50 Ways to Leave Your Lender

*With a tribute to Iron Maiden*

Many people see the New Year as an opportunity to be reborn, to start a new venture, or to change something about their current situation. As a bankruptcy attorney, this time of the year is our busy season, as folks struggle with post-holiday woes, failing businesses that barely made it through the year, and crushing debt problems. Fortunately, there are many legal ways to leave your lenders behind…some easier than others.

This article will provide borrowers with all of their legal options, and some not so good, and downright stupid, poor choices which they should avoid making.

Yes I know, these don’t add up to 50…and if you’re a Paul Simon purist, this witty article may disturb you even further. My favorite band, Iron Maiden, is coming to Tampa this summer. I’m not sure what if any synergy Paul Simon’s lyrics would have with the thrilling music and vibrant vocals of Iron Maiden, but I thought it would be fun to categorize the different “ways to leave” your lender into the latter’s song titles as follows:

***“Brave New World”*** – Chapter 7 Bankruptcy – Yes, this is the first legal option on my list because of what I do for a living. Over the years, I have seen so many good people use the bankruptcy discharge to start fresh after bad things happened to them. It’s a great feeling when I read the Tampa Bay Business Journal and I can see my past clients once again leading their industries in their new, successful business ventures. This option is not for everyone. But if you qualify for a Chapter 7 bankruptcy, it’s certainly worth considering seriously.

***“The Loneliness of the Long Distance Runner”*** – Submit a Chapter 11 or 13 bankruptcy reorganization plan. Only individuals can file a Chapter 13, which is a three or five year debt repayment plan that is approved by the court. Chapter 11 can be used for the same purpose by individuals or business entities, and the length of the plan can vary greatly. Both types of bankruptcy will provide you with court protection from creditors in the form of an Automatic Stay.

***“The Trooper”*** – Go to battle with your creditors. We are a block away from the courthouse for a reason. Valid legal defenses exist for many debts. Many credit card companies are precluded from collection lawsuits by the statute of limitations. Sloppy foreclosure plaintiff paperwork can lead to a dismissal of the case. And we love to advocate for the rights of our clients in the courtroom.

***“The Angel And The Gambler”*** - Try your luck with a short sale/deed in lieu/loan modification. Most large mortgage lenders offer legitimate loss mitigation options, if you are behind on your mortgage payments. If you owe more than your home is worth, and you wish to move on, a short sale or deed in lieu could be a good option to start fresh. If you wish to restructure your loan and stay in your home, consider a loan modification. Most banks would rather work with you than have to foreclose on your home, especially if you don’t have any equity in it. Keep in mind that these options, especially a short sale, contain many moving parts and time-sensitive paperwork issues. Banks have internal criteria and oftentimes investor committees that make decisions on whether to approve the relief sought, but from the homeowners point of view this process can seem like rolling the dice in Vegas.

***“Run to the Hills”*** – Literally leave town and start somewhere else, new. If a failed business is at issue, this option, in conjunction with some of the other legal strategies outlined herein, might actually do you some good. If you have no roots to your current location, moving to a new area might give you the practical and psychological rebirth toward future success.

***“Judgment Day”*** – If you are in the foreclosure process, you can voluntarily give the property back to the bank through a “consent to foreclosure judgment.” Oftentimes, the deficiency can be waived and you can secure more time to stay in the house than the judge would normally order at trial.

***“Wasted Years”*** – struggle indefinitely to make the minimum payments on your creditor cards without ever really digging out of the debt hole. You have managed to stop using the cards, which are all maxed out. Part of you wants to avoid a Chapter 7 bankruptcy because you somehow think that it signifies failure, or that it will be worse for your credit rating. In fact, by simply ending the pain with the bankruptcy court’s help, your debt-to-income ratio will improve and so will your credit rating. Five U.S. Presidents and countless industry leaders and celebrities have used bankruptcy as a solution to crushing debt problems, and there is no shame in doing so.

***“2 Minutes to Midnight*** “ - The foreclosure process can take a year or several years to finalize, depending upon your state and your lender -- maybe even if you don’t take any action at all. However, unless you truly have a legal defense that you can properly assert in court, or unless you go through a loss mitigation option below, the property will eventually go to a foreclosure auction. The earlier in the foreclosure process that you strategize and decide upon a plan, the more legal options that you will have. Contacting an attorney when you are first served with the foreclosure summons and complaint is better than waiting until the day before the foreclosure auction.

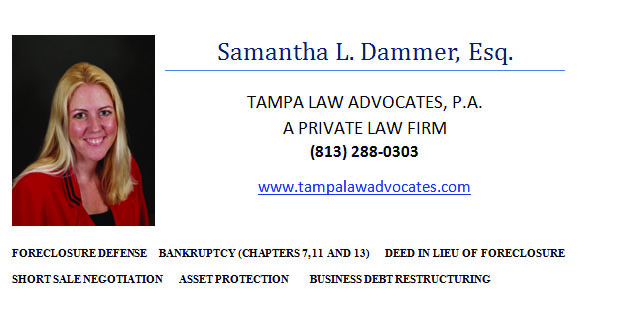
***“Die with Your Boots On”*** – cash out your retirement accounts, or other assets that are exempt from creditors, in order to pay your creditors. This is a noble, but very bad idea. Unless you have solved whatever problem got you into the debt situation, you have just thrown away everything that you’ve worked so hard for, and which no one would have been able to take from you otherwise. If you are still getting yourself into debt after you’ve already exhausted your savings, what’s your next move?

***“Fear of the Dark”*** – hide from debt, and pretend nothing is happening. Throw the dunning letters away and don’t answer your phone when bill collectors call. You may eventually get sued, at which point you will have to take some other action. Or your creditors may forget about you, but your credit score will reflect years of old, charged off debt at best. Good luck ever getting a home loan or security clearance.

***“Be Quick or Be Dead”*** – Play games with creditors, such as those nice car repo chaps. If you are more than a month or so behind on car payments, you need to know that your car can legally be seized from almost any public location. Do you really want to walk out of Publix with a shopping cart full of ice cream or other perishables, and have no ride?

***“Can I Play With Madness?* “** – hide assets from your creditors, and even from the bankruptcy court. This sort of stupidity would include quit-claiming real estate to relatives while you are being sued by creditors. It would also include failing to disclose personal property and bank accounts in legal proceedings. Choosing this sort of non-legal option can lead you to the self-explanatory category of ***“The Prisoner.”***

The above legal options and other choices are not a complete list, nor are they by any means intended as legal advice specific to your situation. But it sure is cool that they all seem to fall into nice, neat Iron Maiden categories, isn’t it? Feel free to visit our website [www.tampalawadvocates.com](http://www.tampalawadvocates.com) to learn more about your legal rights and how to survive debt challenges.



**Samantha L. Dammer is a Florida attorney. She is a member of the Tampa Bay Bankruptcy Bar Association and the Hillsborough County Bar Association and she has practiced law since 1998 (admitted to Florida Bar 2007). The information and materials in this article are provided for general informational purposes only and are not intended to be legal advice. No attorney-client relationship is formed. Nothing in this article is intended to substitute for the advice of an attorney, especially an attorney licensed in your jurisdiction. We are considered a debt relief agency and we may recommend bankruptcy as a solution to financial problems. The hiring of a lawyer is an important decision and should not be based solely on advertising. Call or write for a list of our qualifications.**

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