

KREKELER LAW REPORT



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Merry Christmas
from all of us at
Krekeler Law!



The entire staff at Krekeler Law would like to wish everyone a safe Holiday Season filled with peace, love and joy. In honor of the Holidays, our office will be closed December 25 and January 1. We are open for you until 2 p.m. on Christmas Eve and New Year's Eve.

In This Issue:

- Football and Bankruptcy
- New Case on Claims in Bankruptcy
- False Advertising in Wisconsin
- Where's Krekeler?
- What You Don't Know Can Hurt You (Financially)

We may have a Christmas Present for You:

How to Get Your Share of Wells Fargo's \$81 Million

By Jennifer S. Limbach

Wells Fargo settled with the U.S. Department of Justice, resolving allegations that the lender violated federal bankruptcy laws when it failed to give homeowners proper notices regarding their mortgage payments. Wells Fargo will now have to pay \$81.6 Million to the affected homeowners.

Bankruptcy rules required Wells Fargo to provide borrowers timely notice of any adjustment to their monthly payment. It failed to do so in over 100,000 instances. Wells Fargo also admitted to failing to provide timely escrow analyses for almost 68,000 homeowners who filed bankruptcy.

As a result of Wells Fargo's violations, many homeowners overpaid on their mortgage loans.

If you have a mortgage loan with Wells Fargo, ask yourself the following questions:

- Were you in a Chapter 13 bankruptcy at any time between December 1, 2011 and March 31, 2015?
- Does your mortgage loan include an escrow account?
- Did your regular monthly payment to Wells Fargo increase or decrease during or after bankruptcy?

If you answered "yes" to any of these questions, call us. We may be able to help you recover a part of Wells Fargo's payout.

EVEN FOOTBALL PLAYERS FILE BANKRUPTCY

By: Jennifer S. Limbach



Most of us probably think that the only financial “problem” that an NFL football player could have is figuring out what to do with all that money. Besides what they earn from their time on the field, we see them raking it in from their celebrity-status side jobs.

A report released in April by the National Bureau of Economic Research reveals that 15.7% of all NFL players drafted from 1996 to 2003 filed for bankruptcy within twelve years after they retired. The players who filed bankruptcy were not strictly the players who had short (by NFL Standards) careers. According to the study, “bankruptcy rates are not affected by a player’s total earnings or career length.”

Many more of those players who do not end up filing bankruptcy still struggle financially. In 2009, Sports Illustrated pegged the rate of financial distress for retired NFL players at a staggering 78%.

The median NFL player has a 6-year career and earns more in that time than the typical college graduate earns in a lifetime. However, even NFL Hall of Fame players, including Lawrence Taylor, Johnny Unitas, and Warren Sapp, have filed bankruptcy. Among our own beloved Green Bay Packers, Andre Rison filed bankruptcy in 2007 and Mark Brunnell filed in 2010.

Why is this information important to you? The causes of football players’ financial difficulties are not unique to them. Divorce, lack of financial education, large family or friend support obligations, or a combination of these factors caused their financial distress. Knowing these common causes of financial distress can help you prepare for future problems and recognize when you need to seek financial relief. If you do need financial relief, call us to discuss how we can help you.

New Bankruptcy Decision on Filing Claims

Ryan Blay gave a presentation to the Western District Bankruptcy Bar. The group included both debtor and creditor attorneys, and our local bankruptcy judge.

Ryan’s topic was the recent Seventh Circuit Court of Appeals decision in the case of *In re Paijan*. The decision dealt with a creditor who failed to file a proof of claim in Mr. Paijan’s Chapter 13 bankruptcy before the deadline expired. The Seventh Circuit, which includes Wisconsin, ruled that the bank did not get to be paid in the Chapter 13 bankruptcy because it did not file its claim in time and Mr. Paijan did not file a claim for the bank.

The case has impact for debtors. Many debtors want and need a Chapter 13 bankruptcy to pay secured creditors. If creditors do not get paid through the plan, debtors will come out of bankruptcy still owing thousands of dollars to their secured lenders, and will not get the benefit of using the bankruptcy to reorganize or pay off debt. Fortunately, Krekeler Strother, S.C. already has systems in place to prevent these problems. Call us for more information.



I Bet You Didn’t Know:

December 15 is National Bill of Rights Day. Even before the Bill of Rights was ratified to add the first 10 Amendments to our Constitution, the founding fathers eliminated debtors’ prison and safeguarded the right to file bankruptcy by writing it into the First Article of our Constitution.



FALSE ADVERTISING IN WISCONSIN: ARE YOU GETTING WHAT YOU PAID FOR?

By: Jennifer S. Limbach

Consumers are quick to identify a deal gone wrong. We know it as soon as we get that gut feeling that we did not get what we paid for. Sometimes we begrudgingly admit that we are to blame for letting impulsiveness get the better of us when we made those late-night, amazon.com orders.

When making truly important deals, however, we are likely to do some research, ask around, question the sellers, or maybe even pick up a copy of *Consumer Reports*. Despite how much homework we consumers put into educating ourselves, sellers may still have the advantages. The sellers may be the only ones with access to information about the history, quality, design, or other inside details of their merchandise, real estate, securities, or services.

This is where knowing our state consumer laws can even the playing field. Wisconsin enacted a “false advertising” law, Wis. Stat. § 100.18, which requires sellers with the knowledge and information about their products and services to be truthful when selling to the public. This law prohibits sellers from using “untrue, deceptive, or misleading” written or oral statements to sell their products.

Sellers who violate Wisconsin’s false advertising laws can be ordered to reimburse consumers for the losses caused by the sellers’ misleading statements. Sellers can also be ordered to repay the buyer’s cost of bringing the case to court.

Figuring out what exactly is “untrue, deceptive, or misleading” can be a challenge, especially considering that sellers are allowed to state *opinions* without penalty (for example, “this product is the best!”). However, if you do find yourself feeling that gut instinct which says that you did not get what you paid for, it may be time to turn to Wisconsin’s false advertising laws for help.

Where’s Krekeler?

Ryan Blay gave a presentation to the Western District Bankruptcy Bar. See the article on Page 2 to learn more about Ryan’s presentation.

Kristin Sederholm and David Krekeler taught a full-day course on Chapter 7 and Chapter 13 bankruptcy to train attorneys who take on pro bono cases for the Volunteer Lawyer’s Project (VLP). VLP is run by Legal Action of Wisconsin (LAW), is dedicated to providing legal services for low-income Wisconsin residents. Kristin and David have been donating their time to help train LAW volunteers for the past eleven years.

David Krekeler again presented at the 2015 statewide Annual Bankruptcy Update this November. The Update is the premier educational conference for WI lawyers. It brings together bankruptcy attorneys from around the state to learn about the latest decisions and developments affecting bankruptcy law and practice. This year, David taught the attendees about Chapter 11, a form of reorganization which enables businesses and individuals to restructure their debts,

Krekeler Strother Named a 2015 “Best Law Firm”



We were honored to have once again been selected for inclusion in the 2015 edition of “Best Law Firms” by U.S. News and “Best Lawyers.”

Our firm received this national recognition for our work in Bankruptcy and Creditor Debtor rights. We would like to thank all of our clients and referral sources for allowing us the opportunity to help you. Your trust in us made this honor possible.

WHAT YOU DON'T KNOW CAN HURT YOU

(financially)

By: Jennifer S. Limbach

When debts become too large to handle, it can be all too tempting to stop looking at the entire situation and just focus one thing. Invariably, that one thing is whatever will make pain go away. Debt collectors know this. Many of them count on this mentality and use it to make sure that they are the “thing” that is causing the pain- and being taken care of.

On September 9, the U.S. Consumer Financial Protection Bureau (CFPB) took action against the country's two largest debt buyers for their illegal debt collection practices. Many of these practices relied upon consumers' inability or unwillingness to challenge the debt collectors' authority and information.

If you find yourself confronted by intimidating debt collectors or seemingly insurmountable debt, there are a few things that you can do to protect yourself.

- **Know your terms.** Always keep your loan or credit agreements.
- **Monitor your payments.** Payments can be missed or omitted, especially when debts are sold.
- **Ask for information.** If you have questions about your account or do not recognize the company contacting you, ask for a copy of your contract, account history and proof of its right to collect this loan.
- **Follow up.** If you do ask for information or contact a debt collector with a question or dispute, do not let the debt collector get away with ignoring your questions. Demand an answer to your questions.
- **Learn your rights.** If a debt collector is taking legal action or threatening to take legal action against you, do not let them tell you what your rights and responsibilities are. Educate yourself to protect yourself from unfair and illegal debt collection.
- **Seek help.** In Wisconsin, debt collectors have up to six years from your last payment to take legal action to collect the debt. They also have to abide by certain federal laws in cases of identity theft. If you do not recognize or cannot remember the debt, seek further information and legal help.

If you still find yourself overwhelmed by debts and debt collectors, speak to a debtors' rights attorney. Krekeler Strother is an official debt relief agency and we are happy to help.



Have a question? Idea for a future article?



If you ask for it – we will write it!

Contact Deanna at

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Krekeler Strother is an official Debt Relief Agency that helps people file bankruptcy and solve financial problems.