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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:

DERRICK G. HOGEBACK
PAMELA R. HOGEBACK

Debtors

ROGER D. STATON, et al.

Plaintiffs

v.

DERRICK G. HOGEBACK, et al.

Defendants

Case No. 25-10744
Chapter 7
Judge Buchanan

Adv. No. 25-1024

**MEMORANDUM OPINION AND ORDER GRANTING THE MOTION TO DISMISS
COMPLAINT AS TO DEFENDANT PAMELA R. HOGEBACK [Docket Number 10]**

[This opinion is not intended for publication.]

This matter is before this Court on *Defendant Pamela R. Hogeback's Motion to Dismiss Complaint for Failure to State a Claim Upon Which Relief May be Granted* [Docket Number 10] ("Motion"); and *Plaintiffs Aaron J. Jackson's and Roger D. Staton's Response in Opposition* [Docket Number 13] ("Response").

Plaintiffs Roger Staton and Aaron Jackson (collectively "Plaintiffs") filed an adversary complaint against Defendant-Debtors Derrick and Pamela Hogeback (collectively "Debtors") to except a debt from discharge as a willful and malicious injury. Subsequently, Pamela Hogeback filed the Motion requesting that this Court dismiss the adversary complaint as to her for failure to state a claim upon which relief can be granted. She argues that the Plaintiffs' adversary complaint fails to establish a factual basis to except a debt from her discharge. Instead, the only facts alleged in the adversary complaint involve her husband, Derrick Hogeback.

For the reasons that follow, this Court agrees that the adversary complaint fails to state a claim against Pamela Hogeback. Accordingly, the Motion is granted.

I. JURISDICTION

This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334, and the standing General Order of Reference in this District. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

II. BACKGROUND

According to the allegations in the adversary complaint [Docket Number 1], Plaintiff Aaron Jackson is a creditor with a valid state court judgment against Derrick Hogeback for compensatory and punitive damages and attorney fees arising from a personal injury caused by Derrick Hogeback. Plaintiff Roger Staton is the attorney who represented Aaron Jackson in the state court case and asserts money owed for attorney fees arising from the judgment. The Plaintiffs

assert that the judgment debt and attorney fees owed to them constitute a debt for a “willful and malicious injury” pursuant to 11 U.S.C. § 523(a)(6) and, consequently, the debt should be excepted from discharge.

Pamela Hogeback is listed as a party in Paragraph 10 of the adversary complaint. She is noted to have filed a joint bankruptcy petition with Derrick Hogeback in Paragraph 14 of the complaint. Other than those specific paragraphs, the adversary complaint includes no factual allegations against Pamela Hogeback.

III. LEGAL ANALYSIS

A. Legal Standard for Review of a Motion to Dismiss for Failure to State a Claim

Pamela Hogeback requests that this Court dismiss the Plaintiffs’ adversary complaint as to her pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(6), incorporated into bankruptcy adversary proceedings by Federal Rule of Bankruptcy Procedure (“Bankruptcy Rule”) 7012(b). Under Rule 12(b)(6), a defendant may move to dismiss a claim for “failure to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6).

In addressing a Rule 12(b)(6) motion, courts assess the sufficiency of a complaint in light of the pleading requirements in Rule 8. Under Rule 8(a)(2), made applicable in bankruptcy adversary proceedings pursuant to Bankruptcy Rule 7008, a complaint need only contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Accordingly, “[t]o survive a [Rule 12(b)(6)] motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678, (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

B. The Complaint Fails to State a Claim Against Pamela Hogeback

The Plaintiffs' adversary complaint includes one cause of action to except a prepetition debt from discharge as a willful and malicious injury under 11 U.S.C. § 523(a)(6) and names both Pamela Hogeback and her husband Derrick Hogeback as defendants. In her Motion, Pamela Hogeback argues that the adversary complaint is insufficient to state a claim against her because the only fact allegations in it involve her husband, Derrick Hogeback.

To except a debtor's debt from discharge under § 523(a)(6), the plaintiff must first establish that the debtor owes the plaintiff a prepetition debt. *Lorentz v. Dick (In re Dick)*, Adv. No. 24-1015, 2025 Bankr. LEXIS 1405, at *10, 2025 WL 1635507, at *4 (Bankr. S.D. Ohio Feb. 12, 2025); *Lawson v. Conley (In re Conley)*, 482 B.R. 191, 207 (Bankr. S.D. Ohio 2012) ("In order to establish the nondischargeability of a debt, the creditor must first show the existence of a debt under state law."). In this instance, the adversary complaint includes allegations of a prepetition judgment debt owed by Derrick Hogeback to the Plaintiffs; however, there are no similar allegations of a judgment debt, or any other type of debt, owed to the Plaintiffs by Pamela Hogeback.

In their Response to the Motion, the Plaintiffs argue that Pamela Hogeback should not be dismissed from this adversary proceeding because she is married to, and filed a joint bankruptcy case with, Derrick Hogeback. However, her marriage and joint bankruptcy filing does not establish that Pamela Hogeback owes Plaintiffs a debt. Unless a court orders otherwise, married debtors filing a joint bankruptcy petition maintain separate estates that may include different assets, debts, and creditors. *See Renneker v. Wyman (In re Wyman)*, 626 B.R. 480, 487 (Bankr. S.D. Ohio 2021); *In re Toland*, 346 B.R. 444, 449 (Bankr. S.D. Ohio 2006). Consequently, a § 523(a) action cannot be maintained against a debtor simply because she is married to a joint debtor against whom a

plaintiff obtains a judgment. Instead, an adversary complaint to except a debt from discharge must include facts to establish that each named defendant-debtor owes a debt to the plaintiffs.

In this instance, Plaintiffs' adversary complaint includes no allegations of a debt owed to them by Pamela Hogeback. Accordingly, Pamela Hogeback's motion to dismiss for failure to state a claim is granted.

IV. CONCLUSION

For the reasons set forth, the Motion [Docket Number 10] is GRANTED. The Plaintiffs' adversary complaint is dismissed as to Defendant Pamela Hogeback.

SO ORDERED.

Distribution List:

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