

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED
FEB 10 2009

IN RE:	:	CASE NO. 07-79473-JB
	:	
MICHAEL R. PETERSON, Sr.,	:	
	:	
Debtor.	:	
	:	CHAPTER 7
	:	
ROSWELL HOLDINGS, LLC,	:	
	:	
Plaintiff,	:	ADVERSARY PROCEEDING
	:	NO. 08-6088-JB
v.	:	
	:	
MICHAEL R. PETERSON, Sr.,	:	
	:	
Defendant.	:	

ORDER

This adversary proceeding objecting to the dischargeability of a judgment is before the Court on Plaintiff's motion for a judgment on the pleadings. (Docket No. 8). Plaintiff Roswell Holdings, LLC ("Roswell Holdings") contends that a final order and judgment against the Defendant/Debtor Michael R. Peterson, Sr. ("Mr. Peterson") in the amount of \$782,549.81 obtained in the Superior Court of Fulton County (the "Superior Court") is non-dischargeable pursuant to 11 U.S.C. § 523(a)(6). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

Mr. Peterson and Roswell Holdings were parties to litigation in the Superior Court. The Superior Court granted summary judgment in favor of Roswell Holdings against Mr. Peterson on January 31, 2007 dismissing all the claims brought by Mr.

Peterson against Roswell Holdings and granting Roswell Holdings a summary judgment against Mr. Peterson on counterclaims for (1) slander of title and (2) attorney's fees due to the filing of an action by Mr. Peterson against Roswell Holdings without substantial justification as required by O.C.G.A. § 9-15-14. Following the granting of the summary judgment, the Superior Court held an evidentiary hearing to determine the damages for the slander of title and the attorney's fees. On March 6, 2007, the Superior Court entered an order awarding damages in the amount of \$720,000 on the slander of title claim and \$62,549.81 in attorney's fees, finding that Mr. Peterson and counsel willfully filed the action in Superior Court without substantial justification, to delay an inevitable and legal dispossessory proceeding, and with the intent to harass Roswell Holdings. The findings in the Superior Court's summary judgment order and order on damages establish the elements of a claim under 11 U.S.C. § 523(a)(6) such that under principles of collateral estoppel, the judgment is nondischargeable in Mr. Peterson's bankruptcy.

At a hearing on the motion for judgment on the pleadings in this dischargeability proceeding, Mr. Peterson's counsel agreed that the judgment entered by the Superior Court would be nondischargeable, but argued that the Superior Court's judgment was not yet final, as Mr. Peterson had filed a notice of appeal and a motion to vacate the judgment. Accordingly, the Bankruptcy Court entered an interim order on June 2, 2008, directing counsel to obtain a ruling regarding Mr. Peterson's appeal and motion to vacate, and to advise the Bankruptcy Court when there was a final judgment. On January 30, 2009, Roswell Holdings filed a status report with the Bankruptcy Court

showing that on January 8, 2009, the Superior Court entered an order denying the relief sought by Mr. Peterson. In particular, the Superior Court found that the notice of appeal filed by Mr. Peterson was untimely and that there was no merit to the other positions advanced. Thus, it appears that the judgment of the Superior Court is final, and Roswell Holdings is entitled to judgment on the pleadings in the instant adversary proceeding. The judgment claim of Roswell Holdings against Mr. Peterson is not dischargeable under Section 523(a)(6) of the Bankruptcy Code.

IT IS SO ORDERED, this 10th day of February, 2009.


JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE

Distribution List:

Sean A. Gordon
Dorian Daggs Thompson Hine, LLP
Suite 2200
1201 W. Peachtree St.
Atlanta, GA 30309

Melvin L. Dansby
2160 Dorsey Ave.
East Point, GA 30344

Michael R. Peterson, Sr.
340 Kings Place
Riverdale, GA 30296

Martha A. Miller
Martha A. Miller, PC
229 Peachtree Street, NE
Suite 2415
Atlanta, GA 30303