

Bond Case Briefs

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BANKRUPTCY - GEORGIA

In re Montgomery

United States Bankruptcy Court, N.D. Georgia, Atlanta Division - March 28, 2013 - B.R. - 2013 WL 1342937

Court holds that school district satisfied its burden and was thus entitled to a determination that the judgment debt owed by debtor was nondischargeable under § 523(a)(2)(A).

This action involved a consulting contract between a California school district and debtor, in his capacity as a benefits specialist. The contract and other related causes of action between the parties were litigated in superior court, resulting in a judgment against debtor for \$2 million.

The school district sought a determination that its judgment debt is nondischargeable. The school district also sought a determination that a portion of debtor's claimed exemptions, in the form of IRA accounts, were not property of the estate due to a constructive trust imposed upon funds as a result of the superior court order and judgment.

The court found that each of the § 523(a)(2)(A) elements had been satisfied by school district: 1) debtor made a false representation with intent to deceive; 2) reliance on the false representation; 3) the creditor's reliance was justifiable; and 4) resulting damages to the creditor. School district satisfied its burden and was entitled to a determination that the judgment debt owed by debtor was nondischargeable under § 523(a)(2)(A).

The court also agreed with school district that certain funds in debtor's IRA accounts are not property of the estate because these funds were placed in a constructive trust for school district's benefit.