

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

In re:

Case No. 6:05-bk-01491-ABB  
Chapter 7

STEVEN D. APPEGATE,

Debtor.

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STEVEN D. APPEGATE,

Plaintiff,

vs.

Adv. Pro. No 6:05-ap-00102-ABB

LINDA APPEGATE,

Defendant.

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**ORDER**

This matter came before the Court on the Motion for Summary Judgment (Doc. No. 15) ("Motion") filed by Linda Applegate, the Defendant ("Defendant"). A hearing was held on the Motion on August 15, 2005 at which each party was represented by counsel. Steven D. Applegate, the Debtor and Plaintiff ("Plaintiff"), instituted this adversary proceeding against the Defendant, who is his former wife, pursuant to §§523(a)(5) and (a)(15) of the Bankruptcy Code. The Plaintiff alleges in his Complaint (Doc. No. 1) that his payment obligations to the Defendant pursuant to a divorce decree, which incorporates a property settlement agreement, entered by a Georgia State family law court are dischargeable.

At the hearing on the Motion the parties raised the issue of whether this Court has jurisdiction to determine whether the Plaintiff's payment obligations terminated or should be modified because the Defendant is or was voluntarily cohabiting with a third party in a meretricious relationship as defined by Georgia state law.<sup>1</sup> The parties submitted briefs in support of their respective positions on the issue of jurisdiction. After reviewing the pleadings and briefs, being otherwise fully advised in the premises,

the Court concludes the Georgia State family law court is the appropriate forum for addressing the payment obligation dispute.

It is therefore,

**ORDERED, ADJUDGED AND DECREED** that for the reasons stated from the Bench the Defendant's Motion for Summary Judgment is hereby DENIED; and it is

**ORDERED, ADJUDGED and DECREED** that the issues raised by the parties relating to the Plaintiff's divorce decree payment obligations to the Defendant and the application of Georgia state law, specifically Ga. Code Ann. §19-6-19(b) (2005), should be addressed by the Georgia State family law court where the parties' divorce proceeding was heard, and pursuant to 28 U.S.C. §1334(c)(1) the Court hereby abstains from consideration of these matters; and it is

**ORDERED, ADJUDGED and DECREED** that the Court will proceed with conducting a trial on the 11 U.S.C. §§523(a)(5) and (a)(15) matters and such trial shall be held on November 28, 2005 at 9:30 a.m.

Dated this 21st day of September, 2005.

/s/ Arthur B. Briskman  
ARTHUR B. BRISKMAN  
United States Bankruptcy Court

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<sup>1</sup> GA. CODE ANN. §19-6-19(b) (2005).