

SUPREME COURT OF THE STATE OF DELAWARE

Storick v. CFG LLC

Storick v. CFG LLC · No. No. 472, 2014 · Decided March 30, 2015

SUMMARY

The Delaware Supreme Court affirmed the Superior Court's judgment permitting CFG LLC to enforce a confessed judgment against Scott Storick and release garnished wages held in escrow. The Court held that Storick waived challenges to execution of the Delaware judgment and to the statutory limitation on multiple wage attachments by failing to object or raise those arguments timely. The Court also concluded that the appeal lacked merit and affirmed on grounds different from those relied upon by the Superior Court.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Karen L. Valihura; Holland; Valihura; Vaughn
JURISDICTION	Delaware
DECIDED	March 30, 2015
DOCKET	No. 472, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's denial of Storick's motion for reconsideration and appeal from a Commissioner's order denying a motion to vacate judgment and granting CFG's motion to release garnished wages held in escrow.
STANDARD OF REVIEW	Questions of law are reviewed de novo. Questions of fact are reviewed for abuse of discretion, and the trial judge's findings are accepted unless clearly wrong.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order; precedential value not expressly characterized in the opinion.
PARTIES	Scott Storick v. CFG LLC

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QUESTIONS PRESENTED

1. Whether Florida's head-of-family wage exemption barred attachment in Delaware of Storick's wages to enforce a Delaware judgment.
2. Whether Storick waived his challenge to execution of the Delaware judgment by failing to object or appear at the noticed execution hearing.
3. Whether Storick waived his claim that 10 Del. C. § 4913(b) limited attachment of his wages to one attachment.
4. Whether the Superior Court's judgment should be affirmed on grounds different from those relied upon by the Superior Court.

HOLDINGS

1. Storick waived his right to challenge execution of the Delaware judgment in Delaware because he received notice of the execution hearing, failed to appear or object, and offered no explanation for that failure.
2. Storick waived his claim that his MetLife wages could not be subject to more than one attachment under 10 Del. C. § 4913(b) because he failed to raise the claim before the Superior Court in a timely manner.
3. The Delaware Supreme Court may affirm the Superior Court's judgment on grounds different from those relied upon below when the record supports affirmance; here, the judgment was affirmed based on Storick's waiver.

KEY QUOTATIONS

“Under these circumstances, we conclude that Storick waived his right to challenge execution of the Delaware judgment—on a debt which he continues to admit he owes—in Delaware.” (12)

“We therefore affirm the Superior Court’s judgment, albeit on different grounds from those relied upon by the Superior Court.” (13)

FACTUAL BACKGROUND

CFG loaned Storick and Storick & Associates \$743,548.47, and the borrowers defaulted. During Storick's bankruptcy proceedings, the parties entered into a settlement agreement acknowledging a \$540,000 debt, providing for confession of judgment in Delaware, and agreeing that the debt was nondischargeable; the Bankruptcy Court approved the agreement and granted stay relief for CFG to obtain the agreed Delaware judgment. After CFG obtained the judgment and served notices concerning execution and wage attachment, Storick failed to object or appear at the January 13, 2012 execution hearing, and CFG later obtained release of garnished wages held in escrow.

PROCEDURAL HISTORY

CFG obtained a Delaware confessed judgment against Storick based on an amended settlement agreement approved by the Bankruptcy Court. After CFG pursued execution and attachment of Storick's wages, Storick moved to vacate the judgment and writs of attachment, asserted Florida's head-of-family exemption, and later argued that Delaware law limited his wages to one attachment. The Superior Court rejected his arguments after de novo review, and the Delaware Supreme Court affirmed, relying in part on waiver and affirming on grounds different from those used by the Superior Court.

DISPOSITION

affirmed

CASES CITED

- Storick v. CFG, LLC, 2013 WL 363116, at *1 (11th Cir. Jan. 31, 2013)
- Roca v. E.I. du Pont de Nemours & Co., 842 A.2d 1238, 1242 (Del. 2004)
- Reserves Dev. LLC v. Crystal Properties, LLC, 986 A.2d 362, 367 (Del. 2009)
- County Bank v. Thompson, 2013 WL 7084479, at *3-6 (Del. Super. Ct. Dec. 5, 2013), aff'd, 2014 WL 2601626 (Del. June 10, 2014)
- Alexander v. Cahill, 829 A.2d 117, 129 (Del. 2003)
- In re Kinder Morgan, Inc. Corp. Reorganization Litig., 2014 WL 5667334, at *3 n.1 (Del. Ch. Nov. 5, 2014)
- Unitrin, Inc. v. Am. Gen. Corp., 651 A.2d 1361, 1390 (Del. 1995)