

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re: Case No. A11-00461-DMD

Chapter 13

JAMES DREW LOCKHART,

Debtor.

Filed On
3/5/12

DUANE DRAPER,

Plaintiff,

v.

JAMES DREW LOCKHART, a/k/a
Jimmie Drew Lockhart, Sr.,

Defendant.

Adv. No. A11-90022-DMD

SUMMARY JUDGMENT MEMORANDUM

This is an action for exception to discharge for fraud. The plaintiff Duane Draper has moved for summary judgment as to a state court order and judgment he obtained against the defendant in two separate actions. The defendant committed fraud by posing as a lawyer and duping the plaintiff out of a \$15,000.00 retainer. Later the defendant schemed with his brother to fraudulently transfer a duplex through use of a deed of trust.

In the first action, an Alaska district court awarded the plaintiff \$30,628.00 on October 28, 2004, based upon the court's finding that defendants committed "various acts

of fraud.”¹ Under *Grogan v. Garner*² the state court order gives rise to collateral estoppel. There is no need to relitigate the issue of fraud when the district court has already found for the Plaintiff on the issue. Additionally, in a separate action for fraudulent transfer, the court awarded the plaintiff punitive damages along with interest and attorney’s fees against the defendant. The July 26, 2007, judgment was entered in the amount of \$21,251.84.³ I regard it as an additional liability arising from the debtor’s fraud. Under *Cohen v. De La Cruz*,⁴ the punitive damages award is also non-dischargeable.

Appropriate orders and a judgment will be entered.

DATED: March 5, 2012.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: W. Dawson, Esq. (for plaintiff)
J. Lockhart, Pro Se Defendant
3/5/12

¹ Ex. 16 to Pl.’s Mot. for Summ. J., Docket No.13, at p. 2.

² 498 U.S. 279 (1991).

³ Ex. 32 to Pl.’s Mot. for Summ. J., Docket No. 13.

⁴ 523 U.S. 213 (1998).