

Nondischargeability Actions in Bankruptcy

Some Nondischargeable Debts under 11 U.S.C. § 523(a) & Starting Points

- (2)(A) false pretenses, a false representation, or actual fraud
 - *In re Griffith*, 568 B.R. 444 (Bankr. D. Utah 2017).
- (2)(B) Use of a fraudulent statement in writing
 - *In re May*, 579 B.R. 568 (Bankr. D. Utah 2017).
- (2)(C) certain consumer debts aggregating more than specific dollar amounts for luxury goods and cash advances
- (3) unlisted or unscheduled debts
- (4) fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny
 - *In re Bringhurst*, 569 B.R. 814 (Bankr. D. Utah 2017).
- (5) domestic support obligation
- (6) for willful and malicious injury by the debtor to another entity or to the property of another entity
 - *In re Bringhurst*, 569 B.R. 814 (Bankr. D. Utah 2017).
 - *In re Call*, 560 B.R. 814 (Bankr. D. Utah 2016).
- (8) student loans
 - *In re McDaniel*, 590 B.R. 537 (Bankr. D. Colo 2018).
 - *In re Engen*, 561 B.R. 523 (Bankr. D. Kan. 2016).
- (9) death or personal injury caused by the debtor while in operation of a motor vehicle, vessel, or aircraft if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance
- (13) restitution issued under title 18, United States Code
- (15) debt incurred in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record that is not a domestic support obligation (e.g., property settlement)
 - *In re Kelly*, 549 B.R. 275 (Bankr. D. N.M. 2016).
 - *In re Simons*, 193 B.R. 48 (Bankr. W.D. Okla. 1996).
- (16) membership association fee or assessment
 - *In re Colon*, 465 B.R. 657 (Bankr. D. Utah 2011).
- (19) violations of federal or state securities laws
 - *In re Robben*, 562 B.R. 469 (Bankr. D. Kan. 2017)

Procedural Considerations

- Bankruptcy Rule 4007
- Must file actions under Section 523(c) within 60 days after the first date of the meeting of creditors. Seek an extension early on if needed.

Rules Governing Adversary Proceedings

- Adversary Proceedings governed by Part VII of Federal Rules of Bankruptcy Procedures.
- Remember to review local rules. <https://www.utb.uscourts.gov/>