

# BANKRUPTCY <sup>UP</sup>DATE

## May 4, 2020

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### CLN Decision

You can use the link in the "Links" section below to view the following decision:

#### *Bussiere v. The Board of Trustees of North Kansas City Hospital (In re Bussiere)*

**Issue:** Whether the debtor-plaintiff's application for a default judgment under 11 U.S.C. § 523(a)(3) may be granted where the debtor-plaintiff did not plead the non-answering creditor had notice or actual knowledge of the bankruptcy case early enough to timely file a proof of claim?

**Ruling:** The debtor-plaintiff was not entitled to a default judgment against the creditor because she did not plead a necessary element of 11 U.S.C. § 523(a)(3) for a claim to be excepted from discharge in an asset chapter 7 case - that the creditor had notice or actual knowledge of the bankruptcy case so as to permit it to timely file a claim. Though 11 U.S.C. § 726(a)(2)(C) allows certain untimely-filed claims to be paid as if they were timely filed, the creditor's claim was still untimely, and the timeliness of a claim's filing is the crux of § 523(a)(3)'s exception to discharge.

## Certificate of Service When Serving All Creditors

When serving all creditors and other parties in interest, please attach a current (i.e., dated the day service is made) mailing list from CM/ECF to your Certificate of Service. Since this list can change at any time, you should attach a current mailing list from CM/ECF rather than preparing your own version of the list. To obtain a current mailing list from CM/ECF:

- Click on "Reports" or "Utilities"
- Click on "Mailings..."
- Click on "Mailing Matrix by Case"
- Enter the case number in the "Case number" field
- Leave the "All" box checked to select all case participants
- Click on "Next"
- Print the mailing list

## Links

[Bussiere v. The Board of Trustees of North Kansas City Hospital \(In re Bussiere\)](#)

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