UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
HARTFORD DIVISION

IN RE:	)	CASE No.	19-20400 (JJT)
	)		
Donna J. Barnes,	)	CHAPTER	11
Debtor.	)		
	)	RE: ECF Nos.	249, 291

ORDER DENYING LH'S MOTION
TO PERMIT LATE FILING OF PROOF OF CLAIM

I. INTRODUCTION

This matter comes before the Court on the motion of LH VT HOUSE, LLC ("LH"), for an order permitting it to file a proof of claim after the expiration of the bar date, and to deem such claim as timely (ECF No. 249, the "Motion for Permission"). Donna J. Barnes, the debtor and debtor-in-possession (the "Debtor"), opposes the Motion for Permission, arguing that LH has not carried its burden of proof and failed to establish cause that would permit the late filing of the claim, while also failing to make a showing of excusable neglect that would warrant granting LH's Motion for Permission (ECF No. 291, the "Objection"). For the reasons set forth below, LH's Motion for Permission is DENIED and the Debtor's Objection is SUSTAINED.

II. BACKGROUND

The Debtor and her non-debtor spouse, James R. Barnes ("Mr. Barnes"), were co-owners as tenants by the entirety of certain residential real estate located in Watch Hill, Rhode Island (the "Property"). Prior to the filing of this bankruptcy case, LH obtained a judgment against Mr. Barnes individually in the amount of $ 1,174,560.40. On March 12, 2019, LH recorded a Writ of Execution on the land records for the Town of Westerly, Rhode Island with respect to Mr. Barnes' interest in the Property only.

Two days thereafter, on March 14, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (ECF No. 1), and pursuant to a notice issued by the Court, July 8, 2019 (the "Bar Date") was established as the deadline for all creditors to file proofs of claim against the Debtor (ECF No. 3). The Debtor filed her Schedules on April 5, 2019, wherein she disclosed her interest in the Property, but did not include LH on the list of creditors, as the Debtor—unaware of the Writ of Execution filed two days prior to the Petition Date—alleges that there was "no reason to believe that LH asserted any claim(s) against her" (Objection, p. 2).[1] As a result, LH argues that it "did not receive notice of the filing of the Debtor's petition, the meeting of creditors, the last date to file proofs of claim and all other notices required to be sent to creditors." Motion for Permission, p. 2.

On October 4, 2019, the Debtor filed a disclosure statement (ECF No. 127, the "Disclosure Statement") and a plan of reorganization (ECF No. 128, the "Plan"). Under the Plan, the Debtor sought to sell the Property and utilize her share of the sales proceeds to satisfy all allowed claims. To effectuate the purpose of the Plan, the Debtor contemporaneously filed a complaint against Mr. Barnes, seeking the Court's approval for the sale of both the Debtor's interest in the Property and the interest of Mr. Barnes, free and clear of any and all liens, claims or interests pursuant to 11 U.S.C. § 363 (ECF No. 126, the "Complaint").[2]

On October 21, 2019, counsel for LH filed an appearance (ECF No. 137). The following day, LH filed a motion to permit a late objection to the Debtor's proposed Disclosure Statement (ECF No. 139). The Debtor consented to the relief sought therein, and the Court promptly granted the motion (ECF No. 142). On October 22, LH filed an objection to the adequacy of the

[1] The Debtor's reasoning would be correct for nearly a year, as that is how long it took for LH to file a proof of claim in this case.
[2] *See Barnes v. Barnes*, Adv. Pro. No. 19-02025.

Disclosure Statement (ECF No. 143), wherein it argued that the Disclosure Statement did not contain adequate information due to the Debtor's failure to disclose: (1) that the Property was held as a tenancy by the entireties; (2) the existence of LH's lien on the Property; and (3) how LH would be treated in a sale of the Property.[3] A hearing on the Disclosure Statement was held on October 23, 2019, and pursuant to statements on the record and in light of the objections raised, the Debtor was directed to not deploy further resources in revising the Disclosure Statement, but rather directed to address the more practical and higher priority issue of how a sale would actually take place, by filing an amended complaint seeking, among other things, relief against all lienholders of both the Debtor's and Mr. Barnes' interests in the Property (*see* ECF Nos. 145, 149).

Accordingly, the Debtor filed an amended Complaint on October 31, 2019 (Adv. Pro. No. 19-02025, ECF No. 8, the "Amended Complaint"), this time naming as defendants the first and second mortgage holders on the Property who held interests encumbering both the interest of the Debtor and Mr. Barnes, and other lienholders, including LH, whose liens encumbered only the interest of Mr. Barnes. LH subsequently moved to dismiss the Adversary Proceeding on November 11, 2019 (Adv. Pro. 19-02025, ECF No. 18), and notwithstanding the arguments raised in its motion to dismiss, LH did not indicate that it had or would assert a claim against the Debtor. The Court denied the motion to dismiss (Adv. Pro. 19-02025, ECF No. 36), and the parties proceeded to a trial on the Amended Complaint, which commenced on April 3, 2020. Judgment ultimately entered in favor of the Debtor, with the Court approving a sale of the

[3] Notably, and as the Debtor highlights in her Objection, certain information that *was* included in the Disclosure Statement certainly draws attention to the motives behind LH's instant Motion for Permission, in large part because LH was on notice of the Bar Date as early as October 22, 2019. Specifically, the Disclosure Statement contained the following language: "Pursuant to a notice issued by the Bankruptcy Court, July 8, 2019 (the 'Bar Date') was established as the deadline for all creditors whose [c]laims were not scheduled by the Debtor or were scheduled as disputed, contingent or unliquidated to file proofs of [c]laim against the Debtor in the Chapter 11 [c]ase." Disclosure Statement, Article III, at 6.

Property free and clear of any and all liens, claims and interests in the amount of $10,403,000 to the highest bidder at the Court approved auction (*See* Adv. Pro. 19-02025, ECF Nos. 180, 181).[4]

On the eve of trial, March 26, 2020, LH filed its proof of claim against the Debtor in the amount of $1,174,560.40 (Claim 15), wherein it described the basis for the claim as a "Judgment & Avoidance of Fraudulent Transfer." LH's claim included an addendum wherein LH outlined a speculative, but nonetheless "factual basis of the claim" based "on information and belief" and "based upon what LH believe[d][would] be shown through discovery" (*See* Addendum to Proof of Claim 15, pp.1–2). LH's instant Motion for Permission followed shortly thereafter on March 30, 2020 (ECF No. 249). Pursuant to a Court Order dated April 10, 2020, the Debtor filed her Objection to LH's Motion for Permission (ECF No. 291). At a hearing on June 23, 2020, the Court heard the parties' respective arguments, and thereafter took the matters under advisement (ECF No. 301).

III. DISCUSSION

1. The Bar Date and Excusable Neglect

Section 509(b)(9) of the Bankruptcy Code provides for the disallowance of a claim if "proof of such claim is not timely filed." Federal Rule of Bankruptcy Procedure 3003(c)(3) governs the time within which proofs of claim must be filed in Chapter 11 cases, providing that "[t]he court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed." Pursuant to Rule 9006(b)(1), a court has the discretion to enlarge the time to file claims after the expiration of the claims bar date "where the failure to act was the result of

[4] In accordance with the Court's Judgment, at the April 28, 2020 closing the Debtor paid the first and second mortgages from the gross sales proceeds, in addition to the statutory tax liens on the Property. The remaining net proceeds of the sale are currently being held by the Debtor's counsel in an interest-bearing account in the amount of $3,687,705.59 as of May 5, 2020. The rights of lienholders have attached to those net proceeds to the extent, priority and validity thereof.

excusable neglect." And while the term "excusable neglect" is not defined in either the Bankruptcy Code or the Bankruptcy Rules, the Supreme Court has provided guidance as to the determination of whether excusable neglect is present, stating "that the determination is at bottom an equitable one, taking into account of all relevant circumstances surrounding the party's omission." *Pioneer Inv. Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380, 395 (1993). The *Pioneer* Court enumerated four factors that should be considered in analyzing excusable neglect: "[1] the danger of prejudice to the debtor, [2] the length of the delay and its potential impact on judicial proceedings, [3] the reason for the delay, including whether it was within the reasonable control of the movant, and [4] whether the movant acted in good faith." *Id.* "The burden of proving excusable neglect lies with the late-claimant." *In re Enron Corp.*, 419 F.3d 115, 121 (2d Cir. 2005) (*quoting Jones v. Chemetron Corp.*, 212 F.3d 199, 205 (3d Cir. 2000)).

The Second Circuit has "taken a hard line in applying the *Pioneer* test," emphasizing the third factor, *i.e.*, the reason for the delay and whether it was in the reasonable control of the movant. *In re Enron Corp., supra*, 419 F.3d at 122; *see also Silivanch v. Celebrity Cruises, Inc.*, 333 F.3d 355, 367 n. 7 ("[T]he four *Pioneer* factors do not carry equal weight; the excuse given for the late filing must have the greatest import. While prejudice, length of delay, and good faith might have more relevance in a close[] case, the reason-for-delay factor will always be critical to the inquiry."). A late-claimant "must explain the circumstances surrounding the delay in order to supply the Court with sufficient context to fully and adequately address the reason for delay factor and the ultimate determination of whether equities support the conclusion of excusable neglect." *In re Enron Creditors Recovery Corp.*, 370 B.R. 90, 108 (Bankr. S.D.N.Y. 2007).

Applying the *Pioneer* test to the facts here, this Court finds that *all* of the factors militate strongly against LH and the allowance of its late-filed claim.

2. The *Pioneer* Factors

a. Prejudice to the Debtor and the Estate

LH argues that allowing it to file its proof of claim will not prejudice the Debtor because no plan has been confirmed and no distributions have been made. Rather, LH contends that in the event its claim is disallowed, the prejudice to LH would be "fatal" as the disallowance of its claim would deprive LH of its voting and distribution rights under any plan of reorganization and violate its due process rights.[5] On the other hand, the Debtor argues that the prejudice to her would be real and substantial should LH's claim be allowed and deemed timely, citing to the length of time the case has already been pending (over one year), the considerable resources already expended in this oft-contested case, and the risk that additional time and resources expended to litigate this claim would jeopardize her ability to pay the holders of allowed, general unsecured claims in full and to successfully reorganize.

When addressing the issue of prejudice under the *Pioneer* test, courts consider several factors including the size of the claim in relation to the estate and the effect payment of the claim would have on distribution to creditors, the risk of jeopardizing the success of the reorganization, whether the debtor was surprised by the assertion of the claim, whether the debtor would be adversely impacted by the allowance of the claim, and whether the allowance of the claim would open the floodgates to other future claims. *See In re Enron Corp., supra*, 419 F.3d at 130; *see also In re Garden Ridge Corp.*, 348 B.R. 642, 646 (Bankr. D. Del. 2006). "The court must avoid finding prejudice based on unsupported speculation or hypothetical harm and draw conclusions

[5] LH's due process argument discussed *infra*.

of prejudice from facts in evidence." *In re Lehman Brothers Holdings Inc.*, 433 B.R. 113, 120 (Bankr. S.D.N.Y. 2010).

Here, LH's purported claim of $1,174,567.40 is substantial compared to the total amount of unsecured claims against the estate, and the allowance of such a claim would jeopardize the Debtor's ability to effectuate her plan of paying all general unsecured creditors in full because it would greatly reduce the unsecured creditor dividend. What's more, at this juncture in the case, the Debtor's main asset has been sold, significant distributions to secured creditors have been made and various administrative expenses have been paid from the sales proceeds, and any additional litigation required for the Debtor to defend against the allowance of LH's claim would further deplete the pool of funds available for distribution to unsecured creditors. Further, the Debtor had no reason to anticipate a claim by LH, as the judgment lien it holds, and which was recorded on the land records, is solely against Mr. Barnes and is not related to the Debtor. Lastly, without speculating on the future consequences of allowing LH's claim, the Court recognizes the impact that further contests would have on the Debtor and the estate in this already cumbersome case. Thus, the prejudice factor favors the Debtor.

b. Length of and Reason for Delay

It is uncontested that LH was not listed on the Debtor's list of creditors and, at the time of the Bar Date, had not received actual notice of the Debtor's case, the 341 meeting, or the Bar Date. LH acknowledges, however, that it became aware of the Debtor's case in October of 2019. Furthermore, the Debtor's Disclosure Statement, to which LH presumptively reviewed based on its objection filed thereto on October 22, 2019, contained language identifying the Bar Date as July 8, 2019. *See* footnote 3 of this Ruling. LH was aware of the Bar Date at this time, yet it still sat idly by for more than five months before filing its claim against the Debtor. The length of the

delay in this case—from October 22, 2019, when LH presumptively became aware of the Bar Date, to March 26, 2020, when LH filed its claim against the Debtor—is approximately 156 days, or more than five months. By comparison, the Bar Date, as established by the Court, afforded creditors only four months to file a claim against the Debtor. Here, as discussed above, the delay that resulted in LH's late-filed claim has caused and will continue to cause substantial prejudice to the Debtor and to other creditors, and LH's decision to wait until March 2020 to file its claim is not excusable. *See In re Lyondell Chemical Company*, 543 B.R. 400, 411 (Bankr. S.D.N.Y. 2016) ("[T]he length of the delay must be evaluated in light of its effect on the administration of the case.").

In its Motion for Permission, LH contends that it informed the Court on October 23, 2019 that it "was investigating whether it may have direct claims against the Debtor, including claims for avoidance of fraudulent transfers," Motion for Permission at p. 2. More recently, at the hearing on the Motion for Permission, LH claimed that this statement at the October 23rd hearing served as an informal proof of claim. However, in Connecticut, the doctrine of informal proof of claim requires that a creditor *file a document*, "which indicates, at a minimum, the basis for a claim and the creditor's intent to hold the estate liable." *In re Dove House, Inc.*, 233 B.R. 230, 232 (Bankr. D. Conn. 1999) (*quoting In re Veilleux*, 140 B.R. 28, 29 (Bankr. D. Conn. 1992)). Here, there was no signed writing filed by LH indicating its intent to hold the Debtor's estate liable for any claim. Rather, at the October 23rd hearing, LH simply posited a number of hypothetical situations it would need to look into in order "to know whether [it] even ha[s] any claim to the [Debtor's] money." Hearing on October 23, 2019, T/r 40:02–40:48. These comments do not qualify as an informal proof of claim.

Critically, at the June 23rd hearing on the Motion for Permission, when asked about the delay, counsel for LH indicated that it ultimately filed its claim upon realizing that there would be no sales proceeds to pay LH's claim and that the decision to sit on its rights was a strategic cost-benefit calculation. The fact that LH knowingly delayed filing its claim at its own risk, a decision that was solely within its own control, is not immaterial to the matter presently under consideration. Given that LH is now seeking more time to file its claim than the Bar Date afforded other creditors, its strategic decision does not constitute excusable neglect, and as such, the Court finds that these two factors also weigh in favor of the Debtor.

c. Good Faith

As to the final *Pioneer* factor, the Debtor is reluctant to assert that LH's late-filed claim was an act of bad faith, however, she does call into question LH's motives in filing the claim based on its timing and its bare allegations of fraud. This Court agrees that LH's motives and timing are questionable. LH has conceded that the filing of the claim was strategically deferred; this decision has done nothing more than prejudice, delay, and frustrate the Debtor's exit from bankruptcy. LH made the decision to sit on its rights without any reasonable bona fide justification. Accordingly, upon review and after weighing the *Pioneer* factors against the facts of this case, the Court is not persuaded that LH has made a showing of excusable neglect so as to warrant the granting of its Motion for Permission and the allowance of its claim.

3. Notice and Due Process Considerations

LH's Motion for Permission also raises due process concerns, citing to case law that stands for the proposition that because LH did not receive actual notice of the Debtor's bankruptcy or of the Bar Date, that any discharge of LH's claim would be violative of its due process rights. Such an argument, however, presupposes that LH is a "known" creditor entitled

to actual notice. While creditors must be afforded notice that is "reasonably calculated, under all the circumstances to apprise" them of the pendency of the Bar Date, *see Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950), the type of notice that is reasonable or adequate depends on whether the creditor is known or unknown to the debtor. *In re U.S.H. Corp. of N.Y.*, 223 B.R. 654, 658 (Bankr. S.D.N.Y. 1998). Known creditors include claimants whose identity is actually known to the debtor or whose identity is "reasonably ascertainable" by the debtor, *Chemetron Corp. v. Jones*, 72 F.3d 341, 346 (3d Cir. 1995), whereas unknown creditors are those claimants whose identity is not "reasonably ascertainable" or is simply "conceivable, conjectural or speculative." *In re Thomson McKinnon Sec., Inc.*, 130 B.R. 717, 720 (Bankr. S.D.N.Y. 1991). "If a creditor is 'known' to a debtor, actual notice of a debtor's bankruptcy filing and bar date must be given to the creditor in order to achieve a legally effective discharge of the creditor's claims. If the creditor is 'unknown' to the debtor, however, constructive notice is generally sufficient." *In re Motors Liquidation Company*, 576 B.R. 761, 773 (Bankr. S.D.N.Y. 2017) (internal citations omitted).

The requisite search for "reasonably ascertainable" known creditors "focuses on the debtor's own books and records. Efforts beyond a careful examination of these documents are generally not required." *Chemetron, supra*, 72 F.3d at 347. Here, there is nothing in the Debtor's records (or the public record) that would show any debt owed to LH, as LH's lien was filed individually against Mr. Barnes. Further, there is nothing in *this* record that would support a finding that the Debtor anticipated, or should have anticipated, LH's $1,174,560.40 fraud claim. Rather, LH's claim for "Judgment & Avoidance of Fraudulent Transfer" is exactly the type of "conjectural or speculative" claim that classifies LH as an unknown creditor. *See In re XO Communications, Inc.*, 301 B.R. 782, 794–95 (Bankr. S.D.N.Y. 2003) ("[An avoidance] claim is

the type of liability that is created by the Bankruptcy Code and not the type an entity 'generally' tracks on its books and records. Such a claim is merely 'conceivable, conjectural or speculative,' that is, the claim is 'dependent' on whether a claimant will 'opt' to pursue the claim.").

Given these facts, the Court finds that LH was an "unknown" creditor at the time the Debtor filed her Schedules, and, therefore, LH's due process rights were not violated by the Debtor's failure to include LH on the list of creditors. What's more, LH had actual knowledge of the Debtor's bankruptcy and the Bar Date in October 2019, yet sat idly for more than five months before asserting a claim against the Debtor. Notwithstanding the ample opportunities that LH had to assert its claim during those five months, this case progressed significantly. This Court refuses to allow the tactical or cost-saving strategy of LH to adversely affect the rights of others. *See In re Queen Elizabeth Realty Corp.*, 2017 WL 1102865 at *5 (Bankr. S.D.N.Y. 2017) ("A bankruptcy case is a collective proceeding that affects the rights of many. . . [T]he governing law regarding excusable neglect . . . impl[ies] that a creditor who independently acquires knowledge of a pending action that will affect its rights cannot sit idly by, let time pass and assert its rights at a later date when it may be impossible or impractical to unwind earlier actions that affect the rights of others. Thus . . . a creditor who has actual knowledge of the bar date ignores it at its peril."). Further, "it is well established that due process is not offended by requiring a person with actual, timely knowledge of an event that may affect a right to exercise due diligence and take necessary steps to preserve that right." *In re Medaglia*, 52 F.3d 451, 455 (2d Cir. 1995).

LH further argues that, because the Debtor did not include LH on her Schedules, the Court should enlarge the time for LH to file a proof of claim pursuant to Bankr. R. Fed. P. 3002(c)(6)(A), which provides: "On motion filed by a creditor before or after the expiration of

the time to file a proof of claim, the court may extend the time . . . if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to timely file the list of creditors' names and addresses required by Rule 1007(a)." Given that LH was an unknown creditor who nonetheless became aware of the Bar Date in October and made a strategic decision with legal counsel to wait five months to file its claim against the Debtor, this Court declines to extend to LH more time than was afforded other creditors to file its claim.

4. LH's Claim of Fraud

For the sake of argument, even if LH could demonstrate excusable neglect (which this Court finds it unequivocally has not), its claim of fraud as the basis for the filing of its proof of claim is not pled with sufficient particularity so as to allow such a claim. The burden of proof with respect to claims filed under 11 U.S.C. § 502 rests initially, and ultimately, on the claimant who "must allege facts sufficient to support the claim." *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173 (3d Cir. 1992). "If the averments in [its] filed claim meet this standard of sufficiency, it is *prima facie* valid. In other words, a claim that alleges facts sufficient to support a legal liability to the claimant satisfies the claimant's initial obligation to go forward." *Id.*

Here, LH states "that it has a sufficient basis to assert an unsecured fully recourse claim against the Debtor based on alleged fraudulent transfers from James Barnes to the Debtor." Motion for Permission, p. 2, ¶ 8. In the addendum to its Proof of Claim, LH states that "[t]his proof of claim is based on the cause of action in favor of LH against the Debtor for money damages under Chapter 932a of the Connecticut General Statutes, Uniform Fraudulent Transfer Act," *see* Addendum to Proof of Claim 15. The gravamen of the purported claim alludes to circumstances whereby Mr. Barnes allegedly paid for all costs and expenses associated with

maintaining the Property without receiving consideration or value from the Debtor, and the Debtor allegedly received the full benefit and use of the Property without making any contributions—a scenario LH contends is the fraudulent transfer of property. To the contrary, "the greater weight of authority holds . . . that a [transferor] does indeed receive 'reasonably equivalent value' when he/she makes payments to his/her spouse (or co-habitant) that are used for household expenses." *See United States v. Goforth*, 465 F.3d 730, 736 (6th Cir. 2006); *see also Gonzalez v. Wells Fargo Bank, N.A. (In re Gonzalez)*, 342 B.R. 165, 172–73 (Bankr. S.D.N.Y. 2006); *In re Fisher*, 2006 WL 1342498, at *7–8 (Bankr. S.D. Ohio Jan. 20, 2006) (noting that "simply providing support to [the] household in the form of mortgage payments, utility bills, household expenses and maintenance . . . are no more than daily maintenance of a household—not the kind of transfers that are found to be fraudulent."); *In re Montalvo*, 333 B.R. 145, 150 (Bankr. W.D. Ky. 2005). Nothing in the allegations in LH's Proof of Claim would seem to substantively distinguish this matter from the above line of cases.

LH's bald allegations are not supported by any material facts to allow the Court to determine plausibility and the fraud claim lacks any pertinent legal authority to support such a contention. Federal Rule of Civil Procedure 9(b), as incorporated in Federal Rule of Bankruptcy Procedure 7009, requires that a party alleging fraud "state with particularity the circumstances constituting fraud." Fed. Civ. P. 9(b). The Supreme Court's language in *Bell Atlantic Corp. v. Twombly*[6] and *Ashcroft v. Iqbal*[7] informs this Court's analysis as to the pleading requirements for fraud. The *Twombly* Court noted that the "obligation to provide the grounds of [the movant's] entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555. The *Iqbal* Court went on to

[6] 550 U.S. 544, 127 S. Ct. 1955 (2007).
[7] 556 U.S. 662, 129 S. Ct. 1937 (2009).

include "facial plausibility" to this analysis, stating that: "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. The plausibility standard is not akin to a probability requirement, but it asks for more than a sheer possibility that a defendant has acted unlawfully." *Iqbal*, 556 U.S. at 678.

Here, LH fails to plausibly allege any facts that would allow this Court to reasonably infer that the Debtor is the transferee of fraudulently transferred assets and may be held liable for damages under Connecticut's Uniform Fraudulent Transfer Act ("CUFTA"). Rather, its claim of fraud is based on speculation, information and belief, and "upon what LH believes will be shown through discovery." LH has done nothing more than recite the elements of a fraudulent conveyance under CUFTA without providing any material facts to support its allegations. As such, the Court finds that LH has also failed to meet its burden of pleading, and accordingly, LH's claim should be disallowed.

IV. CONCLUSION

The Court concludes that because LH was an unknown creditor when the Debtor filed her Schedules, LH was not entitled to actual notice of the Debtor's bankruptcy filing or of the Bar Date. Rather, LH had actual knowledge of the Bar Date and, notwithstanding the multiple opportunities to assert a claim, chose to wait for more than five months before taking steps to preserve its rights. Further, in weighing the *Pioneer* factors and the facts of this case, the Court finds that the equities decidedly weigh in favor of the Debtor in not deeming LH's late-filed claim as timely based upon excusable neglect. Accordingly, it is hereby

ORDERED: That LH's Motion for Permission is hereby DENIED; it is further

ORDERED: That the Debtor's Objection is hereby SUSTAINED; and it is further

ORDERED: That LH's proof of claim is hereby DISALLOWED.

IT IS SO ORDERED at Hartford, Connecticut this 16th day of July 2020.

James J. Tancredi
United States Bankruptcy Judge
District of Connecticut