

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CHAPTER 7
	)	
KEITH DESHEA ELLIS,	)	CASE NO. 13-65910 - MHM
	)	
Debtor.	)	
	)	
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MONICA M. TUCKER	)	
	)	
Plaintiff,	)	ADVERSARY PROCEEDING
v.	)	NO. 13-5377
	)	
KEITH DESHEA ELLIS,	)	
	)	
Defendant.	)	

**ORDER GRANTING MOTION FOR DEFAULT JUDGMENT**

Plaintiff filed a complaint initiating this adversary proceeding October 23, 2013. No response was filed, and Plaintiff requested entry of default January 6, 2014 (Doc. No. 6). On January 13, 2013, Plaintiff filed a *Motion for Default Judgment* (Doc. No. 7) (the "Motion"). Plaintiff now seeks default judgment. For the reasons set forth below, the Motion will be ***granted***.

Plaintiff's undisputed allegations show that Debtor's debt to Plaintiff – specifically, a \$9,745.50 judgement entered in the Magistrate Court of DeKalb County, Georgia – arose from "malicious and willful theft by the defendant." Plaintiff asserts that Debtor stole an engagement ring from Plaintiff.

Under 11 U.S.C. § 523(a)(6), debts arising from “willful and malicious injury” are excepted from § 727 discharge. “A debtor is responsible for a ‘willful’ injury when he or she commits an intentional act ... which is substantially likely to cause injury.” *Hope v. Walker*, 48 F.3d 1161, 1165 (11<sup>th</sup> Cir. 1995). Loss of property is among the types of “injury” contemplated by § 523(a)(6). *Cf. In re Wolfson*, 56 F.3d 52, 54 (11<sup>th</sup> Cir. 1995) (“Willful and malicious injury includes willful and malicious conversion[.]”)

Debtor also requests costs and fees associated with bringing this proceeding. Under the “American Rule” each party to a legal proceeding is generally responsible for his or her own fees and expenses. *Johnson v. Florida*, 348 F.3d 1334, 1350 (11<sup>th</sup> Cir. 2003). Generally, statutory authority is required for departure from the American Rule. *Id.* Plaintiff has not pointed to any such authority excepting this proceeding from the American Rule. Accordingly, it is hereby

ORDERED that Plaintiff's motion for default judgment is **granted**: the \$9,745.50 judgement entered in the Magistrate Court of DeKalb County, Georgia is non-dischargeable under § 523(a)(6). It is further

ORDERED that each party is responsible for its own fees and costs associated with this proceeding.

IT IS SO ORDERED this the 24<sup>th</sup> day of February, 2014

  
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MARGARET H. MURPHY  
UNITED STATES BANKRUPTCY JUDGE