



IT IS ORDERED as set forth below:

Date: February 23, 2010

A handwritten signature in black ink, appearing to read "W. H. Drake", is written over a horizontal line.

**W. H. Drake
U.S. Bankruptcy Court Judge**

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

IN THE MATTER OF:	:	CASE NUMBERS
	:	
FLORENCE ODESSA BUCHANAN,	:	BANKRUPTCY CASE
	:	NO. 08-12439-WHD
Debtor.	:	
-----	:	
	:	
BARBARA D. LAVIGNE,	:	
	:	
Plaintiff,	:	ADVERSARY PROCEEDING
	:	NO. 08-1099
v.	:	
	:	
FLORENCE ODESSA BUCHANAN,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
Defendant.	:	BANKRUPTCY CODE

ORDER

Before the Court is the Motion for Summary Judgment, filed by the defendant, Florence Odessa Buchanan (hereinafter the "Defendant"). The plaintiff, Barbara Lavigne

(hereinafter the "Plaintiff"), had previously opposed the entry of summary judgment, but requested a ninety-day extension of the time to respond more fully to the Defendant's Motion. The Court granted the Plaintiff's request and extended the time to respond to the Motion until January 30, 2010. The Plaintiff failed to respond more fully to the Motion.

The Defendant's motion, however, is deficient. The Motion does not include a separate, numbered statement of undisputed facts, as required by BLR 7056-1(a)(1), and fails to cite to discovery or other evidence within the record from which this Court could determine whether a genuine issue of material fact exists. The Plaintiff's amended complaint contains allegations which, if proven true, support the Plaintiff's contention that the Defendant owes the Plaintiff a nondischargeable debt. The Defendant has not pointed to any evidence or undisputed facts that would persuade the Court that the Defendant is entitled to judgment as a matter of law as to the issue of whether a debt owed by the Defendant to the Plaintiff is nondischargeable.

That being said, the Plaintiff's amended complaint does not make an allegations that would support a finding that the Defendant's discharge should be denied pursuant to section 727(a) of the Bankruptcy Code. Accordingly, the Court finds no reason why that portion of the complaint should not be dismissed so that the Defendant's discharge may be entered.

Therefore, the Court finds that the Defendant's Motion for Summary Judgment should be, and hereby is, **GRANTED in part** and **DENIED in part** without prejudice. To the extent the Plaintiff's complaint seeks the denial of the Defendant's discharge pursuant to

section 727(a), such count is **DISMISSED with prejudice**. To the extent the Plaintiff's complaint seeks a determination that any debt owed to the Plaintiff by the Defendant is nondischargeable pursuant to section 523(a) of the Code, the Defendant's motion is denied without prejudice, and the complaint will remain pending.

The Defendant may refile her motion for summary judgment to comply with the requirements of BLR 7056-1(a)(1).

END OF DOCUMENT

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