

# KREKELER LAW REPORT

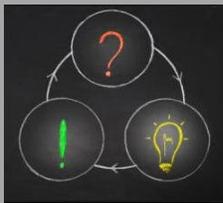


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## **POLITICS, DONALD TRUMP AND BANKRUPTCY**

I am a political junkie. I admit it. But even to me it seems far too early to begin the 2016 presidential campaign. Yet here it is, and with a flourish.

The nightly news features Donald Trump. The questions posed to the flamboyant businessman have brought up issues related to bankruptcy filings by several Trump companies. In Trump style, he responded boldly that "lenders were killers," and that he had never filed bankruptcy. He stated that he had simply taken advantage of the laws of our country.

Whether you like Donald Trump or not, and regardless of how you feel about his style, his basic answers were correct.

A bankruptcy filing by a corporation is not a bankruptcy filing by its shareholders. Our corporate and limited liability laws intentionally provide this protection for shareholders and

owners, to encourage risk taking and the ability to amass capital for investment. A shareholder's investment in the company may become worthless, but the shareholder will not normally have any personal liability.

A corporation or other business entity may attempt to reorganize its debts under Chapter 11. The company will propose a plan of reorganization and creditors will vote upon that plan. If the plan cannot be approved, the company may be liquidated, but this does not mean that the assets of the individual owners of the company will be liquidated.

Our founding fathers had a high regard for bankruptcy and appreciated the benefits it could provide our nation. They placed bankruptcy in Article I of our Constitution.

In doing so, our laws and approach differed from those in Europe. We sought to encourage risk taking to encourage people who fail in

## **STUDENT LOAN** **INCOME DRIVEN REPAYMENT PLANS**

For many students, the school year has just begun. For many others, student loan repayment grace periods will end before the year is out. It's never too soon to plan for your coming monthly obligations.

*(Trump Continued)*

a business venture to try again, and perhaps again. Some well-known examples of how our system has benefitted us might include Walt Disney, James Cash (J.C.) Penney, H.J. Heinz, and Henry Ford.

Corporate reorganizations, like those of Trump's companies, permit troubled businesses to negotiate a deal with creditors and survive, keeping employees employed. Chapter 7 bankruptcy allows individuals to discharge debts and get a fresh start. Here in America, debt does not hang on people forever. We do not force debtors into the underground economy.

Instead, our credit markets take the risk of bankruptcy into account. Interest rates and other loan terms reflect that risk.

What voters think of all this remains to be seen. I will at least give Trump credit for being accurate in his bankruptcy comments.

In 1994 the federal government authorized income-driven repayment (ICD) plans for federal student loans. Since then, these plans have been expanded to now include the following:

- *Standard Repayment Plan*
- *Graduated Repayment Plan*
- *Extended Repayment Plan*
- *Income Based Repayment Plan*
- *Pay As You Earn Repayment Plan*
- *Income Contingent Repayment Plan*
- *Income Sensitive Repayment Plan*

They are all roughly based on the borrower's discretionary income, which is described as the borrower's adjusted gross income less 150% of the poverty line for a family of the size as the borrower's.

These plans allow for payments of 10 to 20% of a borrower's discretionary income over a 20 to 25 year period. In contrast a standard repayment plan lasts no more than ten years. There are many differences and nuances between the plans and not every borrower qualifies. The interest accrued in an ICD plan will always be higher than the standard plan, but at the end of an ICD plan, the remaining balance will be forgiven. This may seem beneficial but when the lender forgives the balance, borrowers may be liable for taxes upon the amount of debt cancelled.

Decisions about how to pay student loans should not be made in a vacuum but should be the result of a comprehensive financial analysis. We encourage clients to consult with their team of advisors, including their accountant, attorney, financial planner and personal banker. These team members can discuss the options to help student loan borrowers make the best choices for loan repayment.

We will be doing a follow up series and picking one or two of the types of plans to focus on each month. And we will deal with private student loans. Stay tuned.

### **DID YOU KNOW**

The average student loan debt for a 4-year degree is now \$35,000.

71% of students will graduate with student loans.

20 years ago, less than 50% of college graduates had student loans. ([usnews.com](http://usnews.com))

# **PAY OFF YOUR CREDIT CARDS... INTEREST FREE**

Last week I met with a client about his loan with a 99% interest rate. The monthly payments barely covered the interest.

Many people could afford to pay their credit card debts or payday loans, in full, if only they were not incurring interest at exorbitant rates. An alternative method of dealing with unsecured debts may be Wisconsin's Chapter 128 Proceedings.

Under Chapter 128 the borrower can pay the debt over 36 months, without interest. The debtor can pick and choose which unsecured debts to pay. The creditor may still sue and obtain judgment but will be prohibited from any other collection activities, such as garnishment.

Payment is usually made by wage assignment, although payments can be made directly.

The legal fees are minor when compared to other legal debt actions, such as bankruptcy or lawsuit defense. The borrower will have to pay a trustee a 7% or 10% surcharge each month, depending on how the payments are being made. But the savings can be substantial.

Wisconsin is perhaps the only state with this sort of statutory debt relief. A few other states have similar statutes, but we have found none as comprehensive or beneficial to debtors as Wisconsin Law.

Chapter 128 has other strategic uses which can be of great benefit to borrowers. For example, although WE Energies in Southeast Wisconsin has been successful in avoiding the stay that is put in place, when you file a Chapter 128 plan, many creditors

honor the stay (some more willingly than others). These can include taxing authorities and utility companies as well as medical collections and payday loan companies. But the rules do vary, depending upon your county.

The chart below demonstrates the savings to be had by using a Chapter 128 filing to pay a \$10,800 credit card debt over 3 years.

Contact us to discuss how Chapter 128 can protect you from creditors without a bankruptcy filing.

	<b>Payment Made</b>	<b>Time to Pay off Card</b>	<b>Total Amount of Interest Paid</b>	<b>Total Amount Paid</b>
<b>Ch 128 (without interest)</b>	\$300	3 years	\$0	\$10,800
<b>12% Interest</b>	\$358.71	3 years	\$2214	\$12,914
<b>27% Interest</b>	\$440.91	3 years	\$2667	\$15,873

As you can see, a three-year Chapter 128 debt amortization plan costs significantly less than paying off the debt with even a 12% interest rate. The cost savings will free up a tight budget and add up to thousands over a few years.

## **DID YOU KNOW**

**That in 2014, the last full year on record, Wisconsin residents filed 1,542 Chapter 128 petitions? Ironically, that averages out to just over 128 per month!**

**(Source: Wisconsin Circuit Court Access)**

*None of the information in Krekeler Law Report is intended as legal advice for your particular situation. Questions should be addressed to attorneys admitted to practice law within your state. David Krekeler is a lawyer admitted to practice in Wisconsin, focusing on bankruptcy and debt relief.*

*He may be reached by email at [jdkrek@ks-lawfirm.com](mailto:jdkrek@ks-lawfirm.com), or by calling 608-258-8555. We are a debt relief agency.*



We are pleased to announce that Attorney Ryan Blay has joined our team

Ryan is relocating from Kenosha, where he has been practicing for the last six years. He graduated from law school over nine years ago. Since 2009 he has been practicing bankruptcy law and foreclosure defense. Ryan has given at least a dozen seminars or presentations on bankruptcy topics and has published articles with both the Milwaukee Bar Association and the American Bankruptcy Institute Journal. He has been named a Superlawyer Rising Star in Illinois for 2014, and in Wisconsin for both 2014 and 2015. He has also been certified as a consumer bankruptcy law specialist. Ryan maintains an active role in state bar activities. He is the president of the Young Lawyers Division and was elected last month to the BICR board.

Since his arrival, Ryan has already been asked to present a seminar to local bankruptcy attorneys for the Western District Bankruptcy Bar. His presentation on September 2<sup>nd</sup> focused on the intricacies of proofs of claims and the recent Seventh Circuit Court of Appeals Decision of *In re Paijan*. A summary of his talk will appear in the next issue, so stay tuned.

We welcome Ryan to our firm.

## WHERE'S KREKELER

<http://wssfc.org>

The Wisconsin Solo & Small Firm Conference is quickly approaching again. Every year Krekeler Strother has attended this event which draws about 300 lawyers from around the state. David and his assistant are on the planning committee with the State Bar, so this is a year round commitment. They arrange for topics and speakers for the Ethics Track of the Seminar. David has been an opening speaker for the Conference and is often asked to participate as a speaker in other sessions.

For the last 3 years, Krekeler Strother has also sponsored a Networking Happy Hour at the event. We coordinate with local vendors to provide refreshments and door prizes. It is a highlight of the conference. This year, we are working with Dane County's very own Parched Eagle Brewery. They opened only 4 months ago. Check out their story and Blog at: <http://www.parchedeaglebrewpub.com/>



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