

Bankruptcy and Divorce Orders — Northwest Georgia Bankruptcy Attorney

Bankruptcy often follows divorce. I recently met with a bankruptcy client in my Rome GA office who went through a nasty divorce proceeding about two years ago. The judge in the divorce case ordered my client to sign his interest in a house with equity over to his now ex-wife. His ex-wife and his four children still live in this house.

After the divorce, my client had a tough time paying his child support and his living expenses. Hoping that his situation would improve, he incurred some credit card debt to make ends meet. Unfortunately for my client, things did not work out as he hoped. He lost his job and had to file bankruptcy.

His major concern was that if he filed bankruptcy, would a bankruptcy trustee try to take back the house away from his ex-wife? Would his property transfer be at risk as a result of the bankruptcy? As a general rule, the answer to this question is no. Georgia bankruptcy trustees do not try to overturn a divorce order unless there are extremely exceptional circumstances.

It is extremely important in every bankruptcy case to disclose all transfers of any type of property that has occurred within the last two years.

In the bankruptcy petition, statement of financial affairs question number 10 specifically requests the information. In this section, a bankruptcy debtor must disclose the date of the transfer, the recipient of the transfer, the relationship of the recipient to the debtor, the fair market value of the property in question, and the amount of any debt owed on the property at the time of transfer. I like to specify that the transfer was made pursuant to a divorce decree.

It is always a great idea to have your bankruptcy attorney review your order from the divorce court. If there any issues, you want to discover them before your bankruptcy case is filed.

Failure to completely answer all questions in the statement of financial affairs can land you in jail. At the very least, it will make the bankruptcy trustee suspicious of you and put your case under even more scrutiny.

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