Prioritizing Debts of Survivors of Domestic Violence

By
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Introductions

What is your role?
1. Non-attorney advocate
2. Attorney
3. Administrator
4. Other (in the chat box)

Do you have significant experience:
1. Advocating for survivors of DV
2. Dealing with consumer debt collection issues
3. With a mix of family and consumer issues
4. Neither
The NCLC has published an excellent guide titled “Consumer Right for Domestic Violence Survivors.” The guide has 16 rules about how domestic violence survivors should prioritize their debts. Following this slide are the 16 rules together with Corbit’s caveats and three bonus rules.

Which debt should your client pay first?

a. Hospital bill
b. Payday loan
c. Rent
Number 1: Always pay family necessities first.

Corbit’s caveat: Is paying a condition precedent to getting an essential good or service? Remember, a bill for an essential medical service that was already provided is still just a bill.
Number 2: Pay housing related bills next.

Corbit’s caveat: Foreclosures take time, not all houses are worth saving, and there are worse things than foreclosure.
Number 3:
Pay the minimum required to keep essential utility service.

Corbit’s caveat:
Here is one area that charity help is frequently available.
Number 4: Pay car loans or leases next if the car is a necessity.

What should a client do when repeatedly called by a nasty collection agent?

a. Yell at the collection agent
b. Record the call
c. Send a letter
d. Both b and c
Corbit’s caveat
Americans love cars, but they are expensive.
Is a car really needed? Are there any lower cost alternatives?

Number 5: Child support debts must be paid if the survivor owes them.
Corbit’s caveat:
A survivor of domestic violence may have nothing with which to pay child support.

Number 6:
Income tax debts are also high priority.
**Corbit’s caveat:**
Even if a survivor can’t pay the tax, the survivor should file a return. A survivor can’t discharge a tax debt in bankruptcy unless she/he has filed a return.

**Questions so far?**
Number 7:
Loans without collateral are of low priority.

Corbit’s caveat:
There are no longer debtors’ prisons, there are exemptions, and there are limits on what debt collectors can do. Survivors need to know their rights, including that they can tell creditors to stop calling. However, be careful to reply to orders for supplemental collection proceedings.
Number 8:
Loans with only household goods as collateral are also of low priority.

Corbit’s caveat:
The creditor doesn’t really want a used couch, and even if it does, the creditor does not need to be let in the house to take it.
Number 9:
A debt should not be moved up in priority because the creditor threatens suit.

Corbit’s caveat:
Even if the debtor’s threat is real, it takes time to get a judgment.
Number 10:
Do not pay when there are good legal defense to repayment.

Corbit’s caveat:
Don’t let a default be taken. Creditors go after low hanging fruit and a good defense makes a creditor think twice before spending money to pursue a claim.
Number 11:
Court judgments move up in priority, but often less than one would think.

Corbit’s caveat: In every state there are exemptions that provide some protection of a debtor’s earnings and assets. Many survivors of domestic violence are judgment proof.

Number 12:
Student loans are medium-priority debts.

Corbit’s caveat:
There are special collection tools, but there are also hardship programs.
Number 13: Debt-collection efforts should never move up a debt’s priority.

Corbit’s caveat: Collection agents have been known to lie.
Questions so far?

Number 14:
Threats to ruin one’s credit record should never move up a debt’s priority.
Corbit’s caveat: Macy’s will still take cash for a sweater.

Number 15: Co-signed debts should be treated like one’s other debts.
Corbit’s caveat:
The banks don’t care that the other spouse was awarded the obligation.

Should my client:

a. Take out a second loan on her home at 10% to pay off credit card debts accruing interest at 24%
b. Use her IRA to pay off high interest loans
c. Both a and b
d. Neither a nor b
Number 16:
Refinancing is rarely the answer.

Corbit’s caveat:
Don’t pledge exempt assets for unsecured debts.
Bonus rule number 1: Creditors with access to accounts should be forced to lose their priority. For example, close any bank accounts in which a payday lender has access.

Bonus rule number 2: Only the highest priority creditors should be paid with assets from a retirement account. Retirement assets are generally exempt from creditor claims.
Bonus rule number 3:
Bankruptcy is a tool that good people can use to get a fresh start.

Questions?