

>> SUPREME COURT OF FLORIDA IS
NOW IN SESSION.
>> THE COURT PROCEEDS TO THE
THIRD CASE ON TODAY'S DOCKET,
YOUNG BOCK SHIM VERSUS FREDERICK
BUECHEL.
FORGIVE ME IF I MISPRONOUNCED
IT.

>> GOOD MORNING.
MAY IT PLEASE THE COURT, JOHN
BOGDANOFF FOR THE PETITIONER'S.
THIS IS A DEAL INVOLVING A
PROCEEDING SUPPLEMENTARY, BUT
ACTUALLY THE ISSUES ARE PRETTY
INTERESTING AS THEY INVOLVE
ISSUES OF SOVEREIGNTY AND
SEPARATION OF POWERS.
THE CONFLICT ISSUE BETWEEN THE
FIFTH DCA DECISION AND THIS CASE
AND IN THE FOURTH DCA DECISION
IN A SERGEANT RELATES TO WHETHER
A FLORIDA TRIAL COURT HAS
JURISDICTION IN PROCEEDINGS
SUPPLEMENTARY PURSUANT TO
SECTION 5625 OVER ASSETS OR AN
ASSET LOCATED IN A FOREIGN
COUNTRY.

THE TRIAL COURT RELYING IN PART
ON THE SERGEANT DECISION ON
THE FOURTH DCA, HELD THAT IT
LACKED A SUBJECT MATTER
JURISDICTION UNDER 57.29.
OVER THE ASSET LOCATED IN KOREA,
THE FIFTH DCA DISAGREED, HELD
THAT A FLORIDA COURT HAS IN
PERSONAM JURISDICTION AND
AUTHORITY UNDER 56 AND 29 TO
COMPEL THE PETITIONER, SHAME TO
TURN OVER A FOREIGN ASSET TO THE
FLORIDA COURT IN THE PROCEEDING
SUPPLEMENTARY.

>> I'M SORRY TO INTERRUPT.
WHAT IS THE ASSET AT ISSUE?
IS IT THE CHECK OR IS IT FUNDS
ON ACCOUNT?
>> ACCORDING TO THE ORDER OF THE
TRIAL COURT, IT'S ESSENTIALLY
BOTH.
IT'S THE CHECK REPRESENTING
FUNDS ON ACCOUNT IN A SOUTH
KOREAN BANK.
>> SO, THEN MY QUESTION ABOUT
THAT IS, IF ONE OF THE ASSETS IS

FUNDS IN A KOREAN FINANCIAL INSTITUTION, DO YOU AGREE THAT SOMETHING MUST BE DONE TO DOMESTICATE THAT JUDGMENT IN KOREA AND THE SEIZE THOSE ASSETS IS SOMEHOW?

WHAT IF ANYTHING HAS BEEN DONE TO GIVE EFFECT TO THIS JUDGMENT IN THE COURTS OF THAT COUNTRY?

>> TO MY KNOWLEDGE, NOTHING.

WE BELIEVE THE FIFTH DCA DECISION IS ERRONEOUS ON BOTH COUNTS THAT THE TRIAL COURT HAD NEITHER SUBJECT MATTER JURISDICTION NOR IN PERSONAM JURISDICTION, WHICH WOULD EXTEND IT TO THIS ASSET LOCATED IN THE SOUTH KOREA.

UNDER FLORIDA DECISIONAL LAW IN PERSONAM JURISDICTION OVER THE PETITIONER, SHIM, DOES NOT EXTEND TO ADJUDICATING ISSUES OF THE RIGHT TO POSSESSION ENTITLED TO AN ASSET LOCATED IN A FOREIGN COUNTRY.

THE DECISIONS RELIED ON BY THE FIFTH DCA HOLDING THAT THE TRIAL COURT HAD IN PERSONAM JURISDICTION, WHICH WOULD EXTEND TO REQUIRING AND COMPELLING THE PETITIONER TO BRING THIS ASSET FROM SOUTH KOREA INTO THE FLORIDA COURT ARE AN ACT--INAPPLICABLE BECAUSE THEY BASICALLY FALL INTO TWO DIFFERENT CAMPS.

>> COUNCIL, ARE YOU FAMILIAR WITH THE DECISION OF THE SUPREME COURT IN FALL?

>> YES.

>> OKAY.

WHAT DO YOU SAY WHERE THE SUPREME COURT IN A FALL SAID THAT A COURTS PERSONAL JURISDICTION OVER A DEFENDANT GIVES IT AND I QUOTE HERE, POWER TO REQUIRE DEFENDANT TO DO OR REFRAIN FROM DOING ANYTHING BEYOND THE LIMITS OF ITS TERRITORY JURISDICTION, WHICH IT MIGHT HAVE REQUESTED-- MIGHT HAVE REQUIRED TO BE DONE OR OMITTED WITHIN THE LIMITS OF A SUCH A TERRITORY?

>> WELL, THE WEIGHT THAT DECISION HAS BEEN APPLIED IN FLORIDA HAS BEEN TWO DIFFERENT CONTEXT TO.

ONE IS WHERE A REAL PROPERTY SITUATION WHERE THE COURT HAS AUTHORITY TO IMPOSE A CERTAIN REMEDY OVER PROPERTY LOCATED IN A FOREIGN JURISDICTION.

THIS CASE AS WELL AS HER SURE CASE RELIED ON FALL IN SAYING THAT IN THAT CONTEXT WHERE PROPERTY IS LOCATED IN A FOREIGN JURISDICTION, THE TRIAL COURT HAVING IN PERSONAM JURISDICTION CAN IMPOSE CERTAIN REMEDIES RELATING TO THAT PROPERTY.

FOR INSTANCE A CONSTRUCTIVE TRUST WAS THAT HER SURE CASE. THE OTHER CASE SEE ONGE, WHICH ALSO RELIED ON THAT CONCEPT WAS A CASE WHERE THE COURT SAID WELL, PERSONAL REPRESENTATIVE CAN ISSUE A DEED RELATING TO PROPERTY LOCATED IN ROMANIA. THE COURT CANNOT AFFECT DIRECTLY AFFECTED TITLE TO THAT PROPERTY.

>> BUT, I'M STRUGGLING TO SEE THE MATERIAL DIFFERENCE BETWEEN THAT AND WHAT WE HAVE HERE.

>> I THINK IN THIS CASE IT'S THE SEIZURE OF AN ASSET LOCATED IN A FOREIGN COUNTRY AND THE REQUIREMENT THAT THE ASSET BE BROUGHT FROM OUR FOREIGN COUNTRY INTO THE FLORIDA COURT.

THAT'S DIFFERENT THAN THOSE CASES THAT HAVE APPLIED THE FALL CONCEPT AND-- IN LANGUAGE WHICH YOU REFERENCE, WHICH INVOLVE IMPOSING CERTAIN REMEDIES ON PROPERTY LOCATED IN A FOREIGN COUNTRY, NOT REQUIRING ANYTHING TO BE BROUGHT BACK TO THIS COUNTRY, BUT IMPOSING CERTAIN REMEDIES THAT INDIRECTLY MAY AFFECT THE PROPERTY.

HERE, WE ARE TALKING ABOUT A DIRECT AFFECT.

DIRECTED TITLE TO THIS ASSET LOCATED IN KOREA IS UNDER THE REQUEST BY THE RESPONDENTS. THEY SAY WE WANT OWNERSHIP OF THAT ASSET AND YOU NEED TO BRING

THAT ASSET BACK FROM SOUTH KOREA INTO THE FLORIDA COURT AND WE OWN IT.

WELL, THAT'S DIRECTLY AFFECTING THE TITLE AND THE CASES DON'T GO THAT FAR.

THEY DON'T SAY YOU CAN DIRECTLY AFFECT THE TITLE.

THEY SAY INDIRECTLY AFFECT THE TYPE WE THINK THIS REQUEST HERE-- I UNDERSTAND IT'S AN INDIRECT EFFECT ON THE PROPERTY, BUT THE COURT IS ACTING ON THE PERSON AND TO THE EXTENT THAT THE PERSON HAS CONTROL OF THE PROPERTY.

IT SEEMS LIKE TO ME THAT THE ACTION ON THE PERSON WOULD BE VIEWED AS HAVING AN INDIRECT ACT WITHIN THIS FRAMEWORK UPON THE PROPERTY.

JUST LIKE IT WOULD IN THESE OTHER CASES YOU ARE TALKING ABOUT.

>> BUT, IN THIS CASE IT'S A DIRECT EFFECT ON THE TITLE TO THE PROPERTY, ON THE OWNERSHIP TO THE PROPERTY.

ACCORDING TO WHAT THE RESPONDENT'S REQUEST, YOU KNOW, THEY SOUGHT AN ORDER TO TURNOVER THE \$4 MILLION TO THE RESPONDENTS.

THEY WANT TITLE TO THIS PROPERTY, SO THIS SEEMS TO GO FAR BEYOND THE CONCEPT THAT YOU CAN INDIRECTLY AFFECT PROPERTY.

THIS IS A DIRECT REQUIREMENT THAT THE PROPERTY UNDER THEIR THEORY THAT THE PROPERTY CAN BE BROUGHT FROM ANOTHER SOVEREIGN NATION INTO THE COURTS OF FLORIDA.

>> BUT, ISN'T THE CRITICAL POINT-- ANY REMEDY FOR NONCOMPLIANCE WOULD JUST BE DIRECTED TO THE INDIVIDUAL, ANY PUNISHMENT OR WHATEVER?

NO ONE IS SAYING THAT THE COURT COULD DIRECTLY DO ANYTHING TO THE PROPERTY, SO, I MEAN.

>> THE COURT IS NOT SENDING THE SHERIFF TO SOUTH KOREA; RIGHT? WE ALL AGREE ON THAT.

PROBABLY WOULDN'T GO ANYWAY.
>> IN THIS CASE, CONCEIVABLY IT
WAS A REQUEST, BUT CONCEIVABLY,
THERE COULD BE THE POSSIBILITY
THAT THE COURT HAS ASKED TO
MAYBE FREEZE AN ASSET OR JOIN
THAT ASSET FROM BEING REMOVED,
BUT THAT WAS NOT THE REQUEST.
THE REQUEST HERE WAS WE WANT
THAT ASSET BROUGHT INTO THE
STATE OF A FLORIDA AND SO THAT
IS A DIRECT ACTION ON THE ASSET.
THAT'S NOT AN INDIRECT ACTION.
AN INDIRECT ACTION MAY BE
FREEZING AN ASSET OR IN JOINING
A CERTAIN EFFORT TO TRANSFER
THAT ASSET.
THOSE WOULD BE MORE INDIRECT.
THOSE WERE NOT REQUESTED HERE.
THOSE ARE NOT THE ISSUE IN THIS
CASE.

THIS IS, WE WANT TO THAT ASSET
AND WE WANT YOU TO COMPEL THE
PETITIONER TO BRING THAT ASSET
BACK TO FLORIDA.

>> IF I HEAR YOU RIGHT, YOU ARE
CONCEDING THAT WHO KNOWS WHAT
DATE THIS OBJECT WAS DRAWN.
LET'S SAY THE FUNDS ARE NO
LONGER IN THE ACCOUNT, SO THAT
CHECK IS TENDERED TO THE STATE
ABOVE FLORIDA, BUT IT'S
WORTHLESS BECAUSE THE FUNDS HAVE
LEFT THE STATION APPEARED.
OUR HOLDING THAT THAT BEING
WITHIN OUR SORT OF JURISDICTION
AND BEING EXERCISED, THAT
JURISDICTION, COMMANDING THE
INDIVIDUAL TO TENDER THE ASSET,
THAT IS THE CHECK, WOULD NOT
GIVE US THE SAME JURISDICTION TO
SEIZE AND FREEZE ASSETS.
YOU ARE NOT ARGUING THAT, ARE
YOU?

WE COULD QUICKLY UNSCRAMBLE THE
EGG AND SOMEHOW COMPEL THE BANK
TO PUT THE FUNDS BACK INTO THE
ACCOUNT.

>> I DON'T THINK UNDER THE IN
PERSONAM JURISDICTION THAT ANY
OF THAT CAN BE DONE BECAUSE THAT
WOULD REQUIRE DIRECT AFFECT ON
THE CHECK, ON THE ASSETS IN THE
ACCOUNT AND THAT GOES BEYOND THE

IN PERSONAM JURISDICTION AND NOW
IT'S IMPACTING THE SOVEREIGNTY
OF ANOTHER NATION.

I WOULD SAY THAT GOES BEYOND
WHAT THE SETTLED LAW IS.

YOU KNOW, THE OTHER SERIES OF
CASES INVOLVED WHERE THERE IS A
POSSESSOR INTEREST.

THE GE K AND THE SHANK CASE BOTH
INVOLVE SITUATIONS WHERE THERE
WAS AN ASSET IN FLORIDA, SHANK
WAS A STOCK CERTIFICATE, GENERAL
ELECTRIC WAS AN AIRCRAFT, A JET.
BOTH OF THOSE SITUATIONS, THERE
WAS A STATUTORY LIEN OR
STATUTORY CERTIFIED CERTIFICATED
INTEREST IN THE ASSET.

THAT ASSET WAS THEN TAKEN OUT OF
THE STATE OF FLORIDA.

BUT JET WAS REMOVED AFFECT THE
STOCK CERTIFICATES WERE REMOVED
TO CANADA AND THE COURTS HELD
THAT IN THOSE CASES, THAT THE
FLORIDA COURT DID HAVE THE
ABILITY TO AFFECT THAT-- THOSE
ASSETS.

>> THOSE DO SEEM SOMEWHAT
DISTINCTUAL IN THAT A STOCK
CERTIFICATE OR BEAR A BOND FOR
EXAMPLE IS AN ASSET ON ITS FACE
AND AN AIRCRAFT IS-- READING
CHAPTER 56 TOGETHER, LEVYING ON
THOSE THINGS MAKES SENSE BECAUSE
THEY ARE IN AND OF THEMSELVES
AND ASSET.

CHECK IS DIFFERENT.

CHECK IS NOTHING MORE THAN A
PROMISE TO DISPERSE TO THE ORDER
OF SOMEONE CERTAIN FUNDS.

IT DOESN'T CREATE A LEAN.

LIKE IF I WRITE TWO CHECKS AT
THE SAME TIME AND THEY ARE BOTH
FOR THE SAME AMOUNT AND I ONLY
HAVE ENOUGH TO SATISFY ONE, THE
FIRST PERSON WHO GETS TO THE
BANK WINS.

YOU CAN'T SAY HEY BY THE WAY I
ALSO HAVE THIS ASSET SO IT SEEMS
LIKE THOSE CASES ARE
DISTINGUISHABLE.

>> I DO THINK THOSE CASES ARE
DISTINGUISHABLE IF FOR NO OTHER
REASON THAT THEY DO INVOLVE
POSSESSORY INTEREST THAT ALREADY

EXISTS IN THE STATE ABOVE
FLORIDA ON BEHALF OF THE
LITIGANTS, AND IN THAT CASE THE
STATE ABOVE FLORIDA IS
VINDICATING THE POSSESSORY
INTEREST THAT WAS CREATED IN THE
STATE ABOVE FLORIDA AND THE
ASSET WAS THEN REMOVED AND
FLORIDA IS VINDICATING THAT
STATUTORY OR LIEN ASSET-- LIEN
INTEREST THAT THEY HAVE CREATED.
THAT'S NOT OUR CASE.

OUR CASES TOTALLY DIFFERENT.

>> COUNSEL, COULD I HAVE YOU
KIND OF SWITCH BRIEFLY AND
ADDRESS THE STATUTE 56.29
SUBSECTION SIX AND WHY YOU THINK
THAT DOES NOT GIVE THE TRIAL
COURT THE RIGHT TO ENTER THIS
TYPE OF ORDER?

>> WELL, NOTHING IN THE STATUTE
TALKS ABOUT EXTRATERRITORIAL
EFFECT.

THE FOURTH DISTRICT IN THE
SERGEANT CASE REFUSED TO EXPAND
THE STATUTE BEYOND AFFECT-- INTO
A FOREIGN ASSET.

>> BUT, THEY ADMITTEDLY SAID
THAT WAS A POLICY DECISION.
THERE WAS NOTHING THAT THEY
COULD ACTUALLY READ IN THE
STATUTE ABOUT THAT.

>> WELL, THEY WERE POINTING TO A
NEW YORK CASE THAT INVOLVED A
SIMILAR STATUTE AND THE NEW YORK
COURT HAD READ THE STATUTE
EXTENSIVELY AND HE SAID WELL,
THERE'S NOTHING INDICATING IT
DOESN'T PRECLUDE
EXTRATERRITORIAL EFFECT, SO WE
WILL DETERMINE THAT AS A
JUDICIAL MATTER THAT THE STATUTE
HAS SUCH A FACT.

FLORIDA HAS A TOTALLY DIFFERENT
APPROACH.

WE HAVE CITED CASES IN OUR
BRIEFS THAT IN FLORIDA A STATUTE
IN ORDER TO HAVE
EXTRATERRITORIAL EFFECT, THAT'S
A LEGISLATIVE DECISION.

IF THE LEGISLATURE DETERMINES
EXTRATERRITORIAL EFFECT OF A
STATUTE IS WARRANTED, THEY HAVE
TO PROVIDE THAT IN THE STATUTE.

THERE HAS TO BE A CLEAR INTENT FROM THE LEGISLATURE OF EXTRATERRITORIAL EFFECT. THIS STATUTE, 5629 CONTAINS NO SUCH CLEAR DIRECTIVE. IT SAYS NOTHING ABOUT EXTRATERRITORIAL EFFECT AND SO AS A RESULT, THE LEGISLATURE HAS NOT GIVEN IT TO THAT TYPE OF EFFECT.

SO, IF THE LEGISLATURE DID WANT TO HAVE EXTRATERRITORIAL EFFECT SERGEANT WAS DECIDED IN 2014, THEY HAVE HAD SIX, SEVEN, EIGHT YEARS.

THE LEGISLATURE COULD HAVE GONE BACK AND SAID WELL, SERGEANT COURT REFUSED TO GIVE EXTRATERRITORIAL EFFECT, WE WANT 5629 TO HAVE EXTRATERRITORIAL EFFECT, WE NEED TO AMENDED TO PROVIDE THAT.

THEY HAVEN'T DONE THAT.

>> 5629 SAYS THAT COURT MAY ORDER ANY PROPERTY OF JUDGMENT DEBTOR NOT TO BE LEVIED UPON AND APPLIED TOWARD SATISFACTION OF JUDGMENT-- UNDER JUDGMENT DEBT. THE COURT MAY ENTER ANY ORDERS JUDGMENT OR WRIT TO CARRY OUT THE PURPOSE OF THIS SECTION. THAT'S PRETTY SPECIFIC.

ONCE YOU HAVE-- I HAVE JURISDICTION OVER YOU AND I ORDER YOU TO OBTAIN AND BRING-- MAKE THESE THINGS AVAILABLE.

>> THE CASE LAW WE CITED INDICATES IT'S JUST USING THE WORD "ANY" IS NOT ENOUGH TO PROVIDE EXTRATERRITORIAL EFFECT. IF THE LEGISLATURE INTENDED IT, THEY NEEDED TO BE SPECIFIC USING WORDS LIKE "ANY" DOES NOT SATISFY THE REQUIREMENT. THERE HAS TO BE A SPECIFIC PROVISION SAYING THAT THIS STATUTE IS TO HAVE EXTRATERRITORIAL EFFECT.

>> WHERE IS THAT IN LAW, IN FLORIDA'S LAW?

IS THERE ANY STATUTORY PROVISION YOU CAN DIRECT US DOES TO THAT CREATES BLANKET AGAINST EXTRA TERRITORIALITY UNLESS

SPECIFICALLY INVOKED BY THE LEGISLATURE?

>> NOT THAT I'M AWARE.

I KNOW THERE IS AMPLE DECISIONAL LAW, EQUITABLE LIFE CASE BACK TO 1911 AS WELL AS OTHER CASES THAT WE CITED IN OUR BRIEF TO STAND FOR THAT PROPOSITION THAT IF STATUTE IS GOING TO HAVE EXTRATERRITORIAL EFFECT, IT'S FOR THE LEGISLATURE TO MAKE THE DETERMINATION AND LIKE I SAID IN THIS CASE THE LEGISLATURE HAS HAD EVERY OPPORTUNITY TO MAKE THAT DETERMINATION.

THEY HAVE NOT DONE SO.

SO, WE THINK THE SERGEANT CASE WAS CORRECT AND REFUSING TO READ THE STATUTE BROADLY LIKE THE NEW YORK COURT DID, REJECTING THAT CONCEPT AND NOT JUDICIALLY EXPANDING THE STATUTE TO PROVIDE FOR EXTRATERRITORIAL EFFECT AND TO LEAVE THAT ISSUE TO THE LEGISLATURE AS FLORIDA LAW SUGGESTS.

>> COUNSEL, YOU ARE NOW INTO YOUR ROBOT ALL TIME.

YOU CAN KEEP GOING, BUT YOU ARE CONSUMING YOUR TIME.

>> I WILL SAY MY LAST FOUR MINUTES AND 40 SECONDS.

THANK YOU VERY MUCH.

>> MAY IT PLEASE THE COURT, EDMOND KOESTER FOR THE RESPONDENTS.

I WOULD LIKE TO BEGIN WITH SECTION 56.29 AND THERE IS UNDER SUBSECTION SIX A PART WHERE IT SAYS THE COURT MAY ENTER ANY ORDERS, JUDGMENT OR WRIT REQUIRED TO CARRY OUT THE PURPOSE OF THIS SECTION INCLUDING THOSE ORDERS NECESSARY OR PROPER TO SUBJECT PROPERTY OR PROPERTY RIGHTS OF ANY JUDGMENT, DEBTOR TO EXECUTION.

I SUBMIT TO THE COURT THAT 56.29 SUBPART SIX AND THE WHOLE SECTION IS NOT ONLY BROAD, BUT IS ALSO SPECIFIC.

IT ACTUALLY SAYS THE COURT CAN ENTER ORDERS REQUIRING PROPERTY TO BE SUBJECT TO EXECUTION.

WHAT BRINGS US HERE TODAY IS
BASICALLY A VARIANCE, THE
TESTIMONY IS IT'S A CASHIERS
CHECK AND NEGOTIABLE INSTRUMENT
IN A SAFE IN SOMEONE'S HOME IN
SOUTH KOREA.

THE COURT HAS UNDISPUTED
PERSONAL JURISDICTION OVER THE
DEBTOR.

WE ASK THE COURT TO REQUIRE THE
DEBTOR TO BRING THE BEARER
INSTRUMENT, THE NEGOTIABLE
INSTRUMENT, TO THE STATE OF
FLORIDA TO BE EXECUTED ON.

THERE IS NO EFFORT WHATSOEVER TO
HAVE THE COURT SEND A SHERIFF
OVER, SUNG KIND OF JURISDICTION
TO GO TAKE THE PROPERTY.

IT'S SIMPLE.

THE DEBTOR BRINGS THE CHECK OVER
TO FLORIDA AND THEN WE EXECUTE
ON THE CHECK.

>> DOES IT REQUIRE ANY
ENDORSEMENTS?

>> IT MAY REQUIREMENT
ENDORSEMENTS.

WE DON'T HAVE A COPY OF THE
INSTRUMENT, SO BRING THE
INSTRUMENT OVER, SHOW IT TO THE
COURT IN THAT PROCEEDING
SUPPLEMENTARY, IF IT REQUIRES
ENDORSEMENT AND IT IS NOT TRULY
A VERY BEARER INSTRUMENT OR
CASHIERS CHECK MADE PAYABLE TO
ANYBODY, THE COURT LIKE IT CAN
REQUIRE SOMEONE TO SIGN A DEED,
IT COULD REQUIRE HIM TO ENDORSE
THE CHECK.

>> OKAY.

AND A SAME QUESTION ASKED YOUR
COLLEAGUES, WHAT IF THE FUNDS
REPRESENTED BY THE INSTRUMENT,
YOU ARE CHARACTERIZING IT AS A
BEARER INSTRUMENT, ARE NO LONGER
ON ACCOUNT AT THE BANK.

PLAY THAT OUT FOR ME.

>> GARDEN-VARIETY CONTEMPT
ISSUES.

COURTS ALL THE TIME WHEN THEY
WANT TO PUT SOMEONE IN CIVIL
CONTEMPT ESPECIALLY IF IT IS NOT
TO PAY A DEBT, DO THEY HAVE THE
ABILITY TO PAY, IF THEY HAVE THE
ABILITY TO PAY AND THEY SAY YOU

HAD TO PAY, IN THIS CASE DO YOU HAVE THE BEARER INSTRUMENT, CASHIERS CHECK, HE SAYS YES, THEY SAY SEND IT OVER HERE. IF HE THEN GOES TO THE BANK, CLOSES THE ACCOUNT, MOVES THE MONEY TO JAPAN OR HAWAII OR SOMEWHERE ELSE, THE COURT HAS CONTEMPT POWERS AGAIN, AND CAN SAY WE ENTERED A FINAL JUDGMENT AGAINST YOU.

WE HAD A PROCEEDING SUPPLEMENTARY, WE HAD YOU TESTIFY, WE HAD YOUR DEPOSITION TESTIMONY, WE KNOW YOU HAVE THE MONEY, YOU ADMITTED YOU HAVE THE MONEY AND NOW YOU MOVED IT AGAIN TO CIRCUMVENT THE COURT.

THE COURT AT THAT POINT COULD CONSIDER CONTEMPT, WHICH IS SPECIFICALLY PERMITTED UNDER 56.29 AND COULD CONSIDER INCARCERATION WITH THE CONDITION BEING ACTUALLY GIVE US THE MONEY THIS TIME.

NOBODY IS A SAYING GO OVER TO A BANK IN SOUTH KOREA, JUDGE, AND SOMEHOW ATTACH IT.

>> AGAIN, I WILL ASK THE SAME QUESTION I ASKED YOUR COLLEAGUES, WHAT STEPS IF ANY HAVE BEEN TAKEN TO DO WHAT YOU WOULD DO IN A GARDEN-VARIETY JUDGMENT ENFORCEMENT CASE ABROAD AND DOMESTICATED JUDGMENT IN THE COUNTRY WHERE THE ASSET IS AN ATTEMPT TO ENFORCE THERE ? HAS ANYTHING BEEN DONE?

>> WE HAVE VERY GOOD COUNCIL OVER THERE.

THERE IS LITIGATION OVER THERE WHERE THEY ARE TRYING TO RELITIGATE THE SAME ISSUES IN SOUTH KOREA.

THE NEXT HEARING IS SET FOR MARCH 24.

I WENT OVER TO SOUTH KOREA MYSELF.

IT'S UP ON A-- APPEAL NOW AND MARCH 24, WE BELIEVE WILL BE THE FINAL HEARING.

WE ARE ALSO SEEKING DOMESTICATION OVER THERE AS WELL.

IT DOES RAISE THE POINT, THOUGH,
THAT THE IDEA OF PROCEEDING
SUPPLEMENTARY IN PERSONAM
JURISDICTION IS TO HOLD THE
DEBTOR ACCOUNTABLE.
OTHERWISE, YOU COULD JUST BOUNCE
THE MONEY AROUND THE STATES,
BOUNCE THE MONEY AROUND THE
WORLD, BOWS THE MONEY AROUND THE
COUNTRY.
IF YOU FOUND A COUNTRY THAT
DIDN'T ALLOW DOMESTICATION OF
JUDGMENTS, YOU COULD JUST PUT
THE MONEY OVER THERE EVEN IF YOU
WERE A PLAINTIFF IN FLORIDA,
EVEN IF YOU LOST IN FLORIDA,
EVEN IF THERE WAS A JUDGMENT
AGAINST YOU, YOU COULD JUST JUMP
IT AROUND.
SO, IN THE SERGEANT CASE WHERE
THERE IS DISCUSSION REGARDING
THIS COULD AFFECT YOU KNOW THE
NEED TO DOMESTICATE JUDGMENT, IT
SORT OF MISSES THE POINT.
YOU MAY DOMESTICATE A JUDGMENT
IF YOU NEED TO TRICK YOU MAY NO
LONGER HAVE PERSONAL
JURISDICTION OVER THE DEFENDANT
BECAUSE THEY MAY BE GONE AND YOU
CAN'T GET THEM BACK IN COURT OR
SOMETHING LIKE THAT.
THERE COULD BE REAL PROPERTY.
YOU WANT TO DOMESTICATE A
JUDGMENT, GET YOURSELF IN LINE
AND YOU WANT TO FORECLOSE THE
PROPERTY IN ANOTHER
JURISDICTION, THE DOMESTICATION
PROCESS DOESN'T GO AWAY.
IT'S CLEAR FROM THE CASE LAW
THERE IS A VERY BIG DIFFERENCE
BETWEEN IN RAM AND IN PERSONAM.
WE ARE HERE ONLY ON THE IN
PERSONAM.
WE'RE NOT HEARING ANY OF THOSE
CITED BY FOURTH DISTRICT COURT
OF APPEALS BEING DIFFERENT
BECAUSE THERE WAS A FUEL LIEN
AND THE COURT WAS VERY CLEAR.
THEY WERE ONLY GOING UNDER IN
PERSONAM JURISDICTION AND LIEN
WASN'T PERFECTED THERE WASN'T
NEGATIVE TIEING THE JET TO
FLORIDA AND THEY SAID GE HAS
PERSONAL JURISDICTION OVER E

BRING THE PLANE BACK SO THESE
PEOPLE CAN TRY TO EXECUTE ON IT
AND ENFORCE THEIR LIEN.

THE COURT DIDN'T SAY, WE HAVE A
LIEN, SEND THE ATTORNEY GENERAL
OR SENDING A SHERIFF OF DAVE
COUNTY AND HAVE THEM GO FIND
THAT PLANE AND BRING IT BACK
THEY SAID TO BOEING THEY SAID TO
GE BRING THE PLANE BACK.

>> ARE THERE ANY KIND OF
RESTRICTION ON WHAT IF TAKEN THE
MONEY AND--

BOUGHT A FLEET OF VEHICLES?
IS REQUIRED TO THEN PUT 2020
AUTOMOBILES ON SHIP AND HAVE HAD
SHIP FROM SOUTH KOREA?

>> SUPERINTERESTING I THOUGHT OF
THAT LAST NIGHT HAS A NICE
PORSCHE OVER THERE.

THERE'S DISCRETION FROM THE
TRIAL COURT AS TO WHAT THE TRIAL
COURT DOES.

SO IF YOU SAY THE FLEET OF
TRUCKS OR SOMETHING LIKE THAT IF
WE WERE TO COME IN AND SAY, YOUR
HONOR, WE WANT YOU TO FORCE THIS
DEBTOR TO BRING THIS SUITE OF
TRUCKS OVER AND DEBTOR SAID WAIT
A MINUTE, THERE'S LIENS AND THAT
OTHER JURISDICTION OWN THEM ALL
THE TRANSPORTATION COST WOULD
OUTWEIGH VALUE OF THE TRUCKS
THIS WILL BE OVERLY PRODUCTIVE
THAT'S THE GARDEN VARIETY COURT
EVALUATING WHAT WE'RE DOING AND
HE HAS OTHER ASSETS OVER THERE.

WE WENT FOR THE NEGOTIABLE
INSTRUMENT HEX WAS A CASHIERS
CHECK IN HIS SAFE BECAUSE IT WAS
INSULTING TO CREDITOR AND COURT
TO SAY I HAVE THE MONEY AND I'M
NOT GOING TO GIVE IT TO YOU.

[LAUGHTER]

IF WE LOOKED AT HIS PORSCHE AND
SAID OKAY--

HOW MUCH DOES HE OWE ON IT
WHAT'S IT REALLY WORTH THAT
WE'RE GOING REALLY TRY TO SHIP
IT AND ANY DEALERSHIP LAW OR CAR
LAW THAT WE HAVE TO DEAL WITH
TRYING TO BRING IN A FOREIGN CAR
INTO AMERICA?

AND THE COURT HAS DISCRETION AND

PARTIES HAVE DISCRETION.
IT WILL BE AN ASSET BY ASSET
ANALYSIS BOTH BY THE CREDITOR
AND COURT AND IT WOULD BE UP TO
ALSO WHAT THE DEBTOR HAS TO SAY
AND THERE HAS ALSO BE AN ABILITY
TO COMPLY SO IF YOU REQUIRE
SOMEBODY TO DO SOMETHING USING
IN PERSONAM JURY DICTION THEY
WOULDN'T DO THAT AND GE CASE--
>> SO ANY PERSONAL PROPERTY IS
GAIN SUBJECT TO WHATEVER
DISCRETION TRIAL JUDGE HAS ON
WHETHER IT MAKES SENSE OR NOT?
>> WELL, AND WHETHER DEBTOR
WOULD HAVE ABILITY TO COMPLY AND
EXAMPLE I WAS TO BE GIVE IS
LET'S SAY GE SAID, THE PLANES
BROKE AND HAS BEEN SHUT DOWN BY
THE FAA WE DON'T HAVE QUARTERLY
SERVICES WE HAVE NO WAY TO GET
IT TO MIAMI WE CAN'T BRING IT TO
YOU.
IF THEY WERE THEN TO HOLD GE IN
CONTEMPT AND UP HERE ON THIS
COURT AS TO WHETHER YOU CAN HOLD
SOMEBODY IN CONTEMPT THAT
DOESN'T HAVE ABILITY TO PURGE
TAKE CLEAR RULING WOULD BE THERE
HAD TO BE FACTUAL FINDING THEY
COULD COMPLY BUT YEAH PROCEEDING
SUPPLEMENTALLY WOULD LET YOU GET
AT ANY PERSONAL PROPERTY
ANYWHERE IN THE WORLD IF A
DEBTOR HAD ABILITY TO COMPLY IT
MADE SENSE.
AND IT COULD BE DONE.
>> AND BECAUSE YOU'RE PROCEEDING
TOTAL ON THIS PERSONAM AND
EXTRATERRITORIAL APPLICATION IS
A DISTRACTION BECAUSE--
[INAUDIBLE CONVERSATIONS]
>> TO NOT EXTENDING ITS REACH
ABROAD.
>> CORRECT WE WOULD BE BACK TO
CONTEMPT ISSUES SO IF THE
CANCELED BANK ACCOUNT AT THE
BANK, SO WHEN BEAR INSTRUMENT
WAS PRESENTED IT DIDN'T CLEAR
BECAUSE THE BANK ACCOUNT DIDN'T
EXIST ANYMORE ASSUMING BANK LET
THEM DO IT AND THEY MOVE AROUND
WE WOULD BE BACK IN ANOTHER
EVIDENTIARY HEARING SAY THIS IS

CHECK THAT CAME BACK AS ACCOUNT
CLOSED.

WE WOULDN'T SAY--

YOUR HONOR, LET'S GO AFTER THE
SOUTH KOREAN BANK.

IT WOULD BE, BRING DEBTOR BACK
IN LET'S GET THEM UNDER OATH
WHAT DID HE DO WITH THE MONEY
THIS TIME?

AND WHERE IS IT NOW AND CAN WE
PROVE WHAT HE DID WITH IT?

AND THAT WOULD BE EXACTLY HOW
THE CASE WOULD PROCEED.

AND IT WOULDN'T BE UNDULY
BURDENSOME AT ALL ON THE
JUDICIARY WE SEE THIS HAPPEN IN
ALL OF THE OTHER CASES.

EX-HUSBAND TAKES STOCK AND PUTS
IT IS OVER IN CANADA AND THEY
HAVE TO CANCEL STOCK AND HAVE IT
REISSUED TO GET IT BACK.

IT DOESN'T HAVE ANYTHING TO DO
WITH WHETHER YOU HAVE A SECURITY
INTEREST IN STOCK OR ANYTHING
LIKE THAT.

THE STOCK WAS REMOVED.

THEY DIDN'T SENDING A SHERIFF
OVER TO CANADA TO BRING IT BACK.

THEY MADE THE DEBTOR DO IT.

SAME THING ON ALL OF THESE OTHER
CASES.

YOU KNOW, THAT'S THE WAY IT IS
IN THE SECOND DISTRICT COURT IN
THE DUSA COURSE A TEXAS WIFE HAD
TO SIGN OVER TO THE PROPERTY AND
NAPLES, FLORIDA.

REFUSED TO DO IT.

COURT HAD THE RIGHT TO ENFORCE
IT THEY SAID BY THE WAY, WE'RE
GOING TO IGNORE INTERIM PORTION
OF THE TEXT JUDGMENT THAT SAID
HE NOW OWNS IT AND IGNORE THAT
AND WON'T IT FULL FAITH AND
CREDIT BUT WE'RE GOING ENFORCE
AND GIVE FULL FAITH CREDIT TO
THE JUDGMENT WHICH IS SHE HAS TO
EXECUTE THE DEED.

ASSUMING A CASE TELLING THE
PERSONAL REPRESENTATIVE HE HAS A
DEED PROPERTY OVER IN ROMANIA
FIRST DISTRICT COURT OF APPEALS
ISN'T SAYING WHAT PROPER TITLE
AND GOING OVER THERE AND MESSING
WITH THEIR AFFAIRS SAYING WE'RE

A PROBATE COURT AND OVER A PERSONAL REPRESENTATIVE AND THEY HAVE TO DO IT.

FIFTH DISTRICT COURT OF APPEAL WHEN CALIFORNIA COURT SAID I'M IMPOSING CONSTRUCTIVE TRUST ON PROPERTY IN FLORIDA, THE COURT ENFORCED IT AGAIN, IN PERSONAM SAID FOR EVERYBODY TO ADDRESS HOMESTEAD ISSUES IS THERE A HOMESTEAD PROTECTION IF YOU'VE TAKEN MONEY OUT OF BOUGHT A FLORIDA HOME WITH IT APPELLATE COURT IS NOT DEALING WITH THAT. IT IS RILE TRIAL COURT BUT THAT'S WHAT ALL OF THESE CASES SAY.

THE SERGEANT CASE IS AN OUTLIER AND IF SERGEANT CASE WERE ALLOWED TO BE GOOD LAW AN IF ARGUMENT BY MY STEAM COUNSEL OR THAT COURTS HAVE TO HAVE TERRITORIAL THEY'VE GOT TO FIND SOMETHING IN A STATUTE THAT DISCUSSES TERRITORIAL IMAGINE COMING BACK HERE ON ANYTHING ELSE ON A DISCOVERY MATTER SOMEBODY SAYS, I'VE TAKEN ALL OF THE DOCUMENTS AND HARD DRIVE AND PUT THEM IN ALABAMA.

SO YOUR HONOR I DON'T HAVE TO PRODUCE THEM IN MY DISCOVERY IN FLORIDA BECAUSE THERE'S NOTHING IN 1.350 THAT SAYS IT IS EXTRATERRITORIAL AND COURT WOULD SAY WHAT ARE YOU TALKING ABOUT YOU'RE THE PLAINTIFF IN THE CASE IT IS RELEVANT DISCOVERY I'VE TOLD YOU AND HOLD YOU IN CONTEMPT IF YOU DON'T NO, NO IT IS EXTRA TERRITORY I HAD IT MOVED TO ALABAMA AND IF YOU GET SOME ORDER YOU DOMESTICATE IN ALABAMA I'M MOVING TO GEORGIA NEXT TIME AND WE'RE PLAYED 50 STATE GAME.

IT WOULD HAVE BROAD IMPLICATION TO SUGGEST THAT A COURT WOULD NOT HAVE THE ABILITY TO EXERCISE INPERSONA JURISDICTION REQUIRE PEOPLE TO RESPECT THE COURT AND FOLLOW THE COURT'S ORDERS.

I CAN CONTINUE TO TALK IF ANYBODY HAS ANY OF THE JUSTICES

HAVE MORE QUESTION I'M HAPPY TO ANSWER OTHERWISE NOTHING FURTHER.

THANK YOU.

[INAUDIBLE CONVERSATIONS]

>> JUST BRIEFLY, IN THE BURNS VERSUS ROSEN CASE COURT DID ADDRESS USING TERMS SUCH AS ANY AND ALL IN A STATUTE AS TO WHETHER THAT'S SUFFICIENT TO PROVIDE FOR EXTRATERRITORIAL APPLICATION AND THEY REJECTED THAT CONCEPT.

THEY SAID EXTRATERRITORIAL EFFECT IS NOT TO BE GIVEN BY APPLICATION.

>> HOW DO YOU RESPOND TO COUNSEL'S ARGUMENT THAT ALL OF THAT IS SORT OF A RED HERRING BECAUSE THEY'RE NOT PROCEEDING IN REM AND TRYING TO GET FUNDS ON DEPOSIT THEY'RE TRYING TO COMMEND THIS INDIVIDUAL TO COMPLY OR FACE CONTEMPT. HOW DO YOU ANSWER THAT?

>> THEY ARE SEEKING THE FUNDS. THEY WANT THEM BROUGHT INTO THE STATE OF FLORIDA.

SO THEY'RE--

>> PERHAPS BUT NOT IN THIS ACTION YOUR APPELLATE HAS SAID THEY ARE PROCEEDING SOLELY IN PERSONAM AND REMEDY THEY'RE SEEKING IS--

A COMMAND FOR AN INDIVIDUAL TO BEHAVE A CERTAIN WAY. THEY ARE NOT IN THIS ACTION AT LEAST SEEKING ANY KIND OF IN REM RELIEF DOESN'T THAT HOLD DISCUSSION ABOUT WHOLE EXTRATERRITORIAL EFFECT AND WHY NOT?

>> IT DOESN'T BECAUSE FIRST OF ALL THIS WAS ACTION UNDER 5625. SO IN ORDER TO GIVE EXTRATERRITORIAL EFFECT, THE STATUTE HAS TO PROVIDE THAT. AS FOR THE IN REM ISSUE AND INPERSONAM ISSUE THE CASES ARE DISTINGUISHABLE THAT THE OPPOSING COUNSEL RELIES ON AS WELL AS THE 50 RELIES ON. IN THIS CASE THERE WAS NO ASSET THAT WAS IN FLORIDA THAT THIS--

THAT THE PETITIONER REMOVED TO ANOTHER STATE.

THIS IS A SITUATION WHERE THIS ASSET IS IN KOREA.

HE HAS NOT TAKEN ASSET LIKE THE JET THAT FOR UNPAID FUEL BILLS HAD A LIEN SLAPPED ON IT AND THEN REMOVED FROM THE STATE OF FLORIDA AFTER THAT HAPPENED OR THE CASE WITH THE EX-HUSBAND WHO TOOK THE STOCKS CERTIFICATES THAT HAD BEEN ISSUED IN FLORIDA TOOK THEM AND BROUGHT THEM TO CANADA AND THEN THE FLORIDA COURT SAYS, NO--

NO THAT'S NOT GOING TO CUT IT. NOTICE IN THAT SHANK THAT CAN THE SHANK CASE COURT DIDN'T SAY BRING STOCK CERTIFICATES BACK EVEN WHAT THE COURT SAID IS YOU NEED TO REISSUE NEW STOCK CERTIFICATES AND GIVE IT TO OPPOSING SIDE.

SO EVEN IN THAT CASE, THE COURT DIDN'T SAY, BRING THOSE STOCKS CERTIFICATES BACK.

THIS CASE DOES NOT INVOLVE TAKING ASSETS DOESN'T INVOLVE TAKING DISCOVERY MATERIAL AND MOVING IT OUT OF THE STATE.

THIS IS AN ASSET THAT HAS BEEN IN KOREA THERE'S NO INDICATION WHATSOEVER THAT THIS ASSET WAS HERE IN FLORIDA AND HAS BEEN REMOVED IT SEEMS LIKE DISTINCTION WOULD ONLY PARTY IN IN REM CASES NOT A PERSONAL JURISDICTION CASE.

>> HAS TO BE COUNTY WITH DUE PROCESS AND IF THIS ASSET WAS NEVER IN FLORIDA, THERE'S NO CONNECTION IF WE'RE GOING, YOU KNOW, TALK ABOUT DUE PROCESS AND IN REM THERE'S NO WITH THIS ASSET TO THE STATE OF FLORIDA. SO TO SAY THAT THE STATE OF FLORIDA, THE COURT--

>> WHY DOES THAT MATTER?

>> BECAUSE IN PERSONAM JURISDICTION BASICALLY HAS TO COMPORT WITH DUE PROCESS AND ANY--

>> OVER THE PERSON NOT THE PROPERTY, THOUGH, RIGHT?

>> WELL IN THIS CASE, IT IS THE PERSON WHO'S ASSET IS A KOREAN ASSET JUST AS IF THESE WERE STOCK CERTIFICATES IN KOREA THAT HAD KOREAN CORPORATION THAT HAD NEVER BEEN IN THE UNITED STATES. HAVE NEVER BEEN, YOU KNOW, IN THE STATE OF FLORIDA.

>> COUNSEL TO MAKE SURE I'M CLARIFYING WHAT I'M SAYING LET'S SAY JUDGMENT WAS ENTERED FOR 100,000 DOLLARS.

AGAINST SOMEONE AND THEIR MONEY WAS ON AT ALABAMA BANK.

THAT'S RIGHT NEXT DOOR.

IS IT YOUR POSITION THAT UNDER OATH THEY SAID YES, I HAVE 100,000 DOLLARS IN AN ALABAMA BANK.

OR LEST LET'S SAY A CASHIERS CHECK IN ALABAMA AND WOULD THE COURT IN THIS CASE ALL RIGHT IS IT YOUR POSITION THEY WOULD NOT BE ABLE TO SAY YOU NEED TO BRING THAT TO FLORIDA?

AND PAY--

>> UNDER IN PERSONAM--

>> AND THE REMEDY IS OPPOSING COUNSEL INDICATED THEY'RE SEEKING TO DOMESTICATE AND OBTAIN ASSET BY GOING TO KOREA, AND APPARENTLY THEY'VE GOT SOME ACTION IN THE WORKS AND THAT'S WHAT THEY'RE ATTEMPTING TO DO.

>> OR ELSE YOU'RE IN THE BOX HE'S TALKING, THE DISCOVERY MATERIALS.

ANY CHANNEL THAT YOU WOULD MOVE ANY POINT WOULD YOU SORT OF PLAY WHACK-A-MOLE THAT CAN'T BE THE LAW.

>> BUT THERE'S NO INDICATION A IN THIS CASE THERE'S ANY MOVEMENT OF THIS ASSET AND FURTHER MORE AS I SAID BEFORE, THIS ASSET WAS NEVER IN THE STATE OF FLORIDA SO WE'RE TALKING ABOUT AN ASSET THAT IS SOUTH KOREAN ASSET AND YOU KNOW, TRYING TO USE IN PERSONAM JURISDICTION TO REACH THAT ASSET WE WANT CREATES REALITY ISSUES OF SOVEREIGNTY AND THAT THAT'S--

>> IF IT HAD BEEN HERE AND HE
MOVED IT TO SOUTH KOREA, THEN IT
WOULD BE OKAY TO GET IT?

>> I THINK THAT MIGHT BE A
DIFFERENT CASE.

I THINK THAT--

IN THIS CASE THEN ARGUMENT MIGHT
BE ABLE TO BE MADE THAT THERE'S

A--

SOME AT LEAST THERE WAS SOME
ACTION IN THE STATE OF FLORIDA.
YOU KNOW, EVEN SO THE CASES THAT
WE'VE CITED AND DISCUSSED DON'T
GO THAT FAR AND SAY THAT YOU CAN
GO INTO THE FOREIGN COUNTRY AND
TAKE--

AND REQUIRE THAT DEFENDANT TO
TAKE THAT ASSET AND BRING IT
BACK.

THEY DON'T SEEM TO GO THAT FAR.
SO THANK YOU VERY MUCH
APPRECIATE YOUR TIME AND
INTEREST.

>> WE THANK YOU BOTH FOR YOUR
ARGUMENTS IN THIS CASE.

THE FINAL CASE ON TODAY'S DOCKET
WILL BE CONDUCTED REMOTELY AT
11:30.

SO THE COURT WILL NOW STAND IN
RECESS UNTIL WE RECONVENE
REMOETLY AT 11:30.