

ORDERED.

Dated: March 15, 2023



Caryl E. Delano  
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION  
[www.flmb.uscourts.gov](http://www.flmb.uscourts.gov)

In re:

Case No. 2:15-bk-04241-FMD  
Chapter 7

Benjamin H. Yormak,

Debtor.

**ORDER DENYING STEVEN YORMAK'S MOTION  
AND RENEWED MOTION TO RESCIND ORDER  
(1) GRANTING DEBTOR'S MOTION FOR DISCHARGE, AND (2) DENYING  
STEVEN YORMAK'S MOTION TO EXTEND TIME  
TO OBJECT TO DISCHARGE**

THIS CASE came before the Court for hearing on November 30, 2022, and February 14, 2023, to consider the *Motion to Rescind Bankruptcy Court Previous Orders DE 873 and DE 918 on Basis of District Court Reversal Order Dated April 13, 2022 (DE 1007)* filed by Steven R. Yormak ("Claimant") (the "Motion to Rescind").<sup>1</sup>

<sup>1</sup> Doc. No. 1011.

In his Motion to Rescind, Claimant asks the Court to “rescind” two of its prior orders: (a) the Court’s *Order (1) Granting Debtor’s Motion for Entry of Discharge, and (2) Denying Steven Yormak’s Motion to Extend Time to Object to Discharge on Basis of Pending Appeal(s)* (the “Order Granting Motion for Discharge”);<sup>2</sup> and (b) the Court’s order taxing costs against Claimant under Fed. R. Bankr. P. 7054(b)(1) (the “Costs Order”).<sup>3</sup>

At the November 30, 2022 hearing, the Court granted the Motion to Rescind in part and has entered a separate order vacating the Costs Order without prejudice.<sup>4</sup> This Order addresses Claimant’s request that the Court “rescind” its Order Granting Motion for Discharge and extend the deadline for Claimant to object to Debtor’s discharge.

On February 13, 2023, Claimant filed a Renewed Motion to Rescind the Order Granting Motion for Discharge and to extend the objection deadline.<sup>5</sup> For the reasons that follow, the Court will deny Claimant’s request.

## **I. BACKGROUND**

Benjamin Yormak (“Debtor”) is a practicing attorney. Claimant is Debtor’s father and an attorney licensed to practice in Canada and Massachusetts. In

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<sup>2</sup> Doc. No. 873.

<sup>3</sup> Doc. No. 918.

<sup>4</sup> Doc. No. 1033.

<sup>5</sup> Doc. No. 1056.

December 2013, Claimant sued Debtor, asserting claims for breach of a partnership agreement, breach of a consulting agreement, and breach of fiduciary duty.<sup>6</sup>

On April 24, 2015, Debtor filed a Chapter 13 bankruptcy petition.<sup>7</sup> Claimant timely filed a proof of claim (the “Claim”) in the Chapter 13 case,<sup>8</sup> and Debtor objected to the Claim.<sup>9</sup> The parties continue to litigate their prepetition dispute in the bankruptcy case.

On July 27, 2016, Debtor filed a *Notice of Conversion* of his Chapter 13 case to a case under Chapter 7.<sup>10</sup> On September 1, 2016, the Court entered an order converting the case and fixed December 5, 2016, as the deadline for parties in interest to object to Debtor’s discharge under 11 U.S.C. § 727(a) (the “727 Deadline”).<sup>11</sup> Robert E. Tardif, Jr., was appointed as the Chapter 7 Trustee (the “Trustee”).<sup>12</sup>

On October 21, 2016, the Trustee filed a *Motion to Determine that Property Received Post-Petition Is Property of the Bankruptcy Estate* (the “Property of the Estate Motion”).<sup>13</sup> Claimant joined in the Trustee’s Property of the Estate Motion.<sup>14</sup> Generally, the Trustee alleged that Debtor failed to disclose attorney’s fees that he

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<sup>6</sup> Doc. No. 1007, pp. 8-9.

<sup>7</sup> Doc. No. 1.

<sup>8</sup> Claim No. 4-1.

<sup>9</sup> Doc. No. 36.

<sup>10</sup> Doc. No. 121.

<sup>11</sup> Doc. Nos. 137, 138. Complaints objecting to a debtor’s discharge are brought under 11 U.S.C. § 727(a).

<sup>12</sup> Doc. No. 142.

<sup>13</sup> Doc. No. 153.

<sup>14</sup> Doc. No. 163.

received while his case was pending as a Chapter 13 case. Shortly after filing the Property of the Estate Motion, the Trustee served Debtor with interrogatories related to the attorney's fees, and Debtor answered the interrogatories.<sup>15</sup>

On December 1, 2016, the Trustee filed a motion to extend the 727 Deadline. The Trustee asserted that he was investigating whether any grounds existed to object to Debtor's discharge, including Debtor's non-disclosure of assets.<sup>16</sup> On December 2, 2016, Claimant filed a *Motion to Extend Deadline to Object to Debtor's Discharge* (the "First Extension Motion"). As the sole ground for the First Extension Motion, Claimant asserted:

[Claimant], like the Trustee, continues to investigate whether there are any grounds to object to the Debtor's discharge, including the non-disclosure of assets, and needs additional time to conduct his investigation. [Claimant's] efforts in pursuing his investigation include, but are not limited to, the ongoing discovery in connection with [Claimant's] Joinder to the [Property of the Estate Motion].<sup>17</sup>

The Court granted both the Trustee's motion and Claimant's First Extension Motion and extended the 727 Deadline to February 3, 2017.<sup>18</sup>

On December 23, 2016, the Court entered an order scheduling a trial for April 2017 on Debtor's objection to Claimant's Claim.<sup>19</sup> The trial was continued from time

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<sup>15</sup> Doc. No. 876, pp. 18-24.

<sup>16</sup> Doc. No. 175.

<sup>17</sup> Doc. No. 177, ¶ 4.

<sup>18</sup> Doc. Nos. 176, 179.

<sup>19</sup> Doc. No. 184.

to time and ultimately cancelled when the parties filed dispositive motions for summary judgment.

On February 1, 2017, the Trustee filed his second motion to extend the 727 Deadline,<sup>20</sup> and on February 2, 2017, Claimant filed a *Motion to Further Extend Deadline to Object to Debtor's Discharge* (the "Second Extension Motion").<sup>21</sup> In the Second Extension Motion, Claimant asserted—as he had in the First Extension Motion—that he continued to investigate whether a basis existed to object to Debtor's discharge, including the concealment of assets, and that his efforts included ongoing discovery.

On March 2, 2017, the Court held a hearing on several matters in Debtor's bankruptcy case, including the Trustee's second motion to extend the 727 Deadline and Claimant's Second Extension Motion. After noting that Claimant's standing to object to Debtor's discharge is dependent on whether he is a creditor in Debtor's bankruptcy case,<sup>22</sup> the Court granted the Trustee's and Claimant's motions "until the conclusion of the trial" on Debtor's objection to Claimant's Claim.<sup>23</sup>

On March 9, 2017, the Court entered its written order granting the Trustee's and Claimant's motions and extending the 727 Deadline "to the date that is 30 days

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<sup>20</sup> Doc. No. 223.

<sup>21</sup> Doc. No. 230.

<sup>22</sup> Under 11 U.S.C. § 727(c)(1), only the trustee, a creditor, or the United States Trustee may object to the granting of a discharge.

<sup>23</sup> Doc. No. 287, Transcript of March 2, 2017 hearing, pp. 32-35.

after the Court rules on upon [sic] the Debtor's objection to the claim" (the "Second Extension Order").<sup>24</sup>

On February 3, 2021, after almost four years of contentious litigation on Debtor's objection to Claimant's Claim, the Court entered an order granting Debtor's motion for summary judgment and disallowing Claimant's Claim;<sup>25</sup> on February 26, 2021, the Court entered an order denying Claimant's motion for reconsideration of its summary judgment ruling.<sup>26</sup> Together the Court's rulings are referred to as the "SJ Order." Claimant timely appealed the SJ Order.<sup>27</sup>

Under the Court's Second Extension Order, the 727 Deadline expired no later than March 29, 2021 — the date that was 30 days after the Court entered the SJ Order. Neither the Trustee nor Claimant filed an objection to Debtor's discharge, or a motion to extend the 727 Deadline, on or before March 29, 2021.

On March 30, 2021, Debtor filed a *Motion for Entry of Discharge*.<sup>28</sup> On April 2, 2021, Claimant filed a response to the Motion for Entry of Discharge that included a motion to extend the 727 Deadline (the "Third Extension Motion").<sup>29</sup>

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<sup>24</sup> Doc. No. 277.

<sup>25</sup> Doc. No. 851.

<sup>26</sup> Doc. Nos. 853, 859.

<sup>27</sup> Doc. No. 863.

<sup>28</sup> Doc. No. 868.

<sup>29</sup> Doc. No. 869.

In the Third Extension Motion, Claimant contended that due to his then-pending appeal of the SJ Order, (a) a final order had not been entered on his Claim; (b) the 727 Deadline had not expired; and (c) the Court should grant him a further extension of the 727 Deadline for objecting to Debtor's discharge. Claimant did not support his request for a further extension of the 727 Deadline with an assertion that he had diligently investigated any potential grounds to object to Debtor's discharge or that he had identified any specific basis to object to Debtor's discharge under § 727.

On April 14, 2021, the Court entered an order denying Claimant's Third Extension Motion and granting Debtor's motion for discharge (the "Order Granting Motion for Discharge").<sup>30</sup> The Court stated four reasons for denying the Third Extension Motion: (a) it was untimely; (b) Claimant's appeal of the SJ Order did not stay the entry of Debtor's discharge; (c) the entry of Debtor's discharge did not affect the Trustee's administration of the estate; and (d) Claimant did not show cause to extend the 727 Deadline. The Court stated that

Debtor's case has been pending as a Chapter 7 case for more than four years; Claimant had actual knowledge of the extended deadline to file an objection to Debtor's discharge; and Claimant has not articulated any basis for the denial of Debtor's discharge despite ample opportunity to discover such grounds.<sup>31</sup>

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<sup>30</sup> Doc. No. 873.

<sup>31</sup> *Id.*, p. 9.

On April 14, 2021, the same date as the Order Granting Motion for Discharge, the Court also entered a separate *Order of Discharge* in which Debtor was granted a discharge under § 727 (the “Discharge Order”).<sup>32</sup>

Claimant timely filed a notice of appeal of the Order Granting Motion for Discharge.<sup>33</sup> However, he did not appeal the Discharge Order itself.

On April 16, 2021, the Trustee filed a motion to approve a compromise resolving all of his disputes with Debtor, including the disputes related to the allegedly undisclosed attorney’s fees that had formed the basis of Claimant’s First Extension Motion and Second Extension Motion.<sup>34</sup> The Court thereafter approved the compromise (the “Compromise Order”).<sup>35</sup>

A year later, on April 13, 2022, the District Court entered an order reversing the SJ Order and remanding Debtor’s objection to Claimant’s Claim to this Court.<sup>36</sup>

On September 19, 2022, the District Court entered an order dismissing Claimant’s appeal of the Order Granting Motion for Discharge (and Claimant’s other

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<sup>32</sup> Doc. No. 874.

<sup>33</sup> Doc. No. 879, District Court Case No. 2:21-cv-390.

<sup>34</sup> Doc. Nos. 875, 876.

<sup>35</sup> Doc. No. 953. Claimant timely appealed the Compromise Order (Doc. No. 971). The District Court dismissed the appeal on September 19, 2022 (Doc. No. 1010), and Claimant moved for reconsideration of the dismissal. On February 9, 2023, the District Court denied the motion for reconsideration (Doc. No. 1053). Claimant has appealed the District Court’s ruling to the Eleventh Circuit Court of Appeals (Doc. No. 1060).

<sup>36</sup> Doc. No. 1007.



appeals) without prejudice as “moot, untimely, or contingent on the validity of [Claimant’s] claim” in Debtor’s bankruptcy case.<sup>37</sup>

On October 3, 2022—almost 18 months after entry of the Order Granting Motion for Discharge and the Discharge Order—Claimant filed the Motion to Rescind the Order Granting Motion for Discharge.<sup>38</sup> However, Claimant has not requested that the Court rescind the Discharge Order itself.

In his one-paragraph Motion to Rescind, Claimant alleges that the foundation of the Order Granting Motion for Discharge was “rescinded” by the District Court’s reversal of the SJ Order. And without addressing the reasons explained in the Order Granting Motion for Discharge for the Court’s denial of his Third Extension Motion, Claimant *incorrectly* argues that:

[Debtor’s] discharge was based on the premise that the estate was a “surplus bankruptcy” which can no longer be supported with the Creditor proof of claim being extant.<sup>39</sup>

It appears that Claimant believes the Court entered Debtor’s discharge because the disallowance of his Claim in the SJ Order would create a “surplus” bankruptcy case, Debtor’s other creditors would be paid in full from the estate, and the surplus

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<sup>37</sup> Doc. No. 1010. On January 5, 2023, Claimant filed a motion in District Court seeking reconsideration of the District Court’s order dismissing the appeals (Doc. No. 1041, pp. 6-35). This Court deferred ruling on the Motion to Rescind until the District Court ruled on the motion for reconsideration. (Doc. No. 1046). On February 9, 2023, the District Court denied Claimant’s motion to reconsider dismissal of the appeals (Doc. No. 1053).

<sup>38</sup> Doc. No. 1011.

<sup>39</sup> *Id.*

would be paid to Debtor. But the Order Granting Motion for Discharge did not rely on—or even discuss— whether Debtor’s case was a surplus case or whether Debtor’s other creditors would be paid in full from the estate.

On November 30, 2022, the Court conducted a hearing on the Motion to Rescind. At the hearing, Claimant argued that because the District Court reversed and remanded the SJ Order, there is no ruling on Debtor’s objection to his Claim and the 30-day deadline for filing an objection to Debtor’s discharge has not expired under the Second Extension Order. Therefore, Claimant contends that the Court should rescind the Order Granting Motion for Discharge and further extend the 727 Deadline.

But more than six years after the initial 727 Deadline and Claimant’s First Extension Motion, and over 19 months after entry of the Discharge Order, Claimant does not contend that he has discovered any basis to object to Debtor’s discharge. In fact, in his Renewed Motion to Rescind filed in February 2023, Claimant does not identify a single fact to support his one-sentence “notice” of objection to Debtor’s discharge.<sup>40</sup>

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<sup>40</sup> Doc. No. 1056.

## II. DISCUSSION

The Motion to Rescind presents two issues: (a) whether the Court should vacate the Order Granting Motion for Discharge because the SJ Order was reversed on appeal; and (b) if the Court rules in Claimant's favor on the first issue, whether the Court should further extend the 727 Deadline.

### A. The District Court's reversal of the SJ Order is not grounds for granting the Motion to Rescind.

For at least four reasons, the District Court's reversal of the SJ Order is not grounds for granting the Motion to Rescind.

First, in the Second Extension Order, the Court explicitly extended the 727 Deadline *until the Court ruled on Debtor's objection to Claimant's Claim*; the Court did not extend the 727 Deadline until all appeals were exhausted and a final, unappealable order was entered. Therefore, the triggering event under the Second Extension Order occurred on February 26, 2021, when the Court denied Claimant's motion for reconsideration of the order disallowing his Claim,<sup>41</sup> and the 727 Deadline expired on March 29, 2021.

Second, because Claimant did not seek a stay pending his appeal of the SJ Order, there was no stay or enlargement of the 727 Deadline provided by the Second Extension Order. As the Court explained in the Order Granting Motion for

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<sup>41</sup> Doc. No. 859.

Discharge, the “appeal of a bankruptcy court order does not stay the effect of the order unless a stay pending appeal is requested and received.”<sup>42</sup> It is a “simple statement of law” that the “filing of a notice of appeal does not stay the effect of a federal court order, absent a stay granted by the trial court or the reviewing court.”<sup>43</sup>

Third, prior to the March 29, 2021 expiration of the 727 Deadline, Debtor had satisfied all requirements for a discharge,<sup>44</sup> there were no pending objections to Debtor’s discharge, and no party had filed a further request to extend the 727 Deadline. Therefore, the Court had no basis to delay entry of the Discharge Order.

Fourth, although Claimant appealed the Order Granting Motion for Discharge, he did not timely file a motion to reconsider or appeal the Discharge Order itself.

In *In re Cook*,<sup>45</sup> the bankruptcy court addressed similar facts. In *Cook*, the creditor obtained several extensions of time over a 27-month period to object to the debtor’s discharge but did not file a complaint under § 727. After the debtor’s discharge was entered, the creditor timely filed a motion to vacate the discharge, alleging that the time to object to the debtor’s discharge had not expired.<sup>46</sup> Although

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<sup>42</sup> Doc. No. 873, p. 6 (quoting *In re U.S. Airways Inc.*, 445 B.R. 566, 572 (Bankr. E.D. Va. 2011) (citation omitted)).

<sup>43</sup> *In re LaClair*, 360 B.R. 388, n. 2 (Bankr. D. Mass. 2006).

<sup>44</sup> Debtor had paid all case filing fees and filed a Certificate of Debtor Education stating that he completed a course on personal financial management on November 17, 2018 (Doc. No. 528).

<sup>45</sup> 2012 WL 1073239 (Bankr. W.D. Pa. Mar. 29, 2012).

<sup>46</sup> *In re Cook*, 2012 WL 1073239, at \*2.

the bankruptcy court had entered an order extending the time to object “pending [a] scheduled hearing” on a motion to compel discovery, the court denied the creditor’s request to vacate the discharge. The court held that “[t]here is nothing of record to suggest that the extension of time was to continue indefinitely,” and “[if the creditor] had desired such an extension, it was incumbent upon him to so request it.”<sup>47</sup>

As in *Cook*, the Second Extension Order did not provide for an *indefinite* extension of the 727 Deadline, and Claimant never sought clarification of the 727 Deadline. And like the creditor in *Cook*, Claimant knew of an alleged basis for objecting to Debtor’s discharge before the Order Granting Motion for Discharge and Discharge Order were entered, but he failed to either (1) object to Debtor’s discharge or (2) obtain a further extension of time to object to Debtor’s discharge.

In addition, Claimant’s Motion to Rescind is on even weaker footing than the creditor’s motion in *Cook* because (1) unlike the creditor in *Cook* – who timely filed a motion to vacate the debtor’s discharge – Claimant did not file the Motion to Rescind until 19 months after the Order Granting Motion for Discharge was entered; and (2) even now, Claimant has not moved to vacate the Discharge Order itself, which was separately entered on the same date as the Order Granting Motion for Discharge.

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<sup>47</sup> *Id.* at \*5.

**B. Claimant fails to state “cause” to extend the time to object to Debtor’s discharge.**

Even if Claimant had presented grounds to rescind the Order Granting Motion for Discharge—and even if he has standing to object to Debtor’s discharge as the holder of a valid claim—Claimant has not stated cause for a further extension of time to object to Debtor’s discharge.

Under Fed. R. Bankr. P. 4004(b)(1), “the court may *for cause* extend the time to object to discharge.”<sup>48</sup> Extensions of the deadline to object to a debtor’s discharge should be rarely granted and “cause” for such a request should be narrowly construed. The burden is on the moving party to demonstrate that cause exists.<sup>49</sup> “The determination whether cause exists for an extension of time is committed to the discretion of the bankruptcy court. Ultimately, ‘the determination of “cause” by its very nature is fact driven and thus, must be analyzed on a case by case basis.’”<sup>50</sup>

In its Order Granting Motion for Discharge, the Court specifically found that Claimant had not shown cause to grant his Third Extension Motion.<sup>51</sup> And in Claimant’s Motion to Rescind and Renewed Motion to Rescind, he again fails to show any cause to support his request for an extension of the 727 Deadline.

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<sup>48</sup> Fed. R. Bankr. P. 4004(b)(1) (emphasis added).

<sup>49</sup> Doc. No. 873, p. 8; *In re St. George*, 2017 WL 1379321, at \*4 (B.A.P. 6th Cir. Apr. 17, 2017) (quoting *In re Vinson*, 509 B.R. 128, 133 (Bankr. S.D. Ohio 2013), and *In re Aloia*, 496 B.R. 366, 380 (Bankr. E.D. Pa. 2013)).

<sup>50</sup> *In re Boltz-Rubinstein*, 454 B.R. 614, 620 (Bankr. E.D. Pa. 2011) (citations omitted).

<sup>51</sup> Doc. No. 873, pp. 8-9.

The factors that courts generally consider in determining whether “cause” exists under Rule 4004(b) are: (1) whether the debtor refused in bad faith to cooperate with the creditor; (2) whether the creditor had sufficient notice of the deadline and information to file an objection; (3) whether proceedings in another forum will result in collateral estoppel on a relevant issue; (4) whether the creditor exercised diligence; (5) whether the case is complex; (6) whether the extension will prejudice the debtor; and (7) whether the length of the requested delay will affect court administration.<sup>52</sup>

**(1) Whether Debtor Refused to Cooperate**

Claimant has not alleged – nor is there any evidence – that Debtor refused to cooperate with Claimant or the Trustee in any investigation related to Debtor’s discharge.

**(2) Whether Claimant Had Sufficient Notice of the 727 Deadline**

The record in this case, including Claimant’s timely filed First Extension Motion and Second Extension Motion, establish that Claimant had sufficient notice of the 727 Deadline.

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<sup>52</sup> *In re Tumbleson*, 596 B.R. 913, 915 (Bankr. N.D. Fla. 2018).

**(3) Whether Proceedings in Another Forum Will Have a Collateral Estoppel Effect on Debtor's Entitlement to a Discharge**

In some cases, pending litigation in another court may have a collateral estoppel effect on the issues raised in an objection to discharge.<sup>53</sup> Here, the record does not reflect that proceedings in any other forum will have a collateral estoppel effect on Debtor's entitlement to a discharge.

**(4) Whether Claimant Exercised Diligence**

"A lack of diligence, alone, can be fatal to a creditor's request to obtain an extension."<sup>54</sup> For at least two reasons, the Court finds that Claimant failed to exercise diligence.

First, Claimant was not diligent in pursuing an objection to Debtor's discharge. The initial 727 Deadline was December 5, 2016, the order granting Claimant's First Extension Motion extended the 727 Deadline to February 3, 2017, and the Second Extension Order extended the 727 Deadline until the date that was 30 days after the Court ruled on Debtor's objection to Claimant's Claim. Therefore, Claimant could have filed a complaint objecting to Debtor's discharge *at any time* between the

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<sup>53</sup> See *In re Chatkhan*, 455 B.R. 365, 369 (Bankr. E.D.N.Y. 2011) ("Thus, courts have granted an extension under Bankruptcy Rule 4004(b) and 4007(c) where the resolution of pending litigation could be determinative of the creditor's objection to discharge or dischargeability. See, e.g., *In re Morris*, 2010 WL 2197717, 2010 Bankr. LEXIS 1875 (Bankr. N.D.N.Y. 2010); *In re Weinstein*, 234 B.R. 862 (Bankr. E.D.N.Y. 1999) (granting extension pending decision in securities fraud arbitration.)").

<sup>54</sup> *Id.* (citing *In re Denike*, 322 B.R. 452, 455 (Bankr. M.D. Fla. 2005) (citing *In re Woods*, 260 B.R. 41 (Bankr. N.D. Fla. 2001)).



conversion of Debtor's case in September 2016 and the expiration of the Second Extension Order on March 29, 2021, but he did not do so.

Second, Claimant was not diligent in prosecuting his request for a third extension of time to object to Debtor's discharge. The Second Extension Order—which extended the 727 Deadline to 30 days after the Court ruled on Debtor's objection to Claimant's Claim—was entered on March 9, 2017. The 30-day deadline was triggered when the Court entered the SJ Order nearly four years later. Although Claimant appealed the SJ Order, he took no action within the 30-day period provided under the Second Extension Order to obtain a stay pending appeal, to obtain clarification of the Second Extension Order, or to obtain a further extension of the 727 Deadline. On this record, the Court finds that Claimant did not exercise diligence in prosecuting his request for a third extension of time under Rule 4004(b)(1).

#### **(5) Whether the Case Is Complex**

Although the issues related to Debtor's nondisclosure of assets were not particularly complex, the proof to establish the claims at trial would have required time-consuming fact discovery.<sup>55</sup> The Court extended the 727 Deadline in late 2016 and early 2017 when the Trustee was in the early stages of investigating the nondisclosure issue. The initial "complexity" of trial preparation does not support

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<sup>55</sup> Compromise Order, Doc. No. 953, p. 20.

Claimant's request—six years later—for a further, indefinite extension of the 727 Deadline.

**(6) Whether the Extension Will Prejudice Debtor**

Generally, deadlines for filing objections to discharge are to be interpreted strictly and in a manner consistent with the Bankruptcy Code's policies favoring a fresh start for debtors and the prompt administration of bankruptcy cases.<sup>56</sup> As the bankruptcy court in *In re Sijan* stated, "[o]ne of the primary goals of Chapter 7 relief is to offer debtors a 'fresh start' through discharge 'in exchange for liquidation of the debtor's assets for the benefit of his creditors.'"<sup>57</sup>

Here, Debtor converted his case to a Chapter 7 in 2016; he did not receive his discharge until April 2021—over four years later. Absent specific, articulated grounds to deny Debtor's discharge, any further delay caused by an extension of the 727 Deadline will prejudice Debtor.

**(7) Whether the Length of the Requested Delay Would Affect Court Administration**

In the Motion to Rescind, Claimant appears to seek an indefinite extension of the 727 Deadline until the entry of a final, non-appealable order on Debtor's objection to his Claim. The District Court remanded the SJ Order to this Court, and the

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<sup>56</sup> *In re Chatkhan*, 455 B.R. 365, 367 (Bankr. E.D.N.Y. 2011).

<sup>57</sup> *In re Sijan*, 611 B.R. 850, 854 (Bankr. S.D. Ohio 2020) (citation omitted).

proceedings on remand may require a trial on the issue of whether Claimant engaged in the unlicensed practice of law.

A trial date has not been set, due in part to the parties' disagreement regarding whether Claimant is entitled to further discovery from Debtor and Debtor's clients.<sup>58</sup> In addition, it is likely that this Court's order following a trial will be appealed, and that the appeal process may be lengthy.<sup>59</sup> In other words, as this case approaches the eighth anniversary of its filing, Claimant is asking for an extension of the 727 Deadline that could last for several years or more.

Meanwhile, the Trustee has completed his administration of the estate's assets,<sup>60</sup> and Claimant's disputes with Debtor are the only matters that prevent the Trustee from closing the case. The Court concludes that the length of the extension requested by Claimant is undetermined and will affect Court administration.

### III. CONCLUSION

In the Motion to Rescind and Renewed Motion to Rescind, Claimant seeks to "rescind" the Order Granting Motion for Discharge and to extend the 727 Deadline.

The Court concludes, first, that the District Court's reversal of the SJ Order does not support the rescission of the Order Granting Motion for Discharge. The 727

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<sup>58</sup> See Doc. Nos. 1012, 1026.

<sup>59</sup> The record in this case reflects that Claimant has filed 12 appeals to the District Court and at least three appeals to the Eleventh Circuit Court of Appeals.

<sup>60</sup> Doc. No. 1024.

Deadline had expired, Claimant did not seek or obtain a stay of the SJ Order, Debtor satisfied all requirements for a discharge, Claimant did not timely file a motion to vacate the Order Granting Motion for Discharge, and Claimant has not filed a motion to vacate the Discharge Order, despite his knowledge of Debtor's alleged conduct before the Discharge Order was entered.

Second, even if the Order Granting Motion for Discharge were rescinded and Claimant had standing to object to Debtor's discharge, Claimant has failed to meet his burden under Rule 4004(b) to establish "cause" to extend the 727 Deadline. Claimant knew of the 727 Deadline from the outset of the case, obtained two extensions of the deadline, did not exercise diligence in timely requesting a third extension, and now belatedly seeks an indefinite extension of the deadline without articulating a single specific basis for denying Debtor's discharge.

Accordingly, it is

**ORDERED** that the Motion to Rescind (Doc. No. 1011) and Renewed Motion to Rescind (Doc. No. 1056) are **DENIED** with respect to Claimant's requests for the Court to rescind the Order Granting Motion for Discharge (Doc. No. 873) and extend the deadline to object to Debtor's discharge.

The Clerk's office is directed to serve a copy of this Order on interested parties via CM/ECF.