

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

In re: Case No. A07-00481-DMD

Chapter 13

ULF M. PETERSEN,

Debtor.

Filed On
4/21/08

ERICA RICHIE,

Plaintiff,

v.

ULF M. PETERSEN,

Defendant.

Adversary No. A07-90050-DMD

MEMORANDUM REGARDING SUMMARY JUDGMENT

The plaintiff filed a motion for summary judgment as to certain obligations arising out of a divorce decree. The motion was filed while Mr. Petersen was in a Chapter 7 proceeding. He is now in Chapter 13. Obligations arising out of a property settlement are non-dischargeable in a Chapter 7 proceeding.¹ They are dischargeable in a Chapter 13, however.² Claims for support are non-dischargeable in both Chapter 7 and 13.³ The primary legal grounds for seeking summary judgment are moot at this stage of the proceedings. The plaintiff may wish to seek a judicial determination that the obligations labeled as property

¹11 U.S.C. § 523(a)(15).

²11 U.S.C. § 1328(a)(2).

³11 U.S.C. § 523(a)(5); 11 U.S.C. § 101(14)(A); 11 U.S.C. § 1328(a)(2).

settlement are in the nature of support. Such a determination will require additional pleadings and cannot be made on the existing record. Because Mr. Petersen is in Chapter 13, the plaintiff's motion for summary judgment will be denied.

DATED: April 21, 2008.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: G. Oczkus, Esq.
H. Gazaway, Esq. (courtesy copy)
Pro Se Defendant
P. Gingras, Adv. Case Manager - served 4/21/08 - pg.
U. S. Trustee
4/21/08