

No. 25-

IN THE
Supreme Court of the United States

STANLEY KAPPELL WATSON,

Petitioner,

v.

SHENEEKA BRADSHER, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Bankruptcy Code 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). In *Kawaauhau v. Geiger*, 523 U.S. 57 (1998), this Court unanimously held that this exception covers only acts done with the actual intent to cause injury, anchoring its analysis in the law of intentional torts. The *Restatement (Second) of Torts* distinguishes “injury,” the invasion of a legally protected interest, from “harm,” the existence of loss or detriment in fact. *Restatement (Second) of Torts* § 7(1) & cmt. a (1965). By using the terms interchangeably, the federal courts of appeals have fractured into distinct camps regarding the meaning of “injury” and whether a debtor’s subjective belief that his conduct was lawful negates the intent to injure.

The questions presented are:

1. Whether the term “injury” in 11 U.S.C. § 523(a)(6) denotes mere “harm” (detriment in fact), as the Eleventh Circuit held, or requires the intent to invade a legally protected interest (legal injury), such that a debtor who intentionally causes harm under a genuine but mistaken belief of legal justification has not inflicted a “willful” injury.
2. Whether a debt arising from the intentional tort of false imprisonment is nondischargeable under 11 U.S.C. § 523(a)(6) when the debtor held a subjective, genuine belief that confinement would be lawful and justified, or whether a court may obviate that subjective belief by defining the “injury” as the confinement itself and implying malice from the objective “excessiveness” of the debtor’s conduct.

LIST OF PARTIES

Petitioner Stanley Kappell Watson was the defendant in the bankruptcy adversary proceeding and the appellant in the United States Court of Appeals for the Eleventh Circuit.

Respondents Sheneeka Bradsher and Zarinah Ali were the plaintiffs in the bankruptcy adversary proceeding and the appellees in the United States Court of Appeals for the Eleventh Circuit.

RELATED CASES

Pursuant to Supreme Court Rule 14.1(b)(iii), the cases below relate to this Petition:

1. Trial

Zarinah Ali and Sheneeka Bradsher v. Stan Watson, Case No. 13-A-47805-6 (State Court of Dekalb County, Georgia)

Judgment Entered: April 30, 2015

2. Bankruptcy Case

A. *In re: Stanley Kappell Watson*, Case No. 18-69905-BEM (United States Bankruptcy Court, Northern District of Georgia)

B. *Sheneeka Bradsher and Zarinah Ali v. Stanley Kappell Watson*, Adversary Proceeding No. 19-5127-BEM (United States Bankruptcy Court, Northern District of Georgia)

Judgment Entered: April 15, 2021 (judgment entered for Plaintiffs in part and for Defendant in part)

3. Appeal I

Stanley Kappell Watson v. Sheneeka Bradsher and Zarinah Ali, Case No. 1:21-CV-1778-SEG (United States District Court, Northern District of Georgia, Atlanta Division)

Judgment Entered: August 12, 2022 (affirming in part and reversing in part the Order and Judgment of the Bankruptcy Court, and remanding the case for further proceedings consistent with the Order)

4. Remand

Sheneeka Bradsher and Zarinah Ali v. Stanley Kappell Watson, Adversary Proceeding No. 19-5127-BEM (United States Bankruptcy Court, Northern District of Georgia)

Judgment Entered: December 2, 2022

5. Appeal II

Stanley Kappell Watson v. Sheneeka Bradsher and Zarinah Ali, Case No. 1:22-cv-04996-SEG (United States District Court, Northern District of Georgia, Atlanta Division)

Judgment Entered: March 29, 2024 (affirming the December 2, 2022 Judgment of the Bankruptcy Court)

6. Eleventh Circuit Court of Appeals

Stanley Kappell Watson v. Shenekka Bradsher and Zarinah Ali, Case No. 24-11389 (11th Cir.).

Judgment Entered: August 4, 2025 (affirmed)

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Petitioner Stanley Watson respectfully urges this Honorable Court to issue a writ of certiorari to review the decision of the Eleventh Circuit Court of Appeals.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit is reported at *In re Watson*, 147 F.4th 1330 (11th Cir. 2025). It is reproduced in the Appendix (“App”) at Appendix A, 1a–19a.

The opinion of the United States District Court for the Northern District of Georgia, affirming the bankruptcy court’s judgment, is unreported but available at *Watson v. Ali*, No. 1:22-cv-04996-SEG, 2024 WL 2003728 (N.D. Ga. Mar. 29, 2024). It is reproduced in the Appendix at Appendix B, 20a–45a.

The Order on Remand of the United States Bankruptcy Court for the Northern District of Georgia is unreported but available at *In re Watson*, No. 18-69905-BEM, 2022 WL 22745767 (Bankr. N.D. Ga. Dec. 19, 2022). It is reproduced in the Appendix at Appendix C, 46a–58a.

The initial opinion of the United States District Court for the Northern District of Georgia, affirming in part and reversing in part, is unreported but available at *Watson v. Bradsher*, No. 1:21-CV-1778-SEG, 2022 WL 3335523 (N.D. Ga. Aug. 12, 2022). It is reproduced in the Appendix at Appendix D, 59a–92a.

The initial opinion of the United States Bankruptcy Court for the Northern District of Georgia is reported at *In re Watson*, No. 18-69905-BEM, 2021 WL 1439857

(Bankr. N.D. Ga. Apr. 15, 2021). It is reproduced in the Appendix at Appendix E, 93a–108a.

JURISDICTION

The judgment of the United States Court of Appeals for the Eleventh Circuit was entered on August 4, 2025. On October 25, 2025, Justice Thomas extended the time within which to file a petition for a writ of certiorari to and including December 2, 2025. This Court’s jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 523 of Title 11 of the United States Code provides:

(a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt— . . . (6) for willful and malicious injury by the debtor to another entity or to the property of another entity[.]

INTRODUCTION

This case presents two entrenched conflicts regarding the interpretation of “willful and malicious injury” under 11 U.S.C. § 523(a)(6). The Eleventh Circuit’s decision deepens a well-recognized circuit split on whether a debtor’s subjective intent controls and crystallizes a fundamental textual question this Court has never resolved: whether “injury” means mere “harm” or requires the invasion of a legally protected interest.

The Bankruptcy Court found that Petitioner Stanley Watson “genuinely believed” that the Respondents had stolen his wallet when he demanded their detention. App. 106a. Based on this finding, on remand, the court held Watson’s debt for slander dischargeable, finding that his genuine belief negated willfulness because he did not intend to speak falsely. App. 48a–53a. Yet the District Court affirmed the Bankruptcy Court’s holding that his debt for false imprisonment was nondischargeable, reasoning that he intended the act of confinement. App. 76a–81a. The Eleventh Circuit affirmed, defining “injury” as “confinement” alone rather than “unlawful confinement,” and implying malice from the “excessiveness” of Watson’s conduct. App. 9a–17a; *In re Watson*, 147 F.4th 1330, 1337–1340 (11th Cir. 2025).

This bifurcated result, discharging one debt while retaining another arising from identical facts and an identical state of mind, reveals the textual issue. The result reached by the courts below is possible only if “injury” has different meanings for different torts. This Court should grant certiorari to resolve the circuit split, clarify that “injury” in § 523(a)(6) carries its technical common-law meaning, and reaffirm that an honest but unfortunate debtor who acts under a genuine mistake of fact is entitled to a fresh start.

STATEMENT OF THE CASE

I. Factual Background

On July 12, 2012, Petitioner Stanley Watson, a former county commissioner, was at a local nightclub. App. 94a–95a. Watson had just returned from overseeing his

sister's funeral arrangements. App. 95a. He lost his wallet and genuinely believed that two women, Respondents Sheneeka Bradsher and Zarinah Ali, had stolen it. *Id.* at 95a–106a. Acting on that belief, he insisted that the women be detained by off-duty police, resulting in Bradsher's brief arrest for disorderly conduct (due to her irate reaction). *Id.* at 97a–101a (finding that the “decision to arrest her was based on her conduct and not the allegations of Defendant”). Unfortunately, Watson was mistaken. The next day, Watson found his wallet in his car. *Id.* at 95a–96a.

Although Watson used profanity and asserted whatever influence he had as a former county commissioner, all his interactions with law enforcement occurred while he continued to genuinely believe that he was the victim of a crime perpetrated by the Respondents. App. 106a; 52a. He was wrong about the facts. But as the Bankruptcy Court explicitly found, “based on the testimony in this proceeding and in the state court case and based on the video evidence[,] . . . Defendant genuinely believed Plaintiffs had taken his wallet,” and that “[n]otwithstanding the outcome of the investigation, . . . Defendant continued to mistakenly believe that Plaintiffs had stolen his wallet until he found the wallet in his car.” *Id.* This factual finding was not disturbed on appeal. App. 61a (“Defendant’s arguments on appeal do not challenge any of these findings of fact, and the Court has found no indications of clear error.”).

II. Procedural History

A. The State Court Judgment

Bradsher and Ali sued Watson in Georgia state court for slander *per se* (accusing Bradsher and Ali of stealing

his wallet), false imprisonment, and battery. App. 65a. A jury returned a general verdict for the plaintiffs for \$150,500. *Id.* The verdict did not specify which claims formed the basis of the award or allocate damages among them. *Id.* at 68a–69a.

B. The Bankruptcy Proceedings

Watson filed for relief under Chapter 7 of the Bankruptcy Code. Bradsher and Ali initiated an adversary proceeding to except the judgment debt from discharge under 11 U.S.C. § 523(a)(6).

The Bankruptcy Court ruled on remand that the slander debt was dischargeable because Watson’s genuine belief meant he did not intend to slander the women. App. 48a–53a. Yet the District Court affirmed the Bankruptcy Court’s holding that the false imprisonment debt was nondischargeable because Watson intended the *act* of confinement. App. 76a–81a. In other words, the same genuine belief discharged Watson’s debt on one tort but not on another. As explained below, this result is possible only if the word “injury” is defined differently for each tort. Because Watson genuinely believed that Bradsher and Ali had stolen his wallet, their unlawful confinement was neither “willful” nor “malicious.”

C. Eleventh Circuit Affirmance

On appeal, the Eleventh Circuit affirmed the nondischargeability of the false-imprisonment portion of the debt. App. 1a-19a; *Watson*, 147 F.4th 1330. The court held that because Watson intentionally caused the women’s confinement, he inflicted a “willful” injury,

regardless of his belief that the confinement was lawful. *Id.* at 1337–39; App. 9a–17a. The court reasoned that Watson’s subjective understanding of lawfulness “more appropriately falls under the malice inquiry[,]” and then found “implied malice” because Watson’s conduct was objectively “excessive” and “wrongful.” *Id.* at 1339–40; App. 14a–17a.

The Eleventh Circuit thus defined “injury” as the factual occurrence of confinement rather than the invasion of a legally protected interest. It allowed Watson’s good-faith belief to be overridden by an after-the-fact assessment that his conduct was “excessive,” effectively reintroducing the reckless-disregard standard that *Geiger* rejected.

REASONS FOR GRANTING THE PETITION

I. THE CIRCUITS ARE DIVIDED, AND THE DECISION BELOW CONFLICTS WITH THIS COURT’S PRECEDENTS.

The federal courts of appeals are divided on the interpretation of “willful and malicious injury” under § 523(a)(6). In *Geiger*, this Court held that the exception applies only to “acts done with the actual intent to cause injury,” akin to intentional torts, and not to acts done intentionally that merely cause unintended injury. *Kawaanhua v. Geiger*, 523 U.S. 57, 61-62 (1998). (citing *Restatement (Second) of Torts* § 8A, Comment a, p. 15 (Am. L. Inst. 1965).) The Court rejected an interpretation that would encompass negligent or reckless torts. *Id.* at 64 (citing *Davis v. Aetna Acceptance Co.*, 293 U.S. 328, 332 (1934)).

A. The Circuit Split.

The Sixth, Ninth, and Tenth Circuits hold that § 523(a)(6) requires proof that the debtor subjectively desired to cause injury or subjectively knew that the injury was substantially certain. Under this standard, a debtor’s honest belief, even if objectively unreasonable, that he was not inflicting injury is a complete defense.

The Sixth Circuit, in *In re Markowitz*, 190 F.3d 455 (6th Cir. 1999), noted that a debtor must “will or desire harm, or believe injury is substantially certain to occur as a result of his behavior.” 190 F.3d at 465 n.10; *see also In re Berge*, 953 F.3d 907, 914–15 (6th Cir. 2020) (rejecting a “unitary” approach and requiring subjective intent for both willfulness and malice). The Ninth Circuit, in *In re Su*, 290 F.3d 1140 (9th Cir. 2002), reasoned that an objective test “looks very much like the ‘reckless disregard’ standard,” 290 F.3d at 1145, that was rejected by *Geiger*. The Tenth Circuit in *In re Moore*, 357 F.3d 1125 (10th Cir. 2004), held that unless the debtor “desire[s] to cause consequences of his act or . . . believe[s] that the consequences are substantially certain to result from it,” he has not committed a willful and malicious injury. *Id.* at 1129 (quoting *In re Longley*, 235 B.R. 651, 657 (B.A.P. 10th Cir. 1999)).

In contrast, the Fifth and Eleventh Circuits have adopted broader objective approaches. The Fifth Circuit holds that an injury is willful if there is “either an objective substantial certainty of harm or a subjective motive to cause harm.” *In re Miller*, 156 F.3d 598, 604 (5th Cir. 1998). The Eleventh Circuit, relying on *In re Kane*, 755 F.3d 1285 (11th Cir. 2014), held that malice can be “implied” if

conduct is “wrongful and without just cause or excessive” even in the absence of spite or ill-will. *Watson*, 147 F.4th at 1339–40. This “excessiveness” proxy allows the Eleventh Circuit to bypass the debtor’s subjective intent entirely, rendering even merely reckless conduct nondischargeable, in direct conflict with *Geiger*.

B. The Split is Outcome-Determinative.

Had Watson filed for bankruptcy in the Sixth or Ninth Circuit, his debt would be discharged. In those jurisdictions, a bankruptcy court’s finding that Watson acted under a genuine belief that Bradsher and Ali stole his wallet would have been dispositive. A debtor who believes he is detaining a thief does not subjectively intend to inflict an injury. But because Watson filed in Georgia, his genuine belief and honest mistake were legally irrelevant. The “fresh start” promised by the Bankruptcy Code becomes a geographic lottery.

C. The Decision Below Conflicts with *Geiger*.

The Eleventh Circuit’s ruling cannot be reconciled with this Court’s authoritative interpretation of § 523(a)(6). In *Geiger*, this Court unanimously held that § 523(a)(6) covers “only acts done with the actual intent to cause injury.” *Geiger*, 523 U.S. at 61. The word “willful” modifies “injury,” so the actor must intend the injury itself, not just the act that leads to injury. *Id.* *Geiger* unmistakably rejected interpretations that would extend § 523(a)(6) to reckless or negligent torts, warning that otherwise “a wide range of situations” (*e.g.*, car accidents) would unjustly result in nondischargeable debts. *Id.* at 61–62. Yet the decision below does exactly what *Geiger* forbids.

II. “INJURY” IN SECTION 523(a)(6) MEANS INVASION OF A LEGALLY PROTECTED INTEREST, NOT MERE HARM.

A. The Statutory Text: “Injury” vs. “Harm”

The Bankruptcy Code excepts debts for “willful and malicious *injury*.” 11 U.S.C. § 523(a)(6) (emphasis added). It does not say “acts” or “harm.” The distinction matters.

“[W]here Congress borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practice, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word. . . .” *Morissette v. United States*, 342 U.S. 246, 263 (1952). In *Geiger*, this Court linked § 523(a)(6) to “intentional torts,” citing the *Restatement (Second) of Torts* § 8A cmt a (Am. L. Inst. 1964). 523 U.S. at 61. The *Restatement (Second) of Torts* itself distinguishes “injury” from “harm” as follows: “The word ‘injury’ is used throughout the *Restatement* of this Subject to denote the invasion of any legally protected interest of another.” *Restatement (Second) of Torts* § 7 cmt. a (Am. L. Inst. 1965). “The word ‘harm’ is used to denote the existence of loss or detriment in fact of any kind to a person resulting from any cause.” *Id.*

The Eighth Circuit recognized this in *Geiger*, holding that “‘injury’ usually connotes legal injury (*injuria*) in the technical sense, not simply harm to a person.” *In re Geiger*, 113 F.3d 848, 852 (8th Cir. 1997). This Court affirmed. The Eleventh Circuit’s contrary holding, which treats “injury” as synonymous with “harm” and effectively renders *any* confinement as an injury without regard to lawfulness, cannot be squared with *Geiger* or its doctrinal foundation.

Under the *Restatement*, one can suffer harm without injury. If a shopkeeper detains a shoplifter, he causes harm (confinement) but no injury, because confining a shoplifter is not unlawful. If the shopkeeper mistakenly detains an innocent person, genuinely believing them to be a shoplifter, he still intends the act that results in harm, but he does not subjectively intend an act that results in injury (the violation of rights), because he genuinely believes his actions are lawful.

Georgia law confirms this distinction. Under Georgia law, false imprisonment requires “a detention and the unlawfulness of that detention.” *Fields v. Kroger Co.*, 202 Ga. App. 475, 475 (1992). The distinction is age-old and was described by Blackstone as follows:

To constitute the injury of false imprisonment there are two points requisite: 1. The detention of the person: and, 2. The unlawfulness of such detention. Every confinement of the person is an imprisonment, whether it be in a common prison, or a private house, or the stocks, or even by forcibly detaining one in the public streets. Unlawful, or false, imprisonment consists in such confinement or detention without sufficient authority: which authority may arise either from some process from the courts of justice, or from some warrant from a legal officer having power to commit, under his hand and seal, and expressing the cause of such commitment; Or from other special cause warranted, for the necessity of the thing, either by common law, or act of parliament, such as the arresting of a felon by a private person without warrant,

the impressing of mariners for the public service, or the apprehending of waggoners for misbehaviour on public highways. False imprisonment may also arise by executing a lawful warrant or process at an unlawful time, as on sunday for the statute has declared that such service or process shall be void. This is the injury. Let us next see the remedy: which is of two sorts; the one *removing* the injury, the other *making satisfaction* for it.

3 Blackstone *Commentaries* *127-128 (emphasis original). Without unlawfulness, no tort exists—no “injury” in the legal sense. As the District Court observed, “[t]he debtor need not act with the specific purpose to *unlawfully* confine his victim, although of course such confinement must in fact be found to be unlawful if the creditor is to have a valid action for false imprisonment.” App. 79a (emphasis in original). Watson intended detention but not unlawfulness. He intended harm, not injury.

Even if Watson knew his actions were substantially likely to cause Respondents’ confinement, because he genuinely believed Respondents had stolen from him, he either intended that they be lawfully confined or acted with reckless disregard as to whether confinement would be unlawful. Therefore, he did not intend to invade a legally protected interest.

B. Black’s Law Dictionary and Strict Construction

Black’s Law Dictionary offers multiple definitions of “injury.” The first definition describes injury as “[t]he violation of another’s legal right, for which the law provides

a remedy; a wrong or injustice.” Black’s Law Dictionary 936 (11th ed. 2019). The third definition is broader: “[a]ny harm or damage.” *Id.*

As this Court recognized in *Geiger*, “exceptions to discharge ‘should be confined to those plainly expressed.’” *Geiger*, 523 U.S. at 62 (quoting *Gleason v. Thaw*, 236 U.S. 558, 562 (1915)). This long-standing canon of construction requires the narrower definition in this case. The Eleventh Circuit’s broader reading impermissibly expands § 523(a)(6) to capture honest mistakes.

C. This Case Can Be Harmonized with *Medical Marijuana, Inc. v. Horn*.

In *Medical Marijuana, Inc. v. Horn*, 604 U.S. 593 (2025), this Court recently addressed the definition of “injury” in the context of civil RICO. The Court held that, in that specific context, “injury” and “harm” are often used interchangeably. And the Court noted that “context determines the choice” between ordinary and specialized meanings. *Horn*, 604 U.S. at 594.

Horn’s holding encompasses this case. It presents the question of how to define “injury” in a statute that is the opposite of RICO.

RICO is a remedial statute, and courts construe it liberally to effectuate its remedial purposes. *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479, 498, 105 S. Ct. 3275, 3286 (1985), *superseded by statute on other grounds*, (citing Pub. L. 91-452, § 904(a), 84 Stat. 947)). The Bankruptcy Code’s discharge provisions, by contrast, are protective, designed to give the honest but

unfortunate debtor a fresh start. *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 367 (2007) (citing *Grogan v. Garner*, 498 U.S. 279, 286-87 (1991), *superseded by statute on other grounds*). As a result, lower courts have construed exceptions to discharge strictly against the creditor and liberally in favor of the debtor. *In re Harris*, 3 F.4th 1339, 1345 (11th Cir. 2021) (citing *In re Hudson*, 107 F.3d 355, 356 (5th Cir. 1997).) In the RICO context, “injury” serves as a standing threshold, asking whether the plaintiff has suffered a loss. In the § 523(a)(6) context, “injury” serves as a culpability threshold, asking whether the debtor committed a moral wrong deserving of legal liability. Because § 523(a)(6) establishes an exception to discharge, the legal definition of “injury” controls when applying § 523(a)(6).

If the Court does not intervene, lower courts may mistakenly cite *Horn* to import the broad injury-equals-harm standard into bankruptcy law. It would mean that any debtor who intentionally acts and causes harm is barred from discharge, even if they genuinely believed their actions were lawful.

The Court in *Horn* acknowledged that “injury” can mean “invasion of a legal right.” This case asks the Court to affirm that *this* represents the correct definition in the bankruptcy context, where strict construction of discharge exceptions is mandatory and where *Geiger* explicitly anchored the analysis in the *Restatement* and intentional tort law.

III. THE BIFURCATED RULING BELOW PROVES THE DEFINITIONAL ERROR.

The internal inconsistency of the judgment below demonstrates the errors that arise from misapplication of *Geiger* and its progeny. The Eleventh Circuit and lower courts held that Watson's genuine belief negated willfulness for slander but not for false imprisonment, even though both his actions and state of mind were identical.

This result is logically possible only by defining "injury" differently for each tort. For slander, the courts treated "injury" as a false statement, which Watson did not intend, because he believed his statements were true. For false imprisonment, the courts treated "injury" as mere "confinement" and not *intentionally unlawful* confinement. But "injury" under § 523(a)(6) must have a uniform meaning.

If "injury" means "harm," both debts would be nondischargeable, because Watson intended both the confinement and the statements resulting from his genuine, but mistaken beliefs. If "injury" means "invasion of a legally protected interest," both debts should be dischargeable. The bifurcated result exposes the Eleventh Circuit's inconsistent application of the definition.

This inconsistency also makes the case an ideal vehicle. The conflict between the two rulings isolates the definitional question with precision. Resolving the meaning of "injury" resolves the case.

IV. THE QUESTIONS PRESENTED ARE EXCEPTIONALLY IMPORTANT AND THIS CASE IS AN IDEAL VEHICLE.

A. The Question Presented Is Exceptionally Important.

The interpretation of § 523(a)(6) is of critical importance to the uniform administration of bankruptcy law. As this Court has recognized, exceptions to discharge must be applied in a manner faithful to the Bankruptcy Code’s fresh-start policy for the “honest but unfortunate debtor.” Now, the dischargeability of debts for intentional tort judgments varies dramatically across jurisdictions due to the circuit split described above. This lack of uniformity undermines the integrity of the federal bankruptcy system and violates the constitutional mandate for “uniform Laws on the subject of Bankruptcies.” U.S. Const. art. I, § 8, cl. 4.

Moreover, the question of how to define “injury” in § 523(a)(6) is of exceptional importance in the wake of *Medical Marijuana, Inc. v. Horn*. Without guidance from this Court, lower courts may cite *Horn* to import a broad injury-equals-harm standard into bankruptcy law, a result that would gut the fresh-start policy. The Court should grant certiorari to confirm that *Horn*’s holding is context-specific and does not apply to § 523(a)(6), where the *Restatement*’s technical definition governs.

B. This Case Is an Ideal Vehicle.

This case is an ideal vehicle for review. The factual record is fully developed and undisputed. The bankruptcy

court made a clear, explicit finding of fact that Watson “genuinely believed” the Respondents stole his wallet. App. 106a. The lower courts accepted this finding. There are no disputes about credibility or conflicting testimony to resolve.

The questions presented are purely legal. Does “injury” mean “harm” or “invasion of a legally protected interest?” Does a genuine belief in the lawfulness of one’s conduct negate the “willful and malicious” element of § 523(a)(6)? Unlike many cases where the debtor’s intent is murky, here the courts have isolated the debtor’s mental state.

The bifurcated ruling below makes this case an especially clean vehicle. The conflict between the discharge of the slander debt and the retention of the false imprisonment debt squarely presents the definitional question. If “injury” has a uniform meaning, both debts must be treated the same way. The only way to reach different results is to adopt inconsistent definitions, which is exactly what the Eleventh Circuit did. This internal contradiction isolates the legal error and allows the Court to resolve the meaning of “injury” without any factual complications.

The Eleventh Circuit’s published opinion explicitly addresses and rejects the argument that genuine belief negates willfulness for false imprisonment, providing a clear target for this Court’s review. Resolution of the question presented in Watson’s favor would require no further factual proceedings on remand—only entry of judgment discharging the debt. There are no procedural obstacles, mootness concerns, or jurisdictional defects.

Importantly, this petition does not ask the Court to engage in error correction. Petitioner does not merely contend that the Eleventh Circuit misapplied settled law to the facts here. Rather, this petition asks the Court to resolve a legal question, the meaning of “injury” under § 523(a)(6), that has divided the circuits and that this Court has never squarely addressed. The answer to that question will govern thousands of bankruptcy cases nationwide and will determine whether the fresh start promise of the Bankruptcy Code retains its force.

CONCLUSION

The Eleventh Circuit’s decision misinterprets the statutory term “injury.” By conflating “injury” (legal wrong) with “harm” (detriment), the court below created a standard that punishes the “honest but unfortunate” debtor who acts under a genuine mistake of fact. This holding conflicts with the text of the Bankruptcy Code, the logic of *Geiger*, the definitions in the *Restatement*, the holding of *Davis*, and the fundamental bankruptcy policy of affording a fresh start to an honest but unfortunate debtor. It deepens a mature circuit split and creates an illogical bifurcation of intent that cannot be justified.

This Court should grant the petition to restore uniformity to bankruptcy law, to adopt the technical definition of “injury” as “the invasion of a legally protected interest,” and to clarify that an “honest but unfortunate” debtor who acts under a genuine mistake of fact is entitled to a fresh start.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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**APPENDIX A — OPINION OF THE UNITED STATES
COURT OF APPEALS FOR THE ELEVENTH
CIRCUIT, FILED AUGUST 4, 2025**

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 24-11389

IN RE: STANLEY KAPPELL WATSON,

Debtor.

STANLEY KAPPELL WATSON,

Plaintiff-Appellant,

versus

SHENEKKA BRADSHER, ZARINAH ALI,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:22-cv-04996-SEG,
Bkcy No. 1:18-bk-69905-BEM

Filed August 4, 2025

Before WILLIAM PRYOR, Chief Judge, and LUCK and
BRASHER, Circuit Judges.

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WILLIAM PRYOR, Chief Judge:

This appeal requires us to decide whether debts from judgments for false imprisonment are nondischargeable in bankruptcy because they are “for willful and malicious injury.” 11 U.S.C. § 523(a)(6). Stanley Watson, a former county commissioner, falsely accused two women of stealing his wallet, repeatedly demanded their arrest, and threatened police officers who refused to cooperate. After the women sued Watson for slander, battery, and false imprisonment, a jury returned a general verdict against him for \$150,500. Watson then petitioned for bankruptcy, and the women sued to except their judgments from discharge. The bankruptcy court found that Watson “genuinely believed” that the women stole his wallet and that the battery was accidental, so it discharged his judgment debts for battery and slander. But it ruled that the judgment debts for false imprisonment were nondischargeable. Because the bankruptcy court committed no clear error in finding that Watson willfully and maliciously caused the women’s confinement, we affirm.

I. BACKGROUND

This appeal is about a man who lost his wallet and, shortly after, his solvency. We begin with the wallet. We then turn to his bankruptcy.

On July 12, 2012, Stanley Watson, a DeKalb County Commissioner, entered the Tanqueray Lounge in Decatur, Georgia, and saw Sheneeka Bradsher sitting at the bar.

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Watson eventually joined Bradsher, bought her a few drinks, and invited her to “come home with [him].” When Bradsher declined his invitation, Watson responded, “[y]ou don’t know who I am,” before shifting tactics and remarking that she “look[s] like [she] like[s] nice things” and that “everything has a price.” Feeling “insulted” by Watson’s proposition, Bradsher replied, “[W]hat do I look [like] going home with [you]?” She then called Watson “big” and “greasy” and said that he “look[ed] like Bookman from *Good Times*,” before joining her friend Zarinah Ali elsewhere in the Lounge.

Watson became “very angry” and tried to close his tab but could not find his wallet. After questioning two bartenders—neither of whom had seen his wallet—Watson became convinced that Bradsher took it. He accused Bradsher and Ali of stealing his wallet by repeating that those “bitches stole my wallet.”

A Tanqueray employee approached Perez Patterson and off-duty police officer Sergeant Oscar Parker, who were providing security, to convey Watson’s accusations. By that point, each had already interacted with Watson. When Patterson attempted to pat Watson down upon his arrival, Watson asserted that “he did not get patted down because he was a county commissioner.” Although Patterson asserted that he neither knew nor recognized Watson, his shirt identified him as a county commissioner, and “he felt his job was threatened by [Watson’s] comments.” Parker had a similar encounter. When Parker asked Watson to move his car because it blocked the Lounge’s exit, Watson asked why Parker could not move

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it himself and reminded the sergeant that he was the only one “trying to get you[]all raises.” Parker replied that he “was not a valet,” and Watson moved his car.

During a conversation with Parker about the missing wallet, Watson explained that it had been in his back pocket and that he placed it on the bar to pay his tab. He admitted that he had not seen Bradsher take his wallet but insisted that “th[o]se bitches got my wallet.” He repeatedly demanded Bradsher’s and Ali’s arrest and threatened to have the bar shut down if the officers did not comply.

Parker next spoke with Bradsher and Ali. Both women allowed Parker to search their purses, and neither contained Watson’s wallet. Watson nevertheless accused Ali of having his wallet, speculating that if Bradsher did not have it, she must have passed it to Ali. When Ali denied the accusation, Watson allegedly poked Ali on the forehead, accused her again, and told her that she would go to jail.

At this point, the officers took Watson, Bradsher, and Ali outside and separated them. But an “intoxicated,” “belligerent,” and “irate” Watson continued to insist that Bradsher and Ali had stolen his wallet and demanded their arrest. A video recorded by Patterson shows Watson saying, “[T]hey know they got my wallet.” It also captured Watson threatening to call various people, including the police chief, that the bar would lose its food certification, and that its employees would lose their jobs.

Meanwhile, Bradsher, angered by the accusations, began using profanity. Parker arrested her for disorderly

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conduct, handcuffed her, and placed her in a police car. He explained that his decision to arrest her was based on her conduct and not Watson's allegations, but Bradsher had not been disorderly before the accusations.

While Bradsher sat in the police car, Watson approached the window and repeated that she had stolen his wallet. Watson kept saying, "Bitch stole my wallet. She is going to have to give me my fucking wallet." He walked back and forth alongside the police car, asserting repeatedly that she would go to jail. "[D]isturbed" by Watson's language, Parker admonished him to "behave like an elected official." But Watson continued to insist on an arrest. Because Bradsher had already been detained, the officers concluded that he wanted Ali arrested as well. The officers instructed Ali not to leave, so she remained at the scene.

Parker solicited information from Watson about his wallet and its contents for an incident report before going to his car to retrieve a body camera. In that footage, Parker explained to Watson that he was in no condition to drive. Watson asked to return to his car to call a friend to drive him home but instead drove away himself. He briefly left the parking lot before returning when officers followed him. Soon after, a police lieutenant arrived at the bar, called a police major, and handed the phone to Watson. After Watson's conversation with the major, the lieutenant instructed Parker to allow someone to take Watson home. Parker's incident report described "circumstances beyond his control" as preventing him from arresting Watson. He also stated that he did not "feel right" arresting Bradsher

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in the light of Watson's behavior, so he issued a warning and released her. The next day, Watson found his wallet in his car.

Bradsher and Ali sued Watson in state court for slander *per se*, false imprisonment, and battery. A jury returned a general verdict for Bradsher and Ali. The jury awarded Bradsher compensatory damages of \$75,000 and punitive damages of \$5,000. It awarded Ali compensatory damages of \$25,000 and punitive damages of \$5,000. The court also awarded the women \$39,000 in attorney's fees and \$1,500 in expenses.

Watson filed a bankruptcy petition and received a discharge. But Bradsher and Ali filed an adversary complaint against Watson to except the \$150,500 state-court judgment from discharge because "an individual debtor" may not be discharged "from any debt" "for willful and malicious injury by the debtor to another entity." 11 U.S.C. § 523(a)(6). After a trial, the bankruptcy court entered judgment for Bradsher and Ali in part and Watson in part. It ruled that the judgment debts for slander and false imprisonment were nondischargeable but that the judgment debt owed to Ali for battery was dischargeable. It found that Watson did not intend to make physical contact with Ali when he poked her forehead, so the injury could not have been "willful." And it attributed \$2,500 of Ali's judgment to the debt for battery.

Watson appealed the bankruptcy court's ruling that Bradsher's and Ali's judgments for slander and false imprisonment were nondischargeable. The district

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court affirmed in part, reversed in part, and remanded. It affirmed the judgment to the extent that “any debt arising from [Bradsher’s and Ali’s] false imprisonment claims is nondischargeable” but reversed and remanded because “further factual clarification [was] necessary” to determine whether the slander injury was “willful.” It described the tension between the bankruptcy court’s finding that Watson “genuinely believed” that Bradsher and Ali stole his wallet and its finding that Watson’s slander was “willful.”

On remand, the bankruptcy court found that Watson’s slander was not “willful” under section 523(a)(6). Because Watson “genuinely believed” that Bradsher and Ali had stolen his wallet when he made the accusations, he “neither knew nor was substantially certain that his statements were false.” It ruled that Bradsher and Ali failed to prove by a preponderance of the evidence that the debt arising from the slander claim was “willful” and ruled that the debt was dischargeable.

Because the jury had not apportioned damages by claim, the bankruptcy court determined how to allocate them. It found that two-thirds of the compensatory damages arose from their suffering false imprisonments and one-third arose from their suffering slanders. For Bradsher’s compensatory damages, \$50,000 was nondischargeable as attributable to the false imprisonment and \$25,000 was dischargeable as attributable to the slander. For Ali’s, \$16,667 was nondischargeable as attributable to the false imprisonment and \$5,833 was dischargeable as attributable to the slander. It used the

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same allocation to apportion attorney's fees and expenses and punitive damages. For the nondischargeable debts for false imprisonment, it attributed \$27,000 in attorney's fees and expenses and \$6,666 of the punitive damages award. For the dischargeable debts for slander and battery, it attributed \$13,500 in attorney's fees and expenses and \$3,334 of punitive damages.

Watson then filed his second notice of appeal. He contested the bankruptcy court's "arbitrary allocation of [the] state court damages and fees to the[] nondischargeable false imprisonment claims." The district court affirmed.

II. STANDARDS OF REVIEW

We review the bankruptcy court's factual findings for clear error and review the legal conclusions of both the bankruptcy and district courts *de novo*. *Rush v. JJJ, Inc. (In re JJJ Inc.)*, 988 F.2d 1112, 1116 (11th Cir. 1993). We review *de novo* the interpretation of the terms "willful" and "malicious" in section 523(a)(6). *Kane v. Stewart Tilghman Fox & Bianchi P.A. (In re Kane)*, 755 F.3d 1285, 1293 (11th Cir. 2014). But "[a] bankruptcy court's determination that an injury was 'willful and malicious' is a factual finding that we review only for clear error." *Id.* "The bankruptcy court's findings of fact are not clearly erroneous unless, in light of all the evidence, we are left with the definite and firm conviction that a mistake has been made." *Westgate Vacation Villas, Ltd. v. Tabas (In re Int'l Pharmacy & Disc. II, Inc.)*, 443 F.3d 767, 770, 158 Fed. Appx. 256 (11th Cir. 2005). Moreover, "when we examine the facts adduced at trial, generally we will not

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disturb a bankruptcy court’s credibility determinations.” *Kane*, 755 F.3d at 1288.

III. DISCUSSION

We divide our discussion in two parts. First, we explain that the bankruptcy court did not clearly err when it found that Watson’s debt for false imprisonment arose from a “willful and malicious injury” and was nondischargeable. *See* 11 U.S.C. § 523(a)(6). Second, we explain that the bankruptcy court did not clearly err in allocating the damages in the jury’s general verdict.

A. The Bankruptcy Court Did Not Err by Ruling that Watson’s Debts for False Imprisonment Are Nondischargeable.

“A Chapter 7 debtor is generally entitled to a discharge of all debts that arose prior to the filing of the bankruptcy petition.” *United States v. Mitchell (In re Mitchell)*, 633 F.3d 1319, 1326 (11th Cir. 2011) (citing 11 U.S.C. § 727(b)). To ensure that this “fresh start” is “only available to the honest but unfortunate debtor, . . . Congress enacted several exceptions to [section] 727(b)’s general rule of discharge.” *Id.* (citation and internal quotation marks omitted). One exception provides that a debtor may not be discharged from 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).

Watson argues that because he “genuinely believed” that Bradsher and Ali had stolen his wallet, their unlawful

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confinement was neither “willful” nor “malicious.” “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.” *SE Prop. Holdings, LLC v. Gaddy (In re Gaddy)*, 977 F.3d 1051, 1058 (11th Cir. 2020) (citation and internal quotation marks omitted). For an injury to be willful under section 523(a)(6), the debtor must intend both the injury and the act that led to the injury. As the Supreme Court explained in *Kawaauhau v. Geiger*, because “[t]he word ‘willful’ . . . modifies the word ‘injury,’” section 523(a)(6) covers “only acts done with the actual intent to cause injury,” not “acts, done intentionally, that cause injury.” 523 U.S. 57, 61, 118 S. Ct. 974, 140 L. Ed. 2d 90 (1998) (footnote omitted).

Although the statutory text “triggers in the lawyer’s mind the category ‘intentional torts,’” *id.*, liability for an intentional tort does not alone establish nondischargeability—the tort must involve an intent to cause injury. To be sure, “[i]ntentional torts,” as distinguished from negligent or reckless torts, “generally require that the actor intend ‘the consequences of an act,’ not simply ‘the act itself.’” *Id.* at 61-62 (quoting RESTATEMENT (SECOND) OF TORTS § 8A cmt. a (A.L.I. 1964)). But when a debt for an intentional tort does not involve an intent to cause injury, it may be dischargeable. *See, e.g., Williams v. Int’l Bhd. of Elec. Workers Loc. 520 (In re Williams)*, 337 F.3d 504, 510 (5th Cir. 2003) (holding that “the dischargeability of contractual debts under [s]ection 523(a)(6) depends upon the knowledge and intent of the debtor at the time of the breach, rather than whether conduct is classified as a tort”); *Miller v. J.D. Abrams*

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Inc. (In re Miller), 156 F.3d 598, 603 (5th Cir. 1998) (“We hold that the label ‘intentional tort’ is too elusive to sort intentional acts that lead to injury from acts intended to cause injury.”). A debt for the intentional tort of libel, for example, “meets the requirements of [section] 523(a)(6) for non-dischargeability when the debtor/author knows the published statements were false.” *Wheeler v. Laudani*, 783 F.2d 610, 615 (6th Cir. 1986). But when a libel verdict is supported by “[m]ere reckless disregard for the truth or falsity of the statement,” no “willful and malicious injury” occurs. *Id.* In other words, “debts arising from recklessly or negligently inflicted injuries do not fall within the compass of [section] 523(a)(6),” *Kawaauhanu*, 523 U.S. at 64, regardless of whether the jurisdiction labels the underlying judgment as one arising from an “intentional tort.”

In Georgia, the tort of false imprisonment requires proof of intent to cause injury. *Stewart v. Williams*, 243 Ga. 580, 255 S.E.2d 699, 701 (Ga. 1979). “The essential elements . . . for false imprisonment are a detention of the person of another for any length of time, and the unlawfulness of that detention.” *Fields v. Kroger Co.*, 202 Ga. App. 475, 414 S.E.2d 703, 704 (Ga. Ct. App. 1992); see also GA. CODE ANN. § 51-7-20 (“False imprisonment is the unlawful detention of the person of another, for any length of time, whereby such person is deprived of his personal liberty.”). Because false imprisonment requires the defendant to act “with the intention of causing a confinement, . . . there can be no such tort as a negligent false imprisonment.” *Stewart*, 255 S.E.2d at 701 (citation and internal quotation marks omitted); see also *Ridgeview*

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Inst. v. Handley, 224 Ga. App. 533, 481 S.E.2d 531, 533 (Ga. Ct. App. 1997); RESTATEMENT (SECOND) OF TORTS § 35 (categorizing “false imprisonment” as an intentional tort and listing intent to confine as one of its elements). “A detention need not consist of physical restraint, but may arise out of words, acts, [or] gestures, . . . which induce a reasonable apprehension that force will be used if [the victim] does not submit.” *Fields*, 414 S.E.2d at 704 (citation and internal quotation marks omitted). “[I]t is sufficient if they operate upon the will of the person threatened, and result in a reasonable fear of personal difficulty or personal injuries.” *Id.* at 704-05 (citation and internal quotation marks omitted).

Georgia law distinguishes between cases where a person “directly or indirectly urges a law enforcement official to begin criminal proceedings and cases where a party merely relates facts to an official who then makes an independent decision to arrest or prosecute.” *Scott Hous. Sys., Inc. v. Hickox*, 174 Ga. App. 23, 329 S.E.2d 154, 156 (Ga. Ct. App. 1985). On the one hand, a person “who merely states to an officer what he knows of a supposed offense, even though he expresses the opinion that there is ground for the arrest, but without making a charge or requesting an arrest does not thereby make himself liable for false imprisonment.” *Id.* (citation and internal quotation marks omitted). On the other hand, a person “who actively instigates or procures an arrest . . . is generally regarded as the principal for whom the officer acts, and he may be liable to respond in damages.” *Id.* (citation and internal quotation marks omitted). In that situation, “it is not necessary” that the person “direct

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the arrest in express terms”; “[i]t is sufficient” that “his conduct and acts . . . procured and directed the arrest.” *Id.* (citation and internal quotation marks omitted); *see also Webb v. Prince*, 62 Ga. App. 749, 9 S.E.2d 675, 678 (Ga. Ct. App. 1940).

The bankruptcy court found that the jury’s general verdict against Watson included findings of liability for causing the false imprisonments of Bradsher and Ali. Watson does not meaningfully dispute the finding that the jury assigned liability for false imprisonment. Nor does he challenge the finding that he intended Bradsher’s and Ali’s confinement. He argues instead that even if he had the requisite intent to commit the tort of false imprisonment, his conduct was not “willful” as a matter of federal bankruptcy law. Because he “genuinely believed” that Bradsher and Ali had stolen his wallet, Watson contends that he did not intend their *unlawful* confinement and so did not “willful[ly]” cause the “injury.”

Watson erroneously assumes that false imprisonment is only “willful” if he intended both the confinement *and* its unlawfulness. But the statute requires only that the debtor “willful[ly]” cause the “injury.” 11 U.S.C. § 523(a) (6). Bradsher’s and Ali’s confinement was the “injury,” and the bankruptcy court found that Watson intended to cause it. It found that Watson intended his accusations to cause Bradsher and Ali to be detained by the police, that he continued accusing them of stealing his wallet and insisting that they go to jail, and that he threatened adverse consequences for any officer who did not cooperate. That Watson genuinely believed that the women had stolen

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his wallet does not negate the fact that he willfully caused their confinement. Watson offers no authority to support his argument that the finding of “willful[ness]” requires proof of intent for every element of the intentional tort, including the unlawfulness of confinement.

To the extent that Watson’s subjective understanding of the lawfulness of the confinement affects the dischargeability of his debts, that issue more appropriately falls under the malice inquiry. But his argument falls short there too. We have interpreted a “malicious” injury in section 523(a)(6) as one that is “wrongful and without just cause or excessive even in the absence of personal hatred, spite or ill-will.” *Maxfield v. Jennings (In re Jennings)*, 670 F.3d 1329, 1334 (11th Cir. 2012) (quoting *Hope v. Walker (In re Walker)*, 48 F.3d 1161, 1164 (11th Cir. 1995)). Importantly, “[t]o establish malice, ‘a showing of specific intent to harm another is *not* necessary.’” *Id.* (emphasis added) (quoting *Lee v. Ikner (In re Ikner)*, 883 F.2d 986, 991 (11th Cir. 1989)). “Constructive or implied malice can be found if the nature of the act itself implies a sufficient degree of malice.” *Ikner*, 883 F.2d at 991.

The bankruptcy court did not clearly err in finding, by a preponderance of the evidence, that Watson maliciously caused Bradsher’s and Ali’s false imprisonments. Watson argues that his actions were not “wrongful and without just cause or excessive” because he was only doing his “civic duty” to report a crime.” In his view, his insistence that the officers arrest Bradsher and Ali was based on his “mistaken but genuine belief” that they had stolen his wallet. But Watson’s genuine belief does not foreclose

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the bankruptcy court's finding that his actions causing Bradsher's and Ali's confinement were both "wrongful" and "excessive." *Jennings*, 670 F.3d at 1334 (citation and internal quotation marks omitted). To be sure, his genuine belief may have foreclosed a finding of a "specific intent to harm" or of "personal hatred, spite or ill-will." *Id.* (citation and internal quotation marks omitted). But because these findings were "not necessary" to make a finding of malice, the bankruptcy court did not clearly err. *Id.* (citation and internal quotation marks omitted).

We have held that a bankruptcy court is "free to imply malice" when "the preponderance of the evidence establishes that the [debtor] committed wrongful acts that were 'excessive.'" *Kane*, 755 F.3d at 1295. The bankruptcy court did not clearly err by finding that Watson engaged in "wrongful" acts that were "excessive" when he relentlessly accused Bradsher and Ali of theft using profane and derogatory language, taunted and intimidated them with repeated threats of jail, and pressed officers to arrest them even after witnessing the officers confirm that the women were not carrying his wallet. Worse still, Watson abused his position as a county commissioner by threatening the officers' employment if his demands to arrest Bradsher and Ali were not met. True, Watson "genuinely believed" that his wallet had been stolen by Bradsher and Ali. But after reporting his wallet missing, Watson's civic duty was done. Despite his genuine yet mistaken belief, his later actions crossed the line from "civic duty" to report a crime into "wrongful" and "excessive" conduct.

Watson argues that the bankruptcy court erred by ruling that his debts for false imprisonment were

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nondischargeable while ruling that his debts for slander were dischargeable. Because neither party challenges the bankruptcy court’s ruling that the slander judgments are dischargeable, we need not revisit it here. We must only reconcile it with the finding that the debts for false imprisonment were for willful and malicious injuries. Watson contends that the “same underlying conduct can[not] give rise to dischargeable and nondischargeable debts.” But Watson erroneously assumes that the two debts involve the same injury and require identical treatment under section 523(a)(6). As the Supreme Court explained in *Kawaauhau*, nondischargeability under section 523(a)(6) turns on whether the debtor intended the specific injury. 523 U.S. at 61. Because the “injury” for false imprisonment is distinct from the injury for slander *per se*, what matters is whether Watson intended to cause the injury for each tort. The bankruptcy court’s finding that Watson did not willfully and maliciously injure Bradsher’s and Ali’s reputations did not foreclose its finding that Watson *did* willfully and maliciously cause their unlawful confinement.

Watson asserts that the bankruptcy court and district court improperly shifted the burden to him to prove nondischargeability. But the record does not suggest that the bankruptcy court erroneously placed any burden on Watson. Watson points to a footnote in the district court’s opinion stating that Watson’s “briefing does not distinguish between possible injuries resulting from false imprisonment and those resulting from slander.” But even if this footnote could be interpreted as shifting a burden, it would relate only to Watson’s burden in the district court

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to establish that the bankruptcy court's factual findings were clearly erroneous. See *Equitable Life Assurance Soc'y v. Sublett (In re Sublett)*, 895 F.2d 1381, 1383 (11th Cir. 1990) ("The district court in a bankruptcy appeal, like this Court itself, functions as an appellate court in reviewing the bankruptcy court's decision."); *Griffin v. Missouri Pac. R.R. Co.*, 413 F.2d 9, 13 (5th Cir. 1969) ("The burden of proving that the findings are clearly erroneous is, of course, on the party attacking them.").

The bankruptcy court did not err by finding that Watson "willfully and maliciously" caused Bradsher's and Ali's confinement. To be sure, the bankruptcy court could have weighed the evidence differently. But it did not do so, and Watson cannot satisfy his heavy burden of establishing that the bankruptcy court clearly erred.

B. The Court Did Not Clearly Err in Allocating the Judgment Debts.

Watson argues that the bankruptcy court erred "when it arbitrarily concluded that two-thirds of compensatory damages, punitive damages, and attorneys' fees were attributable to the false imprisonment claim and . . . not dischargeable." Watson does not challenge the bankruptcy court's authority to apportion damages. But he argues that the bankruptcy court's "allocation of damages among the claims" and "its methodology for such allocation" were "fundamentally flawed as unsupported by the law" and "premised upon insufficient evidence of entitlement to such damages under a claim of false imprisonment." He maintains that "[t]o the extent that any of [the] claims

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against Watson are nondischargeable, the case should have been remanded for further evidentiary proceedings to determine the amount of nondischargeable damages.”

Again, we disagree. The bankruptcy court allocated the judgment debts based on a record of testimony and other evidence from two trials. It had the benefit of the full transcript of the state-court jury trial, which reflected the testimony of the parties and key witnesses. And it presided over a trial where it had the opportunity to hear testimony from all parties and assess witness credibility. *See Englander v. Mills (In re Englander)*, 95 F.3d 1028, 1030 (11th Cir. 1996) (explaining that the district court must “give due regard to the bankruptcy court’s opportunity to judge the credibility of the witnesses”). Although Watson argues that the bankruptcy court erred in not requesting additional evidence, what matters is whether the bankruptcy court had a sufficient record to support its findings. And it plainly did.

The bankruptcy court did not clearly err in its allocation of the judgment debts. In finding that Bradsher’s and Ali’s injuries for false imprisonment were more substantial than their injuries for slander, the bankruptcy court relied on testimony from Bradsher, Ali, and two officers who responded to the underlying altercation. The bankruptcy court considered the fear, embarrassment, and shame that Bradsher felt from being confined in the back of a police car. It also found that Bradsher suffered from insomnia, depression, and paranoia caused by her false imprisonment. As for Ali, it considered that being falsely imprisoned caused her to feel “violated” and that

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she now suffers from stress and sleep problems. Based on this evidence, it found that the “greater harm” suffered by Bradsher and Ali was attributable to “the temporary loss of liberty resulting from the false imprisonment,” not the “embarrassment resulting from the defamatory statements,” and it allocated two-thirds of their damages to their judgments for false imprisonment. Because the bankruptcy court’s findings are supported by two trial records and we will not disturb its credibility findings, *Kane*, 755 F.3d at 1288, it did not clearly err in its allocation of the judgment debts.

IV. CONCLUSION

We **AFFIRM** the judgments in favor of Ali and Bradsher.

**APPENDIX B — ORDER OF THE UNITED STATES
DISTRICT COURT, NORTHERN DISTRICT
OF GEORGIA, ATLANTA DIVISION,
FILED MARCH 29, 2024**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CIVIL ACTION NO.
1:22-cv-04996-SEG
BANKRUPTCY COURT CHAPTER 7
18-69905-BEM
ADVERSARY PROCEEDING
19-05127-BEM

IN RE:

STANLEY KAPPELL WATSON,

_____ *Debtor,*

STANLEY KAPPELL WATSON,

Defendant/Appellant,

v.

SHENEEKA BRADSHER AND ZARINAH ALI,

Plaintiffs/Appellees.

Filed March 29, 2024

*Appendix B***ORDER**

Defendant-Appellant Stanley Kappell Watson appeals the Order and Judgment of the Bankruptcy Court issued on December 2, 2022. (Doc. 1-2, 1-3.) For the following reasons, the Court affirms the judgment.

I. Introduction

In a 2015 state-court civil action, a jury found that Defendant-Appellant Stanley Kappell Watson engaged in tortious conduct directed at Plaintiffs-Appellees, Sheneeka Bradsher and Zarinah Ali. The jury awarded Bradsher and Ali compensatory damages, punitive damages, and attorney's fees. Watson later filed a bankruptcy petition and received a discharge. Plaintiffs are his creditors.

This is the second appeal taken in this bankruptcy litigation. In the first appeal ("*Watson I*"), this Court affirmed in part and reversed in part the Bankruptcy Court's determination that certain portions of the jury award were nondischargeable under 11 U.S.C. § 523(a)(6). On remand ("*Watson II*"), the Bankruptcy Court found that part of the state-court jury's award was debt "for willful and malicious injury by the debtor," 11 U.S.C. § 523(a)(6), and was therefore nondischargeable, while part was not. Defendant appeals the Bankruptcy Court's allocation of damages and fees and its determination of the extent to which certain damages and fees arose from willful and malicious injuries inflicted by the debtor.

*Appendix B***II. Background****A. The State Court Judgment**

A summary of the events giving rise to this litigation is set forth in the Bankruptcy Court's *Watson I* order (Doc. 3-7 at 2–9) and in the previous order of this Court, (Doc. 3-10 at 3–7). Relevant here, Plaintiffs-Appellees Sheneeka Bradsher and Zarinah Ali sued Watson in the State Court of DeKalb County, Georgia for false imprisonment, slander, and battery following an incident at a bar during which Defendant accused Plaintiffs of stealing his wallet, which was later found in Defendant's car. On April 29, 2015, a jury entered a verdict for Bradsher and Ali. The jury awarded Bradsher compensatory damages of \$75,000 and punitive damages of \$5,000. Ali was awarded compensatory damages of \$25,000 and punitive damages of \$5,000. Plaintiffs were further awarded \$39,000 in attorney's fees and \$1,500 in expenses. Neither the jury verdict form nor the state court judgment allocated damages by claim.

On November 28, 2018, Defendant filed a Chapter 7 bankruptcy petition, and he subsequently received a discharge on March 15, 2019.

B. *Watson I*

Plaintiffs initiated this proceeding to seek a determination that their debt is nondischargeable pursuant to 11 U.S.C. § 523(a)(6), which provides that debts “for willful and malicious injury by the debtor”

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shall be excepted from discharge. A plaintiff seeking a nondischargeability determination under § 523(a)(6) must show both the willfulness *and* malice of the debtor.

Plaintiffs filed a motion for summary judgment seeking a determination as a matter of law that their injuries were willful and malicious. (Doc. 3-7 at 10.) On October 18, 2019, the Bankruptcy Court denied the motion, finding that issues of fact precluded summary judgment as to the nondischargeability of Plaintiffs' damages. *In re Watson*, No. 18-69905-BEM, 2019 WL 5388061, at *7 (Bankr. N.D. Ga. Oct. 18, 2019).

On March 18, 2021, the Bankruptcy Court held a trial to determine whether Plaintiffs' state court judgment was nondischargeable. The Bankruptcy Court found that the entire judgment, with the exception of the damages awarded to Ali for battery, was nondischargeable under § 523(a)(6). (Doc. 3-7.) The Bankruptcy Court found that \$2,500 of Ali's compensatory damages arose from the battery claim and was therefore dischargeable. The rest of the compensatory damages, the punitive damages, and the attorney's fees and expenses were found to be debts for willful and malicious injury by Watson and therefore nondischargeable.

Defendant appealed the Bankruptcy Court's determination that Plaintiffs' slander and false imprisonment damages arose from willful and malicious injury by the debtor. This Court affirmed in part and reversed in part the Bankruptcy Court's order, and remanded. Specifically, the Court affirmed the

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Bankruptcy Court's conclusion that Plaintiffs established both willfulness and malice as to their false imprisonment claim. The Court also affirmed the Bankruptcy Court's finding that Plaintiffs established malice as to the slander claim, but it reversed the Bankruptcy Court's finding that Plaintiffs established willfulness as to that claim. The Court found tension between the Bankruptcy Court's determination that Watson "genuinely believed" Plaintiffs had taken his wallet, and its conclusion that Watson's slander was "willful." The Court remanded the case for a reexamination of the "willfulness" of Defendant's slanderous conduct. The Court noted that if, upon remand, the Bankruptcy Court found the slander was *not* willful, then it would "be up to the Bankruptcy Court to determine what portion of the debt was allocated to" the slander and false imprisonment claims, respectively. (Doc. 3-10 at 11-12.)

C. *Watson II*

On remand, the Bankruptcy Court considered whether Defendant's slander was "willful" under § 523(a)(6). It answered that question in the negative, finding that, because Defendant genuinely believed Plaintiffs had stolen his wallet when he accused them of theft, he "neither knew nor was substantially certain his statements were false." (Doc. 1-2 at 6.) The Bankruptcy Court therefore concluded that Plaintiffs failed to prove by a preponderance of the evidence that the debt arising from the slander claim was willful under § 523(a)(6). Accordingly, the debt from the slander claim was deemed dischargeable.

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After finding that part of the debt from the jury award was dischargeable (slander) while part was nondischargeable (false imprisonment), the Bankruptcy Court was next faced with the decision as to how properly to allocate the jury award. To inform its decision, the Bankruptcy Court carefully examined the testimony and evidence presented at both the state court trial and the trial over which it had presided. Upon consideration of the parties' trial testimony and the testimony of the police officers who responded to the underlying altercation, the Bankruptcy Court determined that two-thirds of the Plaintiffs' unallocated¹ compensatory damages arose from their false imprisonment claims, while one-third arose from their slander claims. Thus, for Bradsher's compensatory damages, \$50,000 were nondischargeable as attributable to the false imprisonment claim, while \$25,000 were dischargeable as attributable to the slander claim. For Ali's compensatory damages, \$16,667 were nondischargeable as attributable to the false imprisonment claim, while \$5,833 were dischargeable as attributable to the slander claim. The Bankruptcy Court further used the same two-thirds allocation in apportioning Plaintiffs' attorney's fees and expenses and punitive damages. Using that allocation, the Bankruptcy Court found that \$27,000 in attorney's fees and expenses were attributable to the false imprisonment claims, while \$13,500 were attributable to the slander claim and thus dischargeable. And \$3,333

1. As noted above, in *Watson I*, the Bankruptcy Court allocated \$2,500 to Ali's battery claim, which was dischargeable. This allocation was not appealed. The battery allocation left \$22,500 in unallocated compensatory damages for Ali and \$75,000 in compensatory damages for Bradsher.

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of each Plaintiff's punitive damages award were nondischargeable as arising from the false imprisonment claims, while \$1,667 were dischargeable as arising from the slander claim. Defendant has appealed the Bankruptcy Court's order in *Watson II*.

III. Standard of Review

In a bankruptcy case, the district court operates as an appellate court.² *In re Sublett*, 895 F.2d 1381, 1383–1384 (11th Cir. 1990). A bankruptcy court's findings of fact are reviewed for clear error, while conclusions of law are reviewed *de novo*. *Piazza v. Nueterra Healthcare Physical Therapy, LLC (In re Piazza)*, 719 F.3d 1253, 1260 (11th Cir. 2013); Fed. R. Bankr. Proc. 8013 (on appeal, a bankruptcy court's findings of fact "shall not be set aside unless clearly erroneous"). "The bankruptcy court's findings of fact are not clearly erroneous unless, in light of all the evidence, [the appellate court is] left with the definite and firm conviction that a mistake has been made." *Westgate Vacation Villas, Ltd. v. Tabas (In re Int'l Pharmacy & Disc. II, Inc.)*, 443 F.3d 767, 770 (11th Cir. 2005). Moreover, when an appellate court "examine[s] the facts adduced at trial, generally [it] will not disturb a bankruptcy court's credibility determinations." *Kane v. Stewart Tilghman Fox & Bianchi PA (In re Kane)*, 755 F.3d 1285, 1288 (11th Cir. 2014); *Englander v. Mills*

2. A district court has appellate jurisdiction to review "all final decisions, judgments, [and] orders" of a bankruptcy court. 28 U.S.C. § 158(d)(1). The appealed order (Doc. 1-2) was a final decision as to Plaintiffs' nondischargeability proceeding and can therefore be reviewed by this Court.

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(In re Englander), 95 F.3d 1028, 1030 (11th Cir. 1996) (“The district court must . . . give due regard to the bankruptcy court’s opportunity to judge the credibility of the witnesses.”).

IV. Issues on Appeal

As an initial matter, the Court must delineate what issues are and are not under review in this appeal. In his “Statement of the Issues to be Presented,” Defendant articulates the issues as follows:

- (1) Whether the Bankruptcy Court erred to the extent it determined that debts owed to Plaintiffs arose from injuries that were both willful and malicious under 11 U.S.C § 523 (a) (6); and
- (2) Whether the Bankruptcy Court erred in its determination as to the allocation of the amount of the debts that it determined be nondischargeable under 11 U.S.C § 523 (a)(6).

(Doc. 3-11 at 2.) Defendant’s brief contests both the Bankruptcy Court’s two-thirds allocation of debt to the false imprisonment claims and the Bankruptcy Court’s determination that Plaintiffs’ false imprisonment damages are nondischargeable. (*See, e.g.*, Doc. 5 at 15 (“The Bankruptcy Court erred when it determined damages for the false imprisonment claims were nondischargeable [u]nder 11 U.S.C. § 523(a)(6).”))

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While Defendant’s challenge to the Bankruptcy Court’s allocation of damages is properly before this Court on appeal, the challenge to the underlying nondischargeability of the false imprisonment debt is not. The Bankruptcy Court’s determination that damages arising from Plaintiffs’ false imprisonment claims are nondischargeable has already been appealed and affirmed. It is therefore not under review. *See Toole v. Baxter Healthcare Corp.*, 235 F.3d 1307, 1313 (11th Cir. 2000) (“Under the law-of-the-case doctrine, an issue decided at one stage of a case is binding at later stages of the same case.”). The Court’s review in this case is therefore limited to whether the Bankruptcy Court properly allocated two-thirds of Plaintiffs’ state-court damages and fees to their nondischargeable false imprisonment claims.

V. Discussion

Under 11 U.S.C. § 523(a)(6), a debt “for willful and malicious injury by the debtor to another entity or to the property of another entity” is excepted from discharge. An injury is “willful” when the debtor “commits an intentional act the purpose of which is to cause injury or which is substantially certain to cause injury.” *Maxfield v. Jennings (In re Jennings)*, 670 F.3d 1329, 1334 (11th Cir. 2012) (quoting *Hope v. Walker (In re Walker)*, 48 F.3d 1161, 1163 (11th Cir. 1995)). A “malicious” injury is one that is “wrongful and without just cause or excessive even in the absence of personal hatred, spite or ill-will.” *Id.* (quoting *In re Walker*, 48 F.3d at 1164).

The burden is on the creditor to prove the exception to discharge by a preponderance of the evidence. *Grogan*

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v. Garner, 498 U.S. 279, 287–88 (1991); *St. Laurent v. Ambrose (In re St. Laurent)*, 991 F.2d 672, 680 (11th Cir. 1993). Courts narrowly construe exceptions to discharge against the creditor and in favor of the debtor. *Equitable Bank v. Miller (In re Miller)*, 39 F.3d 301, 304 (11th Cir. 1994); *St. Laurent*, 991 F.2d at 680.

Defendant argues that the Bankruptcy Court erred when it (a) allocated two-thirds of the total compensatory damages award to the false imprisonment claim; (b) determined that two-thirds of the punitive damages owed to Plaintiffs arose from injuries that were willful and malicious under 11 U.S.C. § 523(a)(6); and (c) determined that two-thirds of the attorney’s fees and expenses owed to Plaintiffs are not dischargeable. The Court will address each argument in turn.

A. Compensatory Damages

The Court begins with the Bankruptcy Court’s two-thirds allocation of Plaintiffs’ compensatory damages award to their false imprisonment claims. Defendant does not appear to challenge, as a legal matter, the Bankruptcy Court’s authority to apportion compensatory damages to the extent reflected by the evidence.³³ Rather, Defendant

3. Indeed, in *Watson I*, the Bankruptcy Court apportioned compensatory damages to Plaintiffs’ battery claim just as it did with respect to Plaintiffs’ slander and false imprisonment claims in *Watson II*. (Doc. 3-7 at 13.) Defendant did not contest the Bankruptcy Court’s authority to apportion damages in his first appeal, and he does not do so now. *See, e.g., In re Abreu*, No. 19-53827-WLH, 2021 WL 346112, at *5–8 (Bankr. N.D. Ga. Feb.

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contests the sufficiency of the evidence to support the Bankruptcy Court's two-thirds allocation.

First, Defendant argues that the record on which the Bankruptcy Court relied did not support its damages allocation and should have been supplemented. According to Defendant, "where a Bankruptcy Court is presented with a judgment entered in another court against one o[r] more parties in respect of one or more claims or theories of liability and such award is not apportioned among claims and parties, it will usually request further submission of evidence to determine the proper allocation." (Doc. 5 at 16.)

In support of this contention, Defendant cites two cases in which the Bankruptcy Court in this district declined to make an allocation between dischargeable and nondischargeable damages until the parties submitted supplemental evidence – *In re Wilder*, No. 21-58597-WLH, 2022 WL 4002261 (Bankr. N.D. Ga. Sept. 1, 2022), and *In re Harrell*, No. 18-55891-PMB, 2019 WL 1489541 (Bankr. N.D. Ga. Mar. 29, 2019). Those cases are distinguishable in that the courts there were asked to allocate damages on evidentiary records that were far less developed than

1, 2021) (allocating damages from state court judgment to reflect the portion of the damages arising from plaintiff's "willful and malicious injury"); *Harris v. Kamps (In re Kamps)*, 575 B.R. 62, 86 (Bankr. E.D. Pa. 2017) (stating that "it is plainly within the Court's equitable powers and discretion to determine the proper allocation" of damages when "a single amount of damages is awarded for multiple claims, some of which are dischargeable and some of which are nondischargeable") (citations omitted).

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the record in this case. In *Wilder*, the bankruptcy court, on a motion for default judgment, found that certain damages awarded to a plaintiff in an arbitration award were nondischargeable as arising from fraud and willful and malicious injury. 2022 WL 4002261, at *7. But on the record before it – which consisted of the arbitration judgment and the well-pled facts of the complaint – “[t]he amount of damages attributed to [defendant’s fraudulent and willful and malicious] conduct [wa]s unclear[,]” and the court ordered the submission of further evidence to determine an appropriate damages allocation. *Id.* at *8. In *Harrell*, the bankruptcy court similarly found that it lacked sufficient evidence to determine what portion of a pre-trial consent judgment was attributable to the defendant’s fraudulent conduct and directed the parties to file supplemental briefing and relevant evidence. 2019 WL 1489541, at *10–11. In neither of these cases did the bankruptcy court have the benefit of a full trial transcript to inform its understanding of the factual bases for liability and damages.

Here, by contrast, the Bankruptcy Court made her allocation on a record that contained testimony and evidence from not just one but two full trials. The Bankruptcy Court had the benefit of the full transcript of the state-court jury trial, which reflected the testimony of the parties and key witnesses. She additionally presided over a trial in the Bankruptcy Court, where she had the opportunity to hear live testimony from all parties and weigh evidence. Presiding over the trial further enabled the Bankruptcy Court to “assess[] witness credibility[,]” which is “uniquely the function of the trier of fact[.]” *United*

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States v. Peters, 403 F.3d 1263, 1270 (11th Cir. 2005); *In re Englander*, 95 F.3d at 1030 (stating that the district court must “give due regard to the bankruptcy court’s opportunity to judge the credibility of the witnesses.”).

The Bankruptcy Court’s order reflects a careful consideration of the expansive record, informed by credibility determinations which should generally not be disturbed by an appellate court. *See In re Kane*, 755 F.3d at 1288. The order cites to the transcripts from the state-court trial and the trial presided over by the Bankruptcy Court. In determining that Plaintiffs’ injuries for false imprisonment were more substantial than their injuries for slander, the Bankruptcy Court relied in particular on state-court trial testimony from Bradsher, Ali, and two police officers who responded to the underlying altercation. (Doc. 1-2 at 7–8.) The Bankruptcy Court noted the fear, embarrassment, and shame that Bradsher reportedly felt as a result of being falsely imprisoned in the back of a police car. (*Id.* at 7.) It further noted that Bradsher now suffers from insomnia, depression, and paranoia following her false imprisonment. (*Id.*) As for Ali, the Bankruptcy Court explained that being falsely imprisoned caused her to feel “violated,” and she now suffers from stress and sleep problems. (*Id.* at 7–8.) Based on this evidence, the Bankruptcy Court held that the “greater harm” suffered by the Plaintiffs was attributable to “the temporary loss of liberty resulting from the false imprisonment,” as opposed to the “embarrassment resulting from the defamatory statements[,]” and it accordingly allocated two-thirds of Plaintiffs’ compensatory damages to their false imprisonment claim. (*Id.* at 8.) This was reasonable.

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Although Defendant argues that the Bankruptcy Court erred in not requesting further submission of evidence relating to the harm resulting from Plaintiffs' false imprisonment, he notably does not say what sort of evidence *should* have been sought. Indeed, the evidence relied on by the Bankruptcy Court here – namely, trial testimony and related evidence – is generally of the sort deemed appropriate to support a determination as to the portions of a judgment arising from a debtor's nondischargeable conduct.⁴ Defendant has not shown, under these circumstances, that the Bankruptcy Court lacked sufficient evidence to support her allocation of damages.

Second, Defendant asserts what appears to be a proximate cause argument, contending that the types

4. See, e.g., *Figueroa v. Barreto (In re Barreto)*, 514 B.R. 702, 717–18 (Bankr. S.D. Fla. 2013) (looking to “[t]he testimony presented at trial along with the relevant exhibits” to determine “the amount awarded in the [state court judgment] [that] was meant to compensate the Plaintiff for losses sustained as a direct result of the Defendant’s” willful and malicious conduct); *In re Abreu*, 2021 WL 346112, at *8 (relying on trial testimony and related evidence to apportion dischargeable and nondischargeable damages from a single judgment); *Keever v. Gallagher (In re Gallagher)*, No. 3:10-cv-00237-W, 2011 WL 1130878, at *4–5 (W.D.N.C. Mar. 25, 2011), *aff’d* 464 F. App’x 163 (4th Cir. 2012) (affirming bankruptcy court’s allocation of damages when it “proceeded to receive evidence, make findings as to credibility and weight of the evidence, and make conclusions as to what portion of the jury verdict of \$125,000 should be allocated as damages for the nondischargeable debt . . . and what portion should be allocated as dischargeable damages[.]”).

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of injuries on which the Bankruptcy Court relied in allocating damages were “too attenuated” to be linked to Defendant’s willful and malicious false imprisonment of Plaintiffs. (Doc. 5 at 21.) The Court does not share this view.

“In the tort context, proximate causation includes all of the natural and probable consequences” of the tortfeasor’s conduct, but not those consequences that are “merely possible[.]” *Granger v. MST Transp., LLC*, 764 S.E.2d 872, 874 (Ga. Ct. App. 2014); *Thomas v. Food Lion*, 570 S.E.2d 18, 20 (Ga. Ct. App. 2002). The question of proximate cause is reserved for the fact finder, except where “the injury is too remote for the law to countenance a recovery.” *Thomas*, 570 S.E.2d at 21. Georgia law permits recovery for emotional injuries that were proximately caused by false imprisonment. *See Heath v. Peachtree Parkwood Hosp., Inc.*, 407 S.E.2d 406, 408 (Ga. Ct. App. 1991) (stating that a victim of false imprisonment may recover “damages based upon the emotional distress she may have suffered as the result of [defendant’s] tortious conduct”); *Stewart v. Williams*, 255 S.E.2d 699, 701 (Ga. 1979) (stating that a plaintiff may obtain “damages for mental pain and suffering” caused by false imprisonment).

Having reviewed the record before it, the Bankruptcy Court determined that Plaintiffs suffered certain injuries that flowed from Plaintiffs’ “temporary loss of liberty resulting from the false imprisonment.” (Doc. 1-2 at 8.) For instance, the Bankruptcy Court noted the fear and distress that Bradsher experienced after being “placed in the back of the squad car where Defendant continued to

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taunt her[.]” (*Id.* at 7–8.) The Bankruptcy Court further found that Ali experienced stress, fear, and sleep problems after being “targeted by the police” following Defendant’s tortious conduct, “directed not to leave[.]” and “forced to stay” against her will at the scene of the altercation. (*Id.* at 7–8.) Based on the evidence, it was reasonable to conclude that these harms were distinctly attributable to Plaintiffs’ false imprisonments. Defendant fails to show how Plaintiffs’ injuries were “too remote” from his tortious conduct. The Court finds no error here.

In sum, the record in this case, consisting of two full trial transcripts and related evidence, was sufficient to support the Bankruptcy Court’s allocation of compensatory damages. The allocation is supported by the evidence, and this Court is not left with “the definite and firm conviction that a mistake has been made.” *In re Int’l Pharmacy & Disc. II, Inc.*, 443 F.3d at 770.

B. Punitive Damages

Defendant contests the Bankruptcy Court’s apportionment of punitive damages.⁵ As noted above, the Bankruptcy Court apportioned punitive damages by using the same two-thirds ratio applied with respect to the compensatory damages, which resulted in \$3,333 in nondischargeable punitive damages and \$1,667 in dischargeable punitive damages for each Plaintiff.

5. As with his compensatory damages arguments, Defendant does not appear to challenge, as a legal matter, the Bankruptcy Court’s authority to apportion punitive damages among nondischargeable and dischargeable debts.

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“[P]unitive damages attributable to a nondischargeable debt are nondischargeable.” *In re Neri*, No. 17-53022-BEM, 2018 WL 333819, at *7 (Bankr. N.D. Ga. Jan. 8, 2018) (citing *St. Laurent v. Ambrose (In re St. Laurent)*, 991 F.2d 672, 680 (11th Cir. 1993)). In the context of § 523(a)(6), punitive damages are nondischargeable if “both the punitive damage award and the compensatory damage award stemmed from the same willful and malicious injury.” *In re Miera*, 926 F.2d 741, 745 (8th Cir. 1991) (citing *In re Adams*, 761 F.2d 1422, 1427 (9th Cir. 1985)); see also *In re McNallen*, 62 F.3d 619, 626–27 (4th Cir. 1995) (where “the conduct giving rise to the award of punitive damages sprang from the same conduct giving rise to compensatory damages . . . the award of punitive damages is not dischargeable” under § 523(a)(6)).

The state court jury awarded punitive damages pursuant to O.C.G.A. § 51-12-5.1(b), which permits such damages when a defendant’s conduct shows “willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to consequences.” O.C.G.A. § 51-12-5.1(b) (emphasis added). Punitive damages awarded under this statute are not always nondischargeable under 11 U.S.C. § 523(a)(6) because the statute “permits punitive damages in circumstances that do not rise to that level that would render a debt nondischargeable.” *In re Lewis*, No. 12-58938-PWB, 2016 WL 1426929, at *2 (Bankr. N.D. Ga. Apr. 11, 2016). If, for instance, punitive damages are awarded solely on the basis of a defendant’s “entire want of care,” the defendant cannot be said to have acted “willful[ly] and malicious[ly],” as required

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under 11 U.S.C. § 523(a)(6). *See MDC Blackshear, LLC v. Littell*, 537 S.E.2d 356, 361 (Ga. 2000) (indicating that, for purposes of O.C.G.A. § 51-12-5.1(b), a defendant may act with an “entire want of care” without acting “intentional[ly] and willful[ly]”). When, as here, the trier of fact awards punitive damages pursuant to O.C.G.A. § 51-12-5.1(b) but does not specify which of the disjunctive, statutory components was satisfied, the bankruptcy court must determine the amount of the punitive damages (if any) attributable to the plaintiff’s willful and malicious injury. *See In re Wilder*, 2022 WL 4002261, at *7.

Defendant argues that the Bankruptcy Court erred in its two-thirds allocation of punitive damages because “it has not been shown the extent to which the punitive damages awarded to Plaintiffs arose from the willful and malicious conduct forming the basis of the nondischargeable claim.” (Doc. 5 at 32.) In so arguing, Defendant suggests that the Bankruptcy Court should have taken the approach of a different court, *In re Hedd-Williams*, No. 09-90923-JRS, 2011 WL 2516503 (Bankr. N.D. Ga. Mar. 30, 2011). In that case, a plaintiff sued a restaurant in state court after he was attacked by the restaurant’s security officer. *Id.* at *1. The plaintiff was awarded punitive damages pursuant to O.C.G.A. § 51-12-5.1(b), but the state-court judgment did not specify which component of the statute was satisfied. *Id.* at * 1. The restaurant subsequently filed a petition for bankruptcy relief. *Id.* at *2. In bankruptcy court, the plaintiff sought a nondischargeability determination as to the punitive damages award under 11 U.S.C. § 523(a)(6). *Id.* The plaintiff filed a motion for summary judgment,

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asking the bankruptcy court to find as a matter of law that his punitive damages award was nondischargeable as arising from his willful and malicious injury. *Id.* at *3. The bankruptcy court denied the motion, explaining that because the state-court judgment “did not identify which of the disjunctive parts of the Georgia [punitive damages] statute” was satisfied, the court could not “determine *as a matter of law*, without more detailed findings of fact, that the State Court Judgment satisfie[d] the requirements of § 523(a)(6) of the Bankruptcy Code.” *Id.* *4 (emphasis added). The court subsequently set the matter for trial. *In re Hedd-Williams*, No. 09-90923-JRS, Adversary No. 10-6091, Doc. 31, (Bankr. N.D. Ga. Aug. 17, 2011).⁶

Defendant argues that the Bankruptcy Court should have found, as the court did in *Hedd-Williams*, that it could not “determine as a matter of law, without more detailed findings of fact, that any portion of the state court judgment satisfies the requirements of § 523(a)(6).” (Doc. 5 at 36.) Defendant’s argument is misplaced, however, because the Bankruptcy Court did *not* “determine as a matter of law” that two-thirds of Plaintiffs’ punitive damages were nondischargeable; rather, the Bankruptcy Court denied Plaintiffs’ motion for summary judgment on the punitive damages issue,⁷ held a trial, and proceeded

6. The docket of *Hedd-Williams* indicates that the matter was voluntarily dismissed before trial was held. *See In re Hedd-Williams*, No. 09-90923-JRS, Adversary No. 10-6091, Doc. 34, (Bankr. N.D. Ga. Oct. 14, 2011).

7. *See In re Watson*, No. 18-69905-BEM, 2019 WL 5388061, at *4–5 (Bankr. N.D. Ga. Oct. 18, 2019) (finding that, because the

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to make “more detailed findings of fact” as to the factual bases for Plaintiffs’ injuries. The two-thirds allocation of punitive damages reflected the Bankruptcy Court’s careful factual findings. In this sense, what the Bankruptcy Court did here was on par with what the court did in *Hedd-Williams*. Like the court in *Hedd-Williams*, the Bankruptcy Court denied Plaintiffs’ motion for summary judgment and set the matter for trial so that it could, *inter alia*, make the factual findings needed to support an allocation of the punitive damages award between dischargeable and nondischargeable debt. It is unclear what Defendant would have the Bankruptcy Court do differently. Indeed, the transcript from the Bankruptcy Court trial shows that Defendant did not raise the issue of punitive damages at all.⁸ (Doc. 3-11 at 9–74.)

Finally, this Court agrees with the Bankruptcy Court that the record supports the two-thirds allocation of nondischargeable punitive damages. As noted above, punitive damages are nondischargeable under § 523(a)(6) when “both the punitive damage award and the compensatory damage award stemmed from the same willful and malicious injury.” *In re Miera*, 926 F.2d at 745. In this case, Plaintiffs’ compensatory damages and

verdict form did not specify which component of O.C.G.A. § 51-12-5.1(b) gave rise to the punitive damages award, “there remains a question of fact” as to whether the punitive damages satisfy § 523(a)(6)).

8. Nor did Defendant raise the issue of punitive damages in his first appeal, despite the Bankruptcy Court’s determination in *Watson I* that such damages were nondischargeable.

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punitive damages stemmed from the same injuries. With the benefit of an expansive record, the Bankruptcy Court made factual findings supporting a reasonable, evidence-based judgment that two-thirds of those injuries were attributable to Defendant's willful and malicious false imprisonment. The Bankruptcy Court did not err in that determination.

C. Attorney's Fees and Expenses

Defendant next challenges the Bankruptcy Court's allocation of attorney's fees and expenses. "An award of attorney's fees in connection with a debt that is nondischargeable is likewise nondischargeable." *In re Trexler*, No. 14-52495-WLH, 2016 WL 236054, at *9 (Bankr. N.D. Ga. Jan. 11, 2016). Specifically, "[f]ees and expenses may be declared nondischargeable if they are awarded in connection with an otherwise nondischargeable award, that is, if they are awarded as recompense for the same conduct." *In re Knight*, 574 B.R. 800, 811 (Bankr. N.D. Ga. 2017).

As noted above, the state court jury awarded Plaintiffs \$39,000 in attorney's fees and \$1,500 in expenses pursuant to O.C.G.A. § 13-6-11. That statute provides:

The expenses of litigation generally shall not be allowed as a part of the damages; but where the plaintiff has specially pleaded and has made prayer therefor and where the defendant has acted in bad faith, has been stubbornly litigious,

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or has caused the plaintiff unnecessary trouble and expense, the jury may allow them.

O.C.G.A. § 13-6-11. On remand, the Bankruptcy Court allocated two-thirds of the total attorney's fee award to the false imprisonment claim to mirror the allocations discussed above. Specifically, the Bankruptcy Court found:

Because false imprisonment is an intentional tort and constitutes a willful and malicious injury to Plaintiffs the Court must allocate the attorney's fee award to each of the claims that were the subject of the trial. Given the evidence at trial and the compensatory awards, the Court finds it reasonable to allocate \$13,500 to the slander and battery claims and \$27,000 to the false imprisonment claims.

(Doc. 1-2 at 9.) Defendant asks this Court to reverse the Bankruptcy Court's allocation of attorney's fees and expenses for two main reasons.

First, Defendant faults the Bankruptcy Court for failing purportedly to independently assess the reasonableness of the fees incurred by Plaintiffs' counsel by, for example, evaluating Plaintiffs' counsel's hours and rates. The Court finds no error here. The reasonableness of the fee award as a whole was already determined by the jury that awarded it.⁹ The record shows that the jury

9. The existence of a jury's prior fee award distinguishes this case from *In re Porter*, No. ADV. 06-5002-PWB, 2007 WL 7141821

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was instructed that its award of attorney's fees "must reflect what was necessary and reasonable and just to prosecute this action." (Doc. 2-6 at 398.) The record further shows that the state court jury was presented with Plaintiffs' counsel's testimony and billing records, and was instructed that it could evaluate the records to determine a reasonable fee award. (*Id.*) Defendant has offered no reason why the Bankruptcy Court should have second-guessed the jury's fees determination – nor does Defendant say that he asked the Bankruptcy Court to do so.¹⁰

Second, Defendant argues that "it has not been shown that the attorney's fees sought by Plaintiffs arise from the willful and malicious conduct forming the basis of the nondischargeable claim." (Doc. 5 at 32.) According to Defendant, just because two-thirds of the compensatory damages award was allegedly attributable to the false imprisonment, it "does not mean that Plaintiff[s'] attorney spent [two-thirds] of his time litigating the false imprisonment claim" or that two-thirds of the fees were related to the conduct giving rise to nondischargeability. (*Id.* at 30.)

Defendant's argument in this regard is unpersuasive. Attorney's fee awards under O.C.G.A. § 13-6-11 are tied to the opposing party's underlying conduct in a case, not

(Bankr. N.D. Ga. May 22, 2007), a case on which Defendant relies to contest the Bankruptcy Court's fee allocation.

10. Defendant did not raise the issue of attorney's fees at the trial before the Bankruptcy Court. (Doc. 3-11 at 9-74.)

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to his conduct during the litigation. “[A]n award under OCGA § 13-6-11 must be based on conduct arising from the transaction underlying the cause of action being litigated, not conduct during the course of the litigation itself.” *Georgia Dep’t of Corr. v. Couch*, 759 S.E.2d 804, 810 (Ga. 2014) (internal quotation marks omitted). In this way, attorney’s fees awarded pursuant to O.C.G.A. § 13-6-11 “flow from the underlying tort and not from the conduct described in the [the statute].” *In re Ellerbee*, 177 B.R. 731, 746 (Bankr. N.D. Ga. 1995), *subsequently aff’d sub nom. Ellerbee v. Mills*, 78 F.3d 600 (11th Cir. 1996).

Because fee awards under O.C.G.A. § 13-6-11 are given on the basis of the underlying tort, they are regarded as part of a litigant’s “damages.” “O.C.G.A. § 13-6-11 provides for an award of attorney fees and litigation expenses as part of *damages*. As we have previously explained, damages allowed under O.C.G.A. § 13-6-11 are compensatory.” *Junior v. Graham*, 870 S.E.2d 378, 382 (Ga. 2022) (quotation marks omitted) (alteration adopted) (emphasis in original). The statute “merely establishes the circumstances in which a plaintiff may recover the expenses of litigation as an additional element of his damages.” *Brown v. Baker*, 398 S.E.2d 797, 799 (Ga. Ct. App. 1990).

Given that attorney’s fees under O.C.G.A. § 13-6-11 are (1) awarded on the basis of the underlying tortious conduct, and (2) regarded as damages flowing from that tortious conduct, it makes sense that the Bankruptcy Court’s attorney’s fee allocation reflected the portion of Plaintiffs’ damages attributable to the willful and

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malicious injury. Under Georgia law, these fees were “awarded as recompense for the same conduct” giving rise to the nondischargeable debt. *In re Knight*, 574 B.R. at 811. The same injury that entitled Plaintiffs to compensatory damages also entitled them to attorney’s fees under O.C.G.A. § 13-6-11. The attorney’s fees were simply another category of damages flowing from that same injury.

It is also the case that the Bankruptcy Court’s attorney’s fee allocation reflected the “most common approach” to apportioning fees among dischargeable and nondischargeable liabilities. *In re Trexler*, 2016 WL 236054, at *9. “When a claim in connection with which attorney’s fees [are] awarded consists of both dischargeable and nondischargeable components, it is appropriate to apportion the single fee award similarly. The most common approach is to apportion the attorney’s fees award at the same percentage the non-dischargeable debt bears to the dischargeable debt.” *Id.*; *Van Peteghem v. Kohler (In re Kohler)*, No. 13–2026–JRS, 2017 WL 1030724, at *31 (Bankr. N.D. Ga. Mar. 15, 2017), *aff’d*, No. 2:17-CV-230-RWS, 2018 WL 11008935, (N.D. Ga. Mar. 30, 2018) (“When a judgment imposes both non-dischargeable and dischargeable liabilities, bankruptcy courts generally apportion the single fee award to the non-dischargeable and dischargeable components of the judgment, prorated accordingly.”). The Bankruptcy Court did not err in allocating two-thirds of the attorney’s fees and expenses for Plaintiffs’ willful and malicious injury.

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VI. Conclusion

For the foregoing reasons, the Order and Judgment of the Bankruptcy Court (Doc. 1-2, 1-3) are **AFFIRMED**.

SO ORDERED this 29th day of March, 2024.

/s/ Sarah Geraghty
SARAH E. GERAGHTY
United States District Judge

**APPENDIX C — ORDER OF THE UNITED
STATES BANKRUPTCY COURT, NORTHERN
DISTRICT OF GEORGIA, ATLANTA DIVISION,
FILED DECEMBER 2, 2022**

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CASE NO. 18-69905-BEM
CHAPTER 7
ADVERSARY PROCEEDING NO. 19-5127-BEM

IN RE:

STANLEY KAPPELL WATSON,

Debtor,

SHENEKA BRADSHER AND ZARINAH ALI,

Plaintiffs,

v.

STANLEY KAPPELL WATSON,

Defendant.

Filed December 2, 2022

ORDER ON REMAND

I. Background

This matter is before the Court on remand from the District Court. Plaintiffs Sheneeka Bradsher and Zarinah

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Ali are creditors of Defendant. Plaintiffs sued Defendant in the State Court of DeKalb County, Georgia, for slander, false imprisonment, and battery, arising from an incident at a nightclub during which Defendant accused Plaintiffs of stealing his wallet, which was later found in Defendant's car. A jury entered a verdict for Plaintiffs against Defendant and awarded Ms. Bradsher compensatory damages of \$75,000 and punitive damages of \$5,000, awarded Ms. Ali compensatory damages of \$25,000 and punitive damages of \$5,000, and awarded both Plaintiffs attorney's fees of \$39,000 and expenses of \$1,500. Neither the jury verdict nor the state court judgment allocated the damages by claim.

Plaintiffs initiated this proceeding to seek a determination that their debt is nondischargeable pursuant to 11 U.S.C. § 523(a)(6) as having resulted from willful and malicious injury. After a trial held on March 18, 2021, the Court ruled Ms. Ali's damages for battery are dischargeable and allocated \$2,500 of Ms. Ali's damage award to the battery claim. [Doc. 53]. The Court ruled that Plaintiffs' damages for slander and false imprisonment and the award of attorney's fees are not dischargeable. [Id.]. Thus, the Court determined that all damages, except \$2,500 of Ms. Ali's damages, were nondischargeable. Defendant appealed to the District Court, which affirmed in part, reversed in part, and remanded. [Doc. 68].

To succeed on a claim under § 523(a)(6), the plaintiff must establish both willfulness and malice by the debtor. The District Court affirmed this Court's determination that Plaintiffs established both elements with respect to

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false imprisonment. Therefore, any damages arising from the false imprisonment claim are nondischargeable. With respect to the slander claim, the District Court affirmed this Court's determination that Plaintiffs established malice. But, the District Court reversed this Court's determination that Plaintiffs established willfulness and remanded for a reexamination of the record. If after such reexamination, only those damages attributable to the false imprisonment claim are nondischargeable, this Court must also determine on remand what portion of the debt was allocated to each tort.

II. Whether Defendant's Actions Giving Rise to the Slander Claim Were Willful

The initial issue on remand is whether Defendant acted willfully with regard to the slander claim, given that this Court found he "genuinely believed Plaintiffs had taken his wallet." [Doc. 53 at 11]. To establish willfulness for purposes of § 523(a)(6), the debtor must "commit[] an intentional act the purpose of which is to cause injury or which is substantially certain to cause injury." *Kane v. Stewart Tilghman Fox & Bianchi Pa (In re Kane)*, 755 F.3d 1285, 1293 (11th Cir. 2014) (quoting *Maxfield v. Jennings (In re Jennings)*, 670 F.3d 1329, 1334 (11th Cir. 2012)).

Slander is oral defamation. *Bellemead, LLC v. Stoker*, 280 Ga. 635, 637, 631 S.E.2d 693, 695 (2006); *Cottrell v. Smith*, 299 Ga. 517, 522, 788 S.E.2d 772, 780 (2016). "Under Georgia law, a claim for defamation has four elements: (1) a false and defamatory statement concerning the plaintiff; (2) an unprivileged communication to a third party; (3)

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fault by the defendant amounting to at least negligence; and (4) special harm or the actionability of the statement irrespective of special harm.” *American Civil Liberties Union, Inc. v. Zeh*, 312 Ga. 647, 650, 864 S.E.2d 422, 427 (2021) (quoting *Mathis v. Cannon*, 276 Ga. 16, 20-21, 573 S.E.2d 376, 380 (2002)). The fourth element—harm or injury—is inferred when, as here, the statement at issue “[i]mput[es] to another a crime punishable by law,” which is slander per se. O.C.G.A. § 51-5-4(a)(1), (b).¹ Because injury is inferred, “[a]ny debtor who makes a knowingly false, defamatory per se statement is at least substantially certain that his statement will injure.” *Doe v. Boland (In re Boland)*, 946 F.3d 335, 339 (6th Cir. 2020). Therefore, the District Court held that “debts for slander per se are ‘willful’ under 11 U.S.C. § 523(a)(6) if a debtor knew or was ‘substantially certain’ that the defamatory statement was false and published without privilege.” [Doc. 68 at 17]. Conversely, defamatory statements are not willful for purposes of § 523(a)(6) if the debtor “never had actual knowledge or substantial certainty of the falsity of his accusations[.]” [Id. at 14].

Here, the Court found that Defendant genuinely believed his statements about Plaintiffs stealing his wallet to be true. The District Court noted that this Court’s “factual findings imply the possibility that at some point Defendant could no longer have believed his wallet was stolen by Plaintiffs, or that he might have come to know it was ‘substantially certain’ that his statements were

1. In the state court proceedings, the judge instructed the jury on slander per se based on imputing to another a crime punishable by law. [Doc. 52-2 at 277 li. 6-15].

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false” given that Plaintiffs did not have pockets, that law enforcement did not consider Plaintiffs suspects after a search of their bags failed to locate the wallet, and that Defendant likely observed the search. [Doc. 68 at 26-27 & n.12]. From an objective standpoint, these facts indicate a substantial certainty that Defendant’s statements were false.

However, the Court cannot conclude that an objective test is the appropriate one. As noted by the District Court, “[t]he Eleventh Circuit has not yet had occasion to decide ‘whether the term “substantial certainty” is a subjective standard, requiring a creditor to prove that a debtor actually knew the act was substantially certain to injure the creditor, or an objective standard, requiring a creditor to show only that a debtor’s act was in fact substantially certain to cause injury.’” [Doc. 68 at 12 (quoting *Kane*, 755 F.3d at 1293)]. The standard for willfulness comes from the Supreme Court’s decision in *Kawaauhau v. Geiger*, 523 U.S. 57, 118 S. Ct. 974 (1998), in which the Court held that willfulness requires “a deliberate or intentional *injury*” and compared willfulness to intentional torts “as distinguished from negligent or reckless torts” in that they “generally require that **the actor intend** ‘the *consequences* of an act,’ not simply ‘the act itself.’” *Id.* at 61-62, 118 S. Ct. at 977 (quoting Restatement (Second) of Torts § 8A, Comment a (1964)) (italics in original; bold added). The Restatement explains that the “word ‘intent’ is used . . . to denote that the actor desires to cause the consequences of his act, or that *he believes* that the consequences are substantially certain to result from it.” Restatement (Second) of Torts § 8A (emphasis added).

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The Fifth Circuit Court of Appeals, discussing *Geiger*, adopted an objective standard for evaluating substantial certainty in the context of § 523(a)(6). *Miller v. J.D. Abrams Inc. (In re Miller)*, 156 F.3d 598, 603 (5th Cir. 1998). Noting that *Geiger* could be interpreted in multiple ways, the court reasoned that “the label ‘intentional tort’ is too elusive to sort intentional acts that lead to injury from acts intended to cause injury. Rather, *either objective substantial certainty* or subjective motive meets the Supreme Court’s definition of “willful . . . injury” in § 523(a)(6).” *Id.* (emphasis added). The Ninth Circuit Court of Appeals disagreed with *Miller*, noting that “[b]y its very terms, the objective standard disregards the particular debtor’s state of mind and considers whether an objective, reasonable person would have known that the actions in question were substantially certain to injure the creditor. In its application, this standard looks very much like the ‘reckless disregard’ standard used in negligence.” *Carrillo v. Su (In re Su)*, 290 F.3d 1140, 1145 (9th Cir. 2002). *See also Markowitz v. Campbell (In re Markowitz)*, 190 F.3d 455, 464 (6th Cir. 1999) (“The Court’s citation [in *Geiger*] to the Restatement’s definition of ‘intentional torts’ underscores the close relationship between the Restatement’s definition of those torts and the definition of ‘willful and malicious injury.’”)

This Court finds the Ninth Circuit’s position to be more consistent with the policy of liberally construing exceptions to discharge in favor of the debtor, *Equitable Bank v. Miller (In re Miller)*, 39 F.3d 301, 304 (11th Cir. 1994), and with the *Geiger* decision. *See Shaw v. Osborne (In re Osborne)*, 604 B.R. 582, 594 n.7 (Bankr. M.D. Ga. 2019)

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(“Post-*Geiger* cases suggest a trend that courts consider *Geiger* to have neutralized the objective ‘substantially certain’ standard.”). Therefore, Plaintiffs must prove that Defendant either knew or had substantial certainty that his statements were false. They have failed to do so. Defendant testified that he had his wallet earlier in the day of the events when he arrived in Atlanta by plane and later when he went to dinner with a friend. [Doc. 65, Trial Transcript (“Bk. Tr.”) p. 33 li. 14-15, 23-25; p. 34 li. 1]. During the state court trial, Defendant testified that he thought the wallet was in his pocket when he entered the bar. [Doc. 52-2 (“St. Ct. Tr.”)² p. 194 li. 22-25; p. 195 li. 1-4]. Defendant testified that he did not see anyone take his wallet, but because Plaintiffs were the only people around him at the time, he believed they had his wallet. [Bk. Tr. p. 36 li.10-15]. Defendant testified that while he was at the bar, he did not check his car for the wallet. [Bk. Tr. p. 39 li. 24-25; p. 40 li. 1-2]. Ms. Bradsher testified that while she was detained in a police car, she thought that Defendant “really obviously thinks I have his wallet.” [St. Ct. Tr. p. 127 li. 24-25]. Defendant testified that the following morning he found his wallet under the back seat of his car but did not know if he had put it there. [Bk. Tr. p. 40 li. 3-7; St. Ct. Tr. p. 224 li. 2-8]. Notwithstanding the outcome of the investigation of Plaintiffs, the Court is persuaded that Defendant continued to mistakenly believe that Plaintiffs had stolen his wallet until he found the wallet in his car. Therefore, at the time Defendant stated the Plaintiffs stole his wallet, Defendant neither knew nor was substantially

2. This document was admitted into evidence as Plaintiff’s Exhibit 1.

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certain that his statements were false. As such, Plaintiffs have failed to prove that Defendant's slander was willful, and to the extent the debt arises from the slander claim, it is dischargeable.

III. Allocation of the Debt

The damages awarded were not allocated between the slander and false imprisonment claims; thus, the Court must consider the extent to which the debt owed to Plaintiffs should be allocated between the two claims. Previously the Court found that compensatory damages and punitive damages awarded to Ms. Bradsher in the amount of \$75,000 and \$5,000 respectively, were non-dischargeable, that compensatory damages of \$22,500³ and punitive damages of \$5,000 awarded to Ms. Ali were non-dischargeable, and that attorney's fees of \$39,000 and expenses of \$1,500 were nondischargeable. Having concluded after remand that the slander claim does not support a finding of willful and malicious injury under 11 U.S.C § 523(a)(6), the Court must now determine what amount is reasonably allocated to each of the slander and false imprisonment claims.

Officer Parker testified in the state court that Ms. Bradsher was handcuffed after they walked outside of the nightclub, and Officer Lewis testified that he put Ms. Bradsher in his patrol car. [St. Ct. Tr. p. 107 li. 4-7; p. 74 li.

3. The Court previously allocated \$2,500 of the \$25,000 compensatory award to Ms. Ali to the battery claim and determined it was dischargeable. That portion of this Court's prior order was not appealed.

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19-23]. Ms. Bradsher testified that she was placed in the back of the squad car but Defendant kept coming up to the window and making accusations, that she did not feel protected, that she was afraid, and that she was thinking what if he has a gun and shoots through the window. [St. Ct. Tr. p. 127 li. 19-25; p. 128 li. 1-7]. In addition, she said that people were laughing and pointing at her which caused her embarrassment and shame. [St. Ct. Tr. p. 129 li. 3-8]. Ms. Bradsher also received emails from friends stating that she was on the television news and that she took a wallet. [St. Ct. Tr. p. 139 li. 17-21; p. 144 li. 16-18]. After the incidents of that evening, Ms. Bradsher stated that she suffers from insomnia and depression, that she experiences paranoia if anyone begins to speak loudly, that she no longer trusts the police and, generally, that she has trust issues. [St. Ct. Tr. p. 130 li. 21-25; p. 131 li. 1; p. 132 li. 1-4].

Ms. Ali testified that she felt targeted by the police, that she and Ms. Bradsher were directed not to leave, that she suffers from stress, sleep problems and does not go out anymore as she is fearful. [St. Ct. Tr. p. 159 li. 12-17; p. 165 li. 3-6]. She stated that she felt violated by the experience and that she felt forced to stay or she would go to jail. [St. Ct. Tr. p. 161 li. 16-25]. In addition, Ms. Ali testified that she lost her job because she had to drive Ms. Bradsher back to Virginia because Ms. Bradsher did not get her driver's license back from the police and could not get through security at the airport to fly back to Virginia. [St. Ct. Tr. p. 160 li. 21-25; p. 161 li. 1-4]. Finally, Officer Parker noted that Ms. Bradsher was visibly upset and was crying while she was detained while Ms. Ali remained calm. [St. Ct. Tr. p. 110 li. 23-24].

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The jury awarded Ms. Bradsher \$75,000 in compensatory damages while they awarded Ms. Ali \$25,000. The Court has previously allocated \$2,500 of Ms. Ali's damages award to the battery claim, leaving \$22,500 unallocated. The difference in magnitude makes sense given that Ms. Bradsher's name was on the television news and she was handcuffed and placed in the squad car where Defendant continued to taunt her, while Ms. Ali did not receive such treatment. Weighing the embarrassment resulting from the defamatory statements and the temporary loss of liberty resulting from the false imprisonment, the Court finds the false imprisonment to be the greater harm and finds it is reasonable to attribute two-thirds of the unallocated compensatory damages to the false imprisonment claim, with any remaining amounts attributable to the slander claim. Thus, for Ms. Bradsher, \$25,000 is attributed to the slander claim and is dischargeable while \$50,000 is attributable to the false imprisonment claim and is not dischargeable pursuant to § 523(a)(6). Using the same methodology for the compensatory award to Ms. Ali results in \$5,833 being attributable to the slander claim and being dischargeable and \$16,667 being attributable to the false imprisonment claim and being not dischargeable pursuant to § 523(a)(6).

The Court next considers the additional amounts awarded by the jury. Attorney's fees and costs in the amount of \$40,500 were awarded and each Plaintiff was awarded \$5,000 in punitive damages. Attorney's fees are recoverable in Georgia in the case of an intentional tort as an additional element of damages. Georgia law provides:

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The expenses of litigation generally shall not be allowed as a part of the damages; but where the plaintiff has specially pleaded and has made prayer therefor and where the defendant has acted in bad faith, has been stubbornly litigious, or has caused the plaintiff unnecessary trouble and expense, the jury may allow them.

O.C.G.A. § 13-6-11. The statute establishes circumstances in which a plaintiff may recover litigation expenses as an additional element of damages and permits the recovery of attorney's fees as separate, special damages flowing from the underlying tort. *Mills v. Ellerbee (In re Ellerbee)*, 177 B.R. 731, 746 (Bankr. N.D. Ga. 1995) (Massey, J.) (citing *Brown v. Baker*, 197 Ga. App. 466, 467, 398 S.E.2d 797, 799 (1990)). Cases considering the award of attorney's fees have established that intentional torts invoke a species of bad faith that entitles a plaintiff to recover the expenses of litigation, including attorney's fees, because having to incur fees to collect the other damages is itself an injury flowing from the tort. *See DeKalb County v. McFarland*, 231 Ga. 649, 651, 203 S.E.2d 495, 497 (1974).

Because false imprisonment is an intentional tort and constitutes a willful and malicious injury to Plaintiffs the Court must allocate the attorney's fee award to each of the claims that were the subject of the trial. Given the evidence at trial and the compensatory awards, the Court finds it reasonable to allocate \$13,500 to the slander and battery claims and \$27,000 to the false imprisonment claims.

Turning now to the punitive damage awards, the state court initially explained to the jury that punitive damages

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are additional damages available in tort actions when the jury finds aggravating circumstances exist. [St. Ct. Tr. p. 279 li. 21-23]. The state court charged the jury that an award of punitive damages required the jury to find, by clear and convincing evidence, that “[D]efendant’s actions showed willful misconduct, malice, fraud, wantonness, oppression, or the entire want of care which would raise to the presumption of conscious indifference to the consequences” to Plaintiffs. [St. Ct. Tr. p. 279 li. 25 - p. 280 li. 3]. The state court stated further that “conscious indifference to consequences relates to an intentional disregard of the rights of another, knowingly or willfully disregarding such rights.” [Id. p. 280 li. 4-7]. It is unknown which of the disjunctive standards the jury relied upon in making its award of punitive damages. However, this Court has determined that Defendant acted willfully and maliciously in his conduct after initially alerting staff at the night club that he believed his wallet had been stolen. Because of this, at least some portion of the punitive award to each Plaintiff is nondischargeable. Having previously found that the jury placed more emphasis on the false imprisonment claim in its compensatory award, it is reasonable to apply the same standard to the punitive damages which results in \$3,333 of each of the punitive awards being attributable to the false imprisonment verdict and \$1,667 attributable to the other torts. Thus, \$3,333 of the punitive damage award for each Plaintiff is nondischargeable under § 523(a)(6).

For the foregoing reasons, the Court finds that Plaintiffs failed to prove by a preponderance of the evidence that the debt owed for slander to each Plaintiff

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is nondischargeable. Plaintiffs did prove that the compensatory damages and punitive damages awarded on account of the false imprisonment verdict are nondischargeable. Thus, debts of \$50,000 and \$3,333 owed to Ms. Bradsher are nondischargeable and debts of \$16,667 and \$3,333 owed to Ms. Ali are nondischargeable. In addition, attorney's fees and costs of \$27,000 are nondischargeable. The Court will enter a separate judgment accordingly.

END OF ORDER

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**APPENDIX D — OPINION AND ORDER OF THE
UNITED STATES DISTRICT COURT, NORTHERN
DISTRICT OF GEORGIA, ATLANTA DIVISION,
FILED AUGUST 12, 2022**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CIVIL ACTION NO. 1:21-CV-1778-SEG

STANLEY KAPPELL WATSON,

Appellant,

v.

SHENEEKA BRADSHER AND ZARINAH ALI,

Appellees.

Filed August 12, 2022

OPINION AND ORDER

Appellant Stanley Kappell Watson appeals the Bankruptcy Court's Order and Judgment (Docs. 1-2, 1-3) entered in part in his favor and in part in favor of Appellees Sheneeka Bradsher and Zarinah Ali. (Doc. 1). For the following reasons, the Court will affirm the judgment in

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part and reverse it in part, and it will remand the case for further proceedings consistent with this order.

I. Background

This appeal arises out of an adversary proceeding brought in the Bankruptcy Court of the Northern District of Georgia by Bradsher and Ali (“Plaintiffs”), who hold a state court judgment against Watson (“Defendant”). After Defendant filed a Chapter 7 bankruptcy petition on November 28, 2018, Plaintiffs commenced an adversary proceeding seeking a determination that the debt Defendant owes them is nondischargeable pursuant to 11 U.S.C. § 523(a)(6), which exempts from bankruptcy discharge any debt “for willful and malicious injury by the debtor to another entity or to the property of another entity.” Because § 523(a)(6)’s “willful and malicious injury” standard differs from the state-law standards required for findings of slander, false imprisonment, and battery—and the state court verdict was, in any event, unspecific about which claims led to which damages—the Bankruptcy Court held a trial in which it heard testimony from all parties and reviewed a variety of evidence introduced by Plaintiffs. This evidence included the record and transcripts of testimony from the state court trial.

The Court need not restate the Bankruptcy Court’s full account of the events that led to Plaintiffs’ injuries,

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which can be found in its final Order in the case.¹ (Doc. 1-2 at 2-9). A relatively brief summary follows here.

The relevant encounter between the parties occurred at the Tanqueray Lounge in Decatur, Georgia. At the time, Defendant Watson was a commissioner for DeKalb County, Georgia, and was wearing a shirt that identified him as such. He had gone to Tanqueray alone after having dinner with a friend. Plaintiff Bradsher was visiting Plaintiff Ali from out of town, and they went to the Tanqueray Lounge together. At some point in the evening, Defendant bought a drink or drinks for Bradsher, the two talked,

1. On appeal, a district court reviews a bankruptcy court's findings of fact under a "clearly erroneous" standard. *See* Fed. R. Bankr. P. 7052 (making Fed. R. Civ. P. 52 applicable to adversary proceedings); Fed. R. Civ. P. 52(a)(6) ("Findings of fact, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must give due regard to the trial court's opportunity to judge the witnesses' credibility."); *Kane v. Stewart Tilghman Fox & Bianchi, P.A. (In re Kane)*, 755 F.3d 1285, 1293 (11th Cir. 2014). The heavy burden for showing clear error falls on appellants, and it is "an especially heavy burden . . . in a case in which the evidence is largely testimonial," as a significant portion of the evidence is here. *Thelma C. Raley, Inc. v. Kleppe*, 867 F.2d 1326, 1328 (11th Cir. 1989). "When we examine the facts adduced at trial, generally we will not disturb a bankruptcy court's credibility determinations." *In re Kane*, 755 F.3d at 1288 (citing *Englander v. Mills (In re Englander)*, 95 F.3d 1028, 1030 (11th Cir. 1996)). Defendant's arguments on appeal do not challenge any of these findings of fact, and the Court has found no indications of clear error. "Thus, in summarizing the essential facts developed over the course of a . . . hearing in the bankruptcy court, we accept as we must the bankruptcy court's factual findings in light of its credibility judgments." *Id.*

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and Defendant propositioned her for sex, a suggestion that Bradsher testified offended her and led her to reject Defendant in insulting terms.²

Not long after this, Defendant—needing to pay for the drinks he had purchased for Bradsher and himself—discovered that he did not have his wallet. After the bartenders told him they had not seen it, Defendant concluded that Bradsher must have stolen it. In fact he had left the wallet in his car, where he would discover it the next day.

What followed was an incident in which Defendant repeatedly accused Bradsher and then Ali of having stolen his wallet, repeatedly called Plaintiffs “bitches,” demanded that the police arrest Plaintiffs, and taunted Plaintiffs that they were going to jail. The Bankruptcy Court found that Defendant “genuinely believed Plaintiffs had taken his wallet.” (Doc. 1-2 at 11.) Bradsher, however, knew the accusations to be false, and she grew irate. The situation escalated as she and Defendant had a heated exchange inside the bar. One of the bar’s security staff was an off-duty police sergeant, and he took the lead in handling the incident and attempted to control the situation. Early in the episode, Plaintiffs allowed the off-

2. Defendant denies soliciting Bradsher for sex, but the Bankruptcy Court evidently found Bradsher’s testimony to be more credible on this point and accepted her version of these events. (*See* Doc. 1-2 at 8.) At the state court trial, two police officers testified that Bradsher and Ali separately told them about the alleged solicitation during the incident. (*See* Doc. 4-9 at 75, 103-04.)

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duty officer to look in both of their purses for the wallet. It was not there. Despite this, Defendant continued to accuse both women of having the wallet, to demand that they be arrested, and to taunt Plaintiffs. During this phase of the encounter, Defendant poked Ali's forehead while pointing his finger at her and telling her she was going to jail.³

The parties were moved outside into the Tanqueray parking lot. The off-duty officer on the scene called two other officers to assist him. Throughout the episode—but particularly at this stage, after things were moved to the parking lot—Defendant attempted to wield his authority as a county commissioner to get those around him to give into his demands. For example, he threatened those at Tanqueray that he would tell “Dale, Annette, and Chief O’Brien”⁴ what had happened, that the bar would lose its food license, and that the people working there would lose their jobs. He apparently leveraged his position to ensure that he would not be arrested, despite his “belligerent” behavior and the fact that he briefly drove his car away in the middle of the episode, even after an officer warned him that he should not drive because he was intoxicated.⁵

3. Defendant denies poking Ali. The Bankruptcy Court found that he did, but that he most likely meant merely to point at her and did not intend to make physical contact. (Doc. 1-2 at 4, 12.)

4. The record suggests that “Chief O’Brien” referred to the then-chief of police of DeKalb County, “Dale” referred to then-Assistant Chief of Police Dale Holmes, and “Annette” referred to another member of the police department. (Doc. 4-3 at 138.)

5. All three police officers on the scene and the Tanqueray security guard “described Defendant as appearing intoxicated

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When a police lieutenant arrived on the scene following Defendant's brief drive, the lieutenant called a police major and allowed Defendant to talk to him on the phone. The Bankruptcy Court found that "[a]lthough the police wanted to arrest Defendant for his disorderly behavior, they were directed by their superiors to allow Defendant to be taken home, apparently in response to phone conversations between Defendant and those superiors." (Doc. 1-2 at 8.)

Bradsher, for her part, was handcuffed not long after the parties were removed from the bar, informed that she was under arrest for disorderly conduct, and placed into the back of a police car. The officer who ordered Bradsher to be arrested testified that he did so not as a result of Defendant's accusations, but as a result of her disorderly conduct. He further testified that he would not have investigated either plaintiff if Defendant had not accused them, and that Bradsher was not disorderly prior to Defendant's accusations. While Bradsher was in the police car, Defendant walked "back and forth along the police car saying that she had stolen his wallet and was going to jail." (*Id.* at 7-8.) Ali remained calm throughout the incident, and although she was not permitted to leave the scene, she was not handcuffed or otherwise physically detained by the police. The officers on the scene ultimately decided not to arrest Bradsher, feeling it was unfair to arrest her for disorderly conduct while allowing Defendant to be driven home, as the police lieutenant had instructed was to be done with Watson.

and being belligerent or irate while insisting that Plaintiffs had his wallet and that he wanted them to be arrested." (Doc. 1-2 at 5.)

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A jury in the State Court of Dekalb County later found Defendant liable to Plaintiffs for \$110,000 in damages and \$40,500 in fees and costs pursuant to a complaint alleging slander, false imprisonment, and battery. (*Id.* at 2.) The jury allocated \$75,000 in compensatory and \$5,000 in punitive damages to Bradsher and \$25,000 in compensatory and \$5,000 in punitive damages to Ali. (*Id.*) The jury verdict did not specify which claim or claims were the basis for the damages. (*Id.* at 9.)

The Bankruptcy Court found nearly this entire amount to be nondischargeable pursuant to the 11 U.S.C. § 523(a)(6) exception for debts for “willful and malicious injury.” It found only the amount owing to Ali for the battery count to be dischargeable, and it attributed \$2,500 of her jury award to this count. (*Id.* at 13.) This debt was dischargeable, it found, because Defendant did not intend to make physical contact with Ali when he poked her forehead, and therefore the injury could not have been “willful” within the meaning of § 523(a)(6). (*Id.* at 12.) On appeal, Defendant argues that the Bankruptcy Court erred in its finding that Plaintiffs’ other injuries were “willful and malicious” within the meaning of § 523(a)(6).

II. Standard of Review

United States district courts have jurisdiction to hear appeals “from final judgments, orders, and decrees . . . of bankruptcy judges.” 28 U.S.C. § 158(a)(1). “In its appellate capacity, a district court may affirm, modify, or reverse a bankruptcy judge’s judgment, order, or decree or remand with instructions for further proceedings.”

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Choi v. Promax Invs., LLC, 486 B.R. 541, 543 (N.D. Ga. 2012) (quotation omitted).

A district court is required to accept the bankruptcy court's factual conclusions unless they are clearly erroneous. *Id.*; Fed. R. Bankr. P. 7052 (making Fed. R. Civ. P. 52 applicable to adversary proceedings); Fed. R. Civ. P. 52(a)(6) ("Findings of fact, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must give due regard to the trial court's opportunity to judge the witnesses' credibility."). The bankruptcy court's conclusions of law, by contrast, are reviewed *de novo*. *Reider v. FDIC (In re Reider)*, 31 F.3d 1102, 1104 (11th Cir. 1994).

With respect to the dischargeability exception at issue in this appeal—11 U.S.C. § 523(a)(6)—"[w]e review *de novo* any legal interpretation of the terms 'willful' and 'malicious,' but we review only for clear error the bankruptcy court's finding that a creditor showed a willful and malicious injury by a preponderance of the evidence." *Kane v. Stewart Tilghman Fox & Bianchi, P.A. (In re Kane)*, 755 F.3d 1285, 1293 (11th Cir. 2014) (citing *Chrysler Credit Corp. v. Rebhan*, 842 F.2d 1257, 1264 (11th Cir. 1988), *abrogated on other grounds, Grogan v. Garner*, 498 U.S. 279, 111 S. Ct. 654, 112 L. Ed. 2d 755 (1991)). In other words, while "[a] bankruptcy court's determination that an injury was 'willful and malicious' is a factual finding that we review only for clear error," *id.*, the reviewing court must inquire anew into the legal meaning of a "willful and malicious injury" to ensure that the correct standard was applied in making the relevant factual determinations.

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It is a general rule that exceptions to discharge are to be construed strictly “in order to give effect to the fresh start policy of the Bankruptcy Code.” *Hoffend v. Villa (In re Villa)*, 261 F.3d 1148, 1152 (11th Cir. 2001) (citing *Hope v. Walker (In re Walker)*, 48 F.3d 1161, 1165 (11th Cir. 1995)). At the same time, Congress enacted the exceptions to discharge to ensure that this “‘fresh start’ policy is only available to the ‘honest but unfortunate debtor.’” *United States v. Mitchell (In re Mitchell)*, 633 F.3d 1319, 1326 (11th Cir. 2011) (quoting *United States v. Fretz (In re Fretz)*, 244 F.3d 1323, 1326 (11th Cir. 2001)).

III. Discussion**A. The Issues on Appeal**

This appeal requires the Court to interpret the meaning of “willful and malicious injury” as applied to the torts of slander and false imprisonment. The questions, broadly put, are these: Does a slanderer’s genuine but false belief in the truth of his slander preclude the possibility that his victim’s injuries were “willful”? That they were “malicious”? What about a false imprisoner’s genuine but false belief in the lawfulness of the confinement he causes?

Defendant makes a forceful argument that we should answer these questions in the affirmative. The essence of his argument is that because the Bankruptcy Court found that Defendant “genuinely believed Plaintiffs stole his wallet,” it could only have found the injuries he caused to have been “willful and malicious” if it misconstrued the legal standard. Under the correct standard, Defendant

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argues, his mistaken belief precludes a finding that the injury was “willful” because the slander and false imprisonment torts he committed were, at worst, reckless; he could not have intended the tortious consequences of his actions as the controlling interpretations of § 523(a)(6) require. According to Defendant, the mistaken belief also precludes a finding that the injury was “malicious” because, “so long as Watson was acting under this mistaken but genuine belief, his actions did not become ‘excessive’ [and thus malicious] merely because he continued to encourage prosecution of Plaintiffs[.]” (Doc. 7 at 21.) Defendant therefore urges this Court to reverse the Bankruptcy Court’s conclusions as to the nondischargeability of most of the relevant debt and to direct the Bankruptcy Court to enter a judgment that it is dischargeable in its entirety.

Courts in the Eleventh Circuit evaluating the applicability of the 11 U.S.C. § 523(a)(6) discharge exception generally analyze the “willful” and “malicious” elements separately. *See Figueroa v. Barreto (In re Barreto)*, 514 B.R. 702, 714 n.13 (Bankr. S.D. Fla. 2013). The Court will do the same here, but with one preliminary observation. As noted above, the state court verdict did not specify the claims or claim on which the jury found for Plaintiffs, and thus the Court cannot be certain which exact “injuries” gave rise to Defendant’s debt. This puts a reviewing court in a strange position. For the Court cannot say for certain whether Defendant committed slander, false imprisonment, or both, although it can be certain that he was found to have committed at least one

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of these torts.⁶ The exact nature of the “injury” giving rise to the relevant debt is therefore uncertain. The Court cannot ignore the nature of the underlying claims, for without them it has no way of determining the “injury” to which the “willful and malicious injury” standard must be applied. For the sake of its analysis, the Court must therefore assume—without deciding—that the state court jury found for Plaintiffs on both the false imprisonment and slander counts. If, in the end, it appears that one injury was “willful and malicious” and the other was not, it will be up to the Bankruptcy Court to determine what portion of the debt was allocated to each tort—something it has already done with respect to the debt arising from Plaintiff Ali’s battery claim.

B. Willful Injury

“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 at 1293 (quoting *Maxfield v. Jennings (In re Jennings)*, 670 F.3d 1329, 1334 (11th Cir. 2012)); *see also Kawaauhau v. Geiger*, 523 U.S. 57, 61-62, 118 S. Ct. 974, 140 L. Ed. 2d 90 (1998) (holding that § 523(a)(6) requires the actor to intend the injury, not just the act that leads to the injury). The Eleventh Circuit has not yet had occasion to decide “whether the term ‘substantial certainty’ is a subjective standard, requiring

6. We do not discuss the issue of battery, for the Bankruptcy Court’s finding that \$2,500 of the debt derived from this claim and that this amount was dischargeable has not been challenged on appeal.

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a creditor to prove that a debtor actually knew that the act was substantially certain to injure the creditor, or an objective standard, requiring a creditor to show only that a debtor's act was in fact substantially certain to cause injury." *In re Kane*, 755 F.3d at 1293; *see also PNC Bank, N.A. v. Nix (In re Nix)*, No. 17-81289-CRJ-7, 2018 Bankr. LEXIS 2041, 2018 WL 3339620, at *6 (Bankr. N.D. Ala. July 6, 2018) ("The Court of Appeals has declined on at least two occasions to parse the distinction, finding each time that even under the more stringent subjective standard that the evidence in the cases before it supported a finding of nondischargeability."). Other circuits disagree on this question. *Compare In re Ormsby*, 591 F.3d 1199, 1206 (9th Cir. 2010) (debtor must actually know that injury is "substantially certain" for finding of willfulness), *with In re Shcolnik*, 670 F.3d 624, 630 (5th Cir. 2012) (finding willfulness where creditor "showed an objective substantial certainty of harm").

In evaluating the parties' arguments, this Court will have to apply this relatively general standard to two torts that, with respect to § 523(a)(6), have not received much attention in the Eleventh Circuit. Where necessary, the Court has looked to other circuits' application of the "willful and malicious injury" standard to debts arising from defamation and false imprisonment. Having done so, this Court must agree with the Seventh Circuit that "courts are all over the lot" in defining the phrase. *Jendus-Nicolai v. Larsen*, 677 F.3d 320, 322 (7th Cir. 2012).

The Bankruptcy Court found that Defendant "genuinely believed" Plaintiffs had stolen his wallet.

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Defendant argues that, on the basis of this finding, the degree of fault in the slander and false imprisonment torts he committed was, at worst, recklessness. He contends, therefore, that the Bankruptcy Court's finding that the injuries were "willful" was an error of law: "nothing more than a recasting of the 'reckless disregard' standard expressly rejected by Congress," the Eleventh Circuit, and the Supreme Court. *In re Walker*, 48 F.3d 1161, 1165 (1995). The Court finds this argument persuasive as to the "willfulness" of the slander injury, but not the false imprisonment injury.

1. Slander

An action for slander in Georgia can be sustained on a showing of "fault by the defendant amounting at least to negligence." *Mathis v. Cannon*, 276 Ga. 16, 573 S.E.2d 376, 380 (Ga. 2002). Regardless of their content and their effects, words are not actionable as defamatory if they are true, or if their utterance is privileged in certain prescribed ways. *See* O.C.G.A. §§ 51-5-5, 51-5-6. The lower fault requirement applied under state law meant that, here, the state court jury's findings could not have an issue preclusion effect with respect to "willfulness." (*See* Doc. 1-2 at 10.) The Bankruptcy Court was of course free to make its own factual finding that the degree of fault in the relevant slander amounted to a "willful . . . injury" under 11 U.S.C. § 523(a)(6). This Court, however, is inclined to agree with Defendant regarding the application of the legal standard to the slander injury. If Defendant never had actual knowledge or substantial certainty of the falsity of his accusations, it would, as a matter of law, preclude

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the finding that his slander amounted to “an intentional act the purpose of which [was] to cause injury or which [was] substantially certain to cause injury.” *In re Kane*, 755 F.3d at 1293.

Under Georgia law, “imputing to another a crime punishable by law” is slander per se: “damage is inferred” from the act, meaning that no actual damages need to be shown. O.C.G.A. § 51-5-4(a), (b); see *Ingram v. Kendrick*, 48 Ga. App. 278, 172 S.E. 815, 816 (Ga. Ct. App. 1934) (“To charge one orally with stealing is a slander or defamation per se, and damage to the slandered person is inferred therefrom.”). This creates an analytical wrinkle when it comes to deciding whether the utterance of a slanderous per se statement is “willful”—that is, whether it is “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 at 1293. The difficulty arises because the distinction between act and injury on which this standard is based is not present here: the nature of slanderous per se statements is such that the law presumes injury from the act of speaking itself. See *In re Boland*, 946 F.3d 335, 338 (6th Cir. 2020) (citations omitted).

Given this unique characteristic of defamation per se torts, the courts that have most carefully considered the issue since *Kawaauhau* have concluded that, with respect to defamation per se, the willfulness inquiry should focus on the falsity of the statement. The Sixth Circuit offers the clearest statement of the rationale for this rule:

As [*Kawaauhau v. Geiger*] emphasizes, a debtor might act intentionally but simply not know that

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the act will cause injury. That is typically the case with judgments involving negligence. In such cases, the creditor will need to show that the debtor knew injury would result from his actions to except the judgment from discharge.

But the law will sometimes presume that injury results from an act. Such is the case for false statements imputing a lack of chastity, which are defamatory per se. The law presumes that those statements will injure. Thus, all a creditor needs to prove to except a defamation per se judgment from discharge is that the debtor knew the facts which made his statements actionable: that they were false and published without privilege to a third party. The judgment precludes the debtor from arguing that he thought his words weren't harmful. Any debtor who makes a knowingly false, defamatory per se statement is at least substantially certain that his statement will injure.

Doe v. Boland (In re Boland), 946 F.3d 335, 338-39 (6th Cir. 2020) (citing *Kennedy v. Mustaine (In re Kennedy)*, 249 F.3d 576, 582-83 (6th Cir. 2001)); see also *Schrader v. Sangha*, No. 6:13-bk-16964-MH, 2022 Bankr. LEXIS 916, 2022 WL 987421, at *11-*12 (Bankr. C.D. Cal. Mar. 31, 2022) (reaching same conclusion after collecting cases and conducting detailed analysis of the willfulness requirement in context of defamation); *In re Kennedy*, 249 F.3d at 583 (knowledge of falsity sufficient to find willfulness in cases

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of defamation per se, because courts “presume that the speakers make such statements knowing that substantial harm or injury will result”); *Marshall v. Marshall (In re Marshall)*, 264 B.R. 609, 630 (C.D. Cal. 2001) (“Libel and defamation claims are nondischargeable under § 523(a)(6) when the statements were made with actual knowledge of their falsity.”); *Pagones v. Mason (In re Mason)*, Nos. 95-B-41537-JLG, 95/1653A, 1999 Bankr. LEXIS 90, 1999 WL 58579 at *3 (Bankr. S.D.N.Y. 1999) (“The intentional tort of defamation [sic] may constitute ‘willful and malicious injury’ by the debtor to another entity under § 523(a)(6) of the Bankruptcy Code, as long as the debtor knew the published statements were false.”). This rule is also consistent with the view of the leading bankruptcy treatise. *See* 4 Collier on Bankruptcy ¶ 523.12(5) (16th ed. 2019) (“A judgment obtained in an action of slander or libel may also be excepted from the operation of a discharge, at least when the cause of action requires knowledge of the falsity of the published statements and not mere reckless disregard for the truth or falsity of the statement.”).

The Court holds, therefore, that debts for slander per se are “willful” under 11 U.S.C. § 523(a)(6) if a debtor knew or was “substantially certain” that the defamatory statement was false and published without privilege.⁷ *Cf.*

7. As noted above, the Eleventh Circuit has not yet had occasion to decide “whether the term ‘substantial certainty’ is a subjective standard, requiring a creditor to prove that a debtor actually knew that the act was substantially certain to injure the creditor, or an objective standard, requiring a creditor to show only that a debtor’s act was in fact substantially certain to cause injury.” *In re Kane*, 755 F.3d at 1293.

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In re Kane, 755 F.3d at 1293 (“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 the context of slander per se, the focus of the willfulness inquiry is not on intent to injure because injury is always, as a matter of law, “substantially certain” to result from such statements: that is the essence of defamation per se.⁸ This rule avoids disturbing the common law (and legislative where, as in Georgia, the common law of defamation has been codified) determination that slanderous per se statements have the natural and obvious consequence of injuring their targets. *See, e.g., Gordon Doc. Products v. Serv. Tech*, 308 Ga. App. 445, 708 S.E.2d 48, 57 (Ga. Ct. App. 2011) (words constituting slander per se “are those which are recognized as injurious on their face”); *No Witness, LLC v. Cumulus Media Partners, LLC*, No. 1:06-cv-1733-JEC, 2007 U.S. Dist. LEXIS 83761, 2007 WL 4139399, at *13 (N.D. Ga. Nov. 13, 2007) (“Damage is assumed in situations involving slander per se because the language itself is sufficient to automatically infer negative consequences.”); *cf. Alan v. Wells Fargo Bank, N.A.*, 604

8. The limited bankruptcy court cases in the Eleventh Circuit dealing with § 523(a)(6) dischargeability of defamation per se judgments do not clearly adopt this reasoning, but they do not foreclose it. *See, e.g., Peteghem v. Kohler (In re Kohler)*, Nos. 12-24328-JRS, 13-02026-JRS, 2017 Bankr. LEXIS 690, 2017 WL 1030724, at *71-*72 (Bankr. N.D. Ga. Mar. 14, 2017) (finding jury judgment for slander per se had collateral estoppel effect with respect to willfulness where the undisputed testimony at trial showed that Plaintiffs knew their accusation was false *and* that the statement was “made with the intent to injure”).

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F. App'x 863, 865 (11th Cir. 2015) (observing, in applying Florida law, that “[p]er se defamatory statements are ‘so obviously defamatory’ and ‘damaging to reputation’ that they ‘give[] rise to an absolute presumption both of malice and damage’”) (quoting *Wolfson v. Kirk*, 273 So. 2d 774, 776 (Fla. 4th DCA 1973)).

2. False Imprisonment

Regarding the tort of false imprisonment, the most generous reading of Defendant’s argument on appeal is that because Defendant genuinely believed Plaintiffs to have stolen his wallet, his actions leading to Plaintiffs’ “unlawful detention,” O.C.G.A. § 51-7-20, could not have been actions “the purpose of which is to cause injury or which [are] substantially certain to cause injury.”⁹ *In re Kane*, 755 F.3d at 1293.

The Court notes, as a preliminary matter, that false imprisonment—unlike slander—is an intentional tort. *Williams v. Smith*, 713, 179 Ga. App. 712, 348 S.E.2d 50, 52 (Ga. Ct. App. 1986) (“False imprisonment is an intentional tort, not a tort of negligence.”); Restatement (Second) of Torts, § 35 (categorizing “false imprisonment” as an intentional tort and listing intention to confine as one of its elements); *cf. Kawaauhau*, 523 U.S. at 62 (“[T]he (a) (6) formulation triggers in the lawyer’s mind the category “intentional torts,” as distinguished from negligent or

9. Defendant’s briefing does not distinguish clearly between possible injuries resulting from false imprisonment and those resulting from slander.

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reckless torts.”). In Georgia, “[t]he essential elements of the cause of action for false imprisonment are a detention of the person of another for any length of time, and the unlawfulness of that detention.” *Fields v. Kroger Co.*, 202 Ga. App. 475, 414 S.E.2d 703, 704 (Ga. Ct. App. 1992) (citing O.C.G.A. § 51-7-20). An action for false imprisonment lies when the defendant acts “with the intention of causing a confinement”; therefore, “there can be no such tort as a negligent false imprisonment.” *Stewart v. Williams*, 243 Ga. 580, 255 S.E.2d 699, 701 (Ga. 1979).

There is no dispute that Defendant acted with the intention of having Plaintiffs confined; this was a factual finding of the Bankruptcy Court. (*See* Doc. 1-2 at 11). Defendant’s argument does not seem to contest this finding. Rather, it seems to rest on the idea that while he may have had the requisite intent to commit the state-law intentional tort of false imprisonment, this intent was still insufficient for Defendant’s conduct to be “willful” as a matter of federal law. He would, in other words, ask this Court to hold that a person who commits the tort of false imprisonment only does so willfully—that is, acts with the “purpose . . . to cause injury,” *In re Kane*, 755 F.3d at 1293—when he both intends confinement *and* intends the confinement to be unlawful.

The Court is not persuaded that this view of the “willfulness” requirement is consistent with the cases interpreting and applying § 523(a)(6). In the context of debts arising from torts (as opposed to breaches of contract or other non-tortious injuries), the cases have followed *Kawaauhau* and *In re Walker* to construe the

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term “willful . . . injury” in general conformity with the law of intentional torts, rather than to create a separate, more demanding category. *Kawaauhau* identifies the “willful . . . injury” standard with “the category [of] ‘intentional torts,’ as distinguished from negligent or reckless torts.” *Kawaauhau*, 523 U.S. at 61. In this context, acting with “intent to cause injury” means “intend[ing] ‘the consequences of an act,’ not simply ‘the act itself.’” *Id.* at 61-62 (quoting Restatement (Second) of Torts § 8A, comment a). The Eleventh Circuit has described the standard in essentially the same way. See *In re Walker*, 48 F.3d at 1165 (“[U]nder the common law, the word ‘intent’ . . . denote[s] that the actor desires to cause the consequences of his act, or that he believes that the consequences are substantially certain to result from it.”) (quoting *Conte v. Gautam (In re Conte)*, 33 F.3d 303, 308 (3rd Cir. 1994); Restatement (Second) of Torts, § 8A) (emphasis in original). The Eleventh Circuit’s leading decisions interpreting § 523(a)(6) contrast its definition of willfulness, which we have quoted above, with “reckless disregard of the rights of another” and “recklessly or negligently inflicted injuries,” suggesting that the crucial distinction is that between intentional torts and torts of negligence. See *In re Walker*, 48 F.3d at 1163; *Maxfield v. Jennings (In re Jennings)*, 670 F.3d 1329, 1334 (11th Cir. 2012). We cannot find support in the cases for the idea that, to be found “willful,” an injury must be analogous to a “specific intent” crime, in that there must be intent with respect to every element that makes the injury actionable. Nor does this seem to be the way that other courts have treated the application of the § 523(a)(6) willfulness standard to judgments for false imprisonment.

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All have simply treated the fact that it is an intentional tort as basically conclusive of the issue. *See Erickson v. Halverson (In re Halverson)*, 226 B.R. 22, 29 (Bankr. D. Minn. 1998) (“Since David committed three intentional torts [including false imprisonment], his conduct was willful.”); *Jendusa-Nicolai v. Larsen*, 422 B.R. 913, 921 (Bankr. E.D. Wis. 2010), *aff’d.*, 442 B.R. 905 (E.D. Wis. 2010), *aff’d.*, 677 F.3d 320 (7th Cir. 2012).

To put things plainly, the Court’s analysis is the following. False imprisonment is an intentional tort. For an injury arising out of this tort to be “willful” within the meaning of 11 U.S.C. § 523(a)(6)—to show that he acted intentionally and with “the purpose . . . to cause injury”—it is enough that the debtor acted with the purpose to confine his victim. The debtor need not act with the specific purpose to *unlawfully* confine his victim, although of course such confinement must in fact be found unlawful if the creditor is to have a valid action for false imprisonment.

This approach is consistent with the plain language of the Georgia Supreme Court’s statements about false imprisonment, namely that “[t]o constitute a false imprisonment, the act of the defendant in confining the plaintiff must be done with the intention of causing a confinement.” *Stewart v. Williams*, 243 Ga. 580, 255 S.E.2d 699, 701 (1979). This suggests that intent is relevant only with respect to the confinement, not its “unlawfulness.” This view is also consistent with two circuit courts’ appraisal of the tort, including one from a case that is binding on this Court as pre-1981 Fifth

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Circuit precedent.¹⁰ See *Oviatt By and Through Waugh v. Pearce*, 954 F.2d 1470, 1479 (9th Cir. 1992) (concluding, with respect to a statement of the Oregon law of false imprisonment virtually identical to Georgia's, that "the intent element relates only to the fact of confinement, not the element of unlawfulness"); *Bryan v. Jones*, 530 F.2d 1210, 1213 (5th Cir. 1976) ("[W]e surveyed the law of false imprisonment and concluded that intent to imprison without legal authority need not be proved as an element of the prima facie case. . . . [A] prima facie case [for false imprisonment] is made out against a jailer even when he believes he has legal authority to detain a prisoner. Accordingly, whatever impact his good faith has, it must be as an element of a defense.") (citing *Whirl v. Kern*, 407 F.2d 781 (5th Cir. 1968)); 1 Harper, James & Gray on Torts, § 3.7 (3d ed. 2006) ("[T]he defendant may be liable although he acted under a reasonable but mistaken belief that he was privileged to imprison or arrest the plaintiff."); Restatement (Second) of Torts § 44 (1965) ("to make the actor liable . . . it is only necessary that he intend to confine the other. . . . The actor's motives in so confining the other are immaterial.").

To be sure, the foregoing discussion does not suggest that Defendant's genuine belief in the truth of his allegations is irrelevant to the analysis of false

10. The Eleventh Circuit has adopted as precedent the decisions of the former Fifth Circuit handed down before October 1, 1981, unless Eleventh Circuit *en banc* or Supreme Court decisions subsequently have considered the issue. *Stein v. Reynolds Sec., Inc.*, 667 F.2d 33, 34 (11th Cir. 1982); *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (*en banc*).

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imprisonment injuries under § 523(a)(6). It only means that these beliefs go to the question of whether the injury was “malicious,” since obviously a genuine belief that the consequences one intended were lawful is relevant to whether an injury was “wrongful and without just cause or excessive.”¹¹ *In re Jennings*, 670 F.3d at 1334 (quoting *Hope v. Walker (In re Walker)*, 48 F.3d 1161, 1164 (11th Cir. 1995)). The Eleventh Circuit has consistently analyzed willfulness and malice separately—and given them separate definitions—and the Court is bound to follow this approach.

We hold, in conclusion, that debts resulting from the intentional tort of false imprisonment are debts for “willful . . . injury” under 11 U.S.C. § 523(a)(6) when the debtor intended to confine his victim. It is not necessary, for the purpose of willfulness, that the debtor intended this confinement to be unlawful.

3. The “Willfulness” Standard Applied by the Bankruptcy Court

Given the foregoing analysis, the Bankruptcy Court’s finding that the injury from Defendant’s false imprisonment of Plaintiffs was “willful” must be affirmed. The Bankruptcy Court observed, for example, that Defendant clearly intended his accusations to cause Plaintiffs to be detained by the police; that Defendant did much to “propel the investigation of Plaintiffs” beyond

11. That it is relevant to this question does not necessarily mean that it is dispositive of the issue as a matter of law. The Court discusses this below in connection with its discussion of malice.

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merely report their conduct; and that his “own statements show he was aware that his accusation would result, at a minimum, in an investigation of Plaintiffs by police.” (*See* Doc. 1-2 at 11.) In other words, Defendant acted with the purpose of having Plaintiffs confined.

However, the Bankruptcy Court’s willfulness determination with respect to slander cannot be reconciled, on the present record, with its finding that Defendant genuinely believed Plaintiffs stole his wallet. To be sure, the Bankruptcy Court correctly stated that “Defendant must have ‘intended the consequences of an act, not simply the act itself,’” and that “neither recklessness nor negligence are sufficient to establish willfulness.” (Doc. 1-2 at 9) (quoting *Kawaauhau*, 523 U.S. at 61-62, 64) (internal quotation omitted). But, as Defendant points out, the Bankruptcy Court also states that Defendant had a genuine belief in the truth of his accusations without mentioning if this is relevant to whether the slander was “willful.”

The Court will reverse the judgment on this point and remand to the Bankruptcy Court. The Court considers that the Bankruptcy Court’s factual findings imply the possibility that at some point Defendant could no longer have believed his wallet was stolen by Plaintiffs, or that he might have come to know it was “substantially certain” that his statements were false. The Bankruptcy Court noted, for example, that “Defendant’s behavior continued even after Parker had looked in each of the women’s purses without finding the missing wallet.” (Doc. 1-2 at 10.) Plaintiff Ali testified in the state court trial that both Plaintiffs had no pockets, and the officer who checked

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the women's bags stated that, when he did not find the wallet in either one, he thought they were "out of the equation" as suspects in any possible theft of the wallet. (Doc. 4-9 at 158; *id.* at 111-112, 124.) It appears from the testimony in the state court trial that Defendant most likely observed the purses being checked.¹² At the same time, the Bankruptcy Court made a relatively absolute finding that Defendant "genuinely believed Plaintiffs had taken his wallet." (Doc. 1-2 at 11.) It did so without any clear qualification as to the timing of this belief, although in the context of the malice analysis it seems to be referring to the time when Defendant first made his accusations to the police. (*See id.* at 11-12.) Given this ambiguity, the Court cannot be sure how to apply the "genuine belief" finding to the question of whether Defendant knew his statements to be false or whether he was substantially certain they were false throughout the entire course of events, or only in the initial stages of the incident. As the Court has said, the question of whether a preponderance of the evidence shows willfulness is a question of fact. *See In re Kane*, 755 F.3d at 1293. It is, for this reason, a question best left to the Bankruptcy Court, particularly where answering it involves weighing the credibility of the parties' testimony. *See id.* at 1288 (citing *Englander v. Mills (In re Englander)*, 95 F.3d 1028, 1030 (11th Cir.1996)). The Court will therefore remand to the Bankruptcy Court for a reexamination of the record in light of the legal standard articulated above.

12. There is testimony at the state court trial to the effect that the Tanqueray Lounge is a relatively small establishment. (*See* Doc. 4-9 at 149-150, 157.) Plaintiff Ali also testified at trial that while the purses were checked, Defendant was present, "walking back and forth calling us all kinds of derogatory names." (Doc. 4-9 at 159.)

*Appendix D***C. “Malicious Injury”**

A “malicious” injury is one that is “wrongful and without just cause or excessive even in the absence of personal hatred, spite or ill-will.” *Maxfield v. Jennings (In re Jennings)*, 670 F.3d 1329, 1334 (11th Cir. 2012) (quoting *Hope v. Walker (In re Walker)*, 48 F.3d 1161, 1164 (11th Cir. 1995)). “To establish malice, ‘a showing of specific intent to harm another is not necessary.’” *Id.* (quoting *Lee v. Ikner (In re Ikner)*, 883 F.2d 986, 991 (11th Cir. 1989)).

The Bankruptcy Court based its finding of malice on the following reasoning:

[R]eporting a crime cannot be said to be wrongful, excessive, or without just cause, even if based on a mistaken belief. However, reporting of an alleged crime did not require Defendant to continue claiming that Plaintiffs had stolen his wallet and that they were going to go to jail. After reporting that his wallet was missing and the officers began investigating, Defendant’s civic duty was done and his continued accusations using derogatory and profane language became wrongful and without just cause and excessive.

(Doc. 1-2 at 11-12.) Defendant argues that this reasoning manifests the application of an erroneous legal standard on essentially the same grounds on which he contested the finding of willfulness. There can be no finding of malice, he argues, where Defendant was merely doing his “civic duty’ to report a crime.” In doing so, he could

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not have caused an injury that was “wrongful and without just cause.” (Doc. 7 at 19.) And that injury could not have been “excessive” because, “so long as Watson was acting under [his] mistaken but genuine belief, his actions did not become ‘excessive’ merely because he continued to encourage prosecution of Plaintiffs after he first reported believing he was the victim of a crime.” (Doc. 7 at 21.) The question put to this Court is thus whether the finding that Defendant “genuinely believed” his accusations precludes, as a matter of law, a finding that the injuries he caused were “malicious.”

After a careful consideration of the record, the parties’ arguments, the case law, and the reasoning of the Bankruptcy Court, this Court cannot agree that it does. At least in the Eleventh Circuit, the “malicious injury” inquiry—in contrast to that for willfulness—is not so exclusively focused on the debtor’s state of mind. The debtor’s state of mind is obviously relevant, and often central, to the inquiry. But the Court is not persuaded that, as a matter of law, Defendant’s belief absolutely foreclosed any other finding with respect to whether the injuries inflicted were malicious.

The Court believes this reading of “malicious injury” follows from the Eleventh Circuit’s articulations and applications of the standard. Its definition does not preclude findings of malice where the debtor’s actions might be determined to be “wrongful and without just cause or excessive” despite the debtor’s belief that he was justified or that his actions were not legally wrong. This much is suggested by the fact that the Eleventh Circuit has specified that an action may be “wrongful and without

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just cause or excessive *even in the absence of personal hatred, spite or ill-will,*” and furthermore that “a showing of specific intent to harm another” is not necessary to make a finding of malice.” *In re Jennings*, 670 F.3d at 1334 (emphasis added). It has also explicitly sanctioned findings of “[c]onstructive or implied malice,” where “the nature of the act itself implies a sufficient degree of malice,” *In re Ikner*, 888 F.3d at 991. This language suggests that the malice inquiry can look as much to the act itself and the surrounding circumstances as to the subjectivity of the debtor.

The Eleventh Circuit’s application of the malice standard confirms this interpretation. *In re Kane*, for example, involved a creditor who held a state court judgment against the debtor arising out of claims for unjust enrichment and quantum meruit. The parties were lawyers who had previously worked together on complex litigation, which the debtors had secretly settled without notifying the creditor law firm—which, under the terms of the settlement, would receive nothing for its work. In evaluating the “malice” element, it concluded that the bankruptcy court’s determination that each debtor had “acted not merely to pad his own pocket but with ill will toward the [creditors]” represented a correct application of the standard. *Id.* at 1294. It enumerated several different reasons why “the bankruptcy court was free to imply malice.” *Id.* First, the debtors’ acts were “wrongful and without just cause” because they knew that the creditors were seeking to settle their part of the litigation for about \$12 million, but they attempted to allocate them no money at all as part of their own secret settlement. *Id.* at 1295. Second, one of the debtors—but not both—testified to his discomfort with the provision, and evidence suggested he

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felt that what he was doing was not right. *Id.* Third, the debtors' acts were "wrongful" and "excessive" because of the "attempt to utterly obliterate any compensation" to the creditor, and because the debtors' "efforts to cover their tracks were excessive too." *Id.*

The circuit court's reasoning here reveals three things about the proper scope of the "malice" inquiry. First, it is not limited to a consideration of the debtor's state of mind with respect to or at the time of the injury. The *Kane* court looked as much (if not more) to what the facts might have implied about whether the injury was without just cause or excessive as to whether the debtor knew his actions to be so. Second, the inquiry is not as narrowly focused on the injury itself, but looks to the broader circumstances in which the injury was carried out, such as the prior relations of the parties and the debtors' subsequent "efforts to cover their tracks."¹³ Third, the word "excessive"—a feature that distinguishes the Eleventh Circuit's definition of "malicious injury" from that of other circuits—is not, as Defendant argues, without effect. (*See* Doc. 7 at 21.) On the contrary, the court's language suggests that the fact that a debtor "committed wrongful acts that were 'excessive'" could be an independent ground for a bankruptcy court to "imply malice." *In re Kane*, 755 F.3d at 1295.

13. It seems to the Court that, for this reason, the inquiry into malice is necessarily less focused on the elements of the specific tort or other injury that is at issue. The willfulness inquiry, by contrast, requires an examination of a debtor's intent with respect to a specific injury, which necessarily must be defined according to the law that makes such an injury actionable. It therefore entails the kind of closer analysis of the relevant tort causes of action that the Court has conducted above.

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Defendant also makes a more specific argument regarding the legal standard for malice that should govern defamation injuries, citing a handful of cases where courts declined to find a defamation “willful and malicious” when the debtor genuinely believed the truth of his words. See *Merritt v. Rizzo*, 337 B.R. 180, 189 (Bankr. N.D. Ill. 2006); *Qui v. Zhou (In re Zhou)*, 331 B.R. 274, 277 (Bankr. E.D. Mich. 2005); *Davis v. Davis (In re Davis)*, 334 B.R. 874, 888 (Bankr. W.D. Ky. 2005); *Langan v. Evers (In re Evers)*, 212 B.R. 945, 949 (1997); *In re Pereira*, 44 B.R. 248 (Bankr. D. Mass. 1984). The Court is basically in agreement with Defendant that, with respect to defamation torts, the issue of mistaken belief is relevant “in the context of analyzing the issue of intent.” (Doc. 7 at 20.) For this reason, the Court held above that the debtor’s knowledge of the truth or falsity of his statement matters, for the purposes of *willfulness*, in considering whether a debt arising from a defamation is nondischargeable under § 523(a)(6). However, the cases just cited either consider knowledge of falsity in relation to malice or do not distinguish the willfulness and malice inquiries. They are, in any event, only persuasive authority on this Court, but more importantly they all come from circuits that use definitions of “malicious injury” different from the Eleventh Circuit’s. And for the reasons just discussed, the Eleventh Circuit’s malice inquiry lends itself to consideration of what the debtor actually did as well as what he knew or intended. The willfulness inquiry, by contrast, is more specifically concerned with the debtor’s state of mind. Thus, the Court is not persuaded that any bright-line rule regarding the debtor’s knowledge of truth or falsity applies in the context of determining whether defamation injuries are “malicious.”

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Given this reading of the malice requirement, the Court cannot conclude that Defendant's mistaken belief necessarily precluded a finding of malice as a matter of law. The Bankruptcy Court was free to consider other factors in deciding whether a preponderance of the evidence showed that the injuries Defendant caused were "wrongful and without just cause or excessive." It applied the correct legal standard. The Court therefore "review[s] only for clear error the bankruptcy court's finding that a creditor showed a willful and malicious injury by a preponderance of the evidence." *In re Kane*, 755 F.3d at 1293 (citing *Chrysler Credit Corp. v. Rebhan*, 842 F.2d 1257, 1264 (11th Cir. 1988), *abrogated on other grounds*, *Grogan v. Garner*, 498 U.S. 279, 111 S. Ct. 654, 112 L. Ed. 2d 755 (1991)).

The Court also cannot find clear error in these factual findings of the Bankruptcy Court. Even after finding that Defendant genuinely believed in the truth of his accusations, the Bankruptcy Court was free to imply malice. It might have determined that Defendant committed "wrongful acts that were excessive" when he continued to repeat his allegations loudly to those in the bar and parking lot, when he taunted and intimidated Plaintiffs "using profane and derogatory language," and when he put pressure on law enforcement to arrest Plaintiffs even after the police were already investigating, had handcuffed Plaintiff Bradsher, and had checked both women's belongings. Why, the Bankruptcy Court might have wondered, would someone who really believed he had "just cause" for all of his actions also insist on special treatment by threatening to have police and Tanqueray employees reprimanded if they did not cooperate? The

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Bankruptcy Court might also have considered the interactions of Defendant and Plaintiff Bradsher prior to the incident and determined that Defendant acted with “ill will” that resulted from more than just his mistaken belief that he was robbed. The Court does not think it was clear error for the Bankruptcy Court, after weighing the credibility of the parties’ testimony and carefully reviewing its own and the state court record, to imply malice despite Defendant’s mistaken belief.

Finally, the Court cannot accept the argument that one cannot act “excessively” so long as one is acting under a mistaken belief. (*See* Doc. 7 at 21.) If the only actions at issue in this case were Defendant’s “reporting a crime,” he could not have been found liable for false imprisonment and slander. For both torts, Georgia law draws lines beyond which the attempt to “encourage prosecution” of a crime exposes one to liability. (*Id.*) An action for false imprisonment could not have been sustained against Defendant if he had merely reported something to the police, allowing them to make an independent determination of whether to investigate and arrest Plaintiffs. *See Welton v. Ga. Power Co.*, 189 Ga. App. 17, 375 S.E.2d 108, 111 (Ga. Ct. App. 1988) (“The law draws a fine line of demarcation between cases where a party directly or indirectly urges a law enforcement official to begin criminal proceedings and cases where a party merely relays facts to an official who then makes an independent decision to arrest or prosecute. In the former case there is potential liability for false imprisonment or malicious prosecution; in the latter case there is not.”). And Georgia law recognizes a conditional privilege defense to

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defamation under O.C.G.A. § 51-5-7, as long as one “acted in good faith, had an interest to uphold (in this case a public duty), gave a statement properly limited in its scope and upon a proper occasion,” and made publication to “proper persons.” See *Examination Mgmt. Servs. v. Steed*, 340 Ga. App. 51, 794 S.E.2d 678, 681-82 (Ga. Ct. App. 2016). Defendant was susceptible to liability in the state court—and the Bankruptcy Court was free to find malice—precisely because Defendant did more than just report (what he believed to be) a crime. These points of state law are by no means dispositive of the malice question. But they do dispose of the idea that a belief that one has been robbed can license any sort of response. One can certainly act “excessively” pursuant to genuine—and indeed true—beliefs. More to the point, many of Defendant’s actions had little plausible relationship with his civic duty to report a suspected crime. This seems to have been central to the Bankruptcy Court’s reasoning.

It is of course true that the Bankruptcy Court would also have been free to weigh the evidence differently and to find that Defendant’s mistaken belief weighed against the other factors discussed above. But it did not do so, and the “heavy burden” for showing clear error falls on appellants. *Thelma C. Raley, Inc. v. Kleppe*, 867 F.2d 1326, 1328 (11th Cir. 1989). It is “an especially heavy burden . . . in a case in which the evidence is largely testimonial,” as a significant portion of the evidence is here. Defendant has not met this burden with respect to the issue of malice, and the Court will therefore affirm the Bankruptcy Court’s findings on this point.

*Appendix D***IV. Conclusion**

The Order and Judgment of the Bankruptcy Court (Does. 1-2, 1-3) are **AFFIRMED IN PART AND REVERSED IN PART**. The finding of the Order and Judgment that any debt arising from Plaintiffs' false imprisonment claims is nondischargeable is **AFFIRMED**, as is its finding that any debt from Plaintiffs slander claim resulted from a "malicious injury." However, given the Bankruptcy Court's finding that Defendant "genuinely believed Plaintiffs had taken his wallet," we must **REVERSE** the Order and Judgment with respect to the Bankruptcy Court's finding that the slander injury was "willful." It may yet be determined that the slander injury was indeed willful under § 523(a)(6). But further factual clarification is necessary, as the Court discusses above. *See supra* Part III(B)(3). The case is **REMANDED** to the Bankruptcy Court for further proceedings consistent with this opinion.

SO ORDERED this 12th day of August, 2022.

/s/ Sarah E. Geraghty
SARAH E. GERAGHTY
United States District Judge

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**APPENDIX E — ORDER OF THE UNITED
STATES BANKRUPTCY COURT, NORTHERN
DISTRICT OF GEORGIA, ATLANTA DIVISION,
FILED APRIL 15, 2021**

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CASE NO. 18-69905-BEM
CHAPTER 7
ADVERSARY PROCEEDING NO. 19-5127-BEM

IN RE:

STANLEY KAPPELL WATSON,

Debtor,

SHENEKA BRADSHER AND ZARINAH ALI,

Plaintiffs,

v.

STANLEY KAPPELL WATSON,

Defendant.

Filed April 15, 2021

ORDER

This adversary proceeding came before the Court for trial on March 18, 2021. Plaintiffs Sheneeka Bradsher

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and Zarinah Ali seek a determination that their debt is nondischargeable pursuant to 11 U.S.C. § 523(a)(6) as having resulted from willful and malicious injury. The Court has jurisdiction pursuant to 28 U.S.C. § 157(b)(I).

During the trial, the Court heard testimony from Ms. Bradsher, Ms. Ali, and Defendant Stanley Watson, and admitted as evidence Plaintiffs' exhibits 1 through 6. Having considered the evidence and the applicable legal authorities, the Court finds in favor of Plaintiffs in part and Defendant in part. The Court enters its findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 7052 as follows:

I. Findings of Fact

Defendant filed a Chapter 7 bankruptcy petition on November 28, 2018 and received a discharge on March 15, 2019. Plaintiffs are prepetition judgment creditors of Defendant. Plaintiffs sued Defendant in the State Court of DeKalb County, Georgia, Civil Action File Number 13A47805-6, for slander, false imprisonment, and battery. [Doc. 38 ¶ 3a; Doc. 45 ¶ 7a]. On April 29, 2015, a jury entered a verdict for Plaintiffs against Defendant and awarded Ms. Bradsher compensatory damages of \$75,000 and punitive damages of \$5,000, awarded Ms. Ali compensatory damages of \$25,000 and punitive damages of \$5,000, awarded both Plaintiffs attorney fees of \$39,000 and expenses of \$1,500. [Pl. Ex. 5, 6].

The lawsuit arose out of an incident that occurred between the hours of late July 11, 2012 and early July 12,

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2012 at the Tanqueray Lounge (“Tanqueray”) in Decatur, Georgia. Ms. Bradsher was visiting Ms. Ali from out of town, and they went to Tanqueray. Ms. Bradsher sat at a table or the bar while Ms. Ali alternated between dancing and sitting with Ms. Bradsher.

Defendant was, at the time, a commissioner for DeKalb County, Georgia, and was also at Tanqueray. He was wearing a shirt that identified him as a county commissioner. Defendant had flown to Atlanta earlier that day from Tennessee, where he had been helping his mother with funeral arrangements for his sister. After arriving in Atlanta, Defendant went to dinner with a friend before going to Tanqueray alone.

At some point in the evening, Defendant bought Ms. Bradsher a drink or two, and the two engaged in small talk. Ms. Bradsher testified that during the conversation, Defendant propositioned her for sex, that she was offended and upset by the suggestion, and that she rejected him in insulting terms. Ms. Bradsher then rejoined Ms. Ali, and told Ms. Ali about the proposition. Defendant denies that he solicited Ms. Bradsher for sex.

Shortly thereafter, Defendant was unable to find his wallet. Although he had some cash in his pocket, it was not enough to pay for the drinks he had purchased for Ms. Bradsher, and he wanted to pay by credit card. He asked the two bartenders if they had seen his wallet, but they had not. Defendant then concluded that Ms. Bradsher must have taken his wallet because she was the only person who had been in proximity to him. Defendant would discover

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the following morning that he had left his wallet in his car. Before then, however, Defendant would repeatedly say “bitches stole my wallet” referring to Plaintiffs, both Plaintiffs’ purses would be searched by police, Defendant would poke Ms. Ali on the forehead and tell her she was going to jail, and Ms. Bradsher would be handcuffed and placed in a police car.

Perez Patterson and Sergeant Oscar Parker, an off-duty police officer, were working security at Tanqueray the night of the incident, and both testified at the state court trial. [Pl. Ex. 1 at 40]. Additionally, DeKalb County Police Officers Lewis and Logan responded to Parker’s request for assistance and testified at the state court trial. [Pl. Ex. 1 at 67, 86].¹ Patterson was patting down customers as they entered Tanqueray to ensure they were not carrying weapons or drugs. [Pl. Ex. 1 at 40]. Patterson checked Defendant when he entered the bar, and Defendant stated to Patterson that he did not get patted down because he was a county commissioner. [Pl. Ex. 1 at 41]. Patterson said he did not know and did not recognize Defendant, and that he felt his job was threatened by Defendant’s comments. [P. Ex. 1 at 40-41, 47]. Defendant testified that Patterson did know him.

Defendant had parked his car such that it blocked the exit from the property, and Parker asked Defendant to move his vehicle. [Pl. Ex. 1 at 103]. Defendant did so, but

1. All statements of Parker, Patterson, Lewis, and Logan are taken from their state court trial testimony, which has been admitted as Plaintiffs’ Exhibit 1, and from Parker’s incident report, which has been admitted as Plaintiffs’ Exhibit 4.

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queried Parker why Parker could not have moved it and said he was the only one “trying to get you-all raises.” [Pl. Ex. 1 at 103]. Parker responded that he was not a valet.

Later that evening a waitress approached Patterson to say that a patron—Defendant—was complaining that his wallet had been stolen. [Pl. Ex. 1 at 42, 48-49]. Patterson relayed this to Parker, who was the lead police officer investigating the incident. [Pl. Ex. 1 at 105, 119]. Patterson and Parker spoke to Defendant, who pointed out Plaintiffs and repeatedly said, “these bitches got my wallet” and that he wanted them arrested. [Pl. Ex. 1 at 43, 51]. Defendant told Parker his wallet had been in his back pocket and that he took it out and put it on the bar to pay his tab, but that he did not see Ms. Bradsher take his wallet. [Pl. Ex. 1 at 105]. Defendant also threatened to have the bar shut down. [Pl. Ex. 1 at 43-44]. Ms. Bradsher was becoming irate and using profanity, and Parker then moved to speak to her and Ms. Ali. [Pl. Ex. 1 at 106]. Both Plaintiffs allowed Parker to look in their purses, which did not contain Defendant’s wallet. [Pl. Ex. 1 at 106]. Ms. Ali testified that at some point during the initial investigation Defendant accused her of having his wallet. If Ms. Bradsher did not have the wallet, it must have been because she passed it to Ms. Ali. Ms. Ali denied the accusation. Defendant responded by poking her on the forehead, accusing her again, and telling her she was going to jail. Defendant denied poking Ms. Ali, and none of the officers’ or Patterson’s testimony during the state court trial mentioned seeing any physical contact between Defendant or either Plaintiff.

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Patterson and Parker moved the parties outside to the parking lot and separated Defendant from Plaintiffs. Lewis assisted in separating the parties. [Pl. Ex. 1 at 68]. A number of Tanqueray patrons were also in the parking lot observing the incident. [Pl. Ex. 1 at 71, 99]. Defendant continued to insist, using the same offensive terms, that Plaintiffs had stolen his wallet. [Pl. Ex. 1 at 82]. Patterson, Lewis, Logan, and Parker described Defendant as appearing intoxicated and being belligerent or irate while insisting that Plaintiffs had his wallet and that he wanted them to be arrested. [Pl. Ex. 1 at 44-45, 70, 82, 87-88, 109]. During his testimony, Defendant denied being under the influence of alcohol. During the incident, Defendant stated that he would call various people, including the chief of police, and threatened that no one would be working at the bar anymore. [Pl. Ex. 1 at 82, 90, 107, 110]. Patterson made a video recording of Defendant at this time, which was admitted as Plaintiff's Exhibit 2. During the video, Defendant can be heard saying "Dale, Annette, and Chief O'Brian" are going to know what happened, the bar will lose its food certification, and the people working there will lose their gigs. [Pl. Ex. 2]. Defendant further says that it makes no sense, that he does not even have his driver's license because it was in his wallet, and that "they know they got my wallet." [Pl. Ex. 2].

At Parker's direction, Lewis handcuffed Ms. Bradsher and placed her in a police vehicle. [Pl. Ex. 1 at 68-69, 74]. Parker informed Ms. Bradsher that she was under arrest for disorderly conduct. [Pl. Ex. 1 at 107]. Ms. Bradsher was not free to leave at that time. [Pl. Ex. 1 at 81]. When Logan arrived on the scene, Ms. Bradsher was already

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in the police car. [Pl. Ex. 1 at 87]. Ms. Bradsher was irate and crying, and Lewis talked to her to try to calm her down. [Pl. Ex. 1 at 45, 69, 73]. Ms. Bradsher told Lewis that Defendant had solicited her for sex, and Ms. Ali told Logan the same. [Pl. Ex. 1 at 70, 77, 89, 98]. Lewis and Logan both stated that Ms. Bradsher appeared intoxicated. [Pl. Ex. 1 at 75, 89]. Logan stated that Defendant and Ms. Bradsher were going back and forth regarding the wallet being stolen and that Defendant was loudly cursing. [Pl. Ex. 1 at 85]. During the state court trial, Ms. Bradsher testified that while she was in the police car, Defendant came to the window and said she stole his wallet and that she was frightened of what he might do to her. [Pl. Ex. 1 at 127-128]. She testified, “He really obviously thinks I have his wallet.” [Pl. Ex. 1 at 127]. Logan heard Defendant say numerous times, “Bitch stole my wallet. She is going to have to give me my fucking wallet.” [Pl. Ex. 1 at 90]. Defendant made similar statements to Parker, who was disturbed by the language and admonished him to behave like an elected official. [Pl. Ex. 1 at 108]. According to Logan, Defendant and Ms. Bradsher had to be separated to get the situation under control. [Pl. Ex. 1 at 89].

After Ms. Bradsher was detained, Defendant continued to insist on an arrest, which Logan took to mean that Defendant also wanted Ms. Ali arrested. [Pl. Ex. 1 at 97]. Logan, who spoke with Ms. Ali but did not speak with Ms. Bradsher, stated that during this time Ms. Ali remained calm, but she did not understand why Ms. Bradsher was detained and she was upset about the earlier solicitation of Ms. Bradsher. [Pl. Ex. 1 at 92, 98]. Parker agreed that Ms. Ali was calm and level-headed.

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[Pl. Ex. 1 at 110]. Ms. Ali testified that she had been told not to leave by the officers and that she was thus, not able to leave. [Pl. Ex. 1 at 165].

Parker solicited information from Defendant about his wallet and its contents for an incident report. [Pl. Ex. 1 at 108]. Parker then went to his car to get a business card for Defendant and retrieved a body camera to record further interactions with Defendant. [Pl. Ex. 1 at 108]. In the body camera footage, which was admitted as Plaintiff's Exhibit 3, Parker tells Defendant that Parker personally heard him accuse the bartender of taking his wallet and then accuse two women—presumably Plaintiffs—of taking his wallet. [Pl. Ex. 3]. Parker goes on to say Defendant put his wallet on the bar to pay for drinks and it turned up missing, but Defendant did not see anyone take the wallet. [Pl. Ex. 3]. Defendant can be seen on the footage agreeing with Parker's statements. [Pl. Ex. 3].

Also on the body camera footage, Parker advised Defendant that he had been drinking and was in no condition to drive. [Pl. Ex. 3]. Defendant responded that he was going to call "Dale" to pick him up. [Pl. Ex. 3]. Parker accompanied Defendant to his car to make the phone call. [Pl. Ex. 3]. Nevertheless, Defendant drove his car away toward the end of the incident. [Pl. Ex. 1 at 71, 111]. The officers on the scene tried to follow him. [Pl. Ex. 1 at 71, 111]. Defendant subsequently returned to the parking lot. [Pl. Ex. 1 at 111]. A police lieutenant was notified and came to the bar. [Pl. Ex. 1 at 83, 111]. The lieutenant called a police major and handed the phone to Defendant, who had a conversation with the major. [Pl. Ex. 1 at 83, 111-112].

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The lieutenant then told Parker to allow someone to take Defendant home. [Pl. Ex. 1 at 83, 112]. In Parker's incident report, he described these events as circumstances beyond his control that prevented him from arresting Defendant. [Pl. Ex. 1 at 112; Pl. Ex. 4 at 2]. Parker said he did not feel right arresting Ms. Bradsher given Defendant's behavior and therefore made the citation a warning. [Pl. Ex. 1 at 110]. Lewis released Ms. Bradsher after Parker indicated she would not be arrested. [Pl. Ex. 1 at 80].

Parker stated that if Defendant had not reported his wallet stolen and accused Plaintiffs, he would not have investigated Plaintiffs. [Pl. Ex. 1 at 115]. Parker further stated that Ms. Bradsher was not disorderly prior to the accusations. [Pl. Ex. 1 at 115]. Nevertheless, his decision to arrest her was based on her conduct and not the allegations of Defendant, which he attempted to explain to her at the time. [Pl. Ex. 1 at 117].

Ms. Bradsher testified that after being handcuffed by the police, she was afraid. And Defendant was walking back and forth along the police car saying that she had stolen his wallet and was going to jail. Ms. Bradsher further testified that sometime after the incident, the news reported that she was accused of stealing Defendant's wallet and broadcast her photo with the report.

In summary, Defendant attempted to exert his influence as a county commissioner as soon as he arrived at Tanqueray and before he encountered Plaintiffs. He did so in his interaction with Patterson over the pat-down and in his interaction with Parker over moving his car as

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well as after he accused Plaintiffs of taking his wallet. Defendant purchased drinks for Ms. Bradsher and solicited her for sex, which she rejected. By this point, both Defendant and Ms. Bradsher appeared to be intoxicated. Defendant was unable to locate his wallet to pay for the drinks and accused Plaintiffs of stealing it, using profanity and misogynistic language to do so. The police became involved, and both Defendant and Ms. Bradsher were belligerent and disorderly, all of which drew the attention of other patrons in the bar. Defendant continued to accuse Plaintiffs of stealing his wallet and wanted them arrested. Ms. Ali remained calm and did not appear intoxicated, but at some point during the incident, Defendant poked her on the forehead.

The parties were separated, and Ms. Bradsher was handcuffed, placed in a police car, and told she was under arrest. Defendant continued to accuse Plaintiffs of stealing his wallet and continued to exert his influence as a county commissioner. Defendant then drove away from the bar despite being instructed by police not to do so because of their belief that he was intoxicated. Defendant returned moments later. Although the police wanted to arrest Defendant for his disorderly behavior, they were directed by their superiors to allow Defendant to be taken home, apparently in response to phone conversations between Defendant and those superiors. Because the police did not think it fair to arrest Ms. Bradsher for disorderly conduct while allowing Defendant to leave, Ms. Bradsher was released. A jury subsequently found Defendant liable to Plaintiffs pursuant to a complaint for assault, false imprisonment, and slander per se, and

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awarded compensatory damages, punitive damages, and attorney fees. The jury verdict did not specify which claim or claims were the basis for awarding damages.

II. Conclusions of Law

Plaintiffs seek a determination that their debt is nondischargeable under 11 U.S.C. § 523(a)(6), which provides that a “discharge under section 727 . . . of this title does not discharge an individual debtor from any debt-- . . . (6) for willful and malicious injury by the debtor to another entity or to the property of another entity[.]” The burden is on Plaintiffs to prove their case by a preponderance of the evidence. *Grogan v. Garner*, 498 U.S. 279, 287, 111 S. Ct. 654, 659 (1991). The provisions of § 523(a) are construed liberally in favor of the debtor to carry out the bankruptcy policy of providing a fresh start to the honest but unfortunate debtor. *Equitable Bank v. Miller (In re Miller)*, 39 F.3d 301, 304 (11th Cir. 1994).

To prevail in this proceeding, Plaintiffs must demonstrate that their debt arose from an injury that was both willful and malicious. To establish willfulness, Plaintiffs must show that the injury itself was deliberate, intentional, or substantially certain to result and not just that the act leading to injury was deliberate. *Kawaauhau v. Geiger*, 523 U.S. 57, 61, 118 S. Ct. 974, 977 (1998); *Kane v. Stewart Tilghman Fox & Bianchi Pa (In re Kane)*, 755 F.3d 1285, 1293 (11th Cir. 2014). In other words, Defendant must have “intended ‘the consequences of an act,’ not simply ‘the act itself.’” 523 U.S. at 61-62, 118 S. Ct. at 977. Neither recklessness nor negligence

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are sufficient to establish willfulness. *Id.* at 64, 118 S. Ct. at 978. To establish malice, Plaintiffs must show that Defendant's actions were "wrongful and without just cause or excessive even in the absence of personal hatred, spite or ill-will." *Hope v. Walker (In re Walker)*, 48 F.3d 1161, 1164 (11th Cir. 1995) (quoting *Lee v. Ikner (In re Ikner)*, 883 F.2d 986, 991 (11th Cir. 1989)). "[A] showing of specific intent to harm another is not necessary." *Ikner*, 883 F.2d at 991.

Here, Plaintiffs have shown that they were awarded a judgment in state court arising out of their claims for slander, false imprisonment, and battery. This is sufficient to establish that their debt arises from an injury to themselves. *See, e.g., Maxfield v. Jennings (In re Jennings)*, 670 F.3d 1329, 1334 (11th Cir. 2012).

Plaintiffs previously asserted in a motion for summary judgment that collateral estoppel based on the state court judgment compelled a finding that the injury was willful and malicious. [Doc. 14]. The Court denied the motion on the ground that Plaintiffs failed to establish that all the claims in the state court case required the jury to find both willfulness and malice² and, indeed, none of the claims required both findings. [Doc. 22]. The Court now considers whether the evidence produced during the trial in this proceeding shows by a preponderance of the evidence

2. Because the jury's verdict did not indicate which claim or claims were the basis for its award of damages, the Court concluded summary judgment based on collateral estoppel would not be appropriate if any one of the claims failed to meet the willful and malicious standard. [Doc. 22 at 7].

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that Defendant acted willfully and maliciously.

After initially reporting his wallet stolen and after involving Parker, Defendant repeatedly, and in the presence of police and patrons of Tanqueray, called Plaintiffs “bitches,” said they stole his wallet, and said he wanted them jailed. Defendant also repeatedly made comments suggesting that he would use his connections as a county commissioner to harm the Tanqueray and its employees, including those employed for security, if they did not recover his wallet. Defendant’s behavior continued even after Parker had looked in each of the women’s purses without finding the missing wallet. After Parker confirmed with Defendant that he did not see anyone take his wallet, Defendant left the parking lot for a short period and then went back into Tanqueray.

The Court finds these facts are sufficient to establish willfulness with respect to the conduct that is relevant to claims of slander and false imprisonment. Defendant accused Plaintiffs of theft, reported his accusations to the authorities with the understanding that Plaintiffs would be investigated and possibly jailed for the theft. Indeed, he expressly stated that they would be jailed. Additionally, Defendant attempted to use his influence as a public official to propel the investigation of Plaintiffs. Even though Plaintiffs were not arrested for theft, Defendant’s own statements show he was aware that his accusation would result, at a minimum, in an investigation of Plaintiffs by police.

The issue of whether Defendant’s actions were also malicious is a closer question. Defendant’s accusations

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that Plaintiffs stole his wallet were false. However, based on the testimony in this proceeding and in the state court case, and based on the video evidence, the Court finds that Defendant genuinely believed Plaintiffs had taken his wallet. The Court notes that Defendant did not initially accuse Plaintiffs, but first asked whether the bartender had taken his wallet. Only after the bartender said no did Defendant accuse Plaintiffs and only then because Ms. Bradsher had been the only other person who had been close to him in the bar. Even Ms. Bradsher thought Defendant believed his accusations. “Anyone who genuinely believes that he or she has been the victim of a serious crime has a right, if not an obligation, to report it.” *Qui v. Zhou (In re Zhou)*, 331 B.R. 274, 277 (Bankr. E.D. Mich. 2005) (finding no malice for purposes of § 523(a)(6) when schizophrenic debtor who made false police reports genuinely believed her accusations to be true even though plaintiff suffered damage to his reputation and emotional distress). Therefore, reporting a crime cannot be said to be wrongful, excessive, or without just cause, even if based on a mistaken belief. However, reporting of an alleged crime did not require Defendant to continue claiming that Plaintiffs had stolen his wallet and that they were going to go to jail. After reporting that his wallet was missing and the officers began investigating, Defendant’s civic duty was done and his continued accusations using derogatory and profane language became wrongful and without just cause and excessive. Thus, Plaintiffs have established that their claims of false imprisonment and slander constitute willful and malicious injuries.

With respect to conduct relevant to the battery claim--poking Ms. Ali in the forehead—the Court

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concludes that this injury was malicious but not willful. Ms. Ali testified that Defendant poked her in the forehead as she was standing by the entrance to the bar at the time Ms. Bradsher was responding to Defendant's accusation and the police were trying to get the situation under control. In consideration of all the evidence the Court concludes that Defendant, in accusing Plaintiffs and stating they were going to go to jail, also pointed at Mr. Ali and in so doing poked her in the forehead. The first question is whether Defendant's action was certain or substantially certain to result in a touching of Ms. Ali. The Court concludes that Defendant was not certain or substantially certain to make contact with Ms. Ali given that Defendant was intoxicated and had been seeking to intimidate various individuals since arriving at Tanqueray, but he had been doing so verbally and had not engaged physically with any other persons present at the bar. More likely than not, the poking was the accidental result of Defendant pointing at Ms. Ali. On the other hand, Defendant's action of poking Ms. Ali in the forehead is malicious as it was wrongful, without just cause, and excessive because reporting of a suspected crime does not require pointing at the purported suspect once the police have been involved and begun talking to that individual. As a result, Plaintiffs have not established that the battery claim was a willful and malicious injury.

As previously noted, the damages awarded to Plaintiffs were not allocated by claim. Here, the Court has concluded that all claims except for battery are non-dischargeable. Thus, this Court must seek to determine the amount of damage reasonably attributable to the battery claim. No evidence of damages suffered by Plaintiffs was offered

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in this Court. In the state court, Ms. Ali testified as to problems sleeping, of weight gain, of fear of leaving her home or staying in her home, of a job loss that occurred because she drove Ms. Bradsher and her children back to Virginia because Ms. Bradsher did not receive her driver's license back from Parker, and of feelings of violation because she felt that she and Ms. Bradsher were being targeted by Defendant and the police. Certainly, the alleged battery could have resulted in some portion of her fear of leaving her home or staying in her home. However, the tenor of Ms. Ali's testimony at the state court trial was of intimidation because the police were arresting Ms. Bradsher when she did not take Defendant's wallet and because of the officers' seeming deference to Defendant. That being the case, this Court will allocate \$2,500 of Ms. Ali's \$25,000 compensatory damage award to the battery claim.

For the foregoing reasons, the Court finds that Plaintiffs failed to prove by a preponderance of the evidence that \$2,500 of the debt owed to Ms. Ali on account of the battery claim is nondischargeable. Plaintiffs did prove that the compensatory damages and punitive damages awarded Ms. Bradsher in the amount of \$75,000 and \$5,000 respectively, are non-dischargeable, the compensatory damages of \$22,500 and punitive damages of \$5,000 awarded to Ms. Ali are non-dischargeable, and the attorney fees of \$39,000 and expenses of \$1,500 are nondischargeable. The Court will enter a separate judgment accordingly.

END OF ORDER