

## Ask a Lawyer

By Steven Leskin

**Q~**My neighbor sued me in small claims court over a property line dispute. He said that my new fence was on his property. I lost. The judge ordered me to pay him money for the cost of removing the fence. I paid the full amount of the judgment the day we were in court. My neighbor then refused to sign a "Satisfaction of Judgment." What can I do?

**A~**From a lawyer's perspective, the purpose of going to court is to obtain a judgment. A judgment is the final result of the legal process in a particular case. In Oregon, the "General Judgment" signifies that a case is complete. A judgment may contain a Money Award or an Order signed by the judge for something to happen.

A judgment gives the plaintiff (the party who brought the law suit) the right to collect the amount specified in the Money Award. In order to enforce the Money Award, a plaintiff can garnish the defendant's wages, or seize his assets and sell them at a sheriff's sale. The plaintiff can also seize a defendant's bank accounts.

The right to collect the Money Award ends when the judgment is paid in full. Since a judgment is a public document, the plaintiff is required by law to sign a "Satisfaction of Judgment" once the judgment is paid. This document

tells the world that the judgment is paid. Once the Satisfaction of Judgment is signed by the plaintiff, the plaintiff cannot continue his or her collection efforts against the defendant.

In the event the plaintiff refused to sign a Satisfaction of Judgment, the defendant can file a motion in the court in the same case. The motion requests that the court declare that the judgment is satisfied. The plaintiff will offer the court proof of payment. Once the court finds that the Money Award has been paid in full, the court will issue its own Satisfaction of Judgment. This tells the world that you have paid the judgment and prevents the plaintiff from taking any further collection efforts against you.

**Q~**I received Social Security benefits. A few years ago, I got married. I received a letter from Social Security demanding that I re pay benefits they paid me since I got married. I'm still disabled. I do not understand.

**A~**I suspect that you receive SSI benefits from Social Security. SSI benefits are available to any sick or injured person. By contrast, Social Security Disability is available to any sick or injured person who has worked for more than ten years. The amount of the Disability payment is higher than the SSI payment and there are no asset restrictions on the recipient. SSI recipients receive a smaller monthly benefit and cannot own more than \$2,000 in assets or have other income coming into their home.

I strongly suspect that you did not tell Social Security that you married and that your husband or wife was working or had other assets which you now share.

Your failure to tell Social Security about your new economic condition, i.e., the marriage, created an overpayment when your new relationship (and the assets which came with it) exceeded the SSI asset restrictions for your household. Now, the Social Security Administration wants to collect the difference between what it was actually paying you with what it should have been paying you considering your new economic circumstances.

I cannot give specific advice

here, but you should consider actually going to your local office and confirming the facts on which the agency is basing its decision. You can file, if it's timely, a Request for Reconsideration to dispute the facts. You might also discuss with Social Security a payment plan to re pay the benefits you should not have received. You should also discuss with Social Security what the consequences will be if you do not re pay the over payment.

If you think that Social Security is in error in its factual assessment, then consider hiring an attorney.

**Q~**Is there common law marriage in Oregon?

**A~**The simple answer is that there is, in fact, no common law marriage in Oregon.

However, if a couple lives together and they have a plan for their relationship, they can go to court to dissolve their "domestic partnership." A plan for the relationship might mean that one of the party works and the other raises the kids with the understanding that the assets of the relationship will support the couple in retirement.

While that sounds simple to prove in court, it's not. Most couples do not discuss this, let alone write it out. The court will look to the actual facts of the relationship to determine what the agreement of the parties was, if any. Unlike in a marriage, if the court finds that there was no partnership plan, one spouse may find that they are not entitled to spousal support, or to a share of the assets, or the retirement accounts (like the 401K).

There are no legal benefits or consequences to simply living together even if the couple is (falsely) holding

themselves out as "husband" and "wife." There are no legal benefits to that arrangement.

The easiest way to think of this is to consider a business partnership. Suppose two people go into business together and the business fails. Who is going to get what? If there is a written partnership agreement, it's easy to determine who gets the assets and how the debt will be distributed. If there is no partnership agreement, the court will look at the facts of the business relationship to distribute the assets and debt in the event of a dispute.

The act of marriage provides a rational, somewhat predictable manner to divide the assets and debts in the event the relationship fails. There are laws and cases to provide the court with direction how to dissolve a marriage. The act of marriage provides protection to both parties. Without a marriage, the parties will need to convince the court that there was in fact a domestic partnership (as opposed to just living together), and what that plan was. And, this is going to be especially difficult because it's not likely that the couple wrote out a plan on which the court could look at to determine the couple's actual intentions.

That's the long answer. There is no common law marriage. However, to mitigate against the harsh effect that might have on one party to a marriage, that party can claim a domestic partnership exists. The best safeguard against a grossly inequitable dissolution of the relationship, absent a written domestic partnership agreement, is actually marriage.

*Steven Leskin is an attorney in North Portland. He has been in practice since 1992. You can submit a question to him through [www.StevenLeskin.com](http://www.StevenLeskin.com) or through the Vernonia's Voice website.*



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