

CPLR 5201: Seider Procedure Held Constitutional

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verdict interest, expressly rejected first department cases allowing it in similar situations.

Actually, the reasons that have motivated the courts to disallow pre-verdict interest in personal injury actions based upon tort are still applicable when the plaintiff frames his complaint so that it is based upon contract. In any event, it seems that a decision by the Court of Appeals or a legislative re-evaluation is warranted to prevent forum shopping within the state.

ARTICLE 52—ENFORCEMENT OF MONEY JUDGMENTS

CPLR 5201: Seider procedure held constitutional.

Not unexpectedly, the constitutionality of the holding in *Seider v. Roth*¹¹⁴ was recently endorsed by the supreme court, Albany County, in a factually similar case. In *Jones v. McNeill*,¹¹⁵ the accident out of which the cause of action arose occurred in New Mexico. Defendants, residents of California, were personally served there, and an auto liability policy issued to defendants by an insurance company doing business in New York was attached by plaintiff as the jurisdictional basis. The defendants argued that the attachment of the insurer's obligation to defend and indemnify, as a basis for jurisdiction, was violative of due process in contravention of the fifth and fourteenth amendments of the United States Constitution.

The court answered that no deprivation of due process was shown. First, there had been reasonable notice to the defendant and sufficient opportunity for him to be heard. (He was personally served in California, and given the right to appear within thirty days.) Second, the court had jurisdiction over the subject matter of the action. Last, there was a jurisdictional predicate, since property of the defendant within the state was levied upon pursuant to an order of attachment. This property was a *res* within the state, allowing an adjudication as to whether the debt claimed by plaintiff should be satisfied out of it.

CPLR 5201: Rent income held attachable.

The plaintiff in *Glassman v. Hyder*¹¹⁶ attached a tenant's obligation to the defendants for the payment of rent on a twenty-

¹¹⁴ 17 N.Y.2d 111, 216 N.E.2d 312, 269 N.Y.S.2d 99 (1966). The constitutionality of the procedure set forth in *Seider* was not there questioned or considered. For a discussion of the import of *Seider*, see *The Quarterly Survey of New York Practice*, 41 ST. JOHN'S L. REV. 463, 490 (1967).

¹¹⁵ 51 Misc. 2d 527, 273 N.Y.S.2d 517 (Sup. Ct. Albany County 1966).

¹¹⁶ 51 Misc. 2d 535 (N.Y.C. Civ. Ct. 1966).