



**IT IS ORDERED as set forth below:**

**Date: May 28, 2014**

**Paul W. Bonapfel  
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN THE MATTER OF:	:	CASE NUMBER: 13-51414-PWB
	:	
VINCENT TERRY,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
Debtor.	:	BANKRUPTCY CODE
_____	:	
	:	
AEROFUND FINANCIAL, INC.,	:	
	:	
Plaintiff	:	
	:	
v.	:	ADVERSARY PROCEEDING
	:	NO. 13-5126
VINCENT TERRY,	:	
	:	
Defendant.	:	

**ORDER DENYING MOTION FOR LEAVE TO AMEND  
AND  
ABSTAINING FROM HEARING CLAIMS AGAINST DOUGHERTY COUNTY  
SCHOOL SYSTEM**

Aerofund Financial, Inc. (“Aerofund”), seeks a determination that a debt owed to it by

the Debtor arising from his ownership and operation of Terry Learning Center of Georgia, Inc. (“TLC”), is excepted from discharge pursuant to 11 U.S.C. §§ 523(a)(2) and (a)(6). Aerofund contends it purchased the accounts receivable of TLC including amounts Dougherty County School System (the “School System”) owes TLC for services rendered. Aerofund requests leave to amend its complaint in order to add the School System as a defendant because it contends that it has a right to relief against the School System arising from the same transaction or occurrence involving its claim against the Debtor. For the reasons set forth herein, Aerofund’s motion is denied, and the Court hereby abstains from making any determination regarding the liability of the School System to Aerofund.

Whether a court should grant leave to a party to amend its complaint to add a defendant is a matter of discretion. *See* FED. R. CIV. P. 15(a)(2) and FED. R. CIV. P. 20(a)(2), made applicable by FED. R. BANKR. P. 7015 and 7020.<sup>1</sup> To that end, the court should consider whether adding the proposed defendant is appropriate in light of the nature of the litigation before it.

This action involves one central bankruptcy issue: whether the Debtor’s alleged debt owed to Aerofund is excepted from his bankruptcy discharge. Any claim Aerofund may have against the School System is purely a nonbankruptcy matter. Whether the School System owes money to the Debtor may be a factual matter relevant to the case, but the School System does not need to be a defendant in this dischargeability action in order to determine such an issue. Likewise, whether the School System has liability to Aerofund has no bearing on the administration of the Debtor’s bankruptcy estate or on the dischargeability of any debt owed to Aerofund by the Debtor.

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<sup>1</sup>Aerofund does not contend that Dougherty County is a “required party” pursuant to Rule 19(a).

To the extent the School System possesses information relevant to this proceeding, either party is free to seek discovery from it in accordance with the Federal Rules of Civil Procedure, made applicable by the Federal Rules of Bankruptcy Procedure.

Section 1334(c)(1) of Title 28 provides, “Except with respect to a case under chapter 15 of title 11, nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.”

Taking into account all of the circumstances, including the nonbankruptcy nature of any claim of Aerofund against the School System and the fact that the School System is not a necessary party to this dischargeability litigation, the Court concludes that it is appropriate to abstain from hearing any nonbankruptcy, state law claim Aerofund has against the School System in the interest of comity with State courts. Accordingly, it is

ORDERED that the Plaintiff’s motion for leave to amend the complaint to add a party [Doc. 29] is denied. It is

FURTHER ORDERED that, pursuant to 28 U.S.C. § 1334(c)(1), the Court abstains from hearing any claims asserted by Aerofund against Dougherty County School System in this adversary proceeding.

End of Order

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