

This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.

Dated: February 12, 2025



*Beth A. Buchanan*

Beth A. Buchanan  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

In re:	)	
	)	
JULIE M. DICK	)	Case No. 24-10766
	)	Chapter 7
	)	Judge Buchanan
Debtor	)	
	)	
_____	)	
JILL LORENTZ, ET AL.	)	Adv. No. 24-1015
	)	
Plaintiffs	)	
	)	
v.	)	
	)	
JULIE M. DICK	)	
	)	
Defendant	)	
	)	
_____	)	

DECISION AND ORDER GRANTING DEFENDANT-DEBTOR'S MOTION FOR  
A MORE DEFINITE STATEMENT [Docket Number 6] AND REQUIRING  
PLAINTIFFS TO AMEND THE COMPLAINT

Defendant-Debtor Julie M. Dick (“Debtor”) filed a motion for a more definite statement. The Debtor asserts that the facts set forth in the complaint to support the claims of Plaintiffs Jill and Charles Lorentz and Lorentz Realty, LLC (collectively “Plaintiffs”) are too vague and insufficient for the Debtor to frame a responsive pleading. The complaint includes two claims: a claim to except a debt from discharge as a willful and malicious injury and a claim to deny the Debtor’s discharge for false oaths in the schedules and Statement of Financial Affairs (“SOFA”).

With respect to the Plaintiffs’ claim to except a debt from discharge, although subject to the “notice pleading” standard of Federal Rule of Civil Procedure 8, the factual allegations are insufficient. The complaint does not provide allegations respecting all of the material elements to sustain a recovery nor are the allegations specific enough to allow the Debtor to admit or deny the allegations. Furthermore, the Plaintiffs request judgment on the “willful, intentional and malicious” acts of the Debtor without including non-bankruptcy law causes of action on which to base such a judgment. Finally, the Plaintiffs’ claim to deny the Debtor’s discharge for false oaths in the schedules and SOFA is subject to a heightened pleading standard that is not met by the factual allegations in the complaint. Accordingly, the Debtor’s motion for a more definite statement is granted and this Court will require that the Plaintiffs amend their complaint.

**I. BACKGROUND**

On July 15, 2024, the Plaintiffs filed the adversary complaint [Docket Number 1 (the “Complaint”)] against the Debtor asserting two causes of action: one to except a debt owed to the Plaintiffs from discharge under 11 U.S.C. § 523(a)(6) and one to deny the Debtor’s discharge under 11 U.S.C. § 727(a)(4).

The facts set forth in the Complaint are summarized as follows. Prior to the bankruptcy filing, the Debtor initiated state court litigation against the Plaintiffs and they, in turn, filed counter-claims against the Debtor for defamation and intentional infliction of emotional distress. The filing of the Debtor's bankruptcy case stayed the state court litigation before it could be judicially determined. According to the Complaint, the Debtor's conduct against the Plaintiffs included making public statements regarding the actions, character and business ethics of the Plaintiffs and also making threats of physical violence against Jill and Charles Lorentz.

In addition, the Plaintiffs accuse the Debtor of false, inaccurate or incomplete information regarding the Debtor's financial affairs as of the filing date in the Amended Schedules A/B, Amended Schedules E/F and SOFA on the record at Case Number 24-10766, Docket Numbers 17-19. However, the Plaintiffs do not set forth exactly what statements in these documents are false, inaccurate or incomplete.

Based on these allegations, the Plaintiffs request a determination that the Debtor's debts to them be excepted from discharge under § 523(a)(6). In addition, they request that the Debtor's discharge be denied under § 727(a)(4) for the false oaths in the schedules and SOFA. Furthermore, in their "Wherefore" clause, they request judgment for "amounts owed by Debtor to Plaintiffs resulting from Debtor's willful, intentional and malicious acts which have damages Plaintiffs."

Subsequently, the Debtor filed a motion for a more definite statement [Docket Number 6 (the "Motion")] pursuant to Federal Rule of Civil Procedure 12(e). In the Motion, she asserts that the Plaintiffs have failed to identify the "intentional acts" that are not dischargeable in bankruptcy. In addition, she asserts that the Plaintiffs have not

indicated in the Complaint what fraud was committed under § 727(a)(4). She requests an amended complaint to put her on notice as to what the exact claims are that are nondischargeable and the conduct that was fraudulent.

The Plaintiffs filed a response [Docket Number 9] arguing that under Federal Rule of Civil Procedure 8, the Complaint is only required to include a short and plain statement of the claim showing that the plaintiff is entitled to relief. The Plaintiffs assert that the Complaint is sufficient because it includes factual allegations that the Debtor made public statements about the actions, character and business ethics of the Plaintiffs and made threats of physical violence. Similarly, the Plaintiffs defend the sufficiency of the Complaint's allegations that the Debtor's Amended Schedules and SOFA are false, inaccurate or incomplete. They assert that any additional information needed by the Debtor to defend against the claims can be obtained through discovery.

The Debtor filed a reply [Docket Number 14] stating that the Plaintiffs reference items in the Complaint that are not factual allegations but, instead, mere bald assertions regarding the Plaintiffs supposed claims. The Debtor asserts that the Plaintiffs should be required to amend the Complaint to provide the factual basis for their claims and allegations.

## **II. LEGAL ANALYSIS**

### **A. Standards for Evaluating the Sufficiency of the Complaint**

Federal Rule of Civil Procedure (“Rule”) 12(e) provides that a party may move for a more definite statement when a pleading is “so vague or ambiguous that the party cannot reasonably prepare a response.” Fed. R. Civ. P. 12(e) (incorporated in bankruptcy adversary proceedings via Federal Rule of Bankruptcy Procedure 12(b)). The general

standard for what allegations suffice in a complaint is set forth in Rule 8(a), incorporated in bankruptcy adversary proceedings via Federal Rule of Bankruptcy Procedure 7008. Rule 8(a) requires a complaint to contain only “a short and plain statement of the claim showing that the pleader is entitled to relief” in order to give the defendant fair notice of what the claim is and the grounds upon which it rests. *See* Fed. R. Civ. P. 8(a)(2); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

This standard, along with the standard for stating a claim, have been interpreted to require “either direct or inferential allegations respecting all the material elements to sustain a recovery under some viable legal theory.” *Varljen v. Cleveland Gear Co., Inc.*, 250 F.3d 426, 429 (6th Cir. 2001). “[A] plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do . . . .” *Twombly*, 550 U.S. at 555 (further citations omitted) (holding that the factual allegations must be enough to raise a right to relief above the speculative level). While the material elements must be asserted, the Federal Rules of Civil Procedure generally do not require a plaintiff to set out in detail the facts in support of each cause of action. *Limor v. Buerger (In re Del-Met Corp.)*, 322 B.R. 781, 793 (Bankr. M.D. Tenn. 2005). *See also Twombly*, 550 U.S. at 563 (noting that the accepted pleading standard is that “once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint”).

While the general notice standard for pleading is set forth in Rule 8, a heightened standard applies when a claim sounds in fraud. Rule 9(b) requires a party to plead the circumstances constituting fraud with sufficient particularity to give the answering party notice of the misconduct that is being challenged and allow him or her to prepare an

informed pleading responsive to the specific allegations of fraud. Fed. R. Civ. P. 9(b) (incorporated into bankruptcy adversary proceedings via Fed. R. Bankr. P. 7009); *Chesbrough v. VPA, P.C.*, 655 F.3d 461, 466-67 (6th Cir. 2011) (noting that the purpose of Civil Rule 9(b) is to provide the defendant with fair notice of the alleged fraudulent conduct so the defendant may prepare an informed response, to protect the defendant's reputation from allegations of fraud, to narrow discovery, and to prevent "fishing expeditions"); *Coffey v. Foamex L.P.*, 2 F.3d 157, 161-62 (6th Cir. 1993). At a minimum, Rule 9(b) requires a plaintiff: "(1) to specify the allegedly fraudulent statements; (2) to identify the speaker; (3) to plead when and where the statements were made; and (4) to explain what made the statements fraudulent." *Republic Bank & Trust Co. v. Bear Stearns & Co., Inc.*, 683 F.3d 239, 247 (6th Cir. 2012) (citations omitted); *Burton Food Services, Inc. v. Aseireh (In re Aseireh)*, 526 B.R. 246, 249 (Bankr. N.D. Ohio 2015). However, "[m]alice, intent, knowledge, and other conditions of a person's mind may be alleged generally." Fed. R. Civ. P. 9(b); *see also Republic Bank*, 683 F.3d at 247 (noting that while conditions of the mind are not subject to the heightened pleading requirements, the pleadings regarding conditions of the mind remain bound by the plausibility requirement of Rule 8).

**B. The § 523(a)(6) Dischargeability Claim and Request for Judgment for Willful and Malicious Acts**

The sufficiency of the Plaintiff's § 523(a)(6) claim is evaluated under the general Rule 8 standard. *Aseireh*, 526 B.R. at 250. With respect to this claim, the Plaintiffs allege that the Debtor made public statements regarding the actions, character and business ethics of the Plaintiffs and also made threats of physical violence against Jill and Charles Lorentz. However, the Plaintiffs do not specify any particular statements made by the Debtor or

even when or where such statements were made. Furthermore, the Plaintiffs fail to detail the nature of the statements such that they would meet the “willful and malicious” standard under § 523(a)(6).<sup>1</sup> Moreover, there are no factual allegations regarding the injury alleged to befall the Plaintiffs. Although this is a close one given the notice pleading standard of Rule 8, this Court concludes that the factual allegations do not meet the standard because they are not specific enough to allow the Debtor to either admit or deny the allegations. *See Anaya v. Cardoza (In re Cardoza)*, 2019 Bankr. LEXIS 1392, at \*12-13, 2019 WL 1982945, at \*5 (Bankr. D. N.M. May 3, 2019) (noting that in light of the liberal discovery provided under the federal rules, a motion for a more definite statement should not be granted merely because the pleading lacks detail, rather the standard to be applied is whether the claims alleged are sufficiently specific to enable a responsive pleading in the form of a denial or admission).

Perhaps of greater significance and further underscoring the need to amend the Complaint, the Plaintiffs’ Complaint is inadequate in another respect connected to these allegations. The Complaint’s reference to the parties’ state court litigation notes that the litigation did not end in a judgment prior to the Debtor’s bankruptcy filing [*See* Complaint, ¶ 14]. Accordingly, in the “Wherefore” clause, the Plaintiffs request judgment in their favor with respect to the Debtor’s “willful, intentional, and malicious acts which have damaged Plaintiffs” [*Id.*, Wherefore Clause, ¶ B]. While requesting judgment in their favor, the

---

<sup>1</sup> For an act to arise to the level of one causing a “willful” injury, the debtor must not only intend the act, but also intend the harm or have knowledge that the harm was substantially certain to result from the act. *Markowitz v. Campbell (In re Markowitz)*, 190 F.3d 455, 464 (6th Cir. 1999). Furthermore, in the context of § 523(a)(6), the term “malicious” has been construed to mean a wrongful act committed “in conscious disregard of one’s duties or without just cause or excuse[.]” *Monsanto Co. v. Trantham (In re Trantham)*, 304 B.R. 298, 308 (B.A.P. 6th Cir. 2004) (internal quotation marks and citations omitted).

Plaintiffs fail to include non-bankruptcy law claim(s) on which to base a judgment against the Debtor.

A claim under § 523(a)(6) is a bankruptcy specific cause of action to except a prepetition debt from discharge; it cannot be used to establish the debt itself. Furthermore, until the Plaintiffs establish an underlying debt owed by the Debtor to the Plaintiffs, there can be no determination with respect to the debt's dischargeability. *See Lucas v. Miller (In re Miller)*, 2024 Bankr. LEXIS 1521, at \*15-17 (Bankr. S.D. Ohio June 25, 2024) (“As an initial matter, the court must determine the existence of a debt before a creditor can show that a debt is nondischargeable under one of the § 523(a) exceptions. . . . There must be a prepetition debt owed by a debtor because the exceptions to discharge do not provide a creditor with a cause of action that simultaneously creates a debt and renders it nondischargeable.” (internal quotation marks and citations omitted)); *Federal Ins. Co. v. Courtney (In re Courtney)*, Adversary Number 16-1029, Docket Number 17, p. 4, n.1 (Bankr. S.D. Ohio 2017); *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.”); *Weidle Corp. v. Leist (In re Leist)*, 398 B.R. 595, 601 (Bankr. S.D. Ohio 2008) (“As elementary as it may seem, a creditor must establish that he is owed a debt before it can be determined that the debt is nondischargeable under any § 523(a) exception to discharge.”). Thus, the Plaintiffs must include non-bankruptcy law claim(s) to establish the Debtor's liability to Plaintiffs and quantify the amount of damages in order for this Court to determine the debt's dischargeability.

For these reasons, the Complaint is insufficient and must be amended to: 1) set forth sufficient facts to meet the material elements of the nondischargeability claim and specific



enough to allow the Debtor to either admit or deny the factual allegations; and 2) set forth the non-bankruptcy law cause(s) of action that the Plaintiffs intend to use to establish the Debtor's liability and damages.<sup>2</sup> The added cause(s) of action should be set forth separately from the one to except the debt from discharge.

**C. The § 727(a)(4) Claim to Deny the Debtor's Discharge**

The Plaintiffs' second claim in the Complaint is a request to deny the Debtor's discharge under 11 U.S.C. § 727(a)(4) for alleged false oaths in the schedules and SOFA. Under this Bankruptcy Code provision, a debtor's discharge may be denied if the debtor "knowingly and fraudulently, in or in connection with the case . . . made a false oath or account[.]" 11 U.S.C. § 727(a)(4)(A). For purposes of § 727(a)(4)(A), a debtor's petition, schedules, and SOFA constitute statements made under oath. *New Century Bank, N.A. v. Carmell (In re Carmell)*, 424 B.R. 401, 418 (Bankr. N.D. Ill. 2010). Because denial of a discharge under § 727(a)(4)(A) requires proof that the Debtor acted fraudulently, the pleading of this claim is subject to the Rule 9(b) requirement that allegations of fraud be pleaded with particularity. *Id.*; *Aseireh*, 526 B.R. at 250.

To meet this requirement, the complaint "must include more than just a bare allegation that a debtor failed to list something on his schedules." *Carto v. Oakley (In re Oakley)*, 530 B.R. 251, 265 (E.D. Penn. 2015) (citing *Smith v. Smith (In re Smith)*, 489 B.R. 875, 897 (Bankr. M.D. Ga. 2013)). Instead, allegations of fraud must: (1) specify the allegedly fraudulent statements; (2) identify the speaker; (3) plead when and where the

---

<sup>2</sup> The Plaintiffs should keep in mind that the addition of non-bankruptcy law causes of action will likely give rise to the need for even more factual specificity depending on the elements of the new causes of action and whether Rule 8 or Rule 9 applies.

statements were made; and (4) explain what made the statements fraudulent. *Republic Bank*, 683 F.3d at 247; *Aseireh*, 526 B.R. at 250-51.

In this case, the Complaint's bare allegations do not meet Rule 9(b) requirements. The Plaintiffs accuse the Debtor of false, inaccurate or incomplete information regarding the Debtor's financial affairs in Amended Schedules A/B, Amended Schedules E/F and the SOFA [Case Number 24-10766, Docket Numbers 17-19], but do not specify what particular statements are false or incomplete nor what makes them so. Accordingly, the Debtor's request for a more definite statement is granted with respect to the Plaintiffs' § 727(a)(4)(A) claim. The Plaintiffs must amend the Complaint to specify the allegedly false, inaccurate or incomplete statements in these documents and what makes them fraudulent.

### **III. CONCLUSION**

The Defendant-Debtor's Motion for a More Definite Statement [Docket Number 6] is GRANTED. On or before **March 7, 2025**, Plaintiffs are ordered to amend their Complaint in line with the reasoning set forth in this decision and order.

**SO ORDERED.**

Distribution List:

William B. Fecher, Esq.

Jacob M. Jeffries, Esq.