

**MINDING YOUR FINANCES**



ATTY. RAYMOND BULAON

## Is filing bankruptcy your last resort?

ing debts that you can no longer pay with the exception of certain types of debts such as student loans, taxes and child support. The process begins by filing a "petition for relief" with the bankruptcy court. Once the petition is filed, creditors are automatically prohibited from pursuing or continuing any legal action against the debtor or the debtor's property unless they get permission from the court. Thus, collection calls, lawsuits, wage garnishments, repossessions and foreclosure are stopped immediately.

In Chapter 7, secured debts such as mortgages, car loans, and debts for appliances, furniture and jewelry can be kept if your intention is to keep the collateral or security for the debt. If you are no longer interested in keeping the collateral (example: a car), you may surrender it to the creditor and owe nothing. The Chapter 7 trustee (the person appointed by the bankruptcy court to sell non-exempt assets) will examine the debtor by asking a few questions and no ap-

pearance before the judge is necessary. The examination is usually brief and uneventful. Creditors may show up at the examination but this is usually rare. Most Chapter 7 cases are no-asset cases and the debtor keeps everything including the family home, vehicles, bank accounts, retirement plans, etc. Thus, it is not as difficult or complicated as some people may think.

Chapter 13, on the other hand, allows you to pay back creditors, partially or fully, over a 3-5 year period under court supervision. For people who are behind in mortgage payments, filing for Chapter 13 is also a way to stop foreclosure because delinquent mortgage payments can be included in the repayment plan. The debtor's attorney puts together a Chapter 13 plan based on the debtor's income and expenses at the time of filing. The plan proposes a payment of a fixed amount based on the debtor's surplus income and the plan is subject to court approval. Creditors may object to confirmation of the Chap-

ter 13 plan based on certain grounds but once the Court approves the proposed plan, it becomes final and creditors must accept it, whether they like it or not. Thus, this could be a way for you to pay creditors on your terms instead of being forced to pay more than you can afford.

Which chapter is appropriate for your situation will depend on the facts of your case, the nature of your debts and your objective in filing. For this reason, do NOT hire an attorney who is not experienced in handling both Chapter 7 and Chapter 13 cases if you are unsure about which type of bankruptcy to file.

If you are struggling with debt problems and would like to know if bankruptcy is advisable for your situation, let us help you understand this process so that you can make an informed decision. For a free consultation, you can call my office at Toll-Free 1-866-477-7772. We have offices in Glendale, Cerritos and West Covina.

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None of the information herein is intended to give legal advice for any specific situation. Atty. Ray Bulaon has successfully helped more than 4,000 clients in finding solutions to their debt problems. To schedule a free attorney consultation, please call Ray Bulaon Law Offices at TOLL FREE 1-866-477-7772.

(Advertising Supplement)

## Awarding Child Custody in California

**BARRISTER'S CORNER**



ATTY. KENNETH URSUA REYES

ONE of the most emotional aspect of a marital dissolution case is dealing with Child custody issues. Sadly enough, this is an area where most parents play games with each other trying their best to deprive the other parents of their right to maintain relationship with their child. Child custody comes in two parts, 1) physical custody and 2) legal custody. Physical custody may be awarded solely to one parent or jointly. Sole physical custody means that the child will reside primarily and under the supervision of one parent subject to visitation from the other parent upon order of the court. Family Code §3007. Joint physical custody on the other hand means that the child gets to spend frequent and continuing contact with both parents. Family Code §3004. The court would state specifically the periods of time the child will be under the supervision of each parent.

Legal custody on the other hand deals with the right and responsibility of a parent to make decisions regarding the health, education, and welfare of the child. Family Code §3006. Examples would be decisions such as where the child shall attend school, whether the child can travel to another jurisdiction or state, legal decisions involving the child. In cases where joint legal custody is ordered by the court, either parent alone can make decisions concerning the health, education, and welfare of the child unless otherwise specified in the order.

In making its determination on child custody issues, the court considers various factors depending on the specific facts of the case. The court usually follows the public policy of ensuring and encouraging the child's

frequent and continuing contact with both parents after the divorce unless it would not be in the best interest of the child. Fam. Code §3011. If the court is inclined to order sole custody to one parent, the consideration boils down to which parent is more likely to allow the child frequent and continuing contact with the noncustodial parent. Family Code §3040(a)(1). A major factor that would tilt the courts decision are incidents or history of child abuse and domestic violence. This can be from the part of a parent, a parent's co-habitant, or other person to whom a parent has a relationship with. The child's amount and nature of contact with the parents is also another factor considered. Fam. Code §3011(c). Other factors that can be considered are the parent's use of controlled substance, prior criminal convictions and registration as a sex offender, and existence of restraining order against a parent.

The family code requires that the parties go to mediation and attempt to agree on the custody issue prior to the court hearing the contested case. Family Code §3170(a). If the case is not settled in mediation, it gets decided in court through a contested hearing. At times, the court will order a child custody evaluation if it determines that it would be in the best interest of the child. The court may also appoint a minor's counsel if it feels it would be in the best interest of the child. Family Code §3150(a). The court retains continuous jurisdiction over issues of child custody and support until the child reaches 18. This means the order may be modified all throughout this period if there has been a change in circumstances.

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Attorney Kenneth Ursua Reyes was President of the Philippine American Bar Association. He is a member of both the Family law section and Immigration law section of the Los Angeles County Bar Association. He has extensive CPA experience prior to law practice. Law Offices of Kenneth Reyes, P.C. is located at 3699 Wilshire Blvd., Suite 700, Los Angeles, CA, 90010. Tel. (213) 388-1611 or e-mail kureyeslaw@aol.com. Website kenreyeslaw.com

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MELODY AVECILLA

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*"If your employer offers extended coverage, the level of coverage you enjoyed while you were working may not be available to you"*

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