

Attorneys:

- **Irve J. Goldman**
igoldman@pullcom.com
203.330.2213

Bankruptcy Court Applies Collateral Estoppel To State Court Judgement For Fraud and Vexatious Litigation In Denying Discharge of Debts

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*Posted by Irve Goldman
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In her first published decision, rendered in *Mexico Construction and Paving v. Thompson (In re Thompson)*, Case No. 11-32924, Adv. Pro. No. 12-03065 (Bankr. D. Conn May 22, 2014), Judge Julie A. Manning held on the basis of collateral estoppel, that a state court judgment debt for fraud and breach of contract was non-dischargeable under §523(a)(2)(A) (excepting debts based on fraud from discharge) and an accompanying judgment debt for vexatious litigation in the same action was non-dischargeable under §523(a)(6) (excepting debts for willful and malicious injury from discharge).

The state court action arose out of a settlement of an action brought by the debtor which required the debtor to pay the creditor \$16,000 plus legal fees incurred in defending the debtor's lawsuit. The debtor breached the settlement, following which the creditor brought suit in Connecticut Superior Court and asserted claims for breach of the settlement agreement, common law and statutory vexatious litigation and fraud. The jury awarded damages in favor of the plaintiff on all counts and judgment was entered on the jury verdict by the Superior Court in the total amount of \$68,661.00. Although there were separate counts in the state court suit for fraud and breach of contract, with the jury awarding \$23,160 in contract damages and \$1 for fraud, the Bankruptcy Court held that the contract judgment was non-dischargeable on collateral estoppel grounds because the fraud count in the complaint expressly incorporated all prior counts, which included the breach of contract count, and because the elements of the cause of action for common law fraud which were found by the jury, as

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recorded on the jury interrogatories, tracked the elements necessary to deny the discharge of a debt for fraud under §523(a)(2)A). Thus, the requirements for the application of collateral estoppel – that the issue in the prior suit be sufficiently identical to the issue concerning which relitigation is sought and that it was actually and necessarily determined in the prior suit – were held to have been satisfied.

Again applying collateral estoppel, the Bankruptcy Court also that found that the judgment on the claim for vexatious litigation gave rise to a non-dischargeable debt as a willful and malicious injury because the jury specifically found the debtor’s lawsuit to have been commenced and prosecuted with an intent to cause harm, which satisfied the element of willfulness, and further found a lack of probable cause for the suit. The latter finding was sufficient to satisfy the malicious element of §523(a)(6), which requires an injury to be wrongful and without just cause or excuse, although malice may also be “implied when anyone of reasonable intelligence knows that the act in question is contrary to commonly accepted duties in the ordinary relationships among people, and injurious to another.”

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