

This is the twenty-eighth in my series of newsletters. Due to your great interest, I plan to continue this quarterly report for my clients.

## **AVOIDING JUDGMENTS AFTER A BANKRUPTCY DISCHARGE**

Many clients who have filed bankruptcies never do a title search and assume that since a creditor was listed in their schedule the debt is automatically discharged. The major exception is that a lien survives a bankruptcy. If you have a lien on your property, you can file a Lien Avoidance Motion in Bankruptcy Court but the standards may be stricter under 11 USC 522(f), than the State Statute N.J.S.A 2A16-4 9.1, which is more liberal.

In my own experience, clients have come to me ten years after a discharge to reopen their bankruptcy case and there are proof of problems with valuing your real estate after waiting so long. It is much easier to go to State Court. In addition, even though a judgment is discharged in bankruptcy under section 11 USC 727 or 11 USC 1328, the judgment still attaches if you attempt to subsequently purchase real estate. Thus, a motion in State Court under NJSA 2A:16-49.1 is more helpful to cancel the lien.

Thus, if you purchase a home and find an outstanding lien or try to refinance after filing bankruptcy, you can cancel the lien under NJSA 2A:16-49.1, one year after your discharge.

If you have any questions feel free to contact me.

## **UNDERSTANDING MUNICIPAL COURT AND TRAFFIC TICKETS**

Many Americans only contact with the Court system is when they are pulled over for a traffic violation and have to go to Municipal Court. Even though Municipal Courts are only quasi-criminal, penalties for certain traffic offenses can be very serious. Almost every moving violation has a minimum of 2 points, fines from \$50 - \$200 and you may go to jail for 15 days. The incarceration punishment is rarely imposed for your garden variety moving violation.

Many clients of mine don't realize that plea bargaining is a part of Municipal Court practice and if you just plead guilty to a minor charge such as speeding, failure to yield, or careless driving etc., you can amass points. These points can lead to surcharges and increased insurance costs. Once you incur 12 points in a period of two years or less, your license shall, except for good cause, be suspended for 30 days. Therefore, you must be very careful when charged with a moving violation.

The New Jersey legislature has passed a new statute NJSA 39:4-97.2. This Statute is a tool that lawyers use for plea-bargaining. For a first offense, you are fined \$50-\$150 with NO points. A second offense gets you a fine of \$100-

\$250 with NO points. Please note you are only given two no point violations within five years since the third offense within 5 years is a fine of \$200-\$500 plus points.

The other major provision that affects several of my clients is driving on the revoked list; NJSA 39:3-40. The penalties are very severe and can range from a \$500 fine to up to 6 months loss of license for the first offense; a \$750 fine plus up to five days in jail for a second offense; and 10 days in jail plus up the six months loss of license for a third offense. Please note, if you were suspended due to a conviction for drunk driving (39:4-50) or no insurance (39:6B-2), there are enhanced penalties of 1-2 years loss of license, \$500 additional fine and you may do 90 days in jail. If you are involved in an accident, even if your are not at fault, you will go to jail for 45 days if the other party is injured.

In addition, if your license is suspended due to surcharges you shall be fined an additional \$3,000. However, if your license is suspended because of surcharges, filing Chapter 13 bankruptcy will restore your license if you have completed any Court imposed suspension period.

This is a small example of why you should always have an attorney in Municipal Court.

## **LET ME ANSWER ALL YOUR QUESTIONS**

We are a full service law firm that wants to service your needs.

Besides helping people with financial problems, our office helps people with all types of motor vehicle violations. Work related injuries and any other personal injuries.

As my law practice continues to grow, I hope to help you in all areas of the law where I have helped my other clients. Remember that even if I am not familiar with a specific area of the law, I work with other lawyers who are well qualified to handle these matters. Therefore, if you have any question on any legal matter whatsoever, please ask me about it.

## **IF YOU LIKE MY WORK, SPREAD THE WORD.**

I appreciate the confidence my clients show by referring new business to me. Such referrals are my largest and best source of new clients. Please let me know if you have a friend or relative who needs legal assistance or who would like to receive one of my quarterly newsletters.

I sincerely appreciate all the referrals from so many of you over the past several years. Thank you for your continued confidence and good will.

If you would like me to speak at your organization or place of worship, feel free to contact me.

*Steven N. Taieb has been Board Certified in Consumer Bankruptcy Law by the American Board of Certification since 1994. He has helped over 5000 people resolve their legal problems.*

