

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA—LOS ANGELES DIVISION

In re: Hamid Redjal,
Debtor.

Case No.: 2:21-bk-19430-ER
Chapter: 7

**MEMORANDUM OF DECISION
FINDING THAT THE COURT IS
UNABLE TO GRANT ANY RELIEF IN
CONNECTION WITH DOCUMENT
CAPTIONED “NOTICE OF OBJECTION
TO CLAIM”**

[No hearing required pursuant to Federal Rule
of Civil Procedure 78(b) and Local Bankruptcy
Rule 9013-1(j)(3)]

Before the Court is a document captioned “Notice of Objection to Claim” [Doc. No. 16] (the “Document”) filed by Barbara Kay Kizer (“Kizer”). Kizer has not sought a hearing in connection with the relief requested in the Document. Nor has Kizer sought adjudication of the relief requested in the Document on a negative-notice basis pursuant to the procedure set forth in LBR 9013-1(o).¹ Pursuant to Civil Rule 78(b) and LBR 9013-1(j)(3),² the Court finds that the issues

¹ Unless otherwise indicated, all “Civil Rule” references are to the Federal Rules of Civil Procedure, Rules 1–86; all “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy Procedure, Rules 1001–9037; all “Evidence Rule” references are to the Federal Rules of Evidence, Rules 101–1103; all “LBR” references are to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California, Rules 1001-1–9075-1; and all statutory references are to the Bankruptcy Code, 11 U.S.C. §§101–1532.

² Unless otherwise indicated, all “Civil Rule” references are to the Federal Rules of Civil Procedure, Rules 1–86; all “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy Procedure, Rules 1001–9037; all “Evidence Rule” references are to the Federal Rules of Evidence, Rules 101–1103; all “LBR” references are to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California, Rules 1001-1–9075-1; and all statutory references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532.

presented by the Document are suitable for disposition without oral argument. For the reasons set forth below, the Court is unable to grant Kizer any relief in connection with the Document.

I. Background

Hamid Redjal (the “Debtor”) filed a voluntary Chapter 7 petition on December 24, 2021. Carolyn A. Dye has been appointed as the Chapter 7 Trustee (the “Trustee”). The Trustee filed a *Notification of Asset Case* on June 20, 2022. The deadline for creditors to file proofs of claim was September 18, 2022.

There is no indication that the Document was served upon the Debtor, the Trustee, or any other interested parties. Below the heading “Notice of Objection to Claim,” the Document states:

Barbara Kay Kizer has filed an objection to your claim in this Chapter 7 bankruptcy case. This lawsuit was filed on 6/14/2016 as a Personal Injury-Malpractice in the Cape Giardeau, Missouri Court system.

Below the heading “Basis of my objection,” the Document contains the following text, which appears to have been copied from a judgment entered by a Missouri state court:

JUDGMENT IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS: That Plaintiff is hereby granted Judgment in her favor and against Defendant, Dr. Hami R. Redjal, M.D., for a total sum of two million two hundred thousand one hundred forty-two dollars and 35/100ths (\$2,200,142.35); That execution is ordered to issue upon this Judgment; and That this is a final and therefore enforceable appealable Judgment of this Court.

Below the text that appears to have been copied from a judgment entered by a Missouri state court, the Document contains the following narrative statement:

Barbara Kay Kizer, an Army Veteran, has suffered physically, emotionally, and financially due to a right hip replacement surgery which Dr. Hamid Redjal performed on 6/14/2014 at Southeast Missouri Hospital located in Cape Giardeau, MO which brought about foot drop. Her sciatic nerve was cut/stretched and she now is in constant pain 24 hrs a day. Her ability to work a normal job has not been stolen from her [sic; it appears that “not” should be omitted]. The dollar amount that is owed to Barbara Kay Kizer would help her to have a qualify of life that she is unable to provide for herself and her family.

With the exception of Kizer’s contact information and the case number, the quotations excerpted above constitute the entirety of the Document.

II. Findings and Conclusions

As best as the Court can determine, it appears that Kizer is attempting to assert an objection to the dischargeability of a judgment that was apparently entered at some unspecified time by a state court in Missouri (the “State Court Judgment”). The Court is cognizant of its obligation to construe *pro se* pleadings liberally, *see Erickson v. Pardus*, 551 U.S. 89, 94 (2007). However,

even applying such a liberal construction, the Court is unable to construe the Document as a complaint objecting to the dischargeability of the State Court Judgment.

A complaint must contain (1) “a short and plain statement of the claim showing that the pleader is entitled to relief” and (2) “a demand for the relief sought” Civil Rule 8(a).

The Document does not contain any of these elements. First, and most significant, the Document does not contain a demand for the relief that it appears that Kizer may be seeking. That is, at no point does the Document allege that the indebtedness established by the State Court Judgment should be excepted from the Debtor’s discharge.

Second, the Document does not sufficiently state “the claim showing that the pleader is entitled to relief,” Civil Rule 8(a). The Document does allege that the Debtor is liable to Kizer for negligently performing a hip replacement surgery. But the Document fails to articulate any legal basis as to why the Debtor’s liability should be found to be non-dischargeable. It does not, for example, allege that in performing the surgery, the Debtor acted with the culpable state of mind that could potentially render the State Court Judgment non-dischargeable under § 523(a)(6). The purpose of a complaint is to provide the Debtor notice of the misconduct alleged. In the context of dischargeability, this means that that a complaint must contain allegations showing that the Debtor acted with a culpable state of mind. The Document is completely devoid of any such allegations.

In sum, the deficiencies of the Document are so significant that, even applying the liberal construction applicable to *pro se* pleadings, it is not possible for the Court to construe the Document as a Complaint objecting to the dischargeability of the State Court Judgment. The Court is fully aware that the effect of this determination will be to bar Kizer from contesting the dischargeability of the State Court Judgment, since the deadline for filing a dischargeability complaint has now expired. It is important to emphasize that the Court’s decision is not made lightly in view of its significant impact upon Kizer. However, the Ninth Circuit has “repeatedly held that the sixty-day time limit for filing nondischargeability complaints ... is ‘strict’ and, without qualification, ‘cannot be extended unless a motion is made before the 60–day limit expires.’” *Anwar v. Johnson*, 720 F.3d 1183, 1187 (9th Cir. 2013) (citing *In re Kennerley*, 995 F.2d at 146). As explained by the *Anwar* court:

[B]y its terms, the rule requires creditors such as Anwar to file nondischargeability complaints within sixty days of the creditors’ meeting. A creditor may move to extend the deadline for cause—as Anwar successfully did once—but “[t]he motion shall be filed before the time has expired.” [Rule 4007(c).] Reinforcing the statement that creditors must move for extensions of FRBP 4007(c)’s filing deadline before the time for filing has expired, FRBP 9006(b)(3) states that bankruptcy courts may extend this deadline “only to the extent and under the conditions stated in” FRBP 4007(c) itself. Fed. R. Bankr.P. 9006(b)(3). This requirement distinguishes FRBP 4007(c)’s deadline from most others set by the bankruptcy rules, which bankruptcy courts may extend at any time upon a showing of good cause or excusable neglect.

Anwar, 720 F.3d at 1186–87.

In *Anwar*, the creditor missed the dischargeability deadline by approximately forty minutes as a result of technical problems with creditor’s counsel’s computer. *Id.* at 1185. In upholding the dismissal of the complaint as untimely, the court stated that “deadlines are often the terrible anvil on which a legal result is forged.” *Id.* at 1184. The court found that dismissal was required by the

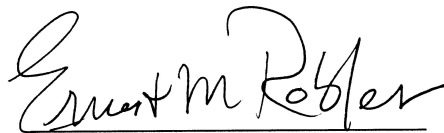
plain language of Bankruptcy Rule 4007(c) even though the complaint had been filed only approximately forty minutes late, and even though the debtor was not prejudiced by the delay. *Id.* at 1188. The court held that “under the plain language of the rules and our controlling precedent,” there is not “an equitable exception from FRBP 4007(c)’s filing deadline.” *Id.*

III. Conclusion

Based upon the foregoing, the Court cannot construe the Document as a dischargeability complaint or grant Kizer any relief in connection with the Document. The Court will enter an order consistent with this Memorandum of Decision.

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Date: September 5, 2023

A handwritten signature in black ink, reading "Ernest M. Robles". The signature is written in a cursive style with a horizontal line underneath the name.

Ernest M. Robles
United States Bankruptcy Judge