

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1894**

Klingelhutz Judgment, LLC,
Appellant,

vs.

John D. Klingelhutz,
Respondent.

**Filed March 15, 2021
Affirmed
Bjorkman, Judge**

Ramsey County District Court
File No. 62-CV-19-2178

Jason Steck, Edina, Minnesota (for appellant)

Patrick B. Steinhoff, Malkerson Gunn Martin LLP, Minneapolis, Minnesota; and

Phillip R. Krass, Eden Prairie, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Johnson, Judge; and Larkin,
Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges the rule 12 dismissal of this action to renew a judgment based on the statute of limitations. Because appellant did not commence this action within ten years of when judgment was entered, we affirm.

FACTS

Associated Bank, N.A. sued respondent John Klingelhutz in 2008 on a personal guaranty he executed in connection with a promissory note. In April 2009, the district court granted summary judgment to Associated Bank and ordered Klingelhutz to pay the amount due on the note. Judgment was entered on April 15, 2009. Following a sheriff's sale of the property securing the note, the district court ordered a deficiency judgment against Klingelhutz in the amount of \$451,213.51. The judgment was docketed on May 27, 2009.

In early April 2019, appellant Klingelhutz Judgment, LLC (the LLC), as the successor in interest to Associated Bank, filed this action to renew the 2009 judgment. The complaint sought an order “directing entry of a new judgment” in favor of the LLC against Klingelhutz. After several failed attempts to serve Klingelhutz, the LLC pursued service by publication; the summons and complaint were first published on April 28, 2019.

Klingelhutz moved to dismiss the complaint under Minn. R. Civ. P. 12.02(e) for failure to state a claim because the action was time-barred. The district court granted the motion, determining that the statute of limitations began to run when the judgment was entered (April 15, 2009) and that the LLC did not perfect service upon Klingelhutz until May 19, 2019, after the ten-year limitations period had passed. The LLC appeals.

DECISION

We review *de novo* the dismissal of an action for failure to state a claim upon which relief may be granted. *Sipe v. STS Mfg., Inc.*, 834 N.W.2d 683, 686 (Minn. 2013). But where—as here—a district court relies upon documents outside the pleadings, we treat the

motion as one for summary judgment. *Martens v. Minn. Mining & Mfg. Co.*, 616 N.W.2d 732, 739 n.7 (Minn. 2000). And where—as here—the facts are undisputed, we review de novo whether the moving party is entitled to judgment as a matter of law. *City of Morris v. Sax Invs., Inc.*, 749 N.W.2d 1, 5 (Minn. 2008).

As a general rule, “[n]o action shall be maintained upon a judgment . . . unless begun within ten years after the entry of such judgment.” Minn. Stat. § 541.04 (2020).¹ Minn. R. Civ. P. 58.01 governs entry of a judgment, providing that “[t]he judgment in all cases shall be entered and signed by the court administrator in the judgment roll; this entry constitutes the entry of judgment.” See *State by Humphrey v. Certified Servs., Inc.*, 432 N.W.2d 494, 495 (Minn. App. 1988) (stating that rule 58.01 “governs the entry of judgment”). Accordingly, the ten-year statute of limitations begins to run when the rule 58.01 procedures are completed. See *In re Marriage of Opp*, 516 N.W.2d 193, 195 (Minn. App. 1994) (holding the statute unambiguously means that the limitations period begins to run upon entry of judgment and that judgment was not “entered” until the court administrator complied with rule 58.01), *review denied* (Minn. Aug. 24, 1994).

Here, it is undisputed that the judgment was entered pursuant to rule 58.01 on April 15, 2009, more than ten years before the LLC commenced this action. But the LLC argues that (1) its action is timely under the judgment lien statute, and (2) that statute renders the

¹ The LLC argues that this court cannot rely on Minn. Stat. § 541.04 because the district court dismissed this action under Minn. Stat. § 548.09 (2020). But because the district court considered matters outside the pleadings, we must treat its order as one for summary judgment. *Martens*, 616 N.W.2d at 739 n.7. And we may affirm a grant of summary judgment “if it can be sustained on any grounds.” *Doe v. Archdiocese*, 817 N.W.2d 150, 163 (Minn. 2012).

phrase “entry of . . . judgment” in the statute of limitations ambiguous. We consider each argument in turn.

Judgment Lien Statute

The judgment lien statute provides that

every judgment requiring the payment of money shall be entered by the court administrator when ordered by the court and will be docketed by the court administrator upon the filing of an affidavit as provided by subdivision 2. . . . From the time of docketing the judgment is a lien, in the amount unpaid, upon all real property in the county then or thereafter owned by the judgment debtor The judgment survives, and the lien continues, for ten years after its entry.

Minn. Stat. § 548.09, subd. 1. The LLC argues that this statute is ambiguous and can reasonably be read to establish a three-step process for entry of a judgment—order, entry, *and* docketing. According to the LLC, its action is thus timely because it was commenced within ten years of the final step in the process, the May 2009 docketing. We are not persuaded that the judgment lien statute applies.

We begin our analysis by noting that the law distinguishes between “entry” and “docketing” of a judgment. *See Certified Servs.*, 432 N.W.2d at 495 (stating that docketing a judgment “is a separate procedure” from entering a judgment). Indeed, “entry” and “docketing” serve distinct purposes and occur in different ways. Entry makes a judgment final, and “shall” be done “by the court administrator when ordered by the court.” Minn. Stat. § 548.09, subd. 1; *see Schaust v. Town Bd.*, 204 N.W.2d 646, 648 (Minn. 1973) (stating a judgment “is not effective until entered”). Docketing creates a lien through which a judgment may be enforced, and occurs “upon the filing of an affidavit.” Minn. Stat.

§ 548.09, subd. 1. The LLC’s complaint addresses finality, requesting relief in the form of a new judgment.

An action to renew a judgment enables a party to obtain a new judgment on the same terms as a prior judgment. *Dahlin v. Kroenig*, 784 N.W.2d 406, 408-09 (Minn. App. 2010), *aff’d*, 796 N.W.2d 503 (Minn. 2011). While a party may bring a renewal action to further subsequent enforcement efforts, renewal and enforcement actions are not one and the same. An action to enforce a judgment seeks monetary recovery through equitable relief or through a lien on real property.² See *Drewitz*, 867 N.W.2d at 207 (stating the plaintiff was seeking to enforce a judgment through an equitable claim against a company in which he was a shareholder); *Nussbaumer v. Fetrow*, 556 N.W.2d 595, 598 (Minn. App. 1996) (“A judgment lien provides the judgment creditor with the means to compel the judgment debtor to pay a debt.”), *review denied* (Minn. Feb. 26, 1997). Because the LLC seeks entry of a new judgment on the same terms as the judgment entered on April 15, 2009—not enforcement of the judgment—the judgment lien statute does not apply.

² The LLC relies on cases concerning enforcement of judgments to bolster its position that “entry of judgment” is not complete until docketing. See generally *Gregory Co. v. Cale*, 133 N.W. 75 (Minn. 1911); *Newell v. Dart*, 9 N.W. 732 (Minn. 1881); *Drewitz v. Motorwerks, Inc.*, 867 N.W.2d 197 (Minn. App. 2015), *review denied* (Minn. Sept. 15, 2015); *C & M Real Estate Servs., Inc. v. Thondikulam*, 739 N.W.2d 725 (Minn. App. 2007), *review denied* (Minn. Dec. 19, 2007). But *Newell* and *Drewitz* were actions to enforce a judgment, which depended on the judgment being docketed. Likewise, *Cale* and *Thondikulam* focused on the priority of liens, which similarly depended on when the lien attached—in other words, when the judgment was docketed. Because we conclude that the LLC’s action here is one to simply renew a judgment on the same terms so as to secure a new ten-year limitations period—and not to collect money from Klingelhutz on the present judgment—we also conclude these cases are not persuasive.

Statute of Limitations

As noted above, it is undisputed that the judgment the LLC seeks to renew was entered on April 15, 2009, and that this action was not commenced until 21 days after April 28, 2019, when the summons was first published. See Minn. R. Civ. P. 4.04(a) (“The service of the summons shall be deemed complete 21 days after the first publication.”). To avoid clear operation of the ten-year limitations period set out in Minn. Stat. § 541.04, the LLC contends that the phrase “entry of . . . judgment” is ambiguous, again citing the three-step process for entry of judgment—which would not be complete until docketing—it gleans from the judgment lien statute. This argument is unavailing.

First, the statute of limitations is unambiguous; it bars actions upon a judgment that are not commenced “within ten years after the entry of such judgment.” And while we are to construe related statutes in harmony, *People for Env'tl. Enlightenment & Responsibility (PEER), Inc. v. Minn. Env'tl. Quality Council*, 266 N.W.2d 858, 866 (Minn. 1978), there is no reason to consider the judgment lien statute when the relief requested does not include enforcement of a lien.

Second, even if we do look to the judgment lien statute, we are not convinced that its reference to entry of judgment means that the ten-year statute of limitations commences upon docketing of a judgment. The LLC contends that construing “entry of . . . judgment” as being complete before a judgment is docketed results in absurdity when considered in the context of the judgment lien statute’s mandate that “[t]he judgment survives, and the lien continues, for ten years after its entry.” Minn. Stat. § 548.09, subd. 1. We disagree. This portion of the judgment lien statute plainly defines the duration of the lien as

coexistent with the limitations period. Section 548.09 is not inconsistent with section 541.04—“[t]he judgment survives, and the lien continues, for ten years after its entry” plainly means that the judgment lien created by docketing exists for a period of time equal to ten years from the date the judgment was initially entered. Minn. Stat. § 548.09, subd. 1. And the LLC’s argument ignores the fact that docketing does not automatically follow entry of a judgment. Indeed, construing the two statutes as the LLC proposes would prevent finality of a judgment because a judgment creditor could choose not to seek a judgment lien. We are not persuaded that such a reading of the statutes is reasonable.

In sum, it is undisputed that the judgment the LLC seeks to renew was entered on April 15, 2009. Because the LLC did not commence this action within the ten years provided by Minn. Stat. § 541.04, it is time-barred.

Affirmed.