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1 *The advice in this column does not substitute for a consultation with an attorney. I am a federal debt relief agent, proudly helping people file for relief under the bankruptcy code.*

Go debt free this year!

January 6, 2012

Imagine your 4th of July celebration this year. Beef on the grill, family and friends gathered around, as the kids play in the yard. Imagine that this year you no longer have that crushing credit card payment on a credit balance that never seems to get any lower. Imagine that this year you don't have to worry about the car or the house that was taken back. Imagine that this year that unexpected illness is not making your phone ring four times a day from debt collectors.

Imagine instead that you are completely debt free. Imagine that you make it to the end of each month and you have a little extra to sock away. Imagine that you have been able to pay for the dental work you were putting off and a new pair of glasses for your child. Imagine that satisfaction on your face as you throw away and destroy all the new offers for credit that pour in through the mail. You use one secured credit card now, as a tool, not as a supplement to income you don't have.

Imagine the fireworks going off overhead as you watch in awe with family and friends. Imagine the smile on your face knowing that this year it really is different. This year things are turned around. Imagine how good it felt to put aside your fear and contact the *Law Offices of Monte Alan Rich* to get real answers to your difficult questions. It was cheaper and easier than you thought it would be and despite your anxiety his office was there every step of the way calmly coolly moving you in the right direction.

I have brought this type of satisfaction and calm to many of your friends and neighbors. I urge you to ask around about me and my office. I am confident that the reports will be good and that your trusted friends and neighbors will be able to tell you that it really is true, coming to my office was the best decision they ever made. Do you want to be debt free this 4th of July? Call now.

Monte Rich
LAW OFFICES OF MONTE ALAN RICH LLC

Got Served?

December 16, 2011

Keep breathing, there are things that can be done and it is not the end of the world. In fact, you can use this as an opportunity to clean up some things that you have been putting off. But let us address first things first. If you are in Arizona and you were sued in Arizona, you have 20 days to file an *Answer*. No you do not actually have to appear at the courthouse on the twentieth day, and they will not be expecting you. An *Answer* is not a letter to the court; it is a formal pleading that must be filed with the court. There is a cost associated with filing the *Answer* that will depend on which court your case was in.

The cost associated with filing the *Answer* to a civil suit can vary from \$35 in Prescott Justice Court. You will have to pay to have the *Answer* filed. When you go to file you should keep a copy for yourself and you should send a copy of the *Answer* to the person that sued you. First and foremost I urge anyone to obtain legal counsel in answering a lawsuit. Answering is a legal act that can have profound implications for your economic future, so proceed carefully, having said that there are some simple rules to follow:

- 1) Admit nothing you do not absolutely know to be true. Instead, deny and state that you lack the information sufficient enough to allow you to admit.
- 2) Answer each paragraph of a complaint (lawsuit you were served with) by using the same corresponding paragraph numbers.

Example:

COMPLAINT:

ACME Bank is a Delaware Bank duly authorized to conduct business in the State of Arizona.

ANSWER:

Defendant is without sufficient information to admit the allegation that ACME is a Delaware bank and is further without sufficient information to admit that AME is authorized to conduct business in the State of Arizona and therefore DENIES the allegations of paragraph one of Plaintiff's Complaint.

- 3) Anything you do to deny will be deemed as admitted.

- 4) If you are married you should both sign the *Answer* as neither of one of you can represent the other in a court of law.
- 5) If you have a corporation and the corporation was served you must have a lawyer prepare and file the *Answer* on the corporation's behalf. The corporation is not you and you are not the corporation.

If a creditor takes a Judgment against you they can use the Judgment to lien, levy or garnish. Most people understand that a garnishment attaches to your wages. In Arizona a creditor is legally limited to taking 25% of your net pay. A Levy is something that attaches to property, typically a bank account. If you are getting direct deposit for your paycheck and it hits a bank account with a levy on it, you can lose your entire paycheck. Liens attach to then existing or after acquired property.

Getting served with a lawsuit is a good time to make a personal assessment. First, analyze how much debt you have. Then consider if you can pay your way out with the funds you now have or will reliably have within the next two years. Then consider the ramifications of losing your lawsuit and possibly being garnished. Can you survive with 25% of your take-home pay? If not, you should probably consider bankruptcy.

There is more mis-information and falsehoods passed back and forth about bankruptcy than most any other area of law. Your best bet is to contact my office and get the answer straight from an experienced bankruptcy attorney. Most people are delighted to find out that they get to keep almost everything they have and actually get clear of their debts.

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Protect your family – not your creditors!

November 25, 2011

Research shows that the vast majority of Americans who should file bankruptcy are not. Don't be one of them! There are two primary reasons people delay seeking protection under the bankruptcy code. The first reason is fear. People fear that they will lose everything that they own. This is completely not true; in fact, most Arizonans surrender nothing to their creditors while filing bankruptcy. The second reason is pride. Pride is the mechanism that people use to defend their egos from attack. It is pride that drives many people to sacrifice the financial well being of their own families rather than legally and responsibly resolving their debts.

Economic recovery is years away, but it will happen. What shape will your family be in when the economic recovery arrives? The time is now to take action to eliminate unmanageable or even crippling debt. Taking action to eliminate debt now means you will be in a position to take advantage of the economic recovery when it arrives.

A little known fact is that historically, bankruptcy filings actually rise as the economic recovery begins. Debt acts like a tired swimmer who finally succumbs to fatigue only years from the shore. In this desperate time you must take action to protect yourself. Bank of America, Wells Fargo and Chase are doing fine and will not miss your meager payments; in fact the big banks are sitting on record cash reserves as a method to protect themselves. I meet with many retirees' that are supporting adult children or foregoing payments on their own mortgage and raising their retirements to support a child or family member in debt. For your sake, for their sake, you should

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resist engaging in this behavior. If someone has been seeking your help or financial assistance, you should urge them to seek protection under the bankruptcy code. People in debt are like a drowning man who pulls under his rescuer in wild fear. People in debt don't know it but the bankruptcy code is their life preserver.

The hardest step for people to make in the first place is to seek help, but seeking help is also the most empowering step. While seeking help invokes the emotions of fear and pride it also provides the tools of knowledge and action that diminish fear and repair pride. A consult with an attorney to discuss methods to resolve your personal financial crisis should be crucial to your entire family's economic future. Don't wait until it is too late. Don't wait to be sued and then garnished, there is a way out. Don't wait for the economy to recover – RECOVER NOW!

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Fear is not a strategy

November 4, 2011

Many of the clients I meet with lately are saying the same thing, “I should have been in here to see you a year ago.” Usually this statement is overly true and costly. The responsible thing to do instead of raiding your retirement, draining friends and family while hoping for economic recovery is to take action to secure your future. There are numerous tools available to help you achieve a brighter financial future. While bankruptcy is one of the options, it is not always the option. Recently a new Federal Program was announced that should provide a significant positive impact for Yavapai County Homeowners. To see if you qualify, keep reading below.

The Homeowners Assistance Refinance Program (HARP) has been strengthened and modified. If all of the following six statements are true a government sponsored refinance is available to you.

- 1) The value of your home is approximately 80% or more of the loan.

www.zillow.com

www.realestate.yahoo.com

www.chase.com/online/homelending/home-value-estimator.htm

- 2) You are current on your payments now.
- 3) It has been at least six months since you were late on payments
- 4) You have not had more than one late payment in the last year.
- 5) You have had your current loan since March of 2009.
- 6) You have a Fannie Mae or Freddie Mac backed loan.

www.FannieMae.com/loanlookup

www.FreddieMac.com/corporate

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Why won't banks and creditors work with you?

September 23, 2011

"I don't want to file bankruptcy, I want to pay my debts, but my creditors won't work with me." I hear these words on a daily basis from the people who come to my office. By the time they reach me they have absolutely no choice left but to file bankruptcy despite their efforts to work with their creditors. Savings and retirement plans have been wiped out and depleted (unnecessarily) and now they have been sued and are being garnished. Ironically, in our modern economy, it has become impossible to actually pay off the people you owe, you see for the most part the people or institutions that lend you money immediately turn around and sell this debt. Today you can make a charge on a credit card and that "loan" can be resold to someone else in the same day.

The selling of debt has become a major economic industry in America, and it is actually linked to our main economic problems. Typically debt, even credit card debt, is sold on Wall Street as stock shares. This process is known as securitization. While securitization did help to increase the money supply, it has also had the negative impact of increasing high risk lending. If you do not stand to lose any of the money you lend, then it is logical to lend as much as possible. This securitization process had a major impact on the cheap money supply that fueled the real estate price bubble, which of course led to the economic crash that continues to wreak havoc on the American economy.

Twenty years ago if you went to the bank to get a loan, the money that was lent to you largely came to you from the people in your community. The bank manager or lending officer that met with you was also a member of your community, who was paid a salary or making sound lending decisions based on your full financial picture and ability to pay. If you had a problem, this same person could work with you on solutions to allow you to continue paying. Foreclosure was the last thing they wanted to do, as it meant a loss to the lender and to the community as a whole.

Today, after the deregulating of the financial industry and banks that occurred in the last 1990's you might speak to a "lending officer" over the phone or by email on the internet. This person is paid a commission based on the profitability of the loans made. As soon

as a loan is made it is immediately sold on to another bank or even an insurance company (does the name AIG ring a bell?) that sells it on again to another bank where it is securitized. The same process is true for credit card debts. The person who made you the loan, who you think is your lender, only acts as a *servicer* on the debt collecting and forwarding payments. The *servicer* is not at risk if you default. Even worse, the servicing contracts actually provide incentives to the *servicer* to foreclosure or sue. This is why they will not work with you.

The only interest the *servicer* has is to lend money as fast as they can regardless of the risk. Consequently, most of my clients who do go bankrupt immediately get offers for new credit from the very same banks and lenders that were just wiped out in their bankruptcy.

The unfortunate truth is that this is a net loss for everyone in the community, homes are foreclosed on and sit empty, debtors that want to make payment plans with creditors get refused and instead sued, which leads to more bankruptcy filings. It is a vicious circle that continues to perpetrate our economic decline.

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Should I try debt settlement?

August 12, 2011

Debt settlement is a common approach to resolving debt problems in the current economic crises. Unfortunately, it is usually the worst option for more debtors in approaching their debt problems. Some things you should know about debt settlement before you try this are:

1. All of your initial payments go to the debt settlement company and not your creditors.
2. Typically they pay off the small debts while the larger debts continue to pile on interest.
3. The damage to your credit is often worse than a bankruptcy.
4. The debt settlement company will take no action to stop any of the creditors from suing you.
5. As you pay creditors off, the remaining creditors become more aggressive and push to have a higher percentage of the debt to be paid.
6. Most debt settlements plans fail and participants end up being sued and then having their pay garnished or their bank accounts levied.

Before you commit to any debt consolidation or settlement plan you should have a consultation with an attorney. Although bankruptcy should be considered as a last option, it is an option you must consider. Usually the negative ramifications of a bankruptcy are far less than the colossal damage years of negative credit reporting can do to your financial future. So be careful when deciding how to handle your debt problems and do not hesitate to seek legal counsel.

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Why Pay A Lawyer?

July 22, 2011

Pay a lawyer because what you don't know can cost you tens of thousands of dollars. Many people choose to get a *paralegal* or *licensed document preparer* to help them handle their bankruptcies. Often this leads to disaster.

It seems that every time I go to the bankruptcy creditor meetings I see someone who went to a document preparer and now they're in really bad shape. I see them surrender businesses, cash and the jewelry off their wrists, cars and even multi-million dollar pieces of property. I wince while I watch this happening and wonder why they didn't come to see me first.

I suppose cost has something to do with it. Petition preparers are limited by law to collect no more than \$200 to prepare a petition. Petition preparers are also forbidden from giving legal advice, which is a good thing, as they have not stepped inside a law school, nor have they taken and passed the Arizona State Bar Exam. This means that any advice they would have to offer would be very suspect indeed. Seeing the Petition Preparer is a little like seeing the nurse to get your surgery or the dental assistant to get your teeth fixed.

PT Barnum said that "*There is a sucker born every minute.*" Undertaking a significant legal action like a bankruptcy can affect the rest of your life. Only a fool would try and get by without the very best representation they can find. Those who try to get by on the cheap really pay the price.

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Keeping The Wolf Away From Grandma's Door

June 10, 2011

Susan is a 66 year old retiree trying to make ends meet on her Social Security and small pension checks. After seeing an ad for a "reverse" mortgage, allowing a senior like her to monthly cash payments against the value of her home, she decided to inquire. Initially Susan was advised about taking a \$20,000 reverse mortgage on her home.

Susan was reassured that she would be able to live out the rest of her life in her home and get supplemental payments to help her pay for her medications. When the loan papers arrived though, there appeared to be a mistake. The loan papers said that the loan amount was not for \$20,000, but was instead for \$200,000. Susan contacted her broker Michael. She had only spoken to Michael over the phone, but he seemed nice and trustworthy. Michael immediately promised to fix the mistake in the paperwork and asked Susan to go ahead and sign the paperwork and return it while the changes were made.

Susan signed the loan documents and returned them in the envelope provided, neglecting to keep a copy of the paperwork. A week later, Susan received a check for \$200,000. She immediately notified Michael who apologized for the mistake and instructed her to wire the money back. The account that Susan returned the money to belonged to Michael, who has since disappeared, leaving Susan with a mortgage that is now in default and no way to repay the loan.

The moral of the story:

- Do not sign any loan document that is not precisely what you negotiated.
- Have your loan documents reviewed by an attorney.
- Keep copies of your important documents in a safe location.
- Do not trust what anyone tells you, trust only what you see in writing.

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Thinking about Consolidating your Debt?

May 20, 2011

Avoid Debt Consolidation Scams!

Debt consolidation is often the first step consumers make on the way to making financial recovery. Unfortunately the number of scams and con artists working in this area can make the prospect dangerous. First, you should understand what debt consolidation really is, which is taking on new debt to pay off old debt. Taking on more debt to try and settle debt is on its face a questionable practice and should be approached cautiously.

If you are considering debt consolidating here are some warning signs for you to be aware of:

- 1) Requesting payment up front to give you a loan.
- 2) Companies that constantly contact you and pressure you into participating in their plan.
- 3) Requesting a sign-up fee to consolidate.
- 4) Charging monthly service fees to consolidate.

Then there are the debt settlement companies. Debt settlement companies or organizations have no plan to keep you from being sued from the debts you are trying to settle. Some debt settlement companies actually plan to allow you to get sued before they will try to settle your debt. This allows creditors to pile on more interest as well as court costs and attorney's fees and possible judgments. A creditor with a judgment has the power to garnish, lien property and levy bank accounts. Any of the above will likely doom your settlement plans.

Before you commit to any debt consolidation or settlement you should have a consultation with an attorney. Although bankruptcy should be considered as a last option, it does not mean you have to commit complete financial suicide first. Federal law generally preserves retirement accounts among other things against creditors for a reason. It is not in society's interest of yours to face retirement age with no savings. So be careful when deciding how to handle your debt problems and do not hesitate to seek legal counsel.

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Bankruptcy Danger Signs Actions that put you at risk!

April 29, 2011

Through the years I am sure that I have filed over a thousand bankruptcy cases for my clients. Over this time I have come up with a list of classic mistakes that have precipitated bankruptcy. The following list is not exhaustive, but if you are making some of these same mistakes, you may be on your way to my office. I consider bankruptcy to be a last resort for people who cannot reasonably pay their way out of debt. If you feel that same way, never do any of the following.

- 1) By more car than you can afford. New car fever is the number one consumer purchasing mistake that I see. It is common for me to see clients that pay as much for their cars as they do for their homes. This is a serious financial mistake.
- 2) Co-sign for a child or loved one. Co-signing is not a meaningless act. In most cases, your child is actually the co-signer and you stand in first position. As soon as they can't pay, you will be. The most dangerous loan to sign for is a school loan. These loans never go away and they commonly run tens of thousands of dollars. It is a better decision to place college on credit cards than take a school loan. You can almost never bankrupt out of a school loan.
- 3) Buy an expensive toy. By toys I mean RV's, boats, motorcycles, trailers etc. These items are purchases that typically run at least tens if not hundreds of thousands of dollars. Usually, they sit idle far more than they are used, meanwhile you are paying taxes, insurance and interest! Unless you are flush with cash and extremely committed to your new hobby, do not make this purchase.
- 4) Assume that you can return whatever you purchase and stop making payments. If you take back that expensive car or toy it will be sold at auction to the highest bidder for much less than you owe. The lender can also add charges associated with the repossession/recovery of the vehicle. Further, you have additional charges added for attorney fees and court costs after they sue you. If you surrender a vehicle, you will almost certainly, have to seek bankruptcy protection.
- 5) Underestimate the cost of credit. A \$30,000 loan assuming a 10% APR will cost you \$14,940 if you pay the loan off within five years. Your monthly payment will be \$749.00. This assumes that you do not add into the loan the cost of tags, taxes etc. So is that new car or toy worth the almost \$45,000 you actually pay for it?

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Should I Cash Out My 401k To Pay Off My Debt?

March 18, 2011

Many people facing the current financial crises have been choosing to pay off debt by liquidating their retirement savings. Before making such a decision ask yourself if you would advise someone else, someone you love, in the same situation, if they should do the same thing.

As you ponder this question, you should ask yourself:

- 1) Is it a good idea to reduce the amount of money that I will have available to support myself later in life?
- 2) Is it worth it?

Here is an example of what liquidating a 401k to pay off debt will cost. If you have \$30,000 in a 401k it will equal \$114,081.21 to you in 20 years. So when making your decision to liquidate you should not consider the \$30,000 you have now, but the \$144,081.21 that you will have later.

So let's say you do choose to liquidate the \$30,000 to pay your debts. First, you will have to pay the 10% penalty (-\$3,000.00) Now we have \$27,000 to work with. Now also consider the tax penalty on this amount which will be \$11,400 (assuming 28% tax rate). So of your original \$30,000 you are left with only \$15,600 to pay off debt.

Alternatively, if you file for a chapter 7 bankruptcy you can keep your entire 401k as exempt from assault by creditors and secure your future for yourself and your family. Let me repeat this a (401(k) IS EXEMPT IN BANKRUPTCY)!!

Average cost to file Chapter 7 \$2,000.00

Amount of debt liquidated (nearly unlimited)

Benefit to future self \$144,081.21 plus all of the money and interest you did not spend servicing your debt for twenty years.

So I ask you, which would you recommend to someone you love, lose \$144,081.21 or save \$192,081.21?

So let's add this up.

Cashing out my 401k to pay debt		Seeking protection under Chapter 7 BK	
\$ 30,000.00 Current 401k		\$ 2,000.00	Chapter 7 Bankruptcy
\$ (3,000.00) Cash pay-out penalty		\$ (50,000.00)	Average Ch. 7 Debt
\$(11,400.00) Tax Penalty		\$ 0.00	Tax Penalty
\$(30,000.00) Sub-Total Out-of-pocket		\$ 2,000.00	Sub Total Out-of-pocket
\$(128,481.21) Loss in future income		\$ 0.00	Loss in future income
\$(144,081.00) Total Loss		\$ 0.00	Total you lose in your 401k
		\$ 144,081	401k Future Value
		\$ 192,081.21	Amount Saved in your pocket

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Am I bankrupt?

The question is deceptively simple. Admitting that you are bankruptcy can be difficult as it runs headlong into your self image and pride. After all, you have always paid your debts. The real question though is “Can you pay your way out?”

Usually when someone finally comes to my office they have been bankruptcy for years but have stubbornly failed to admit this to themselves. The test to see if you are bankrupt is simple; it is admitting the result that is not.

So take a deep breath and prepare to bravely face the answer.

- 1) Do your debts exceed your income on a monthly basis?
- 2) Have you been sued for failing to pay a debt?
- 3) Can you pay your way out of your credit card/medical/general debt in the next two years?
- 4) Do your debts far exceed the value of your assets?

If you answered yes to any of the above, I have news that is neither bad nor good, as there is a way out. You are bankruptcy. The question that remains, are you willing to take the reasonable steps to work your way out of this situation now. Filing for bankruptcy may be the answer. My office offers free consultations and I can tell you frankly that if bankruptcy is not the choice for you, we will tell you so.

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Divorce and Bankruptcy

Unfortunately, it seems like divorce and bankruptcy often go together. Financial difficulty causes stress on otherwise already troubled relationships and the break up of those relationships for the most part, just makes the financial problems worse. If you are divorced or considering divorce there are some things you should know.

First and foremost you should know that Arizona is a community property State. Conceptually, what is important is that generally all debts incurred and income obtained during the course of a marriage belongs to both members of the marital community. Here is what it really means to you. All the debt obtained during the marriage is generally marital debt. All property acquired will also be considered to be property of the marital community whether the property is located in Arizona or not.

The purpose of a divorce is to split up what were the marital assets and debts and decide custody issues if there are kids. When these debts and assets get split up, the courts usually require that each former spouse agree to defend and hold their former spouse harmless for any debts that they agree to pay as part of the divorce. This means that all of your creditors can still try and collect against you, but you can sue your former spouse if the debts they agreed to pay come after you and visa versa. Therefore, don't think that sticking your former spouse for debt is going to get you out of the woods, if you know they will struggle to make the payments then you should realize right away that a joint bankruptcy could be in your interest.

Given the financial duress brought on by decreased income from divorcing and increased expenses to run a separate household you should consider the following. If you have not yet divorced and you can still cooperate with your spouse, you should consider filing bankruptcy jointly. This has the benefit of clearing both of you from debt problems going forward, will simplify your divorce and reduce the cost of your divorce and your bankruptcy. Further, neither one you will have to worry about the other paying their share of the debts.

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Famous Bankruptcy Filers

Considering filing bankruptcy? Don't be too hard on yourself. These economic times have been exceptionally difficult and there is almost no one who isn't financially struggling. What is important to remember is that should you decide to file bankruptcy, it is not the end of the story or the end of your story. Many famous and accomplished people have had to resort to bankruptcy in order to turn things around and then go on to accomplish great things. Your decision to file bankruptcy should be one based on your financial situation and if you can reasonably pay your way out of debt based on certain future income, not a best possible circumstances future.

You will be surprised by some of the people on this list but they will serve to help you recognize that filing bankruptcy is neither immoral nor unethical.

Abraham Lincoln: Honest Abe had a failed law practice that caused him to file bankruptcy prior to his decision to enter into politics.

Henry Ford: The automaker failed twice before establishing the famous brand of automobile that is now an American Icon.

Walt Disney: Walt is another entrepreneurial visionary that failed before he succeeded.

John Wayne: The famous actor got into financial trouble and reorganized his financial life in midst of his early career.

Charles Goodyear: The man who went on to found Goodyear tire and discovered how to vulcanize rubber was another entrepreneur who failed before he ultimately succeeded.

Ulysses S. Grant: 18th President of the United States and Civil War general, famously failed at everything before being credited with winning the Civil War for the North.

Samuel Clemens "Mark Twain": Prior to becoming one of the greatest authors in American history Mr. Clemens struggled early on as a writer and chose to clean up his financial affairs by filing for bankruptcy.

PT Barnum: The founder of the famous Barnum & Bailey Circus who famously said, "There is a sucker born every minute," filed bankruptcy before he achieved success.

It has been said that there are no second acts in American lives. Nothing could be further from the truth. There are many acts in American lives and if you must seek protection under the bankruptcy code it is only a part of your story. You should consult with an attorney prior to making the decision to file bankruptcy. If you do file, I urge you to use it as the basis on which you found your future success not just for yourself but also for your family and for your country.

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Getting Harassed by a Debt Collector?

First we should define some terms. A debt collector is what is commonly thought of as a collection agent or agency. These are the people that pick up debts that have been charged off by the original creditors and have been sold for collection.

What type of conduct is illegal for a collector to engage in?

- First and foremost, a debt collector may not engage in conduct that has the consequence of harassing, oppressing or abusing a person.

Such as:

- Contacting third parties and revealing information about any alleged debt.
- They may not contact you at any unusual place or time.
- They cannot contact you at your place of work. (If they know it could jeopardize your employment)
- They may not use abusive language.
- They may not state or imply that you could be imprisoned, or arrested.
- They may not threaten legal action, unless they truly intend to take legal action.
- They cannot make false representations or use deceptive means to collect.

The above list is just a small sample of conduct that has been deemed illegal pursuant to the Fair Debt Collection Practices Act. 15 U.S.C. § 1692.

If you or someone you know has been harassed by a debt collector, take action. The Fair Debt Collection Practices Act was passed by congress to insure that you will be treated with dignity during the collection process. You can collect up to \$1,000 of statutory fees for such a violation and the other side will have to pay your attorney's fees if you succeed.

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Should I Walk Away From My House?

Many of you know someone who has walked away or may even be considering it for yourself. There is so much misinformation out there that I thought that I should address the issue and give people some tools to help guide them through this difficult decision.

First and foremost you must know if the Arizona anti deficiency statute applies to you. In a nutshell the anti deficiency statute has three primary requirements:

- 1) You live on 2.5 acres or less.
- 2) It is a single family dwelling (yes this applies to condominiums)
- 3) The loan is a purchase money security interest (PMSI).

PMSI is a fairly complicated concept, to break it down for you as simply as possible if the loan in question is money that you used to buy the house or duplex or condominium, then it is probably PMSI.

If all of the above applies then the anti deficiency statute should apply, which means if you surrender the property to the lender, they generally cannot sue you for a deficiency. They get the property and you walk away.

The second thing to consider is; Does it make financial sense to walk away? There is a formula that will help evaluate this decision on a cost/benefit basis. I have used a five year projection as what I believe is a conservative estimate for any increases in local property values.

FORMULA

House Payment amounts	\$	2,500	
Property Taxes (monthly)	\$	175	
Insurance	\$	25	
HOA Fees etc.	\$	50	
TOTAL Monthly Cost of Home =	\$	2,750	
Multiplied by 60 months =	\$	165,000	cost over five years

VS.

Rent	\$	1,000	
First/Last Deposit	\$	4,000	
Moving Costs	\$	1,000	
Rent over 60 Months	=	\$ 60,000	
First/Last Deposits	=	\$ 4,000	
Moving Costs	=	\$ 1,000	
Total Cost	=	\$ 65,000	
Total Savings	=	\$ 100,000	

If the above circumstance is similar to your situation, there can be little doubt that the best financial choice you could make would be to walk away from your depreciating house. The above formula does not take into consideration other factors that are relevant like continued depreciation as well as your ability to invest any saved money to make an even larger positive return. It also does not factor in how long you can live the home you have without making payment before you would have to live which is typically at least six months but not uncommonly as long as a year.

Monte Alan Rich
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PROTECT YOUR FAMILY

Research shows that the vast majority of Americans who meet the technical definitions for bankrupt have not filed for bankruptcy. There are two primary reasons people delay filing for bankruptcy, pride and fear. Out of pride and fear, people delay filing for bankruptcy and rely on piece meal payments and help from family and friends to make it.

Economic recovery is years away but it is coming and it will happen. What shape will your family be in when it arrives? Will you have exhausted all of your assets and that of your extended family or will you have taken bold action when called for and eliminated your debt so that you are in the position to exploit financial gains and improve the you and your families financial picture as soon as it arrives. Historically, bankruptcy filings rise as the recovery comes around as people financially drown, like tired swimmers only yards from the shore.

It is time to ask yourself, whose side are you on? Are you on the side of Bank of America, and Chase who already took billions in tax payer money to bail themselves out or are you on the side of your family. Bank of America and Chase are sitting on record amounts of cash reserves, are you?

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