

8/27/80

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE  
WESTERN DISTRICT OF WISCONSIN

In Re:

IN BANKRUPTCY

JOSEPH L. NASER  
and  
CINDY S. NASER, a/k/a  
Cindy S. Schwennsen,  
f/d/b/a Kiddie Kove  
Daycare Center

No. 80-00268 Vol.

Adversary No. 80-0089

Debtors

HERITAGE MUTUAL INSURANCE  
COMPANY and EDWARD H. PETERSON

Plaintiffs

vs.

JOSEPH L. NASER

Defendant.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
and ORDER

The plaintiffs in the above entitled action having duly filed a complaint herein objecting to discharge, and the defendant having filed an answer denying the allegations of plaintiffs' complaint as to willful, malicious and gross negligent conduct and contending that said debt to the plaintiffs is dischargeable, and praying for an order to that effect; and a pre-trial hearing having been held, and counsel having made statements as to their positions relative to said action and the applicable law as to examination by the Court of the judgment taken in the State Court and the criminal action in said State Court; and counsel having filed briefs; and the Court having duly considered said briefs and the arguments of counsel makes the following FINDINGS OF FACT:

1. That said debtors duly filed bankruptcy proceedings herein on the 11th day of March, 1980.
2. That the plaintiffs filed their complaint for objection to discharge on the 28th day of May, 1980, and the

defendant thereafter duly filed his answer denying the allegations thereof.

3. That on the 18th day of April, 1979, a judgment by default was taken in the Circuit Court of Chippewa County, Wisconsin, in the sum of \$35,806.35.

4. That upon the trial of the above entitled action to be held herein, extrinsic evidence may be taken as to the judgment in the Circuit Court of Chippewa County, Wisconsin, relative to determination of the dischargeability of said debt, and that the proceedings in the criminal action in said Court may also be considered as to dischargeability. See Brown v. Felsen, 442 U.S. 127, 60 L.Ed.2d 767, 99 S.Ct. 2205 (1979) and Lee v. State Board of Dental Examiners, 29 Wis. 2d 330, 334, 139 N.W.2d 61 (1966).

CONCLUSIONS OF LAW

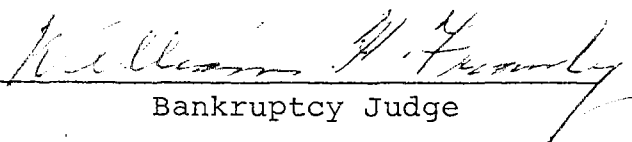
That an order be entered determining that extrinsic evidence as to said matters above described may be taken on the trial of said action.

O R D E R

NOW, THEREFORE, IT IS ORDERED: That at the trial of the above entitled action, extrinsic evidence as to the judgment in the Circuit Court of Chippewa County, Wisconsin, and the criminal action in said Court may be considered by the Court in the determination of dischargeability.

Dated: August 27, 1980.

BY THE COURT:

  
Bankruptcy Judge