

Divorce and Bankruptcy: What are my options?

Folks often schedule a free consultation with us on the recommendation of their divorce attorney. Oftentimes, financial difficulties and divorce go hand-in-hand.



Although there are applicable code sections and case law relating to debts arising from a divorce or custody issue, much of the law is subject to interpretation.

Generally, debts that are considered “support” are not dischargeable. However, this is not as cut and dried as it may appear.

In *Lawrence v. Combs*¹, the judge ordered that the debtor-husband was eligible to discharge a large portion of the claim filed by his plaintiff ex-wife. Chief Judge St. John, in the EDVA Newport News division, held that the debts relating to the parties’ minor child’s medical debts and education fund were non-dischargeable, as were the child support arrearages. However, the debts relating to the division of the debtor-husband’s retirement funds and the division of equity of properties owned by the parties were

dischargeable in the debtor-husband’s Chapter 13 case.

In *Rosenblum v. Hardesty*², a large debt related to the parties’ former marital residence was ruled dischargeable in the debtor-husband’s Chapter 13 bankruptcy case. Judge Huennekens, in the EDVA Richmond division, held that the debt alleged by the plaintiff-exwife relating to the marital residence was resulting from an equitable distribution of assets, rather than a support obligation, and that it was not entitled to priority, non-dischargeable status as a domestic support obligation.

Because these types of debts vary widely in interpretation, we recommend scheduling a free consultation with an experienced bankruptcy attorney to discuss your particular obligations. Our attorneys are experienced in interpreting Property Settlement Agreements and Divorce Decrees, and litigating when necessary.

¹ *Lawrence v. Combs* (In re Combs), 543 B.R. 780 (Bankr. E.D.Va., 2016)

² *Rosenblum v. Hardesty* (In re Hardesty)(Bankr. E.D.Va., 2016) (unpublished)

Richmond:

804.358.9900

Interstate Center
2104 W Laburnum Ave, Suite 201
Richmond, VA 23227

Virginia Beach:

757.313.3000

Southport Centre
4525 South Boulevard, Suite 201
Virginia Beach, VA 23452

Newport News:

757.825.5577

Patrick Henry Corporate Center
12350 Jefferson Ave, Suite 170
Newport News, VA 23602