

KREKELER LAW REPORT



AUGUST 2018

VOL. 4 NO. 5

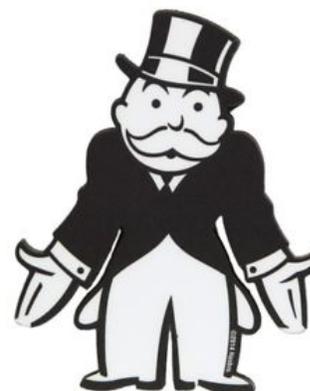
“IF I AM BROKE, HOW CAN I PAY ATTORNEY FEES FOR A BANKRUPTCY?”

My friends and colleagues who are not familiar with bankruptcy often ask me how I get paid if my clients are filing bankruptcy. It is a good question.

Sometimes clients have the money, but oftentimes they do not. They still need help, as for many, bankruptcy of one form or another is the only way to solve particular financial problems.

We truly want to help, and therefore we have developed various alternatives to simply having a client pay us a lot of cash up front. Here are some of these alternatives.

Improve the clients' cash flow and available monies by stopping payments to certain creditors. Example: John owes \$36,000 in credit card debt. He is doing his best to pay those obligations, at a cost of \$1,200 per month. Making those payments leaves him without enough money to take care of his family. The family is therefore delaying items such as dental care or foregoing activities for the kids. He certainly has no money for legal fees.



By stopping the payments to the credit cards, John can free up \$1,200 per month. It will be at least several months before any of these creditors could sue and obtain a judgment to collect anything. By then, John will have been able to get his kids in to the dentist and have all the money he needs to eliminate the credit card debt.

Delay payment of attorney fees until the end of the case. Debtors like John in the example above have pressing current needs. We want our clients to meet those needs for their families. If appropriate assurances can be made, we often will delay payment of our fees until the end of the case or until such time as the client will be able to make payment. We are more concerned with helping the client, and of course getting paid eventually, than we are with getting paid today.

Guarantors can help. We often encounter situations in which clients simply have no ability to pay and will not until some future date. Yet these clients need immediate help.

(continued on Page 2)

In This Issue

- “How Can I pay Attorney Fees if I’m Bankrupt?”
- State Bar Welcomes Donors for Silent Auction
- College Savings Account Time
- Brookstone and National Stores, Inc. Bankruptcy Filings
- Where’s Krekeler?
- John Driscoll Joins Our Team

STATE BAR SOLO AND SMALL FIRM CONFERENCE COMMITTEE WELCOMES RECENT DONORS FOR SILENT AUCTION

We've mentioned in our previous newsletters that we are gathering donated silent auction items for the State Bar of Wisconsin Solo & Small Firm Conference to be held October 25-27, 2018. One hundred percent of the proceeds from the silent auction will benefit the Volunteer Lawyers Project of Legal Action of Wisconsin.

Here are the exciting items we've collected so far:

- Green Bay Packers football, autographed by 2017 team
- Fall-themed food basket from The Oilerie, Sun Prairie
- Two tickets for Lake Geneva Boat Tours, 2019 Season
- One Night Stay at the Charmant Boutique Hotel, La Crosse, Wisconsin
- Art pieces by Steven Kozar, McFarland, Wisconsin
- One night stay at the Greenway House, Green Lake, Wisconsin
- Certificates for St. Croix Rods, Park Falls, Wisconsin
- One night stay at the White Gull Inn, Door County, Wisconsin (including packaged basket with cherry items)

If you have an item to donate, contact Colleen at (608) 310-3404 or cwenos@ks-lawfirm.com.



“IF I AM BROKE...”

(continued from Page 1)

We have often been willing to proceed, provided the client can obtain an appropriate guarantor of our fees. We do not expect the guarantor to pay. We expect the client to pay.

We are therefore willing to put in writing for the guarantor that he or she will not be called upon, provided the client stays current upon an agreed payment arrangement. We typically will let the client set the terms for that payment arrangement, provided they are reasonable.

Collateral. Sometimes lenders make loans based not on income, but upon the value of the collateral which the debtor has. We occasionally will do likewise. We have had situations where we will provide needed services now, provided we are granted a lien upon some asset which is agreed to be sold in the future.

These situations require care and full disclosure to the client. We will even advise the client to run the terms of the agreement by another lawyer for an independent opinion. We want to make sure our clients are treated fairly.

Sometimes creditors pay. Both state and federal laws regulate and restrict the actions which collectors may take when collecting consumer debts. Many times these laws are violated. Those violations in turn enable us to collect monies for our clients and to recover all of our fees from the unlawful collector.

Wisconsin's Consumer Act extends some of these protections to the actions of the creditors themselves. The result is the same. Unlawful activity is designed to be punished and that should not be at the expense of our client.

These are some of the ways that we can provide services to clients with limited income or means. People should not be denied help simply because they cannot pay right now.



If you have ideas on how our fees can be made even more flexible, please e-mail me. We are always looking for new ways to improve and deliver our services.

COLLEGE SAVINGS ACCOUNTS TIME

This month brings the return to school of students of all ages. It is probably a little late to begin thinking now about saving money for this school year, but it is never too late to start thinking about college savings accounts for the future. Our family used them with our children.

Besides helping fund your children's college educations, qualifying 529 college savings plans offer protection from creditors. Both the federal bankruptcy code and Wisconsin law provide protection for funds held in a college savings account.

Under federal bankruptcy law, the money in a college savings account may be entirely or partially excluded from the bankruptcy estate. This puts it beyond the ability of the bankruptcy trustee to seize.

To be excluded, the 529 plan must have been created and funded more than one year prior to the bankruptcy filing. If so, funds held in the account are entirely excluded from the bankruptcy estate so long as those funds were contributed more than 720 days (two years) prior to the bankruptcy filing. This exclusion also includes any earnings or interest on those funds.

Contributions made less than two years prior to the bankruptcy filing, but more than one year prior to that filing, are exempt only up to \$6,425. This amount varies from time to time for inflation. Feel free to call us for a current figure.

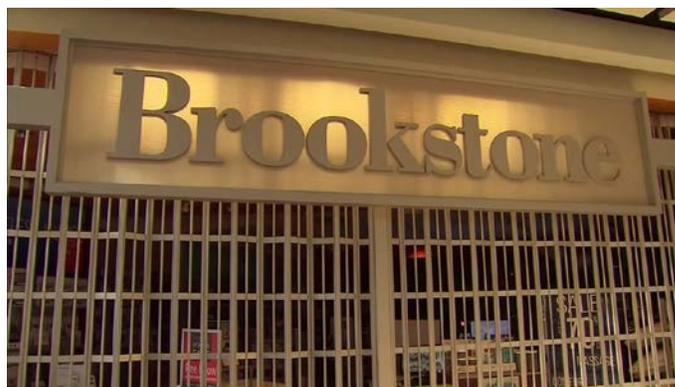
Contributions made to the college savings plan less than one year prior to the bankruptcy filing are not excluded. However, these funds would still be exempt from the claims of creditors under Wisconsin law. Under Wisconsin statutes, creditors cannot attach monies held in a college savings account.

A decision of the 7th circuit in 2015 held that the debtor/owner of the account, who set up the account and retains significant control, could claim the exemption. This was true even though the debtor/owner had the right to remove funds from the account.

For more information on college savings accounts, consult the Wisconsin Department of Financial Institutions website at <https://www.wdfi.org/> or see your financial planner. Or contact us.

Do you have a story about how college savings accounts have helped your family? Please share your stories and comments.

BROOKSTONE FILES FOR CHAPTER 11



Foot massagers and luxury pillows at the mall, no more? Brookstone, a luxury lifestyle items retailer in the United States and China, filed for Chapter 11 bankruptcy protection. The brand will close its 101 mall stores, choosing to focus on a buyer for its 35 airport locations and website. Brookstone currently has assets of \$50 to \$100 million and liabilities from \$100 million to \$500 million, reports *U.S. News & World Report*.

Pierre and Mary de Beaumont began Brookstone in 1965 out of their farmhouse after taking an accounting correspondence course. Brookstone's emphasis was making and selling hard to find and useful items and tools. It was a catalog company before opening its first store in 1973. Brookstone first filed for bankruptcy protection in 2014 and emerged from bankruptcy that same year. We will see how they do this time around.

NATIONAL STORES, INC. FILES FOR CHAPTER 11



National Stores, Inc., operating under the name Fallas Stores and Factory 2-U, filed for Chapter 11 bankruptcy. The company was founded in 1962 and plans to close 74 of its 344 stores, restructuring and focusing on key areas. National Stores has one Wisconsin location, in Milwaukee.

WHERE'S KREKELER ?

Every year the Krekeler brothers (there are five of us) take a trip together. This year we went to Lake Tahoe, on the California/Nevada border. We spent a week biking, kayaking, sailing, and hiking. The picture on the left is all five of us sailing.

This is bear country, and we had a bear at our house the very first day. The bear in the picture is only about 15 yards away from us. Don't worry... we were on a deck high above.



My wife and I also went with my son and daughter-in-law, Joe and Liz, to the Braham Minnesota Pie Day on August 3. More than 6,000 people crowd into the town (pop. 1,800) to sample (or devour) over 1,100 homemade pies. The small town charm and hospitality is terrific. While we were there we got to judge pies, quilts, and artwork.



JOHN DRISCOLL JOINS OUR TEAM

Attorney John Driscoll's practice focuses primarily on matters involving insolvency and bankruptcy in the Eastern and Western Districts of Wisconsin. He has over three years' experience as an attorney in the bankruptcy area. John received his undergraduate and law degrees from the University of Wisconsin. He is currently the program chair for Wisconsin's Western District Bankruptcy Bar Association and is active in the Wisconsin Young Lawyers Division.

John adds, "My wife and I have a cat, Ringo, and a dog, Roma, that we enjoy hanging out with and going on walks with (just Roma for the walks, Ringo's too lazy). Audrey and I love travelling, especially to big cities and just walking around the downtown areas. I'm a huge sports fan (Cubs, Bears and Bulls and all UP sports) and really enjoy golfing, playing basketball, and softball. I also love to play chess online, especially the blitz style where each side only gets 3 minutes. I've played over 16,000 games in the last 5 years or so."



Have a question? Idea for a future article?

If you ask for it – we will write it!

E-mail Colleen Wenos at cwenos@ks-lawfirm.com

KREKELER STROTHER, S.C.

We Help Quickly.

2901 W. Beltline Highway, Suite 301
Madison, WI 53713

Phone: 608/258-8555
Fax: 608/258-8299
www.ks-lawfirm.com

WE SOLVE FINANCIAL PROBLEMS.
This is an advertisement for legal services. We have been designated by Congress as a debt relief agency and can help people file for relief under the Bankruptcy Code.

WE HELP QUICKLY.

Copyright © 2016 KREKELER LAW, All rights reserved.