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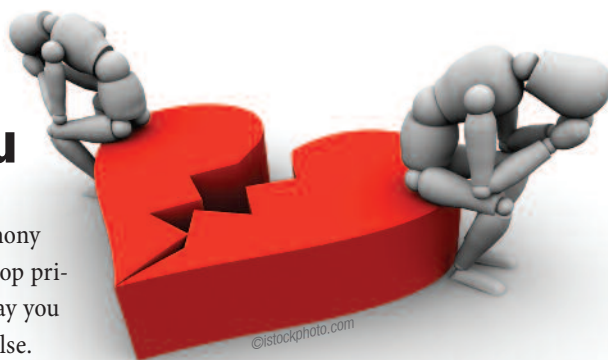
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Legal Matters®

Divorced? Divorcing? What the recession may mean for you



The recession is a difficult time for everyone, but for people who have recently gotten divorced – or who are contemplating divorce – it can be even harder. Here are some thoughts on the legal aspects.

If you're receiving alimony or child support, and you've lost your job and need more income, you can often go back to court and seek additional money from your ex because of the change in circumstances. Don't wait too long to do this – you don't want to let debt pile up and harm your credit rating if you can avoid it.

If you're *paying* alimony or child support and you lose your job, you can also go back to court and ask for a reduction in the amount you owe based on the change in circumstances. It's very important to do this quickly. *Don't* simply stop paying, because there can be severe penalties for falling behind in support payments.

If you're receiving alimony and child support and your ex files for bankruptcy, one bit of good news is that he or she generally can't wipe out

these obligations. Further, alimony and child support usually get top priority, meaning your ex must pay you before he or she pays anyone else.

If you're contemplating divorce and you also have debts you don't think you can pay, you should consider whether it's best to file a joint bankruptcy before you file for divorce.

Most couples have a lot of joint debt – credit cards, car payments, loans, etc. If you can eliminate much of this debt through bankruptcy, you won't have to fight about who gets it during the divorce, which can make the divorce a lot easier.

Eliminating joint debt helps in other ways. If the debt gets assigned to your spouse in the divorce, but he or she doesn't pay, the creditor might be able to come after you for the money. You could go to court to force your spouse to pay, but that can be a long and expensive process. And meanwhile, if you don't pay the creditor during this time, it could damage *your* credit rating.

If a debt is assigned to your spouse during the

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If you lose your job, you might be able to have a court change the amount of your alimony or child support.



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USDA program helps many people get a mortgage



A little-known mortgage program operated by the U.S. Department of Agriculture – that’s right, the same agency that inspects and approves the meat in grocery stores – is enabling many people to afford a home even if they can’t come up with a traditional down payment because of the economic downturn.

The program is designed to help people buy homes in rural areas – but “rural” is loosely defined and in some cases can mean a town of up to 25,000 people. As a result, many people can qualify if they are living in a small town or are willing to move to a smaller suburb that is 10 or 15 miles outside a major city.

The benefit: If you qualify, you can get a no-money-down mortgage. The USDA charges a 2% insurance fee to cover bad loans, but you can finance that as well – which means you can get a loan equal to 102% of your property’s value.

In addition, you don’t have to pay PMI, or private mortgage insurance, which is charged by most

lenders to borrowers who can’t come up with a 20% down payment.

While the USDA makes some direct loans to low-income borrowers, it also guarantees loans made by private lenders to borrowers with moderate incomes. The interest rate on these guaranteed loans is set by the lender, not the USDA, so it may vary from lender to lender.

There are a number of restrictions on USDA-guaranteed loans:

- You have to substantiate your income.
- Your household income can’t exceed 115% of the median area income.
- You must have a “reasonable” credit history.
- You can only get a fixed-rate loan, not a variable loan.

In addition, the scope of the program is limited each year to the amount of money appropriated by Congress. As interest in USDA loans increases, the pool of money might start to dry up.

Why a recession is a good time for estate planning

All of us are affected by the economic recession, but you should know that certain estate planning techniques become much more valuable when asset prices plunge – so this is a good time to take advantage of them.

Some of the best estate planning strategies involve giving a partial interest in your assets to your heirs now, while retaining effective control over the assets. The idea is to get these partial interests out of your estate at today’s value, rather than later when they will presumably be worth more.

And if you can get these interests out of your estate in a period when asset prices are temporarily depressed, the savings can be even greater.

So now might be a good time to pass on to your heirs an interest in a family business, real estate investments, a vacation home, or other assets.

Some of the techniques that might be worth considering are a family limited partnership, a retained-interest trust, and a qualified personal residence trust.

Here’s a second chance if you elected early Social Security benefits

Did you elect to take Social Security benefits before your full retirement age? If you did and are now looking for extra income, there may be an answer. Once you reach full retirement age, you can pay back the money you have received and reapply for full retirement benefits.

Although you can collect Social Security benefits between age 62 and your full retirement age, if you do, your benefits will be lower. For example, if you were born in 1944 and decided to retire at age 62, four years before your full retirement age of 66, your total benefit reduction is 25 percent. If your full benefit was to be \$1,000 a month, your reduced benefit is \$750.

A little-known provision of the Social Security laws allows you to withdraw your application for early benefits and reapply for your full benefits. The catch is that you must be able to pay back all the money you received so far. However, because you don’t have to pay any interest on the benefits you received, if you can find the money to repay the benefits, it may be worth it. You could think of it as an interest-free loan.



Thousands die each year from hospital and nursing home infections

More than 2 million people each year develop serious infections while they're in the hospital being treated for something else. And about 90,000 of them die as a result.

In addition, another 1.4 million people each year develop infections while in nursing homes and other long-term care facilities.

Recently, there has been a sharp uptick in cases of MRSA, one of the deadliest such infections.

MRSA stands for "Methicillin-Resistant Staphylococcus Aureus." It's basically a staph infection that doesn't respond to treatment with common antibiotics.

Typical symptoms of MRSA are a high fever accompanied by skin wounds, such as boils, abscesses, lesions and blisters.

A growing number of lawsuits are being brought against hospitals and nursing facilities over the infections.

While not all of these lawsuits are successful, some have resulted in large verdicts, including a case where a Massachusetts woman died of an infection she contracted during cancer treatment, and a case where a Missouri man lost a kidney and had his leg amputated as a result of a MRSA infection he contracted when doctors inserted a pacemaker.

Of course, not all MRSA infections are due to hospital negligence. Many people enter the hospital already carrying staph bacteria. The bacteria don't affect them when they are healthy, but they gain a foothold when the person's immune system is compromised – usually by whatever condition brought them to the hospital in the first place.

However, MRSA can also be spread as a result of unsanitary conditions, so if a hospital or nursing home fails to take reasonable precautions against the spread of the bacteria, it could be held responsible in court. (Many successful lawsuits have been brought against prisons because of MRSA, because prisons tend to be much less sanitary than hospitals.)

The threat of lawsuits has caused many hospitals and nursing homes to enact stricter measures to protect patients against harm.

Other lawsuits have been brought against doctors and hospitals for failing to properly diagnose MRSA.

If you're going to be in the hospital, one of the best ways to prevent infections is to ask any visitors to thoroughly wash their hands before entering your room. If you're going to have surgery, consider asking your surgeon to test you for MRSA at least a week before you're admitted to the hospital.



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Divorced? Divorcing?

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divorce, and your spouse files bankruptcy after the divorce, in some cases the creditor might be able to come after you, and you won't be able to force your spouse to pay.

However, filing a joint bankruptcy before the divorce isn't always the best option. For instance, if you want to eliminate your debt rather than just reduce it and pay it off over a longer period, you'll want to file a Chapter 7 bankruptcy instead of a Chapter 13 bankruptcy. But whether you can file a Chapter 7 bankruptcy depends on a complicated formula based on your income. So you'll want to see whether the formula works better with your current joint income or your single, post-divorce income.

Also, your exemptions (the assets you can keep after the bankruptcy) may be different depending on whether you file singly or jointly, so you'll want to consider that as well.

New law makes it easier to sue for wage discrimination

A new federal law signed by President Obama will make it easier to sue an employer for wage discrimination.

The Lilly Ledbetter Fair Pay Act is named after Lilly Ledbetter, who worked as a plant manager for Goodyear Tire but realized only after some years had passed that she was getting paid less than her male counterparts. When she sued for wage discrimination, the U.S. Supreme Court threw the case out, saying she had filed it too late – after the 180-day limit that began when the pay decision was first made.

The law overturns the Supreme Court decision. Now, employees alleging pay discrimination will be able to file a claim within 180 days of the issuance of *any* discriminatory paycheck ... as opposed to 180 days from the first paycheck.

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Binding mediation: a new alternative to going to court

“Binding mediation” – a hybrid of mediation and arbitration – is catching on as an alternative to a full-blown court trial.

In arbitration, a private arbitrator acts as a judge and issues a binding decision. In mediation, a mediator or “go-between” tries to resolve the dispute by working with both sides, but can’t force an outcome.

Binding mediation is a combination of the two: A mediator brings the parties together and tries to negotiate a compromise, but if that doesn’t work, the mediator can issue a binding decision.

In some cases, binding mediation can achieve many of the benefits of both mediation and arbitration. Like mediation, it is relatively quick and

inexpensive and may help preserve existing relationships between the parties. But it also provides the finality offered by arbitration.

A big advantage of binding mediation is that it tends to promote more good faith, reasonable bargaining than might otherwise be the case. In a traditional mediation, either side can end the mediation at any time without fear of adverse consequences from “tough” negotiating. But in a binding mediation, both sides will want to be on “good behavior” when they negotiate because they know that their credibility and reasonableness will be taken into account by the mediator if he or she ends up having to make a binding decision.



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