arm jurisdiction is authorized, personal jurisdiction over him is inconsistent with due process.

The plaintiff counters that the defendant has sufficient contacts with Connecticut arising out of the 1994 judgment in favor of the plaintiff and against the defendant. The plaintiff reasons that the defendant was a Connecticut resident at the time of the prior litigation, 16 years ago; and that utilizing the Connecticut court system meets the statutory requirement of “transacting business” within the state of Connecticut.

“When a defendant challenges personal jurisdiction in a motion to dismiss, the court must undertake a two part inquiry to determine the propriety of its exercising such jurisdiction over the defendant. The trial court must first decide whether the applicable state long-arm statute authorizes the assertion of jurisdiction over the [defendant]. If the statutory requirements [are] met, its second obligation [is] then to decide whether the exercise of jurisdiction over the [defendant] would violate constitutional principles of due process.” (Internal quotation marks omitted.) *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 514-15, 923 A.2d 638 (2007).

First, the court examines the applicability of the Connecticut long-arm statute. “Connecticut courts may assert personal jurisdiction over a nonresident defendant under General Statutes § 52-59b(a)(1),^{FN7} as long as that defendant transacts business within the state.” *Gaudio v. Gaudio*, 23 Conn.App. 287, 298, 580 A.2d 1212, cert. denied, 217 Conn. 803, 584 A.2d 471 (1990). “[A]lthough the term ‘[t]ransacts any business’ is not defined by statute, [the Connecticut Supreme Court] previously ha[s] construed the term to embrace a single purposeful business transaction.” (Internal quotation marks omitted.) *Ryan v. Cerullo*, 282 Conn. 109, 119, 918 A.2d 867 (2007). “A purposeful business transaction is one in which the defendant has engaged in some form of affirmative conduct allowing or promoting the transaction of business within the forum state.” (Internal quotation marks omitted.) *The Cadle Co. v. Sydorowycz*, Superior Court, judicial district of Hartford, Docket No. CV 00 0597714 (June 5, 2001, Hennessey, J.) (30 Conn. L. Rptr. 202, 204). “Moreover, a nonresident individual who has not entered this state physically nevertheless may be subject to jurisdiction in this state under § 52-59b(a)(1) if that individual has invoked the benefits and protection of Connecticut’s laws by virtue of his or her purposeful Connecticut related activity ...” (Internal quotation marks omitted.) *Ryan v. Cerullo*, *supra*, 282 Conn. at 120, 918 A.2d 867.

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FN7. Section 52-59b(a)(1) provides, in pertinent part, that: "... a court may exercise personal jurisdiction over any nonresident individual ... who in person or through an agent transacts any business within the state."

*4 "In determining whether [the defendant's] contacts constitute the transaction of business within the state, [the Connecticut Supreme Court does] not apply a rigid formula but balance[s] considerations of public policy, common sense, and the chronology and geography of the relevant factors." (Internal quotation marks omitted.) *Gaudio v. Gaudio*, *supra*, 23 Conn.App. at 298, 580 A.2d 1212.

In the present case, there is no dispute that the defendant is a nonresident who has not been a resident of this state for over 15 years. And, there are no allegations or claims that the defendant has had any contact with or transactions within Connecticut since the 1994 judgment entered against him. Therefore, the question for this court is: whether or not the 1994 judgment, alone, constitutes a sufficient business transaction within the state of Connecticut to allow this court to exercise personal jurisdiction over the defendant.

Connecticut case law does not provide any precedents for construing the past litigation as constituting a sufficient business transaction to provide personal jurisdiction to a Connecticut court. In fact, although there are no cases directly on point, the cases in which courts have found sufficient contacts to establish personal jurisdiction, generally, involve defendants who have engaged in contemporaneous activities in Connecticut or who have had direct and recent contact with Connecticut. According to the record, the defendant in the instant matter has had no contact with Connecticut since the mid-90s. Accordingly, this court concludes that the prior litigation, which was concluded 14 years ago, is insufficient to provide personal jurisdiction over the defendant under

§ 52-59b.

[5] The second part of the jurisdictional analysis is whether constitutional protections of due process have been violated. "[T]he constitutional due process standard requires that, in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice ... In other words, [t]he Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful contacts, ties, or relations ... By requiring that individuals have fair warning that a particular activity may subject [them] to the jurisdiction of a foreign sovereign ... the Due Process Clause gives a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit ..." *Cogswell v. American Transit Ins. Co.*, 282 Conn. 505, 523-24, 923 A.2d 638 (2007).

"The due process test for personal jurisdiction has two related components: the minimum contacts inquiry and the reasonableness inquiry. The court must first determine whether the defendant has sufficient contacts with the forum state to justify the court's exercise of personal jurisdiction." (Internal quotation marks omitted.) *Id.*, at 524, 923 A.2d 638. Thereafter, "[w]hile the exercise of jurisdiction is favored where the plaintiff has made a threshold showing of minimum contacts at the first stage of the inquiry, it may be defeated where the defendant presents a compelling case that the presence of some other considerations would render jurisdiction unreasonable." (Internal quotation marks omitted.) *Id.*, at 525, 923 A.2d 638.

*5 Addressing the issue of due process, the same factors noted above, are relevant. The defendant has not had any contact with Connecticut since 1992 out-

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side of the 1994 judgment. The defendant is presently a resident of South Carolina, is employed in South Carolina and has been working there exclusively for over fifteen years. The defendant has not transacted any business in Connecticut in fifteen years; has not owned, used or possessed any real estate in Connecticut since 1992; and does not use a computer or a computer network within the State of Connecticut.

The plaintiff fails to meet its threshold burden of showing minimum contacts. The connection between the defendant's last contact with the forum state and the present action is too remote and too attenuated to constitute the requisite minimum contacts; and that the 1994 judgment does not constitute a recent "transaction of business." Accordingly, this court concludes that it does not have personal jurisdiction over the defendant, even though Connecticut courts would have a valid interest in enforcing a valid judgment.

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EXHIBIT 3
2013 OPINION

H

Supreme Court of Connecticut.
INVESTMENT ASSOCIATES

v.

SUMMIT ASSOCIATES, INC., et al.

No. 18910.

Argued March 18, 2013.

Decided Aug. 27, 2013.

Background: Judgment creditor filed motion to revive judgment against South Carolina judgment debtor. The Superior Court, Judicial District of New Haven, Angela C. Robinson, J., granted motion, 2010 WL 1376471, and judgment debtor appealed. The Appellate Court, 132 Conn.App. 192, 31 A.3d 820, affirmed. Certification to appeal was granted.

Holdings: The Supreme Court, McDonald, J., held that:

- (1) even assuming that joint venture had lacked standing to sue on promissory note, remand for evidentiary hearing to determine whether it had standing to sue as partnership, rather than dismissal of motion to revive judgment obtained in its favor, was appropriate remedy for determining whether original judgment was void for lack of subject matter jurisdiction, and therefore, whether trial court had subject matter jurisdiction over motion to revive;
- (2) judgment in creditor's favor was not void ab initio for lack of subject matter jurisdiction;
- (3) even assuming that judgment creditor no longer existed at time of motion to revive judgment, fact of its nonexistence did not deprive trial court of subject matter jurisdiction over motion;
- (4) statute governing motion to revive judgment was procedural, rather than substantive law, and therefore, applied retroactively to judgment obtained prior to its

effective date; and

(5) judgment creditor was not required to re-establish personal jurisdiction over debtor on motion under long-arm statute and in accordance with due process.

Affirmed.

West Headnotes

[1] Appeal and Error 30 842(1)

30 Appeal and Error

30XVI Review

30XVI(A) Scope, Standards, and Extent, in General

30k838 Questions Considered

30k842 Review Dependent on Whether Questions Are of Law or of Fact

30k842(1) k. In general. Most Cited Cases

A reviewing court exercises plenary review of questions of law.

[2] Judgment 228 876(1)

228 Judgment

228XX Payment, Satisfaction, Merger, and Discharge

228k876 Presumption of Payment from Lapse of Time

228k876(1) k. In general. Most Cited Cases

If not revived within the prescribed period, a conclusive presumption arises that the judgment has been satisfied. C.G.S.A. § 52-598(a, c).

[3] Judgment 228 872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

The manifest purpose of revival is to create a new judgment for the purpose of meeting a foreign jurisdiction's time limits for enforcement. C.G.S.A. § 52-598(c).

[4] Judgment 228 ⚡872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

The object of a revival proceeding is not to obtain a new judgment for a debt, but to enable the judgment creditor to enforce by execution the judgment he has already obtained. C.G.S.A. § 52-598(c).

[5] Judgment 228 ⚡872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

The order to revive a judgment does no more than reinvest the plaintiff with the right to have execution of his original judgment; his cause of action against the defendant is the original judgment, not the order to revive. C.G.S.A. § 52-598(c).

[6] Judgment 228 ⚡872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

An order reviving a judgment merely confers upon the plaintiff the statutory right to issue executions on the judgment after it had become dormant for that purpose. C.G.S.A. § 52-598(c).

[7] Judgment 228 ⚡872

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k872 k. Operation and effect of revival.

Most Cited Cases

Judgment 228 ⚡900

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k900 k. Judgment as cause of action in general. Most Cited Cases

Judgment 228 ⚡910(3)

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k910 Time to Sue and Limitations

228k910(3) k. Accrual of cause of action.

Most Cited Cases

The common-law right to sue on the judgment is not enlarged or made to accrue anew by force of a revival order. C.G.S.A. § 52-598(c).

[8] Judgment 228 ⚡868(1)

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k868 Proceedings to Revive Judgment in General

228k868(1) k. In general. Most Cited Cases

Judgment 228 ↪900

228 Judgment

228XXI Actions on Judgments

228XXI(A) Domestic Judgments

228k900 k. Judgment as cause of action in general. Most Cited Cases

A new lease of life is not given to cause of action on a judgment by merely affording to the plaintiff the opportunity of resorting to the cumulative and independent remedy for the enforcement of the judgment by means of executions upon it; accordingly, a proceeding to revive a judgment generally is viewed as a continuation of the original action, not a new action. C.G.S.A. § 52-598(c).

[9] Judgment 228 ↪866

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k866 k. Jurisdiction and venue. Most Cited Cases

Judgment 228 ↪868(1)

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k868 Proceedings to Revive Judgment in General

228k868(1) k. In general. Most Cited Cases

The circumstances in which a revival proceeding is deemed a new action, for purposes of jurisdiction, are those in which the revival provides a means by which the original judgment may be substantively altered, such as by the addition or deletion of parties or the assertion of new defenses other than satisfaction of the judgment, or in which a new period of limitations attaches to the revived judgment. C.G.S.A. §

52-598(c).

[10] Judgment 228 ↪27

228 Judgment

228I Nature and Essentials in General

228k26 Effect of Invalidity

228k27 k. In general. Most Cited Cases

Judgment 228 ↪489

228 Judgment

228XI Collateral Attack

228XI(B) Grounds

228k488 Want of Jurisdiction

228k489 k. In general. Most Cited Cases

A judgment rendered without jurisdiction is void ab initio, not merely voidable, and such a defect can be raised as a defense at any time, even by way of a collateral attack.

[11] Judgment 228 ↪520

228 Judgment

228XI Collateral Attack

228XI(C) Proceedings

228k520 k. Proceedings to revive judgment. Most Cited Cases

Judgment 228 ↪869

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k869 k. Motions to revive judgment. Most Cited Cases

At least where the lack of jurisdiction is not entirely obvious, the critical considerations on a motion to revive a judgment are whether the complaining party had the opportunity to litigate the question of

74 A.3d 1192
 309 Conn. 840, 74 A.3d 1192
 (Cite as: 309 Conn. 840, 74 A.3d 1192)

jurisdiction in the original action, and, if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so. C.G.S.A. § 52-598(c).

[12] Judgment 228 ⚡349

228 Judgment
 228IX Opening or Vacating
 228k348 Want of Jurisdiction
 228k349 k. In general. Most Cited Cases

Judgment 228 ⚡489

228 Judgment
 228XI Collateral Attack
 228XI(B) Grounds
 228k488 Want of Jurisdiction
 228k489 k. In general. Most Cited Cases

If a court has never acquired jurisdiction over a defendant or the subject matter, any judgment ultimately entered is void and subject to vacation or collateral attack.

[13] Judgment 228 ⚡813

228 Judgment
 228XVII Foreign Judgments
 228k813 k. Grounds of recognition in general.
 Most Cited Cases

Foreign jurisdictions constitutionally are bound to give full faith and credit to Connecticut judgments, but only insofar as such judgments are valid. U.S.C.A. Const. Art. 4, § 1.

[14] Judgment 228 ⚡813

228 Judgment
 228XVII Foreign Judgments

228k813 k. Grounds of recognition in general.
 Most Cited Cases

When a judgment creditor seeks to enforce a Connecticut judgment in a foreign jurisdiction, that jurisdiction will consider jurisdictional challenges to the validity of the judgment, and the foreign jurisdiction will apply Connecticut law in making that determination. C.G.S.A. § 52-598(c).

[15] Judgment 228 ⚡813

228 Judgment
 228XVII Foreign Judgments
 228k813 k. Grounds of recognition in general.
 Most Cited Cases

In a motion to revive a Connecticut judgment in a foreign jurisdiction, that foreign jurisdiction would be limited to deciding the jurisdictional challenges to the validity of the underlying judgment on the record as it exists. C.G.S.A. § 52-598(c).

[16] Appeal and Error 30 ⚡1178(1)

30 Appeal and Error
 30XVII Determination and Disposition of Cause
 30XVII(D) Reversal
 30k1178 Ordering New Trial, and Directing
 Further Proceedings in Lower Court
 30k1178(1) k. In general. Most Cited
 Cases

Even assuming that joint venture had lacked standing to sue on promissory note, remand for evidentiary hearing to determine whether it had standing to sue as partnership, rather than dismissal of motion to revive judgment obtained in its favor, was appropriate remedy for determining whether original judgment was void for lack of subject matter jurisdiction, and therefore, whether trial court had subject matter jurisdiction over motion to revive. C.G.S.A. §

52–598(c).

[17] Judgment 228 ⚡ 489

228 Judgment
228XI Collateral Attack
228XI(B) Grounds
228k488 Want of Jurisdiction
228k489 k. In general. Most Cited Cases

Judgment 228 ⚡ 520

228 Judgment
228XI Collateral Attack
228XI(C) Proceedings
228k520 k. Proceedings to revive judgment.
Most Cited Cases

Judgment creditor, which was joint venture, existed at time it filed original complaint to recover balance of promissory note, and thus, judgment in its favor was not void ab initio for lack of subject matter jurisdiction, and judgment was not subject to collateral attack on creditor's motion to revive, where allegations in complaint established that joint venture was equally owned by joint venturers and had its place of business in Connecticut town. C.G.S.A. § 52–598(c).

[18] Courts 106 ⚡ 30

106 Courts
106I Nature, Extent, and Exercise of Jurisdiction in General
106I(A) In General
106k30 k. Loss or divestiture of jurisdiction.
Most Cited Cases

Joint Adventures 224 ⚡ 1.14

224 Joint Adventures
224k1.14 k. Commencement, duration and ter-

mination of relation. Most Cited Cases

Judgment 228 ⚡ 866

228 Judgment
228XIX Suspension, Enforcement, and Revival
228k866 k. Jurisdiction and venue. Most Cited Cases

Even assuming that judgment creditor, which was joint venture, no longer existed at time of motion to revive judgment, fact of its nonexistence did not deprive trial court of subject matter jurisdiction over motion; motion to revive was not new action, but was continuation of original action, and joint venture remained in force until dissolution, at which time it had authority to conduct all business necessary to wind up its affairs and liquidate assets. C.G.S.A. §§ 34–373(a), 52–598(c).

[19] Joint Adventures 224 ⚡ 1.14

224 Joint Adventures
224k1.14 k. Commencement, duration and termination of relation. Most Cited Cases

Although joint ventures are formed for a limited purpose rather than as an ongoing enterprise, the general rule is that a joint venture continues until its purpose is fulfilled or rendered impracticable unless the parties expressly agree otherwise.

[20] Judgment 228 ⚡ 869

228 Judgment
228XIX Suspension, Enforcement, and Revival
228k869 k. Motions to revive judgment. Most Cited Cases

Statute governing motion to revive judgment in order to create new judgment for purpose of meeting

foreign jurisdiction's time limits for enforcement was procedural, rather than substantive law, and therefore, applied retroactively to judgment obtained prior to its effective date; reviving judgment imposed no new obligations on judgment debtor, as amount of judgment, party to whom debtor owed obligation, and period for enforcing judgment all remained same, it did not alter foreign jurisdiction's law with respect to period of enforcement, but it merely prescribed method for enforcing rights and obtaining redress. C.G.S.A. §§ 52-598(c), 55-3.

[21] Statutes 361 ⚔ 1556(1)

361 Statutes
361IX Retroactivity
361k1554 Prospective or Retroactive Construction
361k1556 Language and Intent; Express Provisions
361k1556(1) k. In general. Most Cited Cases

In considering the question of whether a statute may be applied retroactively, the court is governed by certain well settled principles, under which the ultimate focus is the intent of the legislature in enacting the statute.

[22] Statutes 361 ⚔ 1558

361 Statutes
361IX Retroactivity
361k1558 k. Effect on substantive rights. Most Cited Cases

A rule of presumed legislative intent exists that statutes affecting substantive rights shall apply prospectively only. C.G.S.A. § 55-3.

[23] Statutes 361 ⚔ 1558

361 Statutes
361IX Retroactivity
361k1558 k. Effect on substantive rights. Most Cited Cases

Statutes 361 ⚔ 1565

361 Statutes
361IX Retroactivity
361k1564 Procedural Statutes
361k1565 k. In general. Most Cited Cases

The rule of presumed legislative intent that statutes affecting substantive rights shall apply prospectively only is rooted in the notion that it would be unfair to impose a substantive amendment that changes the grounds upon which an action may be maintained on parties who have already transacted or who are already committed to litigation; however, in civil cases, unless considerations of good sense and justice dictate otherwise, it is presumed that procedural statutes will be applied retrospectively. C.G.S.A. § 55-3.

[24] Statutes 361 ⚔ 1558

361 Statutes
361IX Retroactivity
361k1558 k. Effect on substantive rights. Most Cited Cases

Statutes 361 ⚔ 1565

361 Statutes
361IX Retroactivity
361k1564 Procedural Statutes
361k1565 k. In general. Most Cited Cases

A "substantive law," for the purposes of retroactivity, creates, defines and regulates rights, while a "procedural law" prescribes the methods of enforcing such rights or obtaining redress, and therefore, leaves

the preexisting scheme intact. C.G.S.A. § 55-3.

[25] Statutes 361 ⚡ 1562

361 Statutes

361IX Retroactivity

361k1561 Remedies and Remedial Statutes

361k1562 k. In general. Most Cited Cases

Although it is presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the contrary, a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application. C.G.S.A. § 55-3.

[26] Limitation of Actions 241 ⚡ 6(9)

241 Limitation of Actions

241I Statutes of Limitation

241I(A) Nature, Validity, and Construction in General

241k6 Retroactive Operation

241k6(9) k. Revival of causes of action by amendment or repeal of statute. Most Cited Cases

A statute that would modify an expired statute of limitations cannot be applied retroactively.

[27] Constitutional Law 92 ⚡ 3965(7)

92 Constitutional Law

92XXVII Due Process

92XXVII(E) Civil Actions and Proceedings

92k3961 Jurisdiction and Venue

92k3965 Particular Parties or Circumstances

92k3965(7) k. Banks, banking, finance, and securities. Most Cited Cases

Courts 106 ⚡ 30

106 Courts

106I Nature, Extent, and Exercise of Jurisdiction in General

106I(A) In General

106k30 k. Loss or divestiture of jurisdiction.

Most Cited Cases

Judgment 228 ⚡ 866

228 Judgment

228XIX Suspension, Enforcement, and Revival

228k866 k. Jurisdiction and venue. Most Cited Cases

Connecticut trial court that entered original judgment against South Carolina judgment debtor in action on promissory note retained its personal jurisdiction over debtor on judgment creditor's subsequent motion to revive, until judgment was satisfied or period of enforcement expired, and therefore, judgment creditor was not required to re-establish personal jurisdiction over debtor on motion under long-arm statute and in accordance with due process. U.S.C.A. Const.Amend. 14; C.G.S.A. §§ 52-350d(a), 52-598(c).

****1195** Proloy K. Das, with whom was Bernard F. Gaffney, Hartford, for the appellant (defendant Joseph D. Lancia).

Pasquale Young, New Haven, for the appellee (plaintiff).

ROGERS, C.J., and NORCOTT, PALMER, ZARELLA, EVELEIGH, McDONALD and ESPINOSA, Js.

McDONALD, J.

***843** In 2009, our legislature created a mechanism whereby a judgment creditor can "revive" an

unsatisfied judgment for money damages at any time before the period for enforcement expires; Public Acts 2009, No. 09-215, § 1(c) (P.A. 09-215); see General Statutes § 52-598(c); ^{FN1} the purpose of which was to aid in the **1196 execution of such judgments in foreign jurisdictions. The present case requires us to consider the nature of proceedings under § 52-598(c) regarding questions of subject matter jurisdiction and personal jurisdiction over a nonresident defendant with respect to a judgment rendered before the effective date of § 52-598(c).

FN1. General Statutes § 52-598 provides:

“(a) No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered, except that there shall be no time limitation on the issuance of such execution or the institution of such action if the judgment was rendered in an action to recover damages for personal injury caused by sexual assault where the party legally at fault for such injury was convicted of a violation of section 53a-70 or 53a-70a.

“(b) No execution to enforce a judgment for money damages rendered in a small claims session may be issued after the expiration of ten years from the date the judgment was entered, and no action based upon any such judgment may be instituted after the expiration of fifteen years from the date the judgment was entered.

“(c) With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior

to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.”

*844 Upon our grant of certification, the defendant Joseph D. Lancia ^{FN2} appeals from the judgment of the Appellate Court affirming the trial court's 2010 judgment reviving a 1994 judgment in favor of the plaintiff, Investment Associates, pursuant to § 52-598(c). *Investment Associates v. Summit Associates, Inc.*, 132 Conn.App. 192, 31 A.3d 820 (2011). The defendant contends that the Appellate Court improperly determined that: (1) his challenge to the trial court's subject matter jurisdiction on the grounds that the plaintiff was neither a legal entity nor an entity in existence was barred as an improper collateral attack on the original judgment; and (2) § 52-598(c) applies retroactively and provides a proper basis for the trial court's jurisdiction over the defendant for purposes of adjudicating the motion to revive. We affirm the judgment of the Appellate Court.

FN2. The two other defendants named in both the complaint in the original action and the motion to revive, Summit Associates, Inc., and Ned B. Wilson, did not participate in the trial court proceeding to revive the judgment or this certified appeal. Therefore, for convenience, we refer to Lancia as the defendant.

The following facts are undisputed. In 1991, the plaintiff commenced an action to recover on a promissory note executed by Summit Associates, Inc. (Summit), and guaranteed by Ned B. Wilson and the defendant. The complaint identified the plaintiff as

having been at all relevant times a joint venture, equally owned by R.S.S. McKosky and Alton W. Seavey, Jr., and having its usual place of business in North Branford. The complaint further identified the plaintiff as the holder and owner of the note and as the assignee of a related security agreement. In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina. The defendant continued to be represented by counsel at proceedings on the action, at which he asserted various defenses to the merits but no jurisdictional challenges. In 1994, the trial court, *Hon. Frank *845 S. Meadow*, judge trial referee, rendered judgment in the plaintiff's favor in the amount of \$272,530.03 plus costs. Under Connecticut law, the plaintiff had twenty years from the date judgment entered to obtain an execution on the judgment. See General Statutes § 52-598(a). Under South Carolina law, the plaintiff had ten years from that date to obtain an execution in that state's courts. See S.C.Code Ann. § 15-3-600 (2005); *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 481, 517 S.E.2d 235 (App.1999). The plaintiff did not seek an execution of the Connecticut judgment in South Carolina before that state's limitations period expired.^{FN3}

FN3. Michael R. Caporale, Jr., the plaintiff's counsel in the 1994 judgment in the present case, submitted a written statement to the Judiciary Committee in support of the bill eventually enacted and codified as § 52-598(c), indicating that Summit, Wilson and the defendant lacked assets to satisfy the judgment at the time it was rendered. Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6724. He further stated that the plaintiff did not ascertain the defendant's whereabouts in South Carolina until eleven years after that judgment had been rendered. *Id.*

In 2007, the plaintiff commenced a separate action in Connecticut solely against the defendant to enforce the judgment. The defendant filed a motion to

dismiss **1197 the action for lack of personal jurisdiction, which the trial court, *A. Robinson, J.*, granted. *Investment Associates v. Lancia*, Superior Court, judicial district of New Haven, Docket No. CV-07-4028746-S, 2008 WL 2168983 (May 5, 2008) (45 Conn. L. Rptr. 437). The court recognized that Connecticut would have a valid interest in enforcing the judgment. *Id.*, at 440. Nonetheless, it concluded that the defendant's sole contact with Connecticut since leaving the state in 1992—the 1994 judgment—was insufficient to satisfy the requirements of either the long arm statute; General Statutes § 52-59b; or due process to allow the court to exercise personal jurisdiction over him.^{FN4} *Investment Associates v. Lancia*, *supra*, at 439-40.

FN4. Two subsequent Superior Court decisions have reached a contrary conclusion, relying on case law from other jurisdictions holding that the personal jurisdiction established in the original judgment was a sufficient basis on which to maintain jurisdiction over the defendant for purposes of a proceeding to revive a judgment. See *SCR Joint Venture, L.P. v. Schwartz*, Superior Court, judicial district of Hartford, Docket No. CV-11-6025633-S, 2012 WL 6120660 (November 14, 2012) (*Domnarski, J.*) (54 Conn. L. Rptr. 914) (denying motion to dismiss); *Stingle v. Tuller*, Superior Court, judicial district of Hartford, Docket No. CV-08-5022299-S, 2009 WL 1312709 (April 15, 2009) (*Prescott, J.*) (47 Conn. L. Rptr. 585) (same). The plaintiff in the present case did not appeal from the judgment of dismissal, and the present appeal does not require us to resolve this split of authority.

*846 In June, 2009, the legislature enacted P.A. 09-215, codified as § 52-598, and made effective October 1, 2009. Pursuant to the newly enacted subsection (c) of § 52-598, the plaintiff filed a motion on October 6, 2009, to revive the 1994 judgment, alleging

that the judgment remained unsatisfied and that the period for executing the judgment had not yet expired. In response, the defendant moved to dismiss the motion, claiming that the court lacked personal jurisdiction over him in light of: (1) his South Carolina residency and lack of contact with Connecticut since 1992; (2) the trial court's ruling dismissing the plaintiff's 2007 action for lack of personal jurisdiction as res judicata; (3) the absence of any basis in § 52-598(c) or postjudgment procedure statutes conferring personal jurisdiction; and (4) his lack of minimum contacts with the state to render the exercise of such jurisdiction consonant with due process. The court issued a decision in 2010 concurrently denying the motion to dismiss and granting the motion to revive. The defendant thereafter moved to reargue the motion to revive, claiming that he had not been given an opportunity to assert substantive challenges to the merits of the motion because he could not have advanced such claims without conceding personal jurisdiction. The trial court denied that request, and the defendant appealed from the revived judgment to the Appellate Court.

In that appeal, the defendant renewed claims previously made to the trial court, and, for the first time, challenged the plaintiff's standing to invoke the court's *847 jurisdiction, claiming that the plaintiff, as a joint venture, was neither a legal entity nor in existence at the time it commenced the action. *Investment Associates v. Summit Associates, Inc.*, supra, at 195-96, 31 A.3d 820. Following oral argument, the Appellate Court sua sponte raised the issue of whether the defendant should be precluded from challenging the trial court's subject matter jurisdiction. Id., at 197, 31 A.3d 820. After considering supplemental briefs on that question, the Appellate Court concluded that the defendant was precluded from raising these claims. Id., at 197, 201-202, 31 A.3d 820. The court reasoned that a motion to revive is **1198 not the beginning of a new action, in which the defendant undoubtedly would be able to challenge the court's jurisdiction even for the first time on appeal, but, rather, a con-

tinuation of the original action. Id., at 199-200, 31 A.3d 820. Accordingly, the court concluded that the timeliness of the defendant's challenge must be viewed in light of the original judgment. Id., at 200, 31 A.3d 820. Considering the fact that the defendant had failed to avail himself of the opportunity to challenge the court's jurisdiction in the original proceedings, the Appellate Court concluded that the interest in finality of judgments outweighed the concerns that the defendant had raised regarding the validity of the judgment. Id., at 201-202, 31 A.3d 820. The court further concluded that, because the practical effect of the defendant's challenge to the motion to revive was an attack on the 1994 judgment, the defendant could not challenge the trial court's subject matter jurisdiction over either the original judgment or the motion to revive. Id.

In addition, the Appellate Court rejected the defendant's challenge to the exercise of personal jurisdiction over him and his claim that the trial court's decision on the motion to revive had been made without affording him an opportunity to challenge that motion on the merits. Id., at 202-208, 31 A.3d 820. With respect to the former, the Appellate Court concluded that the trial court had *848 jurisdiction over the defendant when granting the motion to revive because: § 52-598(c) is a procedural statute that may be applied retroactively; a motion filed pursuant to that subsection is not a new action that would require the trial court to obtain personal jurisdiction over the defendant independent of the jurisdiction present at judgment; and the legislature had conferred continuing jurisdiction on the court over parties to post-judgment procedures, which included § 52-598(c). Id., at 203-205, 31 A.3d 820. Accordingly, the Appellate Court affirmed the revived judgment. Id., at 208, 31 A.3d 820.

[1] Thereafter, this court granted the defendant's petition for certification to appeal, limited to the following issues: (1) "Did the Appellate Court properly determine that the trial court had subject matter juris-

diction over the plaintiff's 2009 motion to revive?"; (2) "Did the Appellate Court properly determine that ... § 52-598(c) is procedural in nature, and, therefore, may be applied retroactively?"; and (3) "Did the Appellate Court properly determine that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the plaintiff's 2009 motion to revive?"^{FN5} *Investment Associates v. Summit Associates, Inc.*, 303 Conn. 921, 922, 34 A.3d 396 (2012). Each of these issues raises questions of law over which this court exercises plenary review. *Bateson v. Weddle*, 306 Conn. 1, 7, 48 A.3d 652 (2012) (standing); *Walsh v. Jodoin*, 283 Conn. 187, 195, 925 A.2d 1086 (2007) (retroactivity of statute and statutory construction); *New London County Mutual Ins. Co. v. Nantes*, 303 Conn. 737, 745, 36 A.3d 224 (2012) (personal jurisdiction). Upon such review, we answer the certified questions in the affirmative.

FN5. Although we certified the first and second issues in reverse order, we begin with the question of subject matter jurisdiction before turning to the two issues related to personal jurisdiction, as did the Appellate Court. See *Investment Associates v. Summit Associates, Inc.*, supra, 132 Conn.App. at 196, 202, 31 A.3d 820.

*849 I

We begin with a brief explanation of the nature and effect of § 52-598(c), which is central to our resolution of the issues in this appeal. Under the law existing at the **1199 time the original judgment was rendered in the present case and as it currently exists, a party obtaining a judgment for money damages in Connecticut has two means to enforce that judgment; it may seek an execution of the judgment or it may initiate an independent action. See General Statutes § 52-598(a); see also 30 Am.Jur.2d 84, Executions and Enforcement of Judgments § 47 (2005) (distinguishing between execution and action on judgment). With limited exceptions not applicable to the present case, under § 52-598(a), a party has twenty years to execute

the judgment and twenty-five years to enforce it through a separate action.

Public Act 09-215 added subsection (c) to § 52-598, which provides in relevant part: "With respect to a judgment for money damages rendered in any court of this state ... a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section."

[2] On its face and viewed in isolation, § 52-598(c) appears to have no practical effect. Although an order granting a motion under this provision ostensibly "revive[s]" the judgment, the judgment must be presently enforceable in order to be revived and revival has *850 no effect on the time limit to enforce the judgment.^{FN6} Thus, for example, in the present case, under the original 1994 judgment, the plaintiff had until 2014 to execute the judgment and until 2019 to initiate an independent action to enforce the judgment. Under the 2010 revived judgment, the plaintiff is subject to those same limits.

FN6. In this regard, § 52-598(c) differs from the revival (or renewal) of judgments in other jurisdictions. Although many other jurisdictions have common-law or statutory mechanisms to revive a judgment, such mechanisms are utilized in these jurisdictions when a judgment has or will become "dormant" due to a rebuttable presumption that arises after a prescribed period of time that the judgment has been satisfied. See 46 Am.Jur.2d 698, Judgments § 391(2006) ("[t]he general rule is that a judgment, to be revived, must be dormant; if a judgment is

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not dormant, revivor is not necessary"). If not revived within the prescribed period, a conclusive presumption arises that the judgment has been satisfied. See, e.g., *McLendon v. Hepburn*, 876 So.2d 479, 486 (Ala.Civ.App.2003) (judgment rendered dormant after ten years; conclusive presumption of satisfaction after twenty years); *Johnson Bros. Wholesale Liquor Co. v. Clemmons*, 233 Kan. 405, 409, 661 P.2d 1242 (judgment presumed satisfied after ten years), cert. denied, 464 U.S. 936, 104 S.Ct. 345, 78 L.Ed.2d 311 (1983); *In re Stoddard*, 248 B.R. 111, 116–17 (Bankr.N.D. Ohio 2000) (discussing presumption). In some jurisdictions, revival of the judgment extends the ultimate period for enforcing the judgment. See, e.g., *Mundaca Financial Services, LLC v. Casella*, 210 N.C.App. 491, 711 S.E.2d 207 (2011); *McCoy v. Knobler*, 260 S.W.3d 179, 183–84 (Tex.App.2008).

[3] The intended effect of the revived judgment becomes evident upon examination of P.A. 09–215 and its legislative history. Public Act 09–215 enacted House Bill No. 6248, 2009 Sess., entitled "An Act concerning the Time Limit for Enforcing a State Court Judgment in a Foreign Jurisdiction." The explanation of the bill on the floor of the House of Representatives makes clear that the bill's purpose was to ensure that satisfaction of a valid Connecticut judgment was not avoided simply because the judgment debtor (or the debtor's assets) resided in a foreign jurisdiction **1200 having a shorter period for enforcement. See 52 H.R. Proc., Pt. 20, 2009 Sess., pp. 6387–88, remarks of Representative Gerald M. Fox III; ^{FN7} *851 see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 20, 2009 Sess., pp. 6582–83, remarks of Representative Vincent J. Candelora; Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., pp. 6722–23, written testimony of Representative Candelora (citing example of judgment rendered in Connecticut eleven years prior that could not be

enforced under South Carolina's ten year period for enforcing judgment as problem intended to be remedied by bill). Thus, the manifest purpose of revival under § 52–598(c) is to create a new judgment for the purpose of meeting a foreign jurisdiction's time limits for enforcement.

FN7. Representative Fox explained the purpose of the bill as follows: "Under current law, in the [s]tate of Connecticut when one obtains a judgment in Superior Court, they can obtain an execution on that judgment for up to [twenty] years in a [S]uperior [C]ourt case and up to ten years in a small claims case. Mr. Speaker, however, what happens oftentimes is that one may attempt to enforce this judgment in a foreign jurisdiction in a different state, essentially, and sometimes those states have different rules. And what this bill will do is enable the person who receives the judgment, who obtains the judgment, to revive that judgment in order to enforce it in a foreign jurisdiction. And essentially what would happen is the person who has the judgment would go back into court and get a revival of the judgment which would enable the judgment to then be enforced in a foreign jurisdiction. There's nothing in this bill that would enable the ... possessor of the judgment to enforce that judgment beyond the time limit that Connecticut currently has." 52 H.R. Proc., supra, at pp. 6387–88; see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6723, written testimony of Representative Vincent J. Candelora ("[a] [m]otion of [r]evival basically serves to restart the clock for collection in a foreign jurisdiction").

[4][5][6][7][8][9] As one court explained: "The object of the proceeding is not to obtain a new judgment for a debt, but to enable the judgment creditor to

enforce by execution the judgment he has already obtained.... The order to revive does no more than reinvest the plaintiff with the right to have execution of his original judgment. His cause of action against the defendant is the original judgment, not the order to revive. The order merely confers upon the plaintiff the statutory right to issue executions on the judgment after it had become dormant for that purpose. The common-law right to sue on the judgment is *852 not enlarged or made to accrue anew by force of the order.... It is plain that a new lease of life is not given to that cause of action by merely affording to the plaintiff the opportunity of resorting to the cumulative and independent remedy for the enforcement of the judgment by means of executions upon it." (Citation omitted; internal quotation marks omitted.) *Second National Bank v. Allgood*, 234 Ala. 654, 656, 176 So. 363 (1937). Accordingly, a proceeding to revive a judgment generally is viewed as a continuation of the original action, not a new action. See, e.g., *Bank of Edwardsville v. Raffaele*, 381 Ill. 486, 489, 45 N.E.2d 651 (1942); *Bahan v. Youngstown Sheet & Tube Co.*, 191 So.2d 668, 670 (La.App.1966); *State ex rel. Silverman v. Kirkwood*, 361 Mo. 1194, 1200, 239 S.W.2d 332 (1951); *Columbus Check Cashers, Inc. v. Cary*, 196 Ohio App.3d 132, 139, 962 N.E.2d 812 (2011); *Berly v. Sias*, 152 Tex. 176, 181, 255 S.W.2d 505 (1953); *Duffy v. Hartsock*, 187 Va. 406, 415, 46 S.E.2d 570 (1948). A survey of other jurisdictions reveals that the circumstances in which a revival proceeding has been deemed a new action are those in which the revival provides a means by which the original judgment may be substantively**1201 altered, such as by the addition or deletion of parties or the assertion of new defenses other than satisfaction of the judgment, or in which a new period of limitations attaches to the revived judgment.^{FN8} See, e.g., *Johnson Bros. Wholesale Liquor Co. v. Clemmons*, 233 Kan. 405, 408, 661 P.2d 1242, cert. denied, 464 U.S. 936, 104 S.Ct. 345, 78 L.Ed.2d 311 (1983); *Union National Bank v. Lamb*, 360 Mo. 81, 88–89, 227 S.W.2d 60 (1950); *853 *Allen v. Wilson County Investors, LLC*, Docket No. M2002–00540–COA–R3–CV, 2003 WL

21849545, *5 (Tenn.App. August 8, 2003). Accordingly, because proceedings under § 52–598(c) result in no substantive change to the original judgment, a point we discuss in further detail in part III A of this opinion, a motion to revive under § 52–598(c) is effectively a continuation of the original proceeding rather than a new action.^{FN9} With this background and premise in mind, we turn to the defendant's claims.

FN8. Whether the revived judgment is deemed a continuation of the original judgment or a new judgment may affect whether the foreign jurisdiction will consider Connecticut's revived judgment to be the operative judgment for purposes of that jurisdiction's time limit for enforcement. See *Smith v. RJH of Florida, Inc.*, 520 F.Supp.2d 838, 841–43 (S.D.Miss.2007) (explaining reasoning and authority on both sides of this question).

FN9. The defendant's argument to the contrary is predicated on the view that the plaintiff "sought the same substantive relief that it sought through the 2007 lawsuit." We note that the defendant's position is contrary to that of every jurisdiction that has considered this question.

II

[10] We begin with the question of whether the Appellate Court properly determined that the trial court had subject matter jurisdiction over the motion to revive. More precisely, the question is whether the Appellate Court properly determined that the defendant was precluded from attacking the trial court's jurisdiction over the motion because the challenges raised were in fact or effect collateral attacks on the original judgment. The defendant contends that the Appellate Court improperly failed to recognize that, under our case law, a judgment rendered without jurisdiction is void ab initio, not merely voidable, and that such a defect can be raised as a defense at any

time, even by way of a collateral attack and especially when that judgment is being used as a source of a right. The defendant contends that his attack on the motion to revive raised such issues in that he claims that the plaintiff lacked standing to commence the action because: (1) joint ventures are not legal entities and therefore lack the capacity to bring actions in their own names; and (2) the plaintiff failed to establish that it was an *existing* joint venture at the time that it initiated the action. The defendant further asserts that, even if it was proper to preclude his challenges*854 to the trial court's jurisdiction in connection with the 1994 judgment, he should have been permitted to challenge the trial court's jurisdiction to adjudicate the motion to revive because "there is no reason to believe that [the plaintiff] still existed in 2009," when it filed the motion. In response, the plaintiff contends that the Appellate Court properly declined to consider the defendant's claims, that lack of capacity to bring an action is not a jurisdictional defect in any event, and, even if it is, that joint ventures are legal entities that can bring an action.

For purposes of clarity, we characterize the defendant's claims in three parts: (1) whether joint ventures are legal entities capable of bringing an action—a claim that **1202 pertains equally to the original and revived judgments; (2) whether the plaintiff was in existence at the time the original action was commenced; and (3) assuming the plaintiff was then in existence, whether it continued in existence as a joint venture when the motion to revive was filed. With respect to the first two claims, the defendant acknowledges that these defenses to the motion to revive are "collateral challenge[s] to [the] judgment...." For the reasons set forth subsequently in this opinion, we agree with the Appellate Court's conclusion that the defendant is not entitled to review of those claims on the merits. Insofar, however, as the third claim neither directly, nor in effect, attacks the original judgment, we conclude that the defendant is not precluded from raising such a challenge, but that his claim fails on the merits.

[11] We begin with the two claims that undoubtedly are collateral attacks on the original judgment. In precluding the defendant's claims, the Appellate Court relied on principles first articulated by this court in *Vogel v. Vogel*, 178 Conn. 358, 422 A.2d 271 (1979), and reiterated in several later cases. In *Vogel*, the plaintiff had challenged a finding of contempt arising out of his noncompliance*855 with the trial court's order in a judgment rendered approximately twenty years earlier, claiming that, under this court's case law construing the applicable statute, the trial court properly could not have issued such an order under the facts of the case. *Id.*, at 361–64, 422 A.2d 271. In rejecting that challenge, this court concluded: "The plaintiff's collateral attack upon the validity of the 1959 judgment is framed as a challenge to the subject matter jurisdiction of the court which, as we have consistently recognized, can be raised at any time ... and the lack thereof cannot be waived.... As we have only recently observed, however, [t]he modern law of civil procedure suggests that even litigation about subject matter jurisdiction should take into account the importance of the principle of the finality of judgments, particularly when the parties have had a full opportunity originally to contest the jurisdiction of the adjudicatory tribunal.... Under this rationale, at least where the lack of jurisdiction is not entirely obvious, the critical considerations are whether the complaining party had the opportunity to litigate the question of jurisdiction in the original action, and, if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so." (Citations omitted; internal quotation marks omitted.) *Id.*, at 362–63, 422 A.2d 271, citing, *inter alia*, F. James & G. Hazard, *Civil Procedure* (2d Ed.1977) § 13.16, pp. 695–97; Restatement (Second), Judgments § 15 (Tentative Draft No. 5, 1978).

[12] While we continue to agree with the vitality of this rule,^{FN10} two factors give **1203 us pause as to whether this rule *856 should strictly apply in the context of proceedings to revive an earlier judgment.

Numerous jurisdictions provide for revival of judgments and recognize principles limiting collateral attacks on judgments, yet none of them have broadly extended the Restatement (Second) rule to revival proceedings. Rather, these jurisdictions, without exception, appear to permit jurisdictional attacks on the original judgment to be raised in proceedings to revive the judgment, at least to the extent that the judgment can be demonstrated to be void on its face. See 46 Am.Jur.2d 715, Judgments § 415 (2006) ("It is clear that errors or irregularities in obtaining the judgment, which do not render it void, may not be set up as a defense. Ordinarily, however, it is proper to urge, in defense of a proceeding for the revival of a judgment, that the judgment is void for want of jurisdiction of either the parties or of the subject matter." [Footnotes omitted.]); 50 C.J.S., Judgments § 861(2009) (noting that, in revival proceeding, "defenses may be successfully advanced, including ... incapacity of [the] plaintiff to maintain the proceeding" [footnotes omitted]); see, e.g., *Tingwall v. King Hill Irrigation District*, 66 Idaho 76, 82, 155 P.2d 605 (1945) (in revival *857 proceeding in which debtor sought to attack original judgment, "[a] judgment, although obtained by extrinsic fraud, cannot be collaterally attacked unless such invalidity appears on the face of the judgment"); *Romero v. Sunseri*, 359 So.2d 305, 307 (La.App.) ("in a suit for revival of judgment, no defense short of absolute nullity of the original judgment can be raised"), cert. denied, 362 So.2d 579 (La.1978); *Arthur v. Garcia*, 78 N.M. 381, 383, 431 P.2d 759 (1967) (concluding that collateral attack in revival proceeding on original judgment not permitted unless lack of jurisdiction affirmatively appears in record); *Rindfleisch v. AFT, Inc.*, Docket No. 84551, 2005 WL 110443, *2 (Ohio App. January 20, 2005) (claim preclusion inapplicable to challenge to court's subject matter jurisdiction over motion to revive judgment if jurisdiction had not previously been determined).

FN10. The defendant argues that this rule is in tension with two principles. The first is that, "[i]f a court has never acquired juris-

diction over a defendant or the subject matter ... any judgment ultimately entered is void and subject to vacation or collateral attack." (Internal quotation marks omitted.) *Angiolillo v. Buckmiller*, 102 Conn.App. 697, 713, 927 A.2d 312, cert. denied, 284 Conn. 927, 934 A.2d 243 (2007); accord *Feuerman v. Feuerman*, 62 Conn.App. 332, 337, 771 A.2d 230 (2001) ("[u]nless a litigant can show an absence of subject matter jurisdiction that makes the prior judgment of a tribunal entirely invalid, he or she [is limited to] resort[ing] to direct proceedings [i.e., an appeal] to correct perceived wrongs in the tribunal's conclusive decision" [internal quotation marks omitted]); *Davenport v. Quinn*, 53 Conn.App. 282, 293, 730 A.2d 1184 (1999) ("[A] provision of a judgment that exceeds the jurisdiction of a court is necessarily void and cannot be remedied merely by the lapse of time. Such a judgment is void ab initio and is subject to both direct and collateral attack.... If a court has never acquired jurisdiction over a defendant or the subject matter ... any judgment ultimately entered is void and subject to vacation or collateral attack." [Internal quotation marks omitted.]). The second is that "[n]o principle is more universal than that the judgment of a court without jurisdiction is a nullity.... Such a judgment, whenever and wherever declared upon as a source of right, may always be challenged.... *Bicio v. Brewer*, 92 Conn.App. 158, 165-67, 884 A.2d 12 (2005)." (Internal quotation marks omitted.) *Angiolillo v. Buckmiller*, supra, at 713, 927 A.2d 312. We disagree. As we explain subsequently in this opinion, if the defendant may prevail on a collateral attack of a void judgment when such invalidity is evident on the face of the record, this line of cases would be consistent with the rule articulated in *Vogel*.

[13][14][15] In addition, as we previously explained, the sole purpose of § 52-598(c) is to advance the enforcement of Connecticut judgments in foreign jurisdictions. Foreign jurisdictions constitutionally are bound to give full faith and credit to Connecticut judgments, but only insofar as such judgments are *valid*. See *Baker v. General Motors Corp.*, 522 U.S. 222, 233, 118 S.Ct. 657, 139 L.Ed.2d 580 (1998) (“Regarding judgments ... the full faith and credit obligation is exacting. A final judgment in one [s]tate, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.”); see also *Durham v. Dept. of Human Services/Child Support Enforcement Unit*, 322 Ark. 789, 793, 912 S.W.2d 412 (1995) (applying this principle in revival proceeding); *Weaver v. Boggs*, 38 Md. 255, 260-61 (1873) (same); *Yorkshire West Capital, Inc. v. Rodman*, 149 P.3d 1088, 1092 (Okla.Civ.App.Div.2006) **1204 (same); *Carter v. Carter*, 232 Va. 166, 169, 349 S.E.2d 95 (1986) (same). Accordingly, when a judgment creditor seeks *858 to enforce a Connecticut judgment in a foreign jurisdiction, that jurisdiction will consider jurisdictional challenges to the validity of the judgment. See *Law Firm of Paul L. Erickson, P.A. v. Boykin*, 383 S.C. 497, 504-505, 681 S.E.2d 575 (2009). Although the foreign jurisdiction will apply Connecticut law in making that determination; see *Roche v. McDonald*, 275 U.S. 449, 453, 48 S.Ct. 142, 72 L.Ed. 365 (1928); *Law Firm of Paul L. Erickson, P.A. v. Boykin*, supra, at 500 n. 2, 681 S.E.2d 575; there is reason to question whether that jurisdiction will treat the judgment as presumptively valid if it is invalid on its face under our laws pertaining to jurisdiction but shielded from such an attack under our law regarding jurisprudential considerations. In any event, that foreign jurisdiction also would be limited to deciding the matter on the record as it exists.

Limiting collateral attacks to those that can be established by the record has support in our case law. In *In re Shamika F.*, 256 Conn. 383, 406-407, 773

A.2d 347 (2001), this court noted: “The reason for the rule against collateral attack is well stated in these words: The law aims to invest judicial transactions with the utmost permanency consistent with justice.... Public policy requires that a term be put to litigation and that judgments, as solemn records upon which valuable rights rest, should not lightly be disturbed or overthrown.... [T]he law has established appropriate proceedings to which a judgment party may always resort when he deems himself wronged by the court's decision.... If he omits or neglects to test the soundness of the judgment by these or other direct methods available for that purpose, he is in no position to urge its defective or erroneous character when it is pleaded or produced in evidence against him in subsequent proceedings. *Unless it is entirely invalid and that fact is disclosed by an inspection of the record itself the judgment is invulnerable to indirect assaults upon it.*” (Emphasis *859 added; internal quotation marks omitted.) Accord *Reiner, Reiner & Bendett, P.C. v. Cadle Co.*, 278 Conn. 92, 99 n. 7, 897 A.2d 58 (2006) (“[a]lthough we generally require that collateral attacks be supported by facts apparent from the record, we have eschewed the application of that rule when a nonresident defendant collaterally challenges the personal jurisdiction of the court rendering judgment”); *Vogel v. Vogel*, supra, 178 Conn. at 362, 422 A.2d 271 (exception to bar on collateral attack when lack of jurisdiction is “entirely obvious”); see also *R.C. Equity Group, LLC v. Zoning Commission*, 285 Conn. 240, 248, 939 A.2d 1122 (2008) (motion to dismiss attacks jurisdiction of court and “tests, inter alia, whether, on the face of the record, the court is without jurisdiction” [internal quotation marks omitted]).

We need not, however, conclusively resolve this question in the present case. Even if we were to assume, arguendo, that the defendant is entitled to review of his claims if he can demonstrate that prevailing on those claims would render the original judgment void on its face, his claims do not meet this standard. As the following discussion illustrates, the defendant cannot establish that he is entitled to a

judgment of dismissal *on the record as it exists*.

ab initio on its face.

[16] We begin with the defendant's first claim, that joint ventures are not legal entities. We agree that this claim implicates a substantial question of subject matter jurisdiction. See 59 Am.Jur.2d 460, Parties § 22 (2012) (“[A] proper party plaintiff is essential to confer jurisdiction on the court. As a general matter, there are three classes of legal entities with the **1205 inherent power to sue and be sued: [1] natural persons; [2] an artificial person; and [3] such quasi-artificial persons as the law recognizes as being capable to sue. Only a party that actually or legally exists may bring a lawsuit. There must be some ascertainable persons, natural or artificial, to whom judgments may be awarded, and no suit can be lawfully *860 prosecuted except in the name of such person.” [Footnotes omitted.]). Nonetheless, even if the defendant were correct that joint ventures lack such capacity, a question of first impression in this state, the plaintiff would be entitled to an opportunity to demonstrate that it also is a partnership, an entity that, as the defendant recognizes, is capable of bringing an action in its own name ^{FN11} and universally recognized as sharing substantial similarities with a joint venture. See, e.g., *Doe v. Yale University*, 252 Conn. 641, 673–74, 748 A.2d 834 (2000). Well established authority recognizes that the two types of entities are not mutually exclusive. ^{FN12} There *861 is nothing in the record in the present case that would be inconsistent with such a finding. Indeed, the plaintiff claimed at oral argument **1206 before this court that it is a partnership and merely had referred to itself as a joint venture in the complaint as a matter of convenience, an assertion for which there is some support in the record. ^{FN13} Therefore, the defendant's claim, even if successful, would not require a judgment of dismissal, but instead a remand for an evidentiary hearing. See *Seymour v. Region One Board of Education*, 261 Conn. 475, 489–92, 803 A.2d 318 (2002); *Connecticut Associated Builders & Contractors v. Hartford*, 251 Conn. 169, 181–82, 740 A.2d 813 (1999). Accordingly, this claim *862 could not conclusively demonstrate that the judgment is void

FN11. See General Statutes § 34–313 (“[a] partnership is an entity distinct from its partners”); General Statutes § 34–328(a) (“[a] partnership may sue and be sued in the name of the partnership”). Our legislature enacted the Uniform Partnership Act (1994) (act) in 1995, and made the act effective on July 1, 1997. See Public Acts 1995, No. 95–341, §§ 1, 58; General Statutes § 34–300 et seq. The act's recognition of partnerships as distinct entities from their partners “comport[ed] with recent Connecticut case law involving partnership definition.” 38 H.R. Proc., Pt. 20, 1995 Sess., p. 7169, remarks of Representative James W. Abrams.

FN12. See National Conference of Commissioners on Uniform State Laws, Uniform Partnership Act (1997) § 202, comment, p. 31, available at http://www.uniformlaws.org/shared/docs/partnership/upa_final_97.pdf (last visited August 5, 2013) (copy contained in the file of this case in the Supreme Court clerk's office) (“Relationships that are called ‘joint ventures’ are partnerships if they otherwise fit the definition of a partnership. An association is not classified as a partnership, however, simply because it is called a ‘joint venture.’ ”); see also *In re Webb*, 474 B.R. 891, 893–94 (Bankr.E.D.Ark.2012) (“Notwithstanding the similarity between partnerships and joint ventures, the courts do not treat a joint venture as in all respects identical with a partnership, as they are separate and distinct legal relationships. A joint venture is generally a less formal relationship than a partnership. Also, a joint venture is not a legal entity separate from the participants in the venture as a partnership is, unless, of course, the attributes of the joint venture are such that the venture is in actuality a part-

nership.... In other words, a joint venture is not necessarily a separate entity with a separate legal existence; it is a relationship between two parties which or may not amount to a partnership under partnership law." [Citations omitted; internal quotation marks omitted.]), *aff'd sub nom. Bank of England v. Rice*, Docket No. 4:12-cv-578 (DPM), 2013 WL 427919, 2013 U.S. Dist. LEXIS 14531 (E.D.Ark. February 4, 2013); *Century Bank of Lee County v. Gillespy*, 399 So.2d 1109, 1110 (Fla.App.1981) ("[w]e hold that, regardless of whatever attributes a joint venture may have which, for other purposes, distinguish it from a traditional partnership, if a 'joint venture' in fact meets the definition of a statutory partnership ... it is a partnership for the purpose of acquiring, holding and conveying title to real property in the name of the joint venture [partnership] as an entity separate from its members as provided in ... Florida [s]tatutes"); *Accolades Apartments, L.P. v. Fulton County*, 274 Ga. 28, 29-30, 549 S.E.2d 348 (2001) ("The conflict can be resolved by recognizing that [the plaintiff] primarily relied on the concept that a joint venture is not a legal entity separate from those parties that compose it.... While that concept is correct, it is an incomplete statement of the relevant law. In fact, a joint venture can be a separate legal entity, if the attributes of the joint venture are such that the venture is in actuality a partnership.... Whether a joint venture is actually a partnership is a question of fact and depends on the rights and responsibilities assumed by the joint venturers.... This is so even if the documents controlling the arrangement expressly state that no partnership is formed." [Citations omitted; internal quotation marks omitted.]).

FN13. McKosky, one of the two joint ven-

turers named in the complaint as an equal "owne[r]" of the plaintiff, filed an affidavit in which he referred to himself as the "[m]anaging [p]artner" of the plaintiff. In the defendant's revised special defense, he repeatedly referred to McKosky as the plaintiff's "general partner" or "partner." See General Statutes § 34-301(12) (" '[p]artnership' means an association of two or more persons to carry on as co-owners a business for profit formed under section 34-314, predecessor law or comparable law of another jurisdiction, and includes for all purposes of the laws of this state a registered limited liability partnership"); General Statutes § 34-314(a) ("[e]xcept as otherwise provided in subsection [b] of this section, the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership").

[17] Turning to the defendant's second claim, that the plaintiff failed to demonstrate that it was in existence at the time that it filed the complaint, this assertion is squarely contradicted by the record. The defendant relies *solely* on the plaintiff's use of the past tense in the following allegation in the 1991 complaint: "At all times herein, the plaintiff ... was a joint venture equally owned by R.S.S. McKosky and Alton W. Seavey, Jr., having its usual place of business in the town of North Branford...." Not only does the defendant adopt an unduly cramped construction of this allegation in contravention to the rule that we read pleadings liberally in support of jurisdiction; see *Federal Deposit Ins. Corp. v. Peabody, N.E., Inc.*, 239 Conn. 93, 99, 680 A.2d 1321 (1996); *Kelly v. Albertsen*, 114 Conn.App. 600, 605-606, 970 A.2d 787 (2009); he also overlooks allegations in the complaint and other evidence in the record that indicate that the plaintiff was in existence during the original proceedings.^{FN14}

FN14. The complaint similarly referred to Summit, the named defendant in the case: "At all times herein, [Summit] ... was a corporation organized under the laws of the state of Connecticut, having its usual place of business in the town of North Branford...." The complaint thereafter referred to events occurring from 1988 through 1990, and further, alleged in the present tense that the "[p]laintiff is the owner and holder of the note...." (Emphasis added.) In addition, in an affidavit filed by the plaintiff in March, 1991, McKosky attested that the plaintiff "is" a joint venture and "is" the holder of the note. In affidavits filed in February, 1991, and May, 1994, McKosky referred to his present ownership stake in the plaintiff. Therefore, in the absence of any evidence to the contrary, had the defendant moved to dismiss for lack of jurisdiction on the ground that the plaintiff was not an existing joint venture, the trial court, reading the pleadings in favor of jurisdiction, undoubtedly would have concluded that the plaintiff sufficiently had established that it was in existence as a joint venture at the time that it filed the complaint and at all earlier relevant periods.

Accordingly, with respect to the aforementioned claims, neither would require a judgment of dismissal *863 because the judgment is not void on its face in light of the record. Therefore, even if we were inclined to permit collateral attacks in the context of motions to revive, the defendant would not be entitled to do so in the present case.

[18] A different lens is required, however, with respect to the defendant's third **1207 claim that, even if we were to presume that the plaintiff was in existence when it commenced the action in 1991 and when it obtained judgment in its favor in 1994, there is no basis to believe that it still was in existence in 2009 when it filed the motion to revive. This claim cannot

be characterized as a collateral attack on the original judgment, either directly or in effect. Even if the defendant were to prevail on this claim, the original judgment would retain its validity, leaving the defendant subject to liability on the full amount of the debt. Therefore, the principles enunciated in *Vogel* have no application to this claim.

The defendant, however, cannot prevail on this claim. The defendant is correct that the plaintiff did not allege any facts in its motion to revive relating to its status as a joint venture. Nonetheless, the defendant has provided no authority to support the proposition that, after having pleaded sufficient facts to establish itself as an existing joint venture in the initial pleading, the plaintiff was required to replead facts in its motion to revive to demonstrate that it retained the status previously established. As we continue to underscore, a proceeding to revive a judgment is a continuation of the original action. Moreover, the defendant made no offer of proof of any evidence that would call into question the plaintiff's existence when it filed the motion to revive.

[19] Although we recognize that joint ventures are formed for a limited purpose rather than as an ongoing enterprise; see *Dolan v. Dolan*, 107 Conn. 342, 349, 140 A. 745 (1928) ("a partnership is formed for the purpose *864 of carrying on a general business of one sort or another, and a joint adventure is more commonly limited to a single transaction or course of transactions"); the general rule is that a joint venture continues until its purpose is fulfilled or rendered impracticable unless the parties expressly agree otherwise. See *Lauth Indiana Resort & Casino, LLC v. Lost River Development, LLC*, 889 N.E.2d 915, 919–20 (Ind.App.2008) ("The parties further agree that this case presents an issue of first impression in Indiana regarding precisely when a joint venture terminates in those cases where the joint venture agreement itself contains no specific termination date. Although research has revealed no Indiana case which has addressed this issue, there does seem to be a

consensus among our sister states and in federal jurisdictions with regard to this issue. Specifically, the generally accepted law of joint ventures is that "[a] joint venture without a termination date remains in force until its purpose is accomplished or that purpose becomes impracticable." *Scandinavian Airlines [System] Denmark-Norway-Sweden v. McDonald's Corp.*, 129 F.3d 971, 973 [(7th Cir.1997)]; see also 48A C.J.S. Joint Ventures § 15 [2004] [stating that ... general rule is that ... joint venture remains in place unless its primary purpose or contingency has become impracticable or impossible to accomplish.]. In the proceedings culminating in the 1994 judgment, the defendant never challenged the plaintiff's ownership of the debt or its right, as a joint venture, to collect on the debt. Because we have no basis to question that the prosecution of the original action to recover the debt was within the scope of the joint venture's purpose, we see no reason why the collection of the judgment would not also presumptively fall within that scope, in the absence of evidence that the joint venturers had agreed otherwise. Cf. General Statutes § 33-884(a) ("[a] dissolved corporation continues its corporate existence but may *865 not carry on any business except that appropriate to wind up and liquidate its business and affairs, including: [1] [c]ollecting its assets ... and [5] doing **1208 every other act necessary to wind up and liquidate its business and affairs"); General Statutes § 34-373(a) ("[A] partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed."); 60 Am.Jur.2d 111, Partnership § 198 (1972) ("Both under the Uniform Act and at common law it is recognized that after dissolution, the partnership continues only for the purpose of winding up the partnership affairs.... Included in the winding up or liquidation of partnership affairs are the performance of existing contracts, the collection of debts or claims due the firm, and the payment of firm debts." [Emphasis added; footnotes omitted.]). Surely a colorable basis to conclude otherwise is not manifested on the record before us.^{FN15} Therefore, we conclude, albeit for slightly

different reasons than the Appellate Court, that the trial court had subject matter jurisdiction to adjudicate the motion to revive.

FN15. We express no views on what procedures might have been available to the defendant to ascertain facts relevant to this matter had he raised this claim before the trial court in response to the filing to the plaintiff's motion to revive. Irrespective of whatever such measures may be available in such proceedings, however, it is clear that the defendant had ample opportunity in the original proceedings to conduct discovery and examine witnesses to ascertain the plaintiff's purpose and any other relevant terms of its existence.

III

We next turn to the certified questions relating to the trial court's personal jurisdiction over the defendant in the revival proceeding. The defendant challenges the Appellate Court's conclusion that § 52-598(c) provided a basis for such jurisdiction on two grounds: first, that the statute cannot be applied retroactively to revive the 1994 judgment; and second, that the statute does not fall within the postjudgment procedures over which the *866 trial court is statutorily authorized to retain continuing personal jurisdiction of parties thereto. We disagree with both claims.

A

[20] The defendant has marshaled numerous arguments in support of his claim that § 52-598(c) cannot be applied retroactively.^{FN16} Broadly characterized, the defendant**1209 *867 contends that the legislature has manifested such an intention by virtue of the October, 2009 effective date of the statute and legislatively imposed rules of construction. He further contends that § 52-598(c) is substantive, not procedural, because it creates a right, namely, "a right for a judgment creditor to obtain a new judgment date in order to create a right of recovery for Connecticut

judgments in foreign [jurisdictions].” We disagree with the defendant’s characterization of this provision and find none of his other arguments ultimately persuasive.

FN16. Specifically, the defendant contends: (1) the legislature manifested an unambiguous intention for prospective application in the statute’s effective date of October 1, 2009, which is supported by the legislative history to the public act; (2) the legislature generally has directed in General Statutes § 1–1(u) that “[t]he passage or repeal of an act shall not affect any action then pending”; (3) the statute creates a new substantive right; (4) even if this court were to view the provision of a new judgment date as akin to an extension of a statute of limitations, it would fall within the rule that an amendment extending a statute of limitations cannot be applied in a case in which the original statute of limitations has expired; (5) retroactive application would violate the defendant’s due process rights by subjecting him to a new action without requiring the court to obtain personal jurisdiction over him; (6) P.A. 09–215 is not clarifying legislation; and (7) construing § 52–598(c) as procedural would violate the separation of powers doctrine because that doctrine limits the legislature to the creation of substantive rights and the courts to the creation of procedural rules.

We address the first, third, fourth and fifth claims hereinafter in this opinion. With respect to the remaining claims, we reject them for the following reasons. The defendant’s reliance on § 1–1(u) lacks any explanation of how § 52–598(c) could have affected an “action then pending” in the present case when the provision was enacted after the 1994 judgment became final and before the motion to revive was

filed. Moreover, our case law indicates that § 1–1(u) generally has been treated as a reflection of the presumption against retroactive application of laws making substantive changes and the considerations of good sense and justice that may bar retroactive application of procedural statutes. See, e.g., *Moore v. McNamara*, 201 Conn. 16, 25, 513 A.2d 660 (1986); *Jones Destruction, Inc. v. Upjohn*, 161 Conn. 191, 197, 286 A.2d 308 (1971); *Jablon v. Town Planning & Zoning Commission*, 157 Conn. 434, 444, 254 A.2d 914 (1969); *Reese v. Reese*, 136 Conn. 191, 194–95, 70 A.2d 123 (1949). With respect to the defendant’s due process claim, in part I of this opinion we rejected the fundamental premise on which this claim is based, a point that we address further in connection with the defendant’s other arguments in this part of the opinion. With respect to the defendant’s claim that P.A. 09–215 is not clarifying legislation, we agree and therefore do not rely on that status as a basis to apply the statute retroactively. With respect to the defendant’s separation of powers argument, we direct the defendant’s attention to authority recognizing that statutorily created court procedures will pass constitutional muster as long as the legislature does not interfere with the performance of our judicial functions. See, e.g., *Bartholomew v. Schweizer*, 217 Conn. 671, 676, 587 A.2d 1014 (1991); see also *State v. Diaz*, 226 Conn. 514, 558, 628 A.2d 567 (1993) (*Berdon, J.*, dissenting).

[21][22][23][24][25] In considering the question of whether a statute may be applied retroactively, we are governed by certain well settled principles, under which our ultimate focus is “the intent of the legislature in enacting the statute.” (Internal quotation marks omitted.) *D’Eramo v. Smith*, 273 Conn. 610, 620, 872

A.2d 408 (2005). Because all public acts not specifying an effective date automatically are assigned to “take effect on the first day of October following the session of the General Assembly at which they are passed”; General Statutes § 2–32; we never have ascribed particular significance to such dates in ascertaining the legislature’s intent. Rather, “[o]ur point of departure is General Statutes § 55–3, which states: No provision of the general statutes, not previously contained in the statutes of the state, which imposes any new obligation on any person or corporation, shall be construed to have retrospective effect.... [W]e have uniformly interpreted § 55–3 as a rule of presumed legislative intent that statutes affecting substantive rights shall apply prospectively only.... The rule is rooted in the notion that it would be unfair *868 to impose a substantive amendment that changes the grounds upon which an action may be maintained on parties who have already transacted or who are already committed to litigation.... In civil cases, however, unless considerations of good sense and justice dictate otherwise, it is presumed that procedural statutes will be applied retrospectively.... While there is no precise definition of either [substantive or procedural law], it is generally agreed that a substantive law creates, defines and regulates rights while a procedural law prescribes the methods of enforcing such rights or obtaining redress.” (Citations omitted; footnote omitted; internal quotation marks omitted.) *D’Eramo v. Smith*, supra, at 620–21, 872 A.2d 408. “Procedural statutes ... therefore leave the preexisting scheme intact.” (Internal quotation marks omitted.) *Id.*, at 621, 872 A.2d 408. “[A]lthough we have presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the **1210 contrary ... a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application.” (Internal quotation marks omitted.) *Id.*

Several facts indicate that § 52–598(c) is not substantive. Reviving the judgment imposes no obli-

gations on the defendant that did not exist under the original judgment—the amount of the judgment, the party to whom the defendant owes that obligation and the period for enforcing the judgment all remain the same. The plaintiff cannot assert new claims or change the terms of the existing judgment. The defendant retains his defense to an execution or action on the judgment that previously existed, namely, satisfaction of the judgment.

[26] Moreover, although the purpose of the revived judgment is to ensure that a Connecticut judgment creditor will not be deprived of the ability to execute the judgment in a foreign jurisdiction having a shorter period for *869 enforcement than Connecticut, § 52–598(c) obviously does not alter the foreign jurisdiction’s law with respect to the period of enforcement. Even if we were to view the revived judgment as *effectively* extending the period to execute the judgment in a foreign jurisdiction, we are not persuaded that this effect renders § 52–598(c) substantive. See *Fanton v. Middlebrook*, 50 Conn. 44, 45 (1882) (“[A] statute [of limitations] does not extinguish the debt. It merely deprives the creditor of a right of action to recover the debt.”). Authority from other jurisdictions retroactively applying statutes extending the period for executing a judgment lends support to this conclusion. ^{FN17} See, e.g., *870 *Angeli v. Lischetti*, 58 Cal.2d 474, 475–76, 374 P.2d 813, 24 Cal.Rptr. 845 (1962); *Balfe v. Rumsey & Sikemeier Co.*, 55 Colo. 97, 103, 133 P. 417 (1913); *Lahman v. Hastings*, 74 S.D. 431, 433, 54 N.W.2d 166 (1952); *State v. Morgan*, 107 Wash.App. 153, 159, 26 P.3d 965 (2001).

FN17. These cases indicate that retroactive application is proper if the period for enforcing the underlying judgment has not yet expired. In this regard, we note that the defendant asserts in his brief to this court that § 52–598(c) is not akin to a statute of limitations, but, “even if the statute were viewed as related to a statute of limitations, a statute

that would modify an *expired* statute of limitations cannot be applied retroactively. See *State v. Skakel*, 276 Conn. 633, 670 [888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S.Ct. 578, 166 L.Ed.2d 428 (2006)]; *State v. Crowell*, 228 Conn. 393, 398–99 [636 A.2d 804] (1994). Accordingly ... because [§ 52–598(c)] was adopted five years after the ten year statute of limitations in South Carolina had expired, it should not have been afforded retroactive application to this case.” (Emphasis in original.) Our review of the record reveals that the defendant never raised this argument in briefing to the trial court or Appellate Court. The first reference to this argument appears in a letter filed by the defendant’s counsel in the Appellate Court on the day of oral argument in that court, alerting that court to the possibility that this issue may come up at oral argument. The Appellate Court did not address this issue in its decision, and the defendant did not seek reargument to obtain a consideration of that issue. In addition to belatedly raising this issue, the defendant has failed to analyze how the principle cited in *Skakel* and *Crowell* applies in a case in which the issuing jurisdiction’s enforcement period has not changed and the underlying judgment still is in effect. See *Angeli v. Lischetti*, 58 Cal.2d 474, 475–76, 374 P.2d 813, 24 Cal.Rptr. 845 (1962) (application of amendment extending period for execution proper after prior period for execution had expired but while underlying judgment still was enforceable). Therefore, we decline to address this issue. See *Commissioner of Correction v. Coleman*, 303 Conn. 800, 832, 38 A.3d 84 (2012) (declining to review issue where “in addition to the fact that the defendant belatedly has raised this claim, he has failed to adequately brief it”); *State v. Duhan*, 194 Conn. 347, 354–55, 481 A.2d 48 (1984) (failure to raise

issue before Appellate Court is ground to deny review in this court).

****1211** In sum, § 52–598(c) does not create, define or regulate a right. Rather, it bears the hallmarks of a procedural statute, leaving the preexisting scheme intact and prescribing a method of enforcing rights or obtaining redress. Considerations of good sense and justice do not militate against retroactive application. The defendant incurred obligations under a valid judgment. Revival of that judgment neither assigns “a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed”; (internal quotation marks omitted) *In re Daniel H.*, 237 Conn. 364, 373, 678 A.2d 462 (1996); nor upsets “any settled rights or reliance interests.” *State v. Skakel*, 276 Conn. 633, 685, 888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S.Ct. 578, 166 L.Ed.2d 428 (2006). Accordingly, the Appellate Court properly determined that § 52–598(c) applies retroactively.

B

[27] We therefore consider whether the trial court has personal jurisdiction over the defendant under § 52–598(c). We begin by noting that the defendant’s position that personal jurisdiction in the original action is not a proper basis on which to maintain jurisdiction in the revival proceeding is largely premised on his presumption that a motion to revive under § 52–598(c) constitutes a new action. As we previously have indicated in part I of this opinion, we agree with the authority from other jurisdictions holding to the contrary. In addition, the defendant points to the legislature’s failure to amend chapter 906 of the General Statutes, which authorizes the trial court to retain jurisdiction over parties to post-judgment^{*871} procedures, to refer to motions to revive. He contends that this omission demonstrates that the plaintiff must establish the trial court’s personal jurisdiction over the defendant in § 52–598(c) proceedings independent of the original judgment. We disagree.

General Statutes § 52-350d (a) provides in relevant part: "For the purposes of postjudgment procedures, the Superior Court shall have jurisdiction over all parties of record in an action until satisfaction of the judgment or, if sooner, until the statute limiting execution has run...." General Statutes § 52-350a (15) further provides: " 'Postjudgment procedure' means any procedure commenced after rendition of a money judgment, seeking or otherwise involving a discovery procedure, a placing of a lien on property, a modification or discharge of a lien, a property execution under section 52-356a, a turnover order, an installment payment order, a wage execution, a modification of a wage execution, a compliance order, a protective order or a determination of exemption rights."

In our view, proceedings under § 52-598(c) fall squarely within these provisions. A motion to revive is a procedure commenced after rendition of a money judgment. The granting of such a motion permits the plaintiff to seek the various forms of relief enumerated in § 52-350a (15). Therefore, the procedure is one "involving," rather than seeking, such relief. Accordingly, the Appellate Court properly concluded that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the motion to revive.

The judgment of the Appellate Court is affirmed.

In this opinion the other justices concurred.

Conn., 2013.

Investment Associates v. Summit Associates, Inc.

309 Conn. 840, 74 A.3d 1192

END OF DOCUMENT

EXHIBIT 4

**UNPUBLISHED/OUT OF REGION
DECISIONS**

C

NOTE: THIS OPINION WILL NOT APPEAR IN A PRINTED VOLUME. THE DISPOSITION WILL APPEAR IN A REPORTER TABLE.

Court of Appeals of North Carolina.
MUNDACA FINANCIAL SERVICES LLC, a Tennessee Limited Liability Company as Assignee of
Mundaca Investment Corporation, Plaintiff,

v.

Robert M. CASELLA, Defendant.

No. COA10-714.

March 15, 2011.

*1 Appeal by defendant from order entered 24 February 2010 by Judge James U. Downs in Haywood County Superior Court. Heard in the Court of Appeals 1 December 2010.

No brief filed on behalf of plaintiff-appellee.

Robert M. Casella, pro se, defendant-appellant.

HUNTER, ROBERT C., Judge.

Robert M. Casella ("defendant") appeals from the trial court's order granting Mundaca Financial Services' ("plaintiff") motion to enforce a foreign judgment. After careful review, we reverse and remand for further consideration not inconsistent with this opinion.

Background

On 25 October 1995, a "Consent Judgment" in the amount of \$50,000.00 was entered against defendant and in favor of Mundaca Investment Corporation in the Superior Court of Warren County, New Jersey. The judgment was subsequently assigned to plaintiff. On 27 October 2008, plaintiff filed a "Notice of Filing

of Foreign Judgment" in the Superior Court of Haywood County, North Carolina. On or about 12 March 2009, defendant filed a "Motion for Relief from Execution Upon Foreign Judgment[,] For Stay of Execution, to Quash Execution and for Counsel Fees and Costs of the Action." On 13 April 2009, Judge Laura Bridges entered an order in which she ruled that, *inter alia*: (1) "The relief from foreign judgment requested by the Defendant herein is hereby GRANTED"; (2) "Enforcement of said Final Judgment is barred by the applicable statutes of limitations in the State of North Carolina"; and (3) "Any execution or other enforcement of the said foreign judgment is hereby quashed, and said judgment shall not be enforced in the State of North Carolina." FN1

FN1. The order states that it was entered on 9 April 2009; however, it was file stamped 13 April 2009.

On 27 April 2009, plaintiff filed a "Notice of Motion to Revive Plaintiff's Judgment" in the Superior Court of Warren County, New Jersey. Plaintiff requested that the 25 October 1995 judgment be revived for "an additional 20 years." On 22 July 2009, the Warren County Superior Court granted plaintiff's motion to revive the judgment for 20 years.

On 7 October 2009, plaintiff again filed a "Notice of Filing of Foreign Judgment" in Haywood County Superior Court. On 20 November 2009, plaintiff filed a "Motion to Enforce Foreign Judgment." On 5 November 2009, defendant filed a "Notice of Defense to Foreign Judgment" and accompanying brief in support of his motion. The matter was heard before Judge James U. Downs in Haywood County Superior Court on 19 January 2010. On 24 February 2010, the trial court entered a written order in which it concluded as a matter of law:

1. It appearing to this court that the 2009 Judgment was entered in the Warren County Superior Court of New Jersey on July 22, 2009, and that said judgment is final and remains unsatisfied in whole or in part. *The 2009 Judgment constitutes a new judgment* under the laws of New Jersey pursuant to N.J.S.A. § 2A:14-5.

2. It further appearing that this action is based upon the 2009 Judgment and not upon the 1995 Judgment and therefore its filing is within the ten year period prescribed by N.C.G.S. § 1-47.

*2 (Emphasis added.) Accordingly, the trial court granted plaintiff's motion to enforce the foreign judgment. Defendant timely appealed to this Court.

Discussion

Defendant argues on appeal that the trial court erred in granting plaintiff's motion to enforce the foreign judgment because the statute of limitations had expired on the original 1995 judgment and the "revived" 2009 judgment did not constitute a new judgment as the trial court determined; rather, the revival constituted a continuance of the 1995 judgment. We agree that the revived judgment did not constitute a new judgment under New Jersey law and we remand for reconsideration by the trial court in light of this holding.

N.C. Gen.Stat. § 1-47(1) (2009) provides a 10-year statute of limitations period for any action "[u]pon a judgment or decree of any court of the United States, or of any state or territory thereof, from the date of its entry. No such action may be brought more than once, or have the effect to continue the lien of the original judgment." This statute "affects foreign and domestic judgments alike." *Wener v. Perrone & Cramer Realty, Inc.*, 137 N.C.App. 362, 364, 528 S.E.2d 65, 66 (2000). "Such a statute as the statute of limitations should be strictly construed and is a complete bar to a motion for leave to issue execution of a

judgment, when such motion is made more than ten years after the rendition of such judgment." *Powles v. Kandasiewicz*, 886 F.Supp. 1261, 1268 (W.D.N.C.1995). It is undisputed that when plaintiff sought to enforce the 1995 judgment in 2008 it was barred by the 10-year statute of limitations in North Carolina. "It has long been established that the enforcement of a judgment of a sister state may be barred by application of the statute of limitations of the forum state." *Matanuska Valley Lines, Inc. v. Molitor*, 365 F.2d 358, 359-60 (9th Cir.1966), cert. denied, 386 U.S. 914, 17 L.Ed.2d 786 (1967).

However, under New Jersey law:

A judgment in any court of record in this state may be revived by proper proceedings or an action at law may be commenced thereon within 20 years next after the date thereof, but not thereafter. An action may be commenced on a judgment obtained in any other state or country within 20 years next after the date thereof or within the period in which a like action might be brought thereon in that state or country, whichever period is shorter, but not thereafter.

N.J. Stat. § 2A:14-5 (2009) (emphasis added). According to this statute, which provides a 20-year statute of limitations period, plaintiff's original 1995 judgment was still valid in New Jersey in 2008. *Id.*

After the trial court held that the 1995 judgment was barred by North Carolina's statute of limitations, plaintiff then sought to revive the 1995 judgment "by proper proceedings" when plaintiff filed a "Notice of Motion to Revive Plaintiff's Judgment" within 20 years of the original judgment. On 22 July 2009, the trial court revived the judgment "for a period of (20) years from June 26, 2009 ." Plaintiff then tried to enforce the revived judgment in North Carolina and the trial court held that the revived judgment was a "new judgment" and was, therefore, not barred by the

*711 S.E.2d 207

210 N.C.App. 491, 711 S.E.2d 207, 2011 WL 883506 (N.C.App.)

(Table, Text in WESTLAW), Unpublished Disposition

(Cite as: 210 N.C.App. 491, 2011 WL 883506 (N.C.App.))

statute of limitations. Defendant argues that under N.J. Stat. § 2A:14-5 revival "by proper proceedings[.]" as opposed to "an action at law[.]" is merely a continuation of the prior action and is not a "new judgment." Defendant is correct according to New Jersey law. See *Union Nat. Bank v. Lamb*, 337 U.S. 38, 43-44, 93 L.Ed. 1190, 1195-96 (1949) (noting that a determination as to whether a revival gives rise to a new judgment or merely continues the life of the original judgment is based on the law of the rendering state); *United Leasing Corp. v. Plumides*, 138 N.C.App. 696, 698, 531 S.E.2d 891, 893 (2000) (stating that "the validity and effect of a judgment of another state must be determined by reference to the laws of the state wherein the judgment was rendered" (citation and internal quotation marks omitted)).

*3 In *Kronstadt v. Kronstadt*, 570 A.2d 485, 486 (N.J.Super.Ct.App.Div.1990), the New Jersey intermediate appellate court was charged with determining what constituted a "proper proceeding" under N.J. Stat. § 2A:14-5. There, the plaintiff revived a judgment by "motion procedure" in the trial court. *Id.* at 487. In determining whether the "motion procedure" was a "proper proceeding[.]" the appellate court explained that the "source statute" for the current version of N.J. Stat. § 2A:14-5 provided for revival by *scire facias*, which is, by definition, "merely a continuation of the original action." *Id.* at 486-87 (quoting *Blacks Law Dictionary* 1208 (5th Ed.1979)); see also *Twist v. Woerst*, 127 A. 578, 579 (N.J.Sup.Ct.1925) (stating "that a proceeding by *scire facias* to revive a judgment is not an original proceeding, but a mere continuance of the former suit, or, in other words, it is merely a supplementary remedy to aid in the recovery of the debt evidenced by the original judgment"). The court in *Kronstadt* then determined that the motion procedure employed by plaintiff to revive the judgment "was merely a continuation of the action resulting in the original judgments" and was, therefore, a "proper proceeding" which resulted in a revival of the original judgment. *Kronstadt*, 570 A.2d at 487-88. Accordingly, the motion procedure used by plaintiff in the

present case was a proper proceeding that revived the original judgment for an additional 20 years; however, it is not a new judgment.

Having found that the 2009 revival constituted a new judgment, the trial court determined that plaintiff filed the judgment within the 10-year statute of limitations in North Carolina. We hold that the 2009 revival did not constitute a new judgment and, consequently, we reverse and remand this case to the trial court to reconsider the matter in light of our holding.

Reversed and Remanded.

Judges CALABRIA and ELMORE concur.

Report per Rule 30(e).

N.C.App.,2011.

Mundaca Financial Services LLC v. Casella

210 N.C.App. 491, 711 S.E.2d 207, 2011 WL 883506 (N.C.App.)

END OF DOCUMENT

C

Appellate Department, Superior Court, Los Angeles
County, California.

M. JACOBS, Plaintiff, Appellant and Respondent,
v.

Clifford SPRAGUE, Defendant, Respondent and
Appellant.

C. A. 8603.

Feb. 28, 1955.

Action in California on Oregon judgment which had expired and thereafter been renewed. From judgment of Municipal Court, El Monte Judicial District, John K. Otis, J., for plaintiff, both parties appealed. The Superior Court, Appellate Department, Patrosso, J., held that in view of fact that order of revival judgment in Oregon could be made ex parte and without notice, and language of statute in which word 'judgment' as used throughout section referred to original judgment, not a new judgment, proceeding in Oregon resulting in order for revival of judgment was not a new suit, but merely continuation of old, with result that action upon judgment was upon original judgment and was barred by statute of limitations.

Plaintiff's appeal dismissed; judgment reversed.

West Headnotes

[1] Judgment 228 ⚡928

228 Judgment

228XXI Actions on Judgments

228XXI(B) Foreign Judgments

228k928 k. What law governs. Most Cited
Cases

Whether proceeding for revival of a judgment is a new action or merely continuation of that in which original judgment is rendered is, for purpose of determining whether order or judgment duly entered therein is entitled to full faith and credit, to be determined by law of state where such proceedings were had, and not those of a foreign forum where revival judgment is sought to be enforced.

[2] Judgment 228 ⚡928

228 Judgment

228XXI Actions on Judgments

228XXI(B) Foreign Judgments

228k928 k. What law governs. Most Cited
Cases

Where original judgment had been rendered in Oregon, California courts would look to law of Oregon to determine whether revival judgment, made on order that judgment be renewed and remain in full force for second ten-year period, constituted new judgment upon which statute of limitations began to run from its rendition, or was merely continuation of original judgment with enforcement of it in California, consequently barred by statute of limitations.

[3] Constitutional Law 92 ⚡990

92 Constitutional Law

92VI Enforcement of Constitutional Provisions

92VI(C) Determination of Constitutional
Questions

92VI(C)3 Presumptions and Construction as
to Constitutionality

92k990 k. In general. Most Cited Cases
(Formerly 92k48(1), 92k48)

Where statute is susceptible of different con-

structions, that construction will be adopted which will make it valid and constitutional.

[4] Judgment 228 ⚡934(1)

228 Judgment

228XXI Actions on Judgments

228XXI(B) Foreign Judgments

228k934 Time to Sue and Limitations

228k934(1) k. In general. Most Cited

Cases

In view of fact that order of revival judgment in Oregon could be made "ex parte" and without notice and in view of language of statute, in which word "judgment" as used throughout section referred to original judgment, proceeding in Oregon resulting in order of revival of judgment was not a new suit but merely continuation of old suit with result that action upon judgment was upon original judgment, and was barred by statute of limitations. O.R.S. 16.730, 18.360.

****919 *886** Marvin A. Burnett, Los Angeles, for appellant Jacobs.

Engene Kelly, Los Angeles, for appellant Sprague.

PATROSSO, Judge.

This action was filed November 14, 1952, upon a judgment obtained by plaintiff's assignor against defendant, in the Circuit Court of the State of Oregon, for the County of Multnomah, and from a judgment in favor of plaintiff both parties appeal. The judgment sued upon was rendered April 27, 1937, and under the applicable Oregon law action thereon would be barred ten years thereafter. However, pursuant to the provisions of an Oregon statute hereafter referred to, the Oregon court by which the judgment was rendered, on April 4, 1949, made an order that the judgment be renewed and remain in full force and effect for a period of ten years from the date of the order.

It is in effect conceded that but for the order last mentioned this action was barred by our statute of limitations, which was unsuccessfully pleaded by defendant. The plaintiff, however, contends that the order ****920** renewing the judgment is in effect a new judgment upon which the statute of limitations begins to run from its rendition, while defendant asserts that the order of April 4, 1949 is not a new judgment, but a continuation of the original judgment.

The authorities are not harmonious upon the question as to whether proceedings for renewal of a judgment by motion or the equivalent of the common-law writ of *scire facias* constitute a new action or a mere continuation of the old, and hence whether the order of revival constitutes a new judgment, as a result of which the statute of limitations commences to run anew from the date of the order of renewal. See 50 C.J.S., Judgments, § 871(2), page 447. The greater weight of authority and the modern view, however, appear to be that such proceedings are but a continuation of the original suit. 49 C.J.S., Judgments, § 548(a), page 1005; Annotation, 36 A.L.R.2d 575, et seq.; Annotation 144 A.L.R. 408, et seq. The adoption of the latter view seems to have been prompted, in some measure at least, by the decision of the Supreme Court of the United ***887** States in *Owens v. McCloskey*, 1896, 161 U.S. 642, 16 S.Ct. 693, 40 L.Ed. 837, wherein it was held that if a revival of a judgment by *scire facias* be treated as a new action, the order of revival is not entitled to full force and credit unless predicated upon personal service upon the judgment debtor within the state of notice of such revival proceedings, which was not had in this case. Thus in *Bank of Edwardsville v. Raffaele*, 1942, 381 Ill. 486, 45 N.E.2d 651, 653, 144 A.L.R. 401, the Supreme Court of Illinois held that a *scire facias* proceeding to revive a judgment was not equivalent 'to the starting of a new suit to secure a personal judgment', and hence that there was no constitutional objection to the entry of an order of revival as against a nonresident defendant pursuant to the service of con-

structive notice of the proceeding by publication.

[1][2] It is now settled that the character of the proceeding for the revival of a judgment, whether a new action or merely a continuation of that in which the original judgment was rendered, is (at least for the purpose of determining whether the order or judgment newly entered therein is entitled to full faith and credit under the federal constitution) to be determined by the law of the state where such proceedings were had and not those of the foreign forum wherein the revival judgment is sought to be enforced. *Union Nat. Bank v. Lamb*, 1949, 337 U.S. 38, 44, 69 S.Ct. 911, 93 L.Ed. 1190, 1195-1196. Hence, we must look to the law of Oregon for a solution of the question which confronts us, and as our search has failed to reveal any decision by the courts of that state determinative thereof, it becomes necessary to consider the statutes of Oregon pursuant to which the order in question was made.

Section 18.360, Oregon Rev. Statutes, reads as follows:

'Whenever, after the entry of a judgment, a period of 10 years shall elapse, the judgment and the lien thereof shall expire. However, before the expiration of 10 years the circuit court in which such judgment was docketed, on motion, may renew such judgment and cause a new entry of the same to be made in the judgment docket, after which entry the lien of the judgment shall continue for another 10 years unless sooner satisfied, and after which entry execution may issue upon such judgment for another 10 years.'

It will be noted that the foregoing section provides that the court may make the order of renewal 'on motion,' and section 16.730 provides that 'Notice of a motion is not necessary*888 except when required by statute, or when directed by the court or judge in pursuance thereof.' Our examination of the Oregon statute fails to reveal any requirement that notice shall be given of the motion mentioned in section 18.360

quoted above, and the transcript of the judgment in evidence contains no statement that notice of any kind was given of the motion upon which the order was made.

[3] The fact that the order of revival may be made ex parte and without notice affords some evidence that it was not intended that the proceeding (motion) should be treated as a new action nor **921 that the order should be considered as a new judgment in view of the grave constitutional question which would thereby be presented. *Owens v. McCloskey*, supra; see also *Thompson v. Cook*, 1942, 20 Cal.2d 564, 569, at seq., 127 P.2d 909. Applicable here is the principle that of different constructions of which a statute is susceptible, that will be adopted which will make it valid and constitutional. See *Swift & Co. v. Peterson*, 1951, 192 Or. 97, 233 P.2d 216, 222. Persuasive to the same result is the language of the statute: '* * * the circuit court in which such judgment was docketed * * * may renew such judgment and cause a new entry of the same to be made in the judgment docket, after which entry the lien of the judgment shall continue for another 10 years * * *.' Thus it would appear that the word 'judgment' as used throughout the section, refers to the original judgment—not a new one. Indeed, there is no provision for the entry of a new judgment, but only 'a new entry' of the old. A reading of the order of revival here also fortifies this view. It reads, in part, as follows: 'It further appearing that plaintiff is entitled to have *said judgment kept alive* by the renewal thereof by order of Court for ten years. It is ordered that the judgment of the plaintiff herein against the defendant herein be and the same is renewed at the date hereof and *shall remain in full force and effect* for a period of ten years from the date of this order * * *.' (Emphasis added.)

Plaintiff contends that a different result is dictated by *Thomas v. Lally*, 1915, 28 Cal.App. 308, 152 P. 53, wherein it was held that the revival by *scire facias* of an Illinois judgment constituted a new cause of action, and that the California statute of limitations com-

menced to run from the date of the order of renewal rather than the date of the original judgment. The opinion, however, proceeds upon the erroneous assumption that a proceeding to revive a judgment*889 by *scire facias* in every case constitutes 'a new cause of action,' and seemingly the court was not cognizant of the fact that the contrary is true in Illinois. *Bickerdike v. Allen*, 1895, 157 Ill. 95, 41 N.E. 740, 742, 29 L.R.A. 782, and *Bank of Edwardsville v. Raffaele*, *supra*.

[4] We, therefore, conclude that the Oregon proceedings resulting in the order of revival was not a new suit but merely a continuation of the old, and hence that the instant action was upon the original judgment and barred by limitation. This conclusion renders moot plaintiff's appeal from the judgment, and it is dismissed. The judgment is reversed, defendant to recover his costs of appeal.

BISHOP, Acting P. J., concurs.

Cal.Super. 1955

Jacobs v. Sprague

131 Cal.App.2d Supp. 885, 280 P.2d 919

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Not Reported in A.2d, 1991 WL 183058 (Conn.Super.), 4 Conn. L. Rptr. 483
(Cite as: 1991 WL 183058 (Conn.Super.))

H

UNPUBLISHED OPINION. CHECK COURT
RULES BEFORE CITING.

Superior Court of Connecticut, Judicial District of
Waterbury.

Robert KEATING

v.

Peter JORDAN, et al.

No. 096660.

Sept. 10, 1991.

MEMORANDUM OF DECISION

LANGENBACH, Judge.

*1 On September 4, 1990, the court (Murray, J.) ordered a default against the defendants, Peter Jordan and Linda Drew, in the present action for their failure to plead. On March 3, 1991, the court (Langenbach, J.) granted the motion for judgment after default filed by the plaintiff, Robert Keating.

On August 5, 1991, the defendants filed a motion to set aside and reopen judgment upon default. The defendants have also filed a memorandum of law and affidavit in support of the motion. The defendants argue that due to illness, the defendants' counsel has no recollection of receiving notification of the default. Furthermore, the defendants argue that the defendants' counsel has no evidence of the receipt of any notice of default in his file or office. The defendants also argue that defendants' counsel did not learn of the entry of judgment until after four months from the date of entry of the judgment. Upon subsequent inspection, the defendants' counsel states he discovered defendants' answer, returned by the clerk with a notation that judgment had entered, in a mailbox of a vacant tenant at the defendants' counsels' address.

On July 19, 1991, the plaintiff filed an objection to the defendants' motion to set aside and reopen judgment upon default. The plaintiff argues that the motion to set aside is untimely and the defendants have not set forth a reasonable cause for defendants' delay in asserting their defense in this instant action pursuant to Connecticut Practice Book Section 377.

"Any judgment rendered ... upon a default or nonsuit may be set aside within four months succeeding the date on which it was rendered...." Connecticut Practice Book Section 377; Connecticut General Statutes Section 52-212(a). "[A] trial court lacks jurisdiction to entertain a motion to open filed more than four months after a decision is rendered." *Van Mecklenburg v. Pan American World Airways, Inc.*, 196 Conn. 517, 518 (1985). A trial court may not reopen a judgment after four months have expired unless the parties waive this time limitation, *Van Mecklenburg*, 196 Conn. at 518, or the trial court lacked in personam jurisdiction over the defendant and thus lacked power to render a judgment, *General Motors Acceptance Corp. v. Pumphrey*, 13 Conn.App. 233, 228 (1988). "A trial court's authority to open such judgments does not arise from General Statutes Section 52-212(a) or Practice Book Section 326 but from its inherent power to open a judgment rendered without jurisdiction." *General Motors Acceptance Corp.*, 13 Conn.App. at 228.

Connecticut Practice Book Section 398 requires the clerk to give notice to the attorneys of record of all judgments and defaults made concerning pending cases. *See also* Connecticut General Statutes Section 51-53. When the trial court record contains no entry of the date when notice of the judgment was given, a rebuttable presumption exists that the clerk complied with the statute and sent notice on the date of the entry of judgment. *State ex rel. Baskin v. Bartlett*, 132 Conn.

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(Cite as: 1991 WL 183058 (Conn.Super.))

623, 627 (1946). In addition to presuming that the clerk sent notification, the court may also presume that, in the absence of a finding to the contrary, the defendants received that notification. *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Cole*, 189 Conn. 518, 533 (1983); *DiSimone v. Vitello*, 6 Conn.App. 390, 393 (1986).

*2 "It is axiomatic that the right to move to open and vacate a judgment assumes that the party who is to exercise the right to be given the opportunity to know that there is a judgment to open." *Noethe v. Noethe*, 18 Conn.App. 589, 595 (1989). In *DiSimone*, 6 Conn.App. 390, the appellate court held that the four month period to file a motion to open started on the date the defendants received actual notice of the judgment. Accord: *Noethe*, 18 Conn.App. at 595-96. "The existence of actual or constructive notice is a question of fact properly within the province of the trial court." *Noethe*, 18 Conn.App. at 596.

The court file in the present case does contain court notice of the entry of default sent to the attorneys of record on September 10, 1990. Although a notation on the corner of the file indicates that notice of the judgment was sent on March 11, 1991, the file itself does not contain a court notice of the judgment or entry of the date when such notice was given. The defendants have rebutted the presumption that notice was sent by the clerk and received by the defendants' counsel by stating that defendants' counsel "learned of the rendering of judgment" only after the four month period. The defendants also state that the defendants' counsel subsequently discovered court "notice" of the judgment upon investigation in response to learning of the entry of judgment. The defendants' counsel states in his affidavit that he discovered the defendants' returned answer with a notation that judgment had entered on March 4, 1991 in a mailbox of a vacant tenant at defendants' counsel's address.

Based upon the holding in *DiSimone*, the four month period in which to file a motion to reopen a

judgment begins when the defendants' counsel first "learned of the rendering of judgment," which would constitute actual notice of the judgment. The defendants' counsel received court notice in the form of the defendants' returned answer subsequent to actual notice. Although the defendants do not state when the defendants' counsel specifically "learned of the rendering of judgment," they do claim that such actual notice was received after the expiration of the four month period after entry of judgment. Based upon the defendants' counsel's representations to the court, it can be inferred that the defendants' counsel learned of the judgment between July 4, 1991, the expiration of the four months, and August 5, 1991 when the motion was filed.

Therefore, the court finds that the defendants filed their motion to open within four months of receiving actual notice. Accordingly, the court entertains the motion to open as timely filed within the four month time period. Cf. *Owens v. Bray*, 1 CTLR 77 (April 4, 1990, Lewis, J.) (when defendant received actual notice of the judgment, the beginning of the four month rule was triggered).

"A ruling on a timely filed motion to open is within the trial court's discretion...." *Batory v. Bajor*, 22 Conn.App. 4, 8, (1990). The party seeking to reopen judgment must show that: (1) a good defense existed at the time judgment was rendered; and (2) the party seeking judgment was prevented from appearing because of mistake, accident or other reasonable cause. *Costello v. Hartford Institute of Accounting, Inc.*, 193 Conn. 160, 167 (1984); Connecticut Practice Book Section 377; Connecticut General Statutes Section 52-212. "While such a motion should not be readily granted nor without strong reasons, it ought to be when there appears cause for which the court stating acting reasonably would feel bound in duty so to do." *Steve Viglione Sheet Metal Co.*, 190 Conn. at 710-11, quoting *McCulloch v. Pittsburgh Plate Glass Co.*, 107 Conn. 164, 167 (1927).

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(Cite as: 1991 WL 183058 (Conn.Super.))

*3 Accordingly, the date on which the defendants received actual notice of the judgment triggers the beginning of the four month period. The court finds that the defendants received such notice when defendants' counsel "learned of the rendering of judgment" after more than four months after entry of judgment. This date triggers the four month rule and the motion to open was timely filed within that period.

The motion is granted.

Conn.Super.,1991.

Keating v. Jordan

Not Reported in A.2d, 1991 WL 183058
(Conn.Super.), 4 Conn. L. Rptr. 483

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
INVESTMENT ASSOCIATES,)
)
Plaintiff,)
)
vs.)
)
JOSEPH D. LANCIA)
)
Defendant.)
)

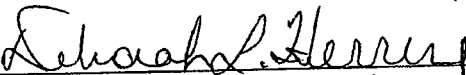
IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2014-CP-23-02705

CERTIFICATE OF SERVICE

This is to certify that the foregoing Motion to Dismiss and/or Motion for Relief from Foreign Judgment was served in the above-referenced case by placing a copy of same in the United States mail on this the 13th day of June, 2014, upon the following:

Randy A. Skinner, Esq.
Skinner Law Firm, LLC
300 N. Main St., Suite 201
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July 23, 2014

VIA HAND DELIVERY

The Honorable Paul B. Wickensimer
Greenville County Clerk of Court
305 East North Street
Greenville, SC 29601-2120

Re: Investment Associates v. Joseph D. Lancia
C.A. No. 2014-CP-23-02705

Dear Mr. Wickensimer:

I have enclosed for filing the original and one copy each of a Memorandum in Support of Motion to Dismiss and/or Motion for Relief from Foreign Judgment, in the above matter, together with our Certificate of Service of same.

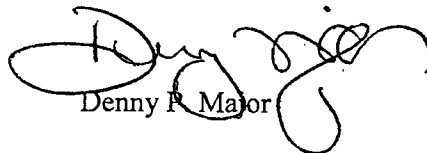
By copy of this letter, I am serving a copy of same upon counsel for the Plaintiff, Randy A. Skinner, Esq.

Please return file-stamped copies to me via my courier.

If you have any questions, please feel free to contact me.

Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.



Denny P. Major

DPM:dlh

Enclosure

cc: Randy A. Skinner, Esq. (Via Hand Delivery) ✓

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
INVESTMENT ASSOCIATES,	)	C.A. No. 2014-CP-23-02705
	)	
Plaintiff,	)	
	)	MEMORANDUM IN SUPPORT OF
vs.	)	MOTION TO DISMISS AND/OR MOTION
	)	FOR RELIEF FROM FOREIGN JUDGMENT
JOSEPH D. LANCIA	)	
	)	
Defendant.	)	
_____	)	

This is an action seeking to enforce a foreign judgment, which Plaintiff Investment Associates (“IA”) has brought pursuant to S.C. Code § 15-35-950. IA has already sought to enforce the same foreign judgment with this court pursuant to the Uniform Enforcement of Foreign Judgments Act, S.C. Code §15-35-920, *et seq.* Defendant Lancia moved for relief from that judgment on the grounds that, among other things, it is barred by the statute of limitations. A formal order on that motion has not yet been issued. Consequently, this action should be dismissed pursuant to Rule 12(b)(8), SCRCp, or dismissed as barred by the statute of limitations. Alternatively, this action should be stayed pending resolution of the motion in the first action.

Factual Background

The present action seeks to enforce a foreign judgment that was entered in the State of Connecticut Superior Court, number CV091-0309954, on May 17, 1994 (hereinafter the “Judgment”). On January 28, 2014, IA served Lancia and filed the Judgment with the Greenville County Clerk of Court along with a Notice of Filing of Foreign Judgment naming Lancia as the defendant. That case bears civil action number 2014-CP-23-00515 (hereafter “the January 28th Action”). (See Exhibit A to Defendant’s Motion to Dismiss filed June 13, 2014).

On February 18, 2014, Lancia filed a Motion for Relief From, and Notice of Objections to, Foreign Judgment in the January 28th Action. (See Exhibit B to Defendant's June 13, 2014 Motion to Dismiss). In that Motion, Lancia asserted that the action was barred by the statute of limitations, among other grounds. (See *id.*). Lancia filed an affidavit and other documents in support of that motion. (See *id.*).¹ Lancia submitted a memorandum in support on March 27, 2014. (See Exhibit C to Defendant's June 13, 2014 Motion to Dismiss). The motion was heard before the Honorable D. Garrison Hill on April 2, 2014 with counsel for IA and Lancia in attendance. By letter dated April 3, 2014, Judge Hill wrote counsel stating:

Defendant's motion for relief from foreign judgment is granted. Despite the machinations of the Connecticut legislature and the Connecticut Supreme Court, a 1994 Connecticut judgment cannot circumvent South Carolina's 10 year statute of limitations found in §15-3-600. As *Abba* held, the UEFJA allows a foreign judgment to stand on the same plane as a domestic judgment; it does not give a foreign judgment holder greater rights than the holder of a South Carolina judgment, no matter what type of alchemy the foreign jurisdiction attempts. S.C. Code § 15-35-920(c) ("A judgment so filed has the same effect and is subject to the same defenses as a judgment of this State. . .").

If Plaintiff's position were correct, a foreign jurisdiction could deem, for example, that its judgments were entitled to priority over any other lienholder, regardless of the settled priority law of the forum state. Even a limited imagination can foresee the chaos that would ensue.

Mr. Marion is requested to submit a formal order on or before April 15, 2014 in Word format, with a copy to Mr. Skinner.²

(Exhibit 1 hereto).

A formal order on that motion has not yet been entered.³

¹ The affidavit of Mr. Lancia is exhibit 1 to Defendant's February 18, 2014 Motion for Relief From, and Notice of Objections to, Foreign Judgment in the January 28th Action, which is attached as Exhibit A to the June 13, 2014 Motion to Dismiss in the present action. The affidavit includes several attachments of its own.

² For some reason, counsel for Lancia did not receive a copy of this letter until April 24, 2014. Counsel for Lancia submitted the proposed order the next day, April 25, 2014.

³ A full background relating to the Judgment, Mr. Lancia's residency (which goes to the Statute of Limitations and Personal Jurisdiction defenses) and IA's efforts to "revive" the judgment is contained in the Memorandum in

Argument

I. Another Action is Pending Between the Same Parties for the Same Claim

Rule 12(b)(8), SCRCP, provides for the dismissal of an action where “another action is pending between the same parties for the same claim.” *See also Corbett v. City of Myrtle Beach*, 336 S.C. 601, 610, 521 S.E.2d 276, 281 (Ct. App. 1999).

The present action and January 28th action both seek to enforce the same Judgment. The relief requested is identical. The facts and circumstances are identical. The parties are identical. IA is the plaintiff in this action and the January 28th action. Joseph Lancia is the defendant in this action and the January 28th action. There are no other parties in either action. Clearly, another action is pending between the same parties based on the same claim- in the same court no less. Consequently, this action should be dismissed pursuant to Rule 12(b)(8), SCRCP. Otherwise, there would be a risk of inconsistent rulings and a waste of resources.

Lancia’s remaining arguments are set forth in detail in Defendant’s Memorandum in Support of Motion for Relief From Foreign Judgment filed in the January 28th action, which is attached as Exhibit C to Defendant’s Motion to Dismiss (since the subject matter and arguments are the same as in the January 28th action). Lancia incorporates that Memorandum by reference as if set forth fully herein. For the sake of convenience Lancia is setting forth these arguments herein in more abbreviated form.

II. Enforcement of the Foreign Judgment Is Barred by the Statute of Limitations, S.C. Code Ann. Section 15-3-600

South Carolina Code Section 15-3-600 is a ten year statute of limitations that applies to the enforcement of foreign judgments, whether under the Uniform Enforcement of Foreign Judgments Act or prior law. *See Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 483, 517

Support of Motion for Relief From Foreign Judgment (filed in the January 28th action) which is attached as Exhibit C to the June 13, 2014 Motion to Dismiss.

S.E.2d 235, 238 (Ct. App. 1999) (“the catch-all limitation period of § 15-3-600 applies to the time in which a foreign judgment must be filed . . . ”); *Payne v. Claffy*, 281 S.C. 385, 315 S.E.2d 814 (Ct. App. 1984). The ten year clock begins to run when the debtor moves to South Carolina and the courts of this state become empowered to adjudicate between the parties, regardless of when the creditor discovered that the debtor was a South Carolina resident. *Abba Equip.*, 335 S.C. at 482, 517 S.E.2d at 237 (citing *Payne*, 281 S.C. at 386-87, 315 S.E.2d at 815); *id.* at 485-86, 517 S.E.2d at 239. There is no discovery rule. *Id.* at 485-86, 517 S.E.2d at 239.

Here, it is undisputed that Mr. Lancia has been a resident of South Carolina since 1992. (Lancia Aff., attached as exhibit 1 to Exhibit B to Defendant’s Motion to Dismiss); *see also Investment Assocs. v. Summit Assocs.*, 74 A.3d 1192, 1196 (Conn. 2013) (“The following facts are undisputed. . . . In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina.”) (copy attached as exhibit 3 to Exhibit C to Defendant’s Motion to Dismiss). The courts of South Carolina became empowered to adjudicate this dispute when the Judgment was entered in 1994 and the ten year statutory period began to run at that time. The statutory period expired in 2004. This enforcement action was filed in 2014, nearly ten years after that statutory period *expired*. Consequently, this action is barred.

III. The Granting of the Motion to Revive the Judgment Does Not Alter the Application of South Carolina Code Section 15-3-600

In an attempt to circumvent South Carolina’s statute of limitations, IA filed an action in 2007 with the Connecticut Superior Court seeking a new judgment based on the Judgment. *See Investment Associates v. Lancia*, CV074028746S, 2008 WL 2168983, 2008 Conn. Super Lexis 1112 (Conn. Super. Ct. May 5, 2008) (copy attached as exhibit 2 to exhibit C to Defendant’s Motion to Dismiss). The Connecticut Superior Court dismissed the action on the ground that Connecticut lacked personal jurisdiction over Lancia. *Id.* IA did not appeal that decision.

IA then attempted to revive the Judgment in Connecticut pursuant to Conn. Gen. Stat. 52-598(c),⁴ but this so-called revival is of no consequence. A revived judgment under section 52-598(c) of the Connecticut General Statutes is nothing more than a continuation of the original judgment and is not a new judgment. *See Investment Assoc.*, 74 A.3d at 1201. Thus, the revival goes only to the validity of the Judgment in Connecticut and does not impact South Carolina's statute of limitations.⁵ In fact, when the Connecticut Supreme Court determined that the revival in this case was merely a continuation of the original Judgment, it acknowledged that South Carolina may bar enforcement of the Judgment under South Carolina's statute of limitations on the grounds that it is a mere continuation. *See Investment Assoc.*, 74 A.3d at 1201 n. 8 (“[w]hether the revived judgment is deemed a continuation of the original judgment or a new judgment may affect whether the foreign jurisdiction will consider Connecticut's revived judgment to be the operative judgment for purposes of that jurisdiction's time limit for enforcement.”).

⁴ Connecticut Gen. Stat. section 52-598(c), which was passed in 2009 (partially at IA's urging), provides:

With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section.

⁵ *Corzo Trucking Corp. v. West*, 674 S.E.2d 414, 415-16 (Ga. App. 2009) (“if a judgment is revived in the rendering state, a forum state is free to refuse enforcement of the revived judgment if the revival is merely an extension of the original judgment and enforcement of that judgment is barred by the forum state's statutory period of enforcement.”); *Oakley v. Wagner*, 431 S.E.2d 676 (W. Va. 1993) (holding that enforcement of Ohio judgment was barred by West Virginia's ten year statute despite revival in Ohio three months before West Virginia proceedings since revival was mere continuation of original judgment); *Carter v. Carter*, 349 S.E.2d 95, 97 (Va. 1996) (holding that enforcement of Florida judgment was barred by Virginia's ten year statute despite revival in Florida four years before Virginia proceedings since revival was “merely a continuation of the original judgment.”); *Mundaca Fin. Servs. LLC v. Casella*, 2011 WL 883506, 2011 N.C. App. LEXIS 471, N.C. App. No. COA10-714 (N.C. Ct. App. March 15, 2011) (reversing and remanding the trial court's determination that the judgment was filed within North Carolina's ten year statute of limitations since the trial court erred in holding that the plaintiff's 2009 revival of a New Jersey judgment in New Jersey was a new judgment); *Jacobs v. Sprague*, 280 P.2d 919, 921 (Cal. App. 1955) (concluding “that the Oregon proceedings resulting in the order of revival was not a new suit but merely a continuation of the old, and hence that the instant action was upon the original judgment and barred by limitation.”).

The Court of Appeals in *Abba Equipment, Inc. v. Thomason*, 335 S.C. 477, 517 S.E.2d 235 (Ct. App. 1999) held that the ten year statute of limitations in S.C. Code § 15-3-600 barred the plaintiff's enforcement of the Florida judgment at issue even though it was still valid in Florida (which has a 20 year statute of limitations) when it was filed in South Carolina in 1996 (and even in 1999 when the Court of Appeals issued its opinion). Thus, South Carolina Code Section 15-3-600 bars the enforcement of a foreign judgment after the statutory time period even where that judgment is still valid in the rendering state. Since the revival of the Judgment was merely a continuation and not a new judgment, the Judgment at issue is no different than the Florida judgment in *Abba Equipment, Inc.*, which continued to be valid in Florida.

This analysis is consistent with the law in other jurisdictions (*see* footnote 5, *supra*) and is in line with the Full Faith and Credit Clause contained in the United States Constitution. The United States Supreme Court has repeatedly held that a state may apply its own statute of limitations to bar an action, including an action to enforce a foreign judgment. *See Wells v. Simonds Abrasive Co.*, 345 U.S. 514, 517 (1953) (quoting *Order of United Commercial Travelers v. Wolfe*, 331 U.S. 586, 607 (1947)); *M'Elmoyle v. Cohen*, 38 U.S. 312, 328 (1839).⁶

The application of South Carolina's statute of limitations on foreign judgments is certainly constitutional since actions on foreign and South Carolina judgments alike must be maintained within ten (10) years. *See* S.C. Code Ann. § 15-39-30; *see also Linda Mc Company, Inc. v. Shore*, 390 S.C. 543, 554-55, 703 S.E.2d 499, 505 (2010). South Carolina judgments "cannot be renewed" or revived. *See LaRosa v. Johnston*, 328 S.C. 293, 300, 493 S.E.2d 100, 103 (Ct. App. 1997) *overruled in part as stated in Linda Mc Company, Inc.*, 390 S.C. at 554-55

⁶ More recently, the Supreme Court has found its holdings in these cases to be "sound" and reiterated that a state "may apply its own procedural rules to actions litigated in its courts." *Sun Oil Co. v. Wortman*, 486 U.S. 717, 722, (1988). South Carolina courts view its statutes of limitation as procedural. *See Capco of Summerville, Inc. v. J.H. Gayle Constr. Co.*, 368 S.C. 137, 143, 628 S.E.2d 38, 41 (2006) ("A statute of limitations is a procedural device . . .").

n. 8, 703 S.E.2d at 505 n. 8;⁷ *Home Port Rentals, Inc. v. International Yachting Group*, 95 F.Supp.2d 623, 624 (W.D. La. 2000) (“South Carolina courts interpret [S.C. Code § 15-39-30] to mean what it says: a judgment is utterly extinguished ten years from the date of entry. *There is no procedure for renewal or revival.*”) (emphasis added).

If anything, South Carolina already affords foreign judgments greater rights than South Carolina judgments since a foreign creditor could file the foreign judgment in South Carolina within ten years, at which point the foreign judgment would then be valid for ten (10) years after enrollment in South Carolina, whereas the holder of a South Carolina judgment only has ten (10) years from the date of entry. See *Commercial Credit Loans, Inc. v. Riddle*, 334 S.C. 176, 512 S.E.2d 123 (Ct. App. 1999) (holding that the 10-year period in S.C. Code § 15-39-30 begins to run when the creditor enrolls the judgment in South Carolina).⁸ Consequently, the application of South Carolina Code § 15-3-600 is clearly in line with the Full Faith and Credit Clause. See *Great Western Tel. Co. v. Purdy*, 162 U.S. 329, 338 (1896) (holding that Iowa statute of limitations was proper since “[n]either the statutes nor the decisions of the State of Iowa upon this subject have made any discrimination against the citizens, the contracts or the judgments of other States, or against any right asserted under the Constitution or laws of the United States.”).

Statutes of limitations are “fundamental to our judicial system” and serve important public policy considerations by stimulating activity, punishing negligence, and promoting finality in litigation and “stability to human affairs.” *Carolina Marine Handling, Inc. v. Lasch*,

⁷ In *Linda Mc Company v. Shore*, the South Carolina Supreme Court held that when a party has filed a petition for supplemental proceedings in South Carolina *within ten years from entry of the South Carolina judgment*, and “is merely waiting on a court’s order regarding execution and levy, the ten year limitation found in section 15-30-30 is extended to when the court finally issues an order.” 390 S.C. at 554, 703 S.E.2d at 505. It overruled *LaRosa v. Johnston* only to the extent inconsistent with that holding. *Id.* at 554-55 n. 8, 703 S.E.2d at 505 n. 8. It does not provide any mechanism for renewal or revival. In any event, the Judgment in the present case was not filed within ten years.

⁸ To the extent the holding in *Commercial Credit Loans, Inc. v. Riddle* is erroneous and the 10 year period in S.C. Code § 15-39-30 begins to run when the judgment is entered in the rendering state, the present action is barred by S.C. Code § 15-39-30.

363 S.C. 169, 175, 609 S.E.2d 548 (Ct. App 2005); *Moates v. Bobb*, 322 S.C. 172, 176, 470 S.E.2d 402, 404 (Ct. App. 1996).

If South Carolina was to consider revived judgments from the date of revival, then a creditor could potentially “revive” a judgment in the rendering state continuously, in which case there would effectively be no statute of limitations in South Carolina on foreign judgments. This is not and should not be the law. Even though no discovery rule applies in this case, IA knew, or certainly should have known, that Lancia was living in South Carolina by 1993 at the latest. Yet IA waited until nearly twenty (20) years after obtaining its Judgment to file it in South Carolina. Its action on the Judgment is, and should be, barred by the statute of limitations.⁹

IV. If the Revival of the Judgment Is a New Judgment (which it is not), then the Judgment Is Unenforceable Because Connecticut Lacked Personal Jurisdiction Over Lancia

The Connecticut Supreme Court in *Investment Assocs. v. Summit Assocs.*, 74 A.3d 1192 (Conn. 2013) held in no uncertain terms that the Judgment was a continuation rather than a new judgment. *See, e.g., Inv. Assoc.*, 74 A.3d at 1201 (“because proceedings under § 52-598 (c) result in no substantive change to the original judgment . . . a motion to revive under § 52-598 (c) is effectively a continuation of the original proceeding rather than a new action.”); *id.* at 1211 (“defendant's position that personal jurisdiction in the original action is not a proper basis on which to maintain jurisdiction in the revival proceeding is largely premised on his presumption that a motion to revive under § 52-598 (c) constitutes a new action. As we previously have indicated . . . we agree with the authority from other jurisdictions holding to the contrary.”). It even acknowledged in doing so that South Carolina could bar enforcement under its own statute of limitations. *See id.* at 1201 n. 8.

⁹ If for some reason the statute of limitations in section 15-3-600 is found not to apply despite the Court of Appeals’ holding in *Abba Equipment Co.*, Defendant submits that this action is barred by the statute of limitations in S.C. Code § 15-39-30 (see footnote 8, *supra*), S.C. Code §15-3-530(1) and/or laches.

Nevertheless, IA argued in the January 28th action that the Judgment was a new judgment. Even assuming it is a new judgment (which it clearly is not), then the Judgment would be unenforceable for lack of personal jurisdiction. The Connecticut Superior Court has already held that Connecticut does not have personal jurisdiction over Lancia to render a new judgment. *See Investment Associates v. Lancia*, CV074028746S, 2008 WL 2168983, 2008 Conn. Super Lexis 1112 (Conn. Super. Ct. May 5, 2008) (copy at exhibit 2 to exhibit C to Defendant's Motion to Dismiss). IA did not appeal that decision, and the time period for doing so has expired. Consequently, there is no question that the courts of Connecticut lacked personal jurisdiction over Lancia as of at least 2007 and lacked personal jurisdiction over Lancia when the motion to revive was granted. Consequently, if the revival is viewed as a new judgment, it would be unenforceable for lack of personal jurisdiction over Lancia. *See PYA/Monarch, Inc. v. Sowell's Meats & Servs.*, 327 S.C. 469, 473, 486 S.E.2d 766, 768 (Ct. App. 1997) (holding that lack of personal jurisdiction is valid defense to foreign judgment); *Owens v. Henry*, 161 U.S. 642, 646 (1896) (holding that an 1861 Pennsylvania judgment, revived in 1871, was barred in 1880 Louisiana action by Louisiana's ten year statute of limitations since "considered as in continuation of the prior action and a revival of the original judgment for purposes of execution . . . it operated merely to keep in force the local lien, and could not be availed of as removing the statutory bar of *lex fori*") (emphasis added).

V. Additional Defenses

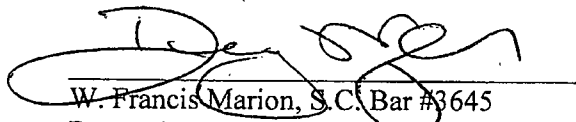
For the reasons set forth above, Lancia submits that this action should be dismissed, the Judgment should be stricken from the docket, and any attempts to enforce this action should be denied. Lancia has filed this motion and seeks a ruling on the above arguments since the facts relevant to these arguments are undisputed and should be dispositive of this action. However,

Lancia notes that he also has additional defenses which could require discovery if this motion is not granted, including those set forth in his Motion to Dismiss (pp. 5-6, section IV), which is incorporated herein by reference. If the court allows this action to proceed further, Lancia reserves the right to file a motion that more fully sets forth these additional defenses.

CONCLUSION

For the reasons set forth above, Lancia requests that this action be dismissed, that the foreign judgment be stricken, that any attempts to enforce the foreign judgment in South Carolina be terminated, and the Court find the foreign judgment to be void and unenforceable, and that Lancia be granted such other and further relief as this Court deems proper.

HAYNSWORTH SINKLER BOYD, P.A.



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Attorneys for Defendant Joseph D. Lancia

July 23, 2014

Greenville, South Carolina

DM: 3764413 V.1



State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

D. GARRISON HILL
JUDGE

GREENVILLE COUNTY COURTHOUSE
305 EAST NORTH STREET, SUITE 213
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 467-8484
FAX: (864) 467-8595
E-MAIL: ghil@eccourts.org

April 3, 2014

Mr. Randy A. Skinner, Esquire
Skinner Law Firm, LLC
300 North Main Street, Suite 201
Greenville, SC 29601

Mr. W. Francis Marion, Jr., Esquire
Mr. Denny P. Major, Esquire
Haynsworth Sinkler Boyd
P.O. Box 2048
Greenville, SC 29602

Re: Investment Associates v. Joseph D. Lancia
Case No. 2014-CP-23-00515

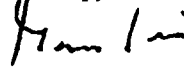
Dear Counsel:

Thank you for your excellent arguments yesterday. Defendant's motion for relief from foreign judgment is granted. Despite the machinations of the Connecticut legislature and the Connecticut Supreme Court, a 1994 Connecticut judgment cannot circumvent South Carolina's 10 year statute of limitations found in §15-3-600. As Abba held, the UEFJA allows a foreign judgment to stand on the same plane as a domestic judgment; it does not give a foreign judgment holder greater rights than the holder of a South Carolina judgment, no matter what type of alchemy the foreign jurisdiction attempts. S.C. Code § 15-35-920(c) ("A judgment so filed has the same effect and is subject to the same defenses as a judgment of this State...").

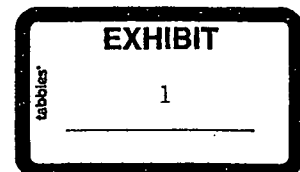
If Plaintiff's position were correct, a foreign jurisdiction could deem, for example, that its judgments were entitled to priority over any other lienholder, regardless of the settled priority law of the forum state. Even a limited imagination can foresee the chaos that would ensue.

Mr. Marion is requested to submit a formal order on or before April 15, 2014 in Word format, with a copy to Mr. Skinner.

Sincerely,


D. Garrison Hill

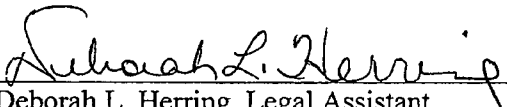
DGH:sbp



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
INVESTMENT ASSOCIATES,	)	C.A. No. 2014-CP-23-02705
	)	
Plaintiff,	)	
	)	CERTIFICATE OF SERVICE
vs.	)	
	)	
JOSEPH D. LANCIA	)	
	)	
Defendant.	)	
_____	)	

This is to certify that the foregoing Memorandum in Support of Motion to Dismiss and/or Motion for Relief from Foreign Judgment was served in the above-referenced case via hand delivery on this the 23rd day of July, 2014, upon the following:

Randy A. Skinner, Esq.
 Skinner Law Firm, LLC
 300 N. Main St., Suite 201
 Greenville, SC 29601


 Deborah L. Herring, Legal Assistant
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 864.240.4567

July 23, 2014
 Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

INVESTMENT ASSOCIATES,
PLAINTIFF,

vs.

JOSEPH D. LANCIA,
DEFENDANT.

COURT OF COMMON PLEAS
2014-CP-23-00515

TRANSCRIPT OF RECORD

ORIGINAL

April 2, 2014
Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE.

A P P E A R A N C E S:

RANDY A. SKINNER, ESQ.
Attorney for the Plaintiff

JEFFREY A. MERRIAM, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

1
2 THE COURT: This is 2014-CP-23-00515. It's Investment
3 Associates v. Joseph D. Lancia. And this is a motion for
4 relief from and notice of defenses to foreign judgment.

5 Mr. Merriam.

6 MR. MERRIAM: Yes, sir.

7 THE COURT: Good afternoon.

8 MR. MERRIAM: Good afternoon, Your Honor, on behalf
9 of Mr. Lancia.

10 The issue in the case, as far as we're concerned, is
11 very narrow and is determinative. And that issue is does
12 a -- does the 10-year statute of limitations enforce a
13 foreign judgment prohibit the Plaintiff from forcing the
14 Connecticut judgment more than 10 years old. And the case
15 law is absolutely clear on that topic. There are about
16 five controlling facts that's really -- I mean, you get
17 into a lot more than that. They're set forth in our
18 brief, but I'll briefly run through them.

19 THE COURT: Yes, sir.

20 MR. MERRIAM: Mr. Lancia moved to South Carolina and
21 became a South Carolina resident in 1992, and has lived
22 here continuously since that time. We attached an
23 affidavit to our motion which sets forth all the
24 additia [phonetic] of living here, not to mention driver's
25 license, school, taxes, and all those sorts of things. And,

1 in fact, in the case in -- involving these same parties up
2 in Connecticut back in -- years before, the Court found that
3 he had not been in Connecticut for 15 years. And there was
4 no connection to Connecticut.

5 There was a lawsuit back in the early 90s. From that
6 lawsuit -- involving Mr. Lancia and others. And from that
7 lawsuit, a judgment was rendered in 1994, May 17th, 1994.
8 The judgment holder, Investment Associates, took no
9 attempt to enforce the action of a judgment in South
10 Carolina. In fact, he waited almost 20 years, until
11 January of 2014, and then decided to file this notice.

12 It's undisputed the judgment clearly is over 10 years
13 old. It's undisputed that the judgment is a continuation
14 of the original judgment. Therefore, the statute of
15 limitations, Section 15-3-600, is controlling.

16 The Abba case, Your Honor, if you'd-- is controlling
17 on this issue as far as interpretation. The Abba court
18 there -- there was a default judgment obtained against the
19 Defendant in Florida. And it wasn't filed -- the order
20 was in 1983. But they didn't decide to bring it to South
21 Carolina until 1996. Florida has a 20-year statute for
22 enforcement of a judgment. South Carolina has a 10-year
23 statute.

24 And the question was, under Florida law, does the
25 20-year statute prevail. And the Court held absolutely

1 that it would not, that the 10-year statute, 15-3-600, was
2 a statute -- a catch-all statute on limitations.

3 THE COURT: Did that case come -- arise out of
4 Greenville?

5 MR. MERRIAM: It was --

6 THE COURT: Is that --

7 MR. MERRIAM: -- with Jim Parham and Bill Bannister.

8 THE COURT: Right. Okay. I remember that. That was
9 the -- all right.

10 MR. MERRIAM: Judge Patterson had that case.

11 THE COURT: Right.

12 MR. MERRIAM: And I'll be glad to go through the
13 details of it. But the essence of it is that the statute
14 is absolute. It's 10 years from the date that the Court
15 has the ability to have jurisdiction over the parties,
16 which in this instance began in 1994. They should have
17 brought an action prior the -- May 2004, and did not.
18 Therefore, we believe, Your Honor, the statute of
19 limitations is controlling. It's undisputed.

20 And we've raised a number of other defenses. But,
21 honestly, we can get to those later, if we need to. Some
22 might, actually, require limited discovery if we get that
23 far. We don't think that's necessary because this is,
24 like I say, clear. If the Judge views it differently,
25 then we probably need to come back before the judge at

1 another time on the other defenses. Because there would
2 have to be some more development probably a -- acts or
3 issues in that instance.

4 But that, Your Honor -- it's very simply put. That's
5 our position. I'd be happy to argue and get into the
6 cases, if you like. But the Abba case is controlling.
7 Clearly, it's unrefuted. It's a continuation of the
8 judgment. It's the same judgment rendered in 1994.
9 Therefore, the statute of limitations applies.

10 THE COURT: Thank you, sir.

11 Yes, sir.

12 MR. SKINNER: Your Honor, Randy Skinner on behalf of
13 the Plaintiff.

14 THE COURT: Yes, sir, Mr. Skinner.

15 MR. SKINNER: First of all, I'll address the
16 arguments that they've made in the order they made them
17 just orally.

18 First of all, they assert that the Defendant has been
19 located in South Carolina during this period of time.
20 They put great weight on that. We find that to be
21 completely irrelevant and unnecessary. We've provided the
22 Court -- I hope you have a copy of the response that we
23 had to their motion. It was filed yesterday.

24 THE COURT: I don't have it, I mean, unless you --

25 MR. SKINNER: I have another copy here --

1 THE COURT: Okay.

2 MR. SKINNER: -- if you'd like.

3 THE COURT: It's probably circulating in the Clerk's
4 Office somewhere.

5 MR. SKINNER: Peculating somewhere in the system.

6 THE COURT: Right, yes.

7 Thank you.

8 MR. SKINNER: Your Honor, all of these issues being
9 raised by Mr. Lancia were argued and decided, the very
10 same issues, by the Connecticut Supreme Court last fall in
11 August of last year. And in that court -- and they were
12 argued by Mr. Lancia through counsel.

13 So the argument about lack of personal jurisdiction,
14 you know, they're relying on a case to enforce the
15 judgment that was filed in 2008. This was a motion to
16 revive the 1994 judgment that was filed after that by
17 separate action in 2009. In a moment, I'll explain why a
18 separate action to revive the judgment under Connecticut
19 law was filed.

20 But that 2009 revival motion was argued by the same
21 parties through counsel all the way through the system in
22 Connecticut, all the way up to their Supreme Court, which
23 issued this ruling which is attached to the back of our
24 response. In fact, they looked at things like personal
25 jurisdiction, subject matter jurisdiction, and all

1 found -- found on all accounts on behalf of the Plaintiff.

2 The reason -- you know, these facts are unusual. But
3 this is a 1994 case, judgment in Connecticut. In
4 Connecticut, a judgment has a 20-year life. The
5 Plaintiff's filed an action which was referred to in this
6 2008 proceeding. But then in 2009, the Connecticut state
7 legislature amended their statute. And, in fact, we cited
8 that in our brief. And it's, also, explained in great
9 detail in the -- by the Supreme Court in Connecticut.

10 And they looked at the very facts of this case and
11 they said, well, gosh, if we have a 20-year judgment in
12 Connecticut and you go to enforce that judgment in another
13 state, say, South Carolina -- and they used South Carolina
14 as a very example. And they said, what if that judgment
15 is not 11 years old, the Connecticut judgment, what do we
16 do to be able to enforce it during the remainder of our
17 20 years in Connecticut?

18 So they passed this new statute, 52-598C, that
19 provides for a new judgment, not a continuation judgment,
20 a new judgment for the very purposes of being able to be
21 enforced in South Carolina. So we would take issue that
22 it's so very clear and unrefuted that this is a
23 continuation. They looked -- if you look at that case
24 during the 17 pages, the Supreme Court analyzed the very
25 issues here. They came to the conclusion, no, this is a

1 revival. That's different from a continuation. And,
2 therefore, it remains -- that judgment remains enforceable
3 from the date of the revival judgment in 2009 until the
4 remainder of those 20 years.

5 THE COURT: So what do you do in South Carolina to --
6 assume it was a South Carolina judgment, what -- how do
7 you revive it here?

8 MR. SKINNER: Well, we don't have revival here. In
9 fact --

10 THE COURT: We have continuation, don't we?

11 MR. SKINNER: No. We can't continue it either. And
12 we can't refile it. It's good for 10 years, period, in
13 South Carolina.

14 THE COURT: I thought there was some exception to
15 that.

16 MR. SKINNER: Not that I'm aware of.

17 In Connecticut, they had no such situation until
18 2009. And then they passed the statute so they could take
19 it -- you know, they could talk about the dormancy of the
20 judgment. But what they did is they changed the statute
21 so it could be enforced. And if you look at the
22 recitation about South Carolina law for the very purposes
23 we're talking about here today.

24 The only -- the issue that I have today that's a big
25 issue is that this judgment remains effective until May

1 13th, under Connecticut law, of this year. And, of
2 course, today is April 2nd. We need to have some type of
3 affirmative ruling from this Court that's enforceable or
4 else we're going to have to go to the separate step of
5 filing an action under South Carolina law to enforce the
6 judgment. But we -- the same defense is going to be
7 available in that action. That's duplicative to me. It's
8 a waste of the Court's time.

9 THE COURT: What was the judgment based on?

10 MR. SKINNER: The -- back in 1994, Mr. Lancia was a
11 tenant in a commercial building in Connecticut. There was
12 a dispute over the lease. The building caught fire. It
13 destroyed the building. The judgment is based on that --
14 on the damages there.

15 Mr. Lancia pled no contest to a criminal action
16 there. But, in any event, the judgment was based on the
17 fair market value of that building at the time in 1994.
18 And it's accrued interest through all this time. And
19 we're nearly at a million dollars.

20 THE COURT: All right. Thank you, sir.

21 Yes, sir, Mr. Merriam.

22 MR. MERRIAM: A couple of points, Your Honor. It's
23 unrefuted that the forum state law controls as to
24 enforcement of limitations.

25 With all due respect to my friend Mr. Skinner, if you

1 look at the case, it's repeated, at least, three times in
2 the Court's opinion "renewing the judgment." It says --
3 I'll just read it. The common law right -- his cause of
4 action against the Defendant is the original judgment, not
5 afforded to revive.

6 All the legislature -- what they did, Your Honor, is
7 they sued him up there after 2008, and moved for no
8 jurisdiction. And the Court agreed and dismissed it.
9 Because he had not been to Connecticut -- the mere fact
10 that a judgment was rendered up there did not confer
11 personal jurisdiction against Mr. Lancia in Connecticut.

12 So they went then to the legislature and asked the
13 legislature, well, change the statute so we can renew it,
14 revive it, even though they had -- still had, under
15 Connecticut law, years left to enforce it. Well, they
16 enacted this law which gave no additional rights. It just
17 said it's renewed. It didn't extend the time. It didn't
18 do anything.

19 It just -- that's what -- if you go look at the
20 Court's opinion, it says, The manifest purpose of revival
21 under this Connecticut law is to create a new judgment for
22 the purpose of meeting foreign jurisdictions for time
23 limits for enforcement. But then in that same opinion,
24 they go back and recognize that although the purpose of
25 the revived judgment is to ensure that a Connecticut

1 judgment -- shall not be deprived of the ability to
2 execute a judgment in a foreign jurisdiction having a
3 shorter period for enforcement in Connecticut. This
4 statute, obviously, does not alter the foreign
5 jurisdiction's law with respect to the period of
6 enforcement.

7 So what my friend is arguing is that the
8 Connecticut -- they changed -- tried to change the law in
9 Connecticut to change South Carolina law. You can't do
10 that. And the Court said, at least, three times in this
11 opinion that -- I'll quote on Page 1207 of the opinion. It
12 says, As we continue to underscore a proceeding, to revive a
13 judgment is a continuation of the original action.

14 And we've cited scores of cases in there that -- from
15 California, North Carolina, Georgia. All of them come to
16 the same thing -- conclusion. The host statute, the forum
17 statute controls as to limitations and is given full faith
18 and credit as long as you don't discriminate between the
19 time limits on the judgments.

20 For example, there was a case that came in from
21 Florida. It had a 20-year -- it's a U.S. Supreme Court
22 case. And Georgia statute said, well, a foreign judgment
23 only has five years to -- you can execute on a judgment,
24 five years in Georgia. Whereas if you're a citizen of
25 Georgia, it's 10 years. And the Court said if that's

1 the -- if that were the interpretation, then there could
2 be a conflict. But they ruled that the Georgia law didn't
3 say that. The interpreted the law that it didn't say
4 that.

5 So as long as the -- from a Constitutional
6 standpoint, the South Carolina 10-year statute controls.
7 In this instance, they, actually, have a little bit more
8 than 10 years than a citizen of South Carolina would have.
9 Because if the judgment were rendered in, say, 1992
10 against Mr. Lancia in South Carolina, they'd have to
11 execute and enforce the judgment by 2002. But since it's
12 a Connecticut judgment rendered in 1994 and Mr. Lancia is
13 here, they had a right to bring it down in 1994 and then
14 10 years after that.. But once that 10 years is up, the
15 case law is absolutely clear.

16 Judge Stilwell in the Abba opinion and a subsequent
17 opinion in LaRosa v. Johnson -- it's an absolute bar,
18 absolute bar. And the fact that another state may give
19 20 years to enforce doesn't make any difference. If we
20 have jurisdiction, it's 10 years from the time we have
21 jurisdiction to enforce it with the parties. The Court
22 has power over the parties. That date began in this case
23 in 1994.

24 Now, you asked about were there exceptions to that
25 rule. And I don't know if this is what the Judge was

1 thinking. There is a case -- and Daniel may remember the
2 caption. But it's a South Carolina case. And what
3 happened was they instituted -- started the procedure
4 before the 10 years had run. Then the 10 years ran. And
5 the party took the position it's over, you didn't fully
6 perfect it. And the Court said that would be too harsh a
7 result. They started the process and they're allowed to
8 continue. The fact that, you know, a judge, or a clerk,
9 or something didn't get the order down right or quickly
10 enough is not that person's fault. So that was the --
11 that's the exception that I'm aware of.

12 But, otherwise, it's 10 years. That 10 years has
13 run. It's continuation of a judgment. All of those facts
14 are undisputed and they are controlling.

15 THE COURT: Mr. Merriam, I haven't had a chance to
16 read this Abba case. But does it discuss the full faith
17 and credit?

18 MR. MERRIAM: It's mentioned, yes.

19 THE COURT: So --

20 MR. MERRIAM: We cite several cases buried in there.
21 And I'd be happy -- I've got numerous cases that I can
22 hand up that I brought for my convenience to talk about
23 that.

24 THE COURT: So is your argument that the 10-year
25 statutory limit on judgments is the public policy of this

1 state and, therefore, the Connecticut case or statute, to
2 the contrary, is not enforceable here and, therefore, the
3 judgment is not entitled to full faith and credit? Or are
4 you arguing something different?

5 MR. MERRIAM: I missed that last part.

6 THE COURT: I apologize.

7 Are you arguing that the Connecticut case and statute
8 that revived the judgment beyond the 10 years that South
9 Carolina recognizes by statute is contrary to South
10 Carolina public policy and, therefore, the judgment is not
11 entitled to full faith and credit? Is that your argument,
12 or is it something different?

13 MR. MERRIAM: It's -- if I could tweak that a little
14 bit.

15 THE COURT: Okay.

16 MR. MERRIAM: The forum state has a right to enforce
17 its own statute of limitations.

18 THE COURT: Okay.

19 MR. MERRIAM: It can't discriminate and treat foreign
20 citizens different than its own citizens.

21 THE COURT: Right.

22 MR. MERRIAM: As long as they don't do that, you're
23 giving full faith and credit to the other states.

24 THE COURT: Okay.

25 MR. MERRIAM: So if Florida, Connecticut have a

1 20-year statute to enforce a judgment, but South Carolina
2 has 10, if you enforce it in South Carolina, it's 10
3 provided the parties are here for enforceability. It
4 starts when the parties are subject to jurisdiction of the
5 Courts in South Carolina. That's when the clock starts to
6 run.

7 THE COURT: Okay.

8 MR. MERRIAM: And that's what the Abba court held.

9 THE COURT: All right.

10 MR. SKINNER: Your Honor, real briefly. The Supreme
11 Court in Connecticut considered Abba and cited Abba in
12 their very opinion. And they say the full faith and
13 credit should be given to the new judgment that was
14 renewed in 2009.

15 THE COURT: Okay.

16 MR. SKINNER: I think the facts are undisputed. I
17 think -- I agree with that. I think it's a matter of law.
18 And we've exhaustively briefed it. It's been argued
19 before the Supreme Court, and you have a copy of that
20 opinion.

21 THE COURT: Well, I'll be happy to hear anything else
22 either side wishes to say. I'm going to have to go back
23 and read the cases and this memo, which I just received
24 through no fault of anybody's. But I'll be glad to hear
25 anything else anybody wants to put on the record.

1 MR. MERRIAM: The only additional thing, Judge, there
2 is a question about the -- and, again, we cite this in our
3 brief. I'll be happy to hand up my copies. I don't think
4 they've been marked.

5 But the LaRosa case talks about statute of
6 limitations. And it says, The statute of limitations is
7 an absolute statutory limit on judgment, which cannot be
8 renewed. So the law is very clear. We don't allow
9 renewal in this state. It's a 10-year statute from the
10 date -- the time the Court has authority to enforce it.
11 That began in 1994 here and they didn't do anything to --
12 why they've resisted coming down here is a mystery, but
13 they haven't. And to wait almost 20 years goes against
14 the public policy of this state.

15 The Defendants, and creditors, and the debtors are
16 entitled to have an end date. In the cases -- that's what
17 LaRosa says. That's what Abba says. They're entitled to
18 have an end date. And that end date is 10 years from the
19 date the Court had jurisdiction over it.

20 Thank you, Your Honor.

21 THE COURT: All right. Thank y'all.

22 I appreciate y'all's excellent arguments. It's an
23 interesting issue.

24 *****END OF TRANSCRIPT OF RECORD*****
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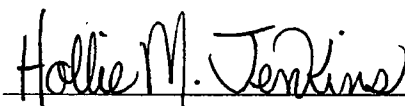
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 2nd day of April, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 18, 2014

A handwritten signature in cursive script that reads "Hollie M. Jenkins". The signature is written in dark ink and is positioned above a horizontal line.

Hollie M. Jenkins, Court Reporter

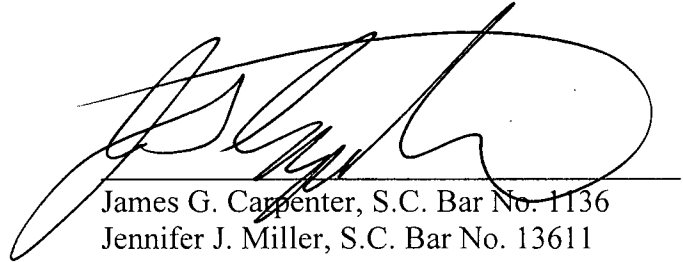
My Commission Expires: 09/24/20

CERTIFICATE OF COUNSEL

The undersigned attorney hereby certifies pursuant to SCACR 210(g) that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

THE CARPENTER LAW FIRM, P.C

March 24, 2015

A large, stylized handwritten signature in black ink, likely belonging to James G. Carpenter, is written over a horizontal line.

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In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

Appellate Case No. 2014-001917

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SC Court of Appeals

Investment Associates, ... Appellant,

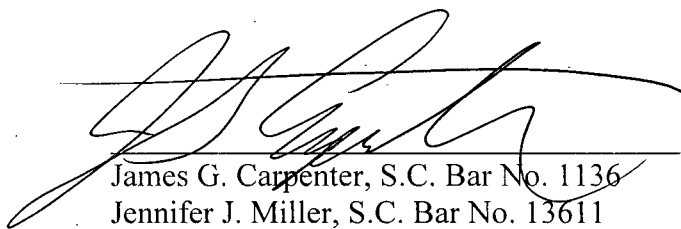
v.

Joseph D. Lancia, ... Respondent.

Certificate of Service

The undersigned attorney hereby certifies that he served a copy of the Record on Appeal on counsel for Respondent by hand delivery on Thursday, April 02, 2015 addressed as follows:

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