

SCALIA, J., concurring in judgment

**SUPREME COURT OF THE UNITED STATES**

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No. 96-653  
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KENNETH LEE BAKER AND STEVEN ROBERT BAKER,  
BY HIS NEXT FRIEND, MELISSA THOMAS, PETI-  
TIONERS v. GENERAL MOTORS  
CORPORATION

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE EIGHTH CIRCUIT

[January 13, 1998]

JUSTICE SCALIA, concurring in the judgment.

I agree with the Court that enforcement measures do not travel with sister-state judgments as preclusive effects do. *Ante*, at 11. It has long been established that “the judgment of a state Court cannot be enforced out of the state by an execution issued within it.” *McElmoyle ex rel. Bailey v. Cohen*, 13 Pet. 312, 325 (1839). To recite that principle is to decide this case.

General Motors asked a District Court in Missouri to *enforce* a Michigan injunction. The Missouri court was no more obliged to enforce the Michigan injunction by preventing Elwell from presenting his testimony than it was obliged to enforce it by holding Elwell in contempt. The Full Faith and Credit Clause “did not make the judgments of other States domestic judgments to all intents and purposes, but only gave a general validity, faith, and credit to them, *as evidence*. No execution can issue upon such judgments without a new suit in the tribunals of other States.’” *Thompson v. Whitman*, 18 Wall. 457, 462–463 (1874) (emphasis added) (quoting J. Story, *Conflict of Laws* §609). A judgment or decree of one State, to be sure, may be grounds for an action (or a defense to one) in an-

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other. But the Clause and its implementing statute

“establish a rule of evidence, rather than of jurisdiction. While they make the record of a judgment, rendered after due notice in one State, conclusive evidence in the courts of another State, or of the United States, of the matter adjudged, they do not affect the jurisdiction, either of the court in which the judgment is rendered, or of the court in which it is offered in evidence. Judgments recovered in one State of the Union, when proved in the courts of another government, whether state or national, within the United States, differ from judgments recovered in a foreign country in no other respect than in not being reexaminable on their merits, nor impeachable for fraud in obtaining them, if rendered by a court having jurisdiction of the cause and of the parties.” *Wisconsin v. Pelican Ins. Co.*, 127 U. S. 265, 291–292 (1888) (citation omitted).

The judgment that General Motors obtained in Michigan “does not carry with it, into another State, the efficacy of a judgment upon property or persons, to be enforced by execution. To give it the force of a judgment in another State, it must be made a judgment there; and can only be executed in the latter as its laws may permit.” *Lynde v. Lynde*, 181 U. S. 183, 187 (1901) (quoting *McElmoyle*, *supra*, at 325). See, e.g., *Watts v. Waddle*, 6 Pet. 389, 392 (1832), a case involving a suit to obtain an equity decree ordering the conveyance of land, duplicating such a decree already issued in another State.

Because neither the Full Faith and Credit Clause nor its implementing statute requires Missouri to execute the injunction issued by the courts of Michigan, I concur in the judgment.