

KREKELER LAW REPORT



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WHY RUNNING A LAW FIRM LIKE A BUSINESS IS GOOD FOR CLIENTS

Practicing law is a profession. I believe, though, that we can best serve our clients and fulfill our roles as professionals by running our practices like businesses. Successful businesses cater to their customers. Successful businesses are attentive and responsive. They provide their product or service to their customers in a manner that is both fast and easy to use. Think Amazon, or Uber.

We strive to do the same at our firm. We want to provide the services our clients need as perfectly as possible and as quickly and efficiently as we can. Our clients are best served in this manner, and it is just good business.

If you have an idea about how law firms can respond faster or be easier to deal with, we want to hear about it.



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Happy 4th of July from all of us at Krekeler Strother. We are proud of our nation and thank the men and women who created and founded our freedom.

JUDGMENT AND TAX INTEREST RATES DROP TO LOWEST LEVELS

Both the Wisconsin judgment interest rate and the IRS delinquent tax interest rate have dropped to their lowest levels in years. These rates adjust periodically, and both saw July 1 change dates.

The Wisconsin judgment interest rate is applicable to judgments in Wisconsin and is set at 1% over the prime interest rate in effect on July 1. The current rate is 4.25%, which is as low a rate as there has ever been since our change to adjustable interest rates in 2011.

Rate in effect July 1 - December 31, 2016	4.50%
Rate in effect January 1 – June 30, 2017	4.75%
Rate in effect July 1 - December 31, 2017	5.25%
Rate in effect January 1 – June 30, 2018	5.50%
Rate in effect July 1 - December 31, 2018	6.00%
Rate in effect January 1 – June 30, 2019	6.50%
Rate in effect July 1- December 31, 2019	6.50%
Rate in effect January 1- June 30, 2020	5.75%
Rate in effect July 1- December 31, 2020	4.25%

IRS delinquent tax interest rates adjust every quarter. For this quarter the rate is set at 3.0%.

This drop to 3% ties for the lowest rate in the last 29 years.

INTEREST RATES GIVE RISE TO STRATEGY OPTIONS

The lower interest rates described above will on occasion make it better to be sued and have a judgment entered than not. Normally, we would all think that being sued and having judgment entered is bad. But in some instances our clients fare better after a judgment than before.

A good example is payday loans. With interest rates often exceeding 500% per annum, we have long recommended that our clients stop paying these obligations. This forces the lender to sue. We do not defend the suit and allow judgment to be entered quickly.

This results in a new judgment interest rate of only 4.25%, currently.

This strategy should not be utilized without considering all the other consequences that may flow from entry of a judgment. But it does work well when facing high interest rate obligations. And those interest rates need not be over 500%. It works well with credit card delinquencies and even typical commercial delinquent rates of 12-18%.

Beware of unintended consequences and see your financial problem solver before adopting this technique.

FAIR CREDIT REPORTING ACT: KNOW YOUR RIGHTS!

Very few people know what the Fair Credit Reporting Act (FCRA) is or how it affects their rights. The FCRA is a federal law that dictates how information about YOU is recorded and shared with others. Information contained on a written report about you is governed by the FCRA. Some examples would be your credit report or a background check.

- A common FCRA claim would be a status dispute, where a debt you never had appears on your credit report or the debt was paid, and it shows as unpaid. Status disputes are common if you have ever had debt discharged in bankruptcy.
- There is also a “mixed files” claim, where the debt of someone with a similar name is accidentally put on your credit report.
- Another less known claim is the impermissible purpose claim, where someone runs a credit check or background report on you and uses that information wrongfully, causing you injury as a result.
- The most commonly known FCRA claim is for identity theft, where someone takes your personal information and uses it to acquire and use credit, leaving you with the bill.

It is important to monitor your credit report for inaccuracies. Annualcreditreport.com allows you to check your credit report from each of the “Big 3” credit reporting agencies for free once a week until April 2021. If you find something wrong, contact us today to discuss pursuing a claim at no cost to you.

HOW TO BUY A BUSINESS . . . WITHOUT GETTING SADDLED WITH ITS DEBTS

Businesses in financial trouble are not necessarily bad buys. Especially if they can be purchased without having to assume all of the debts. Purchase of the assets of a failing business can be one of the great benefits of bankruptcy. It enables our economy to retain the core of the business which is failing, thus employing people and providing opportunities for the new business to succeed.

There are at least two good methods for achieving these results. One is the bankruptcy mentioned above. The debtor company files a bankruptcy case and then moves the court to approve a sale to the purchaser. That sale is made “free and clear of liens, with liens to attach to the proceeds.”

If the sale is approved, the buyer now owns the assets purchased, but without any of the existing liens and without liability for the debts of the debtor company.

Another method for accomplishing this result is a receivership under Chapter 128 of the Wisconsin statutes. This is not a bankruptcy, but instead is a state court action, sometimes called an assignment for the benefit of creditors.

A receiver is appointed to take over the struggling business and operate it until it can be sold. Creditors are notified and permitted time to file claims so that they might share in the distribution of the sale proceeds.



The receiver will locate a buyer and complete the sale, with court approval. The court order assures the buyer that it is acquiring the assets without subjecting itself to the liabilities of the selling company.

Which method is better? It depends upon the circumstances. In many instances, the most important consideration in making that decision is whether or not the debtor company needs a bankruptcy. A corporation or LLC that is going out of business may not need a bankruptcy, other than to effect the sale. Such entities do not receive a discharge of debt.

The choice can also hinge upon whether or not the debtor company has significant secured debt. Secured creditors are not subject to the Chapter 128 receivership. This means that a sale of those assets which constitute the collateral of the secured creditor will require the approval and the consent of the secured creditor. When that consent cannot be obtained, a bankruptcy sale may be preferable.

In the last week, I have dealt with two companies considering these options. I expect we will see many more as the results of the pandemic become more clear.



SHOULD I PRACTICE BANKRUPTCY LAW

A number of attorneys have asked me if they should start practicing bankruptcy law now. They expect that there will be a surge of bankruptcy filings and it may be beneficial to make bankruptcy a part of their practices.

My advice is “yes, practice bankruptcy.” A bankruptcy practice is extremely rewarding. We are helping people solve financial problems. We are keeping businesses in business, farmers farming, and keeping people employed. The work we do is gratifying and of great benefit to our society.

WHERE'S KREKELER?



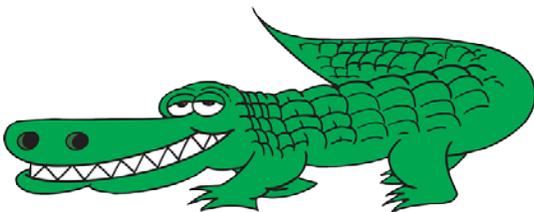
WHAT NOT TO DO ON NATIONAL DRIVE-THRU DAY

July 24 is observed annually as National Drive-Thru Day. The story is that a holiday was created by the Jack-in-the-Box restaurant chain. We do know that Jack-in-the-Box has celebrated this venerable holiday by giving out coupons for two free tacos with every drive-thru order.

We don't know how many people celebrate this holiday, or even how they celebrate it, but we do know what not to do. A man in West Palm Beach, Florida learned that lesson the hard way, when he was charged with aggravated assault and unlawful possession and transportation of an alligator.

He threw the 3½-4 feet long alligator through an open Wendy's drive-thru window. He recently pled to two misdemeanors. The police report included a picture of the reptile.

Please do not include alligator throwing as part of your celebration of this holiday.



Speaking Engagements

If you would like more information on any of these topics, David would love to discuss them over coffee and a bagel-his treat (or Zoom). Contact him at jdkrek@ks-lawfirm.com.

CENTRAL STATE BANKRUPTCY WORKSHOP



Attorney David Krekeler attended the American Bankruptcy Institute Central States Bankruptcy Seminar. This two-day presentation, this year conducted remotely, focused on the Small Business Reorganization Act (SBRA) of 2019 and featured a judge's round table discussion.

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If you ask for it – we will write it!

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