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UMB Bank, N.A. Trustee v. Eagle Crest Apartments, LLC

Court of Appeals of Washington, Division 3 - May 15, 2025 - Not Reported in Pac. Rptr. - 2025 WL 1411267

In 2013, John Sessions formed Eagle Crest Apartments, LLC (the limited liability company) to finance, construct, and operate a 168-unit multifamily Eagle Crest Apartments and related facilities in Williston ("Eagle Crest Project").

UMB Bank serves as the successor trustee for bonds issued by the City of Williston to finance the construction of the project.

In 2015, the limited liability company defaulted on its note securing repayment of the bonds. In 2019, UMB brought suit on the debt in North Dakota District Court, the Peace Garden State's court of general jurisdiction. After securing summary judgment on its foreclosure claim, UMB credit bid its judgment and acquired title to the Eagle Crest Project. The bid did not satisfy the entire debt. Based on evidence from a UMB representative regarding the remaining debt, the court entered a deficiency judgment against the limited liability company for $20,129,475.97.

Sessions also incorporated a variety of entities in North Dakota and Washington, including Historic Flight Foundation (HFF), a Washington nonprofit corporation, that subsequently became a judgment debtor.

On April 8, 2022, and before the North Dakota Supreme Court affirmed the judgment against John Sessions and his entities, UMB registered the North Dakota judgment in Spokane County Superior Court under the Uniform Enforcement of Foreign Judgments Act, RCW 6.36.035.

On August 2, 2022, HFF and the other defendants agreed to the appointment of an ancillary receiver for HFF and several other entities in King County Superior Court. HFF never challenged the validity of the North Dakota judgment in the receivership proceeding.

On July 20, 2023, HFF filed a motion, under CR 60(b)(5), in Spokane County Superior Court to vacate the registration of the foreign judgment.

HFF contended that the North Dakota judgment was void because the Washington State Attorney General did not receive notice of the North Dakota lawsuit required under RCW 24.03A.944 and .946. In so arguing, HFF emphasized that the North Dakota Constitution provides that the state district courts possess general jurisdiction over all matters "except as otherwise provided by law." In turn, North Dakota courts would look to Washington law to determine notice needed in a suit against a Washington nonprofit corporation. HFF argued that, due to the lack of notice to the Washington Attorney General, the North Dakota District Court lacked subject-matter jurisdiction over HFF.

On December 14, 2023, the Spokane County Superior Court denied HFF's motion to vacate the North Dakota judgment registered in Washington State. The superior court reasoned that Washington courts must recognize the North Dakota judgment under the Full Faith and Credit

clause of the United States Constitution. U.S. Const., Art IV, § 1. Whereas a party may collaterally attack a foreign judgment if the issuing state lacked subject matter jurisdiction or personal jurisdiction, the North Dakota District Court possessed both.

On appeal, HFF asked this court to reverse the superior court's denial of his motion to vacate the judgment registered in Washington State.

In response to HFF's appeal, UMB argues, among other contentions, that HFF waived any right to object to the jurisdiction of the North Dakota court because HFF never argued a lack of jurisdiction before the North Dakota courts.

UMB also contended that, even if the Washington notice statutes, on which HFF relies, demanded notice of the North Dakota suit on the Washington State Attorney General, the statutes are not jurisdictional. Washington courts disfavor collateral attacks based on allegations of defective notice. Furthermore, UMB asserted that the North Dakota court needed to only apply its state's law, not Washington law, when assessing the need to serve interested parties.

The Court of Appeals stated that, "We do not address these alternative arguments because we agree with UMB that RCW 24.03A.944 and .946 do not require notice of the North Dakota lawsuit be given the Attorney General even assuming the North Dakota court should have applied Washington law.

"The North Dakota suit was an action to collect a debt owed by the Washington nonprofit corporation, HFF. RCW 24.03A.944 demands no notice to the Attorney General when a creditor or a bond trustee sues a nonprofit corporation in Washington State or in any other state. RCW 24.03A.944 does not read that its provisions extend to a suit in a foreign jurisdiction."

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