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IT IS SO ORDERED.



Dated: July 24, 2025

Mina Nami Khorrami
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

<i>In re:</i>	:	Case No. 24-50592
	:	Chapter 13
Jeffrey O Price (Deceased) and	:	Judge Mina Nami Khorrami
MyKesha S. Price,	:	
<i>Debtors.</i>	:	
	:	
MyKesha S. Price,	:	Adv. Pro No. 24-02065
	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	
	:	
Telhio Credit Union, Inc.,	:	
	:	
<i>Defendant.</i>	:	
	:	

**OPINION AND ORDER GRANTING MOTION
FOR SUMMARY JUDGMENT BY PLAINTIFF (DOC. 12).**

I. Introduction

Before the Court are the following: (1) *Motion for Summary Judgment by Plaintiff* (Doc. 12) (the “Motion”) and the *Affidavit of MyKesha S. Price In Support of Plaintiff’s Motion for Summary Judgment* (Doc. 12-1) (the “Affidavit”), which was attached to the Motion, (2) *Defendant Telhio Credit Union, Inc.’s Response to Plaintiff/Debtor MyKesha S. Price’s Motion for Summary Judgment* (Doc. 14) (the “Response”), (3) *Plaintiff’s Reply To Defendant’s Opposition To Plaintiff’s Motion For Summary Judgment* (Doc. 16) (the “Reply”),¹ and (4) *Joint Stipulation Of Facts Of Plaintiff And Defendant* (Doc. 11) (the “Stipulation”). A hearing (the “Hearing”) was held on July 8, 2025, for the parties to present oral arguments on the SJ Pleadings. Christal Caudill appeared on behalf of the Plaintiff, and Sebastian West appeared on behalf of the Defendant, and the Court took the matter under advisement. For the reasons that follow, the Motion is granted.

II. Jurisdiction and Venue

The Court has jurisdiction pursuant to 28 U.S.C. § 1334 and the Amended General Order 05-02 entered by the United States District Court for the Southern District of Ohio, referring all bankruptcy matters to this Court. This is a core proceeding under 28 U.S.C. § 157(b)(2)(F). Venue properly lies in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

III. Undisputed Facts

Mykesha S. Price (the “Plaintiff”) filed a joint voluntary petition, being case number 24-50592 (the “Main Case”), with her husband, Jeffrey O. Price (hereinafter “Mr. Price,” and together with the Plaintiff, “the Debtors”), under Chapter 13 of the Bankruptcy Code on February 21, 2024 (the “Petition Date”). Joint Stip. ¶ 1, ECF No. 11. The chapter 13 plan (the “Plan”) was confirmed

¹ The Motion, Response, and Reply will collectively be referred to as “the SJ Pleadings.”

on July 31, 2024. Joint Stip. ¶ 2. The Plan provides that the Plaintiff has the authority to bring this preference action. Joint Stip. ¶ 3.

The Plaintiff and Mr. Price were joint owners of residential real property located at 909 Grandon Avenue, Bexley, Ohio 43209 (the “Real Property”). Joint Stip. ¶ 4. They held title to the Real Property pursuant to a survivorship deed (the “Survivorship Deed”) dated April 26, 2023. Joint Stip. ¶ 4 and Ex. A. Mr. Price died on August 4, 2024, shortly after the Plan was confirmed. Joint Stip. ¶ 5.

On June 29, 2023, Telhio Credit Union, Inc. (hereinafter the “Defendant” or “Telhio”) loaned to the Plaintiff’s entity, Adventures of The Creative Kind, LLC (the “LLC”) the sum of \$200,000, and the LLC executed a note (the “Note”) to the Defendant for that amount. Joint Stip. ¶ 8 and Ex. B. The Plaintiff is a member of the LLC. Joint Stip. ¶ 7. The Plaintiff signed a personal guaranty (the “Guaranty”) of the Note. Joint Stip. ¶ 9 and Ex. C. The Plaintiff’s Guaranty was unsecured. Joint Stip. ¶ 10. On December 29, 2023, the LLC defaulted on the Note, which caused the Plaintiff’s obligation under the Guaranty to become due and payable. Joint Stip. ¶¶ 11-12.

On January 12, 2024, Telhio filed a complaint on cognovit promissory note and cognovit guaranty against the LLC and the Plaintiff in the Franklin County Court of Common Pleas, Case Number 24 CV000280 (the “Cognovit Case”). Joint Stip. ¶ 13. On January 16, 2024, a judgment was entered in the Cognovit Case in favor of Telhio and against the LLC and the Plaintiff, jointly and severally, for \$151,855.85 plus interest (the “Judgment”). Joint Stip. ¶ 14 and Ex. D.

On January 23, 2024, Telhio filed a certificate of judgment lien in the Franklin County Court of Common Pleas, being Case Number 24-JG-03938 against the LLC and the Plaintiff (the “Judgment Lien”). Joint Stip. ¶ 15 and Ex. E. As a result, the Judgment Lien attached to the

Plaintiff's interest in the Real Property on January 23, 2024. Joint Stip. ¶ 16. Telhio filed a proof of claim in the Main Case on February 29, 2024, asserting that it was owed \$157,156.70. Joint Stip. ¶ 17 and Ex. F. Despite the Judgment Lien, Telhio's proof of claim indicates that the claim is unsecured. Joint Stip. Ex. F at 2.

In the Main Case, on May 1, 2025, Telhio filed its *Creditor Telhio Credit Union, Inc.*'s *Motion To: (i) Modify Chapter 13 Plan, or in the Alternative, (ii) Request that this Court Sever Jeffrey O. Price's Bankruptcy and Dismiss it Under Rule 1016(b)* (Case No. 24-50592, Doc. 52). On May 22, 2025, Telhio amended this filing to separate² the forms of relief sought by filing *Creditor Telhio Credit Union, Inc.*'s *Amended Motion To Modify Chapter 13 Plan* (Case No. 24-50592, Doc. 59) and *Creditor Telhio Credit Union, Inc.*'s *Amended Motion To Request That This Court Sever Jeffrey O. Price's Bankruptcy And Dismiss It Under Rule 1016(b)* (Case No. 24-50592, Doc. 60) (collectively, the "Main Case Motions"). The Main Case Motions seek either to modify the Plan as to the Plaintiff to reflect the effect of Mr. Price's death upon the Plaintiff's assets and/or to sever Mr. Price's case from the Plaintiff's. The Main Case Motions were also heard at the Hearing but are being held in abeyance pending the submission of further briefing, which is currently set to be completed on August 25, 2025. Order, Case. No. 24-50592, ECF No. 73.

IV. Legal Analysis

A. Summary Judgment Standard

Rule 56 of the Federal Rules of Civil Procedure (the "Civil Rules")³ governs a request for summary judgment and provides that "[t]he court shall grant summary judgment if the movant

² LBR 3015-2(d) provides that a motion to modify a plan must be made separately from any other motion.

³ Civil Rule 56 is made applicable to adversary proceedings by Rule 7056 of the Federal Rule of Bankruptcy Procedure (the "Bankruptcy Rules").

shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The party requesting summary judgment bears the burden of establishing the absence of a genuine dispute of material fact. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). The opposing party must then “come forward with specific facts showing that there is a genuine issue for trial.” *Mounts v. Grand Trunk W. R.R.*, 198 F.3d 578, 580 (6th Cir. 2000) (citation omitted).

When considering a motion for summary judgment, “[t]he court must view the evidence in the light most favorable to the nonmoving party. However, the party opposing the summary judgment motion must do more than simply show that there is some metaphysical doubt as to the material facts.” *Amini v. Oberlin Coll.*, 440 F.3d 350, 357 (6th Cir. 2006) (citations and internal quotation marks omitted). “[A] mere ‘scintilla’ of evidence in support of the non-moving party’s position is insufficient to defeat summary judgment; rather, the non-moving party must present evidence upon which a reasonable jury could find in her favor.” *Tingle v. Arbors at Hilliard*, 692 F.3d 523, 529 (6th Cir. 2012) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 251, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986)).

At the Hearing, the Defendant did not present any argument or evidence in opposition to the Motion. This essentially renders the Motion unopposed. However, as the Sixth Circuit mandates, trial courts cannot grant summary judgment motions simply due to the lack of opposition. *Byrne v. CSX Transp., Inc.*, 541 F. App’x 672, 675 (6th Cir. 2013) (stating that trial courts have the “independent duty to examine the supporting evidence cited and to determine whether Defendants had discharged their initial [summary judgment] burden on the basis of that supporting evidence.”). The trial court must determine if the movant has met its burden of proving that there is no genuine dispute of material fact and that the movant is entitled to judgment as a

matter of law. *Delphi Auto. Sys., LLC v. United Plastics, Inc.* 418 F. App'x 374, 380-81 (6th Cir. 2011) (“In other words, a district court cannot grant summary judgment in favor of a movant simply because the adverse party has not responded. The court is required, at a minimum, to examine the movant's motion for summary judgment to ensure that he has discharged that burden.”) (quoting *Carver v. Bunch*, 946 F.2d 451, 455 (6th Cir. 1991)). Based upon the agreed facts and exhibits set forth in the Stipulation, there is no genuine dispute of material fact. Civil Rule 56(c)(1)(A) includes stipulations in the evidentiary items that may be considered on summary judgment. Accordingly, the Court proceeds to consider whether these undisputed facts establish the elements of a preference claim under § 547.

B. Avoidance of Preferential Transfers Under 11 U.S.C. § 547

The Plaintiff must show that she is entitled to judgment as a matter of law by showing that all of the elements of a preference have been met here. The elements of a preference are laid out in 11 U.S.C. § 547(b).

A preference is a “transfer of an interest of the debtor in property” that was:

- (1) to or for the benefit of a creditor;
- (2) for or on account of an antecedent debt owed by the debtor before such transfer was made;
- (3) made while the debtor was insolvent;
- (4) made—
 - (A) on or within 90 days before the date of the filing of the petition; or
 - (B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider; and
- (5) that enables such creditor to receive more than such creditor would receive if—
 - (A) the case were a case under chapter 7 of this title;
 - (B) the transfer had not been made; and
 - (C) such creditor received payment of such debt to the extent provided by the provisions of this title.

11 U.S.C. § 547(b).

Each of these statutory elements must be satisfied in order to avoid a transfer under 11 U.S.C. § 547(b). *Waldschmidt v. Ranier (In re Fulghum Constr. Corp.)*, 706 F.2d 171, 172 (6th Cir. 1983). The Plaintiff bears the burden of establishing each element. 11 U.S.C. § 547(g); *Triad Int'l Maint. Corp. v. S. Air Transp., Inc. (In re S. Air Transp., Inc.)*, 511 F.3d 526, 534 (6th Cir. 2007). The standard of proof is a preponderance of the evidence. *Williams v. McNabb (In re McNabb)*, 567 B.R. 326, 335 (Bankr. W.D. Tenn. 2017).

The Defendant concedes that the first two elements under 11 U.S.C. § 547(b)(1) and (2) are satisfied. Def's. Resp. 2, ECF No. 14. The Court will proceed to examine the remaining three elements.

The Plaintiff Is Presumed Insolvent During the Preference Period

Section 547(b)(3) requires that a debtor be insolvent at the time of the transfer. 11 U.S.C. § 547(f) provides that “the debtor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the filing of the petition.” This presumption is rebuttable, but the defendant must demonstrate evidence of the debtor’s solvency to rebut it. *Whittaker v. Citra Trading Corp. (In re Int'l Diamond Exch. Jewelers, Inc.)*, 177 B.R. 265, 269 (Bankr. S.D. Ohio 1995). Unless rebutted with evidence, the presumption is sufficient to establish insolvency on summary judgment. *Int'l Diamond Exch. Jewelers*, 177 B.R. at 269; *SKK Liquidation Tr. v. Green & Green LPA (In re Spinnaker Indus., Inc.)*, 328 B.R. 755, 765 (Bankr. S.D. Ohio 2005). The Defendant at the Hearing and in its Response states that “Defendant is unaware of facts to prove Plaintiff’s solvency on the date of the transfer.” Def's. Resp. 2, ECF No. 14. Since the Defendant has not come forward with evidence to rebut the presumption of insolvency, the presumption under § 547(f) is unrebutted. Therefore, § 547(b)(3) is satisfied.

It is Undisputed That the Transfer Effectuated By the Judgment Lien Occurred Less Than Ninety Days Prior to the Petition Date

11 U.S.C. § 547(b)(4) requires that the transfer take place within ninety days before the filing of the petition. In this case, the date of the transfer is determined by the date that the Judgment Lien arose. Ohio law provides that filing a certificate of judgment creates a judgment lien as of the date the certificate of judgment is filed. Ohio Rev. Code § 2329.02; *Marietta v. Verhovec*, 241 N.E.3d 292, 298 (Ohio Ct. App. 2024). Accordingly, for an Ohio judgment lien, section 547(b)(4) is satisfied where the relevant certificate of judgment was filed with the clerk of courts for the county where the property is located within the 90-day preference period. *French v. State Farm Mut. Auto. Ins. Co. (In re LaRotonda)*, 436 B.R. 491, 494 (Bankr. N.D. Ohio 2010).

In this case, it is stipulated that the certificate of judgment was filed on January 23, 2024. Joint Stip. ¶ 15. January 23, 2024, was twenty-nine days before the Petition Date, and § 547(b)(4) is therefore satisfied.

11 U.S.C. § 547(b)(5) is Satisfied

Under 11 U.S.C. § 547(b)(5), the Plaintiff must show that the transfer enabled the Defendant to recover more than it would have in a hypothetical chapter 7 case where the Defendant did not have the Judgment Lien and was paid as an unsecured creditor. This requirement is satisfied when an unsecured creditor improves its position during the preference period by becoming a secured creditor, such as by obtaining a judgment lien. *In re LaRotonda*, 436 B.R. at 496.

That is exactly what has happened in this case. Prior to obtaining the Judgment Lien, the Defendant held an unsecured claim against the Plaintiff on the Guaranty, Joint Stip. ¶ 10, which limited it to receiving a pro rata distribution with other unsecured creditors. When it obtained the Judgment Lien on January 23, 2024, the debt became a secured debt. Joint Stip. ¶¶ 10, 16. A

preferential transfer occurs when an unsecured creditor improves its position within the preference period by becoming a secured creditor. *In re LaRotonda*, 436 B.R. at 496.

In this case, the Judgment Lien obtained by the Defendant within the preference period improved its position by transforming its unsecured claim into a secured claim and therefore § 547(b)(5) is satisfied.

C. The Court Denies The Defendant's Request to Stay Proceedings on the Motion

The Defendant in its Response requests that the Court stay the proceedings on the Motion pending the resolution of the Main Case Motions. The Defendant reasons that the Plaintiff should modify her Plan in the Main Case since she now owns the entire fee interest in the Real Property and after taking into consideration her exemption, there should be an increase in distribution to the creditors, including the Defendant. Def's. Resp. 3, ECF No. 14.

The Court has the discretion to stay a proceeding pending the outcome of another case or proceeding to promote judicial economy where the outcome of the other case will in some manner impact the issue before the Court. *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55, 57 S. Ct. 163, 81 L. Ed. 153 (1936). But even where judicial economy will be served due to an overlap of issues, the party seeking the stay has the burden to show there is a “pressing need” for the stay, including hardship, inequity, or other damage. *Ohio Env’t Council v. United States Dist. Ct., S.D. Ohio*, 565 F.2d 393, 396 (6th Cir. 1977) (“[A] court must tread carefully in granting a stay of proceedings, since a party has a right to a determination of its rights and liabilities without undue delay.”).

The Defendant has not shown any overlap between the Motion and the Main Case Motions. Telhio is considered an unsecured creditor under the Plan for purposes of the Main Case Motions because it filed an unsecured proof of claim. Joint Stip. ¶ 17 and Ex. F. The preference case will

not alter the nature of Telhio’s proof of claim. Because Telhio’s treatment under the Plan results from its filing of an unsecured proof of claim, the resolution of the Main Case Motions (where Telhio seeks to increase the dividend paid to unsecured creditors) does not overlap with the preference case. Accordingly, whether the Defendant is entitled to an increased dividend under the Plan (as Telhio argues in the Main Case Motions) is entirely distinct from whether the Judgment Lien is avoidable under § 547.

Even if the Defendant had shown that the issues overlap, it did not articulate any hardship or inequity that would give rise to a “pressing need for delay” as required by the Sixth Circuit. *Ohio Env’t Council*, 565 F.2d at 396. The Defendant’s request for stay does not acknowledge this requirement or attempt to satisfy it. Def.’s Resp. 4, ECF No. 14. The Defendant has not carried its burden to show that this proceeding should be stayed.⁴

V. Conclusion

The Plaintiff has established that there are no genuine disputes of material fact as to the elements of § 547(b), and that she is entitled to judgment as a matter of law. Accordingly, the Motion is GRANTED. Pursuant to LBR 9072-1(f), the Plaintiff is directed to upload a proposed final judgment within seven days of the entry of this Opinion and Order.

IT IS SO ORDERED.

Copies to:

Christal Caudill, counsel for Plaintiff
Justin Ristau, counsel for Defendant
Sebastian West, counsel for Defendant

⁴ In addition, the Defendant did not argue in support of this request at the Hearing, so the Court also deems it abandoned. *See, e.g., Furlow v. Macdonald (In re Macdonald)*, 622 B.R. 837, 855 n.3 (Bankr. D.S.C. 2020).