



# The Consequences of Escaping Debt in Family Property Proceedings

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If you or your former spouse owe a significant sum of money to a person or company known as a creditor, you may be wondering how this will be dealt with in your family property proceedings. Some have attempted to transfer property from one spouse to another in a bid to protect their property from a creditor's claim. Our family law lawyers can provide some guidance on what you should do if you owe money to a creditor and the consequences for non-disclosure.

During your family property proceedings, there is an obligation on both parties to disclose any significant creditors or any significant claim against them by a third party to the Court. This includes Applications for Orders made by consent. In circumstances where a Family Court Order would prevent a creditor to recover their debt, your family law lawyers may need to give the creditor notice of the Family Court proceedings who are then provided the opportunity to intervene in the proceedings and seek their own orders to protect their interests in having their debt paid.

In some cases if the debt is not disclosed to the Court during the course of the proceedings, an option for the Court is to consider that the creditor has been denied procedural fairness and the Orders may be challenged. Consequences for such non-disclosure may include varying or setting aside the Orders, even those Orders made by consent.

Every case is different and , not every denial of procedural fairness will lead to a new trial. The outcome will depend on the individual circumstances of your case.

For advice about the obligation to disclose your debts in your family property proceedings contact us on **1800 300 170** or email us at [famlaw@matthewsfolbigg.com.au](mailto:famlaw@matthewsfolbigg.com.au)

## **Disclaimer**

***Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.***