CPLR 5201: Court of Appeals Holds Seider v. Roth Constitutional

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It is obvious that while a court maintains discretionary power to vacate a judgment, that judgment must be its own and not merely one which was docketed in the county where the court sits.

ARTICLE 52 — ENFORCEMENT OF MONEY JUDGMENTS

CPLR 5201: Court of Appeals holds Seider v. Roth constitutional.

In Simpson v. Loehmann, decided in late December, the Court of Appeals upheld the constitutionality of Seider v. Roth. Thus, the Seider holding, which allows the attachment of a liability insurer's obligations to defend and indemnify to become the basis of in rem jurisdiction, was reaffirmed.

Subsequently, in February, the Southern District of New York, in Podolsky v. DeVinney, held that Seider was unconstitutional. The court reasoned from the premise that CPLR 320(c) denies a defendant a limited appearance. Thus, it was recognized that, in order to litigate on the merits, a "Seider" defendant is forced into a jurisdiction that has infinitesimal contacts with the action, and subjected to personal liability beyond the insurance policy's limits.

In the most recent "Seider" development, the Court of Appeals, in denying a motion to reargue Simpson, has indicated that a "Seider" defendant, in spite of 320(c), will be allowed a limited appearance to the extent of the face value of the insurance policy attached. Thus, a good deal of the constitutional objection raised by Podolsky has been undercut, and the Court of Appeals appears to be adhering to its much criticized decision in Seider.

CPLR 5201: "Seider" action dismissed on forum non conveniens grounds.

In Vaage v. Lewis, plaintiff commenced a personal injury action pursuant to the procedure authorized by Seider v. Roth.