

Top Ten Legal Issues (and strategies) for Tough Economic Times



Bailouts, Bank Failures, Layoffs, Mortgage Crisis, HELP!!!

Virtually every American has been affected in some way by the recent economic events. If you are caught up on the chaos, it is unfamiliar, scary and depressing. But, there are strategies you can employ to help mitigate the problems. This short talk is designed to give you a few ideas that may give you a bit more control than you think you have. Please understand that these ideas are not specific legal advice but simply ideas for you to explore with your own professionals.

10. Collection Actions



NEVER let a case go by default, always show up and negotiate.

NEGOTIATE - Figure out what you can actually do -- Strike a deal – get rid of attorney fees, costs, interest.

NO TRICKS BY CREDITORS - watch out for tricks like treble damages on ISF checks

WHO IS THE PROPER PARTY? - Watch for someone being joined in the suit who is not liable on the debt

9. Foreclosures



COVENANT OF GOOD FAITH AND FAIR DEALING - stay in constant communication with lender and keep a log of everything including full names, dates and summaries of conversations. The lender will have to deal with you in good faith.

NEGOTIATE! - Play “Let’s make a deal” – virtually every lender has some sort of work out department. These deals include giving the lender a deed in lieu of foreclosure and/or a short sale.

INVESTORS CAN BUY YOUR MORTGAGE - Can a relative or friend buy your mortgage at a discount from the lender?

STAY PUT - Typically you can stay in your house until a new deed issues. That can be as long as six months.

PAY ATTENTION - Participate in the foreclosure process. The lender should have to prove all elements of the case.

8. Bankruptcies



NEW BANKRUPTCY LAW - It is more difficult to file now – typically you must do credit counseling and one has to qualify in terms of household income and amount of debt to file. You should buy an hour of time to consult with a bankruptcy attorney to see how a bankruptcy would work in your circumstances.

WIPE OUT DEBTS - Chapter 7 – Sometimes hard to qualify to file. If you do you completely wipe out debts.

PAY BACK A PORTION OF DEBT - Chapter 13 – pay back a portion of debt over time

7. Transfer of Assets



WAIT - Before you transfer your assets to avoid judgments, etc. get some advice.

PROBLEMS WITH FILING BANKRUPTCY - There are problems with transfers made to relatives if you file bankruptcy.

CLAIMS OF FRAUD - There are laws against fraudulent conveyances – if you are transferring assets to delay, hinder or defraud creditors.

6. Family Law



DIVORCE DOESN'T SOLVE DEBT PROBLEMS - No matter how the divorce process works out, typically both spouses are still responsible for paying all of the debts.

DIVORCE CREATES MORE DEBT - Divorce is expensive. Divorce creates two households with the same amount of income.
AVOID IT IF THERE IS ANY REASONABLE WAY TO DO THAT.

IF NECESSARY, NEGOTIATE, NEGOTIATE, NEGOTIATE - If divorce is unavoidable, then mediate and get a realistic deal done without extended litigation.

5. Evictions



KNOW THE RULES - If you are served with a 3 day notice to pay rent or vacate, you **MUST** pay within the three days or you will be evicted.

READ YOUR LEASE - There may be some leeway in your lease – such as a grace period within which to pay the rent.

IF AN EVICTION CASE IS STARTED - always show up at hearing and when the Judge calls your case, ask the Court if you can negotiate – typically there will be a Court mediator present to help you negotiate.

NEGOTIATE - If there is no way out, suggest to the landlord that you will agree to voluntarily move out by a certain date and that if you do not move out, then the landlord can proceed with a default against you.

4. Employment Law



LOOK AT THE DOCUMENTS - Do you have a contract? Does your company have a handbook? Review it and make sure that the company is proceeding in accordance with its agreements.

MAKE SURE YOU GET FULL SALARY - If you are let go, make sure you get paid for unused vacation days, sick days, etc.

BENEFIT ISSUES - Make sure you understand what happens with your medical insurance (COBRA), life insurance, retirement benefits, etc.

UNEMPLOYMENT - Always file for unemployment benefits.

3. Estate Disputes



MORE DISPUTES - There has been an upsurge in estate disputes particularly in second family situations. These disputes are very expensive and time consuming. Make sure your loved ones have current estate plans.

YOUR PLAN - Be sure your estate plan is up to date

2. Insurance



DON'T GO BARE - If you cannot afford your current insurance package, revise it, don't throw it out.

NEW CAR INSURANCE LAW - You need to review the limits on your car insurance policy. You may be paying for more coverage than you need.

TERM LIFE INSURANCE - If you have expensive life insurance premiums, look into substituting term life insurance. It is very cheap now.

CATASTROPHIC HEALTH INSURANCE - If health insurance is not affordable look into obtaining catastrophic health insurance. Also, every health care provider will negotiate the amount of the outstanding balance.

1. Fear



ACT - Typically unexpected crisis and turmoil creates havoc which creates fear and dread. Typically, the next step is to do anything to avoid those feelings – which means hiding or burying the problem and hoping it will go away. Nine out of ten times, avoidance makes the situation worse so **DON'T TAKE THAT APPROACH NO MATTER HOW TEMPTING THAT SEEMS!!!!!!!!!!!!!!!!!!!!!!!!!!!!**

TALK - Communicate with your boss, lender, mortgage company, creditor, and spouse. Most of the time if you communicate and try to work out a fair deal you will get the benefit of the doubt from your creditors.

BE SMART AND PAY ATTENTION - **You** have to initiate the contacts. **You** have to follow up. **You** have to keep a log of the contacts and who you speak to and what was said. **You** have to document your contacts with written letters and keep copies of everything. **You** need to send letters by certified mail or by Federal Express with a requirement for a signature.

