***Our client was owed thousands in child support. The Court threatened to take her ex's driver's license.** A hearing on such cases answers one question: How much can the man pay? Under the case of *Larsen v. Larsen*, 901 So. 2d. 327, (Fla. 4th DCA 2005)—if he has a bank account, a cell phone, a truck, a gun, tools, and/or furniture, these can be sold to pay a "purge"—an amount to stay out of jail or keep his license. The case is clear: What does the non-payer own that they can liquidate to keep his or her driver's license?

***Our client was a loving father—divorced, but kept a close relationship with his son, a 7 year old boy.** He paid child support and carried health insurance on the child, and flew the child to visit him at his home in Massachusetts. One day, he called me with terrible news—the child's mother had died. He flew to the funeral and, as the child's sole guardian, the father tried to pick his son up and take him back to Massachusetts. The family of the deceased mother took the child. We fought the family for the better part of a year—including an appeal—but finally our client was awarded custody of his son.

***Our client was a stay at home mom who had purchased a $500 couch on a furniture store credit card.** The debt, with outrageous 29% interest, grew to $1,600. The credit card company sold the debt to a debt collector. The debt collector then sued our client for $1,600. We raised defenses of "usury" and "stale debt," (called "latches")—saying that the new owner of the debt is not allowed to try to collect over 18% interest in Florida. The case was settled with the creditor forgiving the entire debt, and our client got to keep the couch. But the message is clear: If you are sued on a credit card debt sold to a debt collector, see an attorney to discuss any possible valid defenses.

***Our client was in the middle of a divorce case when her wealthy husband died while on vacation in Jamaica.** A probate of his assets was filed along with his Will, which only gave $1 to my client. She was absolutely dumbstruck and asked our advice. We filed a claim for the widow's "elective share"—or 30% of the man's estate. Under Florida Law, a Will must provide at least this amount to a spouse, even if the parties are in a divorce proceeding. End result? Our client was awarded her 30%, notwithstanding the language of the Will which left her only one dollar. The divorce lawyer, who had written the faulty document, was embarrassed that he'd never heard of the elective share—but he probably won't forget it in the future.

***Our client wanted to make sure the wife's mother could never get custody of their child if they died prematurely.** Answer? We wrote a child custody clause in each of their Wills, requesting that custody of their daughter be given to the father's parents. (Although such clauses are not binding on a court, judges try hard to follow the wishes of parents when it comes to placement of children.) The good news: Statistically, there is a very low probability of both young parents dying at the same time—so while it is possible, the chances are very slim a court would have to decide on who gets custody of a minor child after the death of the parents.

***Our client wanted to avoid probate, but she was wary of putting her children's names on her bank account for fear their creditors could garnish the account.** Answer? We had our client create a "Totten" trust for the account. This kind of account only gives the children access to the money after our client has died. The good thing about this arrangement is that creditors can't get at the money, and the account also does not have to go thru probate.
Attorney Ralph B. Fisher has assisted clients with estate planning and probate issues for over 30 years. Call us if you need advice about planning or probating an estate.

***Our client was paying alimony pursuant to a court order. Under the IRS code, he was allowed a deduction for alimony paid, and he deducted the alimony on his tax return.** Meanwhile, his spouse did not declare the alimony income on her tax return. The IRS audited our client, but he was able to show cancelled checks for alimony paid and the court orders requiring the alimony payments. End result? Our client had no tax changes as a result of the audit, and his ex-wife was assessed for failing to pay tax on her alimony received.

***Our client's mother died and she was afraid her mother's estate would be probated and she wouldn't be informed of the proceeding.** She came to my office for advice—I prepared a "caveat" under the probate code, and had her sign it and file it with the clerk of the court. Later, when the estate was opened, our client received a notice from the court that a Petition for Administration was filed. Our client got to participate in the probate proceeding, and eventually received her share of her mother's estate.

*** Our client had a daughter out of wedlock, but wanted a relationship with his newborn. The problem: The mother of the child refused him access to the child.** Our solution was to file a paternity action under F.S. Chapter 742 and set the matter for mediation. The mother refused to participate in mediation. Later at a hearing, the circuit judge awarded our client temporary visitation. A second mediation took place, after the mother saw that the father was able to visit his daughter without incident; and the parties reached a full settlement. At the final hearing, the judge entered a final judgment of paternity and our client now has a close and positive relationship with the baby, is paying child support, and a cordial relationship with the mother.

***Our client's partner died without a Will.** At the time of his death, the decedent owned a house with our client. Under the law, the decedent's mother inherited her son's interest in the home. As a result, our client now owns a home with his late partner's mother. With a buyout, the property can be transferred to the client. But things would have been much simpler if the partner had written a simple Will. We recommend that all unmarried couples who own property together write a simple Will to avoid complicated issues of inheritance later.

***Earlier this year, our client wanted a divorce, and so did her husband.** Their only asset of consequence was the husband's 401(k) retirement plan. The problem was that the husband didn't have enough money/resources (outside of the retirement plan) to "buy out" his wife's interest in the plan.
Answer? We prepared a "QDRO" (Qualified Domestic Relations Order) giving each party their share of the money in the plan. We had the QDRO pre-approved by the plan sponsor and signed on the day the parties got divorced. That way, all parties got their fair share of marital assets at the time the Final Judgment was signed.

***Our client was sued for the second time in a foreclosure case.** (We won the first case years ago). She didn't want to go through another legal battle, and asked for our advice. We examined the property and recommended a "short sale" by which the bank accepts less than the balance due on the mortgage and allows the property to be sold to a third party. All though it caused the lawsuit to be dismissed to our client's satisfaction, we warned our client she will probably receive a "Form 1099" requiring her to potentially pay income tax on the amount of debt written off by the bank.

***Our client's brother was shot and killed by his own wife while drinking whiskey with her in his pickup truck.** Under law, she cannot inherit his estate. We proved she killed him in probate court—a very unusual situation which resulted in the woman receiving nothing, and the decedent's daughter inheriting all of the estate. The judge said he'd never seen another case like it, but the law is clear—one who kills cannot inherit any benefits from taking the life of a family member. (See Florida Statute §732.802—also known as the "Slayer Statute.") USED 8/24/2018

***Our client was concerned her house would not go to her daughter (who resided with her) when she died.** Solution? She re-titled the home to her daughter and herself, with rights of survivorship. When she dies, her house will automatically pass to her daughter—without the need for probate.