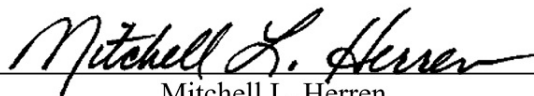


SO ORDERED.

SIGNED this 3rd day of November, 2025.




Mitchell L. Herren
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:

Robin A. Dodd,
Debtor.

**Case No. 24-11060
Chapter 7**

Ronald Pore,
Plaintiff,
vs.

Adv. No. 24-05023

Robin A. Dodd,
Defendant.

**Order Denying
Plaintiff's Motion for Summary Judgment**

Robin Dodd filed a Chapter 7 bankruptcy petition seeking to discharge her debts, including two prepetition default judgments entered against her in Kansas state court. Those default judgments, obtained by Plaintiff Ronald Pore, arose out of an unpaid \$50,000 promissory note and a common-law fraud claim related to

\$140,542.50 in small cash advances from Plaintiff to Ms. Dodd. Plaintiff filed an adversary proceeding against Ms. Dodd, arguing the entirety of the debt owed to him (plus interest) should be nondischargeable under 11 U.S.C. § 523(a)(2)(A)'s actual fraud and false misrepresentation exception.¹ Plaintiff now moves for summary judgment on his claim.² For the reasons set forth below, the Court denies the motion.

I. Procedural History

Ms. Dodd filed her Chapter 7 petition on October 21, 2024 with help of counsel.³ She accurately listed both judgments as debts to Plaintiff on her Schedule E/F.⁴ On December 18, 2024, Plaintiff timely brought this adversary proceeding to contest the dischargeability of these debts under § 523(a)(2)(A).⁵ After several amended complaints were docketed, Ms. Dodd answered on January 23, 2025.⁶ In her answer, Ms. Dodd admitted the default judgments against her, but denied all other factual allegations, contending she did not sign a promissory note or request money from Plaintiff; instead, she believed the funds at issue to be gifts.⁷ Several months later, on June 22, 2025, Ms. Dodd's counsel moved to withdraw from the

¹ Future statutory references refer to the Bankruptcy Code, title 11, unless otherwise specified.

² Doc. 30.

³ Case No. 24-11060, Doc. 1.

⁴ *Id.* at p. 22.

⁵ Docs. 1, 13; Case No. 24-11060, Doc. 18.

⁶ Doc. 16.

⁷ *Id.* at p. 2 ¶ 5.

adversary proceeding and that motion was granted.⁸ Plaintiff then moved for summary judgment.⁹ Ms. Dodd has not responded to the motion.

II. Plaintiff's Statement of Uncontroverted Facts

Because Ms. Dodd failed to respond to Plaintiff's motion, she has "waived the right to respond or to controvert the facts asserted in the summary judgment motion."¹⁰ However, the Court only accepts as true all material facts asserted *and* properly supported in the summary judgment motion."¹¹ Applying this standard, the Court finds the following facts admitted:

- Plaintiff obtained a default judgment for breach of contract against Ms. Dodd in Kansas state court that amounts to \$50,000 plus pre-judgment interest on April 9, 2024. (The "breach of contract default judgment.")
- Plaintiff obtained a default judgment for fraud against Ms. Dodd in Kansas state court that amounts to \$140,542.50 plus pre-judgment interest on October 17, 2024. (The "fraud default judgment.")

The many other details surrounding Plaintiff's claims remain unclear and clouded by a lack of support.

Plaintiff's first state court petition underlying the breach of contract default judgment indicates that Plaintiff's relationship with Ms. Dodd stretches back to at least October 2021, when the promissory note was signed.¹² The promissory note

⁸ Doc. 34.

⁹ Doc. 30.

¹⁰ *Reed v. Nellcor Puritan Bennett*, 312 F.3d 1190, 1195 (10th Cir. 2002).

¹¹ *See* D. Kan. LBR 7056.1(a); Fed. R. Civ. P. 56(e)(2). *See also Reed v. Nellcor Puritan Bennett*, 244 F. Supp. 2d 1205, 1208 (D. Kan. 2003) (accepting "as true all material facts asserted" with *proper support* where nonmoving party failed to respond to a motion for summary judgment).

¹² Doc. 31 Ex. 2. The state court petition underlying the breach of contract default judgment and attached to Plaintiff's motion is not sworn or verified. The "promissory note" attached to that petition states, in full: "I Robin Dodd promise to pay Ronald Pore back the money he loaned me in the

suggests Plaintiff loaned Ms. Dodd \$50,000 prior to late 2021, but Plaintiff gives no other details about the surrounding circumstances.¹³ Plaintiff's second state court petition underlying the fraud default judgment seeks recovery of hundreds of smaller loans Plaintiff allegedly made to Ms. Dodd throughout 2022 and up until August 26, 2023—eventually totaling \$140,542.50.¹⁴

Plaintiff contends Ms. Dodd never repaid any of the loans. Plaintiff avers he made these advances under the belief that Ms. Dodd had an extreme need for money,¹⁵ that her child needed immediate medical assistance,¹⁶ or that she needed money to retrieve the funds needed to repay Plaintiff.¹⁷ However, although these paragraphs in Plaintiff's Statement of Uncontroverted Facts cite to a "Pore Affidavit" in support, there is no affidavit filed in support of the motion.

To support his claims, Plaintiff does attach several exhibits to his motion. Two exhibits purport to be letters sent from Ms. Dodd's attorney and bank, claiming Plaintiff would be repaid as soon as Ms. Dodd came into a large amount of money from a pending settlement agreement (about \$2.9 million).¹⁸ The first is an undated letter from Ms. Dodd's alleged attorney, stating "I am working with Robin on her case, and we are clearing up the matter on Friday 18, 2023 [sic]."¹⁹ The second

amount of \$50,000.00[.] I will be making \$600.00 [payments] every two weeks to pay this balance off[.]" *Id.* The promissory note is then signed "Sincerely Robin Dodd" and dated "10-18-21." *Id.*

¹³ *Id.* p. 2 ¶¶ 2a, 4.

¹⁴ *Id.* Ex. 3 and p. 2 ¶¶ 2b, 5. This state court petition is verified as permitted under Kan. Stat. Ann. § 60-227 and therefore made under penalty of perjury per Kan. Stat. Ann. § 53-601.

¹⁵ *Id.* p. 4 ¶ 8.

¹⁶ *Id.* p. 3-4 ¶¶ 6b, 6e, 6f.

¹⁷ *Id.* p. 3-4 ¶¶ 6a, 6c, 6d.

¹⁸ *Id.* p. 2-3 ¶ 5.

¹⁹ *Id.* Ex. 7.

letter came from Ms. Dodd's alleged bank telling a similar story: "[w]e have had some hold-ups due to other situations that came forward once money was being deposited into the account [E]verything should go as planned Monday morning 5/22/2013 [sic]. . . ." ²⁰ Both letters also asked for more money. ²¹

Plaintiff also attached the state court petition underlying the fraud judgment, which included as an attachment a list of "cash app payments to Robin Dodd." That list indicates these payments ended on August 26, 2023, after Plaintiff loaned out nearly \$200,000. ²² Plaintiff's final exhibit attached to his motion for summary judgment is a purported printout of text messages between himself and Ms. Dodd, wherein he claims Ms. Dodd made additional false representations. ²³

III. Summary Judgment Standard

Summary judgment is an important procedure "designed to secure the just, speedy and inexpensive determination of every action." ²⁴ In considering a motion for summary judgment, the Court views "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits" in the light most favorable to the non-movant. ²⁵

Fed. R. Civ. P. 56(a) requires the movant to carry his burden by negating the existence of genuine issues of material fact and showing that the movant's position

²⁰ *Id.* Ex. 6.

²¹ *Id.* Ex. 6; *Id.* Ex. 7.

²² *Id.* Ex. 4, p. 5.

²³ *Id.* Ex. 7.

²⁴ *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1991) (quoting Fed. R. Civ. P. 1).

²⁵ Fed. R. Civ. P. 56(c); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). Fed. R. Civ. P. 56 is made applicable to this adversary proceeding by Fed. R. Bankr. P. 7056.

entitles it to judgment as a matter of law.²⁶ A “genuine” issue means the evidence is such that a reasonable jury could return a verdict for the nonmoving party.²⁷ A “material” fact is one that affects the outcome of the dispute.²⁸ Only if the movant is successful in meeting his burden of production does the burden shift to the non-movant; otherwise, the Court will deny the motion.²⁹

Before the movant’s burden shifts, the movant must properly support the motion for summary judgment to “allow the bankruptcy court to credibly determine” if they have met their burden.³⁰ To that end, a court may only consider evidence that would be admissible at trial.³¹ Rule 56(c) and District of Kansas Local Bankruptcy Rule 7056.1 lay out important procedural requirements for these motions to be adequately supported. Both Rules require that each separately numbered statement of fact be supported by a citation to particular materials in the record. Specifically, D. Kan. LBR 7056.1(d) requires facts be “presented by affidavit, declaration under penalty of perjury, and/or through the use of relevant portions of pleadings, depositions, answers to interrogatories and responses to requests for admissions.” Then, “[w]here facts referred to in an affidavit or declaration are

²⁶ Fed. R. Civ. P. 56(a) (“The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact *and* the movant is entitled to judgment as a matter of law.” (emphasis added)). *See also Celotex Corp.*, 477 U.S. at 325 (stating the moving party bears the initial burden of showing an absence of evidence to support the nonmoving party’s case).

²⁷ *Anderson*, 477 U.S. at 248.

²⁸ *Id.*

²⁹ *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 160-61 (1970); *see also Reed v. Nellcor Puritan Bennett*, 312 F.3d 1190, 1195 (10th Cir. 2002).

³⁰ *Harris v. Beneficial Okla., Inc. (In re Harris)*, 209 B.R. 990, 995 (B.A.P. 10th Cir. 1997) (citing Fed. R. Civ. P. 56(c); D. Kan. LBR 7056.1(a)).

³¹ *See World of Sleep, Inc. v. La-Z-Boy Chair Co.*, 756 F.2d 1467, 1474 (10th Cir. 1985).

contained in another document . . . a copy of the relevant excerpt from the document must be attached.”³² Evidence lacking that proper foundation cannot support a summary judgment motion, even if the potential evidence appears highly probative to a material fact.³³ If a movant wishes the Court to consider its documentary evidence, those documents must be authenticated using an affidavit or similar declaration; otherwise, they are inadmissible hearsay.³⁴

If and when the burden does shift in summary judgment, the non-movant must state specific facts, supported by competent evidence, that shows the existence of a genuine dispute of material fact, or prove that the undisputed facts provide an insufficient legal basis to grant judgment as a matter of law.³⁵ The non-movant cannot simply rest on the pleadings as sufficient argument.³⁶ Still, the nonmoving party’s failure to respond does not necessarily make summary judgment proper. If the non-movant does not respond, the Court will examine whether the movant’s submissions meet the initial burden.³⁷ Only if that burden is met, may the Court grant summary judgment.³⁸

³² Fed. R. Civ. P. 56(d); D. Kan. LBR 7056.1(d).

³³ *In re Harris*, 209 B.R. at 996 (citing 11 James Wm. Moore et al., *Moore’s Federal Practice* §§ 56.10[4][c][i] & 56.14 [2][c] (3d ed.1997)).

³⁴ *Id.*

³⁵ Fed. R. Civ. P. 56(e); *Celotex Corp.*, 477 U.S. at 325.

³⁶ *Anderson*, 477 U.S. at 256.

³⁷ *Reed*, 312 F.3d at 1194–95. (“If the nonmoving party fails to respond, the district court may not grant the motion without first examining the moving party’s submission to determine if it has met its initial burden of demonstrating that no material issues of fact remain for trial and the moving party is entitled to judgment as a matter of law. If it has not, summary judgment is not appropriate, for ‘no defense to an insufficient showing is required.’”) (quoting *Adickes*, 398 U.S. at 161).

³⁸ *Id.* at 1195.

Here, though Ms. Dodd denied the facts underlying the default judgments in her answer,³⁹ she failed to respond to Plaintiff's motion for summary judgment. Normally, that gives a movant an easier road to relief, but Plaintiff also failed to meet his initial burden. No affidavit or similar declaration swears to the authenticity of the facts put forth in the motion, memorandum, or the attached materials; and, although the state court default judgments and petitions are attached, they support only part of the facts stated. Plaintiff's motion does *refer* to an affidavit, but none was attached.⁴⁰ Without this needed support, any unauthenticated documentary exhibits attached to Plaintiff's motion amount to inadmissible hearsay.⁴¹ Thus, Plaintiff's motion fails to meet the procedural requirements for summary judgment.

Despite these failures, the Court still has a duty to examine whether Plaintiff carried his burden on his claims using whatever facts are admissible; the Court does so below.

IV. Analysis

A. Jurisdiction and Venue

Dischargeability is governed by the Bankruptcy Code and lies squarely

³⁹ Doc. 14.

⁴⁰ *See, e.g.*, Doc. 31, p. 4 (citing "Pore Affidavit" several times).

⁴¹ *In re Wiley*, 426 B.R. 878, 881 (Bankr. D.N.M. 2010) ("Plaintiff's response contains no affidavits, there are no previous affidavits on file in this case, and the unauthenticated exhibits attached to the response are inadmissible hearsay.").

within a bankruptcy court's jurisdiction over core proceedings.⁴² Additionally, venue is proper in this Court per 28 U.S.C § 1409.

B. Nondischargeability under § 523(a)(2)(A)

Generally, the nondischargeability inquiry—whether a debt owed to a creditor meets any of the discharge exceptions under § 523(a)—must be given a narrow construction.⁴³ Any doubt as to the meaning or breadth of a § 523(a) exception must be resolved in the debtor's favor.⁴⁴ Doing so ensures that bankruptcy's fresh-start policy remains paramount even in the face of conflicting or confusing evidence.⁴⁵ The burden of persuasion falls on the creditor to challenge and to show by a preponderance of the evidence that the debt is non-dischargeable.⁴⁶

Under § 523(a)(2)(A), a Chapter 7 discharge does not discharge any debt:

(2) for money . . . to the extent obtained by—(A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's . . . financial condition.⁴⁷

A creditor can prove nondischargeability under this subsection by proving any one of the three different fraud theories, i.e., false pretenses, a false representation, or

⁴² 28 U.S.C. §§ 157(1), (2)(I) and 1334(b) (a determination “as to the dischargeability of particular debts” is a core proceeding).

⁴³ *Belco First Fed. Credit Union v. Kaspar (In re Kaspar)*, 125 F.3d 1358, 1361 (10th Cir. 1997). Nondischargeability “is a two-step process.” *Grange Ins. Assoc. v. Woods (In re Woods)*, 660 B.R. 905, 915 (B.A.P. 10th Cir. 2024). “First, the creditor must establish a debt is owed by the debtor to the creditor under applicable nonbankruptcy law. If that showing is made, the creditor must then show that the debt is excepted from the discharge.” *Id.* at 915-16. The existence of the debt owed to Plaintiff is established by the state court default judgments, and Ms. Dodd did not contest the existence of the debt or the amount in her answer to Plaintiff's complaint.

⁴⁴ *In re Kaspar*, 125 F.3d at 1361.

⁴⁵ *DSC Nat'l Props., LLC v. Johnson (In re Johnson)*, 477 B.R. 156, 168 (B.A.P. 10th Cir. 2012).

⁴⁶ *Grogan v. Garner*, 498 U.S. 279, 287–88 (1991).

⁴⁷ 11 U.S.C. § 523(a)(2)(A).

actual fraud. Though each theory has its own requirements, all three theories share a common element: the debtor intended to defraud the creditor.⁴⁸ That intent may be proven by the totality of the circumstances.⁴⁹ Plaintiff bases his § 523(a)(2)(A) on both false representation and actual fraud.

Claims of false representations mirror commonly litigated fraud cases with express misrepresentations. Those claims require the creditor prove the five traditional, common-law elements for fraud: (1) the debtor made a false representation; (2) the debtor made the representation with the intent to defraud; (3) the creditor relied on the representation; (4) justifiable reliance by creditor; and (5) the debtor's representation caused the creditor to sustain a loss.⁵⁰

By contrast, claims of actual fraud under § 523(a)(2)(A) arise “when a debtor intentionally engages in a scheme to deprive or cheat another of property or a legal right.”⁵¹ Actual fraud does not require actual misrepresentations or misleading omissions, and it cannot be constructive;⁵² instead, any act done with fraudulent intent that rises to the level of “actual fraud” suffices.⁵³

⁴⁸ *Bank of Cordell v. Sturgeon (In re Sturgeon)*, 496 B.R. 215, 223 (B.A.P. 10th Cir. 2013).

⁴⁹ *Fowler Bros. v. Young (In re Young)*, 91 F.3d 1367, 1375 (10th Cir. 1996).

⁵⁰ *In re Johnson*, 477 B.R. at 169.

⁵¹ *Id.*

⁵² *Diamond v. Vickery (In re Vickery)*, 488 B.R. 680, 691 (B.A.P. 10th Cir. 2013).

⁵³ *Husky Int'l Elecs., Inc. v. Ritz*, 578 U.S. 355, 360 (2016).

1. October 2021 Promissory Note

Plaintiff argues that his breach of contract default judgment for the 2021 promissory note should be excepted under § 523(a)(2)(A)'s false representation and actual fraud exceptions.

Plaintiff provides no supporting material to support a § 523(a)(2)(A) claim on this judgment. Neither the state court default judgment attached to his motion,⁵⁴ nor the unverified state court pleading with a handwritten promissory note supporting that judgment⁵⁵ indicate a finding by the court of fraud; they only suggest a breach of contract.

Plaintiff fails to carry his burden on both his actual fraud and false representation theories. Even on the facts as alleged, Plaintiff fails to set forth uncontroverted facts showing Ms. Dodd made a false statement in signing the promissory note or that she signed the note with the intent to defraud Plaintiff. Similarly, Ms. Dodd's promise to repay Plaintiff via the promissory note does not show an intentional "scheme to deprive or cheat another of property or a legal right."⁵⁶

2. Cash Advances

Plaintiff next argues that the entirety of the fraud default judgment should be excepted under § 523(a)(2)(A)'s false representation and actual fraud exceptions. That argument also fails for several reasons.

⁵⁴ Doc. 31 Ex.1.

⁵⁵ *Id.* Ex. 2.

⁵⁶ *In re Johnson*, 477 B.R. at 169.

First, on the current record, Plaintiff fails to prove all five required common-law fraud elements for a false representation theory under § 523(a)(2)(A).⁵⁷ Nothing in the record confirms Ms. Dodd made any alleged statements with the intent to defraud or that Plaintiff justifiably relied on false representations.

Plaintiff did not authenticate the alleged forged letters⁵⁸ or the alleged text chain⁵⁹ between the parties and thus has provided no admissible statements from which the intent to defraud could be inferred. Further, nothing authenticates that the alleged transactions even occurred between the parties. Plaintiff's barebones accounting of transactions lacks significant details, like account numbers and the names of parties to the transactions.⁶⁰

Even if Plaintiff had authenticated the attached materials, and even if his facts were properly supported, the current record does not support a finding on a critical element: justifiable reliance. Justifiable reliance looks to the qualities and characteristics of the "particular plaintiff and the circumstances of the particular case."⁶¹ Courts often settle this using "a subjective standpoint," holding a creditor to a lesser standard than reasonable reliance.⁶² Rather than apply a community standard, a court can gauge the creditor's reliance in light of the personal or

⁵⁷ See *id.* Recall, *Johnson* lists those elements as: (1) the debtor made a false representation; (2) the debtor made the representation with the intent to defraud; (3) the creditor relied on the representation; (4) justifiable reliance by creditor; and (5) the debtor's representation caused the creditor to sustain a loss.

⁵⁸ Docs. 31 Ex. 5 and Ex. 6.

⁵⁹ *Id.* Ex.7.

⁶⁰ *Id.* Ex.4.

⁶¹ *Field v. Mans*, 516 U.S. 59, 70–71 (1995).

⁶² *Id.* at 76.

business relationship between the parties.⁶³ While this standard does not impose a duty on the creditor to investigate the representations, the lack of a duty does not deprive the creditor of his senses.⁶⁴ A creditor cannot recover merely because he blindly relied upon a debtor's misrepresentation—especially, if a cursory examination reveals a patent falsity.⁶⁵

As applied here, Plaintiff provided no support as to whether he *justifiably* relied on Ms. Dodd's alleged false representations. Plaintiff provides no background as to the nature of his relationship with Ms. Dodd, leaving the Court without context in which to gauge Plaintiff's reliance. Plaintiff failed to show that he justifiably relied on Ms. Dodd's representation in loaning her \$140,542.50 over the course of eighteen months after she had not repaid an outstanding \$50,000 loan.

Second, Plaintiff's current record also fails to carry the burden for his actual fraud theory. Plaintiff has not shown Ms. Dodd engaged in an intentional "scheme to deprive or cheat another of property or a legal right"⁶⁶ because his claim lacks the needed factual support and authenticated exhibits to prove intent and actual fraud.

V. Conclusion

The current summary judgment record demonstrates Plaintiff failed to carry his burden entitling him to judgment as a matter of law under § 523(a)(2)(A).

⁶³ *Id.* at 71; *see also Grange Ins. Ass'n v. Woods (In re Woods)*, 660 B.R. 905, 921 (B.A.P. 10th Cir. 2024).

⁶⁴ *Field*, 516 U.S. at 72.

⁶⁵ *Id.* at 71 (quoting W. Prosser, *Law of Torts* § 108, p. 718 (4th ed. 1971)).

⁶⁶ *DSC Nat'l Props., LLC v. Johnson (In re Johnson)*, 477 B.R. 156, 169 (B.A.P. 10th Cir. 2012).

Plaintiff's motion for summary judgment is denied.⁶⁷ The Court sets this adversary proceeding for a pretrial conference on November 13, 2025, at 11:00 a.m.

It is so Ordered.

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⁶⁷ Doc. 30.