



MORGAN D. KING EDITOR

The King Law Letter

NEWS – EVENTS - UPDATES FOR BANKRUPTCY AND TAX PROFESSIONALS
& CONSUMER PROTECTION ATTORNEYS

LAW LETTER NO. 13 July 11 2016

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IMPORTANT PRODUCTS & EVENTS



Release 2016

Morgan King's
RECORDED

Discharging Taxes
in
Consumer Bankruptcy Cases

RECORDED 7.5 hours in 3 segments

hosted by
King Bankruptcy Academy

& NACCT ACADEMY

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BOOK Release 2016 # 2

Christine Kingston's

Discharging Student Loans

Plus Forms - Memoranda - Articles

Contributing authors:

Nick Thompson - Richard Parker - Catherine Christiansen

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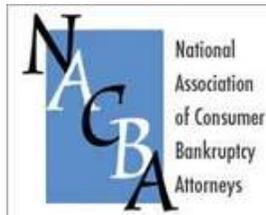
NACBA NEWS

National Association of Consumer Bankruptcy Attorneys

NACBA's Summit at Sea - Members Only

October 7-10, 2016

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NACCT ACADEMY NEWS

National Association of Chapter 13 trustees Academy

NACCT SEMINAR *PHILADELPHIA*** JULY 20-23, 2016**

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EXCERPT FROM
Christine Kingston's
DISCHARGING STUDENT LOANS
In Consumer Bankruptcy Cases
Release 2016 # 2
KingLawPublishing.com

KINGSTON'S DISCHARGING STUDENT LOANS

PART 2: IS THE LOAN SUBJECT TO § 523?

¶ 2.2 Was The "Student" Eligible for a Student Loan?

One of the other issues that arises is the student him or herself. Was the student qualified and able to benefit from the education? If the student is a convicted felon, should he or she have been admitted to a course that trains corrections officers? If the student is illiterate, should he or she have been admitted to any type of post secondary education?

The Tax Code defines a eligible student as one defined by section 26 USC § 25(A)(3) as one who is carrying at least ! the normal full- time work load for the course of study the student is pursuing.

Held, nonresident alien who did not file a tax return during relevant time period was not a "taxpayer;" hence loan extended to her did not qualify as a student loan under 26 U.S.C. §221(d) and 11 U.S.C. §523(a)(8)* Nevertheless, in that case the debt was deemed non-dischargeable based on the borrower's (debtor's) fraud in incurring the loan.

* *In re LeBlanc*, 404 B.R. 793 (Bankr. M.D. Pa 2009)

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THE LAW & CASE
HOTWIRE

HELD: CASEY ANTHONY NOT GUILTY OF WILLFUL HARM TO ZENAIDA GONZALEZ

[In re Casey Anthony \(Gonzalez v. Anthony 538 B.R. 145 \(Bankr.M.D.Fla. 2015\)](#)

During the messy lead-up to her trial for the murder of her daughter, Casey Anthony made up a fictitious "nanny" who she said had made off with Casey's daughter. She even gave this apparition a name, Zenaida Gonzalez, and claimed she was in Kissimmee.



Subsequently it became apparent that while there was no actual nanny connected in any way with Anthony or her daughter, there was an actual person named Zenaida Gonzalez. Ms. Gonzalez sued Anthony in an adversary proceeding based on a claim arising from 11 U.S.C. § 523(a)(6) a willful and malicious injury and therefore excepted from discharge

Casey moved for summary judgment, asking the Court to find that the statement was not made with the intent or purpose to injure Plaintiff, as is required by § 523(a)(6).

By itself, this remark by Casey Anthony ("Debtor"), made to her parents nine days after being arrested in connection with the disappearance of her two-year old daughter, would appear to harm no one. But, Zenadia Gonzalez ("Plaintiff") alleges in this adversary proceeding that she was the only person identifiable as the "girl down in Kissimmee," and that, when considered with surrounding circumstances, Debtor's statement implicated Plaintiff as being involved in the child's disappearance. Plaintiff's defamation lawsuit was pending in Orange County Circuit Court ("State Court Case") when Debtor filed her Chapter 7 petition.

After reviewing the record 4 and carefully considering arguments of counsel, the Court concludes that the content and context of the Statement do not support Plaintiff's allegation that the Statement was uttered with the intent or purpose to injure her. The Statement was made only to the Debtor's parents. It was not a false statement about Plaintiff's person, character or conduct. The Statement was not targeted at Plaintiff. It was a statement, either false or mistaken, about the Orange County Sheriff's Office investigators failing to pursue Debtor's story about a babysitter with whom Debtor claimed to have last seen her daughter.

Intentional torts generally require that the actor intend 'the consequences of an act,' not simply 'the act itself.' Restatement (Section) of Torts § 8A, comment a, p. 15 (1964)."

Thus, the injury itself must be intentional or deliberate; injuries that arise from accident, inadvertence, negligence or recklessness are not considered "willful" for the § 523(a)(6) exception to discharge.

HELD: DEBTOR'S CHAPTER 13 WAS FILED WITH THE SOLE PURPOSE TO STALL A PENDING CIVIL COURT ADJUDICATION OF A LAWSUIT, HENCE WAS FILED IN BAD FAITH.

[Brown v. Gorman \(E.D. Va., 2016\)](#)

As the bankruptcy court correctly found, Brown's Plan was filed in bad faith because "[i]n reality, the debtor simply s[ought] to obtain the benefit of the automatic stay while she litigate[d] or negotiate[d] with the lender." This conclusion is supported by Brown listing one debt, the HSBC mortgage, in her Chapter 13 petition, and by proposing to make insufficient monthly payments of \$3,000 to the Trustee, who was to hold these payments until Brown concluded her litigation with HSBC. *Id.* It was not error for the bankruptcy court to conclude that Brown's Plan did not provide for tender of the appropriate mortgage payments and failed to propose an appropriate 60-month schedule to repay the arrearage and keep up with current mortgage payments.

HELD: VALUE OF SOCIAL MEDIA IN CONNECTION WITH A BUSINESS HAS VALUE AND IS PROPERTY OF THE ESTATE

In re Ctlj, LLC, 528 B.R. 359 (Bankr. S.D. Tex., 2015)

This Court recognizes that the landscape of social media is yet mostly uncharted in bankruptcy. However, to ignore the value of social media assets would do injustice to debtors and creditors alike. At least with regard to a business's social media accounts, this Court finds that the principles that have been developed to deal with the myriad forms of property passing through bankruptcy provide clear guidance as to how to treat such assets. Many more questions have yet to be addressed, such as the proper method of valuing such assets. For today though, this Court is confident that at the core of this dispute is a familiar story of a disgruntled former business partner attempting to stymie his former associate by seizing control of assets that do not belong to him.

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IN OTHER NEWS

Bankruptcy - Taxes - Consumer Protection

Legal Sector Holds Steady In June, Adding 100 Jobs

By Kali Hays Law360, New York
July 8, 2016 --

Employment in legal services held steady in June, which saw a slight gain of 100 jobs in the sector after adding about 1,000 in May, according to the U.S. Bureau of Labor Statistics' monthly jobs report, released on Friday.

The number of seasonally adjusted jobs in the sector tallied up to 1,124,000 in June, a modest bump from a preliminary count of 1,123,500 jobs in May, which has since been further adjusted to 1,123,900 for the month, according to Friday's report.

No Attorneys' Fees for Litigation Over Bankruptcy Stay

From Bankruptcy Law Reporter (also available on Bloomberg Law)

By Daniel Gill

June 22 - A debtor was not entitled to an award of attorneys' fees for successfully opposing a motion for relief from the Bankruptcy Code's automatic stay brought to exercise foreclosure rights, a district court ruled on June 20 (*Green Tree Servicing LLC v. Giusto*, 2016 BL 196785, N.D. Cal., No. 15-cv-02105-HSG, 6/20/16).

Judge Haywood S. Gilliam, Jr. of the U.S. District Court for the Northern District of California reversed the decision of a bankruptcy court which had found that the Supreme Court in its 2007 *Travelers* decision had overruled the Ninth Circuit's 1985 *In re Johnson* opinion.

[CLICK FOR MORE STORY](#)

Woman gets robocalls

Tampa, FL -- Debt collectors have the right to call you. But they don't have the right to harass you. A woman got robocalls from the same business four or five times a day, all hours of the day, all hours of the night, even on holidays, like Christmas! She got 800 robocalls in a year and a half

period. Now she's suing the company.

"Over and over again I would tell them to please stop calling," says Natalyn. She had complications from bypass surgery and fell behind in her car payments.

"Anyone who harasses you like that when they know you are in a predicament and you're trying your best to get out of it, it was pretty horrific mentally physically."

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Bankruptcy Legislation for Big Banks Gains Steam

Changes to bankruptcy code included in financial services budget bill in House

By Ryan Tracy

July 7, 2016

WASHINGTON-Legislation to make the bankruptcy of a big bank more feasible is gaining steam on Capitol Hill, a development that could help the largest U.S. financial firms counter criticism that they remain "too big to fail" without a taxpayer bailout.

Changes to the bankruptcy code were included in a financial-services budget bill the House passed Thursday, along with other regulatory provisions such as congressional oversight of the Consumer Financial Protection Bureau's budget.

But unlike other provisions, the bankruptcy legislation has broad support. That gives it a chance to become law this year.

[CLICK FOR MORE STORY](#)

[CLICK FOR MORE ABOUT PROPOSED AMENDMENTS](#)



Consumer Credit Jumps \$18.6 B, Mostly Student Loans and Autos

By Scutify Jul 09, 2016 7:02 pm

Consumer credit rose 6.25 percent according to the Fed G.19 Consumer Credit Release for May.

Revolving credit increased at an annual rate of 3 percent, while nonrevolving credit increased at an annual rate of 7-1/4 percent.

[CLICK FOR MORE STORY](#)

New Bankruptcy Rule, Amendments to Ch. 13 Plan Form Proposed

By Diane Davis

July 1 - Consumer bankruptcy attorneys should be aware that the adoption of a national Chapter 13 plan form is getting closer, with a new "opt-out proposal" being considered in a new proposed bankruptcy rule and amendments.

The Judicial Conference Advisory Committee on Bankruptcy Rules July 1 published a proposed amendment to Bankruptcy Rule 3015 and the adoption of a new Rule 3015.1 that would require the use of an official form for Chapter 13 plans unless a district requires the use of a single local form for that purpose and meets the requirements in the new rule.

RETURN TO TOP**ROOKER FELDMAN - DESPERATE CONSUMER BANKRUPTCY ATTORNEY****PUT THE GUN DOWN!**

Rooker Feldman's office paradigm explains his somewhat unorthodox law office, an office that is sometimes a bit much to ask of his clients.

Oh, they can usually overlook having to step carefully over the huge, slightly smelly hound that lays snoozing on the floor in front of Bling's desk.

They can more or less ignore Rooker's canary, Dylan (after that crooner, Bobby Dylan), who emerges from his cage-that-has-no-door and flies about the office unrestrained, chirping cheerfully while defecating on office furniture.

And yes, they can overlook the clock on the wall that actually has a wooden bird that jumps out on the quarter hour blurting, "Cuckoo! Cuckoo!"

Because they can sense the humanity in Rocky's eyes, his voice, his understanding, centered manner. And, this humanity is genuine, because Rocky has realized, over a long career of law practice, that every client who walks into his office, every trustee who hassles him over a case, every employee in his office, is a Walking Novel, with a story to tell if someone would only take the time.

Then there's faithful old Lew.

Because Lew, the paralegal, has the disconcerting habit of falling asleep at his desk, and, in his sleep, saying things. Odd things. Sometimes alarming things. And saying them loudly. Then suddenly waking up, totally unaware that he has uttered anything at all.

The first time a client heard, blurted through the wall from the next office, "Well, if I had a palm tree in front of my desk, I'd probably feel the same way!" she simply raised her eyebrows, cast a fleeting, concerned glance at Rocky, and then shrugged it off. After, all, Rocky didn't seem perturbed, so it couldn't be anything serious.

Then, when the next client heard the muffled but audible, "Please don't let them dip me in the chocolate!" that client, as well, seemed to take it in stride, especially as Mr. Feldman had not appeared alarmed.

Then one day, in the middle of a conference with a new and uninitiated client, Lew's gruff voice came through the wall loud and clear.

"Put the gun down! PUT THE GUN DOWN NOW!"

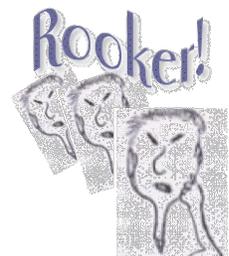
The client turned pale, and then leaped from her chair and bolted out the door without looking back.

Rocky patiently watched the client race out the door. Then, with a long sigh, the sigh of the stoic in the face of all-to-human humanity, leaned back in his chair and pulled out one of his forbidden cigars. He contemplatively rolled it between his fingers for a moment, then lit it up.

In the background, Dylan chirped his carefree song. Mable got up and gently closed Lew's door. Bling's hound briefly raised his shaggy head to look around, then resumed his dreamless nap.

Rooker took a long puff, then slowly exhaled. The fine white smoke curled before him.

World without end.



**DESPERATE
CONSUMER
BANKRUPTCY
ATTORNEY!**

Amen.



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CONTACT

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