

Public Bankruptcy Filings may Help Your Cause in a Divorce Battle

Zsa Zsa Gabor, a 1950's movie star known for her 8 marriages, once remarked, "I'm an excellent housekeeper. Every time I get a divorce, I keep the house." Most people, of course, do not find divorce much of a laughing matter, especially when it comes to financial issues.

If you are going through or have gone through a divorce, you know that the divorce process usually causes financial hardship to both husband and wife, and this is especially true if your divorce involves lengthy and expensive litigation.

Not surprisingly, one or both parties to a failed marriage often turn to bankruptcy after their divorce in an effort to recover from the financial burdens of divorce. Debts to a former spouse for alimony and support are not dischargeable in a bankruptcy but personal loans and credit card debts owed to third parties are dischargeable to the bankruptcy filer, although discharging these debts may run contrary to the divorce judge's order about who is to pay what.

However, questions about dischargeability of debts may not be the most important issue when you or your ex-spouse files for bankruptcy. Instead, the bankruptcy paperwork a debtor files can yield a great deal of information about that bankruptcy filer.

If your ex-spouse files a Chapter 7 or Chapter 13, his bankruptcy schedules will reveal a great deal of information about his income, expenses, assets and debts. Bankruptcy schedules are part of the public record and available to you and your lawyer for review. In theory, your ex' financial information should have already been revealed to you during the course of divorce discovery but in reality there may be some discrepancies that can require an explanation.

Remember that financial disclosures produced by a divorce lawyer are made in the context of an adversarial state court proceeding. Your ex-spouse's divorce lawyer will attempt to minimize his client's financial liabilities by arguing that his client's assets are limited and that his income and income potential are unstable.

By contrast, your ex-spouse's bankruptcy lawyer is not involved in an adversarial proceeding. The Bankruptcy Code requires extensive financial disclosures supported by documentation and the United States trustee and the Chapter 7 or Chapter 13 trustee will insist on full and complete disclosure. Often the bankruptcy attorney will be called upon to show that his client can afford to pay for a house, vehicle or other liabilities.

You and your attorney may find that financial disclosures made by your ex-spouse differ from those made in his bankruptcy. Recognizing and understanding these discrepancies can help you and your lawyer advocate for a more favorable outcome in a divorce or in a post-divorce modification. Should you be the one filing bankruptcy, those differences may exist in your case as well. If you will be filing bankruptcy make sure to provide your bankruptcy lawyer with copies of the financial disclosures made in your divorce case and encourage your bankruptcy lawyer to communicate with your divorce lawyer.

While Zsa Zsa was able to joke about the financial impact of divorce, you probably do not find much to laugh about during this most stressful time in your life. Divorce paperwork and bankruptcy paperwork read together can clarify what your ex-spouse may want to hide.