



Alex Jones and Non-dischargeable Debt

November 1, 2023

The Sandy Hook School massacre, that occurred on December 14, 2012, is a tragedy that will forever be engrained in the memories of Americans, however, even more so for the families of the victims of that tragic day, who are still in contentious legal battles with alt-right radio show host and conspiracy theorist Alex Jones (“Jones”).

For years, Jones broadcasted that the shooting was a hoax. Plaintiffs brought actions based upon legal theories for defamation and intentional infliction of emotional distress in Texas and Connecticut state courts against Jones and his company, Free Speech Systems LLC (“Free Speech”). In both the Texas and Connecticut state court actions, the defendants defaulted, and default judgments were entered in both states.

In our prior alert regarding Jones, [“Voidable Transfers at Issue In Sandy Hook Litigation: The Statute of Elizabeth Lives On,”](#) we discussed the allegation that Jones and Free Speech transferred the bulk of their assets in an attempt to place them outside the reach of their judgment creditors. The plaintiffs filed a motion to recover those assets. Now, Jones faces another motion: whether the judgments entered against him are non-dischargeable under Section 523(a)(6) of the Bankruptcy Code.

The Bankruptcy Code (the “Code”) provides debtors the chance at a “fresh start” in bankruptcy. However, Section 523 of the Code creates exceptions to the discharge of certain types of debts and can take away the privilege of a debtor’s fresh start. Examples of these debts include debts arising from (i) money, property or services provided to the debtor obtained by false pretenses, false representation or actual fraud (section 523(a)(2)(A)); (ii) debtor’s fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny (section 523(a)(4)); or (iii) debtor’s willful and malicious injury to another entity or property of another entity (section 523(a)(6)). See Client Alert- [“Debtors Behaving Badly: Non-Dischargeability of Debt Based on Debtor’s ‘Bad Acts’”](#)

In our current case, plaintiffs brought this adversary proceeding to determine the dischargeability of the debts against Jones under § 523(a)(6) of the Code. They moved for summary judgment arguing that the Final Judgment satisfies the requirements of collateral estoppel on the issue of willful and malicious injury. *Heslin v. Jones* 23-03035 (Bankr. S.D. Tex. Oct. 19, 2023).

The theory of collateral estoppel prevents parties from relitigating issues of fact that were already determined by a valid and final judgment in a prior lawsuit in any future lawsuit involving the same parties.

In the Connecticut suits, Bankruptcy Judge Christopher Lopez of Houston stated that the allegations in the Complaint were deemed admitted when a default judgment is entered and that the findings about Jones’s willful and malicious injury to the plaintiffs were also necessary to the judgment and the jury award damages. Based on

this fact, a final judgment was rendered, and collateral estoppel applies. However, Judge Lopez only granted partial summary judgment as to non-dischargeability. He was unable to grant summary judgment as to the attorney fees as common law punitive damages because the jury could have found liability for a reckless act, which would not have been non-dischargeable.

A similar holding was rendered in the Texas suit. There, Judge Lopez found that the default judgment also amounted to an admission by Jones, and collateral estoppel applied to the default judgment on willful and malicious injury. Judge Lopez stated that he was granting summary judgment “as to the findings of willful and malicious injury about defamation and intentional infliction of emotional distress, but [denying] the motion as to the amount of any damages.”

Between the 2 state court actions, Jones is now saddled with \$1.2 Billion in non-dischargeable debt, with potentially more to come. It will be up to the jury to determine whether the additional damages can be deemed as willful and malicious, and if so, they will be non-dischargeable.

Please note this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and the recipient. If you have any question regarding discharge or non-dischargeability of debts, please contact Michael H. Traison (mtraison@cullenllp.com) at 312.860.4230.

Thank you to Kelly McNamee, a Law Clerk pending New York bar admission, who assisted in the preparation of this alert.

Practices

- Bankruptcy and Creditors' Rights

Attorneys

- Michael H. Traison
- Kelly McNamee