

3:09MC136AVC. 08/15/13. Document no. 304. The pro se defendant, Lonny Bowers, has filed a motion to dismiss this case for lack of subject matter jurisdiction. The motion is denied.

Bowers argues that this registration action was improperly filed in federal district court and should have instead been filed in state court. Title 28, United States Code, section 1963 provides, in relevant part, that "[a] judgment in an action for the recovery of money or property entered in any . . . district court . . . may be registered by filing a certified copy of the judgment in any other district" Although the state provides rules for registration of, and execution on, judgments, such rules do not divest this court of subject matter jurisdiction. See Fed. R. Civ. P. 69(a) (providing that with respect to execution on money judgments, the execution "must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.").

With respect to the timing of the filing in this case, the court concludes that the registration of the judgment here did not violate the ten day¹ stay of federal rule of civil procedure 62(a) because no action was taken to enforce the judgment until after the applicable period. Even if the mere registration of the judgment violated the ten day stay, however, Bowers waived any objection to this deficiency by failing to object for over four years. In addition, any alleged violation of the ten day stay was harmless in this case, where the plaintiff took no action within that period.

Bowers' request that the court reconsider the pro hac vice admission of the plaintiff's counsel and reprimand counsel is denied. The fact that the May 13, 2009 lien was not reflected on the court's docket was the basis for counsel's statement and, regardless, the lien was filed outside the stay period.

/s/

Alfred V. Covello

United States District Judge

¹ In 2010, the rule was changed to enlarge the length of the stay to 14 days.