

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

-----	:	CASE NO. 1:04 MC 7
THE SOCIETY OF LLOYD'S	:	
	:	
	:	
	:	Plaintiff
	:	
	:	<u>ORDER DISMISSING PLAINTIFF'S</u>
-vs-	:	<u>NOTICE OF FILING FOREIGN</u>
	:	<u>JUDGMENT</u>
	:	
	:	
JOHN STEINER ROBY	:	
	:	
	:	Defendant
-----	:	

UNITED STATES DISTRICT JUDGE LESLEY WELLS

Before this Court is defendant John Steiner Roby's motion to dismiss and/or strike, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(f), plaintiff's Notice of Filing Foreign Judgment. (Docket #5). Plaintiff Society of Lloyd's ("Lloyd's") filed a memorandum in opposition on 11 March 2004. (Docket #8). Rather than submitting a reply, Mr. Roby filed a Notice of Filing Bankruptcy on 24 March 2004. (Docket #9). Because Mr. Roby has filed for bankruptcy and because Lloyd's has also initiated a civil action, the Court dismisses plaintiff's Notice of Filing Foreign Judgment.

On 11 March 1998, Lloyd's, a corporation organized under the laws of England and with its principal place of business in London, England, obtained a money judgment ("English Judgment") in England against defendant Mr. Roby, a citizen of the State of

Ohio. (Cupps Aff. at ¶¶ 2-3). The Judgment, entered by the High Court of Justice, Queen's Bench Division, Commercial Court, was in the principal amount of ^156,336.72, together with interest thereon at a rate of 8% per annum. (Cupps Aff. at ¶ 4). This Judgment remains unsatisfied in its entirety. (Cupps Aff. at ¶ 4).

On 15 January 2004, plaintiff Lloyd's filed a Notice of Filing Foreign Judgment against defendant John Steiner Roby in order to attain recognition in this Court of its 1997 English Judgment. (Docket #1 and #8, at 1). In his motion to dismiss and/or strike Lloyd's Notice of Filing of Foreign Judgment, Mr. Roby argues that Lloyd's is not capable of filing a Foreign Judgment in this Court and that this Court lacks subject matter jurisdiction. Because the asserted basis of this Court's jurisdiction is founded on the grant of alienage jurisdiction in 28 U.S.C. § 1332, the attempted recognition of a foreign judgment in this Court is governed by the forum state's full faith and credit principles. Kahrs v. Rio Verde Energy Corp., 604 F.Supp. 877 (S.D. Ohio 1985).

Like at least 28 other states, Ohio has enacted the Uniform Foreign Country Money-Judgments Recognition Act ("Foreign Judgments Recognition Act" or the "Act"). See O.R.C. § 2329, prec. 2329.90, references and annotations. The Ohio version of the Foreign Judgments Recognition Act provides, in pertinent part, that:

[A]ny foreign country judgment that is final, conclusive, and enforceable where rendered shall be recognized and enforced by the courts of this state . . . Such a foreign country judgment is enforceable in this state in the same manner as a judgment of another state that is entitled to full faith and credit."

O.R.C. § 2329.91(A). While Section 2329.92 of the Act sets forth several bases for the

non-recognition of foreign country judgments, Mr. Roby does not rely on any of these in his motion to dismiss.

Rather, the crux of the parties' disagreement lies in the manner in which Lloyd's has sought recognition of its judgment against Mr. Roby. Specifically, Mr. Roby claims that Lloyd's may not invoke Ohio's Foreign Judgments Recognition Act in federal court simply by filing notice of the judgment; rather, he contends that Lloyd's must actually commence a civil action. Lloyd's argues that either manner – by complaint or by notice – of invoking the Act in federal court is appropriate. While this issue may present important practical implications regarding the enforcement of foreign judgments generally, the question, in this case, is merely one of academic interest. To prevent the parties and the Court from being “distracted further by this issue,” Lloyd's has filed a civil action in the Northern District of Ohio, Case No. 1:04 CV 400, against Mr. Roby, which is before Judge Solomon Oliver. (Docket #8, at 7).

Moreover, on 24 March 2004, Mr. Roby filed a notice with the Court that he has filed a Voluntary Petition for Bankruptcy, pursuant to Chapter Seven of the Bankruptcy Code. (Docket #9). Upon filing of a bankruptcy petition, an automatic stay, pursuant to 11 U.S.C. § 362(a), simultaneously arises, forbidding the commencement or prosecution of most actions against the debtor or its property. Chao v. Hospital Staffing Services, Inc., 270 F.3d 374, 382 (6th Cir. 2001). While the automatic stay has exceptions, none are immediately apparent in Mr. Roby's case.

Given that Lloyd's has also filed a civil action against Mr. Roby, this Court, rather

than simply staying this case, dismisses plaintiff Lloyd's miscellaneous action against defendant John Steiner Roby.

IT IS SO ORDERED.

/s/Lesley Wells  
UNITED STATES DISTRICT JUDGE