

FOR PUBLICATION

**UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE FIRST CIRCUIT**

BAP NO. EB 25-018

**Bankruptcy Case No. 24-10108-MAF
Adversary Proceeding No. 24-01004-MAF**

**SCOTT L. FENSTERMAKER,
Debtor.**

**MARTHA CZYMMEK,
Plaintiff-Appellee,**

v.

**SCOTT L. FENSTERMAKER,
Defendant-Appellant.**

**Appeal from the United States Bankruptcy Court
for the District of Maine
(Hon. Michael A. Fagone, U.S. Bankruptcy Judge)**

**Before
Lamoutte, Godoy, and Finkle, U.S. Bankruptcy Appellate Panel Judges.**

**Scott L. Fenstermaker, pro se, on brief for Defendant-Appellant.
Adam R. Prescott, Esq., on brief for Plaintiff-Appellee.**

October 27, 2026

Godoy, U.S. Bankruptcy Appellate Panel Judge.

The debtor-appellant, Scott L. Fenstermaker, appeals from the bankruptcy court's summary judgment determining that his debts to the appellee, Martha Czymmek, arising from three pre-petition sanctions awards are nondischargeable under 11 U.S.C. § 523(a)(6).

For the reasons set forth below, the Panel **AFFIRMS** the summary judgment.

BACKGROUND

I. Pertinent Pre-Petition History

Czymmek and Fenstermaker, who is an attorney, are siblings. In 1997, their father executed a will dividing his estate equally among his three children. Subsequently, the father and Fenstermaker had a falling out. In 2016, the father revoked the 1997 will and executed a new will that excluded Fenstermaker as a beneficiary and named Czymmek as executrix. In May 2017, Fenstermaker filed an action in the U.S. District Court for the District of Connecticut against the father, who was still alive, and Czymmek to invalidate the 2016 will. That action was dismissed in March 2018. Fenstermaker represented himself in that proceeding and in all later proceedings.

The father passed away in June 2018, and Czymmek sought to settle his estate in Connecticut Probate Court based on the 2016 will. In August 2018, the Connecticut Probate Court entered a final judgment approving the settlement of the father's estate. Almost a year later, Fenstermaker filed an application with the Connecticut Probate Court to probate the 1997 will. The Connecticut Probate Court denied admission of the 1997 will into probate, and Fenstermaker appealed by filing a complaint in Connecticut Superior Court. Czymmek was a "defendant/appellee" in the proceeding and took an active role, incurring legal fees. The Connecticut Superior Court dismissed the appeal for lack of statutory authority to grant the relief

requested and lack of subject matter jurisdiction. Fenstermaker's attempts to appeal the dismissal to the Connecticut Appellate Court, the Connecticut Supreme Court, and finally the U.S. Supreme Court, were unsuccessful.

During these proceedings, Czymmek filed four motions asking the Connecticut Superior Court to order Fenstermaker to pay her legal fees and costs incurred opposing his efforts to revive the 1997 will. Fenstermaker responded to Czymmek's motions and the court held hearings.

In May 2023, the Connecticut Superior Court ordered Fenstermaker to pay Czymmek's attorney's fees. In its memorandum of decision (the "Connecticut Sanction Decision"), the court examined Fenstermaker's knowledge and conduct before he applied to probate the 1997 will and throughout his attempts to appeal the denial of that application for probate. The court observed, among other things, that Fenstermaker had rejected the father's attempts to communicate with him before the father executed the 2016 will. The Connecticut Superior Court further noted that during Fenstermaker's 2017 federal court action to invalidate the 2016 will, the father submitted multiple affidavits supporting its validity. Among those were the father's own affidavit denying that Czymmek influenced Fenstermaker's disinheritance, noting her share had not increased as a result, and expressing concern that Fenstermaker's goal in federal court was to reduce the assets the father could convey upon his death by causing him to incur legal fees. The Connecticut Superior Court concluded that, at least from the 2017 federal court action, Fenstermaker knew about his father's 2016 revocation of the 1997 will and execution of the 2016 will. The court further found that before Fenstermaker applied to probate the 1997 will in July 2019, he knew the Connecticut Probate Court had entered a final order approving the settlement of his father's estate based on the 2016 will.

Evaluating whether to award fees and costs to Czymmek, the Connecticut Superior Court summarized the applicable legal standards as follows:

It is generally accepted that the court has the inherent authority to assess attorney's fees when the losing party has acted in bad faith, vexatiously, wantonly or for oppressive reasons. . . . This bad faith exception applies, not only to the filing of an action, but also in the conduct of the litigation. . . .

. . . We have emphasized that, in determining whether a party has engaged in bad faith, [t]he appropriate focus for the court . . . is the conduct of the party in instigating or maintaining the litigation. . . . From that conduct, the court may infer the subjective intent of the person against whom sanctions are sought. Some examples of evidence that would support a finding of bad faith include a party's use of oppressive tactics or its wilful [sic] violations of court orders . . . or a finding that the challenged actions [are taken] for reasons of harassment or delay or for other improper purposes

Dkt. No. 19, at 27 (citation omitted).¹

The court then concluded Fenstermaker's litigation was in bad faith, reasoning:

[T]he court infers [Fenstermaker]'s subjective intent in pursuing multiple levels of litigation that the action was brought in bad faith as [Fenstermaker] petitioned to have . . . the 1997 will[] admitted into probate with the full and detailed knowledge that the 1997 will and its two codicils had been revoked by the 2016 will. . . . [Fenstermaker]'s conduct was frivolous in that he brought an action and subsequent appeals without a basis in law and fact for doing so. In other words, [Fenstermaker]'s claim was unwarranted under existing law. Despite his level of education and experience as an attorney, [Fenstermaker] sought to admit the 1997 will with the full knowledge that such will had been revoked and continued on with years of litigation. [Fenstermaker] did so knowing there was no factual basis for his claim. It is clear to this court that [Fenstermaker] has acted in bad faith in continuing this action and that his purpose in doing so was to harass [Czymmek] and to cause her to incur expense in defending against [Fenstermaker]'s allegations.

Id. at 35. The Connecticut Superior Court thus ordered Fenstermaker to pay Czymmek's attorney's fees in the amount of \$90,766.50, plus \$3,009.27 in expenses and costs, for a total

¹ Citations to the sanctioning courts' respective decisions and orders, filed on the bankruptcy court docket as attachments to Czymmek's amended supporting statement of material facts at docket entry 19 ("Dkt. No. 19"), are included for reference. As Dkt. No. 19 includes multiple documents, the pincites refer to the page number in the ECF header.

award of \$93,775.77 (the “Connecticut Sanction”). Fenstermaker appealed the Connecticut Sanction to the Connecticut Appellate Court, which dismissed the appeal in June 2023 for Fenstermaker’s failure to comply with appellate procedure. Fenstermaker’s request for reconsideration of the dismissal was denied.

In August 2023, Czymmek filed the Connecticut Sanction as a foreign judgment in New York state court. Fenstermaker removed the case to the U.S. District Court for the Southern District of New York (the “N.Y. District Court”) and moved to enjoin enforcement of the judgment, arguing the Connecticut Superior Court lacked authority to sanction him, the sanction was unreasonable, and the Connecticut Appellate Court violated his due process rights by dismissing his appeal of the Connecticut Sanction without a hearing.

Czymmek moved to dismiss or remand the case to state court because the N.Y. District Court lacked subject matter jurisdiction and requested attorney’s fees and costs for improper diversion into federal court. Fenstermaker did not respond to Czymmek’s request for attorney’s fees.

In January 2024, the N.Y. District Court granted Czymmek’s motion to remand and for attorney’s fees. In its opinion and order (the “N.Y. District Court Sanction Decision”), the N.Y. District Court observed that a supplemental proceeding merely to collect a judgment debt, like Czymmek’s proceeding in New York state court, was ineligible for removal to federal court under 28 U.S.C. § 1446. The court determined that Fenstermaker, as a lawyer, knew removal was improper but did it anyway. The N.Y. District Court observed that Fenstermaker was asking it to overrule the Connecticut state court when it had no jurisdiction to do so, and that Fenstermaker predicated his removal notice on the same arguments the Connecticut courts already rejected.

In determining that Czymmek was entitled to attorney's fees under 28 U.S.C. § 1447(c), the N.Y. District Court observed that "[t]he appropriate test for awarding fees under § 1447(c) should recognize the desire to deter removals sought for the purpose of prolonging litigation and imposing costs on the opposing party," and as such, "absent unusual circumstances, courts may award attorney's fees under § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal." Dkt. No. 19, at 45 (citation modified). Though the analysis turned on the removing party's objective reasonableness, the N.Y. District Court also examined Fenstermaker's subjective intent and determined his removal "constitute[d] a frivolous attempt to escape enforcement of a judgment entered against him" and that his removal arguments "[were] an effort to delay execution of the judgment and force Czymmek to incur unnecessary expenses." Id. The N.Y. District Court concurred with the Connecticut Superior Court that Fenstermaker litigated in bad faith to harass Czymmek and to cause her to incur expenses, concluding that "[t]he only purpose of his removal notice, predicated on the same arguments that ha[d] been rejected by multiple courts, could have been to forestall Czymmek and to delay the day of reckoning when he would have to make good on the Connecticut Judgment." Id. at 46. The N.Y. District Court thus granted Czymmek's motion for attorney's fees and costs and, by separate order, awarded \$13,685.00, plus post-judgment interest (the "New York Sanction").

Around the time she commenced the New York state court proceeding, Czymmek also filed the Connecticut Sanction as a foreign judgment in Maine state court. Fenstermaker objected and requested a stay while he sought reconsideration of the Connecticut Appellate Court's dismissal of his appeal and while the N.Y. District Court ruled on his removal of the New York state court proceeding. In support, Fenstermaker repeated the arguments he made to

the Connecticut state courts and the N.Y. District Court, adding that the Connecticut Sanction was cruel and unusual punishment and an excessive fine under the Eighth Amendment of the U.S. Constitution. In February 2024, Czymbek filed a motion for sanctions against Fenstermaker in the Maine proceeding, to which Fenstermaker responded.

In March 2024, the Maine state court issued an order (the “Maine Sanction Decision”) concluding that “Fenstermaker’s attempts at appeal and [a] stay were solely to delay the Judgment from being registered in Maine and were filed in bad faith.” Dkt. No. 19, at 51. The court found that:

Fenstermaker has not demonstrated any basis to delay enforcement of the Judgment. Each asserted basis in this matter has been repeatedly rejected by the Courts of Connecticut and New York, including the Federal Court for the Southern District of New York. Fenstermaker continues to assert the very same arguments here, yet again, arguments that have not only been continuously rejected, but rejected as “frivolous” and in “bad faith”. This Court is baffled by the breathtaking nerve of Fenstermaker to continue to assert arguments and claims that are continually rejected, in a court of law, while being completely oblivious to the consequences of his actions and his obligations as an attorney.

Id. at 52. The Maine state court further found that Fenstermaker’s objections and arguments were “frivolous, contumacious, (and) instituted primarily for the purpose of delay.” Id. at 53 (quoting Lincoln v. Burbank, 147 A.3d 1165, 1176 (Me. 2016)). The court noted that “sanctions are appropriate in egregious cases, namely when a party seeks relief with no reasonable likelihood of prevailing, thereby increasing litigation costs and wasting time and resources.” Id. (quoting Whittet v. Whittet, 167 A.3d 1258, 1259-60 (Me. 2017)). The court concluded that Fenstermaker’s filings in the Maine action were “unequivocally sanction-worthy,” reasoning:

[I]ndeed as [j]udges in Connecticut and New York have found, Fenstermaker does not assert any concrete or plausible arguments that would permit this court to even remotely consider staying this matter. The cases which are the basis for this matter have been concluded finally. His arguments have been soundly rejected. His requests for stay and to reinstate the appeals have been quickly and resoundingly dismissed. There are no Court actions pending to vacate or undo

this Judgment. Fenstermaker is an attorney licensed to practice in Maine (although currently under suspension). Therefore, his pleadings here violate his obligation to read pleadings and, upon signing them and submitting them to a tribunal in this state, acknowledge that he “has read the pleading or motion; that to the best of the signor’s knowledge[,] information and belief that there is good ground to support it; and that it is not interposed for delay.” M.R. Civ. P. 11(a). His voluminous filings here were for one purpose and one purpose alone, i.e. delay. His violation subjects him to “an appropriate sanction” which may include an award of attorney’s fees and costs. Id.

. . . .

Accordingly, as a sanction for Fenstermaker’s actions in this matter, which the Court finds were in bad faith, made solely for the purpose of delay, and violated his obligations under Rule 11 of the Maine Rules of Civil Procedure, Czymmek is awarded her reasonable counsel fees and costs of court incurred for defending Fenstermaker’s objections.

Dkt. No. 19, at 53-54. In a separate order, the Maine state court ordered Fenstermaker to pay Czymmek attorney’s fees and costs in the amount of \$7,017.18 “for the frivolous and dilatory nature of his filings in this matter” (the “Maine Sanction”). Id. at 61.

In total, Fenstermaker has been ordered to pay Czymmek \$114,478.18 in attorney’s fees, plus accrued interest and costs. The record reflects that Fenstermaker has not paid anything toward that amount.

II. The Bankruptcy Case and Adversary Proceeding

In May 2024, Fenstermaker filed a voluntary petition under chapter 7 of the Bankruptcy Code with the Maine bankruptcy court. Czymmek filed proofs of claim asserting a \$109,934.96 claim arising from the Connecticut Sanction and the Maine Sanction, and a \$13,794.17 claim arising from the New York Sanction.

Czymmek then filed a three-count complaint against Fenstermaker seeking a declaratory judgment that his debt to Czymmek arising from each of the three sanctions awards was nondischargeable under § 523(a)(6) for willful and malicious injury.

A. The Motion for Summary Judgment

Czymmek filed a motion for summary judgment and an amended supporting statement of material facts with exhibits, including an affidavit and copies of the courts' respective decisions and orders sanctioning Fenstermaker. Czymmek argued that the sanctions awards, which were based on Fenstermaker's willful and malicious attempts to harm Czymmek through frivolous litigation, were entitled to collateral estoppel effect such that the bankruptcy court should adopt their findings and conclusions and enter judgment for Czymmek that the debts are nondischargeable.

Czymmek argued collateral estoppel could apply to establish the nondischargeability of a debt if each underlying order would be subject to the doctrine under the laws of the issuing jurisdiction. She asserted that Connecticut law, federal law, and Maine law are substantially similar and require the same analysis. She maintained that she and Fenstermaker were parties in the prior litigations, the courts issued final judgments on attorney's fees, and the courts' factual findings and characterizations of Fenstermaker's conduct were necessary to the attorney's fees awards. For each action, Czymmek asserted the issue was actually litigated because she filed motions for sanctions and fees with each court and Fenstermaker either responded or had an opportunity to respond before the court ruled. Finally, she contended each award made specific factual findings encompassing whether Fenstermaker's conduct was "willful and malicious."

Czymmek argued the undisputed material facts supported the conclusion that the sanctions awards resulted from Fenstermaker's willful and malicious acts that injured her. Czymmek further contended that Fenstermaker's frivolous litigation was willful, as the sanctioning courts variously found his purposes were to harass her, cause her to incur unnecessary litigation expenses, and to delay execution of the judgment. Czymmek next argued

Fenstermaker's frivolous litigation was malicious because he knew his actions were wrongful and without just cause or excuse, citing the sanctioning courts' findings of bad faith. Finally, she contended that litigation costs from frivolous litigation are nondischargeable debts under § 523(a)(6).

Fenstermaker filed a response accompanied by his declaration but no statement of material facts. He argued that Czymmek failed to establish that collateral estoppel applied, and therefore, a genuine issue of material fact existed as to whether Fenstermaker's actions were willful and malicious.

Fenstermaker contended that the debts at issue arose from Czymmek's efforts to administer their father's "insolvent" estate. He stated Czymmek "claim[ed] to have filed" motions seeking over \$90,000 in attorney's fees and costs she "claimed to have incurred" in the Connecticut proceedings. Fenstermaker said he understood his father had \$1.5 million in assets shortly before his death, which were not accounted for in the probate proceeding, and that "[b]ankers from PNC Bank had secured a general power of attorney from the father prior to his death and the father had signed an affidavit stating it was his intent that his assets pass through his estate at his death and that Fenstermaker be afforded the opportunity to challenge his disinheritance."

Fenstermaker also argued that Czymmek could not rely on the copies of the sanctions awards because they were not certified under Federal Rule of Evidence 902 and she was not qualified to attest to whether the awards were recorded or filed under Evidence Rule 901(b) because she was "either a housewife, or a registered dietician." Fenstermaker similarly asserted that because Czymmek failed to provide copies of her motions for attorney's fees underlying the

sanctions awards, or any other “support of an evidentiary nature,” she could not establish the elements of collateral estoppel under applicable law.

Focusing on the Connecticut Sanction, Fenstermaker argued that Connecticut collateral estoppel law requires not only that the issues be identical in the current and prior proceedings, but that “[t]he terms, as used in the first action, must be identical to the terms as used in the second.” He further contended he could not fully and fairly litigate his challenge to Czymmek’s administration of the father’s estate because the Connecticut Superior Court determined it lacked subject matter jurisdiction to hear his claims. Although Fenstermaker acknowledged that a ruling on attorney’s fees is distinct from a ruling on the merits, he argued that the court’s lack of subject matter jurisdiction over his claims meant it lacked authority to make findings about his knowledge, conduct, bad faith, purpose, and intent in litigating. Similarly, he argued that the Connecticut Appellate Court’s dismissal of his appeal of the Connecticut Sanction for failure to comply with a deficiency order denied him due process, his right to appeal, and a full and fair opportunity to litigate the sanction because the court placed the deficiency order in the court’s electronic mailbox instead of emailing, mailing, or calling Fenstermaker to notify him.

Fenstermaker next asserted that even if collateral estoppel applied to the Connecticut Sanction Decision, it should not apply here because he “could not have reasonably expected that [Czymmek] would spend \$93,775.77 defending . . . the Insolvent Estate.” Fenstermaker implied that Czymmek’s disproportionate expenditure was to avoid certain causes of action the father’s estate had against her and PNC Bank for assets not included in the administration proceeding. He contended that because he could not develop his challenges to Czymmek’s administration of the estate, it was “highly likely that [he] had no intent to cause [Czymmek] to expend \$93,775.77 in attorneys’ fees and costs defending the Insolvent Estate,” noting the parties’ brother was also a

defendant in the Connecticut Superior Court action but did not expend fees in that matter. Lastly, he argued that because his opportunity to litigate his challenge to the estate administration proceeding would be different in the bankruptcy court versus the Connecticut Superior Court, collateral estoppel should not apply to the Connecticut Sanction Decision.

B. The Bankruptcy Court's Summary Judgment

The bankruptcy court entered summary judgment in Czymmek's favor on all three counts of the complaint and a memorandum of decision determining Fenstermaker's debts from the three sanctions awards were nondischargeable under § 523(a)(6). In its thorough decision, the bankruptcy court examined the parties' arguments and the sanctioning courts' findings and determinations in detail. The bankruptcy court concluded that issue preclusion applied to each sanction award, that the issues necessarily determined by the sanctioning courts established the elements of § 523(a)(6) such that a trial was not needed, and that Czymmek was entitled to judgment as a matter of law.

III. The Appeal

This appeal followed. Czymmek has filed a Motion for Damages and Costs Pursuant to Bankruptcy Rule 8020, arguing that the appeal is frivolous and continues Fenstermaker's "saga of bad-faith litigation and appeals" for the purpose of imposing litigation costs on Czymmek and delaying payments to her. The Panel will address the Motion for Damages and Costs in a separate order.

APPELLATE JURISDICTION AND STANDARD OF REVIEW

The Panel has jurisdiction to hear appeals from final judgments, orders, and decrees of the bankruptcy court. See 28 U.S.C. § 158(a)-(c); see also Ritzen Grp., Inc. v. Jackson Masonry, LLC, 589 U.S. 35, 39 (2020). Here, the bankruptcy court entered summary judgment in favor of

Czymmek on all three counts of the complaint. Therefore, the judgment is final, and the Panel has jurisdiction to hear this appeal. See Bullard v. Blue Hills Bank, 575 U.S. 496, 506 (2015); see also Encanto Rests., Inc. v. Aquino Vidal (In re Cousins Int’l Food, Corp.), 565 B.R. 450, 458 (B.A.P. 1st Cir. 2017) (“An order granting summary judgment is a final order where no counts against any defendants remain.”) (citation omitted).

The standard of review on appeal from a grant of summary judgment is de novo. Prime Healthcare Servs.–Landmark LLC v. United Nurses & Allied Prof’ls, Local 5067, 848 F.3d 41, 45 (1st Cir. 2017); Boudreau v. United States (In re Boudreau), 622 B.R. 817, 823 (B.A.P. 1st Cir. 2020).

DISCUSSION

I. The Applicable Standards

A. The Summary Judgment Standard

Summary judgment is governed by Rule 56, made applicable to adversary proceedings by Bankruptcy Rule 7056. Fed. R. Civ. P. 56; Fed. R. Bankr. P. 7056. Summary judgment should be granted “when no genuine issue of material fact exists and the movant has successfully demonstrated an entitlement to judgment as a matter of law.” Kirby v. 21st Mortg. Corp. (In re Kirby), 599 B.R. 427, 439 (B.A.P. 1st Cir. 2019) (quoting Desmond v. Varrasso (In re Varrasso), 37 F.3d 760, 763 (1st Cir. 1994)); see Fed. R. Civ. P. 56(a). “[A]n issue is ‘genuine’ if the record permits a rational factfinder to resolve that issue in favor of either party,” and “[a] fact is ‘material’ if its existence or nonexistence has the potential to change the outcome of the suit.” In re Kirby, 599 B.R. at 439 (quoting Harrington v. Simmons (In re Simmons), 810 F.3d 852, 857 (1st Cir. 2016)).

“Once the moving party has made a preliminary showing that no genuine issue of material fact exists, the burden shifts to the nonmovant to produce specific facts, in suitable evidentiary form, to establish the presence of a trialworthy issue.” Grossman v. Durham Com. Cap. Corp. (In re Connolly Geaney Ablitt & Willard, PC), 614 B.R. 133, 148 (B.A.P. 1st Cir. 2020) (citation and internal quotation marks omitted). “A trial-worthy issue is not established by ‘conclusory allegations, improbable inferences, and unsupported speculation.’” Hermosilla v. Hermosilla, 447 B.R. 661, 667 (D. Mass. 2011) (quoting Medina-Munoz v. R.J. Reynolds Tobacco Co., 896 F.2d 5, 8 (1st Cir. 1990)). A party asserting that a fact is genuinely disputed must support the assertion by “citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations . . . , admissions, interrogatory answers, or other materials[.]” Fed. R. Civ. P. 56(c)(1)(A). “If a party fails to properly support an assertion of fact or . . . to properly address another party’s assertions of fact . . . , the court may” “consider the fact undisputed for purposes of the motion” or “grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it.” Fed. R. Civ. P. 56(e)(2)-(3); see In re Connolly Geaney Ablitt & Willard, PC, 614 B.R. at 148.

“When considering a motion for summary judgment, the court must view the record in the light most favorable to the nonmoving party and give that party the benefit of all reasonable inferences in its favor.” In re Kirby, 599 B.R. at 439 (citing Johnson v. Univ. of P.R., 714 F.3d 48, 52 (1st Cir. 2013)). However, the court “is freed from the usual constraints that attend the adjudication of summary judgment motions” when “the basic dispute between the parties concerns the factual inferences that one might draw from the more basic facts to which the parties have drawn the court’s attention, where there are no significant disagreements about those

basic facts, and where neither party has sought to introduce additional factual evidence or asked to present witnesses.” Equal Emp. Opportunity Comm’n v. Steamship Clerks Union, Local 1066, 48 F.3d 594, 603 (1st Cir. 1995) (citation modified). “In those circumstances, ‘[t]he court may then engage in a certain amount of differential fact finding, including the sifting of inferences.’” Wiscovitch Rentas v. Oriental Bank (In re Builders Holding, Corp.), Adv. Pro. No. 17-00012, 2026 WL 752589, at *6 (Bankr. D.P.R. Mar. 16, 2026) (quoting Steamship Clerks Union, 48 F.3d at 603).

B. Nondischargeability Under § 523(a)(6) for Willful and Malicious Injury

Section 523(a)(6) excepts from discharge any debt for “willful and malicious injury by the debtor to another entity or to the property of another entity[.]” 11 U.S.C. § 523(a)(6). To except a debt from discharge under § 523(a)(6), creditors must show: (1) the debtor injured them or their property; (2) the debtor’s actions were willful; and (3) the debtor’s actions were malicious. O’Rorke v. Porcaro (In re Porcaro), 545 B.R. 384, 396 (B.A.P. 1st Cir. 2016). “The creditor bears the burden of proving [its] claim under § 523(a)(6) by a preponderance of the evidence, . . . but to obtain summary judgment, the record must compel a determination of nondischargeability as a matter of law.” Id. (quoting Gray v. Tacason (In re Tacason), 537 B.R. 41, 49-50 (B.A.P. 1st Cir. 2015)).

Although the Bankruptcy Code does not define “injury,” “it is understood to mean a ‘violation of another’s legal right, for which the law provides a remedy.’” In re Tacason, 537 B.R. at 50 (quoting First Weber Grp., Inc. v. Horsfall, 738 F.3d 767, 774 (7th Cir. 2013)). The U.S. Supreme Court has instructed that the word “willful,” as used in § 523(a)(6), “modifies the word ‘injury,’ indicating that nondischargeability takes a deliberate or intentional *injury*, not merely a deliberate or intentional *act* that leads to injury.” Kawaauhau v. Geiger, 523 U.S. 57,

61 (1998); see In re Porcaro, 545 B.R. at 396. In this circuit, “[a]n injury is malicious ‘if it was wrongful and without just cause or excuse, even in the absence of personal hatred, spite or ill-will.’” Old Republic Nat’l Title Ins. Co. v. Levasseur (In re Levasseur), 737 F.3d 814, 818 (1st Cir. 2013) (citation omitted); see In re Porcaro, 545 B.R. at 397. “[W]illfulness requires a showing of intent to injure or at least of intent to do an act which the debtor is substantially certain will lead to the injury in question.” DeWitt v. Stewart (In re Stewart), 948 F.3d 509, 528 (1st Cir. 2020) (quoting In re Levasseur, 737 F.3d at 818).

C. Collateral Estoppel

“[C]ollateral estoppel, also known as issue preclusion, means simply that when an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit.” González-Piña v. Rodríguez, 407 F.3d 425, 430 (1st Cir. 2005) (citation modified). Collateral estoppel principles apply in discharge exception proceedings under § 523(a). Grogan v. Garner, 498 U.S. 279, 284 n.11 (1991); B.B. v. Bradley (In re Bradley), 466 B.R. 582, 586 (B.A.P. 1st Cir. 2012); cf. Rutanen v. Baylis (In re Baylis), 217 F.3d 66, 70 (1st Cir. 2000) (stating that “[t]he principles of issue preclusion apply to nondischargeability proceedings in bankruptcy”) (citing Grogan, 498 U.S. at 284 n.11). The bankruptcy court’s dischargeability determination will be governed by any factual issues that were actually and necessarily decided by the prior court. See In re Bradley, 466 B.R. at 586; see also Wolstein v. Docteroff (In re Docteroff), 133 F.3d 210, 215 (3d Cir. 1997) (observing that collateral estoppel applies if the facts established by the previous federal court judgment meet the requirements of nondischargeability). Under 28 U.S.C. § 1738, “the preclusive effect of a state court judgment in a subsequent nondischargeability proceeding under federal bankruptcy law is governed by the collateral estoppel law of the state from which the

judgment is taken.” In re Bradley, 466 B.R. at 586 (quoting Stowe v. Bologna (In re Bologna), 206 B.R. 628, 630-31 (Bankr. D. Mass. 1997)) (further citations omitted). To establish the preclusive effect of a prior federal judgment, courts apply federal principles of collateral estoppel. See Ball v. A.O. Smith Corp., 451 F.3d 66, 69 (2d Cir. 2006).

II. The Bankruptcy Court Did Not Err in Granting Czymmek’s Motion for Summary Judgment

A. There Are No Genuine Issues of Material Fact

1. The Facts in Czymmek’s Statement of Material Facts Are Deemed Admitted

Rule 56(e)(2) permits a court to consider a fact undisputed for purposes of a motion for summary judgment if the opposing party fails to properly support an assertion of fact or fails to properly address another party’s assertion of fact. Fed. R. Civ. P. 56(e)(2); see id. advisory committee’s note to 2010 amendment (observing that Rule 56(e)(2) “authorizes the court to consider a fact as undisputed for purposes of the motion when response or reply requirements are not satisfied . . . reflect[ing] the ‘deemed admitted’ provisions in many local rules”); see also Fed. R. Civ. P. 56(c) (describing the procedures for supporting and objecting to factual positions).

Local Rule 56 of the Local Rules of the U.S. District Court for the District of Maine, made applicable to adversary proceedings by Rule 7056-1 of the Local Rules of the U.S. Bankruptcy Court for the District of Maine, requires a party opposing a motion for summary judgment to “submit with its opposition a separate, short, and concise statement of material facts.” D. Me. Local R. 56(c)(1); D. Me. LBR 7056-1. “The opposing statement must admit, deny, or qualify the facts by reference to each numbered paragraph of the moving party’s statement of material facts.” D. Me. Local R. 56(c)(1). “Facts in a supporting or opposing

statement of material facts, if supported by record citations, will be deemed admitted unless properly controverted.” D. Me. Local R. 56(g)(1).

Fenstermaker failed to file an opposing statement of material facts supported by record citations. Thus, Czymmek’s asserted facts were deemed admitted for purposes of summary judgment. See D. Me. Local. R. 56(g)(1); cf. In re Connolly Geaney Ablitt & Willard, PC, 614 B.R. at 151 (holding the bankruptcy court did not err in deeming appellee’s asserted facts admitted because appellants failed to state clearly and concisely the facts claimed to be disputed and to rebut the evidence presented in support of the appellee’s stated material facts, as required by the applicable local rule). To the extent Fenstermaker sought to introduce or imply additional facts in his briefs before the bankruptcy court, they were properly disregarded due to his failure to comply with these rules.²

2. The Sanctions Decisions Can Be Considered To Support Czymmek’s Motion for Summary Judgment

Czymmek’s undisputed statement of material facts was supported by her affidavit, which included as exhibits copies of the sanctions decisions. Citing Rule 56(c)(4), and without raising specific concerns about their accuracy or authenticity, Fenstermaker argues the decisions are “not of an evidentiary character” and “must be disregarded” because they were not certified under Federal Rule of Evidence 902 and Czymmek is not qualified to attest to whether the awards are recorded or filed under Evidence Rule 901(b).

Fenstermaker misreads Rule 56’s evidentiary requirements. First, the suggestion that the decisions must be presented at summary judgment in a form admissible at trial is at odds with Rule 56(c)(2), which plainly provides that “[a] party may object that the material cited to support

² The Panel further observes that Fenstermaker’s allegations of additional facts were conclusory without supplying any evidentiary support.

or dispute a fact *cannot be presented in a form that would be admissible* in evidence.” Fed. R. Civ. P. 56(c)(2) (emphasis added). Second, it mischaracterizes Rule 56(c)(4), which states that “[a]n affidavit or declaration used to support or oppose a motion must be made on personal knowledge, *set out facts that would be admissible in evidence*, and show that the affiant or declarant is competent to testify on the matters stated.” Fed. R. Civ. P. 56(c)(4) (emphasis added). Nothing in Rule 56(c)(4) suggests the sanctions decisions must be certified or that Czymmek must be able to authenticate them in a motion for summary judgment. On the contrary, Rule 56(c) makes clear that “[t]he standard is not whether the evidence at the summary judgment stage would be admissible at trial—it is whether it could be presented at trial in an admissible form.” Rahim ex rel. Estate of Rahim v. Doe, 51 F.4th 402, 412 (1st Cir. 2022) (quoting Gannon Int’l, Ltd. v. Blocker, 684 F.3d 785, 793 (8th Cir. 2012)); see Ortolano v. City of Nashua, 769 F. Supp. 3d 96, 98 (D.N.H. 2025) (stating that “a party objecting to consideration of particular evidence at summary judgment on grounds of admissibility must demonstrate that the evidence ‘cannot be presented in a form that would be admissible in evidence’” at trial) (quoting Fed. R. Civ. P. 56(c)(2)). Fenstermaker does not suggest the sanctions decisions could not be presented at trial in an admissible form; nor could he, as his inclusion of a certified copy of the Connecticut Sanction Decision with his opposition to summary judgment shows they can. Accordingly, Czymmek was entitled to rely on the copies of the sanctions decisions in support of summary judgment, and it was proper for the bankruptcy court to consider them.

Having established that the bankruptcy court could consider the sanctions decisions on summary judgment, the next question is whether they established the elements of § 523(a)(6) and precluded Fenstermaker from relitigating those issues before the bankruptcy court.

3. Collateral Estoppel Applies to the Sanctions Decisions Such That They Preclude Relitigation of the Elements of § 523(a)(6)

Czymmek seeks to use each of the sanctions decisions to preclude relitigation of the elements of § 523(a)(6) as applied here, namely, that: (1) Fenstermaker injured her; (2) Fenstermaker's actions were willful; and (3) Fenstermaker's actions were malicious. See In re Porcaro, 545 B.R. at 396. The factual issues determined in the sanctions decisions meet the requirements of nondischargeability such that collateral estoppel applies.

The elements of collateral estoppel under Connecticut law, federal law, and Maine law are substantially similar. Essentially, application of the doctrine requires that: (1) the identical issue was raised in the prior proceeding; (2) the issue was actually litigated and decided in the prior proceeding; and (3) the determinations were necessary (or under Maine law, essential) to support the final judgment. See Russo v. Thornton (In re Thornton), Adv. Pro. No. 23-05016, 2024 WL 844971, at *4 (Bankr. D. Conn. Feb. 28, 2024); Ball, 451 F.3d at 69; McAlister v. Slosberg (In re Slosberg), 225 B.R. 9, 14 (Bankr. D. Me. 1998). Connecticut and federal law additionally require that the party to be estopped had a full and fair opportunity to litigate the issue. In re Thornton, 2024 WL 844971, at *4; Ball, 451 F.3d at 69.

a. Connecticut Sanction Decision

As an initial matter, the Panel can readily dispose of Fenstermaker's cursory argument that the Connecticut Superior Court could not award sanctions because it lacked subject matter jurisdiction over his claims. The Connecticut Superior Court rejected this same argument in the sanctions decision, explaining that "a lack of subject matter jurisdiction over an underlying claim does not deprive the court of its function to decide whether a prevailing party is entitled to statutorily authorized attorney's fees." Dkt. No. 19, at 24 (citation modified). Other courts agree. See, e.g., Kenneth Michael Wright, LLC v. Kite Bros., LLC, No. 2:16-CV-01713, 2017

WL 1319815, at *2 (W.D. La. Apr. 5, 2017) (observing that a court “can award sanctions without subject matter jurisdiction over the underlying matter when the basis for the sanctions are collateral to the merits, such as sanctions for filing frivolous motions”), aff’d sub nom., Kenneth Michael Wright, L.L.C. v. Kite Bros., L.L.C. (In re Kite), 710 F. App’x 628 (5th Cir. 2018). Indeed, the U.S. Supreme Court has stated “[t]he power to punish for contempts is inherent in all courts,” Chambers v. NASCO, Inc., 501 U.S. 32, 44 (1991) (citation omitted), and “[t]he interest in having rules of procedure obeyed . . . does not disappear upon a subsequent determination that the court was without subject-matter jurisdiction,” Willy v. Coastal Corp., 503 U.S. 131, 139 (1992) (discussing Rule 11 sanctions).

The Connecticut Sanction Decision satisfies the required elements of collateral estoppel. First, Fenstermaker does not credibly suggest that the Connecticut Sanction is not a final judgment, nor could he. The record reflects that he unsuccessfully appealed the sanction in the Connecticut state courts and was denied reconsideration of the dismissal of his appeal.

The Connecticut Sanction Decision also demonstrates that Fenstermaker had a full and fair opportunity to litigate the issues decided in that proceeding. See In re Thornton, 2024 WL 844971, at *4. The decision recited that Czymmek moved for attorney’s fees incurred in defending against Fenstermaker’s claims, that Fenstermaker presented several arguments in opposition, and that the court held hearings. His contention that he was unable to challenge Czymmek’s administration of their father’s estate in the Connecticut Superior Court focuses on the wrong proceeding. The proper inquiry is whether Fenstermaker had an opportunity to fully and fairly litigate whether his conduct in challenging the probate proceeding and in the subsequent appeals was frivolous or in bad faith. The Connecticut Sanction Decision establishes that he did.

The next element of the collateral estoppel analysis is whether the issues in the nondischargeability proceeding—whether Fenstermaker injured Czymmek, whether his actions were willful, and whether his actions were malicious—were “identical” to the issues in the Connecticut litigation. First, it is irrefutable that Fenstermaker’s efforts to admit the 1997 will to probate and his subsequent litigation and appeals in the Connecticut state courts caused Czymmek to incur the attorney’s fees described in the Connecticut Sanction. “Injury” means a violation of another’s legal right, for which the law provides a remedy. In re Tacason, 537 B.R. at 50. Since sanctions were the remedy for Fenstermaker’s bad faith and harassing litigation conduct, it follows that forcing Czymmek to bear the cost of his conduct, namely, by incurring attorney’s fees, constituted injury. See W. Reserve Area Agency on Aging v. Mitchell (In re Mitchell), Adv. Pro. No. 13-1222, 2014 WL 6633033, at *7 (Bankr. N.D. Ohio Nov. 21, 2014) (“Abusive litigation tactics that unnecessarily delay litigation or increase costs necessarily injure the party subjected to such tactics.”) (citation omitted).

The Connecticut Sanction Decision also establishes that Fenstermaker willfully injured Czymmek in that he intended to cause her the injury. See In re Porcaro, 545 B.R. at 396. The Connecticut Superior Court specifically concluded that Fenstermaker’s purpose in continuing his litigation “was to harass the defendant *and to cause her to incur expense in defending against the plaintiff’s allegations.*” Dkt. No. 19, at 35 (emphasis added). Fenstermaker does not deny that he intended Czymmek to incur significant attorney’s fees (nor could he at this stage, since he did not submit a statement of material facts to the bankruptcy court). Instead, as part of his argument that a “public policy” exception should prevent the application of collateral estoppel, Fenstermaker posits that he “could not have reasonably expected that Appellee would spend \$93,775.77” defending their father’s estate, “circumstances make it highly likely that Appellant

had no intent to cause Appellee to expend \$93,775.77 in attorneys' fees and costs," and "[i]t is difficult to understand how Appellant could have intended to cause Appellee over \$93,000.00 in attorneys' fees and costs litigating her defense." At the same time, Fenstermaker says he knew Czymmek was motivated to litigate because she wanted to avoid a claim their father's estate had against her. Even if Fenstermaker's narrative was properly before the bankruptcy court, which it was not, the Panel may safely ignore these conclusory allegations, improbable inferences, and unsupported speculations. See In re Builders Holding, Corp., 2026 WL 752589, at *5; Me. Circuit Breaker, Inc. v. Burnham (In re Burnham), Adv. Pro. No. 21-1004, 2021 WL 6101676, at *2 (Bankr. D. Me. Dec. 23, 2021) ("The court is not required to draw *all* inferences in favor of the party opposing the motion [for summary judgment]; doing so would, at times, make a mockery of the process. Instead, the court's charge is to make all *reasonable* inferences in favor of the party opposing the motion."); Hermosilla, 447 B.R. at 671 (rejecting the debtor's attempt to avoid summary judgment by offering "conclusory allegations, improbable inferences, [or] unsupported speculation in the place of genuine, trialworthy issues" concerning whether his injury of the creditor was willful) (alterations in original) (citation omitted).

Finally, the decision establishes the injury was malicious because it was wrongful and without just cause or excuse. See In re Levasseur, 737 F.3d at 818. The Connecticut Sanction Decision noted that Czymmek's motions for attorney's fees alleged Fenstermaker brought his action "without a colorable basis and in bad faith," and focused at length on Fenstermaker's objective and subjective intent. The court observed that "a trial court in this state has the inherent authority to impose sanctions against an attorney and his client for a course of claimed dilatory, bad faith and harassing litigation conduct, even in the absence of a specific rule or order

of the court that is claimed to have been violated.” Dkt. No. 19, at 25 (quoting Hirschfeld v. Machinist, 27 A.3d 395, 398 (Conn. App. Ct. 2011)). The court continued:

Under the common law, “[t]his state follows the general rule that, except as provided by statute or in certain defined exceptional circumstances, the prevailing litigant is ordinarily not entitled to collect a reasonable [attorney’s] fee from the loser That rule does not apply, however, where the opposing party has acted in bad faith It is generally accepted that the court has the inherent authority to assess attorney’s fees when the losing party has acted in bad faith, vexatiously, wantonly or for oppressive reasons This bad faith exception applies, not only to the filing of an action, but also in the conduct of the litigation. . . . It applies both to the party and his counsel.”

Id. at 27 (quoting Lederle v. Spivey, 213 A.3d 481, 487 (Conn. 2019)). It is clear that the determination of Fenstermaker’s bad faith was necessary to the court’s decision to award fees. The court continued that the “determination of bad faith, . . . rather than focusing on the objective, reasonable beliefs of the person against whom sanctions are sought, focuses on subjective intent.” Id. (quoting Lederle, 213 A.3d at 488). The court observed:

When . . . the claim that an individual has brought or maintained an action in bad faith is predicated on the individual’s personal knowledge that there is no factual support for the claim or claims at issue, in order to infer that the individual acted in bad faith, the court must make a finding that the individual knew of the absence of that factual basis.

Id. (quoting Lederle, 213 A.3d at 488). The decision also reviewed applicable ethical rules to “ascertain[] what restraints are placed on a lawyer by the professional rules of conduct and then determin[e] how those constraints apply to the lawyer’s actions in a given case.” Id. at 30.

The Connecticut Superior Court made extensive findings of fact to conclude that Fenstermaker’s efforts to admit the 1997 will into probate were in bad faith and to harass Czymmek and cause her to incur litigation expenses. These findings demonstrate that Fenstermaker’s decision to litigate, and continue litigating, particularly in light of his ethical requirements as an attorney, was wrongful and without just cause or excuse such that it was

malicious under § 523(a)(6). See, e.g., El Dorado Cnty. v. Harrington (In re Harrington), 665 B.R. 436, 446 (Bankr. E.D. Cal. 2024) (“Settled Ninth Circuit law holds that a state court sanctions award for litigation conduct that is frivolous and in bad faith satisfies the § 523(a)(6) requirement of conduct that is willful and malicious and without excuse.”) (citing Papadakis v. Zelis (In re Zelis), 66 F.3d 205, 208-09 (9th Cir. 1995)), aff’d, BAP No. EC-24-1203-BCL, 2025 WL 1517474 (B.A.P. 9th Cir. May 28, 2025); Goldstein v. Khullar (In re Khullar), Adv. Pro. No. 24-01337-SMG, 2025 WL 1507748, at *6 (Bankr. S.D. Fla. May 27, 2025) (observing that “[a] number of courts have concluded—based on similar facts (including where the debtor was an attorney)—that a state court sanction for litigation misconduct is a debt for willful and malicious injury that is excepted from discharge under [§] 523(a)(6)”). The comprehensive discussion of these issues in the Connecticut Sanction Decision also demonstrates that they were actually litigated in that proceeding.

Fenstermaker’s remaining arguments why collateral estoppel should not apply are without merit. His own case citations demonstrate that courts may examine terms and definitions in a collateral estoppel analysis to the extent they inform whether the issue litigated in the prior proceeding is identical to the issue in the second proceeding, not because collateral estoppel requires identical terms. See, e.g., Aetna Cas. & Sur. Co. v. Jones, 596 A.2d 414, 422 (Conn. 1991) (analyzing whether the meaning of “intent” under the insurance policy at issue in a coverage action was included in the definition of “intent” applied by the jury in a prior criminal trial to determine whether the issues were identical). He also proffers that the definitions of “willfulness” and “malice” needed to be the same in the three sanctions proceedings. Because he did not make this argument to the bankruptcy court, it is waived. See Banco Bilbao Vizcaya Argentaria v. Wiscovitch-Rentas (In re Net-Velázquez), 625 F.3d 34, 40 (1st Cir. 2010) (“The

proposition is well established that, ‘absent the most extraordinary circumstances, legal theories not raised squarely in the lower court cannot be broached for the first time on appeal.’”) (citation omitted). In any case, the argument is a red herring because any comparison of the underlying sanctions decisions of these courts to each other is irrelevant to the collateral estoppel analysis.

Lastly, Fenstermaker argues that even if collateral estoppel applies to the Connecticut Sanction, “public policy” should prevent its application to establish his intent because he “could not have reasonably expected” Czymmek would incur the amount of legal fees in the Connecticut action that she did. This argument is unavailing. At best, the cases Fenstermaker cites reflect that Connecticut courts have recognized exceptions to the general policy favoring applications of preclusion doctrines in limited circumstances. See, e.g., Isaac v. Truck Serv., Inc., 752 A.2d 509, 517 (Conn. 2000) (concluding that where the parties litigate to judgment on the small claims docket a claim for property damage arising out of a motor vehicle accident, that judgment will not bar a subsequent action on the regular docket for personal injuries arising out of the same accident). He cites no support for applying this exception to collateral estoppel to the circumstances of the Connecticut Sanction. Likewise, the Connecticut Appellate Court’s dismissal of his appeal does not support an exception to the application of collateral estoppel. Compare Comm’r of Motor Vehicles v. DeMilo & Co., Inc., 659 A.2d 148, 156 (Conn. 1995) (stating a court will not apply collateral estoppel if the unsuccessful party in the initial action is barred, as a matter of law, from obtaining appellate review of the initial action), with Town of Monroe v. Renz, 698 A.2d 328, 330 (Conn. App. Ct. 1997) (concluding the appellate court’s denial of petitions for certification to appeal were not the equivalent of preclusion as a matter of law and did not prevent application of collateral estoppel). Finally, Fenstermaker’s suggestion that the fee award is “excessive” or unreasonable is irrelevant to the collateral estoppel analysis.

The Panel concurs with the Maine bankruptcy court that the Connecticut Sanction Decision provides sufficient findings and determinations to conclude that collateral estoppel precludes relitigation of the elements of § 523(a)(6) with respect to the Connecticut Sanction. Therefore, no genuine issues of material fact exist concerning the Connecticut Sanction.

b. N.Y. District Court Sanction Decision

The N.Y. District Court Sanction Decision similarly satisfies the required elements. First, the New York Sanction is final and Fenstermaker does not assert otherwise. The decision also demonstrates that Fenstermaker had a full and fair opportunity to litigate the issues decided in that proceeding. See Ball, 451 F.3d at 69. Fenstermaker could have opposed Czymmek’s request for attorney’s fees in that action, but he did not.³

Second, the elements of § 523(a)(6) are “identical” to the issues in the N.Y. District Court Sanction Decision. Fenstermaker’s removal of the New York state court action to the N.Y. District Court and attempts to enjoin enforcement of the Connecticut Sanction caused Czymmek to incur the attorney’s fees granted in the N.Y. District Court Sanction Decision. Again, because the sanctions were the remedy for Fenstermaker’s litigation conduct, it follows that forcing Czymmek to bear the cost of his conduct, namely, by incurring attorney’s fees, constitutes injury.

Third, the N.Y. District Court Sanction Decision establishes that Fenstermaker willfully injured Czymmek in that he intended to cause her to incur attorney’s fees. See In re Porcaro, 545 B.R. at 396. Like the Connecticut Superior Court, the N.Y. District Court specifically found that “the arguments raised by Fenstermaker on removal are an effort to delay execution of the

³ Unlike the Connecticut Superior Court, Fenstermaker did not challenge the N.Y. District Court’s authority to sanction him notwithstanding its determination that it lacked jurisdiction over the case. As the N.Y. District Court explained in its decision, “[e]ven where a district court grants a motion to remand, it ‘retains jurisdiction over the fee application under 28 U.S.C. § 1447(c).’” Dkt. No. 19, at 45 (quoting Gondolfo v. Town of Carmel, No. 20-CV-9060 (CS), 2022 WL 19183, at *2 (S.D.N.Y. Jan. 3, 2022)).

judgment and force Czymmek to incur unnecessary expenses.” Dkt. No. 19, at 45. Noting that it was “not limited to awarding fees only when the removal was ‘frivolous, unreasonable or without foundation,’” *id.* (quoting Martin v. Franklin Cap. Corp., 546 U.S. 132, 138-39 (2005)), the N.Y. District Court specifically determined that Fenstermaker’s attempt to remove Czymmek’s action to domesticate the Connecticut Sanction in New York state court to federal court “constitute[d] a frivolous attempt to escape enforcement of a judgment entered against him,” *id.* It concurred with the Connecticut Superior Court’s conclusions regarding his subjective intent. The N.Y. District Court’s analysis establishes that these determinations were actually litigated in the N.Y. District Court proceeding and necessary to the N.Y. District Court’s decision to award fees.

Moreover, because these determinations show that Fenstermaker’s conduct was for an improper purpose, they are equivalent to determinations that Fenstermaker’s removal of the New York enforcement proceeding was malicious. See Ball, 451 F.3d at 70 (concluding the trial court’s specific factual findings in the sanction award, which was affirmed by the court of appeals, were “the equivalent of findings of malice” because the imposition of sanctions required finding that the conduct was unreasonable and for an improper purpose); In re Porcaro, 545 B.R. at 398 (determining the trial court’s finding that the debtor’s conduct was “as egregious a violation of consumer protection laws as there can be” was “tantamount” to finding that his actions were wrongful and without just cause or excuse).

As with the Connecticut Sanction, Fenstermaker argues Czymmek failed to provide evidence of the issues litigated in the N.Y. District Court other than the N.Y. District Court Sanction Decision. For the reasons discussed above, nothing more is needed. Because all the elements of collateral estoppel are met, the doctrine precludes relitigation of the elements of

§ 523(a)(6) with respect to the New York Sanction. Accordingly, no genuine issues of material fact exist concerning the New York Sanction.

c. Maine Sanction Decision

Lastly, the Maine Sanction Decision satisfies the required elements of collateral estoppel. The Maine Sanction is final, and Fenstermaker does not assert otherwise. The decision recounts that both Czymmek and Fenstermaker filed numerous pleadings in the Maine action, including Czymmek's motion for sanctions and Fenstermaker's response. The elements of § 523(a)(6) are "identical" to the issues in the Maine decision.

Fenstermaker's filings in Maine caused Czymmek to incur the attorney's fees granted in the Maine Sanction Decision. The Maine state court set forth in detail why "Fenstermaker's filings in [the Maine action were] unequivocally sanction-worthy." Dkt. No. 19, at 53. Since sanctions were the remedy for Fenstermaker's litigation conduct, it follows that forcing Czymmek to bear the cost of his conduct, namely, by incurring attorney's fees, constitutes injury.

The Maine Sanction Decision establishes that Fenstermaker's injury was willful. Unlike the Connecticut Superior Court and the N.Y. District Court, the Maine state court did not explicitly find that Fenstermaker intended to cause Czymmek to incur attorney's fees, concluding instead that his litigation purpose was delaying Czymmek's registration of the Connecticut Sanction in Maine. However, willfulness only requires "showing of intent to do an act which the debtor is *substantially certain* will lead to the injury in question." In re Stewart, 948 F.3d at 528 (emphasis added) (citation omitted). By the time of the Maine Sanction Decision, the parties had been litigating issues concerning their father's probate proceeding for almost seven years, and the Connecticut Superior Court and the N.Y. District Court had specifically found Fenstermaker intended Czymmek to incur attorney's fees in litigating those

actions. Since the dispute between the parties as to the willfulness of Fenstermaker's conduct in opposing the Maine action concerns the factual inferences that can be drawn from the basic facts established by the Maine Sanction Decision, which are not in dispute, the Panel is not constrained to make reasonable inferences only in Fenstermaker's favor. See In re Builders Holding, Corp., 2026 WL 752589, at *6. In these circumstances, the Panel may engage in some "differential fact finding" to reach a reasonable inference that Fenstermaker intended Czymmek to incur attorney's fees in litigating the Maine action. See id. At the very least, the basic facts established in the Maine Sanction Decision compel the reasonable inference that Fenstermaker was substantially certain his litigation conduct, intended to delay Czymmek's enforcement of the Connecticut Sanction in Maine, would lead her to incur attorney's fees as it had in Connecticut and New York. Accordingly, the determinations in the Maine Sanction Decision demonstrate that the injury was willful.

Likewise, the decision established that the injury was malicious. The Maine state court specifically found that Fenstermaker's objections and arguments were "frivolous" and "contumacious," Dkt. No. 19, at 53 (citation omitted), his filings were "frivolous and dilatory," id. at 61, and that his actions "were in bad faith, made solely for the purpose of delay[ing the judgment from being registered in Maine], and violated his obligations under Rule 11 of the Maine Rules of Civil Procedure," id. at 54. The court found that Fenstermaker asserted the same arguments the Connecticut and New York courts rejected as "frivolous" and in "bad faith" and was "baffled by the breathtaking nerve of Fenstermaker to continue to assert arguments and claims that are continually rejected, in a court of law, while being completely oblivious to the consequences of his actions and his obligations as an attorney." Id. at 52. The court's findings demonstrate that Fenstermaker's conduct was wrongful and without just cause or excuse, and

thus, are equivalent to determinations that Fenstermaker's litigation conduct in Maine was malicious. See In re Porcaro, 545 B.R. at 398; Ball, 451 F.3d at 70.

The Maine Sanction Decision provides sufficient findings and discussion to demonstrate that the above issues were actually litigated and essential to the Maine state court's decision to sanction Fenstermaker. No further evidence is needed. Because all of the elements of collateral estoppel were met, the doctrine precluded relitigation of the elements of § 523(a)(6) with respect to the Maine Sanction such that no genuine issues of material fact exist.

B. Czymmek Is Entitled to Judgment as a Matter of Law on All Three Counts of the Complaint

The final question is whether the uncontroverted facts and the summary judgment record support the determination that Czymmek was entitled to judgment as a matter of law on each of the three counts in the complaint. See In re Connolly Geaney Ablitt & Willard, PC, 614 B.R. at 151. As described above, the findings and conclusions underlying each of the sanctions awards satisfy the elements of nondischargeability under § 523(a)(6). Collateral estoppel precludes relitigation of those elements. Accordingly, the bankruptcy court did not err in concluding that Czymmek was entitled to judgment as a matter of law on each of the three counts of the complaint.

CONCLUSION

Based on the foregoing, the Panel **AFFIRMS** the summary judgment.