

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

CLAY E. CAMPBELL, JR.,

Main Case: 21-10581

Plaintiff,

ADVERSARY PRO. NO.: 21-1022- JCO

v.

ANDRE C. BROWN and  
SHEOKIE T. BROWN,

Debtor-Defendants.

**ORDER DENYING DEBTORS' MOTION FOR SUMMARY JUDGMENT**

This matter came before the Court on the Motion for Summary Judgment filed by the Debtor-Defendants, Sheokie and Andre Brown (doc. 47), the Response thereto by Plaintiff, Clay Campbell (doc.49) and the Debtors' Reply (doc. 50). Proper notice was given and the Court advised the parties that it would take the matter under advisement and issue a ruling. Upon review of the pleadings, the evidence submitted and the record, the Court finds that the Defendants' Motion for Summary Judgment is due to be DENIED for the reasons below.

**PROCEDURAL BACKGROUND AND FACTS**

The Plaintiff, Clay Campbell ("Campbell"), initiated this Adversary Proceeding, *pro se*, seeking to have his claims declared non-dischargeable based on alleged willful and malicious injury caused by the Debtors, Sheokie and Andre Brown ("the Browns"). (Doc. 1). Campbell's Complaint also contends that the Browns made false statements about their bankruptcy estate and that he has a secured lien on property. His assertions arise from allegations of the Browns' unlawful entry of real property at 2935 Billy Williams Drive in Mobile County, Alabama

(“Realty”) as well as theft and conversion of Campbell’s personal property on or about August 2017 for which Campbell obtained a judgment February 25, 2021 in the amount of \$13,500 plus costs. (Doc. 10). The Browns’ Motion for Summary Judgment asserts that Campbell has failed to establish intentional harm necessary to pursue his §523(a)(6) claim because the Realty was abandoned and they were unaware of his interest. (Doc. 47). Campbell filed a Response to the Motion for Summary Judgment along with exhibits. His exhibits include a copy of a conveyance reflecting his interest in the realty which was filed in the Mobile County, Alabama real property records June 30, 2000 (doc. 49 at 6). Campbell also filed documentation refuting the Browns’ claims that the Realty was abandoned. (Docs. 49, 49-1). The Browns then filed a Reply (doc. 50) reiterating their position that they were unaware of Campbell’s interest.

### ANALYSIS

As the Browns’ Motion for Summary Judgment raised a single argument against the Campbell’s Section 523(a)(6) claim, the Court will narrow its analysis to address only that argument. Section 523 of the Bankruptcy Code provides in part that a debt “for willful and malicious injury by the debtor to another” is not dischargeable. 11 U.S.C. §523(a)(6). A debtor is responsible for a ‘willful’ injury when he or she commits an intentional act the purpose of which is to cause injury or which is substantially certain to cause injury. *In re Kane*, 755 F.3d 1285, 1293 (11th Cir. 2014)(citing *In re Jennings*, 670 F.3d 1329, 1334 (11th Cir. 2012) (quoting *In re Walker*, 48 F.3d 1161, 1165 (11th Cir.1995)). This Court has previously noted that under §523(a)(6), malicious means that the debtor’s act is wrongful, without just cause, or excessive even in the absence of personal hatred, spite or ill-will. *In re Reid*, 598 B.R. 674, 682 (Bankr. S.D. Ala. 2019) (citing *In re Walker*, 48 F.3d 1161, 1163 (11th Cir. 1995)). To establish malice for purposes of §523(a)(6), “a showing of specific intent to harm another is not necessary.” *Id.* (citing *Beem v.*

*Ferguson*, 713 Fed. Appx. 974, 984 (11th Cir. 2018)). Therefore, determinations of whether a debtor's conduct rises to the level justifying denial of dischargeability of a debt under §523(a)(6) are fact sensitive. In such context, oftentimes legal conclusions cannot be drawn absent presentation of all the relevant facts surrounding a debtor's actions and inactions. Additionally, when material facts are disputed, disposition by summary judgment is not appropriate. Fed. R. Civ. P. 56.

Under Federal Rule of Civil Procedure 56, made applicable to this proceeding under Federal Rule of Bankruptcy Procedure 7056, summary judgment is proper only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law". *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The party moving for summary judgment bears the burden of meeting the standard. *In re United Display & Box, Inc.*, 198 B.R. 829, 831 (Bankr. M.D. Fla. 1996). In assessing whether the movant has met this burden, the Court should view the evidence and all factual inferences which may be drawn from those facts, in the light most favorable to the party opposing the motion. *Id.* (citing *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157, 90 S.Ct. 1598, 1608, 26 L.Ed.2d 142 (1970)). All reasonable doubts should be resolved in favor of the non-movant. *Casey Enterprises v. Am. Hardware Mut. Ins. Co.*, 655 F.2d 598, 602 (5th Cir. 1981).

In this case, the Browns contend that the Adversary should be dismissed because the Realty was abandoned and they were not aware of Campbell's interest. Campbell's Response and evidentiary materials present a different version of the events. Specifically, Campbell's affidavit and exhibits set forth his contentions that the Browns: (1) knew or should have known of his interest, which was easily ascertainable from the public records; (2) were aware that the Realty

was occupied by his family; (3) intentionally contrived a plan to unlawfully enter the Realty and loot property belonging to him; and (4) refused to return his personal property upon demand. Hence, upon construing the evidence most favorably to the non-movant, the Court concludes that disputes of material fact exists. Therefore, disposition of this matter by summary judgment is not appropriate under Rule 56.

### **CONCLUSION**

Based on the foregoing, the Court finds that the Browns have failed to show that there is no genuine issue as to any material fact and that they are entitled to judgment as a matter of law. Thus, it is hereby ORDERED, ADJUDGED and DECREED that the Brown's Motion for Summary Judgment is DENIED.

Dated: May 13, 2022



JERRY C. OLDSHUE, JR.  
U.S. BANKRUPTCY JUDGE