UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:	Court File No. 16-43707 (WJF)
Barbara Wigley,	
Debtor.	Chapter 11

ORDER OVERRULING THE DEBTOR'S OBJECTION TO CLAIM NO. 4 IN PART AND ALLOWING THE CLAIM IN PART

At Saint Paul, Minnesota
February 9, 2018.

This order resolves Barbara Wigley's ("the Debtor") objection to the claim of Lariat Companies, Inc. ("Lariat"). The Court heard this matter on October 2, 2017, and it was taken under advisement after final submissions on November 14, 2017. George E. Warner Jr. appeared for Lariat. John D. Lamey III, Elaine D. Wise, and Mychal A. Bruggeman appeared for the Debtor.

SUMMARY

This claim objection involves a nine year history between Michael Wigley ("Mr. Wigley"), the Debtor and Lariat relating to four bankruptcy cases, at least three state court proceedings, and at least four appeals.

Over nine years ago, the Debtor's husband, Mr. Wigley, opened a fast food restaurant and leased property from Lariat. Less than two years later, the company failed. On July 18, 2011, the Hennepin County District Court ("State Court") entered judgment against Mr. Wigley's fast food venture, Baja Sol Cantina ("BSC"), and Mr. Wigley personally, as guarantor of the lease, in the amount of $2,224,237.00 ("Guaranty Judgment"). The Minnesota Court of Appeals affirmed the Guaranty Judgment. In 2011, Lariat brought a fraudulent transfer action against the Debtor in

State Court. In 2012, judgment was entered for nearly $800,000.00 against the Debtor and Mr. Wigley, jointly and severally ("Fraudulent Transfer Judgment").

Litigation in bankruptcy court began in 2011 when creditors filed an involuntary bankruptcy petition against Mr. Wigley which was later dismissed. BSC filed for bankruptcy in 2014 and later that same year Mr. Wigley filed for voluntary bankruptcy relief. Lariat filed a claim in Mr. Wigley's case which was not finally resolved until 2016. Lariat's claim against Mr. Wigley was ultimately reduced to $553,271.00 under 11 U.S.C. § 502(b)(6), which limits a claim of a landlord to one year of future damages, among other things. Mr. Wigley's plan of reorganization was confirmed; but, the confirmation remains on appeal by Mr. Wigley. Mr. Wigley paid Lariat's reduced claim in full.

Mr. Wigley and the Debtor also moved to vacate the Fraudulent Transfer Judgment in the State Court. The State Court refused to do so and that order is also on appeal at this time.

The Debtor filed for bankruptcy in 2016 and sought to completely disallow Lariat's claim, arguing, among other reasons, the claim was fully paid in Mr. Wigley's case. Lariat argues that the full amount of the Fraudulent Transfer Judgment, now $1,030,916.74 (including interest), must be allowed. The question before the Court is the amount of Lariat's claim in the Debtor's case. Because Mr. Wigley's § 502(b)(6) reduction does not apply to the Debtor, the claim is not eliminated. But, § 502(b)(6) applies to the claim of a lessor arising from the termination of a lease – exactly the situation in this case. As a result, the claim of Lariat is reduced to $308,805.00, the stipulated amount under the cap of § 502(b)(6).

PROCEDURAL BACKGROUND

The Debtor commenced this voluntary Chapter 11 proceeding on December 19, 2016. [Dkt. No. 1.] On February 20, 2017, Lariat filed a proof of claim in the amount of $1,030,916.74

comprising of: (1) the $788,487.78 amended Fraudulent Transfer Judgment; and (2) $242,428.96 in interest from the date of the Judgment to the petition date. [Dkt. No. 86 Ex. A at 5.] The Debtor objected to the claim. The objection stated Mr. Wigley satisfied the Debtor's obligations to Lariat in his bankruptcy, leaving nothing for Lariat to collect against the Debtor. Id. at 19.

The claim objection prompted cross-summary judgment motions. Lariat moved for summary judgment on May 17, 2017 asserting: (1) collateral estoppel and res judicata prohibited the Debtor from contesting Lariat's claim; (2) § 502(b)(6) does not apply to the Debtor; and (3) Lariat's claim is not duplicative and no part of the claim has been paid. [Dkt. No. 99 at 7-11.] The Debtor responded that collateral estoppel did not apply, reiterated her objection to Lariat's claim, and argued Mr. Wigley's payment satisfied the Debtor's obligation to Lariat. [Dkt. No. 117 at 2-4.] The Debtor also argued that Lariat's claim was unenforceable as a matter of law – thus, prohibited by 11 U.S.C. § 502(b)(1). Id. The Debtor then brought her own summary judgment motion asserting Lariat's claim had already been paid in Mr. Wigley's bankruptcy case and that principles of Rooker-Feldman and collateral estoppel do not prevent this Court from considering Lariat's efforts to mitigate damages under the commercial lease. [Dkt. No. 112 at 6, 13.] In reply, Lariat again argued § 502(b)(6) did not apply and maintained the Debtor received no benefit from Mr. Wigley's bankruptcy or payment. [Dkt. No. 118 at 2-6.]

The Court held a hearing on July 18, 2017 and took the cross-motions for summary judgment under advisement. The Court rendered an oral decision on September 12, 2017 when it denied the Debtor's motion in full. The Court also granted partial summary judgment in favor of Lariat holding that Mr. Wigley's use of § 502(b)(6) in his case did not eliminate Lariat's claim in this bankruptcy case. The Court denied the remainder of Lariat's summary judgment motion. [Dkt. No. 149.] During the hearing, the Court asked the parties to address the following

issues: (1) whether the Debtor could limit Lariat's claim under § 502(b)(6) in her own bankruptcy case; (2) what effect, if any, Mr. Wigley's payment in his bankruptcy case had on the joint and several Fraudulent Transfer Judgment with the Debtor; and (3) the amount of Lariat's full claim. The parties submitted additional briefing on these issues on September 27, 2017. [Dkt. Nos. 156, 157.] Both parties replied to the opposing party's briefing on September 29, 2017. [Dkt. Nos. 158, 159.] The final hearing on this matter was held on October 2, 2017.

At the final hearing, the Court requested specific dollar amounts on the above issues. Initially, the parties disagreed on the proper amounts if 11 U.S.C. § 502(b)(6) applied or if Mr. Wigley's payment reduced the Debtor's liability to Lariat. [Dkt. Nos. 168, 169.] As to the former, Lariat sought $481.048.11, encompassing: (1) a base amount of $308,805.00 in future rent; and (2) an additional $172.243.11 representing unpaid rent, common area maintenance, and late fees. [Dkt. No. 168 at 2.] The Debtor asserted § 502(b)(6) permitted only future rent. [Dkt. No. 169.] As to the application of Mr. Wigley's payment, Lariat calculated an allowed amount of $379,990.71 based on an initial balance of $368,294.03(after accounting for Mr. Wigley's payment) accruing 10% interest over 116 days prior to the Debtor filing bankruptcy. [Dkt. No. 168.] By contrast, the Debtor proposed an amount of $258,607.31, asserting that during Mr. Wigley's bankruptcy, interest accrued at a 6% rate. [Dkt. No. 169 at 2-3.]

Ultimately, on November 7, 2017, the parties stipulated to the proper amounts for all three issues. [Dkt. No. 176.] First, Lariat's full claim amount without any reduction is $1,030,916.74. Id. Second, if Mr. Wigley's payment reduced the amount the Debtor owes to Lariat, the claim is $379,990.71. Id. Third, if § 502(b)(6) caps Lariat's claim, the amount is $308,805.00. Id. This left only the legal issues.

The Court took this matter under advisement on November 14, 2017 after an additional brief was filed by the Debtor. [Dkt. No 177.] The parties attended a final mediation on January 9, 2018, which resulted in an impasse.

JURISDICTION

The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157, and it is a core proceeding under 28 U.S.C. § 157(b)(2)(B). This order contains findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 7052. The parties do not dispute this Court's authority to enter a final order in this matter.

FINDINGS OF FACT

The facts of this case are not now in dispute. The Court makes the following findings of fact based on the filings, exhibits, stipulations, and statements of counsel on the record as agreed by the parties. Furthermore, to the extent it provides the necessary background, the Court also incorporates undisputed items from Mr. Wigley's bankruptcy (In re Michael Wigley, No. 14-40541) and BSC's bankruptcy (In re Baja Sol Cantina EP, No. 14-40026). All citations refer to this case's docket unless a separate case name and number precedes the docket citation.

1. The current dispute between the Debtor and Lariat arises from a multi-year debtor-creditor dispute between Lariat and Mr. Wigley. [Dkt. No. 86 at 2.]

2. On September 28, 2008, BSC, a company of which Mr. Wigley was a 90% shareholder, entered into a Franchise Agreement with Baja Sol Restaurant Group (the "Franchisor"), to operate a restaurant. Id.

3. On October 8, 2008, BSC entered into a ten-year lease agreement with Lariat to lease premises located at 8335 Crystal View Road, Eden Prairie, Minnesota 55344. [Dkt. No. 112 Ex. L.]

4. On October 8, 2008, Mr. Wigley executed a personal guaranty with respect to BSC's obligations under the lease. Id. Ex. L at 20-21.

5. In 2010, BSC defaulted on the lease, prompting Lariat to commence a lawsuit against Mr. Wigley and BSC to recover unpaid rent, maintenance fees, and late fees. [Dkt. No. 86 Ex. C. at 13.]

6. On June 20, 2011, the State Court entered the Guaranty Judgment in favor of Lariat in the amount $2,224,237.00 plus pre-judgment and post-judgment interest and attorney's fees. Id. Ex. C at 8.

7. On November 21, 2011, Lariat, in concert with two other creditors, filed an involuntary petition against Mr. Wigley in the bankruptcy court. [Dkt. No. 86 at 8.] With the agreement of the creditors, Mr. Wigley filed a motion to dismiss the involuntary bankruptcy, which United States Bankruptcy Judge Robert J. Kressel granted on March 7, 2012. Id.

8. On November 22, 2011, Lariat commenced the fraudulent transfer action against the Debtor in State Court, alleging that certain transfers of property she received from Mr. Wigley in 2011 (after Lariat's claim on the Guaranty Judgment arose) were fraudulent transfers under what was then known as the Minnesota Uniform Fraudulent Transfer Act (Minn. Stat. §§ 513.41 – 513.51 ("MUFTA")). Id. Ex. A at 22-23. On August 8, 2012, the State Court authorized Lariat to add Mr. Wigley as a defendant. Id. Ex. A at 23. Hennepin County District Court Judge Marilyn Rosenbaum found for Lariat. Id. Ex. A at 28. On October 23, 2013, the State Court ordered judgment against Mr. Wigley and the Debtor, jointly and severally, in the amount of $795,098.00 plus interest, costs, and disbursements. Id.

9. Mr. Wigley moved to vacate the Guaranty Judgment in 2012, arguing, in part, that Lariat met with prospective tenants and failed to properly mitigate its damages following the

termination of the lease. Hennepin County District Court Judge Denise Reilly denied the motion on July 17, 2012. [Dkt. No. 86 Ex. C at 24-25.]

10. On March 7, 2013, Mr. Wigley filed Michael Wigley v. Lariat Companies, No. 27-CV-13-4088 in State Court. Id. Ex. C at 24. Hennepin County District Court Judge Ann Alton entered judgment in favor of Lariat after determining the action mirrored Mr. Wigley's motion to vacate the Guaranty Judgment and all four elements of collateral estoppel were present. Id. Ex. C. at 26-27.

11. On August 19, 2013, the Minnesota Court of Appeals affirmed the State Court's entry of summary judgment on the Guaranty Judgment. [Dkt. No. 86 at 7.]

12. On January 3, 2014, BSC filed for bankruptcy relief. [In re Baja Sol Cantina EP, No. 14-40026, Dkt. No. 1.] United States Bankruptcy Judge Kathleen H. Sanberg granted the United States Trustee's motion to dismiss on June 11, 2014 and the case was closed on July 2, 2014. [In re Baja Sol Cantina EP, No. 14-40026, Dkt. No. 24.]

13. Mr. Wigley filed for voluntary Chapter 11 bankruptcy relief on February 10, 2014. [In re Michael Wigley, No. 14-40541, Dkt. No. 1.]

14. On June 3, 2014, Lariat filed a proof of claim in Mr. Wigley's case in the amount of $1,734,539.00. [Dkt. No. 86 Ex. C at 7.] Lariat's claim included (1) unpaid rent, common area maintenance, and late fees from the lease termination ($227,087.00); (2) future rents ($379,111.00); (3) attorney's fees ($185,829.00); (4) unrecovered amortized obligations ($123,750.00); and (5) the Fraudulent Transfer Judgment amount ($816.761.00). Id.

15. On July 3, 2014, Mr. Wigley objected to Lariat's claim on the grounds it exceeded the "landlord cap" under 11 U.S.C. § 502(b)(6). [Dkt. No. 86 at 10.]

16. United States Bankruptcy Judge Katherine A. Constantine limited Lariat's claim pursuant to § 502(b)(6). Id. On Lariat's appeal, the Bankruptcy Appellate Panel ("BAP") for the Eighth Circuit affirmed in part, reversed in part, and remanded for further proceedings. In re Michael Wigley, 533 B.R. 267 (B.A.P. 8th Cir. 2015).

17. On February 18, 2016, the Bankruptcy Court confirmed Mr. Wigley's fourth modified plan of reorganization over the Debtor's objections. [Dkt. No. 86 at 11.] The Bankruptcy Court contemporaneously granted Lariat relief from the automatic stay to continue pursuing the fraudulent transfer action. Id.

18. On August 1, 2016, the Bankruptcy Court entered its amended order on the claim objection, resolving the issues on remand and allowing Lariat's claim in the amount of $553,271.00 (capped under § 502(b)(6)). Id. at 10.

19. The Debtor appealed the Bankruptcy Court's order confirming Mr. Wigley's fourth modified plan of reorganization and allowing Lariat to continue the fraudulent transfer action. [Dkt. No. 86 at 12.]. On September 21, 2016, the Eighth Circuit BAP affirmed the Bankruptcy Court's decisions. In re Michael Wigley, 557 B.R. 678 (B.A.P. 8th Cir. 2016). The Debtor appealed the Eight Circuit BAP's decision to the Eighth Circuit Court of Appeals. [Dkt. No. 86 at 12.] That appeal is pending.

20. On August 25, 2016, in his bankruptcy case, Mr. Wigley paid Lariat $637,581.07 (the $553,271.00 claim amount plus interest), satisfying Lariat's claim as limited by operation of § 502(b)(6). [Dkt. No. 155 Ex. A.]

21. On September 22, 2016, Mr. Wigley was granted a discharge. [In re Michael Wigley, No. 14-40541, Dkt. No. 330.]

22. Concurrently, the Debtor and Mr. Wigley moved to vacate the State Court Fraudulent Transfer Judgment. [Dkt. No. 86 Ex. G.] In support for the motion, the Debtor alleged, among other things, Lariat re-let the premises prior to the entry of the Guaranty Judgment, thus mitigating its damages under the BSC lease. Id. Ex. G at 3, 10, 23.

23. Hennepin County District Court Judge Francis Magill denied the Debtor's motion to vacate the Fraudulent Transfer Judgment but granted the motion to amend the October 23, 2013 Findings of Fact, Conclusions of Law, and Order related to the Fraudulent Transfer Judgment. Id. Ex. A at 7-8, 28. The Amended Findings of Fact determined that the 2013 order over-valued a checking account, causing a reduction in the Fraudulent Transfer Judgment of $13,814.94. Id. Ex. A at 8, 10.

24. On December 19, 2016, at 3:50 PM CST, the State Court entered the amended Fraudulent Transfer Judgment reducing the amount of the Judgment to $788,487.78. Id. Ex. A at 8.

25. The Debtor filed the petition commencing this chapter 11 case on December 19, 2016 at 7:18 PM CST. [Dkt. No. 1.]

26. On January 31, 2017, this Court granted the Debtor relief from the automatic stay to file and serve a notice of appeal of the State Court action. [Dkt. No. 34.]

27. On February 8, 2017, the Debtor appealed the State Court's order refusing to vacate the Fraudulent Transfer Judgment to the Minnesota Court of Appeals. [Dkt. No. 86 Ex. J.]

28. The appeal asserts, among other issues, the State Court erred in allowing Lariat to continue proceeding against the Debtor because Lariat mitigated its damages under the lease. Id. Ex. J at 6.

29. The Debtor provided this Court with a summary of all the Debtor's pending litigation. [Dkt. No. 86 Ex. K.] The summary states that in her motion to amend findings and vacate the Fraudulent Transfer Judgment, the Debtor argued Lariat suffered no damages from the lease termination because Lariat mitigated its damages. The State Court denied this claim. Id. Ex. K.

30. The Debtor and Lariat agree that the full amount of Lariat's claim, absent any reduction due to Mr. Wigley's payment or 11 U.S.C. § 502(b)(6), is $1,030,916.74. [Dkt. No 176.]

31. The Debtor and Lariat agree if Mr. Wigley's payment to Lariat reduced the amount the Debtor owes to Lariat, the amount of that claim is $379,990.71. Id. at 2.

32. The Debtor and Lariat agree that if 11 U.S.C. § 502(b)(6) caps Lariat's claim, the amount of Lariat's claim is $308,805.00. Id.

CONCLUSIONS OF LAW

1. Mr. Wigley's use of 11 U.S.C. § 502(b)(6) in his bankruptcy does not benefit the Debtor so as to preclude any claim by Lariat. Lariat's claim has not been satisfied.

2. Lariat is not entitled to the full amount of its claim. Section 502(b)(6) of the Bankruptcy Code caps the allowed amount of Lariat's claim.

3. Res judicata and collateral estoppel do not prevent this Court from considering whether § 502(b)(6) applies to Lariat's claim.

4. Collateral estoppel and the Rooker-Feldman doctrine prohibit this Court from considering whether Lariat mitigated its damages following the lease termination.

ANALYSIS

I. Proofs Of Claim - Generally

This matter involves determining the correct amount of an allowed claim under the Bankruptcy Code. The Bankruptcy Code defines a claim as:

> (A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or
>
> (B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

11 U.S.C. § 101(5).

Section 502 of the Bankruptcy Code governs creditor claims against the estate. Generally, a creditor's claim is allowed in the amount established by the creditor on the proof of claim:

> A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest, including a creditor of a general partner in a partnership that is a debtor in a case under chapter 7 of this title, objects.

11 U.S.C. § 502(a). The presumption is that a properly filed claim is deemed allowed against the debtor unless an interested party files an objection and the objection pertains to an exception listed in 11 U.S.C. § 502(b). In re Sears, 863 F. 3d 973, 977 (8th Cir. 2017). Sections 502(b)(1)-(9) contain the enumerated exceptions to the general rule that a claim is deemed allowed in the amount provided.

If a party objects to the claim, the court "shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount." 11 U.S.C. §502(b). The objecting party must produce evidence "'equivalent in probative value to that of the creditor to rebut the prima facie effect of the proof

of claim. However, the burden of ultimate persuasion rests with the claimant.'" In re Clements, 185 B.R. 895, 898–99 (Bankr. M.D. Fla. 1995) (citations omitted). Even when an interested party objects to an allowed claim, the statutory structure of § 502(b) favors allowing the claim unless it falls within one of the enumerated exceptions in §§ 502(b)(1)-(9). See, e.g., Travelers Cas. & Sur. Co. v. Pacific Gas & Elec. Co., 549 U.S. 443, 449 (2007).

At issue in this case is the exception under 11 U.S.C. § 502(b)(6) – known as the landlord cap – to the Debtor's bankruptcy. As discussed below, the Debtor's objection to Lariat's claim in its entirety seeks a result the Bankruptcy Code does not permit. Therefore, the claim cannot be disallowed in full. However, Lariat's claim is $308,805.00 – the capped amount under § 502(b)(6). Because this capped claim ($308,805.00) is less than the amount of Lariat's claim if Mr. Wigley's payment reduced Lariat's claim ($379,990.71), this Court does not need to determine if Mr. Wigley's payment reduced the claim.

II. Michael Wigley's Payment In His Bankruptcy Did Not Extinguish Lariat's Claim Against The Debtor

The Debtor initially argued that Lariat had no claim because Mr. Wigley's payment in his bankruptcy fully satisfied the Debtor's obligation to Lariat. Lariat countered that the Debtor failed to establish that Lariat's claim is unenforceable. On September 12, 2017, the Court ruled orally on partial summary judgment in favor of Lariat and determined that the amount of Lariat's claim could not be zero for the reasons discussed below.

The Debtor's liability to Lariat stems from MUFTA. § 513.41 et. seq. (MUFTA is now known as the Uniform Voidable Transactions Act). See Minn. Stat. § 513.51. MUFTA permits a creditor to recover the lesser of the value of the asset transferred or the amount necessary to satisfy the creditor's claim. Minn. Stat. §513.48(b)(1); see infra Part III.A. Based on the statutory language of MUFTA, the Debtor argues that Lariat's permissible recovery was "the amount

necessary to satisfy the creditor's claim." The Debtor then argues that Mr. Wigley's payment to Lariat in confirmation of his bankruptcy plan extinguished that claim.

The Debtor emphasizes the following facts in support of this argument. First, the Debtor notes the Bankruptcy Court capped Lariat's claim against Mr. Wigley pursuant to § 502(b)(6). The statute caps the claim of a lessor for damages resulting from the rejection and termination of a lease. See infra Part III. The capped amount was $554,272.69. This amount (plus interest) was paid during the pendency of Mr. Wigley's bankruptcy and satisfied Mr. Wigley's obligation to Lariat. The Debtor argues the application of § 502(b)(6) in Mr. Wigley's bankruptcy simultaneously extinguished her liability to Lariat. Alternatively, she argues Mr. Wigley's payment reduced any liability the Debtor had to Lariat. In essence, the Debtor seeks the benefit of the landlord cap and discharge in Mr. Wigley's case to completely disallow Lariat's claim in her case.

The Bankruptcy Code does not permit this result, explicitly stating that the "discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any entity for, such debt." 11 U.S.C. § 524(e); see also 4-524 Collier on Bankruptcy 524.05 (16th ed. 2017) ("[T]he discharge in no way affects the liability of any other entity, or the property of any other entity, for the discharged debt."). The Eighth Circuit, in In re Modern Textile, 900 F.2d 1184 (8th Cir. 1990), concluded that the bankruptcy trustee's rejection of an unexpired lease did not preclude the lessor from bringing a claim for breach of lease against the non-debtor guarantor. In re Modern Textile, 900 F.2d at 1191. Rather, the Eighth Circuit, citing 11 U.S.C. § 524(e), determined "the liability of a guarantor for a debtor's lease obligations is not altered by the Trustee's rejection of the lease." Id. In other words, a joint and several obligor cannot benefit from the debtor's discharge.

Similarly, other courts have held the provisions of § 502(b)(6) do not apply to guarantors who are not themselves in bankruptcy. See Bel-Ken Assocs. v. Clark, 83 B.R. 357, 358-59 (Bankr. D. Md. 1988) (rejecting guarantor's argument that debtor's use of § 502(b)(6) simultaneously limited the non-debtor guarantor's liability on a rejected lease); Cromwell Field Assocs., LLP v. May Dep't. Stores Co., 5 Fed. App'x 186, 189 (4th Cir. 2001) (affirming guarantor's liability for rent under the lease where debtor capped lessor's claim under § 502(b)(6) and lessor looked to guarantor to satisfy lease obligation) (citing In re Modern Textile 900 F.3d at 1184). Significantly, the Ninth Circuit, noting the expansive language of "any other entity" in § 524(e), applied this statute to fraudulent transferees. Kathy B. Enter., Inc. v. United States, 779 F.2d 1413, 1414-15 (9th Cir. 1986).

The above authority demonstrates the Debtor's contention on this point is incorrect. Mr. Wigley's payment and discharge in his bankruptcy did not extinguish Lariat's claim against her. Therefore, the Debtor does not receive the benefit of Mr. Wigley's use of § 502(b)(6) as she contends.

III. Lariat Is Not Entitled To The Full Claim Because § 502(b)(6) Applies To The Debtor's Bankruptcy And Represents The Amount Necessary To Satisfy Lariat's Claim

As explained above, Mr. Wigley's bankruptcy does not extinguish Lariat's claim against the Debtor. However, a separate question exists as to whether Lariat's claim in the Debtor's case is limited by the landlord cap under § 502(b)(6). Lariat asserts it is entitled to the full amount of its claim and contests the applicability of § 502(b)(6) to the Debtor's bankruptcy. By contrast, the Debtor emphasizes the derivative nature of fraudulent transfer liability and argues Mr. Wigley's payment to Lariat reduced her liability under the Fraudulent Transfer Judgment.

The parties stipulated to the three possible recovery amounts: (1) $1,030.916.74 (Lariat's full claim absent any reductions); (2) $379.990.71 (the Debtor's liability under the Fraudulent Transfer Judgment reduced by Mr. Wigley's payment); or (3) $308,805.00 (the capped amount under § 502(b)(6)). If the landlord cap applies, the reduction by Mr. Wigley is irrelevant since the cap is less than the reduced amount.

A. The Basis For The Debtor's Liability – Minnesota Fraudulent Transfer Law

The Debtor, as transferee, was found liable under provisions of MUFTA. Therefore, the Fraudulent Transfer Judgment entitles Lariat to recover:

> [J]udgment for the value of the asset transferred, as adjusted under paragraph (c), or the amount necessary to satisfy the creditor's claim, *whichever is less*.

Minn. Stat. § 513.48 (b)(1) (emphasis added). The adjustment referred to in the statute states:

> If the judgment under paragraph (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

Minn. Stat. § 513.48(c). The remedies listed above are only available to creditors of the debtor. Bartholomew v. Avalon Capital Group, Inc., 828 F. Supp. 2d 1019, 1025 (D. Minn. 2009) (discussing Minn. Stat. § 513.48). MUFTA defines "creditor" as a "person that has a claim." Minn. Stat. § 513.41(4). The statute defines "claim" as a "right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured." Minn. Stat. § 513.48(3). Thus, the statute presumes a preexisting debtor-creditor relationship. Deford v. Soo Line R.R. Co., 867 F.2d 1080, 1087 (8th Cir. 1989) ("[MUFTA] is not substantive in nature, but instead merely confers an alternate remedy for protecting preexisting creditor rights.").

B. Section 502(b)(6) Applies Because Lariat's Claim For Damages Is One Of A Lessor Arising From The Termination Of A Lease

Section 502(b)(6) states:

> [I]f such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that:
>
> > (6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—
> >
> > > (A) the rent reserved by such lease, without acceleration, for the greater of one year, or 15 percent, not to exceed three years, of the remaining term of such lease, following the earlier of—
> > >
> > > > (i) the date of the filing of the petition; and
> > > >
> > > > (ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property; plus
> > >
> > > (B) any unpaid rent due under such lease, without acceleration, on the earlier of such dates.

11 U.S.C. §502(b)(6). For this section to apply, the claim must be: (i) one of a lessor; and (ii) for damages resulting from the termination of a lease. In re Kmart Corp., 362 B.R. 361, 385 (Bankr. N.D. Ill. 2007) (citing In re Arden, 176 F.3d 1226, 1229 (9th Cir. 1999)). The two requirements are interrelated.

i. Lariat Is A Lessor

As the Supreme Court instructs, the plain language of the statute governs the analysis. See, United States v. Ron Pair Enter., Inc., 489 U.S. 235, 241 (1989) ("[R]esolving the dispute over the meaning of 506(b) begins . . . with the language of the statute itself."). The language of § 502(b)(6) and the limited case law on the issue focus on whether the claim is one of a lessor – suggesting that the status of the debtor is somewhat immaterial. See, e.g., In re Arden, 176 F.3d at 1229; In re Stonebridge Tech., 430 F.3d 260, 270 (5th Cir. 2005) ("Stated simply, the *claim of*

a lessor against the assets of the estate is an essential precondition to applying the damages cap at all.") (emphasis added).

Lariat's claim against the Debtor is a claim of a lessor (just as the claim against Mr. Wigley) – satisfying one essential component of § 502(b)(6). There is no doubt that Lariat's claim against the original lessee arises from a lease. Mr. Wigley guaranteed it. As the Eighth Circuit BAP noted in Mr. Wigley's case, a fraudulent transfer action "'confers an alternate remedy for protecting preexisting creditor rights.'" In re Wigley, 533 B.R. at 273 (quoting Deford v. Soo Line R.R., 867 F.2d 1080, 1087 (8th Cir. 1989)). Lariat's rights as a creditor exist because of its status as a lessor. As discussed below, § 502(b)(6) has been extended beyond the traditional lessor-lessee relationship. Thus, this Court finds that Lariat originally brings this claim as a lessor.

ii. Lariat's Claim Results From The Termination Of A Lease

Lariat objects to the application of § 502(b)(6) because Lariat's claim does not "result[] from the termination of a lease" as the statutory language requires. Lariat emphasizes the Debtor, unlike Mr. Wigley, incurred no liability to Lariat prior to the Fraudulent Transfer Judgment. As such, Lariat argues the Debtor's liability arises from fraudulent transfers and not the termination of the lease. Lariat characterizes the relation between the Guaranty Judgment and the Fraudulent Transfer Judgment as "remote derivation with intermediate causation." [Dkt. No. 156 at 9.] Lariat argues this is not equivalent to the "resulting from" language under § 502(b)(6).

This Court disagrees with Lariat's argument. As a starting point, guarantors consistently receive the benefit of § 502(b)(6) in bankruptcy. See In re Arden, 176 F.3d at 1229; In re Clements, 185 B.R. 895, 901 (Bankr. M.D. Fla. 1995) (holding § 502(b)(6) applies to guarantors on a lease); In re Episode USA Inc., 202 B.R. 691, 695 (Bankr. S.D.N.Y. 1996) (applying §

502(b)(6) cap to a guarantor of a commercial lease); In re Farley, Inc., 146 B.R. 739, 745 (Bankr. N.D. Ill. 1992) ("For purposes of applying § 502(b)(6) . . . it is not legally relevant whether the debtor is defined as a 'tenant' or as 'guarantor' of the lease."); In re Flanigan, 374 B.R. 568, 574 (Bankr. W.D. Pa. 2007) (rejecting distinction between breach of a lease and breach of a guarantee and capping landlord's claim under § 502(b)(6) as applied to a guarantor); In re Ancona, No 14-10532 CGM, 2016 WL 828099 at *5 (Bankr. S.D.N.Y. Mar. 2, 2016) ("[M]ost courts that have considered this issue have held that section 502(b)(6) applies to cap the claims of a lessor against a debtor guarantor of a lease."). Those courts did not characterize the debt as arising from a guaranty; rather, those courts correctly held the debt resulted from the termination of a lease.

Notably, in Mr. Wigley's bankruptcy case, the cap applied to him as a guarantor. In re Wigley, 533 B.R. 267, 271 (B.A.P. 8th Cir. 2015) (affirming the Bankruptcy Court's application of § 502(b)(6) to Mr. Wigley while reversing allowance for interest, late charges, and eviction fees in the amount of the claim). Lariat does not appear to disagree that § 502(b)(6) applies to guarantors of leases in bankruptcy.

A minority of courts have held that guarantors in bankruptcy do not receive the benefit of § 502(b)(6). See In re Danrik, Ltd., 92 B.R. 964, 972 (Bankr. N.D. Ga. 1988) (declining to extend § 502(b)(6) to a guarantor's bankruptcy). However, the Court finds this is contrary to the plain meaning of the statute, contrary to the majority of bankruptcy courts that have applied the landlord cap to guarantors, and contrary to the Eighth Circuit BAP's opinion in In re Wigley, 533 B.R. at 271-72.

Lariat disagrees that § 502(b)(6) can be extended to obligors other than guarantors. However, the Eastern District of Pennsylvania extended the landlord cap to a party whose

judgment and liability to the landlord stemmed from defaults in a garnishment proceeding and not from a guaranty. See In re Blatstein, No. Civ.A 97-3739, 1997 WL 560119 at *16 (E.D. Pa. Aug. 26, 1997) (applying the landlord cap to garnishee because the claim was in a nature of a claim resulting from the termination of a lease). Contrary to Lariat's position, Blatstein held that the debt ultimately resulted from the termination of a lease, not merely a garnishment default.

There is no material difference between a guarantor, a garnishee, or a fraudulent transferee in terms of the applicability of § 502(b)(6). Guarantors are liable for the debts of another and typically jointly and severally liable in the event of default – just as the Debtor in this case. Borg Warner Acceptance Corp. v. Shakopee Sports Ctr., Inc., 431 N.W.2d 539, 541 (Minn. 1988) ("A person signing as guarantor is agreeing to pay, if need be, the debt of another . . . ."); State ex rel. First Minneapolis Tr. Co. v. Fosseen, 255 N.W. 816, 817 (Minn. 1934) ("A guarantor is jointly and severally liable with the maker on the instrument guaranteed.").

In addition, Lariat's claim ultimately results from the termination of a lease because of the derivative nature of fraudulent transfer liability. Applying this principle to Mr. Wigley's case, the Eighth Circuit BAP affirmed the Bankruptcy Court's decision to deny the portion of Lariat's claim against him based on the Fraudulent Transfer Judgment. In re Wigley, 533 B.R. at 272. The Eighth Circuit BAP agreed that MUFTA liability does not create a new claim and that any claim based on fraudulent transfer liability would be duplicative of the Guaranty Judgment. Id. at 272-273. Other Eighth Circuit and District of Minnesota cases echo the Eighth Circuit BAP's characterization of MUFTA liability as derivative. See Deford, 867 F2d. at 1087 ("The creditor rights a party seeks to enforce must exist under independent law, such as contract law.") (citing Brill v. W.B. Foshay Co., 65 F.2d 420, 423 (8th Cir. 1933)); see also Cent. States Pension Fund

v. Marquette Bank, 836 F.Supp. 673, 677 (D.Minn. 1993) (characterizing fraudulent transfer law as "not substantive" and concluding it only provided an additional avenue for enforcing provisions of ERISA because creditor rights originally arose from ERISA violations); Clarinda Color LLC v. BW Acquisition Corp., 2004 WL 2862298 at *9 (D. Minn. June 14, 2004) (adopting Magistrate Judge's Report and Recommendation stating that MUFTA remedies do not impose new liability on a transferee).

These cases lend support to the conclusion that Lariat's claim arises from the termination of the lease. If the lease had not been terminated, Lariat would not have obtained the Guaranty Judgment and without the underlying Guaranty Judgment, Lariat could not enforce the Fraudulent Transfer Judgment against the Debtor. The Fraudulent Transfer Judgment is dependent on the lease termination and the Guaranty Judgment arising from that termination. Therefore, the Court finds the Fraudulent Transfer Judgment results from the termination of a lease and § 502(b)(6) limits Lariat's claim against the Debtor.

The Debtor asserts that collateral estoppel prevents Lariat from arguing that § 502(b)(6) does not apply in this proceeding. [Dkt. No. 157 at 13.] As support for this, the Debtor cites the Bankruptcy Court's and Eighth Circuit BAP's statements on the derivative nature of MUFTA liability in Mr. Wigley's bankruptcy. In other words, the Debtor states § 502(b)(6) automatically applies in this case. Because it has already been determined § 502(b)(6) applies to Lariat's claim in this case, the applicability of collateral estoppel to this issue is irrelevant. Nonetheless, the issue of the applicability of § 502(b)(6) to the Debtor as a fraudulent transferee was not before Judge Constantine or the Eighth Circuit BAP. Those courts only applied § 502(b)(6) to Mr. Wigley as a guarantor. As a result, collateral estoppel does not require applying the landlord cap in this proceeding as the Debtor contends. See Robinette v.

Jones, 476 F.3d 585, 589 (8th Cir. 2007) (describing elements of federal collateral estoppel which include the requirement that issue in the two matters be the same). Rather, § 502(b)(6) applies for the legal reasons cited above.

There is authority suggesting § 502(b)(6) does not apply to solvent debtors, such as (possibly) this Debtor. In re Danrik, 92 B.R. at 972. In Danrik, the Bankruptcy Court wrote the "equities of the case" prevented application of the landlord cap to a solvent debtor-guarantor. Id. As other courts have recognized, this is not a rule of law, but a rule of judicial construction that has no basis in the statute. See In re Flanigan, 374 B.R. 568, 575 (Bankr. W.D. Pa. 2007); In re Ancona, No 14-10532 CGM, 2016 WL 828099 at *6 (Bankr. S.D.N.Y. Mar. 2, 2016). There is no statutory support for this position. Therefore, the Debtor's apparent solvency does not prohibit the application of § 502(b)(6) in this matter.

C. The Court Need Not Reach The Issue Of How To Apply Mr. Wigley's Payment Because The Capped Amount Represents Lariat's Maximum Recoverable Amount Regardless Of Whether The Payment Reduced The Fraudulent Transfer Liability

The Debtor originally raised the issue of whether to apply Mr. Wigley's payment in his bankruptcy to reduce the Debtor's liability under the joint and several Fraudulent Transfer amount. [Dkt. No. 86 at 24.] In addition, both parties submitted briefing on the issue at the Court's request. [Dkt. Nos. 156, 157.]

However, the Court does not need to determine whether Mr. Wigley's payment to Lariat in his bankruptcy reduced the Debtor's liability on the Fraudulent Transfer Judgment. Section 502(b)(6) limits Lariat's claim to $308,805.00 in this case and is less than the alternative amounts – even if Mr. Wigley's payment reduced the Debtor's liability ($379,990.71). It is also not clear that this Court – rather than the State Court – should decide this issue. Therefore, the Court does not need to decide how to apply Mr. Wigley's payment.

The Debtor also argues that upon applying § 502(b)(6) to this case, the Court should then credit Mr. Wigley's payment in his case against the Debtor's capped liability – reducing Lariat's claim to zero. For the reasons stated above, the Court rejects this argument.

IV. Principles of Preclusion Do Not Prohibit This Court From Applying § 502(b)(6) - But Collateral Estoppel And Rooker-Feldman Prevent This Court From Considering Whether Lariat Mitigated Its Damages

Lariat argues the Fraudulent Transfer Judgment enjoys full preclusive effect and prohibits this Court from determining the claim objection. The Debtor argues neither collateral estoppel nor the Rooker-Feldman doctrine prevents this Court from considering the lease mitigation issue. The Court rejects both arguments.

A. The Fraudulent Transfer Judgment Does Not Have Preclusive Effect On This Court's Authority To Determine The Applicability of § 502(b)(6)

Lariat challenges the Debtor's claim objection as an attempt to upset the Fraudulent Transfer Judgment. Lariat describes the Judgment as "the proverbial brick wall" that enjoys full res judicata and collateral estoppel effect - preventing this Court from considering the Debtor's claim objection. [Dkt. No. 99 at 7-8.]

Pursuant to the Full Faith and Credit statute in 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 the judgment was rendered." Migra v. Warren City School Dist. Bd. of Educ., 465 U.S. 75, 81 (1984). The statute "'directs a federal court to refer to the preclusion law of the state in which judgment was rendered.'" In re Hernandez, 860 F.3d. 591, 598 (8th Cir. 2017) (quoting Marrese v. Am. Acad. of Orthopedic Surgeons, 470 U.S. 373, 380 (1985)). Thus, Minnesota law applies for purposes of res judicata and collateral estoppel. In re Hernandez, 860 F.3d at 591.

Minnesota law provides four elements must be present for res judicata to bar relitigation of a claim: "'(1) the earlier claim involved the same set of factual circumstances; (2) the earlier claim involved the same parties or their privies; (3) there was a final judgment on the merits; [and]; (4) the estopped party had a full and fair opportunity to litigate the matter.'" Nw. Title Agency, Inc. v. Minn. Dep't of Commerce, 685 Fed. App'x 503, 505 (8th Cir. 2017) (quoting Hauschildt v. Beckingham, 686 N.W.2d 829, 840 (Minn. 2004)). Res judicata applies to both claims actually litigated and ones that could have been litigated. Id.

Likewise, four elements must be present for collateral estoppel to bar relitigation of issues: "'(1) the issue [is] identical to one in a prior adjudication; (2) there was a final judgment on the merits; (3) the estopped party was a party or was in privity with a party to the prior adjudication; and (4) the estopped party was given full and fair opportunity to be heard on the adjudicated issue.'" In re Hernandez, 860 F.3d 591, 599 (8th Cir. 2017) (quoting Care Inst., Inc. – Roseville v. Cty. of Ramsey, 612 N.W.2d 443, 448 (Minn. 2000)).

Neither res judicata nor collateral estoppel prevents this Court from applying the landlord cap. Here, the parties are litigating an entirely separate issue unavailable at the State Court: whether § 502(b)(6), a federal law, applies in the Debtor's bankruptcy. The Debtor could not have possibly raised this during the pendency of the State Court fraudulent transfer action because she had not yet filed bankruptcy. See, e.g., In re ProCare, 359 B.R. 653, 657 (Bankr. N.D. Ohio 2007) (holding state court judgment does not prohibit bankruptcy court from determining allowed amount of claim) (citing In re Johnson, 960 F.2d. 396, 404 (4th Cir. 1992)). The applicability of § 502(b)(6) is a matter of federal law that falls squarely within the jurisdiction of bankruptcy courts. In re ProCare, 359 B.R. at 657 ("[T]he amount of the claim that should be allowed in the bankruptcy case – is decided under federal bankruptcy law."); In re

Dronebarger, No. 10-10889-HCM, 2011 WL 350479 *5 (Bankr. W.D. Tex. Jan. 31, 2011) (noting applicability of §502(b)(6) could not have been asserted or litigated in state court lawsuit). Therefore, Lariat's contention about the preclusive effect of the Fraudulent Transfer Judgment is incorrect.

In addition, Lariat argues this Court cannot determine the application of payments issue. Since the Court is not deciding this issue as explained above, it will not decide whether collateral estoppel applies to the application of Mr. Wigley's payment.

B. Collateral Estoppel and Rooker-Feldman Prohibit This Court From Considering Whether Lariat Mitigated Its Damages

The Debtor asks that the Court consider whether Lariat properly mitigated its damages upon termination of the lease, which occurred nearly seven years ago. The Debtor contends that if the Court considers this issue, Lariat's claim "deflates to zero." [Dkt. No. 112 at 17.] Otherwise, she argues there will be an "excessive windfall judgment." Id. Lariat argues the Fraudulent Transfer Judgment enjoys full preclusive effect.

i. Collateral Estoppel Prevents This Court From Considering The Mitigation Of Damages Issue

Collateral estoppel prevents this Court from considering the mitigation of damages issue. The first element of collateral estoppel analyzes whether the issue is "the same as that [issue] adjudicated in the prior action and [that issue] must have been necessary and essential to the resulting judgment in that action." Hauschildt v. Beckingham, 686 N.W. 829, 837 (Minn. 2004) (citations omitted). In other words, "[t]he issue must have been distinctly contested and directly determined in the earlier adjudication for collateral estoppel to apply." Id.

The Debtor asserts that she has not raised the mitigation issue in State Court. However, the Court finds to the contrary. First, the Debtor specifically raised this issue in the notice of

appeal to the Minnesota Court of Appeals and, accordingly, she must have raised it in State Court. [Dkt. No. 86 Ex. J at 6.] The Minnesota Rules of Appellate Procedure prohibit raising new issues on appeal. See Minn. R. Civ. App. P. 110.01; Michaels v. First Title USA Title LLC, 844 N.W. 2d 528, 532 (Minn.App. 2014) (stating Minnesota appellate courts review only legal questions raised at the trial court). Second, the mitigation of damages issue attacks the amount of damages awarded in the Fraudulent Transfer Judgment. Therefore, it must have necessarily been decided at the State Court because damages were finally determined. Third, in the Debtor's own summary of her pending claims before various courts, the Debtor admits she raised this issue before the State Court and the State Court denied it. [Dkt. No. 86 Ex. K.] Therefore, the Debtor raised the mitigation of damages issue before the State Court. This satisfies element one of collateral estoppel.

The remaining elements of collateral estoppel are also satisfied here. Element two (finality) is satisfied because Judge Magill's order amending findings and denying the motion to vacate is a final judgment on the merits. See, e.g., Fain v. Anderson, 816 N.W. 2d 696, 701 (Minn. App. 2012) (affirming district court determination that, in Minnesota, a judgment on appeal is a final judgment on the merits). Element three (identical parties) is satisfied because the Debtor and Lariat were parties in the State Court proceeding. Element four (full and fair opportunity to be heard on an issue) is satisfied because it is clear the Debtor had both the opportunity and incentive to litigate the mitigation of damages issue before the State Court. See In re Miller, 153 B.R. 269, 274 (Bankr. D. Minn. 1993) (finding debtor received full and fair opportunity to litigate an issue when the issue was available to the debtor and the debtor had a "substantial incentive" to raise it).

Therefore, this Court determines collateral estoppel prevents this Court from considering the mitigation of damages issue.

ii. Rooker-Feldman Prevents This Court From Considering The Mitigation of Damages Issue

In addition, to the extent the Debtor asks this Court to review state court decisions on the lease mitigation issue, the Rooker-Feldman doctrine prohibits it. The Rooker-Feldman doctrine applies when "state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced invit[e] district court review and rejection of those judgments." Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005); see also Hageman v. Barton, 817 F.3d 611, 614 (8th Cir. 2016) ("The Rooker-Feldman doctrine precludes lower federal courts from exercising jurisdiction over actions seeking review of, or relief from state court judgments."). In other words, "Rooker-Feldman is implicated in that subset of cases where the losing party in a state court action subsequently complains about that judgment and seeks review and rejection of it." Skit Intern. Ltd. v. DAC Tech. of Ark., 487 F.3d 1154, 1157 (8th Cir. 2007) (citing Exxon Mobil, 544 U.S. at 284).

The Debtor is a state court loser evidenced by her current appeal of the mitigation issue at the Minnesota Court of Appeals. It is clear the Debtor's argument invites this Court's review of the State Court order denying vacation of the Fraudulent Transfer Judgment because the Debtor raises the same mitigation of damages issue before the Court of Appeals. In fact, the Debtor chose the State Court as the proper forum to hear the mitigation issue as she sought and received relief from the automatic stay to continue the appeal. [Dkt. Nos. 24, 34.] This Court is not a substitute for the Minnesota Court of Appeals, the proper court to review the State Court's decision (and the court currently reviewing the State Court decision). The Rooker-Feldman doctrine prevents this Court from considering the mitigation of damages issue.

CONCLUSION

Both parties present arguments in support of their positions and the Court's ultimate conclusion differs from both. Contrary to the Debtor's position, the Eighth Circuit has explicitly held that guarantors – and, therefore, third parties - do not receive the benefit of another party's use of § 502(b)(6). Furthermore, numerous courts have held and the Eighth Circuit BAP has assumed that a guarantor may use § 502(b)(6) in his or her own bankruptcy. At least one other court extended that principle to garnishees. Based on this authority and the plain meaning of the statute, this Court finds it appropriate to extend § 502(b)(6) to the Debtor, a fraudulent transferee. The result limits Lariat's claim against the Debtor to $308,805.00.

ORDER

IT IS ORDERED:

1. Claim No. 4, filed by Lariat, is allowed in the amount of $308,805.00 and the claim above that amount is disallowed pursuant to 11 U.S.C. § 502(b)(6); and

2. Otherwise, all of the Debtor's objections to Lariat's claim are overruled.

BY THE COURT:

DATED: *February 9, 2018*

/e/ William J. Fisher
WILLIAM J. FISHER
UNITED STATES BANKRUPTCY JUDGE