

THE FAMILY LAW QUARTERLY

Quarter III - 2005

ANNOUNCEMENTS:

I am very pleased to announce that Zachary A. Kretchmer has joined Fogel Law Offices, P.A. as an attorney as of June 1, 2005.

Mr. Kretchmer obtained his Juris Doctorate degree from William Mitchell College of Law in St. Paul, Minnesota. He earned a Journalism degree from the University of Texas at Arlington in 1994, and a Master of Business degree from the University of St. Thomas, St. Paul, Minnesota in 1999.

Mr. Kretchmer's practice is 100% devoted to family law matters, including divorce, child support, post-decree matters and appellate work.



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There are a number of professionals who can help make the divorce process much less intimidating. These professionals are part of our "team" approach to handling a family law matter.

We strongly believe that the job of a family law attorney is not only to provide clients with expert legal advice, but also to provide them with the tools necessary in order to move onto the next stage of their life.

In this issue of *The Family Law Quarterly*, I will discuss the new child support legislation and the impact it will have on both custodial and non-custodial parents. In addition, I will discuss the importance of utilizing the services of a qualified Mortgage Consultant during and after the divorce process.

My goal is to continue to provide useful information on family law matters. Please let me know if there are any topics

of interest you would like me to discuss in an upcoming newsletter.

Sincerely,

Jonathan J. Fogel



NEW CHILD SUPPORT LEGISLATION

Recently, the Minnesota Legislature passed a bill that dramatically changes the way the state calculates child support obligations. The changes begin to go

into effect in 2007 and it may require some parents to go back to the drawing board to sort out child support payments. This article, highlights just a few of the important changes

to the law.

1. **When Does the New Law Kick In?**

All new cases may begin using the new child support formula in January 2007. In

CHILD SUPPORT LEGISLATION CONT.

January 2008, parents can begin seeking modifications of their existing child support obligations being paid under the old formula.

2. New Guidelines. Currently, only the non-custodial parent's "net" income is considered in calculating child support.

The new legislation looks at both parent's "gross" income. It considers the cost of raising children, divides the cost based on the parents' relative incomes, and also makes some adjustments for parenting time.

3. What About the Custody Label?

Under the existing law, the battle over which parent had sole physical custody was very important as it related to child support because only a "joint" physical custodian received a reduction in child support payments. Under the new law, however, the percentage of time each par-

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ent has with the child will become the critical factor. If the child is with the non-custodial parent between 10 and 45 percent of the time, they will automatically receive a 12 percent cut in child support payments. If each parent has 45 percent or

more of the child's time, support will be reduced even further, based on the parties' respective incomes.

4. Potential Income Can Be Considered.

Under the new law, a judge can assign income to a parent who is voluntarily unem-

ployed or underemployed. Potential income will be based on past work history or 1.5 times the minimum wage.

5. Automatic Six Month Review Hearings.

It will be required that every order addressing

"At the review hearing, the court will have the authority to impose sanctions on either party if they are failing to comply with the order"



child support also include a provision for scheduling a six month review hearing. The purpose of the review hearing will be to determine if child support is current and whether the parties are actually following the parent-

ing time schedule laid out in the order. At the review hearing, the court will have the authority to impose sanctions on either party if they are failing to comply with the order.

For more informa-

tion about this new legislation, please contact me directly at (764) 746-4045, or you can go to www.senate.leg.state.mn.us. In the "legislation" tab on the left, type in "SF 630" for the full legislation and a summary.

WHICH MORTGAGE IS RIGHT FOR YOU ?

By Chad Blofield, Senior Mortgage Consultant

Traditional Fixed Rate Mortgage? Adjustable Rate Mortgage? Interest Only Mortgage?

If you are wondering which kind of mortgage is best for you, the answer is that there is no one correct answer. Deciding which type of mortgage will best fulfill your needs can be difficult as there are so many different types of loans with varying term lengths. However, your choice is extremely important. While often neglected by homebuyers, a little research before choosing your mortgage can save you thousands of dollars over the life of the loan.

There are several elements of a loan that should be analyzed. While one of these elements may suggest one type of loan, another may call for a different type. You must weigh each ingredient separately and collectively. You will find that your answers to the questions below will ultimately determine the type of mortgage that best fits your needs.

How long do you plan to stay in this home?

Five years? Ten years? Thirty years? The length of time you will be in the home will certainly play a part in determining which loan to apply for. If you only plan to be in the home for 5–10 years or less, you should seriously consider an adjustable rate loan. If you intend on staying 20–30 years, a fixed rate mortgage may be right for you.

How much risk are you willing to accept?

If you are the type of buyer that needs to know exactly what you will be paying each month for the term of the mortgage, a fixed rate mortgage will fulfill this need. The fixed rate loan, however, will also net a higher interest rate. If you are willing to take some risk of fluctuations in the interest rate, you may be able to receive a lower interest rate. And if you would like the absolute lowest payment possible, an interest-only mortgage might be right for you.

What are your income expectations?

Plan for the future. Do you anticipate a gradual or dramatic increase in your income in the next few years? If so, maybe a 10-20 year mortgage might be right for you. However, even if you do expect an increase in your income, an adjustable rate might just be the right loan for you. The savings in interest each month, due to the lower rate, can be invested or applied towards principal to lower the balance of the mortgage. By applying the difference towards principal, your payment may even go down when the loan adjusts even if the rate goes up.

In addition to choosing a type of loan, you must also consider which lender to use. If you feel good about your lender and trust them, it will be much easier to trust their advice on what kind of mortgage will best suit your needs.

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Mr. Fogel has extensive experience handling complex marital estates, spousal maintenance, custody disputes, post decree matters, paternity, and domestic abuse. Fogel Law Offices, P.A. is committed to the needs of individuals faced with family concerns, whether they are pursuing litigation of their own family law matter, or desire an attorney's counsel through mediation. Mr. Fogel is a frequent speaker at seminars for continuing legal education and has appeared several times on radio and television to discuss issues related to divorce. *Mpls. St. Paul Magazine*, *Twin Cities Business Monthly*, and *Minnesota Law & Politics* have recognized Mr. Fogel as a "Super Lawyer" and a member of the top 6% of attorneys in Minnesota. Please visit us at www.fogellawoffices.com.

This newsletter provides general information on legal matters, and should not be relied upon as legal advice. A qualified attorney must analyze the relevant facts and apply the applicable law to provide specific legal advice. If you require legal advice or want additional information regarding the services we offer, please contact us at 763-746-4045 or familylaw@fogellawoffices.com.

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