



## Business Law Section

### Insolvency Law Committee

June 25 2019

Dear constituency list members of the Insolvency Law Committee, the following is a case update analyzing a recent case of interest, *In re Harish Venkat Reddy and Deepika Basi Reddy*, 589 B.R. 867 (E.D. Cal 2018).

#### SUMMARY

In *Reddy*, the bankruptcy court reviewed the law and procedure for registering a federal judgment in another district while the judgment is on appeal and concluded that there was “good cause” within the meaning of 28 U.S.C. § 1963 to permit registration of the judgment in two other federal districts, even before the appeal was concluded.

#### FACTS

After the bankruptcy court entered a non-dischargeable judgment against the debtors for \$8.46 million, the debtors filed an appeal without posting a supersedeas bond to stay enforcement. The nonexempt assets in the Eastern District of California were inadequate to satisfy the judgment, yet potentially nonexempt assets were located in two other judicial districts; Western District of Texas and Central District of California. The judgment creditor filed a motion in the bankruptcy court seeking registration of the judgment in these two other judicial districts. The court granted the motion and authorized the registration.

#### REASONING

The bankruptcy court’s analysis focused on its review of 28 U.S.C. Section 1963, which entailed a review of basic federal judgment enforcement procedure. Section 1963 is applicable to registration of a judgment in another district “when the judgment has become final by appeal or by expiration of the time for appeal *or when ordered by the court that entered the judgment for good cause shown.*” (Emphasis added)

The “good cause shown” clause was enacted in 1988 to balance 28 U.S.C. Section 1963 and Rule 62(d) of the Federal Rules of Civil Procedure. Absent an out-of-district registration, a judgment creditor could not obtain a judgment lien in that other district. That restriction could be critical to the judgment creditor’s successful execution on the judgment by limiting the pool of available assets. Judgment debtors could use the delay occasioned by an appeal to transfer assets out of the reach of creditors. The bankruptcy court explained that the addition of the “good cause” requirement to the statute in 1988 enabled a judgment creditor to proceed to enforcement of a judgment that was on appeal. That is, the judgment debtor could not use the fact of the pending appeal to prevent registration in another district and frustrate enforcement of the judgment in that district even without posting an appeal bond. Thus, while enforcement of the judgment would not be stayed in the district where the judgment was rendered (because no supersedeas bond had been posted), the judgment creditor could not register and or enforce the judgment in another district during the pendency of the appeal unless the court where the judgement had been entered first authorized such registration based on good cause shown.

In this case, the bankruptcy court found the existence of “good cause” because (a) there were insufficient assets listed in the debtors’ schedules located within the Eastern District of California to satisfy the judgment, (b) there were multiple parcels of non-exempt real estate assets located in the Western District of Texas, and (c) there were colorable allegations of the debtors’ transfer of assets to persons in the Central District of California to insulate them from execution. These allegations were credible based on the debtors’ lack of credibility in testimony at trial, as well as the debtors’ demonstrated “patent animosity, evasiveness and willingness to manipulate assets in order to frustrate collection.” All of these factors led the court to find that “good cause” had been shown, and registration of the judgment in other districts was therefore authorized, despite the pendency of the appeal of that judgment.

#### **AUTHOR’S COMMENTARY**

Judge Klein’s analytical opinion is a useful summary of the federal law and procedures governing registration of a judgment in another district. Where a judgment debtor appeals a judgment but does not post an appeal bond to stay enforcement, he cannot preclude registration and enforcement of that judgment in other districts if the court finds there is good cause to do so. This seems a desirable provision because out-of-district assets should not be any less accessible than forum assets during an appeal.

*These materials were prepared by ILC member Gregory M. Salvato of Salvato Law Offices in Los Angeles ([gsalvato@salvatolawoffices.com](mailto:gsalvato@salvatolawoffices.com)), with editorial contributions from ILC members Gary B. Rudolph of Sullivan Hill Rez & Engel ([rudolph@sullivanhill.com](mailto:rudolph@sullivanhill.com)) and Adam A. Lewis of Morrison & Foerster ([ALewis@mof.com](mailto:ALewis@mof.com)).*

Best regards,

**Insolvency Law Committee**

#### **Co-Chair**

Marcus O. Colabianchi  
Duane Morris LLP  
[mcolabianchi@duanemorris.com](mailto:mcolabianchi@duanemorris.com)

#### **Co-Chair**

Rebecca J. Winthrop  
Norton Rose Fulbright US LLP  
[rebecca.winthrop@nortonrosefulbright.com](mailto:rebecca.winthrop@nortonrosefulbright.com)

#### **Co-Vice Chair**

Kyra E. Andrassy  
Smiley Wang-Ekvall, LLP  
[kandrassy@swelawfirm.com](mailto:kandrassy@swelawfirm.com)

#### **Co-Vice Chair**

Gary B. Rudolph  
Sullivan Hill Rez & Engel, APLC  
[rudolph@sullivanhill.com](mailto:rudolph@sullivanhill.com)