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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1118**

Lariat Companies Inc.,
Appellant,

vs.

Barbara Wigley,
Respondent,

Michael Wigley,
Defendant.

**Filed February 21, 2023
Affirmed
Gaïtas, Judge**

Hennepin County District Court
File No. 27-CV-11-23736

George E. Warner, Jr., Warner Law, LLC, Minneapolis, Minnesota (for appellant)

Heather L. Marx, Samuel E. Mogensen, Cozen O'Connor, Minneapolis, Minnesota (for respondent)

Considered and decided by Larson, Presiding Judge; Bratvold, Judge; and Gaïtas, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Lariat Companies, Inc. (Lariat) appeals the district court's order granting respondent Barbara Wigley (wife) relief from judgment pursuant to Minnesota Rule of Civil Procedure 60.02(e). The district court determined that wife had satisfied a 2013

judgment against both wife and her codefendant-husband Michael Wigley (husband) for fraudulent transfer of funds husband owed to Lariat. On appeal, Lariat contends that (1) wife's argument to the district court—that husband's bankruptcy payment applied toward the judgment—was procedurally barred by the doctrine of collateral estoppel and (2) husband's bankruptcy payment cannot be applied toward the judgment as a matter of law. Because we reject Lariat's collateral-estoppel argument and discern no error in the district court's determination that husband's bankruptcy payment applied toward the judgment, we affirm.

FACTS

This case comes to us after more than a decade of litigation. The saga began in October 2008 when husband—the majority owner and president of Baja Sol Cantina EP, LLC (Baja Sol)—executed a ten-year commercial lease with Lariat for a Baja Sol restaurant. As part of the lease agreement, husband signed a personal guarantee of Baja Sol's obligations to Lariat. Two years later, in June 2010, Baja Sol defaulted on its lease. Lariat sued Baja Sol and husband for breach of contract, and in July 2011 was awarded \$2,224,237 for unpaid rent and attorney fees (unpaid rent judgment). *See Lariat Cos., Inc. v. Baja Sol Cantina EP, LLC*, No. A12-2202, 2013 WL 4404589, at *1 (Minn. App. Aug. 19, 2013) (affirming judgment on appeal).¹

¹ Husband was also sued by two other creditors, but those judgments are not relevant to this appeal. Additionally, in November 2011, husband was forced into involuntary bankruptcy, but the proceedings were dismissed in March 2012 when he settled out of court with some of his creditors. *See Lariat Cos., Inc. v. Wigley (In re Wigley)*, 533 B.R. 267, 269 (B.A.P. 8th Cir. 2015).

In November 2011, Lariat filed a separate lawsuit against wife alleging violations of the Minnesota Uniform Fraudulent Transfer Act (MUFTA), Minn. Stat. §§ 513.41-.51 (2010).² Lariat alleged that in 2009 and 2010, husband fraudulently transferred various assets to wife to avoid paying Lariat the amount he owed in unpaid rent.³ In June 2012, Lariat moved to join husband as a named defendant in the MUFTA case and asked the district court to hold husband and wife (the Wigleys) jointly and severally liable for the fraudulent transfers. The district court granted the motion over the Wigleys' objection.

After a two-day court trial in November 2013, the district court found the Wigleys liable under MUFTA because they had transferred funds “with actual intent to hinder, delay, or defraud Lariat; without receipt of reasonably equivalent value in exchange for the transfers; and at a time when . . . [husband] was insolvent or became insolvent as a result of the transfers.” *Lariat Cos., Inc. v. Wigley*, No. A17-0210, 2020 WL 5507811, at *2 (Minn. App. Sept. 14, 2020) (alteration in original), *rev. denied* (Minn. Dec. 15, 2020). The district court ultimately entered judgment against both husband and wife, jointly and severally, for \$788,487.78 (MUFTA judgment).⁴ Wife moved the district court for

² MUFTA was amended in 2015 and is now known as the Minnesota Uniform Voidable Transactions Act (MUVTA). *See* 2015 Minn. Laws ch. 17, § 12, at 164 (codified at Minn. Stat. §§ 513.41-.51 (Supp. 2015)). The amendments do not apply to transfers made before August 1, 2015, and as such, the amended statute does not apply in this case. *See* 2015 Minn. Laws ch. 17, § 13, at 164.

³ Two other creditors initially joined in the MUFTA lawsuit against wife, but later settled their claims out of court.

⁴ The district court originally entered judgment in the amount of \$802,302.72, but that was later reduced to \$788,487.78 because of various calculation errors. The district court also awarded Lariat interest on the judgment.

amended findings, but her motion was stayed when husband filed for voluntary bankruptcy under the applicable federal law—Chapter 11—in February 2014.

Lariat filed a proof of claim in husband’s bankruptcy proceedings seeking payment for the entire amount of the unpaid rent judgment and the entire MUFTA judgment. Husband objected to Lariat’s proof of claim, and the Eighth Circuit’s Bankruptcy Appellate Panel (B.A.P.) concluded that Lariat’s proof of claim was limited by federal law, which caps the amount a landlord can recover in damages during a bankruptcy proceeding. *See Wigley*, 533 B.R. at 272 (relying on 11 U.S.C. § 502(b)(6) (2012)). The B.A.P. also determined that Lariat could not recover both the unpaid rent and MUFTA judgments from husband because they were duplicative. *Id.* at 272-73. On August 24, 2016, husband paid Lariat \$637,581.07, and on September 22, 2016, the bankruptcy court granted husband’s discharge. As of that day, he was no longer personally liable on the debt he owed to Lariat. *See Lariat Cos., Inc. v. Wigley (In re Wigley)*, 951 F.3d 967, 969 (8th Cir. 2020).

Meanwhile, wife’s motion for amended findings in the MUFTA case was reinstated. In July 2016, wife filed a second motion in that case, asking the district court to vacate the MUFTA judgment because husband’s upcoming bankruptcy discharge would retroactively eliminate her own liability under MUFTA. In a December 2016 order, the district court denied wife’s motion for amended findings and motion to vacate or reduce the MUFTA judgment. Wife appealed, but that appeal was stayed when wife, herself, filed for Chapter 11 bankruptcy.

In wife’s bankruptcy proceedings, Lariat filed a proof of claim asserting that it was entitled to the entire amount of the MUFTA judgment plus interest. Wife objected, and

the bankruptcy court eventually determined that Lariat's claim was limited by the same landlord damages cap that applied to husband's debt. *See Lariat Cos., Inc. v. Wigley (In re Wigley)*, 593 B.R. 327, 329 (B.A.P. 8th Cir. 2018). The B.A.P. reversed the bankruptcy court, concluding that husband's discharge meant Lariat no longer had any allowable claim against wife. *Id.* at 331. But in March 2020, the Eighth Circuit reversed the B.A.P., determining that husband's discharge only extinguished husband's liability—not wife's. *See Wigley*, 951 F.3d at 971. The Eighth Circuit agreed with the bankruptcy court, however, that Lariat's claim was limited by the landlord damages cap. *Id.* at 971-72. Wife eventually paid Lariat \$361,249.07—the maximum amount permitted under the landlord damages cap—plus interest.

In May 2020, we reinstated wife's appeal from the district court's 2016 order denying her motions for amended findings and to vacate or reduce the MUFTA judgment. In our subsequent decision in that appeal, we determined that the district court did not abuse its discretion by denying the motion for amended findings. *Lariat Cos., Inc.*, 2020 WL 5507811, at *3-9. We also affirmed the denial of wife's motion to vacate or reduce the judgment because husband's successful discharge of his debts through bankruptcy did not also retroactively extinguish wife's liability under MUFTA. *Id.* at *9-13.

Following our affirmance of the MUFTA judgment on appeal, Lariat filed a motion for order in aid of execution, seeking the district court's assistance to recover wife's remaining balance for the MUFTA judgment. Wife opposed this motion. In March 2021, wife filed a motion seeking to apply husband's bankruptcy payment toward the outstanding balance of the MUFTA judgment. Wife's motion explained that, if husband's bankruptcy

payment applied, the MUFTA judgment was satisfied in full by the combination of husband's bankruptcy payment, wife's bankruptcy payment, and other payments made directly to Lariat over the years. In its 2021 order, the district court granted wife's motion.⁵ Lariat immediately appealed, but we determined the appeal was premature.

In October 2021, the Eighth Circuit weighed in again on matters still being litigated in wife's Chapter 11 bankruptcy proceedings. The Eighth Circuit concluded that wife's MUFTA judgment was nondischargeable under federal law. *See In re Wigley*, 15 F.4th 1208, 1212-13 (8th Cir. 2021) (citing 11 U.S.C. § 523(a)(2)(A) (2018)). This decision meant that wife was still personally liable for any amount still owed to satisfy the MUFTA judgment beyond what she paid during the bankruptcy proceedings.⁶

In July 2022, the district court issued another order addressing the postjudgment interest rate that applied to the nondischargeable portion of the MUFTA judgment. Wife then paid Lariat the amount she owed in interest, \$167,046.06. Lariat appealed the 2021 order once again. In this appeal, Lariat argues that the MUFTA judgment has not been

⁵ The district court also conditionally granted Lariat's motion for an order in aid of execution, stating that if there was a balance left under the MUFTA judgment after husband's payment was applied, Lariat could recover that amount out of wife's assets if she did not pay voluntarily.

⁶ Lariat's claim against wife was excepted from discharge (i.e., ruled nondischargeable) because the claim arose from "actual fraud." *See* 11 U.S.C. § 523(a)(2)(A). A debtor's debts that were obtained by actual fraud are not *automatically* excepted from discharge. *See* 11 U.S.C. § 523(c)(1) (2018). But for a claim to be excepted from discharge due to "actual fraud," the creditor must obtain a ruling from the bankruptcy court. *Id.* It does not appear Lariat ever sought a ruling to declare husband's debts nondischargeable due to actual fraud.

satisfied because the district court erroneously determined that husband's bankruptcy payment should be credited toward that judgment.

DECISION

I. Wife was not collaterally estopped from arguing that husband's bankruptcy payment applied toward the MUFTA judgment.

Lariat contends that collateral estoppel precludes wife's claim that husband's bankruptcy payment should be credited towards the MUFTA judgment. The district court rejected this argument, and we do too.

Collateral estoppel, or issue preclusion, prohibits a party from relitigating an issue that was raised during prior proceedings. *Ellis v. Minneapolis Comm'n on Civ. Rts.*, 319 N.W.2d 702, 703-4 (Minn. 1982). The doctrine of collateral estoppel applies if:

(1) the issue was identical to one in a prior adjudication; (2) there was a final judgment on the merits; (3) the estopped party was a party or in privity with a party to the prior adjudication; and (4) the estopped party was given a full and fair opportunity to be heard on the adjudicated issue.

Ill. Farmers Ins. Co. v. Reed, 662 N.W.2d 529, 532-33 (Minn. 2003) (quoting *Ellis*, 319 N.W.2d at 702, 704). Collateral estoppel does not apply when an issue has not been actually litigated and decided. *In re Tr. Created by Hill*, 499 N.W.2d 475, 484 (Minn. App. 1993), *rev. denied* (Minn. July 15, 1993); *see also Hauschildt v. Beckingham*, 686 N.W.2d 829, 837-38 (Minn. 2004) ("The issue on which collateral estoppel is to be applied must be the same as that adjudicated in the prior action and it must have been necessary and essential to the resulting judgment in that action [and] must have been distinctly contested and directly determined in the earlier adjudication." (citation omitted)); *Mach v.*

Wells Concrete Prod. Co., 866 N.W.2d 921, 925 (Minn. 2015) (“We have also recognized that these principles do not preclude the litigation of claims and issues that were not specifically decided in a prior proceeding.”).

Whether collateral estoppel bars a party from litigating an issue presents a mixed question of law and fact. *Hauschildt*, 686 N.W.2d at 837. An appellate court reviews de novo a district court’s determination as to the applicability of the doctrine. *Id.* Collateral estoppel should not be applied rigidly. *Id.* Instead, the appellate court should “focus . . . on whether [the] application would work an injustice on the party against whom the doctrines are urged.” *Id.*

In her 2021 motion for affirmative relief from the MUFTA judgment,⁷ wife argued that the MUFTA judgment had been satisfied by husband’s bankruptcy payment, her own bankruptcy payment, and various “post-judgment collections activity in the form of garnishments and levies.” But Lariat contended before the district court, and now on appeal, that collateral estoppel precludes wife from arguing that husband’s bankruptcy payment applies to the judgment.

In rejecting this argument, the district court determined that wife did not have an opportunity to be heard on her request for relief by full satisfaction at any time before her 2021 motion, and thus, no court had yet decided the issue. The district court observed that in 2016—when wife first moved to vacate the MUFTA judgment—she, herself, had not

⁷ Wife’s motion was brought pursuant to Minnesota Rule of Civil Procedure 60.02(e), which allows for relief from a final judgment if “[t]he judgment has been satisfied, released, or discharged.”

yet declared Chapter 11 bankruptcy and had yet to make her own bankruptcy payment to Lariat. That payment was only made in the spring of 2020. Therefore, the district court reasoned, because the relief from judgment requested in 2021 “was not previously available” to wife, “the issue of satisfaction through payment in full cannot have been previously litigated and decided on the merits.”

Based on our review of the record, we agree. Over the past decade of litigation, wife has never been able to request complete relief from the MUFTA judgment through full payment until now. Thus, until wife’s 2021 motion, the issue of whether husband’s bankruptcy payment should be applied to that judgment to fully satisfy it was never litigated or decided.

As Lariat notes, wife previously moved for relief from the MUFTA judgment in 2016 and then appealed the denial of the motion to this court in 2020. But wife did not argue then that she had satisfied the judgment through her own payments and husband’s bankruptcy payment. Rather, wife argued that husband’s discharge in bankruptcy meant that she was no longer liable for the MUFTA judgment because “[t]o maintain a claim under MUFTA against a transferee, a ‘creditor’ must have a ‘right to payment’ from the ‘debtor’” and husband was no longer a debtor. *Lariat Cos., Inc.*, 2020 WL 5507811, at *9-11. We rejected wife’s argument on appeal, concluding that, at the time the MUFTA judgment was entered, Lariat *was* husband’s creditor, and husband’s bankruptcy discharge did not retroactively impact the MUFTA judgment.⁸ *Id.*

⁸ The record shows that the issue was touched on, but never directly addressed, during the 2020 appeal. *See Lariat Cos., Inc.*, 2020 WL 5507811, at *13. During that appeal, wife

Lariat argues that wife cannot now claim full satisfaction based on husband's bankruptcy payment because wife had earlier opportunities to raise the issue but failed to do so. It points to wife's acknowledgement in 2016 that the issue of whether husband's bankruptcy would apply toward satisfaction was an "open question," contending that wife was aware of the issue and should have raised it then. However, the argument that an issue *could have been* raised in a prior proceeding involves the separate legal doctrine of claim preclusion—not collateral estoppel. *See Hauser v. Mealey*, 263 N.W.2d 803, 806 (Minn. 1978) ("[Claim preclusion] operate[s] where a subsequent action or suit is predicated on the same cause of action which has been determined by a judgment, *no matter what issues were raised or litigated in the original cause of action.*" (emphasis added)). And notwithstanding its assertions to the district court and in its brief to this court, Lariat conceded at oral argument that the doctrine of claim preclusion does not apply here. Because Lariat withdrew its claim-preclusion argument, we consider it no further.

Collateral estoppel only bars a claim that a party has had a full and fair opportunity to litigate and that a court has decided. Before wife's 2021 motion for relief from judgment,

filed to supplement the appellate record with documents from her bankruptcy proceedings. Wife's motion asserted that Lariat had improperly raised the issue presented here—whether husband's bankruptcy payment should be credited against the MUFTA judgment—by presenting it for the first time on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988) (stating that an appellate court may not consider matters not raised in the district court). In responding to wife's motion, Lariat stated, "[f]rom [Lariat's] perspective, the question [of] whether [husband's] Chapter 11 payment reduced [wife's] liability . . . seemed woven into [wife's] broad-based arguments that various bankruptcy-related events modified or discharged her liability." We denied wife's motion to supplement the record and declined to consider the payment-crediting issue, concluding that "[t]he issue that wife identifies is not determinative of any issue in this appeal." *Lariat Cos., Inc.*, 2020 WL 5507811, at *13.

wife did not, and could not, argue that she had fully paid the MUFTA judgment. Accordingly, no court considered or decided whether husband's bankruptcy payment could be credited against the judgment.⁹ Given these circumstances, we reject Lariat's argument that wife was collaterally estopped from arguing that husband's bankruptcy payment applied to the MUFTA judgment.¹⁰

II. The district court did not err in determining that husband's bankruptcy payment should be credited toward the MUFTA judgment.

Lariat argues that even if the doctrine of collateral estoppel does not apply, husband's payment cannot be credited toward the MUFTA judgment as a matter of law, and thus, the district court erred in granting wife relief under Minnesota Rule of Civil Procedure 60.02(e). We disagree. Because the judgment for husband's unpaid rent and the MUFTA judgment are duplicative, and because husband and wife are jointly and

⁹ Wife notes in her brief to this court that the parties did have an opportunity to brief and argue the payment-crediting issue to the bankruptcy court during her bankruptcy proceedings. But, according to wife, the bankruptcy court determined that it was an issue for the state court to decide and declined to consider it. The full record of that bankruptcy-court proceeding has not been made part of the record before us. However, based on our review of the existing record, it appears the issue was addressed, but not decided, during wife's bankruptcy proceeding. Moreover, Lariat concedes that the bankruptcy court did not render a final judgment on the merits regarding the payment-crediting question.

¹⁰ Lariat also suggests that the law-of-the-case doctrine precludes wife's argument that husband's bankruptcy payment should be credited toward the MUFTA judgment. *See In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990) ("The doctrine provides that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case." (quotation omitted)). But because no court had addressed the merits of this issue before wife's 2021 motion, the law-of-the-case doctrine does not apply.

severally liable for the MUFTA judgment, husband's bankruptcy payment applies toward the MUFTA judgment.

The district court determined that husband's bankruptcy payment, in conjunction with wife's payments, fully satisfied the MUFTA judgment and granted wife relief under rule 60.02(e). Generally, "[t]he decision whether to grant Rule 60.02 relief is based on all the surrounding facts of each specific case, and is committed to the sound discretion of the district court," and "will not be reversed on appeal except for a clear abuse of discretion." *Gams v. Houghton*, 884 N.W.2d 611, 620 (Minn. 2016) (citations and quotations omitted). But the question here—whether the district court correctly determined that husband's bankruptcy payment should be credited toward the MUFTA judgment—also requires us to review the district court's application of the law, and we review questions of law de novo. *See Harlow v. State, Dep't of Hum. Servs.*, 883 N.W.2d 561, 568 (Minn. 2016) (stating that appellate courts review de novo a district court's application of law).

We first consider whether the district court erred as a matter of law in determining that husband's bankruptcy payment should be credited toward the total MUFTA judgment. MUFTA, which "allows creditors to recover assets that debtors have fraudulently transferred to third parties," is "[d]esigned to prevent debtors from placing property that is otherwise available for the payment of their debts out of the reach of their creditors." *Finn v. All. Bank*, 860 N.W.2d 638, 644 (Minn. 2015) (quotation and citation omitted).

In ruling in 2013 that husband and wife were liable in the MUFTA action, the district court found that husband fraudulently transferred assets to wife to avoid paying Lariat unpaid rent. *See Lariat Cos., Inc.*, 2020 WL 5507811, at *9. During husband's bankruptcy

proceedings, Lariat attempted to recover the full amount of both the unpaid rent judgment and the MUFTA judgment. But the B.A.P. stated that MUFTA did “not create a ‘new’ claim,” and instead “merely confer[ed] an alternate remedy for protecting preexisting creditor rights.” *Wigley*, 533 B.R. at 272-73. Thus, even if Lariat had two independent causes of action, it could not recover “more than the amount of damage actually suffered as a consequence of the injury.” *Id.* The B.A.P. specifically determined Lariat failed to show additional damages stemming from the fraudulent transfers beyond what was already owed in unpaid rent. *Id.* at 273. Therefore, the B.A.P. determined, “the state court judgment based on the fraudulent transfers was duplicative of the earlier state court judgment awarding Lariat damages for Baja Sol’s breach of the lease.” *Id.* at 272. Given the duplicative nature of these two judgments—and the fact that husband’s bankruptcy payment fully satisfied his debt to Lariat—husband’s bankruptcy payment applied to both the unpaid rent judgment *and* the MUFTA judgment.

Because husband and wife are jointly and severally liable for the MUFTA judgment, husband’s bankruptcy payment reduced wife’s liability. As joint and several codebtors, both husband and wife were individually liable for the entire amount of the judgment. *See Staab v. Diocese of St. Cloud*, 813 N.W.2d 68, 74 (Minn. 2012). But a payment made by one codebtor must be credited towards the entire judgment, reducing the amount owed by the other. Restatement (Second) of Torts § 920A(1) (1979); *see also VanLandschoot v. Walsh*, 660 N.W.2d 152, 155 (Minn. App. 2003) (discussing how Minnesota courts have expressly adopted Restatement (Second) of Torts § 920A(1) (1979)). Nonetheless, as we stated during wife’s 2020 appeal, “discharge of a debt of the debtor does not affect the

liability of any other entity on, or the property of any other entity for, such debt.” *Lariat Cos., Inc.*, 2020 WL 5507811, at *10 (quotation omitted); *see also Wigley*, 951 F.3d at 970 (quoting 11 U.S.C. § 524(e) (2018)). Thus, wife, as a codebtor, was still liable to Lariat for anything owed *beyond* husband’s bankruptcy payment of \$637,581.07.

MUFTA specifically provides how much a creditor can recover for a fraudulent transfer. Minnesota Statutes section 513.48(b)(1) (2022), states that a “creditor may recover judgment for the value of the asset transferred . . . or the amount necessary to satisfy the creditor’s claim, whichever is less.”

Lariat argues that its “creditor’s claim” is \$2,224,237—the total amount of husband’s unpaid rent judgment. Accordingly, it contends, husband’s bankruptcy payment must first be applied to husband’s debt (the unpaid rent judgment) before it can be applied to the debt he owed as a codebtor (the MUFTA judgment). Lariat contends that by applying husband’s bankruptcy payment in this fashion—first, against the \$2,224,237 unpaid rent, and then, against the \$788,487.78 MUFTA judgment—wife would be liable for the entirety of the MUFTA judgment, which she has not fully satisfied.

But Lariat’s application of section 513.48(b)(1), is incorrect for three reasons. First, as discussed, because the unpaid rent judgment and the MUFTA judgment are duplicative, husband’s bankruptcy payment for Lariat’s unpaid rent judgment also applied to the MUFTA judgment. Second, wife has never been liable for the \$2,224,237 unpaid rent judgment, and Lariat therefore does not have a “creditor’s claim” against her for that judgment. Third, Lariat overlooks the most important phrase in section 513.48(b)(1)—“whichever is less.” Wife is liable only for the *lesser* of either Lariat’s “creditor’s claim”

or the “value of the asset transferred.” Minn. Stat. § 513.48(b)(1). Even if Lariat had a 2.2-million-dollar creditor’s claim against wife (which it does not), the “value of the asset transferred” is only \$788,487.78. Thus, as the district court concluded, husband’s bankruptcy payment must be credited toward the amount of the fraudulent transfer, and under MUFTA, Lariat can only recover a total of \$788,487.78. We agree with the district court’s legal conclusion.

Next, we must consider whether the district court abused its discretion in granting wife relief from judgment under rule 60.02. The district court determined that the full MUFTA judgment, plus interest, was completely satisfied by husband’s bankruptcy payment of \$637,581.07, wife’s bankruptcy payment of \$361,249.07, and other payments that wife made in connection with the judgment. We discern no abuse of discretion in this decision. The district court therefore did not err in granting wife relief from judgment pursuant to rule 60.02.

Affirmed.