
KREKELER LAW REPORT

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TIMESHARES: HOW CAN WE DISPOSE OF OUR TIMESHARE?

Timeshares have value and can be useful to some people, but for others the timeshares are simply money pits. They are like the stationary bikes we promise to use to get into shape, but later just sit in the basement collecting dust.

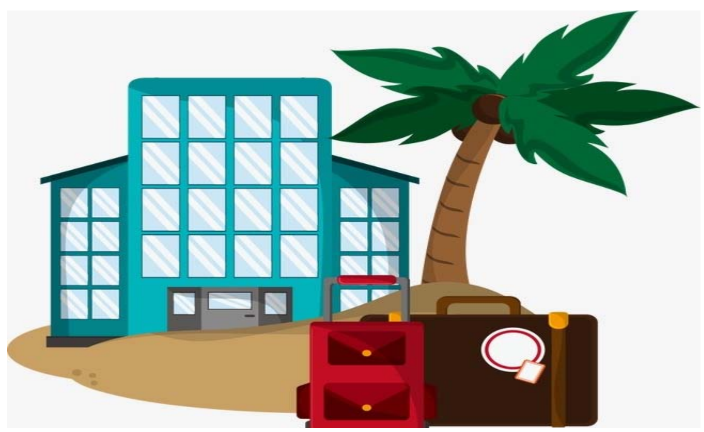
Timeshares are based on contracts. Contracts can be cancelled, and can be voided (and debts wiped away) through bankruptcy. But not everyone wants to or needs to file a bankruptcy to avoid timeshare fees.

Timeshare liabilities can be challenged under Wisconsin Statutes §100.18 (fraudulent representations made during a sales process), the Wisconsin Consumer Act (Chapters 421-427) or Chapter 707 of our state statutes, addressing Timeshare Ownership.

If none of these statutes apply, companies that issue timeshares generally do not want to accept the contracts back. But some might, especially if faced with a choice of accepting the contract back immediately or litigating the issues, or even having the contract voided in a bankruptcy.

Third parties might want to accept the contract. For instance, if your local charity would accept the timeshare and agree to pay the maintenance fees, you no longer have to budget in the timeshare fees and face notices from the timeshare company. You also may, depending on the language of the contract, be able to sell your timeshare. Perhaps someone would want to purchase the contract at a discount and simply pay maintenance. Generally, however, timeshare resales are at prices far below the amount paid originally.

As a lesson, it's important to read contracts carefully before signing. If you have questions about a contract you've signed, please feel free to contact us to discuss your options.



JUDGMENT INTEREST RATE INCREASES

The interest rate upon Wisconsin judgment debts increased effective July 1 to 6.0% per annum. This is calculated as simple interest and does not compound.

Through December 1, 2011 judgment interest rates were 12%, then starting December 2, 2011, judgment interest rates were set at prime + 1%. These rates are reviewed every six months and the judgment rates are adjusted accordingly on January 1 and July 1 of each year. The current judgment rate is 6%.

A judgment's interest rate remains fixed as of the date it is entered and does not change with the six month judgment interest rate adjustments.

CLIENT QUESTION OF THE MONTH

"Do I have to pay back all of my creditors in a Chapter 13 case?"

Probably not. In fact, in some Chapter 13 cases, no unsecured creditors are paid at all.

Chapter 13 is commonly used, among other purposes, to keep collateral such as homes or vehicles. Interest rates can often be reduced, and sometimes even the principal amount owed can be reduced.

Only debtors with principally consumer debt who also have a household income exceeding the median for a household of that size are required to pay a certain amount into a Chapter 13 plan. The amount is determined by mathematical calculations (at least initially), known as the "means test". The means test figures can be adjusted for known changes in income or expenses, and sometimes for very special circumstances.

We can usually quickly estimate what a person's Chapter 13 plan payment would be. That helps our clients make informed decisions about their finances.

ANSWERS TO JUNE READER QUIZ:

MYTHS AND FACTS ABOUT BANKRUPTCY

In last month's Issue, we published a list of myths about bankruptcy and asked our readers to submit their guesses. The winner of a gift card, as determined by our drawing, is Melinda Offerdahl. Congratulations!

As promised, here are the answers to the questions posed. Thanks for reading, and keep educating yourself!

1. You can only file a Chapter 7 bankruptcy at almost any time, but you can discharge debts only once every **8** years. **This is measured from the time of filing to time of filing.**

2. You must be insolvent by at least $**0** to file bankruptcy. **There is no insolvency requirement to file a bankruptcy. People who are solvent may still want to file for various reasons.**

   For instance, Miami Dolphins punter Reggie Roby filed for bankruptcy in 1993. One of the outcomes of his bankruptcy filing was the ability to reject his contract with the Dolphins.

   In another famous case, the legendary late musician Tom Petty filed for bankruptcy in 1979. His contract with Shelter Records was, in his view, unfair, and his record company was sold to a large media company. Petty received a clear benefit from the bankruptcy, as the new record company owners released Petty from his contract and signed Petty to a new, more favorable contract.

3. Bankruptcy stays on your credit for **7-10 years, depending on the chapter of bankruptcy**. **The effect on your credit, however, is likely felt for a much shorter time.**

4. If you file bankruptcy, you get to keep your **exempt assets**. **Over 90% of bankruptcy filers retain all of their assets through bankruptcy.**

These are all general rules, and exceptions may apply.

UPDATE ON WELLS FARGO WOES

In 2016, Wells Fargo & Co. employees opened as many as two million credit card and bank accounts without authorization. This resulted in the largest fine in the firm's history, $185 million dollars, from the Consumer Financial Protection Bureau.

The 3rd largest bank in our country created fake email accounts and customers learned about them after they received fee notices. Over a five year period, Wells Fargo fired 5,300 employees for engaging in improper sales practices. Then-CEO John Stumpf was forced to step down.

Summer 2017: Wells Fargo Home Mortgage was accused of making unauthorized changes to home loans taken out by customers then in bankruptcy. Monthly payments were decreased but the term of the loan was extended, and these terms were not clearly communicated to the customer. As of April 2018, the Consumer Financial Protection Bureau was meeting with the bank to determine fines.

March 2018: Wells Fargo was accused of closing fraud victims' accounts without investigation, which is a violation of US whistleblower laws. This claim is currently being investigated.

July 2018: Wells Fargo & Co. was sued by a Texas jewelry company, expected to be a class action lawsuit on behalf of 5,000 jewelry retailers. The lawsuit accuses Wells Fargo of encouraging nationwide retailers to charge hidden fees, through financing programs, to customers.

The fees are charged as sales tax, but sales tax should not occur on financial charges. Wells Fargo allegedly keeps the tax money for a personal profit. This action would violate the U.S. Truth in Lending Act. The Act states that finance charges must be clear to customers. This lawsuit is pending.

Wells Fargo is working to rebuild consumer trust by paying the fines, highlighting company changes like employee dismissals, and rolling out their "Re-established" marketing campaign.

Current CEO Tim Sloan says the company is "simplifying our business model, investing for the future, and strengthening our culture…while we have made solid progress, we recognize there is still work to be done."

As a consumer, it's hard to keep on top of changes. But if a purchase agreement feels "off" or you notice extra fees on your monthly statements that weren't there before, take note and speak to a professional. And let us know if you have purchased jewelry financed by Wells Fargo.

IN BANKRUPTCY NEWS…

Toys 'R' Us officially closed the last of its 735 stores on Friday, June 29. A retail staple since 1957, Toys 'R' Us filed for Chapter 11 Protection in September. Although it hoped to restructure, stores were worth more in a final sale than paring debts and continuing to operate.

Toys 'R' Us's downfall was a 2005 buyout that did not fare well against a recession and changes in a retail environment. According to Bloomberg Businessweek, the company paid $400 million in interest on the buyout amount for a decade, about half its operating profit.

The company released a statement on its website, encouraging customers "Don't Grow Up!" and "Play On!" alongside their Geoffrey the Giraffe mascot on its final day in business.

The Longaberger Company, offering handcrafted woven baskets and home goods since 1973, filed for Chapter 11 protection on Friday, June 29. On eBay, baskets are still fetching high prices.

Founder Dave Longaberger developed a model to sell the baskets through direct sales at shows. At its peak, The Longaberger Company boasted $525 million in sales revenue and employed 8,000. After Dave's death in 1999, the company was owned by Dave's daughter Tami Longaberger. The company was based in Dresden, Ohio after a 2017 foreclosure on its Frazeysburg, Ohio campus.

YOUR MARKETING: FOR A GOOD CAUSE

Dear Readers:

This year's State Bar of Wisconsin Solo & Small Firm Conference will bring several hundred attorneys, primarily solo attorneys and lawyers in small firms, to the Kalahari Resort in Wisconsin Dells from October 25-27, 2018. We want to have these attorneys raise money for a good cause, and you can help.

A silent auction will benefit the Volunteer Lawyers Project of Legal Action of Wisconsin (www.LegalAction.org). Legal Action is a non-profit organization that provides free legal services to low-income populations. It handles cases involving housing, family law, elder law, and bankruptcy. Volunteer lawyers help people like these:

- A battered woman is evicted from her home because of an abusive boyfriend.
- A man who wrongfully loses his driver's license and is unable to find stable income as a result.
- An elderly homeowner faces collection on home-improvement work never performed.

Here's where we need your help. The success of our auction depends on the items we can auction off. If your business or your employer has products, goods or services to donate, we will auction them off for this good cause. We will publicize your donation, both at the event and multiple times on the nearly 900-member listserv.

Your donations will help provide legal representation for people of modest means and will also be **tax deductible**.

On behalf of the Solo & Small Firm board, our State Bar and many volunteers, thank you for your consideration. Please feel free to call us at (608) 258-8555 with any questions.

Thanks!

WELCOME

Two new employees have joined the Krekeler Strother Team!

Colleen Wenos is our new Client Support Coordinator. Colleen will work as client liaison (performing follow-up communications with clients) and perform marketing projects for the firm. She'll also work with the website and social media. Colleen previously worked in magazine publishing and as a legal assistant for a solo practice energy lawyer.

Legal Secretary **Allison Wallner** will be aiding in our legal secretary department and assisting with specialized projects. Allison comes to us from the Sheboygan County area with a legal secretary certificate. Allison enjoys the practice of yoga along with exploring natural areas/state parks year-round throughout Wisconsin whether by foot or kayak.

Have a question? Idea for a future article?

If you ask for it – we will write it!

E-mail Wendy Page at wpage@ks-lawfirm.com

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