

LEGAL FORUM

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BANKRUPTCY BASICS

Bankruptcy Basics - Alternatives



Howard S. Rabb, Esq.

Q: Once I decide to file for bankruptcy, what information will I need to provide?

A: Before you file your bankruptcy petition, you'll need to provide a broad range of financial information. For starters, you'll need to complete a list of the names, addresses and account numbers of all your creditors. You'll need your tax returns; you should know the value of your real estate and the amount of your mortgage(s). You should also prepare a catalogue of personal property of including, but not limited to, bank accounts, household goods & furnishings, furs, jewelry, automobiles, pensions, IRAs, stocks, and the cash value of any insurance policies. You should be prepared to provide the names and addresses of all sources of income for the six months prior to the date you file the bankruptcy petition. You should start saving copies of your bills because you will need the last statement for each creditor. There are other documents, which your attorney will have to review. The bankruptcy trustee will ask you a variety of questions about past financial transactions. You will have to be prepared to answer each question. Remember, an attorney with many years of experience can take you through this process quicker, simpler, and with less distress than you would otherwise encounter by filing for bankruptcy on your own. If you have specific questions about bankruptcy, please consult with an attorney.

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We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.

PERSONAL INJURY

Following an unsuccessful medical procedure, or after the loss of a loved one, many people may wonder whether the doctor or hospital were negligent; however, a bad result does not always equate to negligence. Likewise, there are often accepted risks with any surgery or medical procedure such as the risk of infection. Accepted risks of a procedure do not constitute negligence. Medical negligence, or medical malpractice claims can be difficult to evaluate and often require an extensive inquiry of all facts surrounding the alleged injury. Dworken & Bernstein, Co. L.P.A. offers a free consultation to help people understand this complex area of the law. The following are some of the more frequently asked questions:



Jo A. Tatarko, Esq.

Q: I was in a car accident on the way to work. Do I have a workers' compensation claim for my injuries?

A: It depends. Generally, you must be injured in the course and scope of your employment in order to be eligible to file a workers' compensation claim. If an employee is injured while he is not on the work premises, the question is whether he was injured in the course of his employment. These types of inquiries are very fact specific, and, therefore, it is difficult to make broad assertions in this area of law. Nonetheless, there are a few general principles that I can point out. First, an employee who is considered "fixed situs," generally, will not have a workers' compensation claim unless he is on the work premises when injured. A "fixed situs" employee is generally an employee who performs his job functions at one location. For example, a telemarketer who works at one office and makes all of his phone calls from that location is considered a "fixed situs" employee. It is important to note, however, that there are numerous exceptions to this broad rule. Some of the exceptions involve whether the employee was injured while running an errand and, if so, for what purpose was he running the errand. Second, a "non-fixed situs" employee, generally, can participate in workers' compensation for an injury, which occurred off premises. An example of a "non-fixed situs" employee is a home health care nurse who travels to patients' homes to care for them. Such an employee would likely have a workers' compensation claim if he or she was injured while en route to a patient's house. As you can see, this area of the law is very complicated and very fact specific. Questions about specific situations should be directed to an attorney who practices in this area of law.

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DOMESTIC RELATIONS



R. Russell Kubyn

Q: I live with my boyfriend, and we have a child together. When we fight, he threatens to change all the locks, not let me into my home, or keep my child away from me. Can he legally do this?

A: Generally, if you and your boyfriend are on a lease together, or own a home together, your boyfriend cannot legally restrict you from entering the premise, or change the locks on you. If you are not on a lease or mortgage together, these threats may pose a problem. You can litigate your issues in court regarding your possessions that

he may be keeping from you, but it may cause an inconvenience in your life. In regard to your child, if there are threats such as these made during arguments, you may want to establish paternity seeing that you are not married. At this point, if the arguments do lead to a break up, you have proof that you and he are the biological parents, and you can begin the process of court procedures regarding child support, residential placement of the child, and visitation for the non-residential parent. If you have further questions regarding your situation, please contact my office and we will be more than happy to assist you.

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INSURANCE LAW



Jeff Black

Q: I was recently sued by another person for a car accident I caused. The other driver alleged that I was intoxicated and asked for compensatory and punitive damages. I was not intoxicated, but when I turned the claim into my insurance company they told me I was not covered for the accident and they would not defend me. Is this correct?

A: The short answer is no, this is not correct. A personal auto policy, under the Liability Coverage part, states: Insuring Agreement. We will pay damages for bodily injury or property damage for which any insured becomes legally responsible because of an auto accident... In addition ...we will pay all defense costs we incur. Many of the above terms are defined within the insurance policy and have legal meanings. When this language is applied to your case, it means the insurance company should at least defend you. This means they will hire an attorney to fight the case in court. They will pay for the attorney and all associated expenses and court costs. If it is determined in court that you are legally responsible for the other parties injuries and that the collision was an accident then the insurance company will pay the other party an amount awarded by a judge or jury. They will only pay up to your liability policy limits and only for compensatory damages. Compensatory damages are comprised of pain and suffering, medical bills and lost wages. Insurance companies are not obligated to pay for punitive damages. These damages are different from compensatory damages. Punitive damages are money damages given to injured persons over and above compensatory damages. They are awarded when the defendant has committed an intentional or reckless act which caused the injuries. Insurance policies do not provide coverage for intentional acts. Drinking and driving will be considered reckless. I believe the problem in your case is that since the other party is asking for punitive damages your insurance company is taking the position that no coverage exists for you. In fact, the company should pay for your attorney and agree to pay for any compensatory damages which may be awarded while at the same time reserv-

ing their rights not to pay for an award of punitive damages. In order to compel the insurance company to provide the coverage to which you are entitled, you will need to file a complaint against the insurance company asking a judge to determine your rights under the insurance policy. If you are successful, the insurance company will have to pay your attorney fees for the suit against them and also pay for your attorney in the suit filed by the injured party. They will also have to pay the award, if any, for compensatory damages. They will not be responsible to pay any award for punitive damages. To discuss this and other insurance related questions in more detail, please call my office. I will be happy to provide a free half hour consultation.

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BUSINESS LAW



Francis P. Manning

Q: I have read your columns on debt collection issues but I have always called in an attorney as a last resort. Attorneys charge fees and when I am in a flat economy and barely able to pay bills, I do not need to incur more costs. My business is maintaining and so far we are dealing with our banks and other debts. But I am curious as to how you think that your firm would help us?

A: If you are currently able to maintain, then you may not need a business attorney right now. However, if your situation changes and you begin to feel pressure in anyway, we can help. A third party that is not connected to the bank, lender, or to your business can negotiate a more favorable deal for you. We can save financing costs, fees and can avoid court action. Manning & Manning specializes in debt negotiation and provides consultation, litigation, arbitration, and mediation services. Our goal is always to settle matters in the least restrictive setting before they escalate and become costly. Arbitration involves a third party, usually a lawyer or other professional, to act as the judge. Mediation is a structured meeting where people and companies try to resolve their differences. This can be a low-cost way to try to settle a case before substantial sums are spent on a lawsuit. No matter what the issues are, when we get involved early it can help the parties keep perspective so that a simple matter does not get blown out of proportion. We can prevent you from making concessions that would hurt your business. Good luck to you and let us know if we can help.

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Do You Have Questions Regarding Your

Legal Rights?

If so, The News-Herald has the Answers. Presenting ...LEGAL FORUM. This special feature gives you the opportunity to ask area attorneys questions about a variety of legal issues.

Write down your "Legal Forum" questions and send it to:

LEGAL FORUM

c/o The News-Herald, 7085 Mentor Avenue, Willoughby, Oh. 44094

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