Vacatur of Foreign Judgments: Options for Collateral Relief in Courts of Registration

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VACATUR OF FOREIGN JUDGMENTS: OPTIONS FOR COLLATERAL RELIEF IN COURTS OF REGISTRATION

I. INTRODUCTION

The American system of government consists of sovereign states bound together by a federal government that possesses limited powers.\(^1\) Since the earliest days of the republic, judicial bodies have entertained actions to enforce judgments that were rendered in different states.\(^2\) Courts have long believed that the judicial body registering the judgment ("registering court" or "court of registration") is not bound to do so unless the court rendering the judgment ("rendering court" or "court of rendition") has jurisdiction of the parties and of the subject-matter.\(^3\) The Federal

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\(^1\) See Dred Scott v. Sandford, 60 U.S. 393, 447-48 (1856) (describing powers of the federal government), superseded by U.S. CONST. amend. XIV. In Dred Scott, Chief Justice Taney wrote:

\[\text{The principle upon which our Governments rest, and upon which alone they continue to exist, is the union of States, sovereign and independent within their own limits in their internal and domestic concerns, and bound together as one people by a General Government, possessing certain enumerated and restricted powers, delegated to it by the people of the several States, and exercising supreme authority within the scope of the powers granted to it, throughout the dominion of the United States.}\]

\[\text{Id.}\]


\[\text{The force and effect of judgments rendered against non-residents without personal service of process upon them, or their voluntary appearance, have been the subject of frequent consideration in the courts of the United States and of the several States, as attempts have been made to enforce such judgments in States other than those in which they were rendered . . . .}\]

\[\text{Id.}\]

\(^3\) Id. The Second Restatement also adopts this view:

\[\text{A judgment rendered in one state and relied upon as the basis of a claim or defense in a subsequent action in another state may be avoided . . . on the ground that the judgment was rendered without compliance with the requirement . . . that the court rendering the judgment have had territorial jurisdiction and jurisdiction of the subject matter of the action . . . .}\]
Rules of Civil Procedure adopt this traditional position by allowing parties to petition the court for relief from a final judgment if the judgment is void, i.e., if the rendering court lacked jurisdiction.\footnote{FED. R. CIV. P. 60(b)(4) (allowing relief from a final judgment where “the judgment is void”). Rule 60(b)(4) allows a defendant to collaterally attack judgments rendered in a sister court by challenging the sister court’s jurisdiction. See Ariel Waldman, Comment, Allocating the Burden of Proof in Rule 60(b)(4) Motions to Vacate a Default Judgment for Lack of Jurisdiction, 68 U. CHI. L. REV. 521, 522 (2001) (“[V]alid personal jurisdiction is required for a court to enforce a judgment.”); see also Milton Roberts, Annotation, Lack of Jurisdiction, or Jurisdictional Error, as Rendering Federal District Court Judgment “Void” For Purposes of Relief Under Rule 60(b)(4) of Federal Rules of Civil Procedure, 59 A.L.R. FED. 831, § 2[a] (1982) (noting judgment is void under Rule 60(b)(4) if rendering court lacked jurisdiction).}

Jurisdictional deficiencies are not the only grounds for relief from final judgment under the Rules; indeed, Federal Rule of Civil Procedure 60(b) (“Rule 60(b)”) provides a total of six grounds for relief.\footnote{See FED. R. CIV. P. 60(b). Rule 60(b) states:}

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;
(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
(4) the judgment is void;
(5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
(6) any other reason that justifies relief.

\footnote{See The Value of the Distinction Between Direct and Collateral Attacks on Judgments, 66 YALE L.J. 526, 526-27 (1957) (“Non-jurisdictional defects . . . render a judgment voidable, but not void . . . . In contrast, a court’s failure to obtain jurisdiction over the parties or subject matter makes a judgment void.”); RESTATEMENT (FIRST) OF JUDGMENTS § 4 cmt. b (1942) (discussing voidness of judgment when court lacks personal jurisdiction or competency).}

Thus, the traditional view has been that a party could only make
collateral attacks against judgments on a theory of jurisdictional deficiency.\(^8\)

The Seventh and Third Circuit Courts of Appeals, however, reject this traditional view. The Seventh Circuit has held that registering courts lack the power to entertain motions to vacate foreign judgments for jurisdictional deficiencies.\(^9\) In contrast, the Third Circuit has recently given registering courts the power to vacate foreign judgments on grounds that the rendering court lacked jurisdiction, and has indicated that registering courts may vacate pursuant to the catch-all provision of Rule 60(b)(6).\(^10\) This note investigates the procedural implications of these three deviate approaches. Part II of this note examines the history and nature of

\[^\text{8}\text{]}\text{ Id.; see also 12 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE \S 60.60[3][c], at 214 (3d ed. 1997) ("[i]f a judgment is truly void, it is subject to collateral attack in virtually any subsequent proceeding."). A "collateral attack" is defined as "[a]n attack on a judgment in a proceeding other than a direct appeal; esp., an attempt to undermine a judgment through a judicial proceeding in which the ground of the proceeding is that the judgment is ineffective." BLACK'S LAW DICTIONARY 278 (8th ed. 2004) (parentheses omitted). A "direct attack" is defined as: [a]n attack on a judgment made in the same proceeding as the one in which the judgment was entered; specif., the taking of proceedings in the action in which a judgment has been rendered to have the judgment vacated or reversed or modified by appropriate proceedings in either the trial court or an appellate court.}\n
\[^\text{9}\text{]}\text{ Id. at 492.}\n
\[^\text{10}\text{]}\text{ See Sheet Metal Workers' Nat'l Pension Fund v. Elite Erectors, Inc., 212 F.3d 1031, 1034 (7th Cir. 2000) (requiring all Rule 60(b) motions be presented to rendering court).}\n
\[^\text{11}\text{]}\text{ See Budget Blinds, Inc. v. White, 536 F.3d 244, 254 (3d Cir. 2008) ("[W]e decline to hold that registering courts lack the power in all situations to invoke Rule 60(b)(6) to set aside judgments."). This "loosely-drafted clause" was intended to "codify specific grounds for relief from judgments, while reserving some equitable power in the court to do 'practical justice.'"}\n
II. HISTORY

The text of the original Rule 60(b), adopted in 1937, provided a procedure for relief from a judgment based on mistake, inadvertence, surprise, or excusable neglect. It was not until the amendment in 1946, however, that the void judgment provision of Rule 60(b)(4) and catch-all provision of Rule 60(b)(6) were added. The rule has not been substantively altered since 1946. In its current form, Rule 60(b) is typically “used to relieve parties from the effect of a default judgment mistakenly entered against them.”

The First Circuit Court of Appeals takes the traditional approach to cases involving vacatur of foreign judgments. The First Circuit has stated that registering courts may not grant relief from foreign judgments unless the judgment is jurisdictionally deficient or there are grounds that support an independent equitable action. In reaching this conclusion, the First

11 See infra Part II (discussing history).
12 See infra Part III (analyzing implications and arguing for contraction of options for collateral relief).
13 See FED. R. CIV. P. 60(b) (1937); see also MOORE ET AL., supra note 7, § 60App.10[1], at 3 (stating text of original rule as adopted in 1937).
14 See FED. R. CIV. P. 60(b) (1946); see also MOORE ET AL., supra note 7, 60App.11[1], at 3-4 (stating text of original rule as amended in 1946).
15 See FED. R. CIV. P. 60(b) advisory committee’s note (describing substantive effects of various amendments). The committee notes that the 1948 amendment merely substituted a new statutory reference. Id. The committee also explains that “[n]o substantive change [was] intended” by the 1987 amendment, and that the 2007 amendment to Rule 60 was due to a “general restyling of the Civil Rules.” Id.
17 See Indian Head Nat’l Bank of Nashua v. Brunelle, 689 F.2d 245, 251-52 (1st Cir. 1982) (“[A] registration court errs in entertaining a Rule 60(b) motion that alleges neither a judgment void for lack of personal jurisdiction nor grounds that would support an independent equitable action.”). Indian Head involved a contract dispute filed in the Eastern District of Pennsylvania by IPA Systems against Conproco, a Delaware Corporation. Id. at 246-47. A default judgment was entered against Conproco after it failed to file an answer. Id. IPA sought to register the judgment in the District of New Hampshire and attempted to attach Conproco’s bank account at Indian Head National Bank. Id. Conproco sought and was granted relief in the New Hampshire district court under Rule 60(b)(6). Id. at 248. On appeal, the First Circuit considered “whether the registration court properly exercised its authority in granting Rule 60(b) relief and taking jurisdiction of the underlying action.” Id.
Circuit was strongly influenced by the history of the 1946 amendment to Rule 60(b). The First Circuit also noted that confining Rule 60(b) motions to rendering courts furthers important judicial policy goals, such as improving judicial efficiency.

Many of the other circuits take the position adopted by the First Circuit, holding that vacatur is appropriate in the case of jurisdictional deficiencies. For instance, the Second Circuit held that "Rule 60(b)(4) may be invoked in the registration court to obtain relief from a foreign default judgment attacked as void for lack of personal jurisdiction over the parties against whom it was rendered." More recently, the Fifth Circuit held that although allowing registering courts to sustain jurisdictional challenges to foreign default judgments under Rule 60(b)(4) impedes judicial efficiency and comity, deference to the court of rendition is not necessarily appropriate when the challenged judgment is a default judgment. The Ninth Circuit has held that courts of registration have

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18 See id. at 248 (indicating intent of drafters). Specifically, the Indian Head court found that, "[t]he advisory committee notes to the 1946 amendment reflect an understanding that Rule 60(b) motion practice would be made in the court rendering judgment." Id. The advisory committee amended the rule to clarify the following situation:

Two types of procedure to obtain relief from judgments are specified in the rules as it is proposed to amend them. One procedure is by motion in the court and in the action in which the judgment was rendered. The other procedure is by a new or independent action to obtain relief from a judgment, which action may or may not be begun in the court which rendered the judgment.

FED. R. CIV. P. 60(b) advisory committee's note. According to the court in Indian Head, the first type of procedure was a reference to the type of motion Rule 60(b) covers, whereas the "other" type of procedure was not. Indian Head, 689 F.2d at 248.

19 See Indian Head, 689 F.2d at 249 (indicating reasons why most registering courts decline to rule on Rule 60(b) motions). The First Circuit noted that referring questions of relief to the court that actually entered the judgment improves comity among the federal trial courts. Id. (citing Fuhrman v. Livaditis, 611 F.2d 203, 205 (7th Cir. 1979)). Also, the court that entered judgment is more likely to be familiar with the issues of that case. Id. Finally, this method simplifies collection of judgments. Id.

20 See Budget Blinds, Inc. v. White, 536 F.3d 244, 253-54 (3d Cir. 2008) (noting Second, Tenth, Fifth, and Ninth circuits require bringing Rule 60(b) motions in rendering court).

21 Covington Indus., Inc. v. Resintex A. G., 629 F.2d 730, 734 (2d Cir. 1980). In Covington, the court noted that although Rule 60(b) motions should generally be brought in the rendering court, the justification for this procedure no longer exists in the event of a default judgment. Id. at 733. In the case of a default judgment, the court of registration is usually just as familiar with the facts of the case as is the court of rendition. Id. For this reason, the court of registration "seems as qualified to determine the jurisdiction of the rendering court, particularly when the latter is a federal court of coordinate authority." Id. But see United States ex rel. Mosher Steel Co. v. Fluor Corp., 436 F.2d 383, 385 (2d Cir. 1970) (upholding order of registering court referring parties to rendering court).

22 See Harper Macleod Solicitors v. Keaty & Keaty, 260 F.3d 389, 395 (5th Cir. 2001) (holding registering courts may rely on Rule 60(b)(4) to void foreign default judgments).
wide discretion to entertain motions challenging foreign judgments, but such motions are disfavored. And lastly, the Tenth Circuit has previously held that registering courts should defer Rule 60(b) motions to rendering courts unless there is a jurisdictional deficiency or grounds for an independent action. Thus, the majority rule adopted by the First, Second, Fifth, Ninth, and Tenth Circuits is that Rule 60(b) motions should be made in the rendering court, but need not be when the judgment contains a jurisdictional deficiency or grounds for an independent equitable action.

The Seventh Circuit takes a narrower view on the power of registering courts to alter judgments under Rule 60(b). The Seventh Circuit has held that registering courts lack the authority to entertain motions to vacate foreign judgments pursuant to Rule 60(b). In reaching this conclusion, the Seventh Circuit strictly construed 28 U.S.C. § 1963, which governs the registration of judgments for enforcement in other district courts. The Seventh Circuit has also relied on important policy

Specifically, the court in Harper rejected the contention in Elite Erectors that Rule 60(b) motions must be presented to the court of rendition. The court reasoned that the federal system's general disdain for default judgments justified allowing a defendant to "challenge a rendering court's personal jurisdiction in a court in which enforcement of a default judgment is attempted." See Fed. Deposit Ins. Corp. v. Aaronian, 93 F.3d 636, 639 (9th Cir. 1996) ("A court of registration has jurisdiction to entertain motions challenging the underlying judgment."). The Aaronian court, however, noted that it preferred post-judgment relief motions be filed with the rendering court. See Rector ex rel. Morris v. Peterson, 759 F.2d 809, 811 (10th Cir. 1985) (holding registering court may grant relief under Rule 60(b)).

See Harper Macleod Solicitors, 260 F.3d at 394 (noting the Seventh Circuit differs from the majority of circuits on this issue); Budget Blinds, 536 F.3d at 259 ("The Seventh Circuit is an outlier on this issue."); Best W. Int'l, Inc. v. Super Sunrise, LLC, No. 08-42-DLB, 2008 WL 5134126, at *3 (E.D. Ky. Dec. 5, 2008) ("Only one Circuit, the Seventh Circuit Court of Appeals, has held that Rule 60(b)(4) motions must be presented to the rendering court."); On Track Transp., Inc. v. Lakeside Warehouse & Trucking Inc., 245 F.R.D. 213, 219 (E.D. Pa. 2007) ("The Seventh Circuit is alone in holding that only the rendering court has the power to entertain a Rule 60(b) motion.").

See Sheet Metal Workers' Nat'l Pension Fund v. Elite Erectors, Inc., 212 F.3d 1031, 1034 (7th Cir. 2000) (requiring Rule 60(b) motions to be presented to the rendering court). In Elite Erectors, a pension fund brought suit in Virginia against Elite Erectors and its alter egos for failing to contribute to the fund as required by a collective bargaining agreement. Id. at 1033. Elite and the alter egos defaulted and the fund sought to enforce the judgment in Indiana. Id. Elite's alter egos filed a Rule 60(b)(4) motion on grounds that the Virginia district court lacked personal jurisdiction, which the Indiana district court granted. Id. at 1033-34. On appeal, the Seventh Circuit considered whether "a district court in which a judgment is registered . . . may modify or annul that judgment under Rule 60(b)." Id. at 1034.

A judgment in an action for the recovery of money or property entered in any court of appeals, district court, bankruptcy court, or in the Court of International Trade may be registered by filing a certified copy of the judgment in any other district or, with
considerations, such as comity among the district courts and efficient judicial administration.\textsuperscript{28}

In contrast to the majority rule and the Seventh Circuit rule, the Third Circuit recently expanded options for relief from judgments available in registering courts. In addition to allowing vacatur for jurisdictional deficiency, the Third Circuit permits registering courts to use the catch-all provision under Rule 60(b)(6) for vacating judgments rendered by other district courts.\textsuperscript{29} Although the Third Circuit agrees with the majority rule insofar as Rule 60(b) motions should generally be made in courts of rendition, it does not preclude the possibility of allowing registering courts

\begin{quote}
respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown. Such a judgment entered in favor of the United States may be so registered any time after judgment is entered. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.
\end{quote}

\textsuperscript{28} U.S.C. § 1963 (2000) (emphasis added). In essence, § 1963 allows “parties who have obtained a judgment in one district court to ‘register’ that judgment in another federal district court for purposes of enforcement.” Moore et al., supra note 7, § 60.60[3][a], at 212. According to the Elite Erectors court, some courts have erroneously read this statute to mean:

that the original judgment becomes a judgment of the court in which it has been registered, and therefore may be modified or set aside by the court of registration. But § 1963 does not say that the original judgment becomes a local one; it says that the original judgment has the effect of a local judgment. This is a substantial difference, because the registered judgment does not lose its existence in the court that rendered the decree.

Elite Erectors, 212 F.3d at 1034 (citations omitted). Thus, the Indiana district court was free to disregard the judgment if the Virginia court lacked jurisdiction, but was not free to vacate the judgment under Rule 60(b). \textit{Id}. \textsuperscript{28}

\textsuperscript{28} See Fuhrman v. Livaditis, 611 F.2d 203, 205 (7th Cir. 1979) (noting deference to rendering court furthers judicial comity and efficiency). The Fuhrman case involved a defendant seeking relief in an Illinois district court under Rule 60(b) for lack of personal jurisdiction after a plaintiff sought to enter a default judgment rendered by an Iowa district court. \textit{Id}. at 203-04. Although the court noted that “a registering court presented with a motion for relief from judgment based on lack of personal jurisdiction must [not] in every instance defer to the court which originally issued the judgment,” it opined that “such deference is not an abuse of discretion in this case.” \textit{Id}. at 205.

\textsuperscript{29} See Budget Blinds, 536 F.3d at 254 (declining to hold registering courts lack power to invoke Rule 60(b)(6)) (footnote omitted). In Budget Blinds, Budget Blinds, Inc. (“BBI”) and White both conducted businesses under the name “Budget Blinds.” \textit{Id}. at 246. BBI paid White to stop using its company name pursuant to a settlement agreement. \textit{Id}. at 247. When advertisements for White’s company still appeared using the “Budget Blinds” name, BBI brought suit in the Central District of California. \textit{Id}. at 248. After obtaining a default judgment against White, BBI sought to register the judgment in the District of New Jersey. \textit{Id}. at 249. The New Jersey district court granted White’s motion to vacate the default judgment under Rule 60(b)(6). \textit{Id}. at 250. On appeal, the Third Circuit considered whether registering courts have the power under Rule 60(b)(6) to vacate foreign judgments. \textit{Id}. at 251.
to invoke Rule 60(b)(6) to vacate judgments. Critics of the Third Circuit approach have noted that such an interpretation "creates a circuit split where none existed before."

III. ANALYSIS

A. The Majority Approach

Perhaps the most persuasive reason for allowing vacatur of foreign judgments in the event of jurisdictional defect is the inherent power of courts to void such judgments. A judgment entered by a court lacking personal jurisdiction over the subject of the judgment is a nullity. As the Second Circuit noted in Covington, "[w]hen, in an enforcement proceeding, the validity of the judgment is questioned on this ground, the enforcing court has the inherent power to void the judgment, whether the judgment was issued by a tribunal within the enforcing court's domain or by a court of a foreign jurisdiction." Registering courts' inherent power to vacate foreign judgments for jurisdictional defect have prompted courts adopting the majority approach to find that parties may raise Rule 60(b)(4) motions in the registering court.

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30 See id. at 254-55 (indicating holding of case). However, the Budget Blinds court also noted that "'extraordinary circumstances' must be present to justify the use of the Rule 60(b)(6) catch-all provision to vacate the judgment." Id. at 251.
31 Id. at 266 (Cowen, J., concurring in part and dissenting in part). Judge Cowen agreed with the majority decision insofar as it allows registering courts to entertain motions to vacate foreign judgments under Rule 60(b)(4), but dissented on the grounds that the majority's opinion allows registering courts to also consider Rule 60(b)(6) motions to vacate foreign judgments under extraordinary circumstances. Id. at 266-67.
32 See Indian Head Nat'l Bank of Nashua v. Brunelle, 689 F.2d 245, 250 (1st Cir. 1982).
33 Covington Indus., Inc. v. Resintex A. G., 629 F.2d 730, 732 (2d Cir. 1980).
34 Id.; see also Adam v. Saenger, 303 U.S. 59, 62 (1938) ("[I]n a suit upon the judgment of another state the jurisdiction of the court which rendered it is open to judicial inquiry . . .").
35 See Indian Head, 689 F.2d at 250 (noting registering courts may entertain Rule 60(b)(4) motions). The court in Indian Head outlined the following cases in which the registering court entertained a Rule 60(b)(4) motion: Covington, 629 F.2d 730, Donnelly v. Copeland Intra Lenses, Inc., 87 F.R.D. 80 (E.D.N.Y. 1980), abrogated by Burda Media, Inc. v. Viertel, 417 F.3d 292 (2d Cir. 2005), Radiation Tech., Inc. v. Southern Rad, Inc., 68 F.R.D. 296 (N.D. Ga. 1975), and Graciette v. Star Guidance, Inc., 66 F.R.D. 424 (S.D.N.Y. 1975). Id. The Indian Head court read these cases as "refusals of the courts of registration to dismiss allegations that the judgments were void simply because the judgment debtor raised the claim in a motion based on Rule 60(b)." Id. at 251 (citing Covington, 629 F.2d at 733). In other words, even if Rule 60(b) motions really are limited to courts of rendition—as the Seventh Circuit claims—Rule 60(b)(4) motions should still be allowed in registering courts because the rendering court's jurisdiction may be challenged at any time. Id. The motion's label should not dictate the court's disposition. Fed. Deposit Ins. Corp. v. Aaronian, 93 F.3d 636, 639 (9th Cir. 1996).
In addition, it makes sense to allow the registering court to evaluate jurisdiction of the rendering court when the party seeking to register the judgment chose that particular forum.\textsuperscript{36} The Covington court noted that “[r]ecognizing the power in a different court to determine the jurisdiction of the rendering court is particularly appropriate when the party who obtained the default judgment is attempting to enforce it in another court.”\textsuperscript{37} If the party seeking enforcement chooses to avail himself of a particular forum, then fairness dictates that the forum should have the power to question the underlying validity of the original judgment before choosing whether to register the judgment.\textsuperscript{38}

\textbf{B. The Seventh Circuit Approach}

The Seventh Circuit has relied heavily on the text of § 1963 in reaching its conclusion that registering courts are not permitted to entertain Rule 60(b) motions.\textsuperscript{39} Section 1963 permits litigants to register judgments in one district court that are obtained in another district court.\textsuperscript{40} Since the text of § 1963 states that a rendering court’s judgment merely has the effect of a registering court’s judgment, the Seventh Circuit reasoned that registering courts lack the power to modify the judgment under Rule 60(b).\textsuperscript{41} Therefore, while a registering court may refuse to give a jurisdictionally deficient judgment effect, it may not vacate the judgment.\textsuperscript{42}

In addition to the textual argument that § 1963 makes Rule 60(b)
motion practice impermissible in registering courts, the Seventh Circuit stressed that such a rule furthers judicial policy goals. One such goal is "comity among the federal district courts." If district courts had wide latitude to vacate judgments entered by other district courts, comity in the federal judiciary would cease to exist. Thus, the registering court must refer questions of relief from judgment to the court that originally entered the judgment.

Another judicial policy goal is efficient judicial administration. Because rendering courts will likely be far more familiar with the case and circumstances surrounding the judgment, it makes sense for registering courts to defer motions for postjudgment relief to them. Furthermore, deference to the rendering court simplifies the collection of judgments. A plaintiff who seeks to register his judgment in a foreign jurisdiction avoids repetitious litigation by eliminating the additional step of defending the merits of his original judgment.

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43 See Fuhrman v. Livaditis, 611 F.2d 203, 205 (7th Cir. 1979) (outlining major policy considerations).
44 Id. Comity is defined as "[a] practice among political entities involving esp. mutual recognition of legislative, executive, and judicial acts." BLACK'S LAW DICTIONARY 284 (8th ed. 2004) (parentheses omitted).
45 See Elite Erectors, 212 F.3d at 1034 (explaining importance of comity). In Elite Erectors the court notes, "[a] judgment may be registered in many districts, and it would not make much sense to allow each of these districts to modify the judgment under Rule 60(b), potentially in different ways." Id. (citation omitted).
46 See Wright, Miller, & Kane, supra note 40, § 2787, at 36 ("[I]t has been thought desirable as a matter of comity to require the moving party to seek relief from the court in which the judgment originally was rendered.").
47 See Fuhrman, 611 F.2d at 205 (highlighting importance of efficient judicial administration).
48 See Wright, Miller, & Kane, supra note 40, § 2865, at 377-78 (suggesting rendering court's familiarity with judgment is grounds for deference); see also Coleman v. Patterson, 57 F.R.D. 146, 148 (S.D.N.Y. 1972) (considering whether registering court may grant Rule 60(b) relief from judgment rendered by another court). The Coleman case involved a default judgment entered in the Southern District of Texas and registered in the Southern District of New York. Id. at 147. The court found "[t]he interests of judicial economy would not be served by transferring all files bearing on these issues to New York for a de novo hearing." Id. at 149.
49 See Coleman, 57 F.R.D. at 149 (observing simple collection of judgment thwarted by allowing party to contest judgment in registering court).
50 See Indian Head Nat'l Bank of Nashua v. Brunelle, 689 F.2d 245, 249 (1st Cir. 1982) (mentioning straightforward collection of judgments furthered by deference to rendering court); see also Coleman, 57 F.R.D. at 149 (finding purpose of registration of judgments procedure is to simplify collection of judgments). In Coleman, the court found that:

This aim [of judicial efficiency] would be thwarted should a defendant be allowed to hamper collection by contesting aspects of the judgment in each District Court in which that judgment is registered; the time and expense required to oppose multiple motions would be an unfair burden on the plaintiff who had obtained a valid judgment.
C. The Third Circuit Approach

The Third Circuit focused on the plain meaning of Rule 60(b)(6) when it indicated that vacatur of a rendering court’s judgment may be possible under the rule. The drafters intended Rule 60(b)(6) to be a vague catch-all provision, presumably because they thought the other five scenarios listed in Rule 60(b) provided inadequate relief on their own. In light of the Third Circuit’s view, such a logical inference regarding the intent of the drafters trumps the language of the advisory committee. As the Third Circuit stated, “[g]iven the catch-all nature of Rule 60(b)(6), we do not think that it would be wise to adopt a rule that categorically forbids district courts from vacating the judgments of other district courts under this provision.”

Moreover, the Third Circuit in Budget Blinds found that the party seeking relief must demonstrate the existence of “extraordinary circumstances” to justify vacatur under Rule 60(b)(6). This added requirement ensures that vacatur will be applied only to situations in which the facts cause the injustice of registration to be so great that it outweighs the damage vacatur would inflict upon comity. The Third Circuit, however, did not delineate what exactly constitutes “extraordinary circumstances,” noting only that the facts in Budget Blinds fell “far short.”

Lastly, the Third Circuit’s approach is even more practical when

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51 See Budget Blinds, Inc. v. White, 536 F.3d 244, 254 n.10 (3d Cir. 2008) (noting the importance of the text of the rule).
52 See id. at 254 (discussing impossibility of accounting for all scenarios in which justice might require vacatur without catch-all).
53 See id. at 254 n.10 (determining that text of rule is more important than advisory committee notes). As noted by the First Circuit in Indian Head, the advisory committee expressed a belief that Rule 60(b) motion practice should be limited to the rendering court. Indian Head, 689 F.2d at 248. In contrast, the Second Circuit in Budget Blinds found the text of Rule 60(b)(6) more persuasive than the advisory committee’s notes. Budget Blinds, 536 F.3d at 254 n.10. Moreover, the Budget Blinds court noted that the majority approach does not strictly adhere to the advisory committee’s language because it allows Rule 60(b)(4) motions to be entertained by registering courts. Id.
54 Budget Blinds, 536 F.3d at 254.
55 Id. at 255.
56 See id. The “extraordinary circumstances” requirement ensures that remedies will be available to the registering court in the event that an extreme set of facts presents itself. Id. The Budget Blinds court noted that “[a]ny such set of facts would probably be sufficient to form the basis of an ‘independent equitable action.'” Id. at 255 n.12.
57 Id. at 254-55.
the original judgment is a default judgment. Federal courts generally disfavor default judgments. To ensure cases are decided on the merits, Rule 60(b) should not be strictly construed to prohibit the vacatur of default judgments. Furthermore, the court of rendition will have no more familiarity with a default judgment than the court of registration, thereby negating the Seventh Circuit’s efficient judicial administration argument.

IV. CONCLUSION

The advisory committee notes for Rule 60(b) suggest that motion practice under that rule should be confined to the court of rendition. This rule seems to further the goals of judicial comity and efficiency. It is clear, however, that with the lone exception of the Seventh Circuit Court of Appeals, none of the federal judicial circuits adhere rigidly to this rule. All but the Seventh Circuit take the position that Rule 60(b)(4) motions can be brought in the court of registration. This is because the jurisdiction of the court rendering the underlying judgment is always open to judicial examination. The pragmatic approach of the majority of circuits is to allow registering courts to entertain Rule 60(b)(4) motions in the case of jurisdictional deficiency. The Third Circuit, however, does not stop there and allows Rule 60(b)(6) motions to be entertained by registering courts where “extraordinary circumstances” exist. The Third Circuit has provided no guidance on what set of facts would rise to such a level. Thus, in the context of registering foreign judgments, the availability of collateral relief depends in part on the location of the registering court.

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58 See id. at 254 n.11 (noting factors supporting majority approach are less persuasive in the case of default judgments).
59 See 10A WRIGHT, MILLER, & KANE, supra note 40, ¶ 2693, at 99 (noting unfavorable view of default judgments). “Despite the strength of the policies supporting the use of the default penalty, federal judges view default judgments with disfavor; as a result, they favor trials on the merits with full participation by all the parties.” Id. at 99-100.
60 See Budget Blinds, Inc. v. White, No. 05-CV-388, 2006 WL 891187, at *1 (D.N.J. Apr. 5, 2006) (stating liberal construction should be given to Rule 60(b) to set aside default judgments).
61 See Budget Blinds, 536 F.3d at 254 n.11 (questioning whether rendering court any more familiar with default judgment than registering court).