

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT

-----)		
IN RE:)	CASE NO.	03-32914 (LMW)
)		
ROSA M. PIERCE,)	CHAPTER	7
)		
DEBTOR.)		
-----)		
DENNIS J. PIERCE,)	ADV. PRO. NO.	03-3124
)		
PLAINTIFF)	DOC. I.D. NOS.	1, 18
)		
vs.)		
)		
ROSA M. PIERCE,)		
)		
DEFENDANT.)		
-----)		

APPEARANCES

Bruce A. Chamberlain, Esq. 400 Bayonet Street Suite 102 New London, CT 06320	Attorney for Plaintiff
---	------------------------

Beth A. Steele, Esq. Donald J. DiFrancesca, Esq. DiFrancesca & Steele, P.C. P.O. Box 548 Norwich, CT 06360	Attorney for Defendant/Debtor
--	-------------------------------

BRIEF MEMORANDUM OF DECISION

Lorraine Murphy Weil, United States Bankruptcy Judge

WHEREAS, on March 14, 2005 the court issued an Order Dismissing Second Count (A.P. Doc. I.D. No. 19)¹ and a Memorandum of Partial Decision (A.P. Doc. I.D. No. 18, the “*Partial Decision*”) in this adversary proceeding. Familiarity with the *Partial Decision* is assumed and the *Partial Decision* is deemed incorporated herein;²

WHEREAS, in accordance with an Order Scheduling Further Hearing (A.P. Doc. I.D. No. 26) and the *Partial Decision*, a hearing (the “Further Hearing”) was convened in this adversary proceeding on October 5, 2005;

WHEREAS, at the Further Hearing counsel for the parties advised the court that the Family Court had ruled (the “Family Court Ruling”) that the Divorce Judgment at least impliedly required the Debtor to hold the Plaintiff harmless with respect to the Joint Debts (the “Hold Harmless Agreement”). (Oral Record of Further Hearing [“Oral Record”] at 3:31:27 - 3:31:59 (comments of Attorney Steele).);

WHEREAS, counsel for the Debtor suggested that it was also necessary for the Family Court to determine whether the Hold Harmless Agreement constituted an indemnity against liability or an indemnity against loss (the “Issue”) and Attorney Steele advised the court that she had filed a motion for reargument and articulation with the Family Court to obtain that determination. (Oral Record at 3:31:59 - 3:32:47.);

¹ References to the docket of this adversary proceeding appear in the following form: “A.P. Doc. I.D. No. ____.”

² All capitalized terms used but not defined herein have the respective meanings ascribed to the same in the *Partial Decision*.

WHEREAS, the Further Hearing was continued to October 18, 2005. At that hearing the court ruled that the Issue was irrelevant to dischargeability and that the court intended to issue a judgment in the Plaintiff's favor;

WHEREAS, on review of the Oral Record the court noted that the Debtor was seeking reargument as well as articulation in respect of the Family Court Ruling and that the Family Court Ruling was not final;

WHEREAS, in accordance with that certain Order Scheduling Continued Hearing (A.P. Doc. I.D. No. 28) a further hearing in this matter was scheduled for December 21, 2005 which hearing was continued to January 4, 2005 (the "Continued Further Hearing");

WHEREAS, at the Continued Further Hearing counsel for the Debtor conceded that the Family Court Ruling had become final. (Oral Record of Continued Further Hearing at 3:21:48-3:22:27.);

WHEREAS, this memorandum constitutes the findings of fact and conclusions of law mandated by Rule 7052 of the Federal Rules of Bankruptcy Procedure;

NOW, THEREFORE, in accordance with the *Partial Decision* and the Family Court Ruling and pursuant to 11 U.S.C. § 523(a)(15), the court concludes that judgment shall enter for the Plaintiff declaring that the indemnity and/or “hold harmless” obligation owed by the Debtor to the Plaintiff with respect to the Divorce Judgment is not discharged.

Dated: January 5, 2006

BY THE COURT


Lorraine Murphy Weil
United States Bankruptcy Judge