

The Newsletter



FAUCHER LAW
TAX & BANKRUPTCY

Delaying Can Complicate the Bankruptcy Process

Best to Consider Fiscal Options ASAP

INSIDE STORIES

- **Client Focus: 'Low-Cost' Bankruptcy Ends Up Costing Plenty**
- **Sebastian the Feline Paralegal: Call us!**
- **Faucher Family Farms: The chicks are growing!**
- **That's Ducky: An Exotic Recipe**

Covid-19 is devastating finances, causing many people to wonder about bankruptcy. Bankruptcy is stressful, so many people avoid considering it. Don't be one of them. **Most of my clients wish they'd discussed how bankruptcy applies to their financial situation sooner.** If you're

considering bankruptcy, speak with someone **now**. Here are the key questions to ask when hiring a bankruptcy lawyer:

1) Which Type of Bankruptcy Fits my Situation – Chapter 7, 11, or 13? There are three kinds of bankruptcies for getting rid of debt. Generally, Chapter 7 is for people with few assets and low income. Chapter 13 is for people with assets to protect (such as equity in a house) and higher income. Chapter 11 is for people who want to protect assets and have an ongoing business. A Chapter 7 wipes out most debt the day the bankruptcy is filed. In a Chapter 13, the debtor enters a five-year plan of monthly payments, approved by the Bankruptcy Trustee, to pay off debts. A Chapter 11 is too complicated to go into here. Bankruptcy law sets specific monetary thresholds to qualify for bankruptcy. However, there are “gray areas” where a debtor might qualify for more than one kind. **Your attorney should take the time to understand your current and future finances to explain whether a Chapter 7, 11, or 13 bankruptcy is better for your financial circumstances.**

2) What's the Lowest, Acceptable Value of My Assets? In a Chapter 7, everything you own and owe is legally transferred to a Bankruptcy Trustee, who then uses your assets to pay your debts. If there's not enough to pay your debts, bankruptcy legally erases them. Numbers and formulas drive virtually every part of a bankruptcy. In most cases, you keep approximately \$30,000 of your assets and cash (excluding the funds in a 401(k) account, all of which you can keep; with an

My star Feline Paralegal, Sebastian, has his paws in all aspects of tax and bankruptcy.

Follow his musings or (dare we say it?)
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IRA, you can keep up to \$1.3 million). Legal ownership of these assets is transferred back to you when the bankruptcy is completed. Valuing some assets is a no-brainer: a \$500 savings account is worth \$500. But what about that 14-year-old RV that no longer runs? Asset valuation is an art form in bankruptcy. Your attorney should claim the lowest, believable value for your assets because you want to keep as many of them as possible. If your house has \$500,000 left on the mortgage and your attorney thinks it will sell for \$525,000, then the Trustee is unlikely to sell it because Realtor fees would eliminate the \$25,000 in equity. But, if the Trustee thinks your house is worth \$600,000, then he may sell it and repay your creditors with the proceeds. **It's critical that your attorney know the “sweet spot” that minimizes the value of your assets without compelling the Trustee to challenge those valuations.**

3) Who Works on My Case?

Unfortunately, bankruptcy tends to attract “mills” – low-cost, high-volume firms filing lots of bankruptcies, sometimes with no lawyer involved. They maximize number of clients while minimizing time spent with each client. Hiring a firm where most or all of the work is done by paralegals, even well-trained feline paralegals, is risky. Non-attorneys often don't know all the debts that can be eliminated in bankruptcy (such as certain kinds of student debt), or the requirements for erasing some debt (taxes are particularly tricky).

Firms doing cheap bankruptcies often prepare sloppy petitions that end up causing headaches. Do research. Grill firms on who prepares the bankruptcy petition and attends the Meeting of Creditors. Make sure the attorney is in good standing with the state bar association. Ask how long they've practiced bankruptcy law and the most unusual assets they've encountered, to help determine how well they know obscure aspects of the laws. Check online reviews of anyone you're considering: avoid anyone with a reputation for being unresponsive. Most people understandably find bankruptcy stressful and sad. **Don't hire (and pay!) anyone to take you through a sensitive financial and emotional experience who isn't qualified, kind, and known for competently shepherding bankruptcies to conclusion. JDF***



* If you found this information helpful and would like to know more, please call (805-591-8139) or email (jdf@johndfaucher.com) to receive a free copy of my booklet *The Do's and Don'ts of Filing Chapter 7 Bankruptcy*. It's also downloadable at JohnDFaucher.com.

A ‘Low-Cost’ Bankruptcy Turned Costly



Patrick had a child with a girlfriend, but they broke up and he married another woman after a paternity suit started. He brought his child to the wedding. Problem was, he forged documents to get the child a passport and take her to his wedding in Mexico.

Family court didn't like this, putting him in jail briefly (Patrick freely states he did wrong). Litigation over the child's custody spun out of control. His family law attorneys were top-notch. Patrick didn't skimp when his child's welfare was at stake. But, as his legal costs mounted, he could no longer pay other bills.

Patrick found a bankruptcy attorney who would handle his case cheaply, for \$810; most chapter 7 cases are done on a flat-fee basis. Patrick met the attorney only once: to be sold and signed up. Thereafter, he met only with a paralegal and couldn't even get the attorney on the phone. At the crucial Meeting of Creditors, a substitute attorney showed up – someone with no knowledge of Patrick's case. Patrick's bankruptcy was full of errors and omissions: the paralegal failed to ask him about some classes of assets, so they weren't on the petition.

This may not have become a problem, except for a family law attorney on the other side: family court had assigned Patrick some of the costs his former girlfriend

incurred, so this attorney – Delia – was a creditor in his bankruptcy. Delia filed a lawsuit against Patrick in bankruptcy court, pouncing on the mistakes in the petition as evidence that Patrick should be denied a discharge of his debts.

Patrick was lucky in one way. The mistakes in his petition were of a kind that it wasn't too late to correct. I have seen other debtors like Patrick show up and find themselves answering questions from the bankruptcy trustee that their \$800 lawyer never asked. Then (surprise!) the trustee discovers assets that he can seize and sell.

A good attorney would ask about these assets up front, and either advise the client to postpone filing, which can sometimes be financially advantageous, or to file but be aware that the assets may be taken.

Patrick hired me to make corrections in his bankruptcy and defend against Delia. His \$800 lawyer didn't have time to help Patrick in a court battle: he works on volume.

Had Patrick hired me from the start, the petition wouldn't have had errors and Delia couldn't have challenged it. I take the time to interview my clients thoroughly about all their assets. Patrick speaks to my paralegal occasionally but only to schedule a meeting or to ask a quick clerical question. Expertise and attention matter. And that takes time, which costs money. But Patrick would have spent less if he had just hired me to begin with, rather than the “cheap” bankruptcy attorney.

FAUCHER FAMILY FARMS SNAPSHOTS



Is it fowl to update the progress of my chicks on a page directly opposite one with a duck recipe? (Insert groan here, with further apologies to all vegans and vegetarians.) My chicks are becoming young hens! That's Boots on the left (so named because of her feathered feet). The dark-colored hen on my left arm is an older gal, Bourbon. Her sisters Whiskey and Ginny aren't pictured, but to my left and right are Kahlua and Cream. No names yet for the younger hens but I may keep the cocktail theme going. I just moved the chicks from the box in my garage to a little coop inside the big coop outdoors. So far, the adult hens are ignoring the little gals. I hope no feathers fly when I eventually integrate the flocks and they work out a new pecking order.



WORTH A THOUGHT . . .

"Anybody who knows about capitalism knows that bankruptcy is an essential part of capitalism."

– Joseph Stiglitz, Economist & Nobel laureate



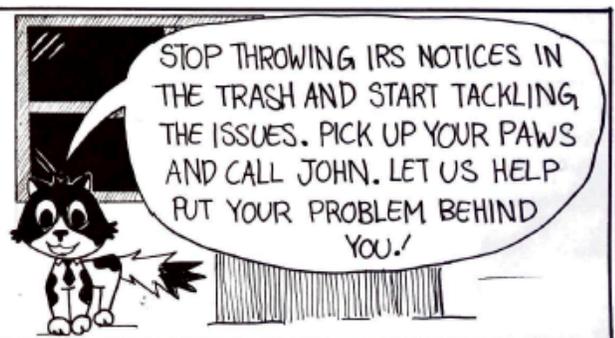
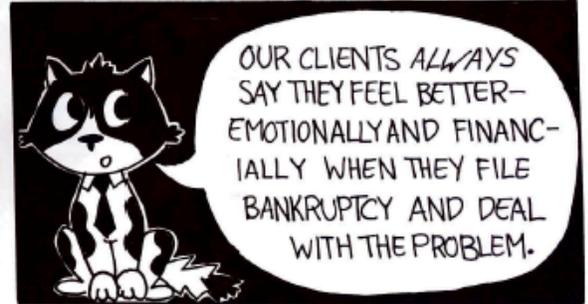
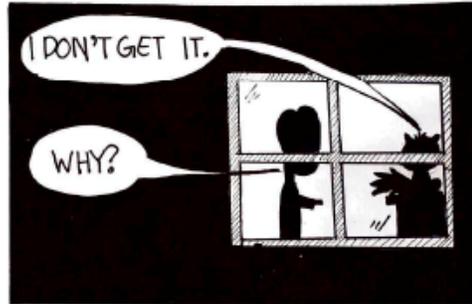
Sebastian

The Feline Paralegal

SOPHIE SCHNIETZ 3/20



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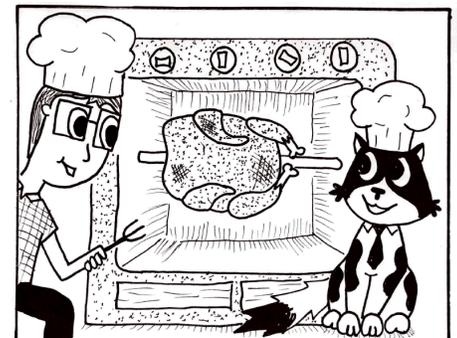


1 duck, 5-6 lbs., giblets removed	3 cloves minced garlic
1/3 cup soy sauce	1 scallion, trimmed & lightly crushed
3 TBS honey	4 TBS Asian sesame oil
1½-inch thick slice fresh ginger, lightly crushed	For Spice Powder: 1 whole star anise, 1 tsp white & black peppercorns; ½ tsp fennel seeds; 3 whole cloves; ½ cinnamon stick

Rotisserie Grilled Duck Turns Up the Heat

I adore duck. When I travel to France, there's rarely a day I go without. Karen and my girls don't like duck – except for this recipe. Grill-masters, step up your game and do something exotic!

- 1) Spice powder: toast spices in dry skillet over medium heat until fragrant, about 3-4 minutes. Cool, then pulverize spices in mortar with pestle, or grind in spice mill or coffee grinder. Add 1 tsp salt and mix.
- 2) Marinade: combine soy sauce, honey, 1.5 TBS sesame oil, spice powder and 2 cloves garlic.
- 3) Prep duck: rinse inside & out, blot dry. Place ginger, scallions, 1 clove garlic, and 2 TBS marinade in duck's main cavity. Place 1 TBS marinade in smaller neck cavity. Tie legs of duck together, and pin flaps of skin at neck and main cavity with toothpicks to close cavities. Place duck in baking dish and pour remaining marinade and spice powder over it. Gently prick duck all over with fork, and let duck marinate, covered in refrigerator, at least 8 hours and up to 24 hours. Turn several times, to distribute marinade/spice mixture.
- 4) Grilling: set up for rotisserie grilling and preheat to high. If using charcoal grill, put drip pan in center. Add (optional) smoking chips (1 cup) to smoker box or on coals (I like pecan). Skewer duck on spit and attach to rotisserie. Turn on motor and grill, basting every 10-15 minutes with additional sesame oil, until the skin is dark golden brown and meat tender, about 1 hour (at about 350 degrees, if your grill registers temperature) to 75 minutes. Meat thermometer should read about 180 degrees when inserted into thickest part of thigh, but not touching bone. **Makes 3-4 portions.**



WELCOME TO FAUCHER LAW

John D. Faucher worked for 10 years as an IRS trial attorney, and has been in private practice since 2008. He and his team speak the legal language. They know the **tax and bankruptcy** systems and can help you get the best results. Have other legal issues? Call us.

We'll find the lawyer who's right for you, your friends or family.

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Bankruptcy Options May Be A Consideration

Covid Adds to Financial Strain



As we enter this first and, I trust, last summer of the Covid-19 pandemic, I hope this issue of **The Newsletter** finds you and yours healthy and well. Recognizing that it's been a time of great economic stress and uncertainty, I explain in this issue the best steps to take if bankruptcy is an option that you or anyone you know may need to consider.

I also share the **cautionary tale** of a client who got caught up in a bankruptcy "mill." **Faucher Family Farms** is busy naming its growing flock of hens, and you'll find a recipe for a somewhat more **exotic dish**.

I still meet with clients in person, as needed, with required physical distances and masks, although **Sebastian, my Feline Paralegal**, refuses to wear one, as you can see.

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