

Division VI OTHER PROCEDURES

Chapter 103 Bankruptcy

E Bankruptcy and Dissolution of Marriage

5-103 Florida Family Law § 103.51

§ 103.51 Effect of Bankruptcy on Property Settlements

[1]-- Property Settlement Following Bankruptcy

Any property received by a debtor as a result of a property settlement agreement with the debtor's spouse, or as a result of the dissolution judgment, within 180 days after the filing of a bankruptcy petition, becomes a part of the debtor's estate in the bankruptcy proceeding.¹

[2]-- Property Settlement Prior to Bankruptcy

A trustee in bankruptcy may avoid a transfer of a debtor's interest in the property that was made within one year before the date of the filing of the bankruptcy petition, if the debtor voluntarily or involuntarily made the transfer with actual intent to hinder, delay, or defraud a creditor.² This provision may be used to avoid transfers made in a property settlement on dissolution of marriage.³ Similarly, a trustee may avoid a debtor's transfer of property if the debtor voluntarily or involuntarily received less than a reasonably equivalent value in exchange for the transfer,⁴ and the debtor (1) was insolvent on the date the transfer was made, or became insolvent as a result of the transfer;⁵ (2) was engaged in business or a transaction for which property remaining to the debtor was an unreasonably small capital;⁶ or (3) intended to incur debts that would be beyond the debtor's ability to pay as the debts matured.⁷

A nondebtor-spouse who desires to establish the nondischargeability of his or her property settlement claim under Bankruptcy Code Section 523(a)(15)^{7.1} must file a complaint in the bankruptcy court within 60 days of the filing of the bankruptcy petition.^{7.2}

[3]-- Property Settlements Excepted From Discharge

Property divisions or equitable distributions in settlement agreements or by court order are excepted from the bankruptcy discharge if (1) the debtor has the ability to pay the debt from income or property not reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor, and if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of the business; and (2) the detriment to the former

spouse or child of the debtor from nonpayment of the debts outweighs the benefit to the debtor of discharging them.⁸

In determining whether the detriment to the nondebtor spouse caused by discharge exceeds the benefit to the debtor, a court is required to exercise its pure equitable powers. To apply the section as Congress intended, the court must evaluate the lifestyles of the parties and make a value judgment in deciding which party would suffer the most if discharge were granted.⁹ However, a discharge should be denied only if the detriment suffered by the nondebtor spouse substantially outweighs the debtor's need for a fresh start.¹⁰

Florida's Middle and Southern Districts have held differently regarding the burden of proof under the property settlements exception. The Middle District has held that although generally the party objecting to discharge bears the burden of proof by a preponderance of the evidence,¹¹ the Bankruptcy Code shifts the burden to the debtor to prove entitlement to discharge under Section 523(a)(15). Thus, the debtor must prove that he or she cannot afford to pay the obligation or that the detriment to his or her former spouse caused by nonpayment would not exceed the benefit to the debtor.¹² In contrast, the Southern District has held that the burden of proof is on the nondebtor-spouse.¹³

The Southern District also indicated that the appropriate time to reference in determining the debtor- and nondebtor-spouse's respective abilities to pay the debt at issue may vary depending on the facts of the case; however, the court held in the case before it that the time to determine the parties' finances and abilities to pay was the time of trial in the bankruptcy court.¹⁴ The Middle District also held in one case that the time to determine finances was at the time of the bankruptcy trial.¹⁵

In determining whether the debtor-spouse had the ability to pay the obligations at issue, the Southern District applied a totality of circumstances test and held that in determining whether a debtor-spouse's expenses are reasonable, it will not disregard expenses as unreasonable unless they are luxury items or obvious indulgences.¹⁶ In contrast, the Middle District used a disposable income test to determine a debtor's ability to pay, and examined his budgeted expenses in detail to determine if they were reasonable and necessary.¹⁷ The Middle District has also considered a debtor-spouse's new wife's income in calculating the husband's ability to pay;¹⁸ however, the Middle District has ruled in other cases that the income of the debtor's current spouse is irrelevant to the debtor's ability to pay.¹⁹

Additionally, the Southern District held that even if the debtor-spouse has the ability to pay, the debt remains dischargeable if the benefits of discharge to the debtor outweigh the detriment to the nondebtor-spouse, such as if the nondebtor spouse does not have assets that a creditor could look to for payment or the nondebtor-spouse's financial condition will remain hopeless despite payment of the debt. The court also suggested that the nondebtor-spouse should have considered filing her own bankruptcy.²⁰ The Middle District rejected the idea of considering a nondebtor spouse's bankruptcy prospects in making a determination of the respective benefits and detriments of discharge. The Court held that it was improper to consider whether the nondebtor was able to file bankruptcy. In addition to the lack of complete information about the nondebtor's legal ability to file and the moral issues, the Middle District commented that one spouse should not be able to force the former spouse into bankruptcy by seeking protection under [11 U.S.C. 523\(a\)\(15\)](#).²¹

FOOTNOTES:

- ▲Footnote 1. [11 U.S.C. § 541\(a\)\(5\)\(B\)](#) .
- ▲Footnote 2. [11 U.S.C. § 548\(a\)\(1\)](#) .
- ▲Footnote 3. See [Gray v. Snyder, 704 F.2d 709, 712-713](#) (4th Cir. [N.C.] 1983) ; [Britt v. Damson, 334 F.2d 896, 902](#) (9th Cir. [Wash.] 1964) .
- ▲Footnote 4. [11 U.S.C. § 548\(a\)\(2\)\(A\)](#) .
- ▲Footnote 5. [11 U.S.C. § 548\(a\)\(2\)\(B\)\(i\)](#) .
- ▲Footnote 6. [11 U.S.C. § 548\(a\)\(2\)\(B\)\(ii\)](#) .
- ▲Footnote 7. [11 U.S.C. § 548\(a\)\(2\)\(B\)\(iii\)](#) .
- ▲Footnote 7.1. See [3], *below*.
- ▲Footnote 7.2. See ♦ [§ 103.50\[1\]](#) (Practice Tip).
- ▲Footnote 8. [11 U.S.C. § 523\(a\)\(15\)](#) .
- ▲Footnote 9. [In re Phillips, 187 B.R. 363, 368 \(Bankr. M.D. Fla. 1995\)](#) .
- ▲Footnote 10. [In re Willey, 198 B.R. 1007, 1015 \(Bankr. S.D. Fla. 1996\)](#) ; [In re Phillips, 187 B.R. 363, 368 \(Bankr. M.D. Fla. 1995\)](#) , citing 140 Cong. Rec. H 10, 770 (daily ed. October 4, 1994).
- ▲Footnote 11. See [3], *above*.
- ▲Footnote 12. See [In re Phillips, 187 B.R. 363, 368 \(Bankr. M.D. Fla. 1995\)](#) , citing [In re Hill, 184 B.R. 750, 754 \(Bankr. N. D. Ill. 1995\)](#) .
- ▲Footnote 13. [In re Willey, 198 B.R. 1007, 1012-1013 \(Bankr. S.D. Fla. 1996\)](#) .
- ▲Footnote 14. See [In re Willey, 198 B.R. 1007, 1013-1014 \(Bankr. S.D. Fla. 1996\)](#) .
- ▲Footnote 15. See [In re Christison, 201 B.R. 298, 308-309 \(Bankr. M.D. Fla. 1997\)](#) .
- ▲Footnote 16. [In re Willey, 198 B.R. 1007, 1015 \(Bankr. S.D. Fla. 1996\)](#) .
- ▲Footnote 17. See [In re Christison, 201 B.R. 298, 309 \(Bankr. M.D. Fla. 1997\)](#) .
- ▲Footnote 18. See [In re Richards, 207 B.R. 266, 267-268 \(Bankr. M.D. Fla. 1997\)](#) .
- ▲Footnote 19. See [In re Christison, 201 B.R. 298, 310 \(Bankr. M.D. Fla. 1997\)](#) ; [In re Carter, 189 B.R. 521, 522 \(Bankr. M.D. Fla. 1995\)](#) (financial circumstances of debtor's new spouse may not be considered in determining debtor's ability to pay property award at issue).
- ▲Footnote 20. See [In re Willey, 198 B.R. 1007, 1016-1017 \(Bankr. S.D. Fla. 1996\)](#) .
- ▲Footnote 21. See [In re Christison, 201 B.R. 298, 311 \(Bankr. M.D. Fla. 1997\)](#) .

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Division VI OTHER PROCEDURES

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5-103 Florida Family Law § 103.50

§ 103.50 Bankruptcy and Support Obligations

[1]-- Bankruptcy of Supporting Spouse

If a spouse with an obligation to pay child support or alimony files for bankruptcy, payments deemed by the federal court to be alimony, maintenance, or child support will not be dischargeable in the bankruptcy proceeding, pursuant to Bankruptcy Code Section 523(a)(5).¹ An obligation for a former spouse's attorneys' fees incurred in connection with alimony or support awards is subject to the same exception to dischargeability, if the award was based on need and ability to pay.² The dischargeability exception applies even if the legal services for which the award was made were not directly related to alimony, maintenance, or support of spouse or child.^{2,1} This is because an obligation to pay the attorneys' fees of an ex-spouse is so connected with the obligation of support as to be in the nature of support and excepted from discharge.^{2,2} Thus, an attorneys' fees award to a spouse in a post-dissolution child custody action constitutes support for the spouse and is nondischargeable if the award was based on the debtor-spouse's ability to pay and the recipient-spouse's need.³ Because a Florida trial court in a dissolution of marriage proceeding must consider the parties' relative financial resources prior to making an attorneys' fees award pursuant to [Florida Statutes Section 61.16\(1\)](#),^{3,1} such an award qualifies as nondischargeable support within the meaning of the Bankruptcy Code.^{3,2} An attorneys' fees award under Section 61.16(1) qualifies as support for bankruptcy purposes regardless of whether the court orders the fees paid directly to the attorney rather than to the needy spouse, as the statute allows. Payment to the attorney is simply an enforcement provision that is collateral to the needy party's underlying right to the award of fees.^{3,3}

In contrast to an award of attorneys' fees, which is in effect considered to be an item of support, a debtor-spouse's obligation to maintain life insurance naming the nondebtor spouse as beneficiary is not considered to be inherently in the nature of support. Thus, an obligation to maintain life insurance is dischargeable in bankruptcy under Bankruptcy Code Section 523(a)(5) only to the extent the obligation does not directly apply to secure a support award.^{3,4} To the extent the life insurance is required to secure a property settlement, it may be nondischargeable under Section 523(a)(15). Under Section 523(a)(15), property divisions in settlement agreements or by court order are nondischargeable only if the debtor has the ability to pay them

and the detriment to the nondebtor spouse from their nonpayment outweighs the benefit to the debtor of discharging the debts.⁴ Thus, the characterization of a debt as a support obligation is significant.

Practice Tip: Counsel should be aware of a potential procedural trap that can foreclose the opportunity to establish nondischargeability under Bankruptcy Code Section 523(a)(15). Although a complaint under Section 523(a)(5) can be filed at any time, and the state court has concurrent jurisdiction to hear the matter with the bankruptcy court, a complaint under Section 523(a)(15) can only be filed in the bankruptcy court and *must* be filed within 60 days of the filing of the bankruptcy. If counsel is unsure of whether a claim is one for support or a property settlement claim, he or she should file under both Sections, and should file timely. []

The bankruptcy court's characterization of child support, alimony, and property settlement payments is discussed in subsection [3], *below*. The dischargeability of a property settlement is discussed in ♦ [Section 103.51\[3\]](#) .

[2]-- Bankruptcy of Supported Spouse

If a supported spouse files for bankruptcy, the alimony or child support payment he or she receives will not be included in the bankruptcy estate to the extent these payments are reasonably necessary for the support of the spouse or children.⁵ However, payments received for property division debts will be included in the bankruptcy estate.⁶ The criteria used by a bankruptcy court to determine whether payments should be exempted as support are the same criteria used to determine whether payments constitute support for purposes of determining dischargeability.⁷ If those criteria are satisfied, then the support payments are exempt without limitation as to amount, if they are reasonably necessary for the support of the debtor and any dependent of the debtor.⁸ The exemption for child support and alimony payments exists in addition to any other property that is exempt from the bankruptcy estate.⁹

[3]-- Characterization as Support or Property Division

The former spouse bears the burden of showing that the debtor's obligation is alimony, maintenance or support, which cannot be discharged, rather than terms of a property settlement, which may be discharged unless certain conditions are met.¹⁰ Although the parties to a dissolution or separate maintenance agreement typically classify obligations as either child support, alimony, or property division, the federal court will not be bound by those classifications.¹¹ The federal court that administers any subsequent bankruptcy proceeding may choose to disregard a clear statement in the parties' agreement incident to dissolution that a particular obligation is to be considered alimony and is not to be dischargeable in bankruptcy.¹²

When determining if an obligation constitutes support, the bankruptcy court must determine the intent of the state court, without regard to the labels used by the state court.¹³ The court must make the following considerations:

- Whether the obligation is subject to contingencies such as death or remarriage.
- Whether the payment was fashioned to balance disparate incomes of the parties.
- Whether the obligation is payable in installments, as opposed to a lump sum.

- Whether the parties have minor children who require support.
- Whether the health and level of the recipient spouse's education indicate a need for financial support.
- Whether the recipient spouse needed financial support at the time of the circumstances of the particular case.¹⁴
- Whether the obligation has a characteristic of rehabilitative support.
- The structure of the decree's terms.
- Whether the obligation is modifiable.
- How the obligation is enforced.
- Whether there was a division of property and debts.¹⁵

The bankruptcy court may also consider the following factors:¹⁶

- The express terms of the judgment of dissolution.
- The relative incomes of the parties at the time the judgment was entered.
- The length of the marriage; the amount of child support; the property brought to the marriage by either party.
- Whether the payments are intended as economic security.

If a debt is payable to a third party instead of to a spouse or former spouse, the debt is not support for bankruptcy purposes.^{16.1} For example, in one case, the court held that payments classified in a marital settlement agreement as alimony were more appropriately characterized as a property settlement, since they were not to be made in installments, the income of the parties was not balanced, and they did not terminate on the remarriage or death of the supported spouse.¹⁷ In another case, the court held that a lump-sum payment owed by a debtor-husband to the wife under the terms of a marital settlement agreement was not in the nature of support because the intent of the parties at the time they entered into the agreement was for the sum to make the wife whole for financial losses she had incurred to move to Florida and to marry the husband. The court also considered the duration of the marriage and the wife's marketable skills in interpreting whether the parties intended the payment to be support.¹⁸

One court has held that money awarded the wife for her equity in the marital residence was in the nature of support rather than a property award.¹⁹ The court reasoned that although the Florida court treated the residence as marital property to be divided between the parties, Florida law treats the marital residence differently from other marital assets. Under Florida law, the marital residence is a source of maintenance and support during the marriage. The bankruptcy court observed that a creditor may not reach the proceeds from the sale of a homestead. In this case, the wife's homestead had been converted to a payment that would enable her to invest in a new homestead. The bankruptcy court stated that if proceeds from the residence

were not considered to be in the nature of support, a spouse would be disenfranchised if he or she were not awarded the actual homestead in a dissolution action.²⁰

However, another case has held that an obligation was not support because it had been incurred as consideration for a transfer by the debtor's former spouse of her interest in the marital home.^{20.1} In addition, the court found that the obligation, which was a loan made by the wife's father to the husband to enable him to compensate the wife for her share of the marital residence on dissolution of their marriage, did not constitute support because it was payable to a third party and not to the wife. The court rejected the father-in-law's argument that the debt could properly be characterized as support because the final judgment stated that if the promissory note representing the loan was not executed, the wife would need larger support payments than those provided elsewhere in the judgment.^{20.2}

Property that becomes the sole and separate property of one spouse after dissolution does not constitute a debt dischargeable in the other spouse's bankruptcy proceeding. For example, the portion of a husband's military pension that was awarded to the wife in a dissolution proceeding became the wife's sole and separate property, and therefore the monthly payments were not a debt dischargeable in the husband's bankruptcy proceedings.²¹ Similarly, a husband's one-half interest in his wife's profit-sharing plan that was awarded to him on dissolution of their marriage was his sole and separate property and did not create a debt within the meaning of the Bankruptcy Code. Therefore, the trial court's later entry of a qualified domestic relations order (QDRO) to enforce the husband's interest was not a violation of the discharge provisions of the Code.²² A husband's obligation under a settlement agreement to pay his monthly retirement benefits to his former wife for the purpose of paying the second mortgage on the marital home was not dischargeable in bankruptcy because the wife became the equitable owner of the funds.²³

The Bankruptcy Court for the Middle District of Florida held in dicta that an attorneys' fees award granted to a spouse in a dissolution proceeding was excepted from discharge as a marital property settlement under Bankruptcy Code Section 523(a)(15), in addition to being nondischargeable as a support obligation under Bankruptcy Code Section 523(a)(5).^{23.1} The court did not discuss why it considered the award of fees to be a property settlement as well as support. Rather, it simply analyzed the obligation in terms of the relative equities of discharge, noting that the husband-debtor's income had increased since the time of the dissolution proceeding and after bankruptcy, his bills would no longer exceed his income. Therefore, he had the ability to pay the award. The wife could also pay the fees, but it would be more burdensome for her to do so. Finally, the detriment to the wife if she was required to pay would far exceed any benefit of discharge to the husband. Therefore, the fees award was a nondischargeable property settlement under Section 523(a)(15).^{23.2}

[4]-- Filing Proof of Claim

To the extent a claim is found by the bankruptcy court to be nondischargeable alimony, maintenance, or support under Section 523(a)(5) of the code, any unpaid portion of the claim will survive the entry of a discharge in bankruptcy.²⁴ It is to the debtor's advantage to have nondischargeable debts allowed and paid in full or in part out of the bankruptcy estate, since such payments will reduce the amount of debt that survives the proceeding.^{24.1} Thus, a debtor who has nondischargeable family obligations such as alimony or child support will usually wish to file a proof of claim

for these debts in the event the former spouse neglects to file a claim.²⁵

It is also to the nondebtor spouse's advantage to file a claim because a debt to a spouse, former spouse, or child of the debtor for alimony, maintenance, or support is a preferred claim, rather than an ordinary unsecured claim, to the extent that it is not assigned to another entity. Thus, an alimony or support obligation has priority over tax claims, although not over secured debts or administrative expenses. This preferential status is applicable only to the extent that the debt is actually in the nature of alimony, maintenance, or support. In other words, just because an obligation is designated as alimony, maintenance, or support does not mean that it qualifies for the priority status.²⁶

[5]-- Involuntary Bankruptcy Proceedings

If a creditor files an involuntary bankruptcy petition within 180 days prior to the entry of the dissolution judgment or property settlement agreement, any interest in property that the spouse acquires as a result of the agreement or the dissolution judgment will be included in the debtor's estate in bankruptcy.²⁷ A creditor may force a debtor into involuntary bankruptcy when all of these factors exist: (1) the creditor has an unsecured claim against the debtor that is not contingent or subject to a bona fide dispute; (2) the total amount of all such unsecured claims against the debtor is at least \$ 5,000; and (3) the unsecured claims are held by at least three creditors.²⁸

FOOTNOTES:

◆Footnote 1. [11 U.S.C. §§ 523\(a\)\(5\), 1328\(a\)\(2\),\(c\)\(2\)](#) . See also ◆ [§ 103.13\[4\]](#) ; ◆ [ch. 4 , Separate Maintenance](#), ◆ [ch. 31 , Alimony](#), ◆ [ch. 33 , Child Support](#).

◆Footnote 2. [In re Strickland, 90 F.3d 444, 446-447 \(Fla. 11th Cir. 1996\)](#) .

◆Footnote 2.1. See [In re Strickland, 90 F.3d 444, 447 \(Fla. 11th Cir. 1996\)](#) ; [In re Konicki, 208 B.R. 572, 574 \(Bankr. M.D. Fla. 1997\)](#) (nondischargeability issue decided on motion for summary judgment as matter of law).

◆Footnote 2.2. See [In re Strickland, 90 F.3d 444, 447 \(Fla. 11th Cir. 1996\)](#) ; [In re Rosenblatt, 176 B.R. 76, 79 \(Bankr. S.D. Fla. 1994\)](#) ; [In re Vasquez, 84 B.R. 848, 849-850 \(Bankr. S.D. Fla. 1988\)](#) ; [In re Thomasson, 199 B.R. 801, 803 \(Bankr. M.D. Fla. 1996\)](#) .

◆Footnote 3. [In re Strickland, 90 F.3d 444, 447 \(Fla. 11th Cir. 1996\)](#) ; [In re Finlayson, 217 B.R. 666, 669 \(Bankr. S.D. Fla. 1998\)](#) (attorneys' fees incurred in litigating equitable distribution issues are nondischargeable if final judgment of dissolution awards attorneys' fees based on disparity in parties' incomes)].

◆Footnote 3.1. See [§ 61.16\(1\), Fla. Stat.](#)

◆Footnote 3.2. see [In re Lapsley, 230 B.R. 633, 638 \(Bankr. M.D. Fla. 1999\)](#) ; see also [11 U.S.C. § 523\(a\)\(5\)](#) .

◆Footnote 3.3. See [In re Lapsley, 230 B.R. 633, 637 \(Bankr. M.D. Fla. 1999\)](#) ; see also [§ 61.16\(1\), Fla. Stat.](#)

◆Footnote 3.4. See [In re Klayman, 234 B.R. 151, 153 \(Bankr. M.D. Fla. 1999\)](#) .

◆Footnote 4. See [11 U.S.C. § 523\(a\)\(15\)](#) ; [In re Phillips, 187 B.R. 363, 368 \(Bankr. M.D. Fla. 1995\)](#) ; [In re Wester, 187 B.R. 358, 361-362 \(Bankr. M.D. Fla. 1995\)](#)

(because fees were granted based on disparity in assets and liabilities and not on financial need, fees were in nature of property settlement and not in nature of support and were therefore not excepted from discharge under Section 523(a)(5)); see also ◆ [§ 103.51](#) .

◆Footnote 5. [11 U.S.C. §§ 522\(d\)\(10\), 1306\(a\)\(1\)](#) .

◆Footnote 6. [11 U.S.C. §§ 522\(d\)\(10\), 1306\(a\)\(1\)](#) ; see, e.g., [In re Benjamin, 136 B.R. 574, 576-577 \(Bankr. S.D. Fla. 1992\)](#) (debtor's lump-sum alimony award from previous marriage was not exempt because record of dissolution proceedings indicated that award was in nature of property settlement rather than support).

◆Footnote 7. [In re Sheffield, 212 B.R. 1019, 1020 \(Bankr. M.D. Fla. 1997\)](#) ; [In re Benjamin, 136 B.R. 574, 576 \(Bankr. S.D. Fla. 1992\)](#) ; see [1], above; [3], below.

◆Footnote 8. [11 U.S.C. § 522 \(d\)\(10\)\(D\)](#) .

◆Footnote 9. [11 U.S.C. § 522\(b\)](#) . See also ◆ [§ 103.04\[2\]](#) .

◆Footnote 10. See [In re Montgomery, 169 B.R. 442, 444 \(Bankr. M.D. Fla. 1994\)](#) ; see also [11 U.S.C. § 523\(a\)\(15\)](#) .

◆Footnote 11. [In re Richards, 207 B.R. 266, 268 \(Bankr. M.D. Fla. 1997\)](#) ; [Matter of Basile, 44 B.R. 221 \(Bankr. M.D. Fla. 1984\)](#) ; H.R. Rep. No. 595, 95th Cong., 1st Sess. 363 (1977), reprinted in 5 U.S. Code Cong. & Ad. News 5787, 6320 (1978); S. Rep. No. 989, 95th Cong., 2d Sess. 77-79 (1978), reprinted in 5 U.S. Code Cong. & Ad. News 5787, 5865 (1978); see [In re Phillips, 187 B.R. 363, 366-367 \(Bankr. M.D. Fla. 1995\)](#) (labels used in settlement agreement are not dispositive on issue of dischargeability).

◆Footnote 12. See [Matter of Martin, 19 B.R. 367, 368-369 \(Bankr. M.D. Fla. 1982\)](#) .

◆Footnote 13. [In re Montgomery, 169 B.R. 442, 444 \(Bankr. M.D. Fla. 1994\)](#) ; In the [Matter of Johnson, 156 B.R. 338, 340 \(Bankr. M.D. Fla. 1993\)](#) .

◆Footnote 14. [In re Kodel, 105 B.R. 729, 732-733 \(Bankr. S.D. Fla. 1989\)](#) ; see [In re Phillips, 187 B.R. 363, 366 \(Bankr. M.D. Fla. 1995\)](#) ; see also ◆ [§ 103.13\[4\]](#) .

◆Footnote 15. See [In re Montgomery, 169 B.R. 442, 444 \(Bankr. M.D. Fla. 1994\)](#) ; [In re Pattie, 112 B.R. 437, 439 \(Bankr. M.D. Fla. 1990\)](#) .

◆Footnote 16. In the [Matter of Johnson, 156 B.R. 338, 340-341 \(Bankr. M.D. Fla. 1993\)](#) .

◆Footnote 16.1. See [In re Mader, 228 B.R. 787, 790 \(Bankr. M.D. Fla. 1998\)](#) (debt at issue was loan given by debtor's former father-in-law, allegedly to assist debtor in paying support to former spouse).

◆Footnote 17. [Matter of Basile, 44 B.R. 221, 223 \(Bankr. M.D. Fla. 1984\)](#) .

◆Footnote 18. See [In re Foege, 195 B.R. 815, 817 \(Bankr. M.D. Fla. 1996\)](#) .

◆Footnote 19. See In the [Matter of Johnson, 156 B.R. 338, 341 \(Bankr. M.D. Fla. 1993\)](#) .

◆Footnote 20. See In the [Matter of Johnson, 156 B.R. 338, 341 \(Bankr. M.D. Fla. 1993\)](#) .

◆Footnote 20.1. See [In re Mader, 228 B.R. 787, 790 \(Bankr. M.D. Fla. 1998\)](#) .

◆Footnote 20.2. See [In re Mader, 228 B.R. 787, 790 \(Bankr. M.D. Fla. 1998\)](#) .

◆Footnote 21. See In the [Matter of Newcomb, 151 B.R. 287, 290 \(Bankr. M.D. Fla. 1993\)](#) .

◆Footnote 22. [Adkins v. Adkins, 675 So. 2d 199, 200-201 \(Fla. 1st DCA 1996\)](#) .

◆Footnote 23. See [Connor v. Connor, 610 So. 2d 488, 489 \(Fla. 5th DCA 1992\)](#) ; but see [In re Baker, 146 B.R. 862, 865-866 \(Bankr. M.D. Fla. 1992\)](#) (husband's obligation under terms of settlement agreement to pay ex-wife 50 percent of retirement benefits was in nature of property settlement and therefore dischargeable in bankruptcy).

◆Footnote 23.1. See [In re Lapsley, 230 B.R. 633, 638 \(Bankr. M.D. Fla. 1999\)](#) ; see also [1], above.

◆Footnote 23.2. See [In re Lapsley, 230 B.R. 633, 636-638 \(Bankr. M.D. Fla. 1999\)](#) ; see also ◆ [§ 103.51\[3\]](#) (equitable analysis to determine property settlements excepted from discharge).

◆Footnote 24. [11 U.S.C. §§ 502\(a\),\(b\), 523, 727\(b\), 1328\(a\),\(c\)](#) . See also ◆ [§ 103.32\[3\]](#) .

◆Footnote 24.1. See Advisory Committee Note to Bankr. Rule 3004.

◆Footnote 25. [11 U.S.C. § 501\(b\),\(c\)](#) ; Bankr. Rules 3004, 3005.

◆Footnote 26. See [11 U.S.C. § 507\(a\)\(7\)](#) .

◆Footnote 27. [11 U.S.C. § 541\(a\)\(2\),\(5\)](#) .

◆Footnote 28. [11 U.S.C. § 303\(b\)\(1\)](#) . See also ◆ [§ 103.01](#) .