

(ii) Defendant's Motion for Summary Judgment with Combined Response to Plaintiffs' Motion for Summary Judgment ("Defendant's Motion") (Doc. # 10) filed by Defendant/Debtor Joel Patrick Beardman on February 22, 2011. On March 7, 2011, the Plaintiffs filed Plaintiffs' Reply Memorandum in Support of Their Motion for Summary Judgment and Contra Defendant's Motion for Summary Judgment ("Reply") (Doc. # 11). For the reasons set forth herein, the Court will (i) grant the Plaintiffs' Motion; and (ii) deny the Defendant's Motion.

This Court has jurisdiction pursuant to 28 U.S.C. § 1334 and the general order of reference (General Order No. 84) entered in this district pursuant to 28 U.S.C. § 157(a). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1391(b), 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I). The following constitutes the Court's findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 7052.

I. FACTUAL AND PROCEDURAL BACKGROUND

On January 18, 2010, the Defendant filed a voluntary petition pursuant to chapter 7 of the Bankruptcy Code, which was denominated Case No. 10-40149 ("Main Case"). In Schedule D - Creditors Holding Secured Claims, the Defendant scheduled Mr. Lukanec as the holder of a "judgment lien (to be avoided)" in the amount of \$155,550.00 and Ms. Lukanec as the holder of a "judgment lien (to be avoided)" in the amount of \$12,596.79. (Main Case, Doc. # 1, Sch. D at 1-2.) In Schedule F - Creditors Holding Unsecured Nonpriority Claims, the

Defendant scheduled Mr. Lukanec as the holder of a disputed claim in the amount of \$155,550.00 based on a "replevin action." (Main Case, Doc. # 1, Sch. F at 2.) Subject to resolution of this adversary proceeding, the Defendant was granted a discharge on May 18, 2010. (Main Case, Doc. # 26.)

On April 21, 2010, the Plaintiffs filed Complaint to Determine Dischargeability of Debt ("Complaint") (Doc. # 1), which commenced the instant adversary proceeding. The Plaintiffs state that the Mahoning County Court of Common Pleas ("Mahoning Court") entered judgment in favor of the Plaintiffs against the Defendant for willfully violating the Fair Labor Standards Act ("FLSA"), which ruling was memorialized in Judgment Entry filed on April 28, 2009. (Compl. ¶¶ 7-8.) The Plaintiffs further state that, due to the Defendant's willful violation of the FLSA, the Mahoning Court awarded (i) Mr. Lukanec actual damages in the amount of \$77,775.00 and liquidated damages in an equal amount, totaling \$155,550.00; and (ii) Ms. Lukanec actual damages in the amount of \$6,673.16 and liquidated damages in an equal amount, totaling \$13,346.32 (together with the damages awarded Mr. Lukanec, "Mahoning Judgment"). (*Id.*) The Plaintiffs request this Court to find that the Mahoning Judgment is not dischargeable pursuant to 11 U.S.C. § 523(a)(6). (*Id.* at 2-3.)

On May 12, 2010, the Defendant filed Answer of Defendant, Joel Patrick Beardman ("Answer") (Doc. # 5). The Defendant argues, "[T]he issue of whether the actions of the Defendant were willful

or malicious were [sic] not litigated in the [Mahoning Court] and accordingly the [Mahoning Judgment] should not be given preclusive effect herein."¹ (Ans. ¶ 13.)

The parties jointly filed Stipulations of the Parties ("Stipulation") (Doc. # 8) on January 21, 2011. The Court specifically notes the following stipulated facts:

- (1) The Plaintiffs, together with D & J Custom Fab, LLC, filed a complaint against the Defendant, Servi-Temp Heating & Cooling, Inc. ("Servi-Temp") and Joyce A. Beardman (collectively, "Mahoning Defendants") in the Mahoning Court on December 1, 2006 ("Mahoning Complaint"), which cause of action was denominated Case No. 2006 CV 4616 ("Mahoning Litigation").² (Stip. ¶ 6; Mahoning Compl.)
- (2) On February 8, 2007, the Mahoning Defendants filed an answer and counterclaim in the Mahoning Litigation, a true copy of which is attached to the Stipulation as Exhibit B. (Stip. ¶ 7.)
- (3) On March 16, 2009, the Plaintiffs filed a motion for partial summary judgment in the Mahoning Litigation, a true copy of which is attached to the Stipulation as

¹The Defendant also argues that a motion to vacate the Mahoning Judgment was filed on April 27, 2010, and remains pending. (Ans. ¶ 12.) After the Answer was filed, on June 29, 2010, the Mahoning Court overruled the motion to vacate. (Stip. ¶ 19.)

²A true copy of the Mahoning Complaint is attached to the Stipulation as Exhibit A. (Stip. ¶ 6.)

Exhibit D.³ (*Id.* ¶ 9.)

- (4) The Mahoning Court held a bench trial on April 28, 2009 ("Mahoning Trial"), "with notice to all parties of same." (*Id.* ¶¶ 11-12.)
- (5) At the Mahoning Trial, the Mahoning Court took testimony, a transcript of which is attached to the Stipulation as Exhibit E. (*Id.* ¶ 12.)
- (6) The Mahoning Court issued the Judgment Entry on April 28, 2009, a true copy of which is attached to the Stipulation as Exhibit F.⁴ (*Id.* ¶ 13.)
- (7) On April 29, 2009, the Mahoning Court issued a judgment entry granting the March 16, 2009 motion for partial summary judgment, a true copy of which is attached to the Stipulation as Exhibit G.⁵ (*See id.* ¶ 14; *id.*, Ex. G.)
- (8) The Mahoning Judgment is a final, non-appealable judgment and no appeal has been taken therefrom by the Defendant. (*Id.* ¶ 15.)
- (9) On April 27, 2010, the Defendant filed a motion to set aside and/or vacate the Mahoning Judgment, a true copy of

³The Plaintiffs moved for summary judgment against Servi-Temp with respect to Count 4 of the Mahoning Complaint. (*See Stip.*, Ex. D.)

⁴The Judgment Entry was based solely on Count 4 of the Mahoning Complaint as it pertained to the Defendant. Count 4 of the Mahoning Complaint alleged that the Defendant and Servi-Temp willfully violated the FLSA by failing to pay overtime compensation to the Plaintiffs. (*See Mahoning Compl.* at 8-9; *J. Entry.*) This Court will address only those portions of the Mahoning Litigation that relate to Count 4 of the Mahoning Complaint and the Defendant.

⁵Because the April 29, 2009 judgment entry was entered against Servi-Temp, this Court finds that it has no bearing on the instant proceeding.

which is attached to the Stipulation as Exhibit H.

(*Id.* ¶ 17.)

(10) On June 29, 2010, the Mahoning Court issued a judgment entry overruling the April 27, 2010 motion to set aside and/or vacate the Mahoning Judgment, a true copy of which is attached to the Stipulation as Exhibit J. (*Id.* ¶ 19.)

(11) As of the filing of the Stipulation, the Defendant had failed to pay any portion of the Mahoning Judgment.

(*Id.* ¶ 21.)

The Plaintiffs argue that there is no genuine dispute that the Mahoning Judgment is a debt for willful and malicious injury, which is not dischargeable pursuant to § 523(a)(6). (*See* Pls.' Mot.) The Plaintiffs further argue that they are entitled to judgment as a matter of law because the doctrine of collateral estoppel requires this Court to accept the Mahoning Court's findings that (i) the Defendant failed to pay the Plaintiffs overtime compensation in violation of the FLSA; and (ii) the Defendant's violation of the FLSA was committed "in bad faith, willfully, and intentionally." (*Id.* at 8-9.) As a result, the Plaintiffs request this Court to enter summary judgment in their favor and find that the Mahoning Judgment is not dischargeable.

The Defendant contends that summary judgment in favor of the Plaintiffs is improper because the Judgment Entry does "not contain sufficient operative findings to establish that the actions of [the Defendant] caused willful and malicious injury to the Plaintiffs."

(Def.'s Mot. at 1.) In particular, the Defendant alleges that the Mahoning Court never "made a specific finding concerning the state of mind of [the Defendant] especially as it relates to any specific intent to cause harm. Quite simply, counsel for Plaintiff [sic] in the [Mahoning Court] inserted in [the Judgment Entry] language which was not supported by factual findings and conclusions" (*Id.* at 7-8.) The Defendant asserts that summary judgment in his favor is warranted because there is no genuine dispute that the Mahoning Judgment is a dischargeable obligation. (*Id.* at 8.)

In reply, the Plaintiffs state that the Defendant's Motion must be denied because, at best, the Defendant is arguing that the Judgment Entry left the issue of the Defendant's intent unresolved. (Reply at 1-2.) The Plaintiffs claim that, even if this Court were to accept the Defendant's position, a genuine issue of material fact would remain regarding whether the Defendant's conduct was willful and malicious; thus, summary judgment in favor of the Defendant is precluded. (*Id.* at 2.) Finally, the Plaintiffs contend that the Defendant is improperly asking this Court to review the Mahoning Court's findings of fact and conclusions of law, which the Defendant did not appeal. (*Id.* at 4-6.)

II. STANDARD FOR REVIEW

The procedure for granting summary judgment is governed by Federal Rule of Civil Procedure 56(a), made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7056. See FED. R. BANKR. P. 7056 (West 2010). Rule 56(a) states, in

pertinent part, "The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56 (West 2011). Summary judgment is appropriate if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Id.*; *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). A fact is material if it could affect the determination of the underlying action. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). An issue of material fact is genuine if a rational trier of fact could find in favor of either party on the issue. *Id.* at 248-49; *SPC Plastics Corp. v. Griffith (In re Structurlite Plastics Corp.)*, 224 B.R. 27, 30 (B.A.P. 6th Cir. 1998). Thus, summary judgment is inappropriate "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson*, 477 U.S. at 248.

In a motion for summary judgment, the moving party bears the initial burden of establishing the absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323. The burden then shifts to the nonmoving party to demonstrate the existence of a genuine dispute. *Anderson*, 477 U.S. at 248-49. In response to a proper motion for summary judgment, the nonmoving party must present evidence upon which a reasonable trier of fact could rule in its favor. *Id.* at 252. The evidence must be viewed in the light most favorable to the nonmoving party. *Matsushita Elec. Indus. Co. v.*

Zenith Radio Corp., 475 U.S. 574, 587 (1986). Where the parties have filed cross-motions for summary judgment, each motion must be evaluated on its own merits and inferences must be drawn against the party whose motion is being considered. *Markowitz v. Campbell (In re Markowitz)*, 190 F.3d 455, 463 n.6 (6th Cir. 1999) (citations omitted).

III. LEGAL STANDARDS

A. Section 523(a)(6).

Section 523(a), which excepts various categories of debt from discharge, states in subsection (a)(6):

(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[.]

11 U.S.C. § 523 (West 2010). The plaintiff bears the burden of proving by a preponderance of the evidence that a debt is excepted from discharge pursuant to § 523(a). *Meyers v. I.R.S. (In re Meyers)*, 196 F.3d 622, 624 (6th Cir. 1999) (citing *Grogan v. Garner*, 498 U.S. 279, 290-91 (1991)). Section 523(a) codifies the “long-standing bankruptcy policy that any debt which is shown to have arisen from a dishonest or otherwise wrongful act committed by a debtor is not entitled to the benefits of a bankruptcy discharge.” *Hoffman v. Anstead (In re Anstead)*, 436 B.R. 497, 500 (Bankr. N.D. Ohio 2010) (citing *Cohen v. De La Cruz*, 523 U.S. 213 (1998)).

The plain language of § 523(a)(6) requires the plaintiff to establish that the injury is both willful and malicious. *Markowitz*, 190 F.3d at 463. The Supreme Court has held that the inclusion of the term "willful" in § 523(a)(6) requires "deliberate or intentional injury, not merely a deliberate or intentional act that leads to injury." *Kawaauhau v. Geiger*, 523 U.S. 57, 61 (1998) (emphasis in original). The Sixth Circuit Court of Appeals expanded the definition of willfulness to include the debtor's belief that injury is "'substantially certain to result'" from the debtor's actions. *Markowitz*, 190 F.3d at 464 (quoting Restatement (Second) of Torts § 8A, at 15 (1964)). The element of "malicious injury" in § 523(a)(6) requires action "taken in conscious disregard of the debtor's duties or without just cause or excuse." *Superior Metal Prods. v. Martin (In re Martin)*, 321 B.R. 437, 441-42 (Bankr. N.D. Ohio 2004) (citing *Wheeler v. Laudani*, 783 F.2d 610, 615 (6th Cir. 1986)). "Based upon a fair reading of [the definition of malice], it is logical to assume that in great [sic] majority of cases, the same factual events that give rise to a finding of 'willful' conduct, will likewise be indicative as to whether the debtor acted with malice." *Martin*, 321 B.R. at 442.

As a result, to prevail in a § 523(a)(6) action, the plaintiff must establish by a preponderance of the evidence: (i) the debtor caused injury to the plaintiff or the plaintiff's property; (ii) the debtor intended to cause such injury or the debtor's actions were substantially certain to cause such injury; and (iii) the debtor

acted in conscious disregard of the debtor's duties or without just cause or excuse. *Palik v. Sexton (In re Sexton)*, 342 B.R. 522, 530 (Bankr. N.D. Ohio 2006).

B. Collateral Estoppel.

The doctrine of collateral estoppel, or issue preclusion, "precludes relitigation of issues of fact or law actually litigated and decided in a prior action between the same parties and necessary to the judgment, even if decided as part of a different claim or cause of action." *Markowitz*, 190 F.3d at 461 (quoting *Sanders Confectionery Prods., Inc. v. Heller Fin., Inc.*, 973 F.2d 474, 480 (6th Cir. 1992)). Collateral estoppel principles apply in nondischargeability proceedings. *Gonzalez v. Moffitt (In re Moffitt)*, 252 B.R. 916, 920-21 (B.A.P. 6th Cir. 2000) (citing *Grogan v. Garner*, 498 U.S. 279, 285 n.11 (1991)). Pursuant to 28 U.S.C. § 1738, federal courts "must give to a state-court judgment the same preclusive effect as would be given that judgment under the law of the State in which that judgment was rendered." *Migra v. Warren City School Dist. Bd. Of Educ.*, 465 U.S. 75, 81 (1984). "Collateral estoppel will apply where (1) the law of collateral estoppel in the state in which the issue was litigated would preclude relitigation of such issue, and (2) the issue was fully and fairly litigated in state court." *Markowitz*, 190 F.3d at 461 (citing 28 U.S.C.A. § 1738 (West 1994)).

In Ohio, the following four elements must be established to assert collateral estoppel:

"(1) The party against whom estoppel is sought was a party or in privity with a party to the prior action;

(2) There was a final judgment on the merits in the previous case after a full and fair opportunity to litigate the issue;

(3) The issue must have been admitted or actually tried and decided and must be necessary to the final judgment; and

(4) The issue must have been identical to the issue involved in the prior suit."

Cashelmarra Villas Ltd. P'Ship v. DiBenedetto, 623 N.E.2d 213, 215-16 (Ohio Ct. App. 1993) (quoting *Monahan v. Eagle Picher Indus., Inc.*, 486 N.E.2d 1165, 1168 (Ohio Ct. App. 1984)). "The burden of pleading and proving the identity of the issues currently presented and the issues previously decided rests on the party asserting the estoppel." *Am. Fiber Sys., Inc. v. Levin*, 928 N.E.2d 695, 701 (Ohio 2010) (citing *Goodson v. McDonough Power Equip., Inc.*, 443 N.E.2d 978, 983 (Ohio 1983)).

IV. ANALYSIS

A. Collateral Estoppel and § 523(a)(6).

As the party asserting the doctrine of collateral estoppel, the Plaintiffs must establish that the four elements of collateral estoppel under Ohio law are present with respect to each material element of this § 523(a)(6) action. *Palik v. Sexton (In re Sexton)*, 342 B.R. 522, 532 (Bankr. N.D. Ohio 2006). As set forth below, this Court finds that the Plaintiffs have satisfied each of the four elements of collateral estoppel and, thus, this Court is required to accept the findings of fact and conclusions of law reached by the

Mahoning Court.

1. Identity of Parties.

Because the Plaintiffs and the Defendant were parties to the Mahoning Litigation, the first element – identity or privity of parties – is satisfied without the need for evidence or argument.

See id.

2. Final Judgment on the Merits After a Full and Fair Opportunity to Litigate the Issue.

The second element requires the Plaintiffs to establish that the Mahoning Judgment is a final judgment on the merits and that the Defendant was provided a full and fair opportunity to litigate the Mahoning Judgment. *DiBenedetto*, 623 N.E.2d at 215-16 (quoting *Monahan*, 486 N.E.2d at 1168). The Plaintiffs state that the second element of the collateral estoppel test is satisfied because the Mahoning Litigation “was called for trial, with the Defendant having the full opportunity to litigate the issue, even though he filed [sic] to appear for trial, resulting on [sic] a final judgment on the merits” (Pls.’ Mot. at 9.) The Defendant does not deny that the Mahoning Judgment is a final judgment on the merits or that he was provided a full and fair opportunity to litigate the Mahoning Judgment. (See Def.’s Mot.)

It is undisputed that the Defendant filed an answer and counterclaim in the Mahoning Litigation and filed a motion to set aside and/or vacate the Mahoning Judgment, which the Mahoning Court overruled. (Stip. ¶¶ 7, 17, 19.) Also, in the Judgment Entry, the

Mahoning Court expressly stated: (i) "From evidence and testimony adduced, the Court finds that all parties had received prior notice of the date and time of [the Mahoning Trial];" and (ii) "Accordingly, this Court has proceeded with [the Mahoning Trial] . . . and, after hearing evidence presented on this date . . . finds that [the Defendant] violated the [FLSA] by failing to pay overtime compensation due [the Plaintiffs], and such failure was done in bad faith, willfully, and intentionally." (J. Entry at 1.)

Because the parties stipulated that the Mahoning Judgment is a "final and non-appealable judgment[] and no appeal has been taken therefrom by Defendant" (Stip. ¶ 15), this Court finds that the Mahoning Judgment is a final judgment. Furthermore, the Defendant had a full and fair opportunity to litigate the Mahoning Judgment, as evidenced by the facts that the Defendant (i) filed an answer and counterclaim in the Mahoning Litigation; (ii) was given notice of the Mahoning Trial; and (iii) filed a motion to set aside and/or vacate the Mahoning Judgment, which the Mahoning Court addressed and overruled. Lastly, the Mahoning Judgment was entered following the presentation of evidence and testimony by Mr. Lukanec⁶ and, thus, was issued on the merits. As a consequence, this Court finds that the Defendant was provided a full and fair opportunity to litigate the Mahoning Judgment and that the Mahoning Judgment is a final judgment on the merits.

⁶The testimony of Mr. Lukanec is contained in the transcript of the Mahoning Trial, which is attached to the Stipulation as Exhibit E. (See Stip. ¶ 12.)

3. The Issue Necessary to the Final Judgment Was Actually Tried and Decided.

Pursuant to the third element of the collateral estoppel test, the Plaintiffs must demonstrate that the issue before this Court was actually tried and decided by the Mahoning Court and was necessary to the Mahoning Judgment. *Cashelmara Villas Ltd. P'Ship v. DiBenedetto*, 623 N.E.2d 213, 215-16 (Ohio Ct. App. 1993) (quoting *Monahan v. Eagle Picher Indus., Inc.*, 486 N.E.2d 1165, 1168 (Ohio Ct. App. 1984)). To prevail in this § 523(a)(6) proceeding, the Plaintiffs are required to establish that (i) the Defendant caused injury to the Plaintiffs; (ii) the Defendant intended to cause such injury or the Defendant's actions were substantially certain to cause such injury – *i.e.*, the injury was willful; and (iii) the Defendant acted in conscious disregard of his duties or without just cause or excuse – *i.e.*, the injury was malicious. *Palik v. Sexton (In re Sexton)*, 342 B.R. 522, 530 (Bankr. N.D. Ohio 2006). Thus, the Plaintiffs must show that the above-referenced three elements were actually tried and decided by the Mahoning Court and that each element was necessary to the Mahoning Judgment.

a. The Issue Was Actually Tried and Decided.

The Defendant does not dispute that the Mahoning Trial was conducted on April 28, 2009, or that the Mahoning Court entered the Judgment Entry following the Mahoning Trial. (See Def.'s Mot.) In addition, the Judgment Entry expressly states that the Mahoning Court "proceeded with the [Mahoning Trial]" and reached its holding

"after hearing evidence presented on this date."⁷ (J. Entry at 1.)
As a result, this Court finds that the Mahoning Judgment was actually tried and decided.

The Defendant does, however, dispute that the issue of whether the Defendant caused willful and malicious injury to the Plaintiffs was actually tried and decided by the Mahoning Court. (Def.'s Mot. at 4-8.) The Defendant argues that this issue "was not litigated, that no factual findings were made addressing such issue." (*Id.* at 8.) The Defendant claims that any findings by the Mahoning Court regarding willfulness and malice were not supported by the evidence before the Mahoning Court, but were, instead, improperly inserted in the Judgment Entry by counsel for the Plaintiffs. (*Id.* at 7-8.) The Plaintiffs respond by stating, "[The Mahoning Court] specifically found the actions of [the Defendant] to have been 'done in bad faith, willfully and intentionally.' Such words are inescapably findings of the state of mind of [the Defendant] in failing to pay earned compensation to the Plaintiffs." (Reply at 2.) The Plaintiffs further state, "Even if [the Judgment Entry] were prepared by Plaintiffs' counsel, the [Mahoning Court] was not bound to accept it as 'whole cloth[.]'" (*Id.* at 4.)

The Defendant cites *Hoffman v. Anstead (In re Anstead)*, 436 B.R. 497 (Bankr. N.D. Ohio 2010), in support of his position that collateral estoppel is not applicable because the Mahoning Court

⁷The Judgment Entry, which was filed on April 28, 2009, references the April 28, 2009 Mahoning Trial. (J. Entry at 1.) However, the Judgment Entry was signed by Judge John M. Durkin on "4/27/09." (*Id.* at 2.) The date accompanying Judge Durkin's signature appears to have been entered in error.

never made any specific findings regarding his state of mind. (Def.'s Mot. at 5-7.) In *Anstead*, the Bankruptcy Court for the Northern District of Ohio held that collateral estoppel did not apply to a § 523(a) dischargeability proceeding because "[n]o specific finding . . . was made by the [state] court concerning the Debtor's subjective intent [and] the state court was not required to make a finding regarding the Debtor's state of mind in order to impose sanctions." *Anstead*, 436 B.R. at 503. The Bankruptcy Court noted that there was nothing inherent in the nature of the state court causes of action to necessitate an implicit finding of willfulness or malice⁸ and concluded that the state court's findings, "while relevant and possibly tending to show that the Debtor acted with an intent to cause harm, could also be indicative of simple forgetfulness or ignorance – clearly nonculpable states of mind . . . [that] are not conclusive as to the specific intent requirement of . . . § 523(a)(6)." *Id.* at 502.

This proceeding is distinguishable from *Anstead* because the Mahoning Court made explicit findings regarding the Defendant's intent and culpability. Specifically, the Mahoning Court held that the Defendant caused injury to the Plaintiffs by withholding overtime compensation owed to the Plaintiffs and that the Defendant did so "in bad faith, willfully, and intentionally." (J. Entry at 1.) This Court concludes that these findings by the Mahoning

⁸In *Anstead*, the plaintiffs brought three claims against the debtor in state court: (i) conversion; (ii) unjust enrichment; and (iii) an action to recover property. *Hoffman v. Anstead (In re Anstead)*, 436 B.R. 497, 502 (Bankr. N.D. Ohio 2010).

Court equate to a finding that the Defendant willfully and maliciously caused injury to the Plaintiffs. Accordingly, the Defendant's argument that no factual findings were made regarding whether the Mahoning Judgment is a debt for willful and malicious injury is without merit.

The Defendant's contention that the Mahoning Court's findings were not supported by the evidence before the Mahoning Court is likewise without merit. If the Defendant believed that the Mahoning Judgment was not supported by the evidence, the proper course of action was to appeal the Mahoning Judgment. Having failed to appeal the Mahoning Judgment, the Defendant is bound by the factual determinations and legal conclusions reached by the Mahoning Court and may not challenge those findings in this Court. See *Migra v. Warren City School Dist. Bd. Of Educ.*, 465 U.S. 75, 81 (1984) ("It is now settled that a federal court must give to a state-court judgment the same preclusive effect as would be given that judgment under the law of the State in which that judgment was rendered."); *Palik v. Sexton (In re Sexton)*, 342 B.R. 522, 534 (Bankr. N.D. Ohio 2006) ("Even if Debtor/Defendant could demonstrate that [the state court judge's] legal conclusions were premised upon a mistake of fact, she cannot challenge his legal conclusions in this Court. Debtor/Defendant had ample opportunity to appeal the [state court judgment] through the state court appellate process. Her decision not to appeal the [state court judgment] was undertaken at her own peril.") Furthermore, the Defendant filed a motion to set aside

and/or vacate the Mahoning Judgment, which the Mahoning Court denied. (Stip. ¶¶ 17, 19.) As a result, this Court finds that the issue of whether the Defendant willfully and maliciously caused injury to the Plaintiffs was actually tried and decided by the Mahoning Court.⁹

b. The Issue Was Necessary to the Final Judgment.

The Court must next determine whether resolution of the elements of this § 523(a)(6) action was necessary for the Mahoning Court to enter the Mahoning Judgment. The Mahoning Court awarded the Plaintiffs actual and liquidated damages based on the Defendant's violation of the FLSA. (J. Entry at 1-2.) In order to award damages in favor of the Plaintiffs, it was necessary for the Mahoning Court to determine that the Defendant caused injury to the Plaintiffs.

The Plaintiffs contend that the Mahoning Court's finding that the conduct of the Defendant was willful and malicious was necessary to prevent the Plaintiffs' FLSA claims from being time-barred by the statute of limitations and to award liquidated damages. (Pls.' Mot. at 9-10.) The Defendant does not dispute either of these contentions. (See Def.'s Mot.)

The statute of limitations for bringing a claim for failure to

⁹In support of his position that the Mahoning Judgment was not supported by the evidence before the Mahoning Court, the Defendant notes that the Judgment Entry was prepared by counsel for the Plaintiffs and implies that this is the reason the Judgment Entry contains improper factual and legal findings. (Def.'s Mot. at 5-8.) However, the Mahoning Court was not required to enter the Judgment Entry, as prepared by the Plaintiffs. Again, if the Defendant believed that the Mahoning Judgment was not supported by the evidence, his proper recourse was to file an appeal in state court.

pay overtime compensation in violation of the FLSA is contained in 29 U.S.C. § 255(a), which states, in pertinent part:

Any action . . . to enforce any cause of action for . . . unpaid overtime compensation . . . under the Fair Labor Standards Act of 1938, as amended . . . -

(a) if the cause of action accrues on or after the date of the enactment of this Act . . . every such action shall be forever barred unless commenced within two years after the cause of action accrued, except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued[.]

29 U.S.C. § 255 (Lexis 2011). Thus, the statute of limitations to bring a claim that asserts willful failure to pay overtime compensation in violation of the FLSA is three years, as opposed to the two-year statute of limitations for a non-willful violation of the FLSA. *See id.*

In the Mahoning Complaint, which was filed on December 1, 2006, the Plaintiffs alleged that (i) Mr. Lukanec began his employment with the Defendant on or about January 2, 2004; (ii) Ms. Lukanec began her employment with the Defendant on or about March 1, 2004; and (iii) the Defendant willfully failed to pay overtime compensation to the Plaintiffs throughout the course of their employment. (Mahoning Compl. at 3-4, 8-9.) Therefore, the Mahoning Complaint contained claims for unpaid overtime compensation that accrued more than two years prior to its filing - *i.e.*, outside the statute of limitations for non-willful violations of the FLSA. Because the Mahoning Court awarded the Plaintiffs the full amount

of damages they requested for unpaid overtime compensation,¹⁰ the Mahoning Court was required to find that the Defendant willfully violated the FLSA. Accordingly, the Mahoning Court's finding that the Defendant willfully violated the FLSA was necessary to the Mahoning Judgment.

The FLSA provides that a plaintiff is generally entitled to liquidated damages in an amount equal to the plaintiff's actual damages.¹¹ *Abdelkhaleq v. Precision Door*, 2010 U.S. Dist. LEXIS 5461, *14 (N.D. Ohio Jan. 25, 2010). "However, liquidated damages are not 'automatic' under the FLSA; rather, a court may determine under appropriate circumstances that an award of liquidated damages is improper." *Id.* at *15. 29 U.S.C. § 260 states, in pertinent part:

In any action . . . to recover . . . unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, if the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that he had reasonable grounds for believing that his act or omission was not a violation of the Fair Labor Standards Act of 1938, as amended, the court may, in its sound discretion, award no liquidated damages

¹⁰The Mahoning Complaint did not specify the time periods during which Mr. Lukanec was not paid overtime compensation. (See Mahoning Compl.) However, the Mahoning Complaint did specify that, prior to December 1, 2004 – *i.e.*, more than two years prior to the filing of the Mahoning Complaint – Ms. Lukanec was owed overtime compensation for 218 hours and that the amount of overtime compensation owed to Ms. Lukanec for this time period was \$1,715.66. (*Id.* at 8-9.) The Judgment Entry awarded Ms. Lukanec the full amount of damages she requested for unpaid overtime compensation and, thus, awarded Ms. Lukanec damages for unpaid overtime compensation that accrued prior to December 1, 2004.

¹¹29 U.S.C. § 216(b) states, in pertinent part, "Any employer who violates the provisions of section 6 or section 7 of this Act shall be liable to the employee or employees affected in the amount of their . . . unpaid overtime compensation . . . and in an additional equal amount as liquidated damages." 29 U.S.C. § 216 (Lexis 2011).

29 U.S.C. § 260 (Lexis 2011). Accordingly, when an employer fails to pay overtime compensation in violation of the FLSA, liquidated damages are mandated unless the employer can “‘demonstrate that its conduct was both in good faith and reasonable.’” *Precision Door*, 2010 U.S. Dist. LEXIS 5461 at *15 (quoting *Viciedo v. New Horizons Computer Learning Ctr. of Columbus, Ltd.*, 246 F. Supp. 2d 886, 906 (S.D. Ohio 2003)).

In the Mahoning Litigation, the Defendant asserted, as an affirmative defense, that he “proceeded in good faith in all of [his] actions with respect to Plaintiffs.” (Stip., Ex. B, ¶ 49.) Despite this assertion, the Mahoning Court awarded the Plaintiffs liquidated damages in an amount equal to the actual damages awarded. (J. Entry at 1-2.) Furthermore, the Mahoning Court supported its award of liquidated damages by expressly stating that the Defendant’s failure to pay overtime compensation to the Plaintiffs “was done in bad faith, willfully, and intentionally.” (*Id.* at 1.) Because the Mahoning Court awarded liquidated damages to the Plaintiffs despite the Defendant having raised good faith as an affirmative defense, this Court finds that the Mahoning Court’s conclusion that the Defendant acted in bad faith was necessary to the Mahoning Judgment.

As stated by the Supreme Court of Ohio, “[B]ad faith, although not susceptible of concrete definition, embraces more than bad judgment or negligence. It imports a dishonest purpose, moral obliquity, *conscious wrongdoing, breach of a known duty through some*

ulterior motive or ill will" *Hoskins v. Aetna Life Ins. Co.*, 452 N.E.2d 1315, 1320 (Ohio 1983) (emphasis added). "Malicious injury," as that term is used in § 523(a)(6), requires action "taken in conscious disregard of the debtor's duties or without just cause or excuse." *Superior Metal Prods. v. Martin (In re Martin)*, 321 B.R. 437, 441-42 (Bankr. N.D. Ohio 2004) (citing *Wheeler v. Laudani*, 783 F.2d 610, 615 (6th Cir. 1986)). Accordingly, the Mahoning Court's holding that the Defendant acted in bad faith when he violated the FLSA is equivalent to a finding that the Defendant maliciously violated the FLSA.

4. Identical Issue in Both Proceedings.

The fourth element of collateral estoppel requires the Plaintiffs to prove that the issue before this Court is identical to the issue before the Mahoning Court. *Cashelmara Villas Ltd. P'Ship v. DiBenedetto*, 623 N.E.2d 213, 215-16 (Ohio Ct. App. 1993) (quoting *Monahan v. Eagle Picher Indus., Inc.*, 486 N.E.2d 1165, 1168 (Ohio Ct. App. 1984)). In the Mahoning Litigation, the Plaintiffs alleged that the Defendant failed to pay them overtime compensation in violation of the FLSA. (See Mahoning Compl. at 8-9.) As stated above, the Mahoning Court awarded the Plaintiffs actual damages for overtime compensation that accrued more than two years prior to the filing of the Mahoning Complaint and also awarded the Plaintiffs liquidated damages. Thus, the issue decided in the Mahoning Litigation was whether the Defendant caused injury to the Plaintiffs due to his failure to pay overtime compensation and whether the

Defendant did so willfully and in bad faith - *i.e.*, maliciously. The issue before this Court is whether, pursuant to § 523(a)(6), the Mahoning Judgment is a debt for willful and malicious injury caused by the Defendant - precisely the issue addressed in the Mahoning Litigation. Accordingly, this Court finds that the Plaintiffs have satisfied the fourth and final element of the collateral estoppel doctrine.

B. Summary Judgment.

This Court must also determine if summary judgment in favor of the Plaintiffs is warranted. The burden is upon the Plaintiffs to establish that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). The Plaintiffs argue that summary judgment is proper because the material facts necessary to resolve this proceeding were decided by the Mahoning Court. This Court agrees.

As stated *supra* at 16-19, the Mahoning Court expressly found that the Defendant willfully and maliciously caused injury to the Plaintiffs. In addition, because the Defendant did not appeal the Mahoning Judgment, the Defendant is foreclosed from arguing that the Mahoning Court's findings were not supported by the evidence. (See *supra* at 18-19.) Having concluded that this Court is bound by the findings of fact and conclusions of law reached by the Mahoning Court (see *supra* at 12-24), this Court finds that there is no genuine dispute that the Mahoning Judgment is a debt for willful and

malicious injury caused by the Defendant and that the Plaintiffs are entitled to judgment as a matter of law. The Mahoning Judgment is not dischargeable pursuant to § 523(a)(6). As a consequence, this Court will grant the Plaintiffs' Motion and deny the Defendant's Motion.

V. CONCLUSION

The Mahoning Court determined all issues of material fact by concluding: (i) the Defendant caused injury to the Plaintiffs by failing to pay overtime compensation in violation of the FLSA; (ii) the Defendant intended to cause such injury; and (iii) the Defendant's actions were malicious. Pursuant to Ohio law, collateral estoppel precludes this Court from determining issues of fact and conclusions of law reached by the Mahoning Court in the Mahoning Litigation because: (i) the Plaintiffs and the Defendant were parties to the Mahoning Litigation, which resulted in a final judgment on the merits; (ii) the Defendant was provided a full and fair opportunity to litigate the Mahoning Judgment; (iii) the issue of whether the Defendant willfully and maliciously caused injury to the Plaintiffs was actually tried and decided by the Mahoning Court and was necessary to the Mahoning Judgment; and (iv) the issue in (iii), above, is identical to the issue presently before this Court.

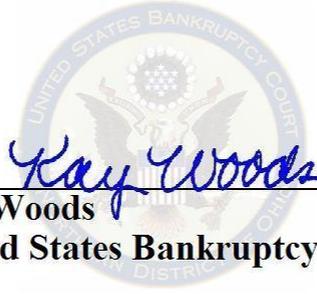
Based on the findings by the Mahoning Court, the Plaintiffs are entitled to judgment as a matter of law. As a consequence, the Mahoning Judgment is not dischargeable pursuant to 11 U.S.C. § 523(a)(6). This Court will grant the Plaintiffs' Motion and deny

the Defendant's Motion.

An appropriate order will follow.

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IT IS SO ORDERED.



Dated: July 27, 2011
05:21:39 PM

Kay Woods
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:

JOEL PATRICK BEARDMAN,

Debtor.

* * * * *

DANIEL LUKANEC and
JOY LUKANEC,

Plaintiffs,

v.

JOEL PATRICK BEARDMAN,

Defendant.

CASE NUMBER 10-40149

ADVERSARY NUMBER 10-04084

HONORABLE KAY WOODS

ORDER (i) GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT; AND
(ii) DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

This cause is before the Court on (i) Plaintiffs' Motion for
Summary Judgment ("Plaintiffs' Motion") (Doc. # 9) filed by

Plaintiffs Daniel Lukanec and Joy Lukanec on February 18, 2011; and (ii) Defendant's Motion for Summary Judgment with Combined Response to Plaintiffs' Motion for Summary Judgment ("Defendant's Motion") (Doc. # 10) filed by Defendant/Debtor Joel Patrick Beardman on February 22, 2011. On March 7, 2011, the Plaintiffs filed Plaintiffs' Reply Memorandum in Support of Their Motion for Summary Judgment and Contra Defendant's Motion for Summary Judgment (Doc. # 11).

For the reasons set forth in this Court's Memorandum Opinion Regarding Cross-Motions for Summary Judgment entered on this date, this Court hereby:

- (1) Finds that, pursuant to the doctrine of collateral estoppel, this Court must accept the findings of fact and conclusions of law reached by the Mahoning Court in the Judgment Entry;
- (2) Finds that there is no genuine issue of material fact in the instant proceeding;
- (3) Finds that the Plaintiffs are entitled to judgment as a matter of law;
- (4) Finds that the Mahoning Judgment is not dischargeable pursuant to 11 U.S.C. § 523(a)(6);
- (5) Grants the Plaintiffs' Motion; and
- (6) Denies the Defendant's Motion.

IT IS SO ORDERED.

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