

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
HEATHER ELIZABETH PARKER,) CASE NO. 11-23547 JPK
) Chapter 7
) Debtor.)

GREGORY H. PARKER,)
) Plaintiff,)
) v.) ADVERSARY NO. 11-2210
HEATHER ELIZABETH PARKER,)
) Defendant.)

ORDER OF ABSTENTION

This adversary proceeding was commenced on December 19, 2011. A preliminary pre-trial conference was held on March 29, 2012. The plaintiff Gregory H. Parker appeared by counsel Joseph C. Svetanoff; the defendant Heather Elizabeth Parker appeared by counsel Andrew P. Martin.

The primary focus of this adversary proceeding is to determine an exception from discharge pursuant to 11 U.S.C. § 523(a)(15) with respect to obligations stated in a Decree of Dissolution of Marriage and Final Mediation Agreement entered in Case Number 45C01-0901-DR-15 in the Lake Circuit Court, Lake County, Indiana. The parties agree that the obligations at issue are not subject to interpretation as “domestic support obligation(s)” under the provisions of 11 U.S.C. § 523(a)(5), but are in fact obligations within the provisions of 11 U.S.C. § 523(a)(15). In addition to seeking determination of exception from discharge pursuant to 11 U.S.C. § 523(a)(15), the complaint includes references to seeking to enforce certain provisions in the foregoing decree of dissolution.

This court has no jurisdiction to enforce any decree of dissolution entered by a state court, and its jurisdiction is solely limited to determining whether or not an obligation of the debtor is excepted from discharge pursuant to 11 U.S.C. § 523(a)(15). In this context, after the

enactment of BAPCPA effective on October 17, 2005, United States Bankruptcy Courts no longer have exclusive jurisdiction to determine exceptions from discharge pursuant to 11 U.S.C. § 523(a)(15): State courts have concurrent jurisdiction with federal courts with respect to this determination. Due to the concurrent jurisdiction of the Lake Circuit Court to determine an exception from discharge under 11 U.S.C. § 523(a)(15), and the fact that the complaint seeks enforcement of an order of that court in a manner other than a simple determination of an obligation excepted from discharge, the court determines that abstention under 28 U.S.C. § 1334(c)(1) is appropriate in this case. The court notes that the automatic stay of 11 U.S.C. § 362(a) has been entirely mooted as an issue with respect to any enforcement of the Lake Circuit Court's order by operation of 11 U.S.C. § 362(c)(1) and (2) by the closing of bankruptcy case number 11-23547. The court also notes that any effect of the post-discharge injunction provided by 11 U.S.C. § 524(a) does not preclude a state court's determination of exception from discharge under 11 U.S.C. § 523(a)(15) or enforcement of an obligation determined by that court to be excepted from discharge.

IT IS ORDERED that the United States Bankruptcy Court for the Northern District of Indiana abstains from determination of any issue presented in Adversary Proceeding number 11-2210: any issue in this adversary proceeding may be determined by the Lake Circuit Court in an appropriate proceeding before that court, including proceedings in Case Number 45C01-0901-DR-15.

IT IS FURTHER ORDERED that in view of the abstention determination by the court, this Adversary Proceeding is closed.

Dated at Hammond, Indiana on April 6, 2012.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Attorneys of Record