NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL

OF THE NINTH CIRCUIT

In re:	BAP No. CC-06-1042-DMcMo
DAYLE MOMI TAMURA,	Bk. No. SA 98-17610-LR
Debtor.	Adv. No. SA 98-01650 JB
DAYLE MOMI TAMURA,	
Appellant,	
v.	**M E M O R A N D U M**[1]
JAMES V. LAGUARDIA,	
Appellee.	

Argued and Submitted on July 26, 2007
at Pasadena, California

Filed - August 8, 2007

Appeal from the United States Bankruptcy Court
for the Central District of California

Honorable James N. Barr, Bankruptcy Judge, Presiding.

Before: DUNN, McMANUS[2] and MONTALI, Bankruptcy Judges.

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[1] This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have, FRAP 32.1, it has no precedential value. See 9th Cir. BAP Rule 8013-1.

[2] Hon. Michael S. McManus, Chief Bankruptcy Judge for the Eastern District of California, sitting by designation.

In this appeal, we are confronted with an unhappy intersection of domestic relations, criminal and bankruptcy law concerning a relationship gone bad. The appellant, chapter 7 debtor Dayle Momi Tamura ("Tamura"), appeals an order granting judgment in an adversary proceeding, after an earlier summary adjudication of issues, in favor of James V. LaGuardia ("LaGuardia"), determining that Tamura's debt to LaGuardia is excepted from discharge in her bankruptcy case under § 523(a)(6).[3] We AFFIRM.

I. FACTUAL BACKGROUND

The parties were in a relationship over a number of years that produced a son, Antonio LaGuardia ("Antonio"), who was born on or about March 23, 1992. The parties never married. However, they co-parented Antonio from his birth until some time in December 1995.

The parties characterize the events of December 1995 very differently. LaGuardia alleges that Tamura told him on or about December 21, 1995 that he could no longer visit Antonio. He further alleges that "[o]n or about December 23, 1995, [Tamura] absconded with Antonio and fled to Australia." First Amended Complaint to Determine Dischargeability of Debt ("Amended

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[3] Unless otherwise indicated, all chapter, section and rule references are to the federal Bankruptcy Code, 11 U.S.C. §§ 101-1330, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9036, as enacted and promulgated prior to the effective date (October 17, 2005) of most of the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. 109-8, April 20, 2005, 119 Stat. 23.

Complaint"), at 2, ¶ 5. Tamura counters that "on December 23 through January 23, 1997 [sic] I vacationed in Australia with our son which [sic] whom I shared custody. This was a vacation that had been planned for months and I returned as scheduled." Defendant Dayle Momi Tamura's Declaration in Opposition to Motion for Summary Judgment, at 2, ¶ 4.

In any event, after Tamura returned with Antonio from Australia in January 1996, the parties became adversaries in a custody lawsuit before the Los Angeles Family Law Court ("Family Law Court").

In July 1996, Tamura took Antonio out of contact with LaGuardia for a period of approximately five months. On or about August 15, 1996, the Family Law Court awarded sole custody of Antonio to LaGuardia. Tamura "was awarded visitation with [Antonio] to be monitored by a peace officer from 10:00 a.m. to 6:00 p.m. each Saturday." On or about December 15, 1996, Antonio was recovered, and Tamura was arrested by the Child Abduction Unit of the San Diego County District Attorneys Office.

On April 8, 1997, Tamura pleaded guilty ("Guilty Plea") in San Diego County Municipal Court in People v. Dayle Tamura, Case No. CDF 125252, to the following charge:

> COUNT 2 - CHILD DETENTION WITH RIGHT TO CUSTODY
> On and between July 20, 1996 and December 04, 1996, DAYLE TAMURA did willfully and unlawfully, while having a right to physical custody and visitation pursuant to an order, judgment and decree of a court which grants another person, guardian and public agency right to physical custody and visitation; and with intent to deprive another of that right to custody, detain, conceal, take and entice away ANTONIO within and without the State of California, in violation of PENAL CODE SECTION 278.5.

Tamura further admitted that "I deprived the father of his right

of custody and visitation in violation of the court order." Request for Judicial Notice, at 6. Tamura was ordered to pay restitution to LaGuardia in the amount of $73,728.83 "for the costs expended by [LaGuardia] in searching for Antonio as a result of the second abduction by [Tamura]." Amended Complaint, at 3, ¶ 7.

Subsequently, the Family Law Court awarded LaGuardia various amounts for support, attorney's fees and sanctions against Tamura.

On or about December 15, 1996, LaGuardia filed a civil lawsuit against Tamura for damages from the alleged abduction of Antonio. Thereafter, Tamura filed a chapter 7 bankruptcy petition.

LaGuardia filed a timely complaint to except Tamura's obligations to him from her discharge in bankruptcy, pursuant to §§ 523(a)(6) and (a)(15) ("Adversary Proceeding"). He moved to file a First Amended Complaint ("Amended Complaint") in the Adversary Proceeding on or about March 10, 1999, which motion was granted on April 28, 1999. On May 27, 1999, Tamura filed an Answer to the Amended Complaint.

On August 2, 2002, LaGuardia filed a motion for summary adjudication of issues ("Motion") on the third cause of action stated in the Amended Complaint pursuant to § 523(a)(6) for willful and malicious injury to LaGuardia by Tamura. Concurrent with filing the Motion, LaGuardia filed his separate Statement of Uncontroverted Facts and Conclusions of Law ("Separate Statement") and a request for judicial notice ("Request for

Judicial Notice") as to the Guilty Plea. On August 12, 2002, LaGuardia filed a Declaration in support of the Motion.

Tamura filed a cross-motion for summary judgment ("Cross Motion") on August 6, 2002. She filed her opposition to the Motion on August 21, 2002, along with a response to the Separate Statement ("Response") and her Declaration. In the Response, Tamura contested virtually all of the "uncontroverted facts" asserted by LaGuardia in the Separate Statement, but she did admit that "[LaGuardia] has a close relationship with his son and this was known by [Tamura]." There is no evidence in the record indicating that Tamura opposed the Request for Judicial Notice.

LaGuardia filed his Reply ("Reply") to Tamura's Declaration on September 16, 2002.

On October 2, 2002, the bankruptcy court announced a tentative ruling, granting the Motion to except Tamura's obligations to LaGuardia from her discharge, pursuant to § 523(a)(6), but holding the issue of damages for trial. Tamura's Cross Motion was denied. On October 22, 2002, the bankruptcy court entered its order granting the Motion, confirming its tentative ruling, and preserving the issue of damages for trial.

On June 12, 2003, after a trial on the issue of damages only, the bankruptcy court entered a judgment in LaGuardia's favor against Tamura, awarding total damages of $147,108, excepted from Tamura's discharge. On January 13, 2006, a final judgment disposing of all remaining claims was entered in the Adversary Proceeding. Tamura filed a timely Notice of Appeal on January 25, 2006.

Tamura filed a chapter 13 bankruptcy case on or about May 2, 2006, which caused us to suspend this appeal until we received clarification that relief from the automatic stay was granted to allow this appeal to go forward. On March 13, 2007, Tamura advised the Panel that relief from the automatic stay had been granted to allow this appeal to proceed. The parties further obtained, by stipulation, an order from the bankruptcy court recognizing that all causes of action stated in the Adversary Proceeding have been dismissed or disposed of by final judgments so that this appeal is ripe for determination.

II. JURISDICTION

The bankruptcy court had jurisdiction with respect to the Adversary Proceeding pursuant to 28 U.S.C. §§ 1334 and 157(b)(2)(I). We have jurisdiction pursuant to 28 U.S.C. § 158.

III. ISSUES

Whether the bankruptcy court appropriately entered a summary adjudication in LaGuardia's favor where Tamura opposed the evidence submitted by LaGuardia in support of the Motion through her Declaration.

Whether the bankruptcy court appropriately applied issue preclusion with respect to the Guilty Plea.

IV. STANDARDS OF REVIEW

We review summary judgments de novo. Paine v. Griffin (In re Paine), 283 B.R. 33, 34 (9th Cir. BAP 2002). We must determine, viewing the evidence in the light most favorable to

the nonmoving party, whether there are any genuine issues of material fact and whether the bankruptcy court correctly applied the relevant substantive law. Graulty v. Brooks (In re Bishop, Baldwin, Rewald, Dillingham & Wong, Inc.), 819 F.2d 214, 215 (9th Cir. 1987). "By its very terms, this standard provides that the mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986) (emphasis in original).

In bankruptcy, summary judgments are governed by Fed. R. Bankr. P. 7056. Rule 7056, incorporating Fed. R. Civ. P. 56(c), states that summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." The moving party bears the burden of establishing that there is no genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986). Once that burden has been met, the opposing party "must affirmatively show that a material issue of fact remains in dispute." Frederick S. Wyle P.C. v. Texaco, Inc., 764 F.2d 604, 608 (9th Cir. 1985). "When the nonmoving party relies only on its own affidavits to oppose summary judgment, it cannot rely on conclusory allegations unsupported by factual data to create an issue of material fact." Wepsic v. Josephson (In re Wepsic), 231 B.R. 768, 770 (S.D. Cal. 1998).

On appeal, we may affirm a summary adjudication on any

ground supported by the record. Newton v. Diamond, 388 F.3d 1189, 1192 (9th Cir. 2004).

We review whether issue preclusion applies de novo, as a mixed question of law and fact in which legal questions predominate. George v. City of Morro Bay (In re George), 318 B.R. 729, 732-33 (9th Cir. BAP 2004), aff'd, 144 Fed. Appx. 636 (9th Cir. 2005), cert. denied, ___ U.S. ___, 126 S. Ct. 1068 (2006).

V. DISCUSSION

A. The "intentional infliction of emotional distress" tort is a red herring.

At the outset, the parties' briefs reflect some confusion as to the cause of action on which the bankruptcy court ruled in granting the Motion and to which this appeal relates. Unfortunately, the bankruptcy court contributed to the confusion with the following language in its tentative and final rulings:

> The injury described in the 3rd claim for relief is a claim for intentional infliction of emotional distress. Under California law, "[t]he elements of the tort of intentional infliction of emotional distress are: (1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendant's outrageous conduct. . . . Conduct to be outrageous must be so extreme as to exceed all bounds of that usually tolerated in a civilized community." Christensen v. The Superior Court of Los Angeles County, 2 Cal. Rptr. 2d 79; 54 Cal. 3d 868, 903; 820 P.2d 181, 202 (Cal. Supreme Court 1991)(internal quotations omitted).
>
> Plaintiff pled guilty to a violation of California Penal Code § 278.5--Child Stealing--for taking, enticing away, keeping, withholding, or concealing a child and maliciously depriving a lawful custodian of a right to custody, or a person of a right to visitation. This is extreme conduct and Plaintiff has shown that

> there is no genuine issue of material fact with regard to defendant's reckless disregard of the probability of causing emotional distress.

In her brief to this Panel, Tamura argues that genuine issues of material fact exist as to the elements of the tort of intentional infliction of emotional distress under California law that were not litigated in her criminal proceeding leading up to the Guilty Plea. In his brief, LaGuardia responds to the arguments raised by Tamura, again focusing on the tort of intentional infliction of emotional distress under California law. Both parties frankly miss the point.

The bankruptcy court ruled on the third cause of action stated in the Amended Complaint for an exception to discharge pursuant to § 523(a)(6), for willful and malicious injury by Tamura to LaGuardia, a federal cause of action peculiar to the Bankruptcy Code.

B. Standards for an exception to discharge under § 523(a)(6).

Section 523(a)(6) provides in relevant part as follows:

> (a) 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.

Accordingly, the elements of a § 523(a)(6) cause of action are (1) willful and (2) malicious (3) injury to the complaining party from the acts of the debtor defendant. The standards for willfulness and maliciousness in deciding § 523(a)(6) cases are distinct.

In its definitive decision in Kawaauhau v. Geiger, 523 U.S. 57 (1997), the Supreme Court determined that nondischargeability

under § 523(a)(6) requires "a deliberate or intentional *injury*, not merely a deliberate or intentional *act* that leads to injury," noting:

> [T]he (a)(6) formulation triggers in the lawyer's mind the category "intentional torts," as distinguished from negligent or reckless torts. Intentional torts generally require that the actor intend "the *consequences* of an act," not simply "the act itself."

Id. at 61-62 (emphasis in original). However, nothing in the Geiger decision suggests that a necessary element in a federal § 523(a)(6) determination is satisfaction of all of the elements of an underlying tort cause of action under state law. The parties' arguments as to whether all of the elements of the California tort of intentional infliction of emotional distress have been met in this case may be of intellectual interest, but they are basically irrelevant to the issues we face in this appeal. What concerns us here is whether the bankruptcy court satisfied summary adjudication standards in concluding that LaGuardia had met his burden of proof with respect to each of the elements of the federal § 523(a)(6) cause of action.[4] Our analysis with respect to each of those elements follows.

C. Willfulness.

In order to find that an injury was "willful," the evidence must establish that the debtor acted with either a subjective

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[4] The burden of proof standard for exception to discharge adversary proceedings under § 523 is preponderance of the evidence. See Grogan v. Garner, 498 U.S. 279, 286-91 (1991); Stanley v. Hoblitzell (In re Hoblitzell), 223 B.R. 211, 215 (Bankr. E.D. CA 1998); and Garcia v. Coombs (In re Coombs), 193 B.R. 557, 560 (Bankr. S.D. CA 1996).

intent to harm or a subjective belief that harm was substantially certain to result from the debtor's conduct. See Carillo v. Su (In re Su), 290 F.3d 1140, 1144-46 (9th Cir. 2002); and Petralia v. Jercich (In re Jercich), 238 F.3d 1202 (9th Cir. 2001).

The bankruptcy court found that there was no genuine issue of material fact regarding Tamura's subjective intent to cause emotional distress, and thus injury, to LaGuardia from the following circumstances established by the evidence in the record:

> Antonio was a minor child born March 23, 1992.
> [Tamura] admitted, "I deprived the father of his right of custody and visitation in violation of the court order."
> The felony [Tamura] pled guilty to was a "malicious deprivation of a lawful custodian's rights".
> [Tamura] absconded with Antonio on two separate occasions. After the first time, a custody proceeding commenced in the Los Angeles Family Law Court.
> [Tamura] fled again for 5 months, keeping Antonio with knowledge of the custody dispute.
> The [Family Law] Court, in the original order granting summary judgment, already found that Tamura "abducted Antonio and disappeared for over five (5) months during which time [LaGuardia] had no communication, visitation or contact with Antonio."
> [LaGuardia] had a close relationship with his son and this was known by [Tamura].
> [Tamura] intended to flee with Antonio and not come back. In her letter to "Greg", [Tamura] stated her intent to permanently immigrate "elsewhere" with Antonio. [Tamura] also stated her belief that the custody case would just "go away".
> [Tamura] knew that [LaGuardia] had private detectives "prowling around" her workplace and that [LaGuardia] had a reward out for the return of Antonio.

The bankruptcy court further found, in light of the foregoing evidence in the record, that Tamura's single statement in her Declaration that, "I did not take our son to intentionally cause [LaGuardia] any harm, I did it only to protect Antonio and myself," did not create a genuine issue of material fact as to

the element of "willfulness" for purposes of § 523(a)(6).

One could quibble with the bankruptcy court's characterization of Tamura's having "absconded" with Antonio on two separate occasions, in light of the parties' conflicting versions of events with respect to Tamura's trip to Australia with Antonio in December 1995 to January 1996. However, the record clearly supports the bankruptcy court's other inferences from circumstantial evidence, supporting the ultimate conclusion that Tamura acted "willfully," with a subjective intent to harm LaGuardia. Tamura's self-serving, conclusory statement in her Declaration that she did not intend to cause LaGuardia any harm is not sufficient to raise a genuine issue of material fact in light of the record in this case.[5]

D. Malice.

A "malicious" injury is "one involving (1) a wrongful act, (2) 'done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse'." Murray v. Bammer (In re Bammer), 131 F.3d 788, 791 (9th Cir. 1997)(citing Impulsora Del Territorio Sur, S.A. v. Cecchini (In re Cecchini), 780 F.2d 1440, 1443 (9th Cir. 1986)). See Su, 790 F.3d at 1146-47.

The bankruptcy court held that Tamura's Guilty Plea was enough in itself to satisfy the "malice" element of § 523(a)(6). Tamura admits that she pleaded guilty to "willfully and unlawfully" taking Antonio away with the intent to deprive

[5] In fact, Tamura admitted that she acted "willfully" in her Response. "Willful conduct, yes. Malicious conduct, definitely not."

another person, LaGuardia, of his custody and visitation rights. She specifically admitted in the plea agreement that she "deprived the father of his right of custody and visitation in violation of the court order."

In effect, the bankruptcy court applied issue preclusion based on the Guilty Plea with respect to the "malice" element. Issue preclusion can apply in exception to discharge cases, but it only "prevents relitigation of all 'issues of fact or law that were actually litigated and necessarily decided' in a prior proceeding." Robi v. Five Platters, Inc., 838 F.2d 318, 322 (9th Cir. 1988) (citation omitted).

Federal courts apply the issue preclusion law of the state in which the subject decision was rendered to determine its preclusive effect. Id. Since the Guilty Plea was entered in California, we look to the elements for application of issue preclusion under California law, namely:

> First, the issue sought to be precluded from relitigation must be identical to that decided in a former proceeding. Second, this issue must have been actually litigated in the former proceeding. Third, it must have been necessarily decided in the former proceeding. Fourth, the decision in the former proceeding must be final and on the merits. Finally, the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding.

Harmon v. Kobrin (In re Harmon), 250 F.3d 1240, 1245 (9th Cir. 2001) (citing Lucido v. Superior Court, 51 Cal.3d 335, 272 Cal. Rptr. 767, 795 P.2d 1223, 1225 (1990)).

Through the Guilty Plea, Tamura admitted to a wrongful act, done intentionally and without just cause or excuse, that necessarily would cause injury to the person wrongfully deprived

of custody and visitation rights. The Guilty Plea encompasses the requirements to establish the "malice" element in a § 523(a)(6) cause of action. The Guilty Plea finally disposed of the criminal case against Tamura personally. All of the elements for application of issue preclusion under California law are satisfied, and the bankruptcy court appropriately cited the Guilty Plea as establishing "malice" for § 523(a)(6) purposes.

Through her Declaration in opposition to the Motion, Tamura attempts to raise an issue of material fact as to whether she acted "without just cause or excuse." In her Declaration, Tamura states that in July 1996,

> I did go to Hawaii[6] partly to get away from plaintiff whom I felt was threatening both me and Antonio. I did, and still believe, that Plaintiff is a dangerous and vindictive man. At the time, I felt that I had to leave and since I had family in Hawaii, that was a reasonable place to go to protect myself and Antonio.

Tamura does not provide any instances of acts by LaGuardia to threaten or physically harm her or Antonio in her Declaration or explain why she might have felt threatened by LaGuardia. She relies purely on conclusory statements, without any evidence to back them up.

The bankruptcy court determined that Tamura was precluded by the Guilty Plea from raising such matters as a "just cause or

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[6] In her deposition, Tamura testified that she went to Mexico in July 1996, rather than to Hawaii. In his Declaration, LaGuardia states that Tamura went to Mexico in July 1996 and from there, to Hawaii in September 1996. We do not consider where Tamura went with Antonio in the summer of 1996 to be relevant to this appeal. In fact, the "he said, she said" credibility issues that appear to obsess the parties are generally not relevant to the issues of concern in this appeal, namely whether Tamura raised any genuine issue of material fact that would require us to reverse the bankruptcy court's summary adjudication decision.

excuse." In reaching this conclusion, the bankruptcy court compared the provisions of Cal. Penal Code § 278.5, to which Tamura pleaded guilty, with those of Cal. Penal Code § 278.7.

Cal. Penal Code § 278.7 provides an exception[7] to criminal liability under § 278.5 as follows:

> (a) Section 278.5 does not apply to a person with a right to custody of a child who, with a good faith and reasonable belief that the child, if left with the other person, will suffer immediate bodily injury or

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[7] Cal. Penal Code § 278.7(c) sets out the criteria to be met to obtain the benefit of the exception:

> The person who takes, entices away, keeps, withholds, or conceals a child shall do all of the following:
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> (1) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, make a report to the office of the district attorney of the county where the child resided before the action. The report shall include the name of the person, the current address and telephone number of the child and the person, and the reasons the child was taken, enticed away, kept, withheld, or concealed.
>
> (2) Within a reasonable time from the taking, enticing away, keeping, withholding, or concealing, commence a custody proceeding in a court of competent jurisdiction consistent with the federal Parental Kidnapping Prevention Act (Section 1738A, Title 28, United States Code) or the Uniform Child Custody Jurisdiction Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code).
>
> (3) Inform the district attorney's office of any change of address or telephone number of the person and the child.

Cal. Penal Code § 278.7(d) states: "For purposes of this article, a reasonable time within which to make a report to the district attorney's office is at least 10 days and a reasonable time to commence a custody proceeding is at least 30 day. . . ."

> emotional harm, takes, entices away, keeps, withholds, or conceals that child.

We agree with the bankruptcy court that "[b]ecause [Tamura] pled guilty to [§ 278.5], [Tamura], necessarily can not show a just cause or excuse."

In her brief to this Panel, Tamura admits both the Guilty Plea and her statement admitting her violation of the Family Law Court order granting LaGuardia custody and visitation rights without qualification. Appellant's Opening Brief at 5-6. Nevertheless, Tamura states in her Declaration that at the time she faced criminal charges, she "was under extreme emotional distress caused by the ongoing legal matters and the threats of bodily harm from [LaGuardia]." To the extent Tamura intends this statement as a challenge to the validity of the Guilty Plea, it is made in the wrong forum. Nothing in the record reflects that the Guilty Plea has been challenged before or set aside by a California court.

In these circumstances, we find no error in the bankruptcy court's determination that the "malice" element was satisfied.

E. Injury to LaGuardia from Tamura's acts.

Here is the area where the bankruptcy court's reference to the California tort of intentional infliction of emotional distress is perhaps most confusing. However, ultimately, the bankruptcy court found that Tamura's Guilty Plea evidenced "extreme conduct" with a "probability of causing emotional distress," and that "there is no genuine issue of material fact regarding the existence of a willful injury--emotional distress."

These conclusions are consistent with the substance of the crime to which Tamura pled guilty and her related admission in the Guilty Plea--willfully and unlawfully taking away a child with intent to deprive another person [LaGuardia] of lawful custody and visitation rights. In his Declaration in support of the Motion, LaGuardia stated that he "suffered severe anxiety, depression and other serious injury as a result" of Tamura's taking Antonio out of all contact with him for five months in 1996. Coupled with Tamura's acceptance of the facts that LaGuardia had a close relationship with his son Antonio, and that Tamura was aware of the closeness of their relationship, as uncontroverted, the record in this case establishes that there is no genuine issue of material fact either as to injury to LaGuardia or as to Tamura's subjective understanding that harm was substantially certain to occur to LaGuardia as a result of her actions.

Subsequent to the bankruptcy court's summary adjudication of the Motion, holding LaGuardia's claims against Tamura as excepted from her discharge, a trial was held to determine the amount of LaGuardia's nondischargeable damages. Following the trial, the bankruptcy court entered a judgment in LaGuardia's favor for damages of $147,108 excepted from Tamura's discharge. Tamura does not challenge the bankruptcy court's calculation of damages in this appeal.

VI. CONCLUSION

The bankruptcy court's summary adjudication that § 523(a)(6) prevented Tamura from discharging her obligations to LaGuardia

was appropriate. All of the elements for a determination that LaGuardia suffered injury from the willful and malicious acts of Tamura were satisfied. Tamura raised no genuine issues of material fact to contradict the bankruptcy court's determination. We AFFIRM.