

## U.S. Courts Can Recognize a Foreign Judgment Even Without Personal Jurisdiction

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A recent federal court decision underscores a critical point for parties seeking to enforce foreign judgments in the U.S.: recognition of a foreign judgment does not require personal jurisdiction over the defendant. In *Cargill Financial Services International, Inc. v. Taras Barshchovskiy*, the U.S. District Court for the Southern District of New York recognized a \$123.94 million English judgment against a Ukrainian businessman, despite his lack of ties to New York. This ruling reaffirms that judgment creditors can gain access to U.S. discovery tools—among the most expansive in the world—before establishing jurisdiction over a debtor or its assets. With similar judgment recognition laws in many other U.S. states, this decision may influence courts nationwide and shape future cross-border enforcement strategies.

### Case Details

In January 2021, Cargill initiated arbitration under the London Court of International Arbitration (LCIA) Rules, citing Barshchovskiy's failure to repay debts under several agreements. The LCIA consolidated these proceedings, resulting in a December 2022 award favoring Cargill for \$123,940,459.55. Barshchovskiy contested the award under Section 68 of the English Arbitration Act, but the English Commercial Court dismissed his claims in May 2023. Following this, Cargill sought enforcement of the award, culminating in the English High Court's judgment in January 2024.

### Proceedings in New York

Cargill then filed a case in the New York State Supreme Court seeking to enforce the English judgment in the U.S. Due to difficulties locating Barshchovskiy, the court approved alternative service methods, such as email and Facebook. After service, Barshchovskiy removed the case to federal court and filed for dismissal, citing insufficient service and failure to state a claim for relief. The court denied his motion in September 2024, finding the alternative service appropriate given the impracticality of traditional methods.

### Summary Judgment and Recognition

Cargill moved for summary judgment to recognize the English judgment under New York's Uniform Foreign Country Money Judgments Act (CPLR Article 53). Barshchovskiy opposed, arguing the court lacked personal jurisdiction over him. The court explained that recognizing a foreign judgment does not require personal jurisdiction over the defendant, as it simply converts the foreign judgment into a New York judgment. The court noted that enforcing that New York judgment would, however, require Cargill to establish the court's jurisdiction over Barshchovskiy or his property.

### Implications

This ruling highlights the difference between recognition and enforcement of foreign judgments. Recognition can proceed without personal jurisdiction over the defendant, whereas enforcement actions require such jurisdiction. Recognition is not a mere procedural hurdle to clear on the way to enforcement, however. As the court explained, "one of the primary purposes of judgment recognition [is] to give the judgment creditor the right to use the tools of the court to locate the judgment creditor's assets." These tools include the various methods authorized by U.S. courts for the discovery of documents and information. The scope of discovery in U.S. courts is typically far more extensive than in

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non-U.S. jurisdictions and can thus provide a powerful tool in enforcing foreign judgments.

Although the decision relied on New York law governing the recognition and enforcement of foreign judgments, the specific New York statute is based on the Uniform Foreign Country Money Judgments Act, a version of which 36 other U.S. states have also enacted. Given this fact, as well as New York's prominence as a leading pro-arbitration jurisdiction, the *Cargill* decision is likely to be influential in other U.S. jurisdictions.

The decision is *Cargill Financial Services International, Inc. v. Taras Barshchovskiy*, U.S. District Court for the Southern District of New York Case No. 24-cv-5751 (Feb. 18, 2025).

The authors of this alert are members of Miller Canfield's International Disputes Group. For questions about this case or the enforcement of foreign judgments in the U.S., please them or your Miller Canfield lawyer.