

FILED

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

APR 10 1986

CLERK
U.S. BANKRUPTCY COURT

In re:

Case Number:

CARMEN W. GRUETZMACHER

WF11-85-00807

Debtor.

OPINION AND ORDER

The debtor, by Galen Pittman, has requested this court to determine the property division upon a judgment of divorce between the debtor and Elaine Gruetzmacher, the debtor's former spouse. Elaine Gruetzmacher appears by Terrence Byrne and concurs and joins in the request of the debtor. A hearing was held regarding this matter on February 19, 1986. Counsel for both parties have filed briefs concerning the issues involved in property distribution. The court has reviewed the briefs, testimony, and files of this matter and it is the conclusion of the court that the best interests of justice would be served if it abstained from determining the property division involved in a state court divorce proceeding.

The marriage between the two parties was dissolved by a judgment of divorce rendered on December 5, 1985, by the Circuit Court of Wood County in the State of Wisconsin. The parties entered into a written stipulation prior to the entry of the judgment of divorce wherein the parties agreed to allow the

Bankruptcy Court for the Western District of Wisconsin to determine the property division between the parties and that the state court determine the custody, support, and maintenance. The Circuit Court approved the stipulation and included reference to same in its judgment and order of December 5, 1985.

A district court may, in the interests of justice or respect for state law, abstain from hearing a matter. 28 U.S.C. § 1334 (c)(1). This permissive abstention provision is applicable to this bankruptcy court. In re Krupke, 57 B.R. 523 (Bankr. W.D. Wis. 1986).

Divorce proceedings have traditionally been exclusively within the realm of state courts. Although the property involved may be subject to the jurisdiction of the bankruptcy court, the actual ownership interests are a matter of state law. This case involves custody, visitation, support, and maintenance issues as well as the property division aspect. Determinations as to these issues must be made in a comprehensive manner. An attempt to sever these issues and address them in a bifurcated manner does not serve the best interests of justice. It is the conclusion of this court that the court that rendered the judgment of divorce is the appropriate forum for determining the property division relative to the divorce.

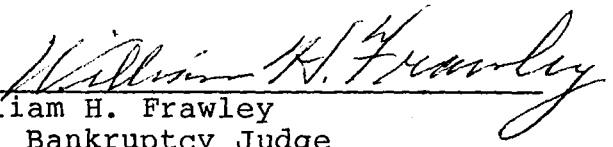
This opinion shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT, it is in the best interests of justice that this court abstain from determining the property division relative to the state court judgment of divorce between these two parties.

Dated: April 10, 1986.

BY THE COURT:



William H. Frawley
U.S. Bankruptcy Judge

cc: Attorney Galen W. Pittman
Attorney Terrence J. Byrne