

**United States Bankruptcy Court Western  
District of Wisconsin**

Cite as: [Unpublished]

**Dale L. Lenser, Plaintiff, v.  
Monica B. Zelenka, formerly Monica B. Lenser, Defendant**  
(In re Dale Leland Lenser, Debtor)  
Bankruptcy Case No. 91-51990-7, Adv. Case. No. A92-5001-7

United States Bankruptcy Court  
W.D. Wisconsin, Eau Claire Division

May 15, 1992

James B. Connell, for the debtor-plaintiff.  
Gary R. Schmaus, for the defendant.

Thomas S. Utschig, United States Bankruptcy Judge.

**MEMORANDUM OPINION, FINDINGS OF FACT,  
AND CONCLUSIONS OF LAW**

This matter comes before the Court on an adversary proceeding filed by the plaintiff, Dale L. Lenser. The defendant is Monica B. Zelenka, the debtor-plaintiff's former wife. In his adversary complaint, the debtor requests an order from this Court declaring his obligation owed to the defendant as a result of a state-court divorce proceeding to be in the nature of a property division, thus making it dischargeable in bankruptcy. The plaintiff is represented by James B. Connell; Gary R. Schmaus is representing the defendant.

The specific issue before the Court is whether the Bankruptcy Court should assert jurisdiction over this adversary proceeding. Given the preliminary posture of this case, only a brief recitation of the facts is warranted. The plaintiff and defendant were divorced in Waukesha County Circuit Court on May 2, 1989. The plaintiff was ordered to pay certain debts incurred during the marriage as well as payments labeled as property division. Various state-court proceedings were instituted by the defendant to enforce these provisions of the divorce decree. The plaintiff was jailed for a time because of non-payment of the debt to his former spouse. On May 15, 1991, the plaintiff was ordered to pay the defendant and her attorney \$7,150, serve six months in jail, and pay \$500 per month as a penalty for each month that he failed to pay the amounts due. The plaintiff filed his Chapter 7 bankruptcy petition on June 6, 1991, and on June 26, 1991, he paid the defendant \$3,975.

The defendant was listed as a creditor in the debtor's bankruptcy petition. Ms. Zelenka did not file an objection to discharge and the debtor was granted a discharge on September 13, 1992. The defendant persisted in her efforts to collect the balance of the state-court judgment, however, causing the Waukesha County Court to issue an order to show cause to the plaintiff on November 26, 1991. These efforts resulted in the filing of the present adversary proceeding.

The defendant correctly notes in her brief that state courts have concurrent jurisdiction to determine dischargeability issues under 11 U.S.C. Sec. 523(a)(5). See, e.g., Richards v. Richards (In re Richards), 131 B.R. 76, 78 (Bankr. S.D. Ohio 1991); In re Smith, 125 B.R. 630, 631 (Bankr. D. Utah 1991); In re Littlefield, 17 B.R. 549, 550 (Bankr. D. Me. 1982). This Court, therefore, has discretionary jurisdiction over the issue presented by this adversary proceeding.

Having examined the arguments of the parties as to the jurisdiction issue, the Court holds that it will retain jurisdiction in this adversary proceeding. Issues involving dischargeability of debts relating to state-court divorce decrees are frequently heard by this Court and other bankruptcy courts. This Court is therefore well suited to examine the provisions of the divorce decree at issue here and to make a determination as to the dischargeability of the outstanding debt. Furthermore, the plaintiff's bankruptcy case had not yet been closed at the time he filed this adversary proceeding, so a motion and hearing to reopen will not be necessary. Considerations of judicial economy, efficiency, and expediency also support the Court's decision to retain jurisdiction in this matter.

Pursuant to the Court's order dated January 3, 1992, the stay enjoining the defendant from prosecuting the state court order to show cause shall remain in effect pending the outcome of this adversary proceeding.

This decision shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and Rule 52 of the Federal Rules of Civil Procedure.