

Prioritizing Debts of Survivors of Domestic Violence

By

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Introductions

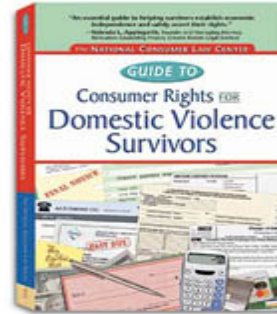
What is your role?

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.



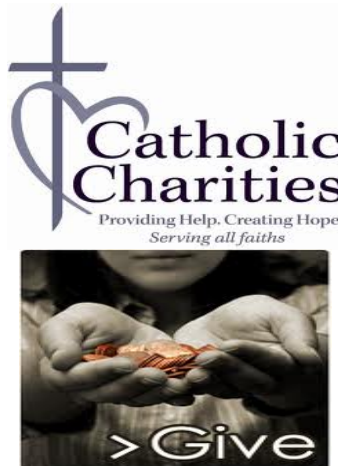
Number 3:

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.

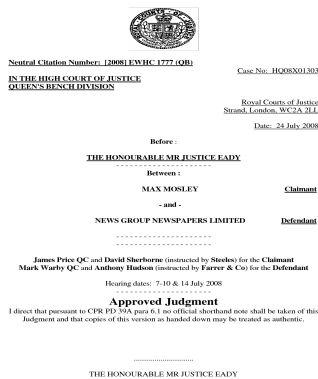


Corbit's caveat:

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.

15 U.S.C. § 1673

Number 12:

Student loans are medium-priority debts.

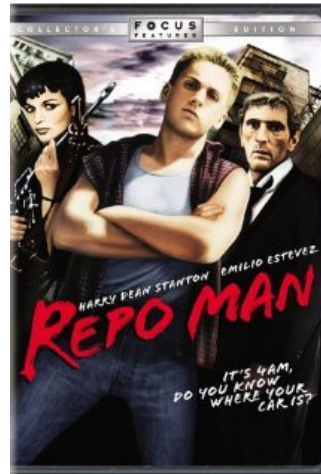


Corbit's caveat:

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.



MAKE THIS PLEDGE:

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?