FILED

AUG 5 2026

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U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re: JOHN W. SCHEUPLEIN, IV, Debtor.	BAP No. CC-25-1259-GCN Bk. No. 1:23-bk-10565-VK
COPY SOLUTIONS INC., Appellant, v. JOHN W. SCHEUPLEIN, IV, Appellee.	Adv. No. 1:23-ap-01042-GM **MEMORANDUM**[*]

Appeal from the United States Bankruptcy Court
for the Central District of California
Geraldine Mund, Bankruptcy Judge, Presiding

Before: GAN, CORBIT, and NIEMANN, Bankruptcy Judges.

INTRODUCTION

Copy Solutions Inc. filed an adversary complaint against its former employee and chapter 7 debtor, John W. Scheuplein, IV ("Debtor") seeking a nondischargeable judgment under § 523(a)(4) and (a)(6).[1] After trial, the bankruptcy court entered judgment in favor of Debtor, and it applied state

[*] This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have, *see* Fed. R. App. P. 32.1, it has no precedential value, *see* 9th Cir. BAP Rule 8024-1.

[1] Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532.

law in awarding him $28,192.50 in attorney's fees based on a contract between the parties.

Copy Solutions does not contest the bankruptcy court's judgment on nondischargeability; it appeals only the award of attorney's fees. It argues the court erred because the adversary proceeding was not an action "on a contract," as required by the attorney's fees statute.

We agree with the bankruptcy court that the contract was central to its decision whether Debtor committed defalcation in a fiduciary capacity and whether he caused a willful and malicious injury. Consequently, the nondischargeability proceeding was an action "on a contract" for purposes of awarding fees under state law. We AFFIRM.

FACTS

A. Prepetition events

Copy Solutions is an authorized sales agent, dealer, and re-seller for Xerox Corporation. According to its president, Roger Zhao, Copy Solutions had an agreement with Xerox under which customers could buy or lease Xerox copy machines through Copy Solutions. At the end of a customer's lease, it could execute a new lease for different equipment or automatically renew the lease on the existing equipment on a month-to-month basis. Under its agreement with Xerox, if Copy Solutions lost a customer, it would have to pay a penalty to Xerox.

Beginning in 2013, Debtor was employed by Copy Solutions. He was assigned to a territory in Los Angeles in which he located customers, sold or leased them Xerox copy machines, and serviced their accounts. Debtor was familiar with the agreement between Copy Solutions and Xerox.

In 2018, Debtor and Copy Solutions executed an agreement titled "Vendor (Contractor) Agreement" (the "2018 Agreement"). The 2018 Agreement changed Debtor's status from employee to independent contractor, and it allowed him to continue to service four specific accounts. The parties agreed that Debtor would not be seeking new customers for Copy Solutions.

The 2018 Agreement prohibited Debtor from using confidential and proprietary information except to the extent necessary to perform services on behalf of Copy Solutions. It included a non-compete provision, and a provision for recovery of attorney's fees to the prevailing party in any action to enforce or interpret the 2018 Agreement.

After executing the 2018 Agreement, Debtor began working for Office One, which was a dealer of Kyocera copy machines, and in November 2020, he left Office One and began working for Image Source, which sold Xerox machines, but focused on areas outside of the Copy Solutions territory.

Copy Solutions alleged that Debtor improperly used his Copy Solutions email account to obtain customer lease information, and he improperly used confidential and proprietary information to convince customers not to renew leases with Copy Solutions and instead to lease new copiers from Office One and Image Source.

In July 2021, Copy Solutions sued Debtor in state court for claims including breach of the 2018 Agreement, breach of fiduciary duty, misappropriation of trade secrets, fraudulent misrepresentations, statutory unfair business practices, and intentional interference with contracts. The parties entered into a settlement which required Debtor to pay Copy Solutions $225,000. After Debtor failed to make the payment, the state court entered judgment in favor of Copy Solutions and against Debtor in the amount of $226,960 with post-judgment interest at 10% per annum.

B. Debtor's chapter 7 and the adversary proceeding

Approximately six months after the state court judgment, Debtor filed a chapter 7 petition. Copy Solutions filed an adversary complaint to hold the debt nondischargeable under § 523(a)(4), (6), and (11).[2]

Copy Solutions alleged that Debtor breached the 2018 Agreement by using confidential and proprietary information, soliciting its customers, using his Copy Solutions email account to misrepresent that he was acting on behalf of Copy Solutions, and violating the non-compete provision. According to Copy Solutions, Debtor was entrusted with highly confidential information and owed fiduciary duties to Copy Solutions by virtue of his position as an exclusive sales representative for Copy Solutions as to the specific accounts reserved under the 2018 Agreement. It

[2] Section 523(a)(11) requires that a federal depository institution, regulatory agency, or insured credit union be a party to the judgment. Because Copy Solutions could not establish its applicability, the bankruptcy court struck the § 523(a)(11) claim and it is not at issue in this appeal.

alleged that Debtor knowingly and intentionally breached his fiduciary duties and acted with oppression, fraud, and malice. Copy Solutions also maintained that Debtor misappropriated trade secrets, which subjected him to exemplary damages under state law, and his wrongful conduct in using proprietary information rendered the debt nondischargeable under § 523(a)(4) and (6).

In its pretrial brief, Copy Solutions argued that Debtor had an agency relationship with Copy Solutions based on the 2018 Agreement, which made him a fiduciary for purposes of § 523(a)(4). Copy Solutions asserted that Debtor knowingly breached the confidentiality provisions of the 2018 Agreement by reaching out to customers using his Copy Solutions email, and by directly competing with Copy Solutions using proprietary information.

The bankruptcy court conducted a trial in April 2025 and directed the parties to present direct testimony by declaration. Copy Solutions submitted a declaration from Zhao and Debtor submitted his declaration. Zhao testified that Debtor was provided with access to confidential information "[p]ursuant to the terms of the [2018 Agreement]," and he violated the 2018 Agreement resulting in no less than $500,000 in damages.

At the conclusion of the trial, the court requested written closing arguments, specifically asking Copy Solutions to address Debtor's alleged fiduciary duty and clarify the damages sought. In its post-trial brief, Copy Solutions argued that Debtor was an independent contractor and thus had an agency relationship under state law, and he owed Copy Solutions fiduciary duties. It claimed that Debtor agreed to an express trust by agreeing to sell exclusively for Copy Solutions and the "language of the [2018 Agreement] creates that express trust. The subject of the trust and the trust res is the revenue generated by the Debtor's sale of equipment though Copy Solutions." Copy Solutions asserted that its damages were fixed by the settlement and state court judgment.

C. The bankruptcy court's ruling

The bankruptcy court entered its memorandum opinion stating that it would enter judgment in favor of Debtor. The court reasoned that Debtor had a fiduciary duty to Copy Solutions because the 2018 Agreement authorized him to continue acting as an agent for Copy Solutions on certain reserved accounts. However, the court held that Copy Solutions failed to prove that Debtor committed fraud or defalcation because it did not show that Debtor tried to convince customers to change copier systems or lease through another company.

The court further held that Copy Solutions failed to prove that Debtor acted willfully and maliciously to injure Copy Solutions. If Debtor convinced customers to reject the existing leases in favor of other options or "undercut" the existing deals, that could constitute an intentional and wrongful act under the 2018 Agreement, but the court found that Copy Solutions failed to establish that Debtor did anything other than present customers with options. Additionally, the court found that Copy Solutions did not provide evidence of damages. The state court judgment did not establish damages for purposes of § 523(a)(4) or (6) because the settlement that resolved the litigation did not contain an admission of liability, and the judgment only determined that Debtor failed to pay the settlement payment.

The bankruptcy court held that under the "liberal construction" required by California law, the adversary proceeding was an action "on a contract," and thus, attorney's fees could be awarded to the prevailing party under California Civil Code ("CCC") § 1717.[3] The court requested additional evidence regarding the amount of attorney's fees and costs, and in December 2025, it issued a memorandum opinion determining attorney's fees. The court awarded Debtor his attorney's fees incurred in the nondischargeability proceeding and rejected his claim for fees incurred in the state court litigation. It entered judgment in favor of Debtor and awarded him $28,192.50 for attorney's fees. Copy Solutions appealed.

JURISDICTION

The bankruptcy court had jurisdiction under 28 U.S.C. §§ 1334 and 157(b)(2)(I). We have jurisdiction under 28 U.S.C. § 158.

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[3] CCC § 1717(a) provides:

> In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the party prevailing on the contract, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to other costs.

ISSUE

Did the bankruptcy court err by awarding attorney's fees under CCC § 1717?

STANDARD OF REVIEW

We review a bankruptcy court's award of attorney's fees for abuse of discretion. *Ocwen Loan Servicing LLC v. Marino (In re Marino)*, 949 F.3d 483, 488 (9th Cir. 2020). A bankruptcy court abuses its discretion if it applies an incorrect legal standard or its factual findings are illogical, implausible, or without support in the record. *TrafficSchool.com, Inc. v. Edriver Inc.*, 653 F.3d 820, 832 (9th Cir. 2011).

DISCUSSION

Copy Solutions contends that the bankruptcy court erred by awarding attorney's fees because the action was not "on a contract." It argues that analysis of the 2018 Agreement was unnecessary to the court's ruling on the § 523(a)(4) claim because there was no express or technical trust, thus the court did not have to interpret the contract to decide if Debtor was a fiduciary. Copy Solutions argues that the 2018 Agreement was unnecessary to its § 523(a)(6) claim because it was undisputed that the confidentiality and trade secret provisions were enforceable. It suggests that because the bankruptcy court found a lack of evidence that Debtor actually used proprietary information, there were no issues regarding enforcement or interpretation of the 2018 Agreement.

A. Law governing attorney's fees in nondischargeability litigation

There is no general right to attorney's fees in bankruptcy proceedings. *See Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 447-48 (2007); *Heritage Ford v. Baroff (In re Baroff)*, 105 F.3d 439, 441 (9th Cir. 1997). But in adversary proceedings, bankruptcy courts may award fees where authorized by state law. *Travelers*, 549 U.S. at 451-52.

The bankruptcy court awarded attorney's fees pursuant to CCC § 1717, which allows the prevailing party to recover attorney's fees incurred in the litigation of a contract claim. *See Bos v. Bd. of Tr.*, 818 F.3d 486, 489 (9th Cir. 2016); *Redwood Theaters, Inc. v. Davison (In re Davison)*, 289 B.R. 716, 722 (9th Cir. BAP 2003).

An award of fees under CCC § 1717 is appropriate if: (1) the action generating the fees is an "action on a contract;" (2) the contract provides that attorney's fees incurred to enforce it shall be awarded either to one of the parties or to the prevailing party; and (3) the party seeking fees prevails in the underlying action. *Bos*, 818 F.3d at 489 (citing *Penrod v. AmeriCredit Fin. Servs., Inc., (In re Penrod)*, 802 F.3d 1084, 1087-88 (9th Cir. 2015)). "The provision is interpreted liberally." *Barrientos v. 1801-1825 Morton LLC*, 583 F.3d 1197, 1216 (9th Cir. 2009) (citing *Lafarge Conseils et Etudes, S.A. v. Kaiser Cement & Gypsum Corp.*, 791 F.2d 1334, 1340 n.16 (9th Cir. 1986)).

A nondischargeability proceeding is an action on a contract under CCC § 1717 if the bankruptcy court must determine the enforceability of the contract to determine dischargeability. *Bos*, 818 F.3d at 489 (citing *In re*

Baroff, 105 F.3d at 442). Similarly, fees may be awarded where "the underlying contract between the parties is not collateral to the proceedings but plays an integral part in defining the rights of the parties." *Barrientos*, 583 F.3d at 1216 (quoting *Lafarge*, 791 F.2d at 1340).

An adversary proceeding is not "on a contract" for purposes of CCC § 1717 "where the action neither litigated the validity of the contract nor required the bankruptcy court to consider 'the state law governing contractual relationships.'" *Bos*, 818 F.3d at 490 (quoting *Johnson v. Righetti (In re Johnson)*, 756 F.2d 738, 740 (9th Cir. 1985)).

B. The bankruptcy court did not abuse its discretion by awarding attorney's fees to Debtor.

Copy Solutions argues that the nondischargeability proceeding was not an action "on a contract" because analysis of the 2018 Agreement was unnecessary to the court's ruling under § 523(a)(4) and (a)(6), and California law protects disclosure of trade secrets regardless of whether there is an agreement.

But throughout the proceeding, Copy Solutions pointed to the 2018 Agreement as the source of Debtor's fiduciary duty and the basis of his defalcation. And Copy Solutions specifically alleged that Debtor wrongfully and maliciously caused injury by violating the terms of the 2018 Agreement. Consequently, the bankruptcy court interpreted the 2018 Agreement to ascertain the scope of Debtor's agency and to determine whether he owed fiduciary duties to Copy Solutions. And it necessarily analyzed the contractual relationship between the parties in deciding whether Debtor's purported breach of contract constituted a willful and malicious injury.

On appeal, Copy Solutions turns the CCC § 1717 analysis on its head. It essentially claims that because the court found no evidence that Debtor actually used confidential and proprietary information to convince customers to leave, analysis of the 2018 Agreement was gratuitous. But the question is not whether, in hindsight, the court could have avoided interpreting the contract. The question is whether the 2018 Agreement played an integral part in defining the rights of the parties.

Copy Solutions could not have prevailed on its claims, as alleged, without reference to the 2018 Agreement. The relationship between the parties—and thus the question of whether Debtor owed fiduciary duties—was defined by the 2018 Agreement. And although state law independently prohibited Debtor from disclosing trade secrets, Copy Solutions relied on Debtor's alleged violation of the 2018 Agreement as the basis for its willful and malicious injury claim.

The 2018 Agreement was not collateral to the issues; it was essential to the claims asserted by Copy Solutions. The bankruptcy court did not abuse its discretion by finding that the adversary proceeding was an action on a contract, or by awarding Debtor's attorney's fees.

CONCLUSION

Based on the foregoing, we AFFIRM the bankruptcy court's judgment awarding attorney's fees to Debtor.