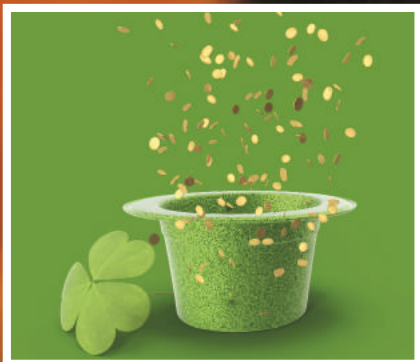


THE LAW OFFICE OF BRYAN FAGAN PRESENTS

# ON YOUR SIDE

February 2019 ISSUE 20

MAGAZINE



**EXCLUSIVE**

**St. Patrick's Day FREE  
Divorce Giveaway**

**Pg. 21**

# THE LAW OFFICE OF BRYAN FAGAN

Presents...

## ON YOUR SIDE

MAGAZINE

We are dedicated to providing as much FREE legal information to our community, as possible!

If you ever have any questions, please give us a call at 281.810.9760

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Filing for divorce  
Child custody  
Property Division  
Visitation rights  
Child support  
Spousal support







# WHO WE ARE

## AND WHAT WE DO

We are a family law firm. We believe in helping our clients transition through family law cases, as smoothly as possible.

As a family law firm, we understand clients are handing over a very personal piece of their lives to us. Not only does our firm work professionally, diligently and efficiently but we believe in having great communication with our clients.

Our clients are able to speak to their attorney, as well as have access to a wonderful client support team who can help answer all questions regarding their case, status updates, billing inquiries, and other concerns that may arise during the process.

Not only does our client support team reply back to our inquisitive clients in a timely manner, but the client can count on someone reaching out to them to check-in several times throughout the duration of their case. We believe in putting our clients first!

Our firm offers free consultations and accepts consults daily!

We believe every person should be informed of their rights and the process pertaining to their case, this is why we offer free consultations.

During your free consultation with a family law attorney, you will learn your rights, have all of your questions answered, and discuss the process and your best options.

In addition to our free consultations, we are one of the few firms who have Finance Specialists to help you discuss a lower down payment and payment plans.

## OUR FIRM HANDLES THE FOLLOWING CASES:

- Filing Divorce Papers
- Arranging Child Custody
- Obtaining Protective Orders
- Property Division Matters
- Visitation Rights
- Establishing Child Support
- Establishing Spousal Support
- High Net Worth Divorce
- Enforcements
- Modifications
- AND MUCH MORE!

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3707 FM 1960 W, Suite 400  
Houston, Texas 77068

# BANKRUPTCY AND DIVORCE



By Evan Hochschild  
Attorney | VIP Contributor

Filing for Bankruptcy is a decision that you should make only after balancing it against all of the other circumstances and issues related to your divorce. Bankruptcy is a federal matter and is not covered by state law or the Texas Family Code.

The reason why you would want to file for bankruptcy is to discharge some or all of your debts or to reorganize the payments on debt that you will still retain after the completion of the bankruptcy. If successful in your bankruptcy proceeding a judge would issue you a discharge that absolves you from having to make future debt payments on that loan. I should note that federally insured student loans are not dischargeable in bankruptcy proceedings. If a debt is discharged then that debt collector may not contact you in order to collect the debt.

## **The types of Bankruptcy proceedings**

As an individual you can file for bankruptcy under Chapters 7, 11 and 13 of the bankruptcy code. Let's break down each according to its specific attributes.

### **Chapter 7 Bankruptcies**

Chapter 7 bankruptcy means that you as the debtor have to turn over any property that is not exempt (your home) for the purposes of paying back to your debt(s). A trustee will be assigned to your case to collect and hold this property. Household goods, vehicles and retirement accounts are among those assets that are exempt from the collection requirements under a Chapter 7 bankruptcy.

Once the non-exempt property is collected, the trustee will then take your property and convert it to cash. That cash will be used to pay as much of your debt as possible. Debtors favor Chapter 7 bankruptcy on the whole because a remedy is arrived at quickly (relatively speaking) in roughly six months. Due to the fast turn around time you would be able to move on with the rest of your life and begin to take steps towards rebuilding your financial affairs post-bankruptcy.

### **Chapter 13 Bankruptcies**

A Chapter 7 Bankruptcy involves you submitting a plan to the judge in your case that relays a reorganization of your debts either partially or in full. There is a trustee involved in Chapter 13 cases as well and you will be obliged to make regular payments to this trustee who will in turn send those payments on to those creditors who are due money from you.

If you earn an income that is above the national average you may have to file a Chapter 13 bankruptcy instead of a Chapter 7 Bankruptcy. The reason is that you have the ability financially to pay creditors back to an extent that those folks who file Chapter 7s are not. There is more to the analysis of which bankruptcy type you qualify and you should speak to a bankruptcy attorney in order to learn more.

Credit cards and medical bills usually do not figure into Chapter 13 bankruptcies because these are unsecured lenders who do not have the ability to reclaim property or put liens on your home or assets. Secured lenders like your mortgage lender or your vehicle financier are among those debts commonly handled in Chapter 13 bankruptcy.

### **The impacts of bankruptcy on individual persons**

An immediate concern of most people when faced with the decision of whether to file for bankruptcy is what effect the proceedings will have on their credit. If you are in this position I would point out that your credit is probably not in the best shape already considering the fact that you are considering bankruptcy as a viable option. Your having missed payments previously tells me this.

On the plus side, bankruptcy offers a fresh start for you and your future life. It is available to us as citizens to allow us to get some relief from debt collectors and a past that you would probably like to move away from as much as possible.

Be aware that many debts can simply be negotiated upon by you directly with either the lender or the third party debt collector working on behalf of the lender. In fact, many companies exist who buy debt accounts from lenders for pennies on the dollar. These businesses will typically accept, you guessed it, pennies on the dollar to settle your debt. To do so it is a good idea to get the settlement offer in writing and then to never proceed to give the debt collector access to your checking account.

Get a prepaid debit card or send a check to the company to pay off the debt once you have it confirmed in writing. Once a letter confirming your having paid off the debt is sent to you it should be kept for a good long while. You can verify that the debt has been paid in full by checking your credit report a few months after the debt was paid.

### **What good can a debt consolidation company do you?**

If you are a stay at home parent or are feeling ill and are at home during any given weekday I'm sure you have seen commercials on television for multiple debt consolidation companies. These businesses make it seem like they are the cure to all that ails you. Your credit card debt, car note and other loans can all be rolled into one neat little package with a single interest rate to pay on. If you're not careful you will sign up for a program like let. Allow me to explain why.

First of all debt consolidation companies will often involve you allowing these folks to put a lien on your vehicle or your home that are not exempt in a bankruptcy. This puts you in a tough position in this regard. Secondly- unless the debt consolidation lowers your overall interest rates on the loans you haven't actually done anything productive other than rearranging the deck chairs on the Titanic. Finally, the companies operate by not paying on your debts at all until the lenders contact them directly. They will negotiate on your behalf but it won't be for months and months. All the while you are paying them for the privilege to do so. These are services you could perform yourself.

*Continue reading on Pg. 19*

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# HOW MUCH MONEY

## Can I Get For My Car Accident?

By Amir Tavakkoli, A.T. Law  
Office, Houston, TX



I previously discussed in another article, how to get more money after a car accident, the issues with getting in an auto accident and how to get more money in your pockets. I also discussed how the settlement is commonly divided between the client, lawyer, and the treating doctors with each usually getting 1/3rd of the settlement. In this article I will discuss auto insurance policy limits for your injuries in Texas and how much you can get.

### **Policy limits for commercial vehicles:**

I will discuss policy limits for personal vehicles, which are much less than commercial vehicles, in the next section. However, for commercial vehicles the limits depend on the type of vehicle.

**Texas requires a minimum \$500,000.00 injury policy for any commercial vehicles** that are used within Texas state lines.

If the vehicle is used to travel across state lines, then federal law controls. The following are the limits for vehicles used to travel across state lines:

- **\$300,000** for trucks weighing less than 10,001 lbs. and transporting nonhazardous materials.
- **\$750,000** for trucks weighing at least 10,001 lbs. and transporting nonhazardous materials.
- **\$1 million** for trucks transporting oil.
- **\$5 million** for trucks carrying hazardous materials.

For commercial vehicles that travel across state lines and can fit 16 or more passengers, such as buses, the minimum limit is **\$5 million**, and if same vehicle can only carry 15 or less passengers then the limit is **\$1.5 million**.

### **Policy limits for personal vehicles:**

For personal vehicles, policy limits are much lower. Currently, policy limits for personal vehicles in Texas are \$30,000 per person for your injuries with a maximum of \$60,000.00 coverage. Meaning for example if there are passengers in the vehicle, insurance would only be required to pay \$60,000.00 maximum for everyone combined. Further, the limits for property damages, which are the damages to your vehicle, is at \$25,000.00; this is known as the 30/60/25 coverage.



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**Does this mean no matter what happens this is what I am limited to?**

Not necessarily, but this is the maximum you can get from the insurance company, unless a *Stowers Demand* is denied by an insurance company. I will discuss the *Stowers Demand* in a follow up article. You can also decide to not go after the insurance or reject their offer and sue the vehicle owner directly. For most cases, it is best to just get the money you can from an insurance company because of the limitation Texas law puts on collection of judgment from an individuals, which I will also discuss in a follow up article.



If you are looking for a criminal defense attorney in North Houston, criminal defense attorney in Houston, criminal defense attorney in Texas, criminal defense attorney in Harris County, or **criminal defense attorney in Montgomery County**, need more details about any defense, if you have been arrested with a crime, or if you simply want to call to discuss your legal issue, call or email my office. Our phone number is 832-800-5590 and the email is [info@atlawoffice.com](mailto:info@atlawoffice.com). We also travel to different counties including but not limited to Harris County, Montgomery County, Liberty County, Chambers County, Galveston County, Ford Bend County, Waller County & Brazoria County.

# LAW OFFICE OF BRYAN FAGAN

THIS TEAM IS ON YOUR SIDE

When you work with our firm, you will see that we are committed to tenaciously representing clients in every scope of the Texas court system. We believe the cornerstone of our success is the trust we are able to build with clients, while still maintaining the highest caliber of legal services.

We acknowledge that each client has individual needs, which is why we provide personalized representation. Our founding lawyer strives to honor the objectives and desires of each case he takes on. The legal team at our firm is dedicated to carefully listening and effectively communicating with our clients during each level of their case.



**Bryan Fagan**  
Attorney | Mediator



**Kimberly Player-  
Washington**  
Sr. Attorney



**Brittney Inman**  
Marketing Director

## *MEET YOUR LEGAL TEAM*



**Mollie Levar**  
Office Manager |  
Financial Manager



**Melisenda Villarreal**  
Attorney

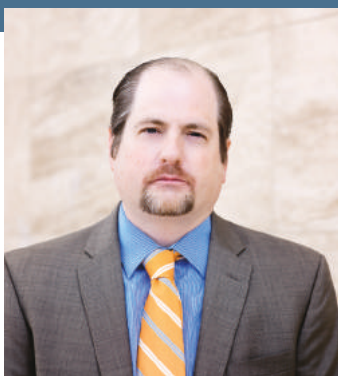


**Chad Zubi**  
Attorney





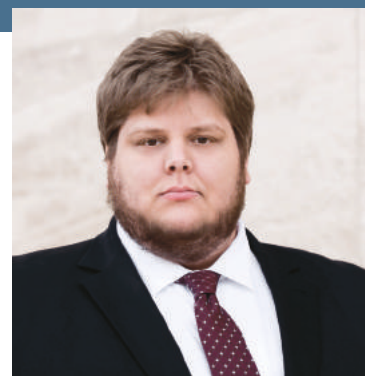
**Michelle Meyer**  
Paralegal



**Chris Ervin**  
Attorney



**Alicia Palmer**  
Attorney



**Ryan Erikson**  
Attorney



**Patrice Horton**  
Attorney



**Tina Favorito**  
Paralegal



**Kelly Portera**  
Legal Assistant



**Samuel Roberson**  
Legal Assistant



**Juan Martinez**  
Paralegal



**Sylvia Acosta**  
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**Darnell Moore**  
Receptionist



**Ana Guerrero**  
Bookkeeper



**Daniel Ogbeide**  
Attorney



**Cristina Cazares**  
Financial Specialist



**Paola Morales**  
Paralegal

# NEWS AND EVENTS

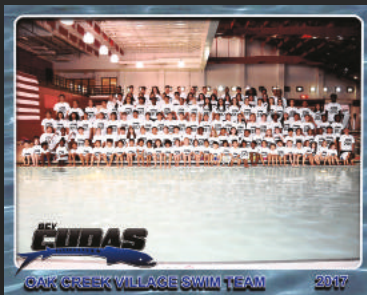
## Divorce Seminars

## Girl's Night Out

## Workshops

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Cudas!



Learn divorce from beginning to end by the Partner Attorney and author of "The Texas Divorce Handbook", Bryan Fagan. This 2 hour workshop will walk you through the process, provide resources to help you get through this process, and answer any questions you have).

### **When:**

Saturday, February 16th @  
10am-12pm

### **Where:**

3707 Cypress Creek Pkwy  
Suite 400  
Houston, Texas 77068

**Cost:** \$35.00



Time and time again, our female clients mention not having a free spot on their schedules to just hang out, enjoy themselves, and temporarily take their mind off their divorce. Even if they do have the time, organizing an event is too much trouble. To help out our clients, we have decided to host Girls' Night Out events. To keep things interesting we choose venues throughout the greater Houston region that could be selected as the party spot, like the Foundation Room Houston.

For more information about Girls' Night Out events, direct all inquiries to Brittney Inman at [Brittney@bryanfagan.com](mailto:Brittney@bryanfagan.com)

## **SINGLE MOM'S WORKSHOP**

This event was created on the book "Single Mom Takes On The World" by Brittney Inman. It was intended to help single moms navigate through the challenges of single-momhood and will address how to successfully balance working full-time, raising children, and taking care of yourself, too. You'll learn time-management techniques, tips on excelling in your career, and boosting your self-confidence.

Contact us at

281.810.9760 for more  
details or email  
[Brittney@bryanfagan.com](mailto:Brittney@bryanfagan.com)



# Legal

## Coaching:

**An alternative when you  
can't afford to retain an  
attorney**



A more affordable alternative for those who would like to handle their legal case on their own or cannot afford full legal representation.

In our coaching services you can be provided with legal templates, document review to ensure your documents are correct and ready to file and that you understand everything that the opposing party is requesting in their filings, as well as 1 on 1 sessions with an attorney.

This is perfect for anyone in the state of Texas, as we also can hold these meetings via telephone if requested.

### SENIOR ATTORNEY:

375.00 for a one hour meeting or you can bundle three 1-hour meetings for a total price of 900.00

### JUNIOR ASSOCIATE ATTORNEY:

200.00 for a one hour meeting or you can bundle three 1-hour meetings for a total price of 500.00

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Child Support, Modifications,  
Enforcements, Adoption, Name  
Change, Wills, Trust and Estate  
Planning, Pre-Nuptials, Post-Nuptials



# SHOULD YOU SELL YOUR HOME IN A DIVORCE ???



## **The mortgage has a role to play in this decision**

Most of us who own a home do so in part because we were able to take out a loan that represents the lion's share of the purchase price. If you were married when the house was purchased the your mortgage likely is in your name and in your spouse's name. What many people going through a divorce do not realize is that changing who appears on the title to the home is not the same thing as changing who appears on the mortgage to the home.

In order to change the name on the title to the home a document must be drawn up that deeds your interest in the home to your spouse if he or she is the one who will remain inside the home after the divorce has concluded. All it takes is a short amount of time to write up the document and then prepare it for your and your spouse's signatures.

The process of getting your name off of a mortgage is much more complex and requires a refinance of the loan in all likelihood. Your spouse would have to apply for a refinance and then would have to qualify for the refinance. This is not a simple process and requires that the bank or lender do some research into the income and assets of your spouse. If it is determined that she or he lacks sufficient wherewithal to pay a refinanced mortgage the application will be denied.

As such, because it is far from a guarantee that the party who requests a refinance will be allowed to get one this must be a factor that you and your spouse think about (along with your attorneys) when deciding what to do with your home. It is not possible for your spouse to provide you with a "guarantee" that he or she will refinance the home within "X" amount of days after the signing of your final decree of divorce. If you are put in a position where you are having to decide whether to buy or sell, a concern over the refinance of the home may push you towards wanting to sell the home versus allowing your spouse to remain in the house with an assurance that your name would be removed from the title via refinance.

**Unless you and your spouse agree on the value of the home an appraisal may be necessary. In the event that either you or your spouse voice a desire to remain in the home then an appraisal may be necessary to determine the market value.**

With the popularization of real estate based reality television shows and the proliferation of websites designed to inform us of the homes for sale across the country, many people like to think of themselves as appraisers and real estate agents all wrapped up in one package. However, unless you are a licensed real estate agent or are an experienced Realtor you ought not to venture into the land of trying to guess just how much the most valuable asset you own is worth.

Going off of what your neighbor down the street sold their house for two years ago, or off what your county appraisal district said your house's value is won't help you much. It pays to spend a few hundred dollars to have an expert do the evaluation and appraisal. After all- you likely have no problem hiring an expert to work on your car so why would you have a problem having an expert work on the sale of your home?

**Share costs of the sale of the home or take them on by yourself once the divorce concludes**

Ultimately if you believe that your house is going to be sold relatively soon after your divorce, but you insist upon staying in the house you may want to rethink that position.

Many parents especially want their children to be able to remain in the house for stability's sake after a divorce concludes. While this is a noble goal I would argue that it is going to just as painful to sell the house a year after the divorce than it would be just to rip the band-aid off and get it over with now.

One area where you will benefit from agreeing to sell the house with your spouse is that the closing costs, real estate agent fees and other expenses related to the sale of the home can be borne by each of you equally rather than by you by yourself in a year or two. This way you will not be in a position where you are having to risk what the market will do in a year or two, especially now where the housing market is strong and trending upwards.

### **If you are moving out and your spouse stays in the home be sure to have a Deed of Trust to Secure Assumption signed**

I cannot emphasize enough the importance of a Deed of Trust in the context of your leaving a home with a mortgage that bears your name. If your mortgage has both your name and your spouse's name and you agree that he or she can remain in the home after you leave this is a situation with liability written all over it from your perspective.

Even if your spouse agrees to put language into your Divorce Decree that guarantees their payment on the loan you should not allow your divorce to conclude without a Deed of Trust to Secure Assumption having been signed by your spouse, filed with the county and sent to you. This document essentially will allow you to foreclose on your spouse in the event that the mortgage is not paid on time and in full over a period of time. You would be able to step into your spouse's shoes, pay the note and gain possession of the home.

Keep in mind that if your name remains on the home mortgage and it becomes apparent that your spouse is not paying as he or she is supposed to this will keep you from being able to purchase your own home down the road. Secondly, your credit report reflects the home loan and is negatively impacted by the failure of your spouse to make good on their promise to pay the loan as well.

### **Set the house for sale at a future date if the goal is to have the children remain there until graduation**

I have had clients in the past who have agreed to allow their spouse to remain in the home for the sole purpose of having the children there in order to continue to be zoned to a certain high school. If this is an arrangement you can see you and your spouse entering into it is smart to decide within your divorce decree that upon the graduation of the youngest child from high school the house will be put on the market with the assistance of a licensed Realtor.

While you cannot specify a "sell by" date you can certainly specify a "list by" date. As far as payments on the mortgage, home equity loans, property taxes and other considerations you can negotiate with your spouse on these terms and commit them to writing in your final decree of divorce. This way there are no unanswered questions on the subject moving forward.

### **Buying a home after your divorce and an introduction to retirement savings and divorce**

I want to share my thoughts on buying a home after your divorce has concluded in tomorrow's blog post. Secondly, an important financial topic to consider in the context of a divorce is the importance of saving for retirement in your post divorce life. This topic will be covered as well tomorrow and on into the days following as well.

In the meantime if you have any questions about divorce or family law please do not hesitate to contact the Law Office of Bryan Fagan, PLLC. We offer free of charge consultations with a licensed family law attorney six days a week where we can address and answer your particular questions.

# TECHNOLOGY and its role in your TEXAS DIVORCE



Even the most resistant among us have an online or digital presence to one degree or another. Just think about how many conversations that you have had with older relatives around the holidays about the photos posted of your son or daughter on one of the social media websites. My point is that just about everyone is active online. Since we know this to be true, it is important that you know how to both protect yourself and how to utilize technology to your advantage in your divorce. There is a difference between acting inappropriately and being diligent. The aim of today's blog post from the Law Office of Bryan Fagan, PLLC is to help you act diligently so as to position yourself well in your divorce.

## **Keep an eye on your spouse's social media usage**

We've already discussed social media today and just how prevalent it is in our world. While much of the social media usage that we and our neighbors engage in is harmless, an unfortunately high percentage of divorces see one spouse or the other acting inappropriately online.

With all that said you need to keep track of your spouse's social media usage as closely as you are able. It's not just extramarital affairs that you should be keeping an eye on, either. For instance, you need to be able to know if your spouse is being honest and open with your community income or if the reason why the utilities bill hasn't been paid this month is because he or she is making payments on a brand new boat. People get very comfortable with posting on social media things that they would keep closer to the vest in the non digital world. If your spouse is wasting community funds on something that is not essential- i.e. your children- you should know about it and alert your attorney to it.

There is an art and a science to collecting the postings to share with your lawyer. I have experience many, many clients come into an initial meeting with me carrying a folder with printouts from the various social media sites that are pretty damning for their spouse. However, it is not as simple as taking that folder and dropping it on the judge's bench to have him or her flip through the photos and issue a ruling. Those postings have to be put into a format that is admissible into the evidence that the judge is able to consider.

Another issue to keep in mind is that if you gained knowledge of the postings through means that are not legal you will not be able to get those admitted into evidence. Hacking into your spouse's social media account or computer will render that material inadmissible. Simply checking your timeline and seeing an image pop up is just fine. Your attorney can help you differentiate between the two situations and can make a determination as to what is worth presenting to the judge in a potential temporary orders hearing or trial.



## **Learn technology and use technology to benefit you in your divorce**

Like so many other things in life, technology can giveth and can also taketh away. Meaning: there are positive attributes to technology and negative attributes to technology. It is up to you and your attorney to be able to make sure that it giveth more to your divorce case than it taketh away. In the event that you are suspicious of your spouse engaging in any sort of bad behavior you need to speak to your attorney before putting on your detective hat and investigating matters on your own.

We have already discussed how obtaining potential evidence against your spouse through illegal means can render that evidence inadmissible. This means for all the effort you undertook the evidence will not be considered by the judge. Avoid this situation by hiring an attorney who knows technology and can utilize it in a way that benefits you.

Are you aware that there are both federal and state laws that protect a person's privacy from activities like intercepting emails, text messages and other communications via the internet? This is important to know ahead of time so that you do not engage in illegal behavior. Another consideration to make is that your spouse may act an illegal manner and destroy otherwise admissible evidence that is contained on your home computer and other electronic devices. Courts will bar a person from doing so in most cases. If you are able to prove that there was otherwise admissible evidence that was destroyed by your spouse you can and should have your spouse held to account in front of the judge.

## **How to tell the difference between Electronically Stored Information and everyday junk**

Information that is relevant and potentially admissible in your divorce that is stored on an electronic device is known as Electronically Stored Information (ESI). This information can take many forms- often as email that is sent between you and your spouse. Before going through your emails and deleting things, you should verify with your attorney that what you are doing is allowable and not sanctionable activity. It is in your best interests to speak to your attorney prior to your divorce so that you can learn the difference between the two. It would be frustrating to lose out on potential evidence for you or to unknowingly delete information that could cause you to face penalties handed down by your judge.

## **What are behaviors you should not engage in when it comes to divorce and technology?**

From my experience, the biggest thing to avoid when it comes to technology in the context of your divorce is to consult with your attorney before doing anything that involves you taking things into your own hands. For instance, I have seen clients and opposing clients install spyware on their spouse's computer to keep track of their activity. Spyware can keep tabs on emails that are sent, websites that are visited, passwords that are entered, etc.

This type of "spying" can expose you to serious consequences and penalties in a court of law. While it is relatively easy to obtain spyware that can allow you to know what your spouse is doing on the computer the consequences of doing so can be serious and far ranging. If your spouse does not know that he or she is being monitored by you it is probable that you are breaking the law. The sort of tracking that I discussed earlier in the blog is almost certainly illegal to use without someone's knowledge and consent. The evidence obtained (just like the social media postings we discussed earlier) will not be admissible into the record. More than that- you and your attorney may wind up facing serious civil and criminal penalties as a result of engaging in this behavior.

## **Interested in learning more about the role of technology in your divorce? Read more tomorrow**

If this topic is one that interests you, by all means please return to our blog to read more about it tomorrow. We invite you to contact our office with any questions you have on this subject or any other in the field of family law. The Law Office of Bryan Fagan, PLLC handles family law cases exclusively and it would be an honor to sit down with you and discuss your case. Our licensed family law attorneys take great pride in representing the people of our community. Talk to us about your problems and questions and hear just how our office can best serve you and your family.

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## 13 DIRTY TRICKS TO WATCH OUT FOR IN YOUR TEXAS DIVORCE

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YOUR TEXAS DIVORCE  
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BRYAN FAGAN, ESQ.

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# DIVORCE 101

Whether you are thinking about divorce, filing for divorce, are in the process of your divorce, or already divorced...our new DIVORCE 101 is an excellent resource with the answers to your questions!

Many times when we consult with people considering divorce, we see many emotions: scared, stressed, hurt, overwhelmed, resentful, hurt...they range from one end of the spectrum to the other.

The Law Office of Bryan Fagan created Divorce 101 as a tool to help those considering divorce find the answers to the many questions they may have.

We find when people are informed and understand the process, they tend to feel a little less scared and intimidated about what's to come.

We hope Divorce 101 will help you, and if you have any additional questions or concerns, we encourage you to book a free consultation with one of our family law attorneys by calling 281-377-3548 or visiting [bryanfagan.com](http://bryanfagan.com).

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## MEET Brittney Inman

Marketing Director

Raised in California, Brittney came back to the great state of Texas! Brittney understands a majority of individuals who are seeking legal services are visiting a very unfamiliar area, therefore, she enjoys being able to minimize the confusion, help address how our firm can assist them and go over the process-step by step. Understanding that family law issues are very personal, she is fully dedicated to making sure potential new clients are confident prior to making their decision to retain our firm. She has earned certificates from Barnham Graduate School and Seminary for Mediation, Arbitration, and Advanced Family Law, and coursework in Paralegal Studies at Lonestar-North Harris. Brittney is extremely proud to work for a firm so dedicated to our clients and knows our firm offers special standards that other law firms do not. On a personal note, Brittney is a sports enthusiast (Go Packers!). She loves the outdoors, the beach, traveling, and going on amazing adventures with her kids!

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# CONTACT OUR OFFICE

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# LAW OFFICE OF BRYAN FAGAN

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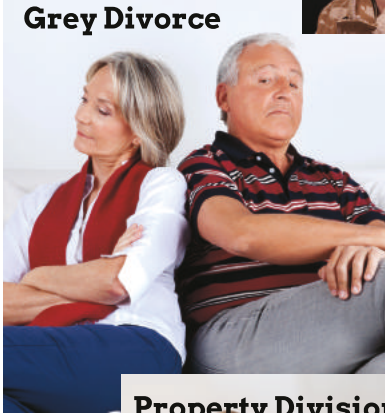
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# BANKRUPTCY AND DIVORCE

Continued from Pg.3

## **Can you solve your debt problem(s) without bankruptcy? Talk to an attorney**

If you are going through a divorce and are considering bankruptcy you are best left to speak to both a family law attorney and a bankruptcy attorney about how the processes of one legal case affects the other. These attorneys may actually be able to guide you into a situation where you can resolve your debt problems while not going through what is sometimes a long and difficult bankruptcy.

After you have had an opportunity to discuss your situation with these folks about the viability of a bankruptcy given your situation the next thing you need to decide upon is which form of bankruptcy to file under. These decisions can have a lasting impact on your life moving forward and can cause delay in your divorce being decided as well.



**Wondering about when to file a bankruptcy or how a short sale of your home would work? Come back to our blog tomorrow to learn more**

If you owe more on your house than its market value you are known as being “under water” on your home. People in your position have spoken to me on previous occasions on whether or not it would be a good idea to attempt to do a short sale on their home as opposed to letting it become foreclosed upon. If you have questions on this subject then you should come back to our blog tomorrow to read up on the subject

## **Questions on divorce or family law in general? Contact the Law Office of Bryan Fagan**

The attorneys with the Law Office of Bryan Fagan, PLLC appreciate your having taken the time to read through today’s blog post. If you have any questions about it or seek clarification on any number of family law issues we invite you to contact our office today. We would be happy to schedule a free of charge consultation for you where you can meet with one of our licensed family law attorneys to ask your questions.

# Waivers - To sign or not to sign?

Many people come in for consultations and say, "this is an uncontested divorce, we agree to everything." My spouse has already filed for divorce, and has now asked me to sign this "waiver of service" - should I?

The truth is that many people do not realize that there are many issues, legal issues, that need to be addressed, and resolved. They do not realize signing the Waiver of Service does several things and some of those things potentially could be bad.

## **What is Personal Service?**

Every person in Texas that is involved in a lawsuit including a divorce is entitled to personal service of a copy of the lawsuit that was filed with the court.

Personal service is what people think of or is talked about on television as being "served."

Personal service involves:

- a constable or a private process server coming up to you, saying your name, and asking for you to confirm that you are that person.
- The process server will hand you a copy of the documents and state, "you have been served with a lawsuit."
- If you refuse to take the paperwork the process server can drop the paperwork on the ground and file an affidavit with the court that they served you with the divorce paperwork and you refused to take it.

## **What is a Waiver of Service?**

- Personal service is not the only way to bring a divorcing spouse under the power of the court so that the court can make orders regarding a married couple.
- Alternatively, a person can waive their right to be personally served with a copy of the lawsuit by signing a Waiver of Service. The waiver of service must be signed in the presence of a notary, notarized, and then filed with the Court.
- It basically says you do not want to be served by a process server or constable/sheriff or by certified mail sent by the District Clerk.
- This partly means:
- One, you do not want the "citation" to be issued by the District Clerk.
- This means you will not need to be served and your clock to file what is called an "answer" will not start.

## **Why Would Someone Waiver Service?**

- Some reasons would someone waive service include:
- It costs money to serve the lawsuit
- It can be embarrassing to be served with a lawsuit
- Time if your and your spouse are agreed and cooperating it can save time
- Waivers can have their benefits in an agreed divorce case, but it is important that you understand what you are agreeing to before you sign a waiver.

## **Should I sign a Waiver of Service?**

- I would strongly caution a spouse going through a divorce not sign a Waiver of Service.
- One reason is that there different types of waiver of service and some are what is known as a universal "Waiver Service" which has clauses included in the waiver of service that will affect your rights in relation to the divorce or other court proceedings.
- Some of the bad waivers out there that once you sign them amount to you telling the Judge in this case:
- that you do not want to be served by a process server or constable/sheriff
- You do not need to be made aware of any court dates and
- The Judge can sign whatever orders your spouse presents the judge without further notice to you in other words
- Your spouse wins

# GET LUCKY WITH A FREE DIVORCE!



## ST. PATRICK'S DAY FREE DIVORCE GIVE AWAY

The Law Office of Bryan Fagan is at it, again, with our St. Patrick's Day **FREE** Divorce Giveaway!

We understand a divorce may not always fit the budget. Yet, we have seen many individuals and/or couples who continue to stay in a unhealthy situation due to the lack of funds. This is why we have chosen to give back and be able to offer an all-expense paid divorce that covers: court costs, filing fees, and attorneys fees!

In order to enter: please submit the entry form with a story on how a Free Divorce will change your life!

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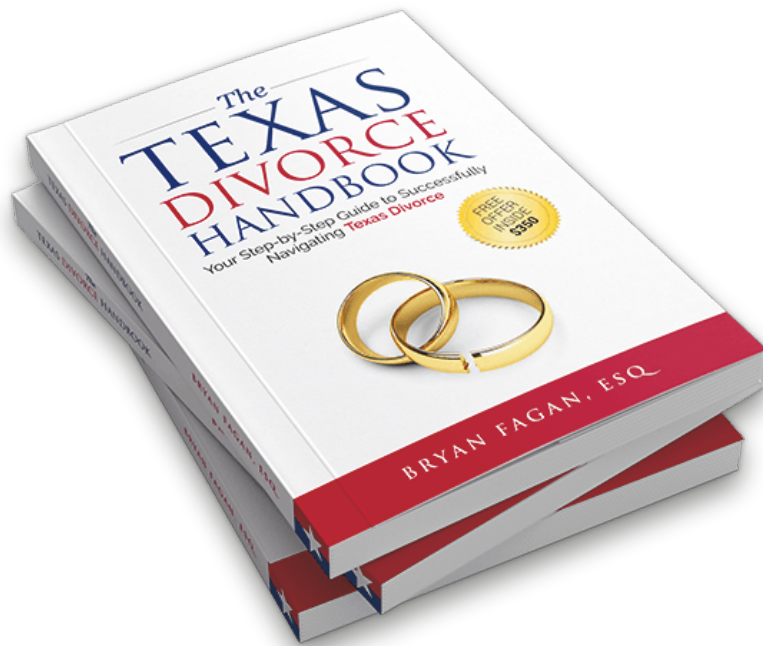
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