

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

FIVE FOR ENTERTAINMENT S.A., AND DIEGO  
HERNAN DE IRAOLA

Plaintiffs,

v.

RAMON LUIS AYALA RODRIGUEZ, EL  
CARTEL RECORDS, INC., ICARO SERVICES,  
INC., EDGAR BALDIRI MARTINEZ

Defendants.

CIVIL No. 15-mc-00570(GAG)

RE: PETITION TO REGISTER  
JUDGMENT

**PLAINTIFFS' RESPONSE IN OPPOSITION TO "URGENT MOTION FOR STAY OF  
EXECUTION OF JUDGMENT, TO SET ASIDE WRITS FOR EXECUTION AND ORDER, AND  
FOR HEARING ON THE MATTER OF CONJUGAL PROPERTY"**

TO THE HONORABLE COURT:

COME NOW, plaintiffs, FIVE FOR ENTERTAINMENT S.A. ("Five" or "FFESA") and MR. DIEGO HERNÁN DE IRAOLA ("De Iraola") (collectively "FFESA"), by their undersigned counsel, and very respectfully state, allege and pray:

**I. INTRODUCTION**

De Iraola holds a \$2,000,000.00 judgment issued by the Southern District of Florida against Ramon L. Ayala Rodríguez ("Daddy Yankee"), El Cartel Records, Inc. ("El Cartel"); ICARO Services, Inc. ("ICARO"), and Edgar Baldiri Martínez ("Edgar Baldiri") (collectively, "Defendants").<sup>1</sup> The same judgment (the "Judgment") awarded Five damages in the amount of \$220,000.00, and entered judgment against Five and in favor of Daddy Yankee and El Cartel in the amount of \$300,030.00.

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<sup>1</sup> Dkt. No. 1, Exhibit 1, included thereto, certified copy of the Judgment. De Iraola also has pending claims against all Defendants for attorney's fees and costs under Fla. Stat. § 768.79 in excess of \$2,000,000.00 because De Iraola obtained a judgment well in excess of 125 percent greater than his offer of settlement to Defendants. Defendants' decision to decline Plaintiffs' offer of settlement years ago left Plaintiffs no choice but to try the case as part of a three-week trial, engage in extensive pre-and post-trial motions practice, and defend the case on appeal. De Iraola is further entitled to post-judgment interest under Florida law. Post-judgment interest accrued to date on De Iraola's damages award exceeds \$230,000.00.

The United States Court of Appeals for the Eleventh Circuit affirmed the Judgment on March 22, 2016. The corresponding mandate issued on April 20, 2016.

Daddy Yankee, El Cartel, ICARO and Edgar Baldiri have refused to honor their obligations under the Judgment, forcing FFESA to turn to compulsory methods to collect on said Judgment. On December 23, 2015, FFESA filed the present post-judgment action under 28 U.S.C. § 1963 to register the judgment entered by the sister Southern District Court of Florida in the District of Puerto Rico, where Daddy Yankee resides and owns property. See Dkt. No. 1. FFESA subsequently obtained orders and writs of execution against all four Defendants, see Dkts. 6-14, and proceeded to seize, through the Court-appointed Special Master, various bank accounts held by Daddy Yankee and El Cartel in this jurisdiction. See Sworn Statement executed by the Special Master, attached hereto as Exhibit No. 1. Daddy Yankee and El Cartel promptly filed the instant motion to stay execution and set aside the aforementioned orders and writs of execution (the "Motion to Stay"). See Dkt. 17.

The Motion to Stay is predicated on two grounds: (a) FFESA did not serve Daddy Yankee and El Cartel with notice of its Petition to Register the Judgment, or FFESA's Motion for Execution of Judgment Order or any of the orders and writs that followed, and therefore allegedly failed to comply Rule 51.2 of Puerto Rico Rules of Civil Procedure; and (b) FFESA's actions in execution of the Judgment are directed against property that belongs "in their entirety or in part to the Ayala-González conjugal partnership, Los Cangris, Inc. and or Ayeicha González Castellanos." See Dkt. No. 17. As shown below, Defendants' arguments do not withstand scrutiny and must be rejected.

First, registration of federal court money judgments in other districts is governed by 28 U.S.C. § 1963. 18 MOORE'S FEDERAL PRACTICE, § 130.31[1] (3rd. ed. LexisNexis 2014). No provision found within the four corners of this statute – and defendants point to none - requires a moving party to serve notice of his or her request for registration on the judgment debtor/s. Once registered, the judgment "shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner". 28 U.S.C. § 1963. Nor does Rule 51.2 of

Puerto Rico Rules of Civil Procedure require service on the judgment debtor/s of any order or writ that may be issued in the context of the ensuing enforcement proceedings.

Second, Daddy Yankee's attempt to shield himself from liability behind the conjugal partnership with his wife, Ms. Gonzalez, fails as a matter of law. As a threshold matter, his argument is squarely at odds with the constitutional mandate that full faith and credit be accorded to valid and enforceable judgments from a sister district. There is no statutory requirement in Florida that both spouses be made parties to an action for the resulting judgment to be collectible from community property. And as Daddy Yankee admits, most if not all of his assets were acquired post-marriage and therefore are deemed community property of the conjugal partnership. See Dkt. No. 17; see also, Civil Code of Puerto Rico, Arts. 1301, 1307, 31 P.R. Laws Ann. §§ 3641, 3647. Preventing De Iraola from enforcing the Judgment against Daddy Yankee's assets in this jurisdiction under pretext that the conjugal partnership is not a named defendant in the underlying litigation (a legal impossibility in Florida) would effectively render Daddy Yankee judgment-proof in this jurisdiction in violation of the full-faith-and-credit mandate of the United States Constitution.

That conjugal partnership assets can be reached has been determined, definitively, by Puerto Rico's legislature. Article 1308 of the Civil Code of Puerto Rico renders the conjugal partnership liable for "[a]ll debts and obligations contracted during the marriage by *either* of the spouses" – here, Daddy Yankee's obligations to De Iraola under the Judgment – and disposes of Daddy Yankee's argument as a matter of domestic law, 31 P.R. Laws Ann. § 3661.

FFESA accordingly and most respectfully requests that this Honorable Court deny the Motion to Stay and lift the temporary stay entered on April 11, 2016, so as to allow FFESA to resume efforts to enforce the Judgment without delay.

## **II. STATEMENT OF FACTS**

1. On November 16, 2011, FFESA filed a complaint for breach of contract and defamation against Daddy Yankee, El Cartel, ICARO and Edgar Baldiri in the United States District Court for the Southern District of Florida, under Case No. 11-24142-CIV-Seitz/Simonton (the

“Florida Action”). Mrs. Mireddys González and the Conjugal Partnership were not parties to the underlying contract, nor are Plaintiffs currently aware of facts suggesting that they had civil culpability in respect to the torts at issues in said action.

2. After extensive litigation and jury trial, on September 2, 2014, FFESA obtained a \$2,200,000.00 judgment against Daddy Yankee, El Cartel, ICARO and Edgar Baldiri; and Daddy Yankee and El Cartel obtained a \$300,030.00 judgment against FFESA (“Judgment”). See Dkts. Nos. 1 and 2, certified copy of said judgment attached thereto as Exhibit No. 1. With said Judgment the United States District Court for the Southern District of Florida further allowed for execution to issue in respect of all amounts due. *Id.* Defendants appealed and FFESA cross-appealed. The United States Court of Appeals for the Eleventh Circuit affirmed in all respects on March 22, 2016, and the mandate issued on April 20, 2016.

3. During the pendency of the appeal, on October 21, 2015, FFESA filed a *Motion to Register Judgment for Good Cause* before the United States District Court for the Southern District of Florida under Case No. 11-24142-CIV-Seitz/Simonton, requesting an order permitting registration of the Judgment in other districts for good cause shown in accordance with 28 U.S.C. § 1963.

4. On November 12, 2015, the United States District Court for the Southern District of Florida entered an *Order Granting Motion to Register Judgment* against defendants under Case No. 11-24142-CIV-Seitz/Simonton. See Dkts. Nos. 1 and 2, Exhibit No. 2, included thereto, certified copy of said order. With said Order, the District Court of Southern Florida also indicated that “due to the nature of Defendants’ business, assets may be accrued anywhere.” *Id.* Therefore, the District Court of Southern Florida allowed FFESA immediately to register the judgment in any other district, notwithstanding the then-pendency of the appeal.

5. On December 23, 2015, FFESA filed a *Petition to Register Judgment, Pursuant to 28 U.S.C. § 1963* and requested this Honorable Court to register the judgment entered by the United States District Court for Southern District of Florida under Case No. 11-24142-CIV-Seitz/Simonton,

in favor of FFESA and against the Defendants in the amount of \$2,220,000.00. See Dkts Nos. 1 and 2. With said motion, FFESA included as Exhibit No. 1 a certified copy of said Judgment.

6. On January 13, 2016, FFESA filed a *Motion Requesting Execution of Judgment, Order, Writ of Execution and Garnishment of Assets*. See Dkt. No. 2.

7. On March 16, 2016, this Honorable Court granted the Motion for Execution of Judgment and, on March 21, 2016, the orders and writs of execution against Daddy Yankee, El Cartel, ICARO and Edgar Baldiri were issued. See Dkts. Nos. 6-14.

8. On April 4, 2016, FFESA, through the Special Master identified in the orders and writs, Mrs. Yma González Marrero ("Special Master"), served the order and writ for execution in Scotiabank de Puerto Rico ("Scotiabank") and seized the amount of \$778,000.00 from the following three accounts: (i) Account for El Cartel - \$17,306.00; (ii) Account for El Cartel - \$210,335.00; and (iii) Account for Ramón L. Ayala - \$551,158.00. See Exhibit No. 1, attached hereto, sworn statement executed by the Special Master.

9. According to the information given to the Special Master, the Account from where \$551,158.00 was seized corresponds to an account in which the sole principal account holder is identified as Ramón L. Ayala Rodríguez. Mrs. Mireddy González and Ayeicha González are not identified as account holders, but rather simply as having authorized signatures in respect of the account. See *Id.*

10. Also, On April 5, 2016, FFESSA, through the Special Master, served the order and writ for execution on Oriental Bank and Trust of Puerto Rico ("Oriental") and seized the amount of \$19,982.12 from account XXX-XX-XXX9698 from El Cartel. See *Id.*

11. On April 6, 2016, Daddy Yankee and El Cartel filed the Urgent Motion on the following grounds: (a) they were not notified of the Petition to Register the Judgment; (b) Plaintiffs failed to comply with Rule 51.2 of Puerto Rico Civil Procedure; and (c) the seized property belong to Mrs. Mireddys González (Daddy Yankee's spouse) and the Conjugal Partnership, non-parties to the Judgment. See Dkt. No. 17.

12. On April 11, 2016, this Honorable Court entered an order granting a temporary stay of the execution until FFESA responds to the Urgent Motion. See Dkt. No. 19.

13. On April 14, 2016, Mrs. Mireddys González, the Conjugal Partnership and Los Cangris, Inc., a corporation 100% owned by Daddy Yankee (“Los Cangris”), filed a *Motion to Intervene and to Further Stay and Set Aside Writ of Execution as to Non-Judgment Debtors and Their Properties*. See Dkt. No. 23.

14. In addition, on April 14, 2016, Mrs. Mireddys González, the Conjugal Partnership and Los Cangris filed an *Answer and Counterclaim*.<sup>2</sup> See Dkt. No. 23.

15. On April 15, 2016, Scotiabank filed a *Special Appearance to Deposit Garnished Funds*. See Dkt. No. 29. With said Motion, Scotiabank informed that, pursuant to the orders and writs for execution, the amount of \$778,000.00 had been seized from the following accounts: \$17,306.00 – Account for El Cartel; \$210,335.00 – Account for El Cartel; and \$551,158.00 – Account for Ramón L. Ayala. Scotiabank deposited all such funds with the Court.

16. On April 18, 2016, Mrs. Mireddys González, the Conjugal Partnership and Mrs. Ayeicha González filed a *Motion in Relation to Special Appearance to Deposit Garnished Funds* and requested the amendment of Scotiabank’s motion as to reflect that the account XXX-XX-4049 also belongs to Mrs. Mireddys González and the Conjugal Partnership. See Dkt. No. 30.

17. With no objection from Plaintiffs, on April 19, 2016, this Honorable Court granted the motion to intervene filed by Mrs. Mireddys González, the Conjugal Partnership and Los Cangris. See Dkt. No. 31.

18. On April 19, 2016, Scotiabank filed a *Motion to Clarify Account Information in “Special Appearance to Deposit Garnished Funds”* and indicated that “Account for Ramón L. Ayala for \$551,158.00 are funds from an account of various title holders, not only Mr. Ramón L. Ayala.” See Dkt. No. 33, ¶ 4. Thus, Scotiabank proceeded to state that: “[t]he \$551,158.00 deposited as the

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<sup>2</sup> FFESA will file the corresponding reply to the Answer and the Counterclaim in a separate motion within the next two days.

total of \$778,000.00 deposited funds, pertain to an account in Scotiabank of three (3) individuals. There are: Mr. Ramón L. Ayala, Mrs. Mireddys González and Mrs. Ayeicha González.” *Id.*, at ¶ 5.

19. On that same date, April 19, 2016, FFESA filed a *Reply to “Motion to Clarify Account Information in ‘Special Appearance to Deposit Garnished Funds’”*. See Dkt. No. 34. In the Reply, FFESA requested that the Court enter an order instructing Scotiabank to file a certification under oath as to reflect the name(s) of the principal account holder and the names of the persons, if any that have authorized signatures in account XXX-XX-4049.

20. Thus, and in compliance with the Court’s order of April 11, 2016, FFESA submits the present response in opposition to defendants’ Urgent Motion and for the reasons detailed below requests this Honorable Court to lift the stay of execution of judgment entered on April 11, 2016, and deny the Urgent Motion.

### III. ARGUMENTS

#### a. **The Registration of the Southern District of Florida Judgment Complies with All of the Requirements of 28 U.S.C. § 1963**

Defendants claim that they were not notified of the Petition to Register the Judgment or the Motion for Execution of Judgment. See Dkt. No. 17, ¶ 2. They also claim that FFESA did not observe the procedure instated by Rule 51.2 of Puerto Rico Civil Procedure, *supra*, for failure to provide notice to them of the motion and orders in the instant case. Defendants, however, ignore that the Court ordered the attachment pursuant to – and the case is governed under – 28 U.S.C. § 1963.

28 U.S.C. § 1963, is a federal statute that provides for the registration of federal court judgments in any district. Specifically, 28 U.S.C. § 1963 reads as follows:

A Judgment in an action for the recovery for money or property entered in any court of appeals, **district court**, bankruptcy court or in the Court of International Trade **may be registered by filling a certified copy of the judgment in any other district or**, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration for 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 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.**

28 U.S.C. § 1963 (emphasis ours).

The purpose of the statute is to **simplify and facilitate collection on judgments.** 18 MOORE'S FEDERAL PRACTICE, § 130.31[1] (3rd. ed. LexisNexis 2014). The registration procedure provided by statute **obviates the need to commence a second action to enforce a money judgment in a district where the judgment debtor's assets are situated.** *Id.* Thus, and in light of the spirit of the statute, **registration of the judgment is allowed irrespective of whether the court in which the judgment is registered has personal jurisdiction over the defendant.** In Dichter v. Disco Corp., 606 F. Supp. 721, 725 (S.D. Ohio 1984), the district court determined that "[w]ith respect to jurisdiction requirements, the federal statutes pertaining thereto are applicable only to original action brought in the federal courts." Therefore, the court concluded, since the defendant was afforded the process due to him in the original action, the lack of jurisdiction by the registering court "is simply irrelevant." *Id.* Consequently, defendants' argument that they were not notified of the Petition to Register the Judgment, the Motion for Execution of Judgment and the orders and writs, is likewise "irrelevant" under, and contrary to the purpose of, 28 U.S.C. § 1963. Defendants have *already* been afforded their due process; registration of a lawfully-obtained judgment from a sister jurisdiction is instead a ministerial act intended to further a plaintiff's ability to enforce a judgment against a recalcitrant defendant.

According to the statute, registration is appropriate so long as: (1) the plaintiff obtained a judgment in an action for the recovery of money or property; (2) that judgment was entered by any court of appeals, district court, bankruptcy court, or in the Court of International Trade; and (3) the prevailing party filed a certified copy of the judgment. There is no additional requisite before a judgment from one federal district court may be registered in another federal district court. FFESA complied with each of these requirements since: (1) it obtained a judgment in an action for the recovery of money; (2) that judgment was entered by the U.S. District Court for the Southern District

of Florida; (3) and it filed a certified copy of the judgment with the U.S. District Court of Puerto Rico. **The only procedure that FFESA needed to observe is the procedure established under 28 U.S.C. § 1963, which it did.** Contrary to defendants' assertion, FFESA did not have any obligation to observe any procedure established by the Rules of Civil Procedure of Puerto Rico.

However, even if it did, Rule 51.2 of the Puerto Rico Civil Code similarly does not require notification to an adverse party of the orders and writs obtained during execution.<sup>3</sup> Defendants point to no such language; no such language exists in the Rule; and Defendants likewise point to no authority divining such a requirement from the Rule.<sup>4</sup>

**b. Full Faith and Credit Requires Every State – Regardless of Its Own Laws – to Recognize a Sister District State Judgment Which is Valid Where Rendered**

In a nutshell, defendants' position is that the breach of contract and defamation judgment entered by the Southern District of Florida is not entitled to Full Faith and Credit as to Daddy Yankee's community property because Mrs. Mireddys González and the Conjugal Partnership were not joined as defendants. The argument is founded on long-standing practice in Puerto Rico to include both spouses and/or the conjugal partnership as named defendants in local litigation concerning one of the spouses. See Pauneto v. Nuñez, 15 P.R. Offic. Trans. 777, 781 (1984); Blas Toledo v. Hospital Nuestra Señora de la Guadalupe, 146 D.P.R. 267, 303-304 (1998); Guadarrama

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<sup>3</sup> Rule 51.2 of Civil Procedure of Puerto Rico states the following:

Process to enforce a judgment or order for the payment of money and to collect the costs awarded by the court shall be a writ of execution. The writ shall specify the terms of the judgment and the amount actually due. Every writ of execution shall be directed to the marshal. In execution cases, including those where a judicial sale is ordered, the marshal shall deliver to the clerk the writ duly served and any surplus in his possession within fifteen (15) days after the date of such execution. A writ of execution may issue upon one or more judgments or orders in the same action. The writ of execution will be executed under the signature of the clerk of the court and with the court's seal...

32 P.R. Laws Ann Ap. V, R. 51.2 (translation ours).

<sup>4</sup> Even in a hypothetical world in which FFESA were required to observe the procedure instated by the Rules of Civil Procedure of Puerto Rico, FFESA in fact did so. Rule 56.2 and Rule 56.3 of Puerto Rico Civil Procedure authorizes the grant of a provisional remedy without notice upon the adverse party and hearing and without posting bond if a remedy is sought after judgment is entered. 32 L.P.R.A. Ap. V, R. 56.2 and R. 56.3. In the case at hand, FFESA is seeking a provisional remedy after judgment has been entered. Thus, and pursuant to

v. U.S. Dept. of Housing and Urban Dev., 74 F.Supp.2d 127 (1999). However, there is no substantive provision of Puerto Rico law that mandates any such requirement – and such practice is antithetical to the practice in the jurisdiction in which this case was filed and tried. *Id.*

The substantive provision from where both spouses and the conjugal partnership are deemed liable for obligations contracted by either of the spouses is established in Art. 1308 of the Civil Code of Puerto Rico, and reads as follows:

Chargeable to the community property shall be:

- (1) **All debts and obligations contracted during the marriage by either of the spouses.**
- (2) The arrears or credits deriving during the marriage from obligations encumbering the private property of the spouses as well as the community property.
- (3) Minor repairs or mere maintenance repairs made during the marriage on the private property of either of the spouses. Major repairs shall not be chargeable to the community property.
- (4) Major or minor repairs of the community property.
- (5) The support of the family and the education of the children begotten in common and of those of either of the spouses.
- (6) Personal loans incurred by either of the spouses.

31 P.R. Laws Ann. § 3661 (emphasis ours).

In light of the above, the Judgment obtained in the Florida Action by FFESA is clearly a “debt and obligation contracted during marriage” by Daddy Yankee. Just as Daddy Yankee’s earnings comprise part of the community property, so too are his liabilities. See Lugo Montalvo v. González Mañón, 4 P.R. Offic. Trans 517, 525-26 (1975) (under Puerto Rico law, if the action or enterprise of a spouse produces financial benefits to the bulk of the community property, said spouse and said community are liable to a plaintiff in an action arising from said enterprise). The substantive law in Puerto Rico deems the conjugal property responsible of all debts and obligations contracted during marriage by either spouse regardless if the conjugal property was part of the underlying lawsuit. The best practice procedure as to sue and serve with summons both members of the conjugal

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Rule 56.2 and Rule 56.3, FFESA is permitted to seek the execution of the Judgment without notice or hearing upon defendants.

partnership has been established by case law and is not a substantive requisite in our jurisdiction. See Pauneto, 15 P.R. Offic. Trans. at 781.

Consequently, Daddy Yankee, Mrs. Mireddys González and the Conjugal Property's argument distills as: Despite the Full Faith and Credit Clause of the United States Constitution, Puerto Rico will not give an out-of-state judgment Full Faith and Credit unless the court rendering that judgment – even a United States District Court – followed Puerto Rico's best practice. This argument is wrong for the following reasons.

Daddy Yankee argues that the trial court of the Southern District of Florida never acquired jurisdiction of Mrs. Mireddys González and the Conjugal Partnership, so the Judgment is void as to both for lack of due process. This argument, if successful, would create a "Catch-22" for FFESA. Without some basis for accusing Mrs. Mireddys González of breach of contract, defamation and other wrongs for which FFESA sued Daddy Yankee, all FFESA could get from naming her in the Florida Case would be a Fed. Civ. Rule 11 sanction and/or a Fed. Civ. Rule 12(b)(6) dismissal.<sup>5</sup> Hertz Corp. v. Feliberti Gutierrez, 2007 WL 1059575 (S.D.FL. 2007) (the Southern District of Florida dismissed Hertz's claim for common law indemnity against a spouse and the conjugal partnership under Florida law.) But if FFESA failed to join her, then, under this theory, when FFESA registered the judgment in federal court in Puerto Rico, FFESA would be barred from collecting on the wealth Daddy Yankee had wrongfully appropriated and enriched the community with, because FFESA had not named Mrs. Mireddys González in the Florida suit.

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<sup>5</sup> Contrary to Puerto Rico's Civil Code, Florida Statutes state the following about debts obtained during marriage:

Promise to pay another's debt, etc.

No action shall be brought whereby to charge any executor or administrator upon any special promise to answer or pay any debt or damages out of her or his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriage of another person or to charge any person upon any agreement made upon consideration of marriage, ...

§ 725.01, Florida Statutes.

The Court of Appeals for the First Circuit, the District Court or the Supreme Court of Puerto Rico have not spoken on how to resolve this issue, but sister Circuit Courts of Appeals have. The Court of Appeals for the Seventh and Ninth Circuits have determined that a federal judgment from another district may be registered and executed on the community property of both spouses, if the judgment is for a community obligation, despite the failure to name and summon the other spouse in the original action. Gagan v. Monroe, 269 F.3d 871 (7th Cir. 2001) (hereinafter "Gagan I"); Gagan v. Sharar, 376 F.3d 987 (9th Cir. 2004) (hereinafter "Gagan II").

In Gagan I, 269 F.3d at 874, Gagan won a civil RICO verdict in the Northern District of Indiana against Monroe. Since Monroe did not pay his judgment debt to Gagan, Gagan filed a post-judgment action in the district court of Indiana seeking an order requiring Monroe to turn over his interest in property located in Arizona, where Monroe resides. The district court entered the turnover order. Monroe appealed, arguing that the order was improper for reasons stemming from Arizona community property law, since his wife had not been part of the Indiana case. Arizona, like Puerto Rico, is a community property jurisdiction, and Indiana, like Florida, is not. Monroe argued that Gagan could not reach the Monroes' community property located in Arizona because he did not join Mrs. Monroe in the RICO suit.

The Ninth Circuit rejected Gagan's argument and instead confirmed the district court, finding that the Full Faith and Credit Clause, U.S. Const. art. IV, § 1, overrode Arizona common law, precluding Arizona courts from refusing to recognize judgments from another jurisdiction on the ground that one party to the conjugal partnership was not a named defendant. *Id.* at 876. Instead, it found that such judgment must be upheld so long as "the obligation on which the foreign judgment was based would have been a community obligation if it had been incurred in Arizona". *Id.* The Court of Appeals for the Seventh Circuit further determined that the judgment against Monroe was a community obligation under Arizona law, and that Gagan could execute his federal RICO judgment against the Monroes' community property, regardless of the fact that Mrs. Monroe was not joined in the underlying lawsuit. *Id.*

The Court of Appeals for the Seventh Circuit reaffirmed this position in Gagan II, 376 F.3d at 991. There, as here, Gagan registered his federal judgment from the District Court for the Northern District of Indiana in the District Court for the District of Arizona under 28 U.S.C. § 1963. Again as here, Monroe's wife moved to intervene on the grounds that the property on which Gagan sought to execute is community property in which she had an interest, and Gagan could not collect on such property. The Arizona district court denied Monroe's wife's motion to intervene and Mrs. Monroe did not appeal. Instead she moved the district court for relief from the judgment under Fed. Civ. Prod. R.60(b) arguing that the judgment was void for want of jurisdiction, because she was not joined in the Indiana action against her husband, and that Gagan could not execute against any property in which she had a community interest. The district court denied this motion.

On appeal, the Ninth Circuit affirmed the district court's denial, holding that the requirements of Full Faith and Credit required recognition of a foreign state's judgment despite the foreign state's nonconformity to Arizona law. *Id.* at 990. Similar to FFESA's registration for his Florida judgment under § 1963 under Puerto Rico law, a community property jurisdiction, Gagan had registered his judgment from an Indiana court under the Arizona law, a community property jurisdiction. Like FFESA's judgment, the judgment in Gagan had not been against the wife, because she had not been joined in the Indiana lawsuit. The Court reasoned that an Indiana court could not be expected to comply with Arizona procedure laws, and relied on the fact that the community property could have been reached had the case been filed originally in Arizona. *Id.* at 991.

That a judgment valid in the state of rendition must be honored in the state of enforcement is the essence of Full Faith and Credit. Hampton v. M'Connel, 16 U.S. 234, 235 (1818) ("the judgment of a state court should have the same credit, validity and effect, in every other court of the United States, which it had in the state where it was pronounced"). Indeed, the foreign judgment is enforceable in another jurisdiction even if the basis for the foreign judgment violates the public policy of the enforcing jurisdiction. 18 MOORE'S FEDERAL PRACTICE § 139.32[2] (*citing* Harrah's Club v. Van Blitter, 902 F.2d 774, 777 (9th Cir. 1990) ("It has long been established that a final judgment

rendered under the laws of one state must be enforced by a sister state under the Full Faith and Credit Clause, even though the underlying action may be against the public policy of the state in which enforcement is sought.”). As a consequence, even if enforcement against the conjugal partnership assets were to conflict with Puerto Rico public policy, enforcement would nonetheless be required. To do otherwise would conflict with the obligation to give full faith and credit to sister courts and serve as a loophole to recalcitrant defendants who otherwise fail to comply with lawful judgments—which itself would violate the public policy of this (and every) jurisdiction.

In the present case, the breach of contract and defamation Judgment obtained by FFESA is a community debt. Under Article 1308 of the Puerto Rico Civil Code, Daddy Yankee’s community property is liable for the Judgment, as a community “debt and obligation contracted during the mirage by either of the spouses.” 31 P.R. Laws Ann. § 3661. Because the Judgment was not rendered in the Puerto Rico courts, the jurisprudence of this jurisdiction in relation to *who* must be sued to reach conjugal partnership assets does not—and under the Full Faith and Credit clause of the U.S. Constitution, could not—apply. Like the Ninth and Seventh Circuits in Gagan I and Gagan II, the Judgment here should be enforced against Daddy Yankee’s Conjugal Partnership even though Mrs. Mireddys González was not party to the Judgment.

The same result is warranted not only under the Full Faith and Credit Clause, as interpreted by federal Courts of Appeals, but in fact by the public policy and related authority in *this* jurisdiction. This Court has previously observed that “[u]nder Puerto Rico law, a judgment entered against one spouse is binding upon the other by virtue of each spouse’s role as administrator of the conjugal relationship.” Guadarrama, 74 F.Supp.2d at 141. In Guadarrama, the District Court of Puerto Rico held that even though “the best litigation practice is to sue and serve with summons both members of the conjugal partnership, the Supreme Court of Puerto Rico has recognized that both spouses are co-administrators of the conjugal partnership and, therefore, both are, ordinarily, capable of representing it.” Guadarrama, 74 F.Supp.2d at 141 (determining that the spouse that was not included in the complaint was barred from litigating the same issue that the other spouse had

litigated before federal court.) Indeed, the Supreme Court of Puerto Rico has determined **that it is sufficient to sue and serve one member of the conjugal partnership for the court to acquire jurisdiction over the conjugal partnership**, since each spouse is co-administrator of the conjugal partnership. Blas Toledo v. Hospital Señora de la Guadalupe, 146 D.P.R. 267, 303-04 (1998) (the Supreme Court of Puerto Rico held in a malpractice lawsuit that it was sufficient to sue and serve with summons to only one spouse in order for the court to acquire jurisdiction of the conjugal partnership, and that it was unnecessary to have the codefendant's doctor's husband also served).

Nor are these decisions surprising, as courts around the country routinely bind nonparties to judgments where the nonparty is so closely aligned with the defendant. See *Aerojet-General Corp. v. Askew*, 511 F.2d 710, 719 (5<sup>th</sup> Cir. 1975) ("Under the federal law of *res judicata*, a person may be bound by a judgment even though not a party if one of the parties to the suit is so closely aligned with his interests as to be his virtual representative."); *NAACP v. Hunt*, 891 F.2d 1555, 1560 (11<sup>th</sup> Cir. 1990) (citing *Lary v. Ansari*, 817 F.2d 1521, 1523 (11<sup>th</sup> Cir. 1987)) (collateral estoppel applies equally to "those persons who are or were in privity with the parties to the original suit."). Privity is defined as a relationship between one who is a party of record and a nonparty that is sufficiently close so that a judgment for or against the party should bind or protect the nonparty... Privity also exists where a party to the original suit is so closely aligned to a nonparty's interest as to be his virtual representative." *Hunt*, 891 F.2d at 1560-61. Mrs. Gonzales was deposed prior to trial (both as a corporate representative for El Cartel and in her personal capacity), attended each day of trial, testified at trial on her husband's behalf on the issue of conjugal property, and has amply demonstrated that her interests are inextricably intertwined with that of her husband.

In light of the above, this Honorable Court must determine that a federal judgment from a district other than the district of Puerto Rico, registered under § 1963, in which only one spouse was named in the underlying action, may nevertheless be executed on the community property of both spouses, in Puerto Rico, despite any failure to name the other spouse in the action filed outside Puerto Rico. As the Arizona Court of Appeals aptly observed in Green:

We live in a mobile society: it is commonplace for people to move from state to state as they pursue job opportunities and better living conditions. Inevitably, some judgment-debtors in non-community property states will move to Arizona, where community property is the law. It would be asking too much to require the creditor to foresee such a move, and to comply with Arizona laws at the time it files the original suit. Full faith and credit precludes that.

Green, 895 P.2d at 110.<sup>6</sup>

WHEREFORE, FFESA respectfully moves this Honorable Court to grant the present motion and, consequently, lift and set aside the temporary stay of the execution of judgment and deny the Urgent Motion.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to counsel of record which are CM/ECF participants at their corresponding e-mail addresses and which, pursuant to Local Civil Rule 5(b)(2) constitutes the equivalent service.

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<sup>6</sup> In Gagan II, the Court of Appeals for the Ninth Circuit determined, that as a matter of due process, the non-joined spouse must be given an opportunity **at some time** to challenge enforcement of a judgment against community property. *Id.* at 992. **The time for that notice and hearing is during the execution in the registering state.** *Id.* at 991 (*citing Nat'l Union Fire Ins. Co. v. Green*, 985 P.2d 590, 595 (Arz. 1999) (in this case the district court held that a previously unjoined spouse's appearance and participation in the other spouse's motion to quash a writ of garnishment waived any defense of lack of notice.)). Here, Mrs. Mireddys González has now intervened and is participating in the current proceedings. As a matter of Puerto Rico law, she has now waived any defense of lack of notice. To the contrary, any alleged defects have now been cured. The purpose of joining the wife as party, Green held, was to enable her to defend her interests in community property. In the present case, Mrs. Mireddys González has had her opportunity to be heard when she filed her motion to intervene, which was already granted by the Court. In addition, the seized funds by FFESA have been deposited with the Court, thus making any damages argument premature, since the Court can still rule on the destiny of such funds.

In San Juan, Puerto Rico, this 21<sup>th</sup> day of April, 2016.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

FIVE FOR ENTERTAINMENT S.A., AND DIEGO  
HERNAN DE IRAOLA

Plaintiffs,

v.

RAMON LUIS AYALA RODRIGUEZ, EL  
CARTEL RECORDS, INC., ICARO SERVICES,  
INC., EDGAR BALDIRI MARTINEZ

Defendants.

CIVIL No. 15-mc-00570(GAG)

RE: PETITION TO REGISTER  
JUDGMENT

**SWORN STATEMENT**

I, Yma González Marrero, of legal age, married and resident of the Commonwealth of Puerto Rico, hereby declare as follows:

1. I am the Special Master that was identified in the order and writs for execution in the case at caption.

2. On March 16, 2016, this Honorable Court granted the Motion for Execution of Judgment and on March 21, 2016 the orders and writs of execution against Daddy Yankee, El Cartel, ICARO and Edgar Baldiri were issued.

3. On April 4, 2016 I personally served the order and writ for execution in Scotiabank de Puerto Rico ("Scotiabank") and seized the amount of \$778,000.00 from the following three accounts: (i) Account for El Cartel - \$17,306.00; (ii) Account for El Cartel - \$210,335.00; and (iii) Account for Ramón L. Ayala - \$551,158.00.

4. According to the information given to me by the Scotiabank's employee, the Account from where \$551,158.00 were seized corresponds to an account that the sole principal account holder is Ramón L. Ayala Rodríguez and Mrs. Mireddy González and Mrs Ayeicha

González have authorized signatures under such account, but are not principal account holders.  
See Id.

5. Also, On April 5, 2016, I personally served the order and writ for execution on Oriental Bank and Trust of Puerto Rico ("Oriental") and seized the amount of \$19,982.12 from account XXX-XX-XXX9698 from El Cartel.

6. No accounts under the name of Los Cangris, Inc. were seized.

I CERTIFY under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my own knowledge, information and belief, and according to documents and information provided or available to me.

**SWORN STATEMENT PURSUANT TO 28 U.S.C. § 1746(1)**

I, Yma González Marrero, certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 21st day of April, 2016.



YMA GONZÁLEZ MARRERO