

11 U.S.C. 523(a)(6)  
Collateral estoppel

Huntley v. Snyder  
(In re Gerald Snyder)

Adv. Proc.# 95-6190-fra  
Case # 695-61784-fra7

7/26/96

FRA

Unpublished

The Plaintiff initiated this action to determine the dischargeability under 11 U.S.C § 523(a)(6) of a default judgment obtained in Coos County Circuit Court against the debtor. The default judgment was based on a complaint filed in that court alleging either the intentional or negligent wrongful death of the Plaintiff's mother by the debtor.

The Plaintiff agreed to a trial on stipulated facts with the default judgment to be the only evidence to be considered by the bankruptcy court. In the Ninth Circuit, a state court judgment is given the same preclusive effect in federal court as it has in the state in which it arose. In Oregon, a valid default judgment admits the truth of all material allegations of the complaint. In this case, however, the underlying complaint pled alternative facts and the default judgment provided no guidance as to which set of facts the judgment relied upon. Given those circumstances, the bankruptcy court held that the default judgment had preclusive effect only as to the amount of damages. The Plaintiff therefore failed to meet her burden as to the "willful and malicious" nature of the injury as is required to be proven under § 523(a)(6). The debt is dischargeable.

E96-7(5)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

IN RE	)	
	)	
GERALD SNYDER,	)	Case No. 695-61784-fra7
	)	
<u>Debtor.</u>	)	
	)	
GLORIA HUNTLEY, Personal	)	
Representative,	)	
	)	
Plaintiff,	)	
vs.	)	Adversary No.95-6190-fra
	)	
GERALD SNYDER,	)	
	)	MEMORANDUM OPINION
<u>Defendant.</u>	)	

The Plaintiff in this action is the Personal Representative of the Estate of Louise Billie Williams, her mother. She filed an action in bankruptcy court to determine the dischargeability under 11 U.S.C. 523(a)(6) of a state court judgment obtained against the debtor in Coos County Circuit Court.

A hearing was held on May 3, 1996 regarding the Plaintiff's motion to postpone the trial date which had been set for May 8, 1996. At that hearing the Plaintiff's attorney stated that she felt that the trial could be held on stipulated facts as she would be relying only on documents from the state court judgment. The court denied Plaintiff's motion to postpone the trial and ordered that the parties either appear at the time set for trial or file stipulated facts. Neither party appeared for trial and Plaintiff subsequently filed a "Memorandum in Support of Objection to Dischargeability" which contains a subheading entitled "Stipulated Facts." No joint statement of stipulated facts, however, was filed by the parties. This court is therefore treating this as a trial on stipulated facts. For the reasons that follow and relying only on the facts presented by the Plaintiff, this court holds that Plaintiff has not met her burden of proof with regard to proving the elements of 11 U.S.C § 523(a)(6) and judgment will be rendered for the Defendant.

#### Findings of Fact

The bankruptcy court makes the following findings of fact:

1. A civil complaint was filed in Coos County Circuit Court by Gloria Huntley against Defendant Gerald Snyder alleging both intentional and negligent wrongful death with regard to the death of Ms. Huntley's mother, Louise Billie Williams.

2. A default judgment was entered against the Defendant on October 25, 1994 whereby the Plaintiff was awarded the principal sum of \$222,288.59 plus costs and disbursements.

3. The Defendant filed for bankruptcy protection under Chapter 7 of the Bankruptcy Code on May 11, 1995.

4. The Plaintiff filed this adversary proceeding on August 7, 1995 to determine the dischargeability of the judgment under 11 U.S.C. § 523(a)(6).

### Discussion

#### Elements to Prove Under § 523(a)(6)

11 U.S.C. 523(a)(6) states that a debt will not be discharged if it relates to the "willful and malicious injury by the debtor to another entity or to the property of another entity." "Willful and malicious" has been defined by the Ninth Circuit Court of Appeals as a "wrongful act . . . done intentionally, [which] necessarily produces harm and is without just cause or excuse." In re Cecchini, 780 F.2d 1440, 1443 (9th Cir. 1986). This then is what the Plaintiff must prove in this case in order for the judgment to be declared nondischargeable.

#### Preclusive Effect of Default Judgments

In a Ninth Circuit case dealing with nondischargeability under 11 U.S.C. § 523(a)(2)(A), the court stated that

The preclusive effect of a state court judgment in a subsequent federal lawsuit generally is determined by the full faith and credit statute, which provides that state judicial proceedings 'shall have the same full

faith and credit in every court within the United States . . . as they have by law or usage in the courts of such . . . State from which they are taken.

Gayden v. Nourbakhsh (In re Nourbakhsh), 67 F.3d 798,800 (9th Cir. 1995). In Oregon, a valid default judgment admits the truth of all material allegations of the complaint. Kerschner v. Smith, 121 Or. 469, 256 P. 195 (1927). As there have been no allegations regarding the validity of the default judgment in the case at bar and it appears to have been validly obtained, all material allegations contained in the underlying complaint are admitted for purposes of this action to determine dischargeability of the judgment.

#### Preclusive Effect of Coos County Default Judgment

The complaint filed in Coos County Circuit Court pled both intentional and negligent wrongful death as alternative causes of action. The first cause of action alleges that the Defendant intentionally caused decedent's death, while the second cause of action merely alleges that the Defendant negligently caused decedent's death. See Plaintiff's Memorandum, Page 2 lines 15-16.

The default judgment which was awarded to the Plaintiff awarded a money judgment in the amount of \$222,288.59 plus costs and disbursements. It does not state any special findings of fact with regard to the alternative causes of action and does not specify one or the other as the basis for the judgment. The

default judgment does not provide guidance to this court as to whether the award was made for intentional wrongful death (arguably making the debt nondischargeable) or for negligence (most probably making the debt dischargeable). Because the Court cannot determine which allegations in the underlying complaint are material to the default judgment, the judgment has preclusive effect only as to the amount of damages awarded.

#### Conclusion

The default judgment awarded to the Plaintiff in Coos County Circuit Court has preclusive effect only as to the amount of damages awarded. Because the Plaintiff has not met her burden of proof with respect to the "willful and malicious" nature of the injury, this court must find for the Defendant. The debt to the Plaintiff is dischargeable. A separate form of judgment will be entered in accordance with this opinion.

FRANK R. ALLEY, III  
Bankruptcy Judge