

**Philadelphia Bar Association – Family Law Section  
December 2020 - Case Law Summaries**

Hanrahan v. Ketch, No. 1876 EDA 2019 (2020 Pa. Super. 267).  
*Filed November 13, 2020*

Husband appealed an order granting in part and denying in part his petition for special relief seeking to enforce the terms of the parties' Property Settlement Agreement ("PSA").

The parties married on December 23, 1996 and separated during October 2015. The parties entered into a PSA that, *inter alia*, awarded Husband \$41,376 for his share of:

1. Wife's three retirement funds;
2. The equity in the marital residence; and
3. The value of personal property retained by Wife.

Seven months after the entry of the divorce decree, and after paying Husband \$15,166 of the agreed upon debt, Wife filed for bankruptcy under Chapter 7 of the Bankruptcy Code. Wife listed a \$36,000 claim owed to Husband among other unsecured claims that she sought to discharge. In her filing, Wife characterized the debt as "obligations arising out of a separation agreement or divorce that [she] did not report as priority claims." Husband did not participate in the bankruptcy proceedings, challenge the filing, or assert to the bankruptcy court that the debt under the PSA was not dischargeable pursuant to 11 USC § 532(a)(15) ("Exceptions to Discharge"). The bankruptcy court subsequently entered a form order stating "most debts are covered by the discharge, but not all."

Husband subsequently filed a petition for contempt against Wife due to her failure to pay approximately \$26,000 owed to him pursuant to the PSA. Wife countered that the debt had been discharged in bankruptcy and asserted that Husband could attempt to reopen the bankruptcy and request a special determination on the issue. Husband's petition was dismissed without prejudice. Husband subsequently filed a petition for special relief to enforce the terms of the PSA on the ground that Wife's debt was not dischargeable pursuant to 11 USC § 532(a). Wife countered that the court lacked jurisdiction to determine whether the debt was dischargeable.

The trial court entered an order acknowledging that wife had breached her duty under the PSA, but concluded that it lacked jurisdiction to determine whether the debt had been discharged. An amended order was entered that "simultaneously concluded that 'the debt of \$26,210.00 owed under the terms of the [PSA] entered into by the parties on May 17, 2017 to [Husband] was not dischargeable[;]' and expressly conditioned payment of that obligation on whether the bankruptcy court determined that it was not discharged in bankruptcy." Husband filed for reconsideration, which was granted in part and denied in part, holding that Husband's sole remedy was to seek clarification or to challenge the discharge in the Bankruptcy Court.

Husband's appeal raised a pure issue of law – whether the trial court had jurisdiction to determine if Wife's debt to Husband was exempt from discharge under 11 USC § 532(a)(15). In its analysis, the Superior Court noted that the prior standard established in Hogg v. Hogg, 816

A.2d 314 (Pa.Super. 2003) was superseded by the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act (“BAPCPA”), which provides, in relevant part, that the exception to the discharge of debt owed to a former spouse pursuant to a PSA is automatic and no longer requires any affirmative action by the non-debtor spouse.

The Court then turned to the issue as to whether the BAPCPA amendments provided the trial court with jurisdiction to make the determination of dischargeability of Wife’s debt. The Court noted that state courts typically maintain concurrent jurisdiction under 28 USC § 1334(b) to construe the effect of a discharge and determine whether a particular debt is within the discharge and reviewed relevant case law on the issue from sister jurisdictions.

The Court ultimately held that BAPCPA “eviscerated the underpinnings of the Hogg Court’s rationale” and found that Wife’s debt owed to Husband under the PSA was automatically excepted from discharge so Husband was not required to assert the issue in the bankruptcy court, and that the trial court had concurrent jurisdiction to acknowledge the surviving debt and enforce the obligation. The Court reversed the trial court order and remanded for proceedings consistent with the opinion.

Denelle v. Denelle, No. 617 WDA 2020 (2020 Pa. Super. 277).  
*Filed November 25, 2020*

The Domestic Relations Office (“DRO”) appealed the trial court’s order that, *inter alia*, dismissed the Complaint for Support that Jamie L. Denelle (“Mother”) filed against Samantha G. Denelle, formerly named Marc Allen Denelle (“Putative Parent” or “PP”), after the trial court made a finding that PP did not sign the Acknowledgment of Paternity for the child.

Mother and PP began dating when Mother was three months pregnant. During their relationship, Mother and PP (who was not the biological parent) agreed that PP would not be financially responsible for support the child and that Mother would seek support from the child’s biological father. The child was born and PP’s name appears on an Acknowledgement of Paternity as well as the child’s birth certificate, but the PP disputes that she signed the Acknowledgement. Mother and PP then married and PP underwent gender reassignment surgery. Mother and PP subsequently divorced. PP moved to Texas and Mother did not initially seek child support from PP. Approximately one year later, Mother filed a Complaint for Support against PP. At the support conference, the hearing officer entered an interim order requiring PP to pay monthly support to Mother. PP filed for a *de novo* hearing, where Mother testified that PP was not the biological father, but that she had signed “the papers” at the hospital and that she was not seeking support from PP, but, rather, a court order removing PP from the Acknowledgement of Paternity and the Birth Certificate and that the biological father submit to a paternity test.

The trial court entered an order finding that PP was not the biological father, setting PP’s financial obligation to zero, and ordering Mother to file a Complaint for Support against the father. DRO filed for reconsideration, arguing that, because PP signed the Acknowledgement of Paternity, PP was legally obligated to support the child. The trial court ultimately dismissed

Mother's Complaint for Support against PP, finding that Mother and DRO failed to provide evidence that PP signed the Acknowledgement of Paternity and that PP testified credibly that she did not sign the document; thus, there was no legal basis to impose a support obligation upon PP.

DRO appealed, asserting that the trial court abused its discretion in dismissing the Complaint for Support because PP had signed the Acknowledgement and failed to present evidence of fraud, duress or mistake of fact to rescind the Acknowledgement. The Superior Court affirmed the trial court's order, holding that the record supported the trial court's finding that PP did not sign the Acknowledgement of Paternity and, therefore, was not legally bound by the statutory requirements of Section 5103 (which provides, in relevant part, that "an acknowledgement of paternity shall constitute conclusive evidence of paternity without further judicial ratification in any action to establish support)."