

FILED

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

AUG 01 1986

CLERK
U.S. BANKRUPTCY COURT

In re:

Case Number:

EDWARD A. OLSON, JR.,

EF7-85-02579

Debtor.

MAKI AND LUDVIGSON, S.C.,

Plaintiff,

Adversary Number:

v.

86-0055-7

EDWARD A. OLSON, JR.,

Defendant.

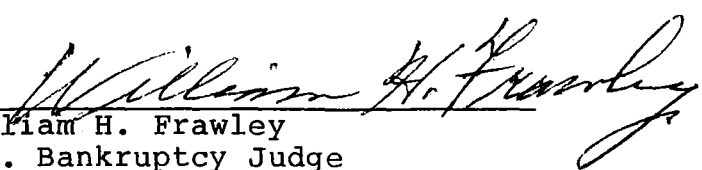
ORDER

The court having this day entered its memorandum opinion,
findings of fact, and conclusions of law;

NOW, THEREFORE, IT IS ORDERED that the obligation in the
amount of \$2,100.00 owed by the debtor to Guy Ludvigson, for the
attorney fees, costs, and disbursements incurred by the debtor's
former spouse in their divorce proceedings, is hereby excepted
from discharge.

Dated: August 1, 1986.

BY THE COURT:


William H. Frawley
U.S. Bankruptcy Judge

cc: Attorney Daniel Byrnes
Attorney Guy Ludvigson

FILED

AUG 01 1986

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

CLERK
U.S. BANKRUPTCY COURT

In re:

Case Number:

EDWARD A. OLSON, JR.

EF7-85-02579

Debtor.

MAKI & LUDVIGSON, S.C.,

Plaintiff,

Adversary Number:

v.

86-0055-7

EDWARD A. OLSON, JR.,

Defendant.

MEMORANDUM OPINION,
FINDINGS OF FACT, AND CONCLUSIONS OF LAW

The plaintiff, Maki and Ludvigson, S.C., has filed this complaint objecting to the dischargeability of a debt incurred by the debtor pursuant to a judgment of divorce. The debtor appears by Daniel Byrnes and objects to the complaint. A pre-trial conference was held in this proceeding on April 25, 1986. The dischargeability issue has been submitted for determination by briefs.

The marriage between the debtor and Linda Olson was dissolved by a Judgment of Divorce rendered on July 1, 1985, by the Circuit Court of Polk County in the State of Wisconsin. As a part of the Judgment of Divorce the debtor was ordered responsi-

ble to pay \$2,100.00 to Linda Olson's attorney, Guy Ludvigson. The plaintiff argues that this obligation is excepted from discharge as alimony, maintenance, or support.

§ 523. Exceptions to discharge.

(a) A discharge under section 727, 1141, or 1328(b) of this title does not discharge an individual debtor from any debt--

(5) to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or other order of a court of record or property settlement agreement, ...

11 U.S.C. § 523(a)(5). The debtor argues that the principle issue involved in the divorce was the subject of custody and visitation of the minor children. The debtor asserts that the obligation associated with the cost of litigating custody and visitation issues is a dischargeable debt.

Initially, both parties agree that a debt for alimony, maintenance, or support is not rendered dischargeable simply because the obligation is payable directly to the former-spouse's attorney. Matter of Rodriguez, 22 B.R. 309 (Bankr. W.D. Wis. 1982). The assessment of \$2,100.00 for attorney fees, costs and disbursements was ordered to be paid by the debtor specifically "on the basis of the disparity of earning capacity of the parties." In re Edward Olson and Linda Olson, 84 CV 705, July 1, 1985, Circuit Court of Polk County, State of Wisconsin. The fact that the obligation was ordered to be paid by the debtor purely on the basis of the disparity of earning capacity between the

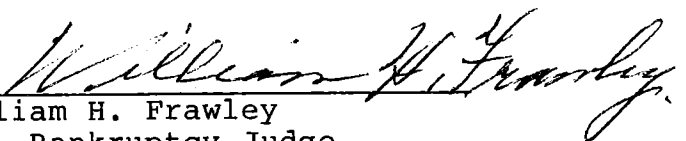
parties conclusively establishes that the award was in the nature of support or maintenance.

It is the conclusion of the court that the obligation owed by the debtor to the plaintiff should be excepted from discharge pursuant to 11 U.S.C. § 523(a)(5).

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

Dated: August 1, 1986.

BY THE COURT:



William H. Frawley
U.S. Bankruptcy Judge