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**FOREIGN JUDGMENTS IN FLORIDA BANKRUPTCY COURTS:
CHOICE OF LAW, STATUTES OF LIMITATIONS, AND OTHER
UNRESOLVED ISSUES**

*Michael Raudebaugh**

INTRODUCTION

Bankruptcy proceedings have become increasingly complex in the twenty-first century given that it is no longer uncommon for a modern debtor to have assets and liabilities spread across multiple jurisdictions. Creditors must be especially vigilant in their monitoring and collection efforts since they are expected to operate across state lines, each with its own legal peculiarities. Ideally, bankruptcy would be universally consistent, operating under a single code and a singular body of federal case law. However, the reality is that bankruptcy law is not as monolithic or uniform as it is sometimes portrayed. The interplay between state and federal law often creates strange outcomes and stands as a confusing minefield for bankruptcy practitioners.

Unfortunately, Florida is especially susceptible to this kind of confusion. It has long been labeled as a “Debtor’s Paradise”¹ because of its expansive homestead protections² and other laws favorable to wealthy people on the run from their creditors. That, along with the sheer number of transplants that move into the state each year, inevitably leads to the state’s bankruptcy courts having to juggle the interests of many different states. The results are not always uniform or satisfying from an academic perspective. From a practical perspective, the breadth of inconsistent case law can be difficult to navigate.

Other scholarly works have explored choice-of-law questions in a much broader way than this article will attempt.³ Instead, this article will focus on the practical considerations that attorneys must face when encountering a choice-of-law question in the bankruptcy context and will focus on a type of claim that necessarily invokes the laws of more than one jurisdiction. Namely, this article will have a particular emphasis on the enforceability of judgments in bankruptcy courts, where the judgment was rendered in a state other than that of the state in which the bankruptcy court sits. There will be a particular emphasis on analyzing how out-of-state

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1. Larry Rohter, *Rich Debtors Finding Shelter Under a Populist Florida Law*, N.Y. TIMES (July 25, 1993), <http://www.nytimes.com/1993/07/25/us/rich-debtors-finding-shelter-under-a-populist-florida-law.html>.

2. See FLA. CONST. art. X, § 4.

3. See, e.g., Michael S. Green, *The Twin Aims of Erie*, 88 NOTRE DAME L. REV. 1865, 1872 (2013); Viktoria A.D. Ziebarth, *Choice-of-Law Rules in Bankruptcy: An Opportunity for Congress to Resolve Conflicting Approaches*, 5 SEVENTH CIRCUIT REV. 309, 314 (2010); Jackie Gardina, *The Perfect Storm: Bankruptcy, Choice of Law, and Same-Sex Marriage*, 86 B.U. L. REV. 881, 882 (2006); John T. Cross, *State Choice of Law Rules in Bankruptcy*, 42 OKLA. L. REV. 531, 533–34 (1989).

judgments are enforced in bankruptcy courts located in Florida; however, this article will also explore how courts in other states have handled similar issues.

I. CHOICE OF LAW IN BANKRUPTCY, GENERALLY

Choice of law in bankruptcy is an unexpectedly unsettled question.⁴ Given that bankruptcy necessarily involves both state and federal law,⁵ this can sometimes be disheartening for the bankruptcy attorney in his or her day-to-day practice. It is all the more troubling in the modern age of debtors that have assets and liabilities located in and originating from multiple jurisdictions. For federal courts sitting in diversity, judges at least have some definitive guidance from the Supreme Court of the United States. The Court's 1941 decision, *Klaxon Co. v. Stentor Electric Manufacturing Co.*,⁶ held that federal courts whose jurisdiction derives from the diversity of the parties should look to the forum state's choice-of-law rules.⁷ It cited the principle of "uniformity within a state" as an important consideration in its decision, as well as conformity with those concerns detailed in the seminal case of *Erie Railroad Co. v. Tompkins*,⁸ which had been decided just a few years earlier.⁹ Unfortunately, the Court did not see fit to instruct future litigants on whether the answer would be the same for a court whose jurisdiction is based on a federal question.¹⁰ When given the opportunity to clarify the conflict shortly after *Klaxon*, the Court essentially punted.¹¹

Bankruptcy courts, perhaps because of their broad grant of jurisdiction that stands somewhere in between federal question and diversity jurisdiction,¹² have significantly more discretion (or some would say lack of guidance) on what choice-of-law rules to apply to each case. The trend for most courts seems to be simply to apply the forum state's choice-of-law rules without offering any legal justification,

4. Generally, when this article refers to "choice of law," it is referring to the threshold question bankruptcy courts must face when encountering an issue that implicates more than one jurisdiction: Should the court use the choice-of-law analysis developed by federal courts or by state courts? If it decides that a state court analysis is necessary, which state's analysis should the court choose?

5. *Raleigh v. Ill. Dep't of Revenue*, 530 U.S. 15, 20 (2000) ("The 'basic federal rule' in bankruptcy is that state law governs the substance of claims, Congress having 'generally left the determination of property rights in the assets of a bankrupt's estate to state law.'") (citations omitted) (quoting *Butner v. United States*, 440 U.S. 48, 54, 57 (1979)).

6. *Klaxon Co. v. Stentor Elec. Mfg. Co.*, 313 U.S. 487 (1941).

7. *Id.* at 496.

8. *Id.*

9. *Id.*

10. *See D'Oench, Duhme & Co. v. FDIC*, 315 U.S. 447, 456 (1942) ("Whether the rule of the *Klaxon* case applies where federal jurisdiction is not based on diversity of citizenship, we need not decide.")

11. *Vanston Bondholders Protective Comm. v. Green*, 329 U.S. 156, 162 (1946).

In determining what claims are allowable and how a debtor's assets shall be distributed, a bankruptcy court does not apply the law of the state where it sits. *Erie R.R. v. Tompkins*, 304 U.S. 64, has no such implication. That case decided that a federal district court acquiring jurisdiction because of diversity of citizenship should adjudicate controversies as if it were only another state court.

Id. Since the Court made this proclamation, bankruptcy courts have been doomed to apply a more complicated choice-of-law analysis, rather than utilize a much simpler approach of applying the law of the forum state to any question.

12. *See Gardina, supra* note 3, at 908 (discussing how the nature of bankruptcy jurisdiction implicates a mixture of both federal question and diversity jurisdiction).

or to cite the *Klaxon* decision as applicable precedent.¹³ While practical, this result is perhaps a bit unsatisfying from an academic perspective. Without any guidance from the Supreme Court, and with the circuits currently split on the issue,¹⁴ this still-unresolved issue remains applicable to modern-day practitioners, over seventy years after the *Klaxon* decision.¹⁵

The Bankruptcy Code has surprisingly little to say about the matter. The term “claim” is defined broadly as a “right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.”¹⁶ Section 502 of the Bankruptcy Code, which governs the allowance of claims in bankruptcy, provides that a claim should be allowed unless an interested party objects to the claim.¹⁷ It further provides that when an objection to a claim is made, the bankruptcy court must determine whether “such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law.”¹⁸ Of course, the phrase “applicable law” is undefined. The definition of that phrase is essentially the fundamental question posed by this article and has been the subject of much consternation among academics, practitioners, and jurists for a number of decades.

The role of the bankruptcy court is often that of a gatekeeper, determining which claims are valid against the debtor and which must be discarded as specious, satisfied, untimely, or otherwise unenforceable if not for the bankruptcy proceeding itself.¹⁹ In fact, the “allowance or disallowance of claims against the estate” is one of the most essential functions of a bankruptcy court and is a “core proceeding” under the Bankruptcy Code.²⁰ Although a bankruptcy filing is often the “last call” for creditors who wish to seek recompense, a claim should not be permitted unless a creditor could have sought payment from the debtor prior to the bankruptcy.²¹ “In other words, a claim against the bankruptcy estate will not be allowed in a bankruptcy proceeding if the same claim would not be enforceable against the debtor outside of bankruptcy.”²² Courts have interpreted this to mean that “any defense to a claim that is available outside of the bankruptcy context is also available in bankruptcy.”²³ This is because a creditor’s entitlement to a claim in bankruptcy arises

13. Cross, *supra* note 3, at 543–45 and the cases cited therein.

14. See *Bianco v. Erkins (In re Gaston & Snow)*, 243 F.3d 599, 605 (2d Cir. 2001) (citing cases among various circuits).

15. Gardina, *supra* note 3, at 909–10 (discussing the chaos caused by the lack of guidance from the Supreme Court and its effect on modern cases).

16. 11 U.S.C. § 101(5)(A) (2012).

17. *Id.* § 502(a).

18. *Id.* § 502(b)(1).

19. See *Pepper v. Litton*, 308 U.S. 295, 305–10 (1939) (discussing the role of the bankruptcy court as a court of equity).

20. 28 U.S.C. § 157(b)(2)(A)(B) (2012); see also *In re Distrigas Corp.*, 75 B.R. 770, 772 (Bankr. D. Mass. 1987) (“The ability of the bankruptcy judge to rule on claims against the estate is central to the bankruptcy system.”).

21. *United States v. Sanford (In re Sanford)*, 979 F.2d 1511, 1513 (11th Cir. 1992); see also 11 U.S.C. § 502(b)(1).

22. *In re Sanford*, 979 F.2d at 1513.

23. *Travelers Cas. & Sur. Co. v. Pac. Gas & Elec. Co.*, 127 S. Ct. 1199, 1201 (2007).

“from the underlying substantive law creating the debtor’s obligation,” requiring the bankruptcy court to look to state law in determining the enforceability of the claim.²⁴

Timing of the underlying claim is also a factor. Section 502 instructs courts to determine whether a claim is enforceable against the debtor “as of the date of the filing of the petition.”²⁵ “A plain reading of [§ 502] thus suggests that the bankruptcy court should determine whether a creditor’s claim is enforceable against the debtor as of the date the bankruptcy petition was filed.”²⁶ Although the bankruptcy is filed in one court, located in only one state, the creditors often come from many different jurisdictions with claims that are in many different stages of collection. Thus, many different states’ laws may be implicated by a single bankruptcy proceeding. As this article will explore in much greater depth *infra*, this timing element to § 502 has important implications for statutes of limitations on a creditor’s claim.²⁷

The power of the bankruptcy court to resolve claims against the estate also extends to making rulings that may affect the ultimate disposition of related state court actions. When a state court claim is “necessarily resolved by a ruling on a creditor’s proof of claim,” then the bankruptcy court has the authority to make such a final determination.²⁸ A bankruptcy court may abstain from making a determination on a claim where “there is no escaping the fact that the resolution of the state lawsuit will be the basis for either a claim or a defense to a claim” in the bankruptcy case.²⁹ However, the court should only exercise its discretionary power to abstain “sparingly and cautiously,”³⁰ and the abstention provision should be “narrowly construed.”³¹ Although bankruptcy courts may abstain because an issue implicates state law, that alone cannot be the sole factor in a decision to abstain.³² Suffice it to say, bankruptcy courts must be vigilant when navigating the “jurisdictional maze constructed by Congress”³³ with respect to the relationship between bankruptcy law and state law.

II. FOREIGN JUDGMENTS IN FLORIDA BANKRUPTCIES

While choice-of-law questions intrigue academics, bankruptcy practitioners may not encounter them on a regular basis, at least not explicitly. However, with debtors that have assets and liabilities in multiple jurisdictions, the laws of these separate jurisdictions will inevitably clash. Although other types of claims will be discussed, this section will focus on a specific type of claim that may be presented in a Florida

24. *Id.* (quoting *Raleigh v. Ill. Dep’t of Revenue*, 530 U.S. 15, 20 (2000)).

25. 11 U.S.C. § 502(b) (2015).

26. *Cadle Co. v. Mangan (In re Flanagan)*, 503 F.3d 171, 179 (2d Cir. 2007).

27. *In re Ballato*, 188 B.R. 690, 693 (Bankr. M.D. Fla. 1995).

28. *Sundale, Ltd. v. Fla. Assocs. Capital Enters., LLC*, No. 11-20635-CIV, 2012 WL 488110, at *17–18 (S.D. Fla. Feb. 14, 2012) (citing *Stern v. Marshall*, 131 S. Ct. 2594 (2011)).

29. *Williams v. Assocs. Fin., Inc. (In re Williams)*, 88 B.R. 187, 189 (Bankr. N.D. Ill. 1988).

30. *In re Climate Control Eng’rs, Inc.*, 51 B.R. 359, 363 (Bankr. M.D. Fla. 1985).

31. *Hillsborough Holdings Corp. v. Celotex Corp.*, 123 B.R. 1004, 1010 (Bankr. M.D. Fla. 1990).

32. *Harley Hotels, Inc. v. Rain’s Int’l, Ltd.*, 57 B.R. 773, 782 (Bankr. M.D. Penn. 1985) (“While the interests of comity and respect for state court processes are important ones, they are insufficient, standing alone, to warrant abstention in this case.”) (citation omitted).

33. *In re S.E. Hornsby & Sons Sand & Gravel Co.*, 45 B.R. 988, 990 (Bankr. M.D. La. 1985).

bankruptcy proceeding—a foreign³⁴ judgment entered against the bankruptcy debtor—and how a court would determine whether that claim is enforceable against the debtor. Decisions made by courts located outside of Florida will be examined as well, given that they are often looked to by district court judges for guidance.

Under Florida law, there are two ways a party may enforce a foreign judgment: it may bring a “traditional common law action” to enforce the judgment in a state court,³⁵ or it may domesticate the judgment using the Florida Enforcement of Foreign Judgments Act (FEFJA).³⁶ Under the FEFJA, a judgment creditor “must simply record the foreign judgment in the clerk’s office.”³⁷ Once recorded in this fashion and once the judgment debtor has been properly noticed, the foreign judgment will have the same effect as any judgment of a Florida state court,³⁸ and shall (theoretically) be entitled to the twenty-year statute of limitations afforded to Florida judgments.³⁹

Of course, for bankruptcies that find their way to district courts in the State of Florida, foreign judgments that have been properly domesticated in Florida are dealt with relatively easily in the claims process.⁴⁰ More complex issues arise in the event that a bankruptcy petition is filed in Florida by a debtor that has one or more unsatisfied foreign judgments that have not yet been domesticated in the state. One of the most common—and most troubling in the case of a judgment creditor—problems that can arise is Florida’s statute of limitations, given that it treats judgments rendered by a Florida court much more favorably than those rendered by any other court.⁴¹ Florida’s statute of limitations provides in relevant part:

Actions other than for recovery of real property shall be commenced as follows:

34. FLA. STAT. §§ 55.501–55.509 (2015). This article uses the term “foreign” judgment as defined in the Florida Enforcement of Foreign Judgments Act. There, the term is defined as “a judgment, decree, or order of a court of any other state, territory or commonwealth of the United States, or of the United States if such judgment, decree, or order is entitled to full faith and credit in this state.” See FLA. STAT. § 55.502(1). While most of the concepts described herein would most likely apply to judgments rendered by courts outside of the United States, any exceptions created by the international bankruptcy sphere are outside the scope of this article.

35. 645 W. 44th St. Assocs. v. Koch, No. 13-61475, 2014 WL 1652035, at *4 (S.D. Fla. Apr. 24, 2014) (citing *In re Goodwin*, 325 B.R. 328, 330 (Bankr. M.D. Fla. 2005)). Enactment of the FEFJA eliminated the traditional requirement of creditors with foreign judgments having to file an action in order to domesticate it in Florida. *Michael v. Valley Trucking Co.*, 832 So. 2d 213, 215 (Fla. 4th Dist. Ct. App. 2002). “[The Florida Enforcement of Foreign Judgments Act] shall not be construed to impair the right of a judgment creditor to bring an action to enforce his or her judgment instead of proceeding under this act.” Fla. Stat. § 55.502(2). See generally *Crane v. Nuta*, 26 So.2d 670 (Fla. 1946).

36. *Koch*, 2014 WL 1652035, at *4.

37. *Haigh v. Planning Bd.*, 940 So. 2d 1230, 1233 (Fla. Dist. Ct. App. 2006) (citing FLA. STAT. § 55.503(1), 55.502(2) (2005)). The only qualification is that the foreign judgment must still be effective in the state in which it was rendered, *Muka v. Horizon Financial Corp.*, 766 So. 2d 239 (Fla. Dist. Ct. App. 2009), meaning you cannot breathe new life into a judgment that had already died in its home state.

38. FLA. STAT. § 55.503(1) (2015).

39. *Id.* § 95.11 (2015).

40. See, e.g., *Policemen’s & Firefighters’ Ret. Fund of Covington, Ky. v. Tranter (In re Tranter)*, 245 B.R. 419, 421–22 (Bankr. S.D. Fla. 2000). Some courts, however, have still managed to complicate this seemingly simple issue.

41. *Id.* at 422.

- (1) Within twenty years.—An action on a judgment or decree of a court of record in this state.
- (2) Within five years.—
- (a) An action on a judgment or decree of any court, not of record, of this state or any court of the United States, any other state or territory in the United States, or a foreign country.⁴²

Based on this statute, creditors holding a judgment rendered by a court outside of Florida older than five years would justifiably be worried if the judgment debtor filed a bankruptcy petition in a federal district court in Florida.⁴³

While there are no precedential decisions for bankruptcy courts in Florida to look to when analyzing this situation, there are several cases that can offer guidance. In *Balfour Beatty Bahamas, Ltd. v. Bush*,⁴⁴ the United States Court of Appeals for the Eleventh Circuit was called upon to interpret how Florida's statute of limitations interacts with foreign judgments.⁴⁵ Even though the *Bush* case did not implicate bankruptcy law, it is instructive with respect to the fundamental question bankruptcy courts must ask when presented with a claim: Is this claim enforceable under Florida law? In the case, a judgment creditor who obtained a default judgment in a federal district court located in Florida sought to begin collection efforts against the judgment debtor over six years after the judgment had been entered.⁴⁶ The judgment debtor argued that the creditor could no longer enforce the judgment pursuant to section 95.11(2)(a), Florida Statutes, because more than five years had passed since the judgment was entered.⁴⁷ The Eleventh Circuit thus had to determine whether the judgment obtained in the federal district court was controlled by a statute of limitations period of five years or twenty years.⁴⁸

The Eleventh Circuit first noted that the creditor's collection efforts were "controlled, at the time of execution, by the 'practice[s] and procedure[s] of the state in which the district court is held.'"⁴⁹ Since the judgment had been obtained in Florida and efforts to execute on the judgment were taking place in a district court located in Florida, Florida's state law was used.⁵⁰ The Eleventh Circuit determined that the five-year limitations period of section 95.11(2)(a) should apply "with respect to the unique facts presented here, *i.e.*, an attempt to enforce a district court judgment, entered in the Southern District of Florida, in the same district court."⁵¹

42. FLA. STAT. § 95.11(1)–(2)(a).

43. As one would imagine, Florida is far from the only state to have different limitation periods for foreign and domestic judgments. The Supreme Court of the United States has held that this type of statutory scheme is fully compatible with the Full Faith and Credit Clause of the United States Constitution. *Watkins v. Conway*, 385 U.S. 188, 191 (1966).

44. *Balfour Beatty Bah., Ltd. v. Bush*, 170 F.3d 1048 (11th Cir. 1999).

45. *Id.* at 1049.

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.* at 1050 (quoting FED. R. CIV. P. 69(a)).

50. *Bush*, 170 F.3d at 1050.

51. *Id.* at 1051.

The Eleventh Circuit based the reasoning for its holding almost entirely upon a decision from the Florida First District Court of Appeal.⁵² In *Kiesel v. Graham*, the plaintiff had obtained a judgment in the Southern District of Florida and was seeking to enforce it in a state court in Leon County, Florida almost six years after the judgment was entered.⁵³ The First District closely analyzed section 95.11 to determine whether enforcement of the judgment was barred by the five-year statute of limitations and noted the internal inconsistency in the statute.⁵⁴ Section 95.11(1) provides that “[a]n action on a judgment or decree of a court of record in this state” shall commence within twenty years; whereas section 95.11(2)(a) provides that “[a]n action on a judgment or decree of . . . any court of the United States” shall commence within five years.⁵⁵ “Both of the above statutory provisions,” the First District noted, “appear to govern the instant situation, for the subject judgment is that ‘of a court of record in this state’ as well as that ‘of any court of the United States.’”⁵⁶ To resolve this conflict, the First District looked to the rules of statutory construction, and it determined that because the phrase “‘of any court of the United States’ is more specific than ‘‘of a court of record in this state,’” then the more specific phrase should control with respect to federal courts.⁵⁷

The Eleventh Circuit in *Bush*, found this logic “well-reasoned” and thus held that the five-year limitations period in section 95.11(2)(a) controlled with respect to the creditor’s judgment entered in the Southern District of Florida.⁵⁸ As a result, a judgment entered in a federal court—even a federal court located in the State of Florida—is subject to a five-year limitation period despite the fact that the creditor seeks to enforce the judgment in that same federal court.⁵⁹ This case demonstrates the pitfalls that sometimes occur when federal courts are compelled to apply state law. While the *Bush* case did not originate in bankruptcy court, it can certainly be used in bankruptcy proceedings to determine whether a judgment entered in a federal district court in Florida is enforceable against a debtor in bankruptcy. It stands to reason that, due to the *Bush* decision, a particular judgment creditor’s claim would be barred if the judgment was older than five years at the time the petition was filed.⁶⁰

Several lower courts have rendered more specific decisions with respect to how foreign judgments would be affected in Florida bankruptcies. In a case originating from the United States Bankruptcy Court for the Middle District of Florida, a creditor sought to enforce a New York judgment against a debtor that later established residence in Florida.⁶¹ The court used Florida’s statute of limitations as “the applicable law” and held that because more than five years had passed, the claim was

52. *Id.* at 1050–51.

53. *Kiesel v. Graham*, 388 So. 2d 594, 595 (Fla. Dist. Ct. App. 1980).

54. *See id.*

55. FLA. STAT. § 95.11(1)–(2)(a) (2015).

56. *Kiesel*, 388 So. 2d at 595.

57. *Id.* at 595–96.

58. *Balfour Beatty Bah., Ltd. v. Bush*, 170 F.3d 1048, 1051 (11th Cir. 1999).

59. *See id.*

60. *See id.*

61. *In re Ballato*, 188 B.R. 690, 691, 693 (Bankr. M.D. Fla. 1995).

“unenforceable, and by virtue of § 502(b) must be disallowed.”⁶² The court did not view the fact that the judgment had been entered in New York to be relevant, nor did it conduct any kind of choice-of-law analysis before coming to the conclusion that Florida law regarding statute of limitations for enforceability of a foreign judgment should apply.⁶³ Simply applying the law of the state in which the bankruptcy court resides is the most straightforward approach a court can make when determining the enforceability of a foreign judgment, and as this article notes *infra*, it is often the default route taken by judges.

In *St. Paul Fire & Marine Insurance Co. v. Alford (In re Alford)*,⁶⁴ a creditor sought to enforce a Louisiana judgment against the debtor in a Chapter 7 bankruptcy proceeding after the debtor had established residence in the State of Florida.⁶⁵ The bankruptcy petition had been filed five years and four months after the creditor obtained the judgment in Louisiana.⁶⁶ The creditor filed an adversary proceeding alleging that the debt was non-dischargeable.⁶⁷ The *Alford* court explicitly applied Florida law as the “applicable law” pursuant to § 502(b), stating that “[t]he law applicable to this debtor is Florida law since that is the place of his residence and filing.”⁶⁸ The court ultimately determined that the creditor’s filing of the adversary proceeding constituted an “action on a judgment,” as defined in section 95.11, and that the five-year limitation period applied to such foreign judgment actions.⁶⁹

The *Alford* case explicitly and implicitly raises a number of troubling issues for creditors. The first is that it appears, based on *Alford* and several other cases interpreting section 95.11, that a debtor may purposely avoid a judgment rendered by any court other than a Florida state court simply by filing a bankruptcy petition in Florida after five years have elapsed.⁷⁰ On its face, this result seems at odds with the ideas of comity between the states and fundamental fairness for creditors and their ability to enforce debts. It also encourages the kind of “forum shopping” long discouraged by the Supreme Court and academics with respect to bankruptcy (and federal diversity jurisdiction in general).⁷¹ It is made all the worse that Florida already has a dubious reputation as a haven for those who are looking to cheat the bankruptcy system.⁷² To be fair, however, Florida is far from the only state with such prejudicial treatment of foreign judgments, as this article discusses *infra*.

62. *Id.* at 693.

63. *See id.*

64. *St. Paul Fire & Marine Ins. Co. v. Alford (In re Alford)*, 308 B.R. 563 (Bankr. S.D. Ala. 2002).

65. *Id.* at 565.

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.* at 568.

70. *See In re Alford*, 308 B.R. at 568–69.

71. *See, e.g.,* Douglas G. Baird, *Loss Distribution, Forum Shopping, and Bankruptcy: A Reply to Warren*, 54 U. CHI. L. REV. 815, 827–28 (1987); *see also* *Butner v. United States*, 440 U.S. 48, 55 (1979) (“Uniform treatment of property interests by both state and federal courts within a State serves to reduce uncertainty, to discourage forum shopping, and to prevent a party from receiving ‘a windfall merely by reason of the happenstance of bankruptcy.’”) (quoting *Lewis v. Mfrs. Nat’l Bank*, 364 U.S. 603, 609 (1961)).

72. *See generally* John M. Norwood & Marianne M. Jennings, *Before Declaring Bankruptcy, Move to Florida and Buy a House: The Ethics and Judicial Inconsistencies of Debtors’ Conversions and Exemptions*, 28 SW. U. L. REV. 439, 440 (1999) (“[D]ebtors are now figuring out which liberal exemption states they should move to

Other federal courts sitting in Florida have also applied Florida law when determining whether a foreign judgment is enforceable against a debtor in bankruptcy,⁷³ although some have done so in a peculiar way. For example, the *Goodwin* case dealt with the preferred avenue for creditors seeking to enforce out-of-state judgments in Florida: the FEFJA.⁷⁴ There, the court held that the creditor's Maine judgment was properly recorded and recognized in Florida under the FEFJA.⁷⁵ However, the court's next task was to determine whether this newly-domesticated judgment was entitled to Florida's twenty-year statute of limitations or the five-year limitation period. The court noted that "Florida adopted a non-uniform clause in the FEFJA, which provides with reference to construing the Act, '(4) nothing contained in this act shall be construed to alter, modify, or extend the limitation period applicable for the enforcement of foreign judgments.'"⁷⁶ Given the purpose of the FEFJA—to provide a uniform procedure for foreign judgments to "become Florida judgments for enforcement purposes"⁷⁷—this provision is confusing, if not baffling. It seems to undermine the domesticated judgment's new status as a Florida judgment and instead treats it, at least with respect to the limitation period, as a foreign judgment.

The *Goodwin* court acknowledged the lack of clarity in this provision and thus sought the guidance of the Supreme Court of Florida, which had interpreted a similar act, the Uniform Out-of-Country Foreign Money-Judgment Recognition Act (UFMJRA),⁷⁸ as well as the Florida Fifth District Court of Appeal opinion that it affirmed.⁷⁹ Although the *Nadd* decision did not expressly involve the FEFJA, the appellate court's opinion analyzed it in detail in order to shed light on the UFMJRA.⁸⁰ The *Goodwin* court expressly adopted the Fifth District's interpretation of the FEFJA's non-uniform provision, to wit: "The drafters of that provision may have wished to make 'clear' that the five-year statute remains as a bar to suits brought under the common law mode of enforcement, having referenced that remedy in a closely preceding provision."⁸¹ This is probably the outcome most consistent with the purpose of the FEFJA, since it incentivizes the use of the FEFJA's registration mechanisms while still maintaining Florida's statute of limitations with respect to common law enforcement actions. However, uncertainty remains, especially since the Florida Supreme Court's decision does not directly interpret the FEFJA.

before declaring bankruptcy so that they can maximize their exemptions. And so, retirees and the nearly bankrupt are descending upon Florida in record numbers both for the state's sunshine and its liberal debtor exemptions.").

73. *In re Goodwin*, 325 B.R. 328, 333–34 (Bankr. M.D. Fla. 2005) (applying Florida law in holding that Maine judgment was properly domesticated in Florida and thus enforceable in bankruptcy); *Policemen's & Firefighters' Ret. Fund of Covington, Ky. v. Tranter (In re Tranter)* 245 B.R. 419, 421–22 (Bankr. S.D. Fla. 2000) (reviewing FEFJA with respect to Kentucky Judgment); *In re Conrad*, 252 B.R. 559, 561–62 (Bankr. M.D. Fla. 2000) (enforcing California judgment).

74. *In re Goodwin*, 325 B.R. at 330.

75. *Id.* at 331.

76. *Id.* (quoting FLA. STAT. § 55.502(4) (2004)).

77. *Joannou v. Corsini*, 543 So. 2d 308, 310 (Fla. Dist. Ct. App. 1989).

78. *Nadd v. Le Credit Lyonnais, S.A.*, 804 So. 2d 1226, 1228, 1233–34 (Fla. 2001).

79. *See Le Credit Lyonnais, S.A. v. Nadd*, 741 So. 2d 1165, 1172 (Fla. Dist. Ct. App. 1999).

80. *See id.* at 1168–72.

81. *In re Goodwin*, 325 B.R. at 332–33 (quoting *Le Credit Lyonnais*, 741 So. 2d at 1169).

The *Alford* decision, in somewhat of a contrast to *Goodwin*, held that “no limitations period is modified by the [FEFJA]” and that “the five-year limitations period applies to foreign judgments.”⁸² It insisted that this interpretation was “consistent with the *Nadd* cases,” since those involved the UFMJRA, not the FEFJA.⁸³ However, it ultimately relies upon the factual distinction between the case in front of it at the time and the facts in *Goodwin*. In *Goodwin*, the foreign judgment had already been domesticated in Florida and the creditor was simply seeking enforcement of that judgment,⁸⁴ whereas in *Alford*, the creditor had filed suit alleging that the debt based on the foreign judgment was non-dischargeable.⁸⁵ This may at first glance seem like a distinction without a difference. However, judging by the many cases interpreting Florida’s statute of limitations scheme, the mechanism through which the creditor seeks enforcement of its debt can make all the difference in how much time the creditor has for enforcement.

Another decision out of the Bankruptcy Court for the Southern District of Florida applied Florida law but came to a very different conclusion. In *Tranter*, the court was also called upon to interpret the FEFJA with respect to a foreign judgment.⁸⁶ There a creditor sought to have a debt arising from a judgment rendered in Kentucky declared non-dischargeable in the Florida bankruptcy proceeding.⁸⁷ The Kentucky judgment had been domesticated in Florida two years prior to the debtor filing the bankruptcy petition; however, the judgment was originally entered in Kentucky sixteen years prior.⁸⁸ The court applied the FEFJA without any choice-of-law analysis but noted that decisions in other jurisdictions interpreting how statutes of limitation would apply under the Uniform Enforcement of Foreign Judgments Act (on which the FEFJA was based) were remarkably inconsistent.⁸⁹

The case, however, took a left turn when it was time to make a final determination. Instead of ruling whether the domesticated judgment was subject to a five-year or twenty-year limitation period, the court resolved that under the FEFJA, a domesticated judgment “merely picks up where it was left off in the state where rendered,” and thus the forum state’s statute of limitations does not apply.⁹⁰ It went on to conclude that based on the “plain language” of the FEFJA, Florida’s statute of limitations does not apply to the domesticated judgment and thus is subject to Kentucky’s *own* fifteen-year statute of limitations.⁹¹ The decision imposes an awkward scheme where the bankruptcy court must apparently look to the law of the state where the judgment was originally entered to determine how much “life” the judgment has left under that state’s statute of limitations. However, before the court

82. St. Paul Fire & Marine Ins. Co. v. Alford (*In re Alford*), 308 B.R. 563, 568 (Bankr. S.D. Ala. 2002).

83. *Id.*

84. *In re Goodwin*, 325 B.R. at 329.

85. *In re Alford*, 308 B.R. at 565.

86. Policemen’s & Firefighters’ Ret. Fund of Covington, Ky. v. Tranter (*In re Tranter*), 245 B.R. 419, 420 (Bankr. S.D. Fla. 2000).

87. *See id.* at 419–20.

88. *Id.*

89. *Id.* at 421.

90. *Id.* (quoting *Wright v. Trust Co. Bank*, 466 S.E.2d 74, 75 (Ga. Ct. App. 1995) (interpreting Georgia’s uniform law)).

91. *Id.* at 422 (citing KY. REV. STAT. ANN. § 413.090 (LexisNexis 2000)).

is even able to get to that point, it must inquire into the *forum state*'s procedure for domesticating foreign judgments and determine if that state's limitation statute applies.⁹² This is undoubtedly a legally cumbersome procedure for a court to use on a case-by-case basis. Subsequent courts have disagreed, at least implicitly, with *Tranter*, and have instead held that a foreign judgment domesticated in Florida under the FEFJA is subject to Florida's twenty-year limitation period.⁹³ One hopes that the *Tranter* decision is simply an anomaly.⁹⁴

Another wrinkle that can be added to this already-confusing *mélange* is the concept of an "action on a judgment," which appears in sections 95.11(1) and (2) of the Florida Statutes. Specifically, Florida's statute of limitations—whether it is five years or twenty years—is only implicated upon "[a]n action on a judgment."⁹⁵ This may not appear to be a major distinction on its face, but some courts have used this turn of phrase to greatly narrow section 95.11's effectiveness.⁹⁶ In *Burshan v. National Union Fire Insurance Co.*, the Florida Fourth District Court of Appeal held that Florida's statute of limitations did not bar a garnishment proceeding in a Florida federal court where the writ was issued over eleven years after the original federal judgment.⁹⁷ There the creditor obtained a judgment from a New York federal court in 1987 and registered that judgment in 1993 in the Southern District of Florida pursuant to 28 U.S.C. § 1963,⁹⁸ which enables the judgment to "have the same effect as a judgment of the district court of the district where registered."⁹⁹ In this way, the statute acts much in the same way as the FEFJA does for domesticating foreign judgments in the State of Florida.

The *Burshan* court opined that federal courts had interpreted the words "action on a judgment" too broadly, thereby applying the statute of limitations to situations that did not call for such a restraint.¹⁰⁰ The Fourth District pointed its finger at the First District's *Kiesel* decision as being the source of this erroneous interpretation, instead of limiting the phrase to its proper "precise meaning as a common law cause of action."¹⁰¹ The court defined this cause of action as the method of obtaining "a new judgment which will facilitate the ultimate goal of securing satisfaction of the original cause of action" and can be used to renew the limitation period of an old

92. See *In re Tranter*, 245 B.R. at 422.

93. See, e.g., *Hess v. Patrick*, 164 So. 3d 19, 22 (Fla. Dist. Ct. App. 2015); *Desert Palace, Inc. v. Wiley*, 145 So. 3d 946, 948 (Fla. Dist. Ct. App. 2014); *645 W. 44th St. Assocs. v. Koch*, No. 13-61475, 2014 WL 1652035, at *2 (S.D. Fla. Apr. 24, 2014).

94. Unfortunately, anomalous decisions still pop up on occasion. In the same year as the *Tranter* case, the Bankruptcy Court for the Middle District of Florida enforced a California judgment against a debtor because that debtor had only recently established his residency in Florida. See *In re Conrad*, 252 B.R. 559, 561 (Bankr. M.D. Fla. 2000). The court determined that the intent of the Florida legislature was that the statute of limitations "should not begin to run until the time when the courts of this state had jurisdiction to adjudicate between the parties upon a particular cause of action." *Id.* (citing *Van Deren v. Lory*, 100 So. 794 (Fla. 1924)). This case appears to be an outlier, fortunately.

95. FLA. STAT. § 95.11(1)–(2) (2015).

96. See *Burshan v. Nat'l Union Fire Ins. Co.*, 805 So. 2d 835, 838 (Fla. Dist. Ct. App. 2001).

97. *Id.* at 837.

98. *Id.* at 837–38.

99. *Id.* at 839 (quoting 28 U.S.C. § 1963 (2000)).

100. See *id.* at 840.

101. *Id.*

judgment once the new judgment is obtained.¹⁰² After a lengthy historical lesson, the court held that “neither the 1999 garnishment proceeding nor the 1993 registration of the judgment under 28 U.S.C.A § 1963 was an ‘action on a judgment’ within the meaning of section 95.11(2)(a).”¹⁰³ This put *Burshan* in direct conflict with the First District’s *Kiesel* opinion, which held that a creditor’s petition for writ of mandamus was barred by the five-year statute of limitations period because it was an action on a judgment of the Southern District of Florida.¹⁰⁴ The First District also expressed disagreement with the Eleventh Circuit’s *Bush* decision, discussed *supra*, since it had ruled that post-judgment discovery in aid of execution was barred by section 95.11(2)(a) and thus was an “action on a judgment.”¹⁰⁵

While neither *Kiesel* nor *Burshan* are bankruptcy cases, it is easy to see how the conflict they represent can potentially affect bankruptcy practitioners. If the phrase “action on a judgment” is to be construed as narrowly as the *Burshan* decision suggests, then Florida’s statute of limitations would likely never apply to a creditor’s claim in a bankruptcy estate. Under *Burshan*’s interpretation, the only action that would trigger section 95.11(2)(a) would be a traditional common law action to domesticate an out-of-state judgment in Florida. All other types of actions, including post-judgment discovery, writs of execution or garnishment, or claims in a bankruptcy proceeding, would potentially lack any kind of statute of limitation. At most, the action or claim would only be limited by the effectiveness of the judgment in the judgment’s home jurisdiction.¹⁰⁶ At least one decision subsequent to *Burshan* has agreed with its logic with respect to proceedings in aid of execution.¹⁰⁷

The better reasoning would be to subject a creditor’s claims in bankruptcy to some kind of statute of limitations. Based on the overwhelming weight of decisional authority, as outlined herein, it seems that the applicable statute of limitations would be that of the forum state. But how should a “claim” based on a foreign judgment be viewed in bankruptcy: As a kind of independent cause of action, or as a method of execution? It is true that the filing of an independent suit based on a foreign judgment is fundamentally different than seeking to execute on that judgment in Florida.¹⁰⁸ However, there should be an incentive for creditors to swiftly seek enforcement of their judgments and not simply wait for a debtor to fall into bankruptcy.

102. *Burshan*, 805 So. 2d at 841 (quoting *Adams v. Adams*, 691 So. 2d 10, 11 (Fla. Dist. Ct. App. 1997)). The only limitation on this cause of action, it seems, is that the merits of the original cause of action cannot be relitigated in the new action. *See id.* (citing *Klee v. Cola*, 401 So. 2d 871, 872 (Fla. Dist. Ct. App. 1981)).

103. *Id.* at 843.

104. *Kiesel v. Graham*, 388 So. 2d 594, 595 (Fla. Dist. Ct. App. 1980).

105. *Burshan*, 805 So. 2d at 844 (citing *Balfour Beatty Bah., Ltd. v. Bush*, 170 F.3d 1048, 1050–51 (11th Cir. 1999)). The court also expressly disagreed with an opinion from the Bankruptcy Court for the Middle District of Florida, which held that Florida’s statute of limitations barred a garnishment proceeding. *Id.* (citing *Kilby v. Ilgen (In re Kilby)*, 196 B.R. 627 (Bankr. M.D. Fla. 1996)).

106. *See* FLA. STAT. § 95.10 (2015) (“When the cause of action arose in another state or territory of the United States, or in a foreign country, and its laws forbid the maintenance of the action because of lapse of time, no action shall be maintained in this state.”).

107. *See Milliken & Co. v. Haima Grp. Corp.*, 654 F. Supp. 2d 1374, 1376, 1380 (S.D. Fla. 2009) (holding that Florida’s five-year limitation period is inapplicable to a writ of garnishment issued more than five years after entry of foreign judgment).

108. *See Corzo Trucking Corp. v. West*, 61 So. 3d 1285, 1289 (Fla. Dist. Ct. App. 2011) (explaining that post judgment proceedings “are merely continuations of an action, which create nothing anew, but may be said to reanimate that which before had existence”) (quotations omitted).

It is notable that the bankruptcy decisions surveyed, *supra*, largely ignore the distinction between a claim based on a foreign judgment and a normal post-judgment enforcement mechanism, such as a writ of garnishment. This may be a practical consideration given the volume of cases and claims handled by a typical bankruptcy court; an overly complicated analysis that requires judges to determine what constitutes an “action on a judgment” is probably not workable. A simpler solution would be to read the plain language of section 95.11—as it is understood by modern jurists—and apply a five-year limitation period for foreign judgments in a Florida bankruptcy proceeding, unless that foreign judgment had been duly registered pursuant to the FEFJA, making it a Florida judgment in every way.

It also makes little practical or legal sense to distinguish a simple bankruptcy claim from an adversary proceeding to determine dischargeability. A creditor should not be penalized for taking a more “aggressive” posture in a bankruptcy proceeding by seeking additional relief. Even if a creditor’s six-year-old judgment is not barred by Florida’s statute of limitations in bankruptcy, filing an adversary proceeding does not suddenly change the character of the underlying judgment. In that instance, the claim’s enforceability should remain constant despite the creditor’s decision to seek a judgment of non-dischargeability.

III. A BRIEF SURVEY OF RELEVANT DECISIONS OUTSIDE FLORIDA

An analysis of federal court decisions outside Florida reveals an array of opinions on choice of law in bankruptcy. Several courts have blessed the use of a federal choice-of-law analysis in bankruptcy courts. In *In re Lindsay*, the United States Court of Appeals for the Ninth Circuit was called upon to decide the applicable law for determining whether a foreclosure sale that took place in Texas resulted in a fraudulent conveyance with respect to the California bankruptcy proceeding.¹⁰⁹ The Ninth Circuit stated that “[i]n federal question cases with exclusive jurisdiction in federal court, such as bankruptcy, the court should apply federal, not forum state, choice of law rules.”¹¹⁰ Forum shopping, the court reasoned, could be mitigated if federal courts are not bound by the forum state’s choice-of-law rules.¹¹¹ It went on to hold that Texas law applied to the foreclosure, since the foreclosed real property was located in Texas.¹¹² This result, however, appears to have been a *fait accompli*, since it does not seem likely that even a bankruptcy court applying California choice of law would have ended up using anything but Texas law, given the unique nature of real property.¹¹³

The United States Court of Appeals for the Fifth Circuit, in *Woods-Tucker Leasing Corp. v. Hutcheson-Ingram Development Co.*,¹¹⁴ declined to take a firm

109. *Lindsay v. Beneficial Reinsurance Co. (In re Lindsay)*, 59 F.3d 942, 945 (9th Cir. 1995).

110. *Id.* at 948.

111. *Id.*

112. *Id.*

113. The Ninth Circuit went on to confirm this sentiment, declaring that “[n]o serious argument can be made for applying the law of any state but Texas to the Texas real estate foreclosure.” *See id.* at 949.

114. *Woods-Tucker Leasing Corp., v. Hutcheson-Ingram Dev. Co.*, 642 F.2d 744 (5th Cir. 1981).

stance on either side. In that case, the court was asked whether a bankruptcy court in Texas was compelled to apply the law of Texas or Mississippi with respect to a loan transaction that had a Mississippi choice-of-law provision in the contract but whose terms were contradictory to Texas usury laws.¹¹⁵ While recognizing that neither the Supreme Court nor the Fifth Circuit had resolved the “threshold question” of whether a bankruptcy court must apply the choice of law of its forum state, it ultimately determined that application of a federal choice-of-law rule or the forum state’s choice-of-law rule would both lead to the same outcome.¹¹⁶ For this reason, the court declined to decide the dispute one way or the other. The United States Courts of Appeals for the Second¹¹⁷ and Seventh¹¹⁸ Circuits later came to similarly unsatisfying conclusions.

The United States Court of Appeals for the Fourth Circuit came to a different conclusion in *In re Merritt Dredging Co.*¹¹⁹ There the creditor and bankruptcy trustee sought to determine their rights with respect to the debtor’s barge and to whether the law of South Carolina or Louisiana would apply.¹²⁰ The Fourth Circuit ultimately determined that since “no overwhelming federal policy requires [the court] to formulate a choice-of-law rule as a matter of independent federal judgment,” then the bankruptcy court should use the choice of law of the forum state, in this case, South Carolina.¹²¹ Like the *Lindsay* decision, the Fourth Circuit cited uniformity as a compelling reason for its decision.¹²² But, rather than federal uniformity, the Fourth Circuit praised uniformity with the Supreme Court’s *Klaxon* decision insofar as a federal bankruptcy court’s application of its forum state’s choice-of-law rules would “enhance the predictability in an area where predictability is crucial.”¹²³ This logic has its own merit, given that bankruptcy courts act similarly to courts sitting in diversity—they invariably are called upon to decide the property interests of parties located in more than one jurisdiction. And, the Fourth District concluded, “It would be anomalous to have the same property interest governed by the laws of one state in federal diversity proceedings and by the laws of another state where a federal court is sitting in bankruptcy.”¹²⁴

A survey of individual bankruptcy court decisions yields an even more diverse array of conclusions. Some courts have simply applied the forum state’s choice-of-

115. *Id.* at 745–46.

116. *Id.* at 748–49.

117. *Koreag, Controle et Revision S.A. v. Refco F/X Assocs., Inc. (In re Koreag, Controle et Revision S.A.)*, 961 F.2d 341, 350 (2d Cir. 1992) (“For purposes of this appeal, however, we need not untangle the interwoven features of state and federal law, for we discern no significant difference between the applicable federal and New York choice-of-law rules.”).

118. *In re Morris*, 30 F.3d 1578, 1582 (7th Cir. 1994) (determining that Iowa law would apply no matter what approach the court used); *see also In re Jafari* 569 F.3d 644, 651 (7th Cir. 2009) (explaining that Nevada substantive law would apply regardless of what choice-of-law rules were used).

119. *Compliance Marine, Inc. v. Campbell (In re Merritt Dredging Co.)*, 839 F.2d 203 (4th Cir. 1988).

120. *Id.* at 204–05.

121. *Id.* at 206.

122. *See id.*; *see also Lindsay v. Beneficial Reinsurance Co. (In re Lindsay)*, 59 F.3d 942, 948 (9th Cir. 1995).

123. *In re Merritt Dredging Co.*, 839 F.2d at 206.

124. *Id.*

law provisions.¹²⁵ Other courts have instead conducted a federal choice-of-law analysis.¹²⁶ Still other courts have avoided the issue by not affirmatively adopting one choice or the other.¹²⁷ It is clear, then, that appellate courts have a long way to go in creating a unifying precedent with respect to choice-of-law analysis, since bankruptcy courts have been left to develop their own determinations based on the limited guidance from higher authorities.

CONCLUSION

Despite decades of indecision from all levels of courts—from bankruptcy courts to the Supreme Court of the United States—there is still little clarity on how federal courts sitting in bankruptcy must decide choice-of-law issues. The result is that debtors, creditors, and bankruptcy practitioners alike should all be cautious when approaching such an issue in a bankruptcy proceeding. As it so often seems, courts left to their own devices have managed to complicate a matter that could, in theory, be quite simple. For what it is worth, it is the author’s opinion that *Klaxon* had it right all along: bankruptcy courts, like federal courts sitting in diversity, must be cognizant of the fact that their task is to adjudicate a diverse array of interests in a relatively uniform manner and that this goal necessarily intersects with state law. Bankruptcy claims and bankruptcy assets do not cease to retain their essential character—derived from state property rights—simply because the debtor files a bankruptcy petition.

It is also true that bankruptcy courts are, in essence, last-chance enforcement proceedings for creditors. For these reasons, it makes logical sense that bankruptcy courts should apply the procedural choice-of-law rules of the state in which they sit. Applying a federal choice-of-law framework would only further distance the bankruptcy proceeding from its core function as an arbiter of state-law property rights. This is why Florida bankruptcy courts should take the distinction between Florida’s five-year and twenty-year statute of limitation periods seriously and honor

125. See, e.g., *In re Eagle Enters., Inc.*, 223 B.R. 290, 292 (Bankr. E.D. Pa. 1998) (“In most instances bankruptcy courts rely on the rule observed by federal district courts hearing diversity cases and use the choice of law rules of the forum state.”); *Tyler v. Putman (In re Putman)*, 110 B.R. 783, 793–94 (Bankr. E.D. Va. 1990) (following the *Merritt* decision); *In re Velasco*, 13 B.R. 872, 874 (Bankr. W.D. Ky. 1981) (applying forum state’s choice of law without analysis); *Thico Plan, Inc. v. Maplewood Poultry Co. (In re Maplewood Poultry Co.)*, 2 B.R. 550, 553 (Bankr. D. Me. 1980) (“It is well settled in cases involving citizens of different states that the federal courts, including bankruptcy courts, must apply the substantive law of the forum state, including choice-of-law rules.”).

126. See, e.g., *In re Segre’s Iron Works, Inc.*, 258 B.R. 547, 551 (Bankr. D. Conn. 2001) (“[T]he bankruptcy court should employ its power to apply and create federal common law by exercising its *independent judgment* as to choice of law.”); *Limor v. Weinstein & Sutton (In re SMEC, Inc.)*, 160 B.R. 86, 91 (M.D. Tenn. 1993) (“[T]he choice of law test that this district court sitting in bankruptcy will apply is the most significant contacts test.”); *In re Ovetsky*, 100 B.R. 115, 117 (Bankr. N.D. Ga. 1989) (“If this Court is not compelled under *Erie* to apply Georgia law, it must examine the equities of the situation in order to determine which state’s law should control.”); *Kaiser Steel Corp. v. Jacobs (In re Kaiser Steel Corp.)*, 87 B.R. 154, 160 (Bankr. D. Colo. 1988) (conducting a “most significant contacts” approach); *In re Barney Schogel, Inc.*, 12 B.R. 697, 700 (Bankr. S.D.N.Y. 1981) (relying on 4B COLLIER ON BANKRUPTCY ¶ 70.49, p. 605–06 (14th ed. 1976)).

127. See, e.g., *Dzibowski v. Friedlander (In re Friedlander Capital Mgmt. Corp.)*, 411 B.R. 434, 441 (Bankr. S.D. Fla. 2009) (“Because the result is the same under the three approaches discussed below, the Court declines to adopt a particular approach in this case.”); *Garrett v. Cook (In re Cook)*, No. 7-04-17704 SA, 2009 WL 2913241, at *3 (Bankr. D.N.M. Apr. 15, 2009) (determining that court would apply Nevada law regardless of whichever choice-of-law analysis it used).

the state's foreign judgment registration and enforcement statute. Doing so would create an easily workable analysis for bankruptcy courts: foreign judgments should be subject to Florida's five-year limitation period, unless that judgment was properly registered in Florida pursuant to the FEFJA. In that case, the judgment should be treated like any other Florida judgment subject to a twenty-year limitation period. Any other type of analysis would needlessly complicate a fundamentally simple issue. If the former happens, bankruptcy attorneys and judges will be able to rest easy once again.