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IT IS SO ORDERED.

Dated: October 30, 2025



Beth A. Buchanan

Beth A. Buchanan
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re:

JOHN J. KOUTROS

Debtor

Case No. 25-11019
Chapter 7
Judge Buchanan

ZACHARY WHITE

Plaintiff

Adv. No. 25-1019

v.

JOHN J. KOUTROS

Defendant

ORDER DENYING MOTION TO DISMISS [Docket Number 5]

[This order is not intended for publication.]

This matter is before this Court on *Defendant's Motion to Dismiss Complaint for Failure to State a Claim Upon Which Relief May Be Granted* [Docket Number 5] ("Motion"); and *Plaintiff's Response to Motion to Dismiss* [Docket Number 9] ("Response").

In the Motion, Defendant-Debtor John J. Koutros ("Mr. Koutros") asserts that the adversary complaint filed by Plaintiff Zachary White ("Mr. White") fails to state a claim upon which relief may be granted. Mr. Koutros takes issue with the generality of the complaint and limited factual detail to support Mr. White's claims under 11 U.S.C. § 523(a)(2), (a)(4) and (a)(6) and asserts that Mr. White failed to plead fraud with particularity. Mr. Koutros also asserts that even if the state court default judgment upon which the claims are based is given "full faith and credit" it will not be binding as to dischargeability.

Following Mr. Koutros's filing of the Motion, Mr. White filed an amended complaint in accordance with Fed. R. Civ. P. 15(a)(1)(B)¹ [Docket Number 8] and his Response [Docket Number 9]. The amended complaint sets forth additional factual detail of alleged false statements and misrepresentations to support nondischargeability under § 523(a)(2), (a)(4) and (a)(6) and adds an additional cause of action for denial of discharge under 11 U.S.C. § 727(a)(4)(A). In his Response, Mr. White asserts that the amended complaint moots the motion to dismiss filed by Mr. Koutros. Mr. Koutros did not file a reply.

A properly filed amended complaint supersedes the original complaint such that the original pleading no longer serves any function in the case. *Crawford v. Tilley*, 15 F. 4th 752, 759 (6th Cir. 2021); *Mandali v. Clark*, Case No. 2:13-cv-1210, 2014 U.S. Dist. LEXIS 143850, at *3, 2014 WL 5089423, at *1 (S.D. Ohio Oct. 9, 2014). For this reason, "[t]he general rule is that filing an amended complaint moots pending motions to dismiss" although courts retain the discretion to

¹ Fed. R. Civ. P. 15 is incorporated into bankruptcy adversary proceedings via Fed. R. Bankr. P. 7015.

apply a motion to dismiss to portions of the amended complaint that remain substantially identical to the original. *Crawford*, 15 F.4th at 759; *see also Mandali*, 2014 U.S. Dist. LEXIS 143850, at *3-4, 2014 WL 5089423, at *1-2.

In this instance, Mr. White amended his complaint to provide additional factual detail and another cause of action. Mr. Koutros did not file a reply or otherwise indicate to this Court that the pending motion to dismiss the original complaint should be directed to portions of the amended complaint. Moreover, Mr. Koutros subsequently filed an answer to the amended complaint [Docket Number 10]. As such, this Court concludes that the amended complaint moots the pending motion to dismiss.

Wherefore, the Motion [Docket Number 5] is DENIED.

SO ORDERED.

Distribution List:

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