

Nondischargeable Claims Review Problems

1. Your colleague who practices family law has some questions about a messy divorce and child support case. Haleem and Wynona were divorced one year ago, and the court ordered joint custody of their 9-year-old son, Chauncey. The court also ordered Haleem to pay Wynona \$500 per month in child support (until Chauncey turns 18) and \$500 per month in spousal support (for 36 months) in addition to a \$10,000 lump sum settlement of the marital estate. Haleem made the first several support payments on time, but then he made the next several late, and finally missed several more. He has not made any payments on the \$10,000 property settlement obligation. About 10 days ago, your colleague properly noticed a contempt hearing before the family court to attempt to enforce these obligations. The hearing was to occur in a few more days.

Last week, however, Haleem filed for Chapter 7 bankruptcy. Fortunately, he correctly listed Wynona and Chauncey as creditors and reported that he owes \$5000 in overdue support and \$10,000 on the property settlement. Unfortunately, his schedules suggest that he has no non-exempt property to produce any distribution on these or any other unsecured claims. Worse yet, Haleem's next support payments are due this coming week, but the notice Wynona received says the first meeting of creditors in Haleem's bankruptcy case is not scheduled until several weeks from now.

Advise your colleague on his options for collecting any of these obligations from Haleem:

- (a) Can he proceed with the contempt hearing and ask the court to garnish Haleem's wages to collect any of these debts?**
- (b) What about the future support, including the installment due next week—will that obligation be affected by Haleem's pending bankruptcy, and if not, must Wynona wait to enforce that obligation until after the case closes?**
- (c) Will the past-due support and property settlement claims be discharged in Haleem's bankruptcy?**
- (d) Can/must Wynona take any action specifically to object to these debts' being discharged?**

2. Tax E. Vader approaches you for assistance with some serious tax problems. He filed his tax returns for calendar years 2011, 2012, and 2013 on time on April 1 of the following years. Unfortunately, a couple of years ago, the IRS audited these returns and disagreed with his "creative accounting" for those tax years. It also sent him a notice and a "form 6020(b) Substitute for Return" to calculate his taxes for tax year 2010, which Vader had neglected to file. It assessed nearly \$100,000 in additional taxes and penalties for all of these years. Vader has been negotiating with the IRS for months, but then he saw an infomercial suggesting that "bankruptcy might be the answer to [his] tax woes!" **Evaluate Vader's position and whether bankruptcy might solve all or part of his tax problems.**