

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

HELEN M. WRIGHT,

CASE NO. 10-01241-NPO

DEBTOR.

CHAPTER 7

HELEN M. WRIGHT

PLAINTIFF

VS.

ADV. PROC. NO. 13-00008-NPO

**RIVER REGION MEDICAL CORPORATION
D/B/A RIVER REGION HEALTH SYSTEM,
VICKSBURG HEALTHCARE, LLC D/B/A
RIVER REGION HEALTH SYSTEM, AND
VICKSBURG HEALTHCARE, LLC D/B/A
RIVER REGION MEDICAL CENTER**

DEFENDANTS

**MEMORANDUM OPINION AND ORDER
DENYING MOTION FOR SUMMARY JUDGMENT**

This matter came before the Court on the Motion for Summary Judgment and Memorandum Brief in Support Thereof (the “Motion for Summary Judgment”) (Adv. Dkt. 28)¹ filed by River Region Medical Corporation d/b/a River Region Health System, Vicksburg Healthcare, LLC d/b/a River Region Health System, and Vicksburg Healthcare, LLC d/b/a River Region Medical Center (collectively, “River Region”); Plaintiff’s Response in Opposition to Motion for Summary Judgment (the “Debtor’s Response”) (Adv. Dkt. 33) filed by Helen M. Wright (the “Debtor”); and Rebuttal to Plaintiff’s Response in Opposition to Motion for Summary Judgment and/or in the Alternative to Reassess Attorney’s Fees Against Counsel for Plaintiff (the “River Region Rebuttal”) (Adv. Dkt. 34) filed by River Region in the above-styled

¹ Citations to the record are as follows: (1) citations to docket entries in the Adversary are cited as “(Adv. Dkt. ____)”;

and (2) citations to docket entries in the main bankruptcy case, Case No. 10-01241-NPO, are cited as “(Bankr. Dkt. ____)”.

adversary proceeding (the “Adversary”). The Court, having considered the matter, finds that the Motion for Summary Judgment should be denied.²

Jurisdiction

The Court has jurisdiction over the parties to and the subject matter of this case pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (I), and (O). Notice of the Motion for Summary Judgment was proper under the circumstances.

Facts

1. On October 3, 2008, the Debtor filed a lawsuit (the “State Court Lawsuit”), individually and on behalf of her minor son, seeking damages against multiple defendants³ in the Circuit Court of Warren County, Mississippi (the “Circuit Court”) for alleged medical malpractice.

2. On March 9, 2010, the Circuit Court entered an order holding that “River Region Medical Corporation is entitled to recover from Plaintiff its attorney’s fees and costs in the amount of \$3,429.50” (the “State Court Award”) (Adv. Dkt. 16 Ex. 4 at 7). The State Court Award stemmed from a dispute regarding the Debtor’s failure to designate an expert in a timely manner. (*Id.*).

3. On March 31, 2010, the Debtor voluntarily filed the petition for relief (Bankr. Dkt. 1) under chapter 7 of the U.S. Bankruptcy Code and her statements and schedules regarding her current income, expenses, and creditors (the “Statements and Schedules”) (Bankr. Dkt. 3).

² The Court reaches this conclusion without relying on the Expert Witness Report of William J. Little, Jr. (Adv. Dkt. 33 Ex. 1), in light of River Region’s Motion to Strike Plaintiff’s Designated Expert Report (Adv. Dkt. 30), which is pending.

³ It appears from the styles of the cases that all of the defendants named in the State Court Lawsuit are not identical to all of the defendants named in the Adversary.

On Schedule F – Creditors Holding Unsecured Nonpriority Claims, the Debtor listed a claim owed to “RIVER REGION MED CENTER” in the amount of \$3,430.00. (*Id.* at 16).

4. Having received no objections to discharge, the Court entered the Discharge of Debtor (the “Discharge Order”) (Bankr. Dkt. 35) on July 13, 2010. A discharge operates as an injunction against any attempt to collect a debt as a personal liability of a debtor. 11 U.S.C. § 524(a)(2). According to the Debtor, her personal liability for payment of the State Court Award was discharged as a result of the Discharge Order.

5. On April 23, 2013, the Debtor filed the First Amended Complaint Seeking Injunctive Relief and Damages for Violation of the Discharge Injunction (the “Adversary Complaint”) (Adv. Dkt. 16) against River Region. In the Adversary Complaint, the Debtor alleges River Region intentionally and willfully violated the discharge injunction by requesting that the Circuit Court compel the Debtor to pay the State Court Award or, in the alternative, dismiss the State Court Lawsuit.

6. In the Motion for Summary Judgment, filed on October 2, 2013, River Region alleges it did not willfully violate the discharge injunction because it never intended to collect the State Court Award from the Debtor, but only from her attorney, and as a result, the Debtor did not suffer any damages. Assuming the Debtor did suffer damages, River Region raises questions as to the validity of the damages the Debtor seeks in the Adversary and whether the State Court Award was discharged because River Region did not receive proper notice that the debt was for attorney’s fees rather than medical expenses.

Discussion

A. Summary Judgment Standard

Under Rule 56 of the Federal Rules of Civil Procedure (“Rule 56”), made applicable to adversary proceedings by Rule 7056 of the Federal Rule of Bankruptcy Procedure, summary judgment is appropriate when viewing the evidence in the light most favorable to the nonmoving party, the pleadings, depositions, answers to interrogatories, and admissions, together with affidavits, show 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); *see Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 251 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). “Summary judgment . . . serves, among other ways, to root out, narrow, and focus the issues, if not resolve them completely.” *Calpetco 1981 v. Marshall Exploration, Inc.*, 939 F.2d 1408, 1415 (5th Cir. 1993). Ultimately, the role of this Court is “not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” *Anderson*, 477 U.S. at 249; *see Hamilton v. Segue Software Inc.*, 232 F.3d 473, 477 (5th Cir. 2000).

B. River Region’s Motion for Summary Judgment

It is clear from the filings before the Court, namely the Adversary Complaint, the Motion for Summary Judgment, the Debtor’s Response, the River Region Rebuttal, and the numerous exhibits attached thereto, that there are several genuine issues of material fact in the Adversary. For example, there are genuine disputes as to whether the damages being sought by the Debtor in the Adversary are valid, whether River Region violated the discharge injunction under 11 U.S.C. § 524 by attempting to collect the State Court Award from the Debtor, and if a violation of the discharge injunction did occur, whether it was willful. As a result, the Court finds that the Motion for Summary Judgment should be denied pursuant to Rule 56. Moreover, due to the

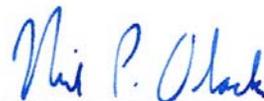
number of factual disputes in the Adversary, the Court exercises its discretion under Rule 56(a) of the Federal Rules of Civil Procedure and finds that the Motion for Summary Judgment should be denied to allow a fuller development of the record at trial.⁴ See *Kunin v. Feofanov*, 69 F.3d 59, 62 (5th Cir. 1995); *Black v. J.I. Case Co.*, 22 F.3d 568, 572 (5th Cir. 1994); *Veillon v. Exploration Servs., Inc.*, 876 F.2d 1197, 1200 (5th Cir. 1989).

Conclusion

There are multiple genuine issues of material fact in the Adversary. Because of these factual disputes, it is necessary that a fuller development of the record be presented at trial. For these reasons, the Court finds that the Motion for Summary Judgment should be denied pursuant to Rule 56.

IT IS, THEREFORE, ORDERED that the Motion for Summary Judgment is hereby denied.

SO ORDERED.



Neil P. Olack
United States Bankruptcy Judge
Dated: November 8, 2013

⁴ Rule 56 was amended in 2010, but the revisions were stylistic only and did not change the standard for granting summary judgment. FED. R. CIV. P. 56 advisory committee notes; see also *Good Hope Constr., Inc. v. RJB Fin., LLC (In re Grand Soleil-Natchez, LLC)*, No. 12-00013-NPO (Bankr. S.D. Miss. Aug., 13, 2013).