Honorable Mike K. Nakagawa
United States Bankruptcy Judge

Entered on Docket
March 17, 2025

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

* * * * * *

In re:	)	Case No.: 24-12555-MKN
	)	Chapter 7
ETHEL GRACE PARROTT	)	
aka ETHEL PARROTT	)	
aka EFFIE PARROTT,	)	Date: October 16, 2024
	)	Time: 2:30 p.m.
Debtor.	)	
	)	

ORDER ON TRUSTEE'S OBJECTION TO DEBTOR'S CLAIM OF EXEMPTION AND REQUEST FOR ORDER DIRECTING TURNOVER OF THE ASSET[1]

On October 16, 2024, the court heard the Trustee's Objection to Debtor's Claim of Exemption and Request for Order Directing Turnover of the Asset ("Exemption Objection") brought by Chapter 7 trustee Troy S. Fox ("Trustee"). Counsel appeared on behalf of the Trustee, and separate counsel appeared on behalf of Ethel Grace Parrott ("Debtor"). After arguments were presented, the matter was taken under submission.

BACKGROUND[2]

[1] In this Order, all references to "ECF No." are to the number assigned to the documents filed in the above-captioned bankruptcy case as they appear on the docket maintained by the clerk of the court. All references to "Section" are to provisions of the Bankruptcy Code, 11 U.S.C. § 101, et seq. All references to "Bankruptcy Rule" shall be to the Federal Rules of Bankruptcy Procedure. All references to "Evidence Rule" shall be to the Federal Rules of Evidence applicable in bankruptcy proceedings under Bankruptcy Rule 9017. All references to "Local Rule" are to the Local Rules of Bankruptcy Practice for this judicial district.

[2] Pursuant to Evidence Rule 201(b), the court takes judicial notice of the documents and information appearing on the docket maintained by the court clerk in the above-captioned case. See United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980). See also In re Blas, 614 B.R.

In November 1988, the Debtor and her former spouse Paul D. Parrott ("Paul") were married. They resided at a home in Cedar City, Utah. The couple had two daughters during the course of their marriage, and the Debtor remained at home as a full-time parent. The marital community's sole source of income was Paul's interest in a marketing business.

In April 2012, approximately 24 years after the marriage,[3] Paul petitioned for divorce in the Fifth Judicial District Court for Iron County, State of Utah ("Utah Court"). The resulting divorce decree ("Divorce Decree") was entered pursuant to a Stipulation Settlement Agreement. At Paragraph 6, the Divorce Decree provided, *inter alia*, that Debtor would receive alimony payments in the amount of $2,000.00 per month for the next 23 years.[4] At Paragraph 7, the Debtor would also receive $3,000.00 per month for ten (10) years following the sale of the former couple's residential real property located in Iron County, Utah ("Residence"). The Debtor's parents were in failing health, and she was required to provide them around-the-clock care, preventing her from attaining gainful employment.[5]

In 2013, Paul began paying the Debtor an additional $1,500.00 per month in voluntary support payments as a result of the Debtor's inability to work. Paul's payments totaled $3,500.00 per month and continued through October of 2017.

334, 339 n.27 (Bankr. D. Alaska 2019) ("This court may take judicial notice of the docket of other courts.").

[3] Paragraph 2 of the Divorce Decree specified that at the time the decree was entered, there were no minor children remaining at home and no other children expected of the marriage.

[4] Under the Utah Domestic Relations Code, the term "'alimony' means financial support made to a spouse or former spouse for the support and maintenance of that spouse." 81 Utah Stat. § 81-4-101(1). Under the same Code, "the court may not order alimony for a period of time longer than the length of the marriage" except as provided in Subsection (7)(c). Id. at § 81-4-502(7)(a). Subsection (7)(c) provides that "at any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a period of time longer than the length of the marriage." Id. at § 81-4-502(7)(c). In the Debtor's situation, the duration of the alimony payments was within the maximum period permitted by Utah law.

[5] As of the date of her declaration, the Debtor's mother had passed away (in 2018), and her father was 91 years old. See Parrott Declaration, infra, at ¶ 14.

In October 2016, the former couple sold the Residence. Immediately after the sale, Paul contacted the Debtor and sought to modify the Divorce Decree. He apparently filed a petition for modification with the Utah Court.

In October 2017, the former couple reached an agreement ("Mediated Settlement Agreement"). Under that agreement, the Debtor would receive a total of $432,000 by payments of $4,000 per month, with such payments being made "through October 2026." Id. at ¶ 3. (Emphasis added.) The agreement also specifies that the Debtor would be restored to her maiden name of "Zicari." Id. at ¶ 9.

On May 23, 2024, the Debtor filed a voluntary petition commencing the above-captioned Chapter 7 proceeding. (ECF No. 1). The case was assigned for administration to the Trustee. Part One of the petition represents that the Debtor resides at 6316 Lorille Lane, Las Vegas, Nevada 89108, but that she also has a mailing address of 9945 W. Tropical Parkway, Las Vegas, Nevada 89149.[6] Attached to the Chapter 7 petition are the Debtor's schedules of assets and liabilities ("Schedules"), Summary of Assets and Liabilities and Certain Statistical Information ("Schedule Summary"), and Statement of Financial Affairs ("SOFA"). On her property Schedule "A/B," Part 4, Item 29, the Debtor described that payment as "$4,000 per month in a property settlement resulting from her divorce in 2016." (Emphasis added.) On her exemption Schedule "C," Part 1, Item 2, the Debtor describes the $4,000 amount as "Property Settlement: Debtor receives $4,000.00 per month in a property settlement resulting from her divorce in 2016" (emphasis added), and claimed those payments as exempt under Nevada law.[7] On her

[6] It is not clear whether this is a business or residential address at which the Debtor receives mail.

[7] Nevada has opted out of the federal bankruptcy exemptions set forth in Section 522(d), see NEV.REV.STAT. 21.090(3), and its residents may claim the exemptions available under Nevada law. Generally, the federal bankruptcy exemptions prevent a Chapter 7 trustee from selling a debtor's assets to pay creditors, while exemptions under state law prevent a defendant's assets from being sold to pay a judgment. Nevada exempts from execution: "All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled." NEV.REV.STAT. 21.090(1)(t). (Emphasis added.) So long as the order for support and maintenance is entered by

secured creditor Schedule "D," the Debtor lists only the lender on her vehicle having an undisputed claim in the amount of $12,234. On her unsecured creditor Schedule "E/F," she lists miscellaneous consumer debts totaling $92,382, the majority of which were incurred for medical procedures. In her executory contract and unexpired lease Schedule "G," the Debtor attests that she pays $1,000 to Frank Zicari on a month-to-month lease for a room located at the Residence identified in her Chapter 7 petition. In her monthly income Schedule "I," Part 1, Item 1, the Debtor attests that she is not employed. In Part 2, Item 8c, of the same Schedule "I," the Debtor lists $4,000.00 described as "Family support payments that you, a non-filing spouse, or a dependent regularly receive – include alimony, spousal support, child support, maintenance, divorce settlement, and property settlement." (Emphasis added.) In the same Part 2, at Item 13, she attests, "Debtor receives a court ordered property settlement of $4,000.00 pursuant to court order from Case No. 124500008, 5th Judicial District court Iron County Utah. This settlement will terminate in October of 2024."[8] (Emphasis added.) Schedule "I" lists no other sources of income. On her monthly expense Schedule "J," the Debtor attests that she has no dependents, that she has monthly expenses totaling $3,271.49, and that she has monthly net income of $728.51. In Part 1 of her SOFA, the Debtor attests that from June 2019 through June 2022, she lived at 5717 Bullhead Street, North Las Vegas, Nevada 89081. In her SOFA, Part 2, Item 5, the Debtor attests that her only income in 2022, 2023, and 2024 was from "alimony/maintenance" payments. (Emphasis added.)

---

a court of competent jurisdiction, the Nevada exemption allows the payment to be claimed as exempt. In this instance, both the original Divorce Decree and the Mediated Settlement Agreement were entered by the Utah Court in connection with the marital dissolution between Utah residents. Because the decree was entered by a court of competent jurisdiction, the relevant inquiry is whether under Utah law the Divorce Decree and the Mediated Settlement Agreement provides for support and maintenance of the Debtor.

[8] In Part 3, Item 4, of the Schedule Summary, $4,000.00 is described as her "combined monthly income" taken from her Schedule "I."

On July 23, 2024, the Trustee timely filed the instant Exemption Objection[9] and noticed it to be heard on August 28, 2024. (ECF Nos. 15 and 16).

On August 27, 2024, an Order of Discharge was entered, providing the Debtor with a Chapter 7 discharge. (ECF No. 22).

On August 28, 2024, the hearing on the Exemption Objection was continued to October 2, 2024.

On September 26, 2024, the Debtor filed a motion to convert her Chapter 7 case to Chapter 13 ("Conversion Motion")[10] and noticed it to be heard on October 30, 2024. (ECF Nos. 25 and 26).

On October 2, 2024, the hearing on the Exemption Objection was continued to October 16, 2024.

On October 3, 2024, the Trustee filed an opposition to the Conversion Motion. (ECF No. 30).

On October 4, 2024, an Order Granting Motion for Order Shortening Time was entered allowing the Conversion Motion to be heard on October 16, 2024, along with the Exemption Objection. (ECF No. 32).

---

[9] Attached to the Exemption Objection are copies of two exhibits: (1) the Mediated Settlement Agreement; and (2) a redacted, self-prepared 2023 federal income tax return for the Debtor ("2023 Tax Return"). The self-prepared return lists the Debtor's home address as 9945 W. Tropical Parkway, Las Vegas, Nevada 89149, and her occupation as retired. (The Chapter petition filed on March 23, 2024, indicates that the Debtor resides at 6316 Lorille Lane in Las Vegas rather than at the W. Tropical Parkway address where she receives mail.) The 2023 Tax Return also discloses no income in 2023 from any source. The exhibits are not authenticated, although judicial notice may be taken of Exhibit (1). See note 2, supra.

[10] The Conversion Motion sought to convert the Chapter 7 case to Chapter 13 even though the Chapter 7 discharge had been entered approximately 30 days earlier. Nowhere in the Conversion Motion did the Debtor request that the Chapter 7 discharge be vacated as a condition of conversion to Chapter 13. See, e.g., In re Shelby, 2024 WL 4047139 (Bankr. E.D. Mo. Sep. 4, 2024) (post-discharge conversion granted, Chapter 7 discharge set aside, and requests permitted for payment of administrative expenses incurred by Chapter 7 trustee and trustee's professionals).

On October 16, 2024, i.e., the date of the hearing on both matters, Debtor filed an opposition ("Opposition")[11] to the Exemption Objection, along with a Declaration of Ethel Grace Parrott ("Parrott Declaration"). (ECF Nos. 34 and 35).[12]

DISCUSSION

The Bankruptcy Appellate Panel ("BAP") of the Ninth Circuit discussed as follows the burdens that arise when a party objects to an exemption claimed in a bankruptcy proceeding:

> A claimed exemption is "presumptively valid."…"[I]f a party in interest timely objects, "the objecting party has the burden of proving that the exemptions are not properly claimed."…Initially, this means that the objecting party has the burden of production and the burden of persuasion…The objecting party must produce evidence to rebut the presumptively valid exemption…Once rebutted, the burden of production then shifts to the debtor to come forward with unequivocal evidence that the exemption in proper….The burden of persuasion, however, always remains with the objecting party…

Diener v. McBeth (In re Diener), 483 B.R. 196, 203 (B.A.P. 9th Cir. 2012); see also In re Gagow, 590 B.R. 517, 521 (Bankr. D. Nev. 2018). But see In re Pashenee, 531 B.R. 834, 837

---

[11] Attached to the Opposition are copies of six exhibits: (1) the Divorce Decree; (2) the Mediated Settlement Agreement; (3) a closing statement for the sale of the Residence dated September 30, 2016; (4) an email from Paul to the Debtor dated July 8, 2016; (5) an undated letter from Paul to the Debtor; and (6) the Parrott Declaration. None of the exhibits are authenticated, although judicial notice may be taken of exhibits (1) and (6). See note 2, supra.

[12] At the hearing, the court denied the Conversion Motion without prejudice because the Chapter 7 discharge already had been entered. Under Local Rule 9021(a)(1)-(4), the attorneys contesting the Conversion Motion were required to submit a proposed order consistent with the court's ruling within 28 days after conclusion of the hearing, unless otherwise ordered by the court. Under Local Rule 9021(a)(5), if no order is submitted within 35 days of the conclusion of the hearing, the motion may be deemed withdrawn without prejudice, unless otherwise ordered by the court. Under Local Rule 9021(a)(6), if a proposed order is submitted after 35 days and then signed by the court, the court's entry of the order is conclusive proof that the court has ordered relief from the 35-day deadline. In this instance, the hearing on the Conversion Motion was concluded on October 16, 2024. The 28-day deadline expired on November 13, 2024. The 35-day deadline expired on November 20, 2024. As of the date of entry of the instant order on the Exemption Objection, no order denying the Conversion Motion has ever been entered or submitted by counsel. The Conversion Motion therefore is deemed withdrawn without prejudice.

(Bankr. E.D. Cal. 2015) (burden of proof on exemption claim may be assigned to claimant by applicable state law).

In the present case, the Debtor claimed an exemption of the funds received from Paul under the Mediated Settlement Agreement. The question is whether those funds constitute a non-exempt property of the bankruptcy estate under Section 541(a), or in the alternative, constitute exempt support and maintenance under NRS 21.090(1)(t). If the former, the Trustee seeks turnover under Section 542(a) of any funds received by the Debtor after she filed the Chapter 7 petition as well as any additional funds remaining to be paid under the Mediated Settlement Agreement. If the latter, the Debtor retains the funds received from Paul as well as any additional funds. The instant Exemption Objection does not concern whether Paul's obligation under the Mediated Settlement Agreement constitutes a "domestic support obligation" under Section 101(14A)[13] that would be excepted from discharge under Section 523(a)(5)[14] if Paul were to file for bankruptcy relief. Instead, the sole inquiry is whether the agreement reached by the former couple was for the support and maintenance of the Debtor under Utah law.[15]

---

[13] Section 101(14A) describes obligations to a former spouse, see 11 U.S.C. §101(14A)(A), arising from a separation agreement, divorce decree, or property settlement agreement, id. at §101(14A)(C), not assigned to a governmental entity, id. at §101(14A)(D), and that "is in the nature of alimony, maintenance, or support of such spouse, former spouse, or child of the debtor. Id. at §101(14A)(B).

[14] Section 523(a)(5) excepts from a Chapter 7 discharge a "domestic support obligation" as defined under Section 101(14A). While the latter provision under bankruptcy law looks to whatever the obligation and domestic support is "in the nature of alimony, maintenance and support," see note 13, supra, the exemption provided by NRS 21.090(1)(t) looks to whether a person is required to make payments for "support and maintenance" of a former spouse. See note 7, supra. In this instance, the Utah Court entered the original Divorce Decree and approved the Mediated Settlement Agreement. Thus, Utah law, rather than federal bankruptcy law or Nevada law, governs whether the former couple agreed to provide for the support and maintenance of the Debtor.

[15] The nineteen exceptions to a bankruptcy discharge set forth in Section 523(a) reflect the policy conclusions of Congress in its constitutional role of enacting uniform bankruptcy laws. See U.S. Const. art. I, §8, cl. 4. ("The Congress shall have Power…to establish uniform Laws on the subject of Bankruptcies throughout the United States.") As a result, irrespective of the label affixed under the non-uniform laws of each State, Section 523(a)(5) looks to whether an

Marital settlement agreements incorporated into a dissolution judgment are construed under the statutory rules governing the interpretations of contracts generally. See Diener, 483 B.R. at 206; see also Granger v. Granger, 374 P.3d 1043, 1048 (Utah Ct. App. 2016). When a contract is reduced to writing, the intention of the parties is to be ascertained from the writing alone, if possible. See Diener, 483 B.R. at 206; see also Equine Holdings LLC v. Auburn Woods LLC, 482 P.3d 880, 892 (Utah Ct. App. 2021). The objective intent, as evidenced by the words of the contract, rather than the subjective intent of one of the parties, controls interpretation of the agreement. See Diener, 483 B.R. at 206 (citing Founding Members of the Newport Beach Country Club v. Newport Beach Country Club, Inc., 109 Cal. App.4th 944, 956 (2003); see also Levin v. Carlton, 213 P.3d 884, 889 (Utah Ct. App. 2009). "The parties undisclosed intent or understanding is irrelevant to contract interpretation." See Diener, 483 B.R. at 206; see also Clyde v. Eddington Canning Co., 347 P.2d 563 (Utah 1959).

When the language of the judgment incorporating a marital settlement agreement is clear, explicit, and unequivocal, and there is no ambiguity, the court will enforce the express language. See Diener, 483 B.R. at 206 (citing In re Marriage of Iberti, 55 Cal. App. 4th 1434, 1439 (1997); see also Educators Mut. Ins. Ass'n v. Evans, 258 P.3d 598, 606 (Utah Ct. App. 2011). Any ambiguity in the language of a [marital settlement agreement], however, should be construed in

---

obligation under a marital decree actually is "in the nature of alimony, maintenance and support" irrespective of the labels chosen by each State or even the labels used by the married couple. See Shaver v. Shaver, 736 F.2d 1314, 1316 (9th Cir. 1984) ("[R]egardless of how a state may choose to define 'alimony', a federal court, for purposes of applying the federal bankruptcy laws, is not bound to a label that a state affixes to an award, and that, consistent with the objectives of federal bankruptcy policy, the substance of the award must govern."). Because of the federal interest under bankruptcy law, courts apply a federal standard to determine if the obligation is actually "in the nature of…support or settlement of property." Stout v. Prussel, 691 F.2d 859, 861 (9th Cir. 1982). Compare Gard v. Gibson (In re Gibson), 103 B.R. 218, 220 (B.A.P. 9th Cir. 1989) ("Although not bound by state law, courts can, however, look to state law for guidance"). This is not the case when it comes to exemptions, however, because Congress does not require uniformity for exemptions asserted in bankruptcy cases. While Congress created a specific set of bankruptcy exemptions, see 11 U.S.C. § 522(d), it allows individual States to "opt out" of the federal bankruptcy exemptions to restrict their residents to those available under the laws of each State. See 11 U.S.C. § 522(b)(2). Thus, the State exemptions claimed in bankruptcy cases are interpreted according to State law rather than according to federal bankruptcy law.

favor of the right to spousal support. See Diener, 483 B.R. at 206 (citing In re Marriage of Iberti, 55 Cal. App. 4th at 1439). A term of agreement is ambiguous if it is susceptible to more than one reasonable interpretation. Id.

Under Utah law, however, ordinary contract principles may give way in connection with agreements between spouses and former spouses for the disposition of marital property and support obligations. As Utah's highest court observed:

> On other occasions, we have explicitly acknowledged the general authority of spouses or prospective spouses to arrange property rights by a contract that is recognized and enforced by a court in the event of a divorce…Nevertheless, we have observed that contracts between spouses or potential spouses are not necessarily judged on the same terms as contracts executed by persons operating at "arm's length." In the context of prenuptial agreements, for instance,
>
> > '[t]he mutual trust between the parties raises an expectation that each party will act in the other's best interest. The closeness of this relationship, however, also renders it particularly susceptible to abuse. Parties to premarital agreements…are held to the highest degree of good faith, honesty, and candor in connection with the negotiation and execution of such agreements…[P]remarital agreements "concerning the disposition of property owned by the parties at the time of their marriage are valid so long as there is no fraud, coercion, or material nondisclosure.'
>
> In re Beesley, 883 P.2d 1343, 1347 (Utah 1994) (quoting Huck v. Huck, 734 P.2d 417, 419 (Utah 1986).
>
> We also have heen unwilling to deprive trial courts of their equitable powers to modify agreements made by spouses in contemplation of divorce. 'Agreements between spouses to fix their property rights…are generally not held to be so absolute as to prevent a court under its equity powers in divorce actions from doing that which justice and equity require for the interest and welfare of the parties involved.'…Thus, the general principle derived from our case law is that spouses or prospective spouses may make binding contracts with each other and arrange their affairs as they see fit, insofar as the negotiations are conducted in good faith, as described in *In re Beesley*, and do not unreasonably constrain the court's equitable and statutory duties.

Reese v. Reese, 984 P.2d 987, 994-95 (Utah 1999) (Emphasis added). See, e.g., Sandusky v. Sandusky, 417 P.3d 634 (Utah Ct. App. 2018) (trial court modification of separation agreement to equitably divide property and to award alimony).[16]

[16] In Shaver, the Ninth Circuit examined whether the debtor's obligation to a former spouse was in the nature of alimony, maintenance and support that was excepted from discharge

It is inconclusive whether the Mediated Settlement Agreement was understood by the parties at the time of its creation as spousal support or a property payment. See Leppaluoto v. Combs (In re Combs), 101 B.R. 609, 615 (B.A.P. 9th Cir. 1989) ("…the court must ascertain the intention of the parties at the time they entered into their stipulation agreement…and not the current circumstances of the parties."). Here, the parties apparently sought to end the financial and emotional costs of the continuing litigation of Paul's petition for modification of the Divorce Decree. The Mediated Settlement Agreement terminated, as of November 1, 2017, Paragraph 6 of the original Divorce Decree. That Paragraph stated: "…petitioner shall pay alimony to the Respondent in an amount of $2,000.00 each month for 23 years beginning the month after the Divorce Decree has been signed or until such time that the Respondent co-habitates or marries."[17] (Emphasis added.) Paragraph 7 of the original Divorce Decree then stated that "When the home sells the Petitioner shall pay an additional $3,000.00 per month to Respondent

---

under Section 523(a)(5). If the agreement does not explicitly provide for spousal support, a court may presume that a so-called "property settlement" is intended for support when the recipient spouse needs support. 736 F.2d at 1316. If an obligation terminates on the death or the remarriage of the recipient spouse, a court may be inclined to classify the agreement as support. Id. "A property settlement would not be affected by the personal circumstances of the recipient spouse; thus, a change in those circumstances would not affect a true property settlement, although it would affect the need for support." Id. "The court will also look at the nature and the duration of the obligation to determine whether it is intended for support." Id. Support tends to mirror the recipient spouse's need for support, meaning they are generally directly made to the recipient spouse and are paid in installments over a substantial period of time. Id. at 1317. Similarly, if support may be necessary due to the circumstances, such as the presence of minor children and the imbalance of income, this may also signal this payment is for child support. Id.

[17] $2,000 per month results in $24,000 per year. Multiplied by a maximum of 23 years, the aggregate of all potential alimony payments under Paragraph 6 of the original Divorce Decree would be $552,000. Paragraph 6 expressly provided that the alimony payments would cease if the Debtor "co-habitates or marries." This appears to be consistent with the Utah statute governing the termination of alimony payments. See 81 Utah Stat. § 81-4-505(1)(a) ("Except as provided in Subsection (1)(b), or unless a decree of divorce specifically provides otherwise, any order of the court that a payor pay alimony to a payee automatically terminates upon remarriage or death of that payee."); Id. at § 81-4-505(3)(a) ("Subject to Subsection (3)(b), the court shall terminate an order that a payor pay alimony to a payee if the payor establishes that, after the order for alimony is issued, the payee cohabits with another individual even if the payee is not cohabiting with the individual when the payor files the motion to terminate alimony.").

as and for property settlement for a period of ten (10) years from the date the home sells."[18] (Emphasis added.)

Five years later, in October 2017, the Mediated Settlement Agreement was reached after Paul filed a petition to modify the original Divorce Decree. Paragraph 3 of the Mediated Settlement Agreement replaced Paragraphs 6 and 7 of the original Divorce Decree with these terms: "Petitioner shall pay to Respondent the sum of $432,000 by payments of $4,000 per month for a period of 9 years starting November 1, 2017, and continuing on the first day of each month thereafter through October 2026. These property settlement payments are non-terminable and non-modifiable, except that any portion may be prepaid at any time without penalty." (Emphasis added.) It appears that Paragraph 3 of the Mediated Settlement Agreement supplanted the alimony and property division provisions of the original Divorce Decree.

In response to the instant Exemption Objection, the Debtor attests that "[a]t the bequest of [her] ex-spouse," she was convinced in October of 2017 to modify the alimony agreed to in the Divorce Decree via a settlement to assist Paul. See Parrott Declaration at ¶ 11. The Debtor also attests that she relies on the income from the Divorce Decree and the subsequent Mediated Settlement Agreement, which has been "…since 2012, [her] sole source of income." See id. at ¶ 15.[19] She also attests that she has continued to provide round-the-clock care of her parents since the divorce and that her mother died in 2018 while her father currently is 91 years old. Id. at ¶ 14.

It is clear that Paragraph 6 of the original Divorce Decree provided for Paul to make alimony payments to the Debtor. Paragraph 6 specifically provided for the alimony payments to

---

[18] $3,000 per month results in $36,000 per year. Multiplied by 10 years after sale of the Residence, the aggregate sum of all payments for property division under Paragraph 7 of the original Divorce Decree would be $360,000. The total of the maximum payments for alimony under Paragraph 6 and property division under Paragraph 7 would be $912,000.

[19] In addition to caring for her parents full-time since 2011, see Parrott Declaration at ¶ 8, Debtor apparently has assisted with childcare of the former couple's grandchildren while the former couple's son-in-law was undergoing treatment for Non-Hodgkins Lymphoma. Id. at ¶ 13.

end after 23 years "or until which time the [Debtor] co-habitates or marries."[20] It is equally clear that Paragraph 7 of the original Divorce Decree provided for Paul to make separate property division payments to the Debtor. Paragraph 2 of the Mediated Settlement Agreement terminated Paragraph 6 of the original Divorce Decree, which had required a maximum of $552,000 in alimony payments made by Paul. It also is clear that the $432,000 in total payments under Paragraph 3 of the Mediated Settlement Agreement, at $4,000 per month, far exceeded the aggregate amount of the $360,000 in property division payments required by Paragraph 7 of the original Divorce Decree. It is further clear that $912,000 in total payments under Paragraphs 6 and 7 of the original Divorce Decree far exceeds the $432,000 in total payments under Paragraph 3 of the Mediated Settlement Agreement.

There is no suggestion that at the time the Mediated Settlement Agreement was reached, the Debtor was employed or otherwise was not required to care for her parents on a full-time basis.[21] Apparently, the Debtor also was a caretaker for the former couple's grandchildren.[22] There is no suggestion that the Debtor has or ever has had any source of income to meet her living expenses. Despite the significant reduction in the total amount of payments due under the original Divorce Decree and the total amount payable under the Mediated Settlement Agreement, the term of the payments occurred over a substantial period of time.

Inasmuch as the Mediated Settlement Agreement itself addresses the terms of the original Divorce Decree, the court cannot ignore the language of one operative document without considering the language of the other. Based on the evidence presented, the court concludes that the language of the Mediated Settlement Agreement is ambiguous.

---

[20] Under Utah family law, the term "'cohabit' means to live together, or to reside together on a regular basis, in the same residence and in a relationship of a romantic or sexual nature." 2 Utah Stat. § 81-4-501(2). Under this provision, it appears that financial support and maintenance of a former spouse, see note 4, supra, is not subject to termination simply due to co-habitation as long as the recipient spouse is in a platonic relationship. Under this regimen, the actual role played by the recipient spouse's financial needs it is not entirely clear.

[21] In 2017, both parents were still alive. See note 5, supra.

[22] See note 19, supra.

IT IS THEREFORE ORDERED that an evidentiary hearing will be scheduled on the Trustee's Objection to Debtor's Claim of Exemption and Request for Order Directing Turnover of the Asset, Docket No. 15, as determined by the court.

IT IS FURTHER ORDERED that a status conference will be held on **April 9, at 2:30 p.m.** to schedule an evidentiary hearing and to discuss the necessity for discovery, if any, as well as whether a settlement conference would be beneficial to the parties.

IT IS SO ORDERED.

Copies sent via CM/ECF ELECTRONIC FILING

Copies sent via BNC to:

ETHEL GRACE PARROTT
9945 W. TROPICAL PKWY
LAS VEGAS, NV 89149

# # #