

Judith O. Letrud, Shelly A. Koehler, and Heartland Physical Therapy, Inc. filed a complaint in the bankruptcy court seeking a determination that a prior state court judgment entered in their favor against Timothy M. Kurlmel was a nondischargeable debt. Both sides moved for summary judgment, and the bankruptcy court entered judgment in favor of the plaintiffs. Kurlmel appealed to the district court¹, arguing that the debt was dischargeable in bankruptcy. The district court affirmed the judgment, and Kurlmel again appeals.

The plaintiffs prior judgment had resulted from a complaint filed by the plaintiffs against Kurlmel and his corporation, Partners in Physical Therapy ("Partners"), alleging that Kurlmel had used Partners to overcharge them for contract labor. After a bench trial, the state court found that Kurlmel had "violated the trust placed in him by the plaintiffs", that there was "overwhelming" evidence Kurlmel used Partners as an "alter ego", and that "it is apparent that Mr. Kurlmel violated his fiduciary duties" to the plaintiffs. It entered judgment against Kurlmel in the amount of \$378,386.30. Subsequent to the ruling, Kurlmel filed for bankruptcy protection.

Under 11 U.S.C. § 523(a)(4), a debt is nondischargeable if it is for "fraud or defalcation while acting in a fiduciary capacity". After de novo review, see Kasper v. Federated Mut. Ins. Co., 425 F.3d 496, 502 (8th Cir. 2005), we conclude that the debt is nondischargeable under § 523(a)(4) for the reasons explained by the district court. Accordingly, we affirm. See 8th Cir. R. 47B.

¹ The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.