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When your ex doesn't pay on joint accounts

By Sally Herigstad



Dear To Her Credit,

I live in California. My husband and I divorced in 2006. Some of our credit card accounts were joint, and some were not. In our marriage settlement agreement, we split the debts and each agreed to keep certain cards and pay them off.

I have since paid off all the accounts I kept that were joint. Unfortunately, he did not. He filed for bankruptcy two years ago. Included in the bankruptcy were three joint creditors, with a total balance owed of \$24,000 and some change.

Now these creditors are calling me, trying to collect the money. I recently received a letter from an attorney's office, trying to collect one of the debts. I am concerned that these creditors may file a judgment against me, maybe garnish my wages, tax refund or try to collect in some other way. I own no property and my 7-year-old car is paid off. I have a 401(k) plan and some money in my CalSTRS retirement plan (I'm a school teacher). I make a decent salary now, but losing even a little of my income would make me unable to pay my bills.

Can they sue me for the debts? Do I have any other ways of protecting myself? What can I do? Help!
-- Meredith



Dear Meredith,

I'm afraid you didn't get the best legal advice when you divorced. Both account holders in a joint account are responsible for the balance, regardless of how the divorce court splits it up. You'd have been safer if your ex had been required to take out a loan or sell some of his assets to pay off the balances.

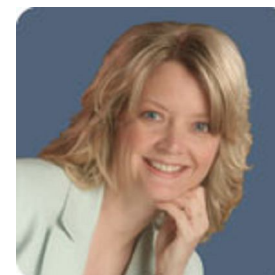
I don't know anyone who would want to have a credit card account with someone they just divorced, but that's what they get with a settlement like yours. Not surprisingly, it often ends up with the most-responsible person for everything.

One thing you don't have to worry about is creditors coming after your retirement accounts. Retirement accounts are generally protected from creditors of all kinds. That's a good reason never to touch those accounts before retirement age.

Credit card companies eventually may [garnish your wages](#) or take other legal action, but only after exhausting all other efforts. I would be more worried about the damage these unpaid bills can do to your credit score. The sooner you can resolve this problem, the better!

If this were a smaller amount, I'd advise you to pay it and move on. But \$24,000 is more than you can

To Her Credit



Sally Herigstad is a certified public accountant and the author of "Help! I Can't Pay My Bills: Surviving a Financial Crisis" (St. Martin's Press, 2006).

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afford to pay, and it's hard to see justice in that solution. You held up your end of the bargain, after all. The creditors have no reason to back down, so your only recourse is to go after the guy who didn't hold up his end of the deal.

Unless he is cooperative, which doesn't sound likely, you probably need to go back to court. Brette Sember, a lawyer and author of "The Complete Credit Repair Kit and The Complete Divorce Handbook," says, "The only recourse you have is to go back to the divorce court and ask that your ex indemnify you for these debts if the court had ordered him to pay them and said you were not responsible for them. You can obtain a judgment against him, and that may be exempt from the bankruptcy (nonsupport obligations are not automatically exempted, but can be in certain circumstances)."

If there is any way you can make minimum payments on these accounts to keep your [credit score](#) from being trashed, try to do so. That would also keep the balance from doubling or tripling because of late fees, overlimit fees and penalties. Keep records of your payments so you can have the courts award your money back plus interest to you from your ex.

See related: [How wage garnishment works, how to avoid it](#), [Dividing credit card debt in divorce](#), [Establishing credit after divorce](#)

Sally Herigstad writes about women and credit every week for CreditCards.com. Herigstad is a writer and finance consultant for MSN Money, a personal finance software product. She is also a member of the Washington Society of Certified Public Accountants and the American Institute of Certified Public Accountants. Her Web site is <http://helpicantpaymybills.net>. Sally Herigstad lives in Kent, Wash., with her husband Gary. They have two grown children, Valia and Grant.

To Her Credit answers a question about a debt or credit issue from a CreditCards.com reader each week. [Send your question to Sally.](#)

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