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Welcome to the Fisher's Law Office Newsletter, providing you with legal information you can use in your everyday life.

There is no doubt that 2021 will be a year of challenges, but rest assured, we at Fisher's Law Office, P.A. are here to help clients thru it all. In this issue we discuss the risks for 2021 and how you can protect yourself after the chaos of 2020.

RISK: Eviction for Non-payment of Rent/Mortgage

Protection: If you can't pay your rent or mortgage, consider asking the landlord or mortgage holder for extra time to pay or forbearance. If you are sued, hire counsel to defend yourself in court. (Note: Florida's eviction law in Chapter 83, Florida Statutes requires you to file an answer within five (5) days of being served with an eviction Complaint (see F.S. §83.59(2).) Also, if the eviction is contested the tenant must pay the rent due to the court clerk within five (5) days.

The only exception is if the rent was paid but not credited, the tenant was called for military service, or a motion contesting the rent amount has been filed.

RISK: COVID-19 illness or death

Protection: Write a *Last Will and Testament*, a *Designation of Healthcare Surrogate*, and a *Living Will* to let your heirs and loved ones know what your wishes are if you die or become very ill.

Wash your hands more frequently. Wear your mask in public spaces and keep a safe (at least 6 feet) distance from others. Avoid large gatherings and people whose health is compromised. Get plenty of rest, stay healthy, and keep all necessary doctor/dental appointments.

RISK: Loss of Employment

Protection: Honestly evaluate all your sources of income and assets. Then check with a lawyer to see if you're entitled to unemployment benefits or can sue for illegal termination. Always keep up on your job skills and watch closely your employer's business. Is your employer's company thriving or failing? If it is failing, be proactive and see what other job opportunities or business you could shift to before you are let go from your current position.

RISK: Family Issues (Divorce, illness & Discord)

Protection: Being stuck at home during lockdown has taken its toll on many households. Experts say you should not assume old patterns of relationships are static. Be adaptable—if your spouse did the housekeeping and cooking before, maybe it is time to share such chores.

Be aware of how COVID burdens have impacted your family and be mindful of what they are going through. Try being flexible, empathetic, and willing to do things around the house you traditionally wouldn't have done to help out at home.

Dealing with Divorce

- ❖ You can lose your case if you fail to file an "Answer" with the clerk and mail a copy to the lawyer representing the party suing you! Our client found that out the hard way when she failed to answer a Complaint within 20 days. The only way to set aside a default is to show "excusable neglect" and a "defense." It involves affidavits and it is not easy to set aside a default. Bottom line: Never let the 20 days go by before filing an answer or Motion to Dismiss the case—otherwise, you lose.
- ❖ I always recommend that clients secure their tax returns for the past 3 years, along with bank statements, credit card statements, and 401(k) statements before separating from a spouse. These documents are more difficult to obtain after the fact in a divorce case. I also recommend that the clients write down what they want in the case, whether it be child support, the house, a share of a retirement plan, or alimony. This helps your lawyer set realistic goals early on as to what can be accomplished in your case.
- ❖ Probably the most important document in your divorce is the parenting plan – a 17 page document that divides parenting time, vacations, school choice and travel arrangements for your children until they reach the age of majority. I advise clients to spend a lot of time completing this form, hopefully in a cooperative way with your soon to be ex's.
- ❖ If you are separated from your spouse and have children, be aware that the court can go back up to 24 months to assess retroactive child support. We advise clients who may owe child support to voluntarily support their children if the children do not live with them in order to prevent a judgment child support arrearages being assessed. It is also a good idea to save receipts or to make support payments with a check naming "Child support" in the memo line to prove support for the children.

RISK: Unpaid Credit Cards & Utilities

Protection: Evaluate your finances and try to stay current on paying water, electricity, and property tax bills. Cable and credit cards should be paid if possible, but aren't necessarily essential to stay alive whereas utilities are.

See a lawyer if you are sued. You may have a defense if the debt is stale or wasn't properly assigned to the party suing. One of our clients was sued in the wrong county, and I filed a Motion to Dismiss. Lastly, your lawyer may be able to negotiate a payment plan at mediation.

Debt Forgiveness

In this time of economic distress, be aware of your rights as a consumer. Keep in mind the following important points:

- 1) If a credit card company or other creditor obtains a judgment against you, it cannot garnish your wages if you are supporting a dependent such as a spouse or a child.
- 2) The judgment holder cannot seize your 401(k) plan balance.
- 3) The judgment holder cannot seize your Individual Retirement Account (IRA).
- 4) The judgment holder cannot seize your homestead; or if you do not own a homestead, up to \$4,000 of personal property.
- 5) If you are sued for failure to pay a credit card or other outstanding debt, see a lawyer right away. You may have defenses to prevent a judgment from being entered against you in the first place.

There are certain debts that are not forgiven under section 523 of the Federal Bankruptcy Code. These items include (among others) domestic support obligations (such as alimony and child support) and also include debts owed under a separation agreement or divorce decree. What this means is a person filing bankruptcy still owes alimony, child support, and spousal debts ordered by the family law court.

Alimony, even if it's labeled "permanent" can be ended by a judge if the paying spouse reaches retirement age. This issue was discussed at length in the famous Pimm case, which set forth the rules on when someone can finally retire and spend their alimony obligation.

CRAZY CASES of 2020

...continued

- Our client wanted to give a woman he knew years ago a gift of \$1,000...but he didn't want her to know it was him sending the gift. Our solution? He bought a money order and had my office mail the woman a letter with the money order enclosed. By letter of explanation, I wrote that the money was from an anonymous donor, and that there was no trick in her keeping the funds. As far as I know, she kept the gift.
- Our client had three DUIs resulting in a ten year revocation of his driver's license. By law he could get a hardship license to drive after two years of not driving or drinking alcohol. In his "hardship interview," he disclosed that he drank liquor six months ago. He was denied a hardship driver's license! If you have a hardship interview with the department of motor vehicles coming up, talk to your lawyer before the interview to find out if you should even try to get a hardship license. In our client's case, because of his disclosure, he can't apply for a license until 2024!
- **Rejected case:** A woman called as a result of a Google ad I placed. The lady claimed the St. Petersburg police were regularly shining a laser beam at her house that caused her skin to be burned and scarred, and her hair to fall out. She claimed a doctor in the Emergency Room confirmed all of this. "I can't handle such a complex case!" I said. "Ok, I'll call someone else," she replied. I would like to help everybody, but the sad truth is that not all potential cases have merit.
- Our client bought over \$30,000 worth of cashier's checks and lost them! Fourteen years later, they were located and the bank refused to honor them. (The money "escheated" to the state of Florida after five years). We suggest clients store checks and other things of value in a safe place.
- A client went to a beach restaurant and left her mobile phone behind at her home. She sustained an injury and was taken to the Emergency Room. She was fine after the doctors removed a piece of crab shell from her throat, but her family was sick with worry and had no way to reach her. When she finally made her way home, she vowed to memorize the phone numbers of everyone in the family so she can communicate next time she leaves her phone behind.
- A client recently brought me a trust document executed by his deceased brother. The trust set forth clearly who would get his property when he died. It was property written and witnessed, but there was one big problem: No assets were ever actually transferred into the trust! Result? All the brother's assets passed to his heirs through his Will, instead of under the trust document.

Bottom line: Be careful when writing a trust. Always consider writing a Will, even if you have a trust. The Will can even say you want the trust to be the beneficiary of your estate.

Our client asked whether he should liquidate part of his 401(k) to pay a credit card bill. He is supporting a family and works for an employer. He was concerned about being sued and wanted to know if the credit card company could garnish his 401(k).

I told him he can be sued, *but* the 401(k) is off limits for creditors. Additionally, his wages are protected because he is supporting his family. In the end, he didn't pay; and the credit card company didn't sue him, probably well aware that they couldn't seize his wages or 401(k).

As strange as it may seem, I've had several "debt" cases where the borrower had no memory of signing loan documents to borrow money or take out a second mortgage. Recently, I was even instructed to write a lender and demand it stop billing to client because the loan "wasn't hers." As we age, we all forget certain things, and for that reason, I tell clients to keep records of major purchases and loans they've take out so there aren't any surprises down the road.

America's consumer debt of \$14 Trillion works out to \$43,000 for every man, woman, and child in the country.

Fortunately, I've helped clients for 37 years to work out, pay off, or have their debts dismissed by courts of law. If you feel overwhelmed or are sued, seek legal counsel sooner rather than later.

IN LIGHT OF THE ONGOING PANDEMIC FISHER'S LAW OFFICE, P.A. IS TAKING EXTRA MEASURES TO HELP PREVENT THE SPREAD OF COVID-19 VIRUS BY OFFERING TELEPHONIC CONSULTATIONS, AS WELL AS SOCIALLY DISTANCED IN-OFFICE CONSULTATIONS.*

PLEASE CALL (813) 949-2749 TO SCHEDULE YOUR CONSULTATION TODAY.

***MASK REQUIRED FOR ALL IN-OFFICE VISITS. THANK YOU FOR YOUR COOPERATION, AND WISHING YOU A SAFE AND HAPPY 2021!**



Education:

1977

Degree in Accounting,
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1978

License Issued
Certified Public Accountant

(Currently Inactive)

1983

Juris Doctorate Degree in Law,
University of Florida,
Gainesville, Florida
Attorney, State of Florida

Memberships:

- ★ Florida Bar Association www.flabar.org
- ★ BV rated by Martindale Hubbell
- ★ Gaucho Association www.gauchoassn.com



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