

Winters v. Brothers (In re Brothers)
06-1204-BKC-LMI

Relation back principle of Fed. R. Bankr. P. 7015 (c) applies to allow amended complaint disputing dischargability of a debt pursuant to 11 U.S.C. §523(a)(2) where the pleading, as amended, relied upon the identical conduct, transaction, or described in the original pleading, notwithstanding the fact that the original pleading sought denial of the debtor's discharge pursuant to 11 U.S.C. §727(a)(5).

Allegations of fraud in §523(a)(2) complaint, although not precise, survive a motion to dismiss where the defendant is given fair notice of the plaintiff's claim and the grounds upon which it rests.