



Honorable Mike K. Nakagawa
United States Bankruptcy Judge



Entered on Docket
January 22, 2026

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

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In re:)	Case No. 24-12313-mkn
EVELYN VALENCIA,)	Chapter 7
Debtor.)	
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L MAKEUP AGENCY AND INSTITUTE,)	Adv. Proc. No. 24-01070-mkn
LLC,)	
Plaintiff,)	Date: August 20, 2025
vs.)	Time: 9:30 a.m.
EVELYN VALENCIA,)	
Defendant.)	

**ORDER ON MOTION TO DISMISS IN PART FIRST AMENDED AND
SUPPLEMENTAL COMPLAINT¹**

On August 20, 2025, the court heard the Motion to Dismiss in Part First Amended and Supplemental Complaint brought by debtor Evelyn Valencia (“Debtor”) in the above-captioned

¹ In this Order, all references to “ECF No.” are to the documents filed in the above-captioned bankruptcy case. All references to “AECF No.” are to the documents filed in the above-captioned adversary proceeding. All references to “Section” are to provisions of the Bankruptcy Code, 11 U.S.C. § 101, et seq. All references to “Bankruptcy Rule” are to the Federal Rules of Bankruptcy Procedure. All references to “Civil Rule” are to the Federal Rules of Civil Procedure.

1 adversary proceeding (“Dismissal Motion”). The appearances of counsel were noted on the
2 record. After arguments were presented, the matter was taken under submission.

3 BACKGROUND

4 On May 9, 2024, Debtor filed a voluntary “skeleton” Chapter 7 petition (“Petition”) and
5 was represented by a law firm entitled Fair Fee Legal Services (“FFLS”).² (ECF No. 1). The
6 Petition attests that the Debtor lives at 956 Palmerston Street, Las Vegas, Nevada 89110
7 (“Residential Address”), but has a mailing address of 27 Rue De Degas, Henderson, Nevada
8 89074 (“Mailing Address”). The case was assigned for administration to Chapter 7 bankruptcy
9 trustee Troy S. Fox. A notice of bankruptcy filing (“Bankruptcy Notice”) was served by first
10 class mail on all parties in interest. (ECF No. 5).³

11 On May 11, 2024, Debtor filed her schedules of assets and liabilities (“Schedules”),
12 statement of financial affairs, and other information required by Section 521(a). (ECF No. 8).
13 On her unsecured creditor Schedule “E/F,” the Debtor listed L Makeup Agency and Institute,
14 LLC (“LMAI”), as having a claim in the amount of \$19,836.94, described as a
15 “GARNISHMENT – 19C036567.”⁴ Included in that information is a Disclosure of
16 Compensation of Attorney for Debtor(s) (“Compensation Disclosure”) required under Section
17 329(a) and Bankruptcy Rule 2016(b). That document specifically discloses that FFLS does not

18 ² The principal of FFLS appears to be attorney Seth D. Ballstaedt.

19 ³ The Bankruptcy Notice announced a meeting of creditors required by Section 341(a)
20 (“341 Meeting”) that was scheduled to be held on June 12, 2024. The Bankruptcy Notice also
21 announced a deadline of August 12, 2024, for creditors to object to the discharge of any debts.

22 ⁴ 19C036567 apparently is the case number for a collection action by LMAI against the
23 Debtor that was commenced in 2019 in the Las Vegas Township Justice Court (“Collection
24 Action”). It appears that in the same year, a co-borrower on the same loan named Estela Casas
25 (“Casas”) filed a separate Chapter 7 proceeding denominated Case No. 19-16839-ABL. LMAI
26 brought Adversary No. 20-01018-ABL against Casas seeking a determination that the same loan
27 was nondischargeable under Section 523(a)(8). A default judgment was entered in that action
28 against Casas on July 8, 2020. The default judgment contains no finding that repayment of the
subject loan would constitute an undue hardship under Section 523(a)(8). In other words, Judge
Landis made no factual finding on the undue hardship exception because it was never litigated.
Casas did not oppose entry of a default judgment nor did she seek to set aside her default.
Meanwhile, in the Collection Action against the Debtor, a default judgment apparently was
entered against the Debtor by the state court on or about July 9, 2020.

1 represent the Debtor in, among other things, adversary proceedings. See Compensation
2 Disclosure at ¶ 7.

3 On August 7, 2024, LMAI commenced the above-captioned adversary proceeding
4 (“Adversary Proceeding”) against the Debtor seeking a determination that its claim is for an
5 educational loan under Section 523(a)(8)(b) that is not excepted from a bankruptcy discharge as
6 an “undue hardship.” On August 8, 2024, a summons was issued requiring the Debtor to
7 respond to the Adversary Complaint within 30 days. (AECF No. 4).

8 On August 13, 2024, an Order of Discharge was entered, providing the Debtor with a
9 Chapter 7 discharge. (ECF No. 25).

10 On September 27, 2024, LMAI filed an affidavit of service attesting that on August 8,
11 2024, the Adversary Complaint and Summons were served by first class mail to the Debtor at her
12 Mailing Address as well as to her bankruptcy counsel, FFLS, at its mailing address. (AECF No.
13 5). On the same date, LMAI filed a Request for Entry of Default inasmuch as a response had not
14 been received from the Debtor within 30 days of the issuance of the summons. (AECF No. 6).

15 On October 15, 2024, counsel for LMAI filed an affidavit attesting that the Debtor had
16 not responded to the complaint and summons, that FFLS had confirmed that it does not represent
17 the Debtor in the Adversary Proceeding, and that the Debtor is authorized to be sued in the
18 matter. (AECF No. 7).

19 On October 16, 2024, the Clerk of the Court entered an order of default (“Default Order”)
20 as permitted by Bankruptcy Rule 7055 and Local Rule 7055. (AECF No. 8).

21 On November 19, 2024, LMAI filed a motion for entry of default judgment (“Default
22 Judgment Motion”)⁵ along with supporting declarations of its managing member, Kyle Waugh,
23

24 ⁵ LMAI maintains that it provided to Debtor’s bankruptcy counsel “a judgment involving
25 a different debtor under nearly identical circumstances in which the Court recently confirmed
26 that an identical loan by Plaintiff was a non-dischargeable student loan.” See Default Judgment
27 Motion at 5 n.3, referencing In re Luisiana Ortiz, Case No. 23-01127-nmc. Even a cursory
28 review of the docket, however, reveals that the circumstances in the Ortiz proceeding were not
close to being identical to the current matter. Instead, the Chapter 7 debtor in the Ortiz action
was represented by experienced bankruptcy counsel and the matter was resolved on cross-
motions for summary judgment. Judge Cox expressly concluded that the debtor had alleged but
failed to establish a factual basis for her claim of undue hardship under Section 523(a)(8). In

1 and its bankruptcy counsel, Shlomo S. Sherman, Esq. (AECF Nos. 9, 10, and 11). On the same
2 date, LMAI filed a notice that the Default Judgment Motion had been filed with the court, along
3 with a certificate of service attesting that the Default Judgment Motion and supporting
4 documents had been served on the Debtor at her Mailing Address. (AECF Nos. 12 and 13).

5 On December 5, 2024, LMAI filed a notice scheduling the Default Judgment Motion to
6 be heard on January 8, 2025. (AECF No. 14).

7 At the January 8, 2025 hearing, Debtor appeared at the court in person and in pro se.
8 Based on her representations to the court, the hearing was continued to February 12, 2025, to
9 allow the Debtor to seek pro bono counsel.

10 On February 12, 2025, Debtor appeared through her pro bono counsel, Christopher
11 Burke, Esq. (“Attorney Burke”), and the hearing on the Default Judgment Motion was further
12 continued to March 12, 2025, to allow counsel to respond.

13 On February 28, 2025, Attorney Burke filed an opposition to the Default Judgment
14 Motion that included a Motion to Set Aside the Default Order (“Set Aside Motion”). (AECF No.
15 21).⁶ Counsel filed a separate notice for the latter to be heard on April 2, 2025. (AECF No. 22).

16 On March 12, 2025, the hearing on the Default Judgment Motion was continued to April
17 2, 2025, so that it could be heard concurrently with the Set Aside Motion.

18 On March 19, 2025, LMAI filed a combined reply in support of its Default Judgment
19 Motion as well as in opposition to the Set Aside Motion that was accompanied by another
20 declaration of its counsel. (AECF Nos. 27 and 28).

21 On March 26, 2025, Attorney Burke filed a reply in support of the Set Aside Motion
22 (“Debtor Reply”). (AECF No. 29).⁷

23
24
25 other words, there was no default judgment and the court reached the merits of the claims based
26 on the evidence presented by counsel.

26 ⁶ Attached in support of the Set Aside Motion is a copy of a declaration of Evelyn
27 Valencia, signed under penalty of perjury on February 24, 2025. (“First Debtor Declaration”).

28 ⁷ Attached to the Debtor Reply is a copy of another declaration of Evelyn Valencia,
signed under penalty of perjury on March 26, 2025. (“Second Debtor Declaration”).

1 On April 1, 2025, LMAI filed another declaration of its managing member in response to
2 an issue raised in the Debtor’s reply. (AECF No. 30).

3 On May 9, 2025, an order was entered granting defendant Evelyn Valencia’s Motion to
4 Set Aside Default and denying LMAI’s Motion for Default Judgment. (AECF No. 31).

5 On May 30, 2025, defendant Evelyn Valencia filed an answer to the Complaint. (AECF
6 No. 34).

7 On July 8, 2025, a Stipulated Order was entered granting LMAI leave to file the First
8 Amended and Supplemental Complaint. (AECF No. 38).

9 On July 9, 2025, LMAI filed a first amended and supplemental complaint (“Amended
10 Complaint”)⁸ against the Debtor. (AECF No. 39).

11 On July 17, 2025, defendant Evelyn Valencia (“Debtor”) filed the instant Dismissal
12 Motion and noticed it to be heard on August 20, 2025. (AECF Nos. 42 and 43).

13 On August 6, 2025, LMAI filed its opposition (“Opposition”) to Debtor’s Dismissal
14 Motion. (AECF No. 473).

15 On August 13, 2025, Debtor filed a reply (“Reply”) to LMAI’s Opposition to her
16 Dismissal Motion. (AECF No. 48).

17 **DISCUSSION**

18 The court has considered the written and oral arguments presented, as well as the
19 declarations submitted by the parties. Based on that consideration, along with the record in this
20 bankruptcy case, the court concludes that the Dismissal Motion should be denied.

21 Under Bankruptcy Rule 4007(c), “a complaint to determine whether a debt is
22 dischargeable under § 523(c) must be filed within 60 days after the first date set for the § 341(a)
23 meeting of creditors.” In this case, the 341 Meeting was set for June 12, 2024. LMAI filed their
24 initial complaint on August 7, 2024, which is timely. LMAI then filed their amended complaint
25

26 ⁸ In addition to a First Cause of Action to determine whether it’s claim is
27 nondischargeable as an educational loan under Section 523(a)(8), LMAI now asserts two more
28 claims. A Second Cause of Action alleges fraudulent inducement or fraudulent
misrepresentation in connection with the loan transaction as well as a Third Cause of Action
alleging that the debt is nondischargeable under Section 523(a)(2).

1 on July 9, 2025, over a year after the 341 Meeting. Thus, additional Section 523 claims in the
2 Amended Complaint are time-barred under Bankruptcy Rule 4007. LMAI maintains, however,
3 that the Second and Third Cause of Action relate back to the original complaint.

4 “An otherwise time-barred claim in an amended pleading is deemed timely if it relates
5 back to the date of a timely original pleading.” ASARCO, LLC v. Union Pac. R. Co., 765 F.3d
6 999, 1004 (9th Cir. 2014). Civil Rule 15 applies in an adversary proceeding. See
7 FED.R.BANKR.P. 7015. “Rule 15(c) of the Federal Rules of Civil Procedure governs when an
8 amended pleading ‘relates back’ to the date of a timely filed original pleading and is thus itself
9 timely even though it was filed outside an applicable statute of limitations.” Krupski v. Costa
10 Crociere S. p. A., 560 U.S. 538, 541 (2010); see also Gelling v. Dean (In re Dean), 11 B.R. 542,
11 544 (B.A.P. 9th Cir. 1981) (“The basic issue then, assuming the amended complaint filed after
12 the time bar states a claim, is whether it, in any aspect, ‘relates back’ under Fed.R.Civ.P. 15(c),
13 as incorporated by Rule 715, to the date of the original complaint.”), aff’d 687 F.2d 307 (9th Cir.
14 1982).

15 “An amendment to a pleading relates back to the date of the original pleading when... the
16 amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set
17 out—or attempted to be set out—in the original pleading.” FED.R.CIV.P. 15(c)(1)(B). “The key
18 words are ‘conduct, transaction, or occurrence.’” Mayle v. Felix, 545 U.S. 644, 656 (2005).
19 “Relation back depends on the existence of a common core of operative facts uniting the original
20 and newly asserted claims.” Id. at 659 (citations and internal quotation marks omitted); see also
21 Martell v. Trilogy Ltd., 872 F.2d 322, 325 (9th Cir. 1989) (“We consider whether the original
22 and amended pleadings share a common core of operative facts so that the adverse party has fair
23 notice of the transaction, occurrence, or conduct called into question.”). “Rule 15(c) does not
24 and should not allow an amended complaint to relate back where the conduct, transaction or
25 occurrence alleged is different.” Sierra Club v. Penfold, 857 F.2d 1307, 1316 (9th Cir. 1988).

26 “The basic test is whether the evidence with respect to the second set of allegations could
27 have been introduced under the original complaint, liberally construed.” Dean, 11 B.R. at 545.
28 “[T]he emphasis is not on the legal theory of the action, but whether the specified conduct of the

1 defendant, upon which the plaintiff is relying to enforce his amended claim, is identifiable with
2 the original claim.” Id. “The court is to determine whether the amendment is transactionally
3 related to the original pleading.” Martell, 872 F.2d at 324. In doing so, “the court compares the
4 original complaint with the amended complaint and decides whether the claim to be added will
5 likely be proved by the same kind of evidence offered in support of the original pleading.” Percy
6 v. S.F. Gen. Hosp., 841 F.2d 975, 978 (9th Cir. 1988) (citations and internal quotation marks
7 omitted). “The focus of the inquiry is on the factual allegations made in the two complaints so as
8 to give the opposing party fair notice of the claims against him.” Magno v. Rigsby (In re
9 Magno), 216 B.R. 34, 39 (B.A.P. 9th Cir. 1997).

10 The initial claims do not need to have “exact contours” and “can and should be sorted out
11 through later discovery and amendments to the pleadings.” ASARCO, 765 F.3d at 1006.
12 “[L]ater-filed claims may relate back, even if they rest on a different legal theory than that of the
13 first claim.” Kern Oil & Refin. Co. v. Tenneco Oil Co., 840 F.2d 730, 736 (9th Cir. 1988).
14 However, while the amended claims can allege a “different theory of recovery,” they cannot
15 “allege[] a new claim for relief.” Sierra Club, 857 F.2d at 1316.

16 “In exercising its discretion, a bankruptcy court ‘must be guided by the underlying
17 purpose of Rule 15 to facilitate decision on the merits, rather than on the pleadings or
18 technicalities.’” Magno, 216 B.R. at 38, quoting United States v. Webb, 655 F.2d 977, 979 (9th
19 Cir. 1981). “Although...the relation back doctrine of Rule 15(c) is to be applied liberally, there
20 must nonetheless be some basis for application of the doctrine.” Percy, 841 F.2d at 980.

21 The Ninth Circuit generally finds that the amended pleading relates back if the pleading
22 provides the opposing party with notice of the litigation concerning a particular transaction or
23 occurrence. See ASARCO, 765 F.3d at 1006, citing Martell, 872 F.2d at 325); Percy, 841 F.2d
24 at 980 (“In cases in which the relation back doctrine has been applied, the defendant was given
25 adequate notice by the prior pleading of the facts that caused the injury alleged in the amended
26 pleading.”). For example, if the claims in the amended complaint will be proved by the same
27 kind of evidence that would support the original complaint, then relating back is appropriate.
28 See ASARCO, 765 F.3d at 1007, citing Percy, 841 F.2d at 978); Dominguez v. Miller (In re

1 Dominguez), 51 F.3d 1502, 1510 (9th Cir. 1995). Similarly, an amended claim relates back if it
2 alleges the same facts as the original complaint. See Martell, 872 F.2d at 325.

3 On the other hand, the Ninth Circuit has indicated that an amended pleading does not
4 relate back if the original complaint does not provide notice of the claims in the amended
5 complaint. See Percy, 841 F.2d at 979 (holding that the amended complaint claiming defects in
6 the Civil Service Commission proceeding did not relate back because the first complaint only
7 provided facts regarding the claim of racial discrimination); Sierra Club, 857 F.2d at 1316
8 (holding that the amended complaint did not relate back because it alleged a new claim for relief
9 not seen in the original complaint); Williams v. Boeing Co., 517 F.3d 1120, 1133 (9th Cir. 2008)
10 (holding that the compensation discrimination claim in the amended complaint was a new theory
11 based on different facts than the original promotion discrimination, hostile work environment,
12 and retaliation claims despite shared allegations of racial discrimination).

13 Four cases in the bankruptcy context deserve a closer look.

14 In F.D.I.C. v. Jackson, 133 F.3d 694 (9th Cir. 1998), the Ninth Circuit held that relating
15 back was appropriate because “the original and second amended complaints plainly arise from
16 the same transactions, and specifically refer to nondischargeability of [defendant]’s liability
17 under 11 U.S.C. § 523(a)(4).” Id. at 702. The court noted that “the original complaint contains
18 all of the allegations against [defendant] later restated in the second amended complaint” so the
19 defendant “may not realistically claim that they were not on notice of the claims against them.”
20 Id.

21 In Mission Viejo Nat’l Bank v. Englander (In re Englander), 92 B.R. 425 (B.A.P. 9th Cir.
22 1988), the court held that “the amended complaint is sufficiently identifiable with the original
23 claim since the clear subject of both complaints is the dischargeability of specific loans.” Id. at
24 428. In that case, the plaintiff claimed fraud which requires that the allegations “must be specific
25 enough to allow defendants to ‘defend against the charge and not just deny that they have done
26 anything wrong.’” Id., quoting Semegen v. Weidner, 780 F.2d 727, 731 (9th Cir. 1985). The
27 original complaint included a single paragraph about nondischargeability of debt under Section
28 523(a). Id. at 426. The amended complaint specified that allegations of nondischargeability

1 were based on Sections 523(a)(2)(A) and (B) and that the loans were obtained under false
2 pretenses and false representations. Id. Specifically, the court found the allegation that
3 “information stating an inflated or inaccurate value of the collateral pledged for the loans’ is
4 sufficiently specific, when viewed in the context of the entire complaint, to allow the debtor to
5 defend against the charge.” Id. at 428.

6 In First Fed. Sav. Bank of Rogers v. Gunn (In re Gunn), 111 B.R. 291, 294 (B.A.P. 9th
7 Cir. 1990), the court held that the amended claim related back to the original complaint because
8 “[t]he objection to discharge and dischargeability claims of the original complaint would
9 certainly have put the debtor on notice of the two related theories of the amended complaint.”
10 Id. at 294. Importantly, the court made clear that “[n]either a creditor’s delay nor the fact that
11 additional discovery may be required in itself justifies denying a motion to amend.” Id., citing
12 Kersh v. Christian Life Ctr. (In re Christian Life Ctr.), 45 B.R. 905, 909 (B.A.P. 9th Cir. 1984).

13 The first complaint was filed timely and objected to defendant’s discharge and the
14 dischargeability of defendant’s debt. Id. at 292. The complaint claimed causes of action under
15 Sections 523(a)(2)(A) and (B) because of the defendant’s false pretenses, fraud and submission
16 of materially false written financial statements. Id. The original complaint also alleged
17 opposition to the defendant’s overall discharge under Section 727(a)(5) for failure to
18 satisfactorily explain the loss of funds loaned by the plaintiff. Id. Almost two years later, the
19 plaintiff sought to amend their complaint to add causes of action under Sections 727(a)(3) and
20 (4) “long after the Bankruptcy Rule 4004(a) deadline had passed.” Id. Nevertheless, the court
21 held that the amended complaint related back because both complaints related to the same loan
22 guarantees and alleged the same type of fraudulent behavior. Id. at 293-94.

23 By contrast, in Markus v. Gschwend (In re Markus), 313 F.3d 1146 (9th Cir. 2002), the
24 court held that “the [original] motion pointed in a completely different direction from the
25 [amended] pleading” so “the [amended] complaint does not relate back to the [original] motion.”
26 Id. at 1151. The amended complaint posited different facts than the original motion because the
27 amended complaint relied on evidence determined after the lawsuit and judgment that would not
28 show that the defendant made false representations before the judgment. Id. Essentially, the two

1 documents claim different types of fraud, and the original complaint did not claim enough facts
2 of the alleged fraudulent behavior to allow relation back. Id.

3 Debtor argues that LMAI's two additional causes of action in its Amended Complaint do
4 not relate back to its Section 523(a)(8) claim in their original complaint because the Amended
5 Complaint alleges a dozen new facts and would not be proved by the same evidence as the
6 original complaint. See Dismissal Motion at 6:16-7:2. Debtor asserts that the Section 532(a)(2)
7 claim is thereby time-barred since it does not relate back. See Dismissal Motion at 7:13-24;
8 Reply at 2:11-17. Further, Debtor argues that the state law claim needs to be dismissed because
9 it is not a Section 523(a) claim and is improper in this adversary proceeding. See Dismissal
10 Motion at 6:18-22; Reply at 3:21-24.

11 In comparing the two complaints, the court concludes that the Section 523(a)(2) claim in
12 the Amended Complaint relates back to the Section 523(a)(8) claim in the original complaint.
13 First, both claims are seeking the same type of relief in that the Student Loan debt be deemed
14 nondischargeable and that the Debtor not receive a discharge of that debt. The Section 523
15 claims do not rely on the same legal theory, but as noted in Tenneco Oil and Sierra Club, they
16 can have different legal theories as long as they do not claim different forms of relief. This is
17 similar to the situation in Gunn, where the court found that the defendant was on notice of the
18 amended claims because they dealt with the same determination of nondischargeability sought in
19 the original complaint. Here the Debtor should similarly be on notice that she would have to
20 argue, if at all, that the debt is dischargeable in her bankruptcy proceeding.

21 Furthermore, while the Amended Complaint provides additional facts, they are not any
22 different than the core facts already alleged in the original complaint. Both claims arise from the
23 same set of operative facts in that the Debtor executed two agreements to obtain the Student
24 Loan from LMAI and to attend LMAI, and then did not repay the debt. The courts in Jackson
25 and Englander found that the amended complaint related back to the original complaint because
26 they also were focused on the same sets of transactions and whether the loans were
27 dischargeable. Like those courts, this court concludes that the Section 523(a)(2) claim relates
28

1 back to the original complaint because both the claim under Section 523(a)(2) and under Section
2 523(a)(8) arise from the same set of operative facts.

3 The court also concludes that the fraudulent inducement/fraudulent misrepresentation
4 claim in the Amended Complaint relates back to the Section 523(a)(8) claim in the original
5 complaint. Under Dean, the court must determine “whether the evidence with respect to the
6 second set of allegations could have been introduced under the original complaint, liberally
7 construed.” 11 B.R. at 545. The original complaint alleges that the Debtor entered into an
8 agreement with LMAI for the Student Loan, and the Debtor then attended the LMAI program.
9 After completion of the program, the Debtor allegedly did not pay back the Student Loan and did
10 not respond to LMAI’s demand letter for repayment. Based on those alleged facts as liberally
11 construed, LMAI might demonstrate that the Debtor did not intend to pay back the Student Loan
12 and fraudulently induced LMAI to enter into the two agreements. That does not mean that the
13 alleged facts in the original complaint prove that on their own. However, the initial claims do
14 not need to have “exact contours” and “can and should be sorted out through later discovery and
15 amendments to the pleadings.” ASARCO, 765 F.3d at 1006. As noted in Gunn, the need for
16 additional discovery is not enough reason to dismiss the claim. 111 B.R. at 294.

17 The court recognizes that in adding the fraudulent inducement/fraudulent
18 misrepresentation claim, LMAI adds a new claim for relief in the Amended Complaint by
19 requesting consequential and punitive damages. This facially contradicts the finding in Sierra
20 Club where the court held the amended complaint did not relate back because it alleged a new
21 claim for relief not seen in the original complaint. 857 F.2d at 1316. However, Sierra Club is
22 also distinguishable in that the court found no basis to apply relation back since the two claims
23 did not arise out of the same transaction or occurrence. Id. As discussed, all the alleged claims
24 are based upon the same set of agreements necessary to obtain the Student Loan and to attend
25 and complete the LMAI program.

26 Nevertheless, the “purpose of Rule 15 [is] to facilitate [a] decision on the merits.”
27 Magno, 216 B.R. at 38, quoting United States v. Webb, 655 F.2d 977, 979 (9th Cir. 1981). In
28 permitting the claim to be pursued, the court makes no decision on its merits. It merely allows

1 the claim to be brought because it relates back to the Section 523(a)(8) claim in the original
2 complaint. A decision on the merits will come later.

3 The doctrine of relation back should be applied liberally as long as there is a basis to do
4 so. See Percy, 841 F.2d at 980. In this instance, the shared set of liberally construed operative
5 facts underlying the additional claims relate back to the original complaint. Under these
6 circumstances, the court will allow the Second Cause of Action and Third Cause of Action in the
7 Amended Complaint to be pursued at this stage.

8 **IT IS THEREFORE ORDERED** that the Motion to Dismiss in Part First Amended and
9 Supplemental Complaint brought by debtor Evelyn Valencia in the above-captioned adversary
10 proceeding, Adversary Docket No. 42, be, and the same hereby is, **DENIED**.

11
12 Copies sent via CM/ECF ELECTRONIC FILING

13 Copies sent via BNC to:
14 EVELYN VALENCIA
15 27 RUE DE DEGAS
16 HENDERSON, NV 89074

17 EVELYN VALENCIA
18 956 PALMERSTON ST.
19 LAS VEGAS, NV 89110

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