



## **Chapter 7 Bankruptcy Can Erase Lawyers' Fees In Family Law & Divorce Cases**

**by  
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If you owe your family law attorney money for your divorce or another domestic relations matter, you may think you're stuck with the lawyer's bill, even if you file a Chapter 7 bankruptcy.

Here's good news.

The debts you can discharge in bankruptcy include legal fees owed to family law and divorce attorneys because they are just like all other creditors. After all, the purpose of the Chapter 7 bankruptcy law is to give you a fresh start by allowing you to trash your huge burden of unmanageable debt. A chapter 7 discharge is a court order releasing a debtor from all of his dischargeable debts and ordering the creditors not to attempt to collect those debts from the debtor. A debt that is discharged is a debt that the debtor is released from and does not have to pay. This includes fees owed to a family law attorney.

Some attorneys take proactive steps before you file for bankruptcy -- like getting you to pay most of the lawyer's fee up front. But family law attorneys to whom you still owe money will be left out on the cold if you file for Chapter 7 bankruptcy.

Chapter 7 of the US Bankruptcy Code provides the basic procedure designed to give divorcees or "debtors" a fresh start. Keeping with the fresh-start objective, laws and court decisions are construed generously in favor of the person owing the debt and against the creditor.

When trying to collect their legal fee after the client has filed Chapter 7 bankruptcy, family law attorneys often rely on Section 523(a)(5) of the Bankruptcy Code, which says that bankruptcy does not discharge a debtor from any debts

*"to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a government unit, or property settlement agreement". 11. USC. Section 523(a)(5).*

Before the Bankruptcy Court will require you to pay your debt even after personal bankruptcy, your obligation must meet all of these requirements:

- (1) the underlying debt must be in the nature of alimony, maintenance, or support;
- (2) the debt must be owed to a former spouse or child; and
- (3) the debt must be incurred in connection with a separation agreement, divorce, or property settlement agreement or other order of a court of record.

If a court orders you to pay attorneys fees as **part** of the alimony or child support judgment, then you may still have to pay your family law attorney's fees. If you may be in this situation, please call me and we'll discuss your specific circumstances.

Here are three strategies family law attorneys use to help make sure they get paid:

First, family law attorneys try to get as much money as possible in advance so if you file a Chapter 7 bankruptcy, they will lose little or nothing because they have already been paid.

Second, family law attorneys will include a provision in the court's order that shifts the responsibility of paying any uncollected legal fees from you to your ex-spouse. And

Third, family law attorneys will try to persuade you to file your Chapter 7 bankruptcy before you hire the family law attorney's services, so the legal fees are not included in your bankruptcy.

As with most things relating to bankruptcy, attorneys fees can be a confusing area. So if you have any questions about your family law attorney's fees -- or anything else related to your financial situation -- please feel free to call me.

*You're Invited to Call or E-mail.*

"If you have questions about bankruptcy, foreclosure, credit card debt, loan modifications,

tax liens or other financial problems, please send your e-mail today to

[rich@chicagomoneylawyer.com](mailto:rich@chicagomoneylawyer.com)

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***Money problems solved. Peace of mind protected.***

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