

UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF
PENNSYLVANIA

Jason Zappacosta & Joy Godowski v. Cozette McAvoy (In re Cozette
McAvoy)

Zappacosta v. McAvoy · No. Adv. Pro. No. 24-00087-AMC; Bankruptcy No. 24-11597-AMC · Decided May 7,
2026

SUMMARY

The United States Bankruptcy Court for the Eastern District of Pennsylvania considers Plaintiffs’ motion for summary judgment seeking to except a debt from discharge under 11 U.S.C. § 523(a)(2) (A). The court gives partial effect to a Pennsylvania state-court verdict and concludes that no genuine dispute exists regarding false representations, knowledge of falsity, or intent to deceive. Summary judgment is denied as to justifiable reliance and proximate damages, which remain for trial.

CASE DETAILS

COURT	United States Bankruptcy Court, Eastern District of Pennsylvania
WRITING FOR THE COURT	Ashely M. Chan
JURISDICTION	United States Bankruptcy Court, Eastern District of Pennsylvania
DECIDED	May 7, 2026
DOCKET	Adv. Pro. No. 24-00087-AMC; Bankruptcy No. 24-11597-AMC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for summary judgment in an adversary proceeding seeking to except a debt from discharge under 11 U.S.C. § 523(a)(2) (A), relying in part on a Pennsylvania state-court verdict and deemed admissions. The bankruptcy court granted summary judgment on three elements of the claim and denied it on justifiable reliance and damages.
STANDARD OF REVIEW	Summary judgment under Federal Rule of Civil Procedure 56, made applicable by Federal Rule of Bankruptcy Procedure 7056. The court determines whether genuine disputes of material fact exist and does not resolve disputed facts or determine credibility. Collateral-estoppel issues were analyzed under Pennsylvania law.
PRECEDENTIAL VALUE	Unpublished and of limited precedential value

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QUESTIONS PRESENTED

1. Whether factual averments deemed admitted in the Pennsylvania state-court proceeding were entitled to collateral-estoppel effect in the bankruptcy nondischargeability action.
2. Whether Plaintiffs established as a matter of law the false-representation, knowledge-or-recklessness, and intent-to-deceive elements of nondischargeability under 11 U.S.C. § 523(a)(2)(A).
3. Whether Plaintiffs established as a matter of law that they justifiably relied on Defendant's representations.
4. Whether Plaintiffs established as a matter of law that damages proximately resulted from the alleged false representations.

HOLDINGS

1. Under Pennsylvania collateral-estoppel law, Defendant was precluded from relitigating the factual averments in the state-court complaint that the Philadelphia Court of Common Pleas deemed admitted during the remanded trial.
2. Plaintiffs established as a matter of law that Defendant made false representations in the seller's disclosure, knew or recklessly disregarded their falsity, and intended to deceive Plaintiffs.
3. Summary judgment was inappropriate on justifiable reliance and damages because genuine disputes of material fact remained.

KEY QUOTATIONS

"However, genuine disputes of material fact remain as to whether Plaintiffs justifiably relied on Defendant's false representations, and therefore necessarily also as to whether damages were a proximate result of those false representations." (Opinion at 1-2)

"For the above reasons, Defendant is collaterally estopped from relitigating the factual findings by the Philadelphia Court of Common Pleas through the Trial, which factual findings consist of the factual averments set forth in the State Court Complaint." (Opinion at 19-20)

"The Motion will be denied in regard to the final two elements of § 523(a)(2)(A), the Court finding that genuine disputes of material fact exist as to whether (iv) Plaintiffs justifiably relied on Defendant's false representations and (v) damages proximately resulted from the false representations." (Opinion at 24)

FACTUAL BACKGROUND

Plaintiffs purchased a Philadelphia residence from Gentian Capital, LLC, which was controlled by Defendant Cozette McAvoy. Before the sale, Defendant signed a seller's disclosure stating that the seller lacked relevant construction expertise and that the roof had never leaked, although the state-court record established that Gentian developed and built the property and that Defendant had been informed of roof leakage and water-infiltration issues. Plaintiffs later discovered extensive roof, stucco, structural, water, and mold-related defects and incurred repair expenses. A Pennsylvania court entered a verdict imposing joint and several liability on Defendant and Gentian for, among other claims, fraudulent misrepresentation.

PROCEDURAL HISTORY

Plaintiffs purchased residential real property from an entity controlled by Defendant and later sued in the Philadelphia Court of Common Pleas for alleged misrepresentations concerning the property's construction and condition. A prior default judgment was struck on appeal, and the case was remanded for trial. After the state court deemed the complaint's factual averments admitted and entered a verdict for Plaintiffs on several claims, Plaintiffs sought summary judgment in this adversary proceeding. The bankruptcy court held that the deemed factual admissions were entitled to preclusive effect, but found genuine disputes concerning reliance and damages.

DISPOSITION

other

REMAND INSTRUCTIONS

The issues of justifiable reliance and damages are to proceed to trial in the adversary proceeding.

CASES CITED

- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49 (1986)
- *Odom v. Philadelphia Parking Auth.* (In re Odom), 571 B.R. 687, 692 (Bankr. E.D. Pa. 2017)
- *Burtch v. Detroit Forming, Inc.* (In re Archway Cookies), 435 B.R. 234, 238 (Bankr. D. Del. 2010)
- *Horowitz v. Fed. Kemper Life Assur. Co.*, 57 F.3d 300, 301 (3d Cir. 1995)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24 (1986)
- *Prince v. BAC Home Loans Servicing, LP*, No. 16-CV-1544, 2018 WL 4154947, at *2-3 (E.D. Pa. Aug. 30, 2018)
- *Chusid v. First Union Nat. Bank*, No. CIV. A. 97-4134, 1998 WL 42292, at *3 (E.D. Pa. Jan. 21, 1998)
- *In re Adesanya*, 613 B.R. 808, 826-27 (Bankr. E.D. Pa. 2020)
- *Novartis Pharms. Corp. v. Adesanya*, 645 B.R. 733 (E.D. Pa. 2022)
- *Murphy v. Snyder* (In re Snyder), 939 F.3d 92, 100 (2d Cir. 2019)
- *In re Kamps*, 575 B.R. 62, 75-76 (Bankr. E.D. Pa. 2017)
- *In re Cunningham*, 526 B.R. 578, 583 (Bankr. E.D. Pa. 2015)

- In the Matter of Cunningham, 541 B.R. 792 (E.D. Pa. 2015)
- Suppan v. Dadonna, 203 F.3d 228, 233 (3d Cir. 2000)
- Bravo-Fernandez v. United States, 580 U.S. 5, 6 (2016)
- Ashe v. Swenson, 397 U.S. 436, 444 (1970)
- Spilman v. Harley, 656 F.2d 224, 228 (6th Cir. 1981)
- In re Turner, 326 B.R. 563, 570 (Bankr. W.D. Pa. 2005)
- Adelphia Gateway, LLC v. Pennsylvania Env't Hearing Bd., 62 F.4th 819, 828 (3d Cir. 2023)
- Pennsylvania Laws. Fund for Client Sec. v. McKee, No. 2:23-CV-00535-CFK, 2023 WL 6520492, at *7 (E.D. Pa. Oct. 5, 2023)
- In re Jacobs, 381 B.R. 128, 143 (Bankr. E.D. Pa. 2008)
- Estate of Tyler ex rel. Floyd v. Grossman, 108 F. Supp. 3d 279, 289 (E.D. Pa. 2015)
- Heck v. Humphrey, 512 U.S. 477, 480 n.2 (1994)
- In re Docteroff, 133 F.3d 210, 215 (3d Cir. 1997)
- In re Halpern, 810 F.2d 1061, 1064 (11th Cir. 1987)
- In re Aiello, 533 B.R. 489, 494-95 (Bankr. E.D. Pa. 2015)
- In re Hay Phat, 623 B.R. 371, 377, 379-80 (Bankr. E.D. Pa. 2021)
- Fledderman v. Glunk (In re Glunk), 343 B.R. 754, 758 (Bankr. E.D. Pa. 2006)
- In re Grasso, 497 B.R. 434, 443 (Bankr. E.D. Pa. 2013)
- New York Life Ins. Co. v. Marotta, 57 F.2d 1038, 1039 (3d Cir. 1932)
- FTC v. Duggan (In re Duggan), 169 B.R. 318, 324 (Bankr. E.D.N.Y. 1994)
- In re Santos, 304 B.R. 639, 664 (Bankr. D.N.J. 2004)
- Starr v. Reynolds (In re Reynolds), 193 B.R. 195, 200 (D.N.J. 1996)
- In re Bocchino, 794 F.3d 376, 379-82 (3d Cir. 2015)
- De La Cruz v. Cohen (In re Cohen), 185 B.R. 171, 177-78 (Bankr. D.N.J. 1994)
- In re Dizinno, 532 B.R. 231, 238 (Bankr. M.D. Pa. 2015)
- Ojeda v. Goldberg, 599 F.3d 712, 717 (7th Cir. 2010)
- Field v. Mans, 516 U.S. 59, 71 (1995)

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