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## Backgrounder

### **BCLI Report no. 8—Report on the Enforcement of Non-money Judgments from Outside the Province**

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A party who has obtained a judgment in one province may find that it is not enforceable elsewhere in Canada and may, depending on a variety of factors, be required to bring an entirely new action in the province where enforcement is sought. Judgments that emanate from other Canadian provinces and territories are not consistently recognized or enforced. Consequently, a person could potentially avoid legal obligations arising in one province simply by moving to another province. This report identifies and discusses a significant number of threads of jurisprudence and legal policy that suggests a scheme for the inter-provincial enforcement of non-money judgments that is appropriate for adoption in British Columbia.

The law has experience over the centuries of enforcing judgments for money that emanate from the courts of other states, and more recently provinces have enacted legislation to facilitate the enforcement of money judgments across provincial borders. However, while money judgments are generally enforceable across provincial borders, the enforcement of non-money judgments is more problematic. Such judgments are not accommodated by the common law and generally, except in the most acute situations, are ignored by statute. It is this deficiency that is addressed in this report.

Support for enactment of a legal scheme that would permit inter-provincial enforcement of non-money judgments is found in: caselaw; the legal doctrines of *res judicata* (that other than on appeal, a person may not bring a matter before the court that has already been the subject of a decision) and issue estoppel (a person is precluded from arguing an issue that has been decided upon in previous litigation); that enforcement schemes for certain kinds of non-money orders already exist; that “recognition” (adoption of a foreign decision as *res judicata*) of foreign decisions is common; that Quebec Law embraces the enforcement of extra-provincial non-money judgments; that the *Criminal Code* of Canada makes it an offence to disobey a court order; that enforcement of non-money judgments is consistent with developments in private international law; that other federations have adopted schemes for the enforcement of non-money judgments.

Additionally, in 1997 the Uniform Law Conference of Canada (ULCC) promulgated two uniform acts designed to fill the gap in Canadian law with respect to inter-provincial enforce-

ment of non-money judgments. The first Act, the *Uniform Enforcement of Canadian Decrees Act* (UECDA), focuses solely on non-money judgments, and was intended for enactment as a complement to the *Uniform Enforcement of Canadian Judgments Act*, which it follows structurally and conceptually. The principal features of the legislation are described in the report. Specific issues arising out of adoption of such legislation are explored including the possibility of a judicial escape hatch, possible defences such as public policy, the section concerning protection orders, and the question of whether a unified or a blended act is preferable.