**What if Someone Who Owes Me Money Files Bankruptcy?**

WHAT IF SOMEONE WHO OWES ME MONEY FILES BANKRUPTCY?

What if people or companies who owe you money, or who have done you wrong, file bankruptcy? What if your former spouse files bankruptcy? What if a person whom you have consigned files bankruptcy, leaving you stuck with the debt? People may have told you that there is nothing you can do about it. But that’s not necessarily true! In some cases, you may be able to protect your legal rights – but it’s important that you act quickly!

WHAT DOES THE NOTICE FROM THE BANKRUPTCY COURT MEAN?

This notice means that someone has identified you as a “creditor.” In other words, the person or company believes it owes you money, or might owe you money. The person or company who flies bankruptcy is known as the “debtor.”

SO WHAT SHOULD I DO?

First, you must stop all collection against the debtor. The notice is actually an order from the federal bankruptcy court which prohibits any kind of collection. If you already have an attorney representing you against the debtor, notify your attorney immediately. Second, you may wish to see an attorney to discuss your legal rights. But note that there are strict deadlines by which you must take certain actions, so see an attorney as soon as possible. Your attorney will review the case to see whether you have a good case against the debtor, and whether it is worth the time and cost. Finally, if you learn a person who owes you has filed bankruptcy, but don’t get a notice, you should still contact an attorney to protect your legal rights. Also see an attorney if you didn’t learn about the bankruptcy until a deadline has passed – it is possible you may still have legal rights.

SHOULD I ATTEND THE MEETING OF CREDITORS?

The Bankruptcy Court notice will give you the date, time and location of the Meeting of Creditors. If you did not get a Notice, contact the Bankruptcy Court as soon as you learn the person or business filed bankruptcy.

You are not required to attend the meeting, but it may be helpful to go so you can speak with the debtor and the debtor’s lawyer. When the debtor and his or her lawyer are called to the table, you are allowed to go as well. You may be asked to fill out a form which identifies you as a creditor. You are then allowed to ask the debtor questions under oath. The meeting may give you the opportunity to learn more about the debtor’s bankruptcy and financial circumstances.

Please note, however, that the Meeting of Creditors is not a court hearing. There is no judge present. A Bankruptcy Trustee conducts the meeting. Typically you will be allowed only to ask questions, not to present your side of the case. Your time to ask questions will be limited. No decision will be made about whether the debtor can discharge your debt. Note, your appearance at the meeting does not, by itself, give you the right to challenge discharge. You should see an attorney.

ARE THERE KINDS OF DEBTS WHICH CANNOT BE DISCHARGED IN BANKRUPTCY?

YES. These include the following circumstances:

* If the debtor committed fraud or used false or deceptive conducts.
* If the debtor deliberately injured you or your property.
* Injury or death caused by drunk driving.
* Child support, maintenance, or alimony obligations.
* In many cases, debts a former spouse was ordered to pay in a divorce.

Some governmental debts cannot be discharged, such as most student loans, some kinds of taxes, and credit cards / loans which were used to pay taxes. This might affect you if you have co-signed on such debts.

WHAT IF I HAVE A LIEN ON THE DEBTOR’S PROPERTY?

If you have a valid lien against the debtor’s property (home, car, personal property, etc.), you may still have valid rights against that property, even after a debtor has filed bankruptcy. But see an attorney before taking any action against the debtor or the property.

WHEN CAN I FILE A CLAIM IN BANKRUTPCY COURT TO COLLECT MONEY?

If the debtor has to pay money or turn over assets to the court, you may be able to collect a share by filing a Proof of Claim form with the Bankruptcy court. The official Court notice will tell you whether you may file a claim, and the deadline for filing a claim. If you do not receive a claim form, these are available at the Bankruptcy Court Clerk’s office. You may get all your money or only part of your money. You may be paid soon, or have to wait years for your money. An attorney may be able to advise or assist you in determining what kind of claim you are entitled to.

WHEN SHOULD I SEEK LEGAL ADVICE ABOUT THE OTHER PARTY’S BANKRUPTCY?

You may wish to seek the advice of an attorney in any of the following circumstances – remember to do so quickly!

* Home repair fraud, mail fraud, deceptive sales, bad checks, or other deceptive or misleading conduct.
* Assaults, battery, or other willful injury, including libel of slander.
* Drunk driving, of any kind of vehicle, which caused injury or death.
* If you are owed support, maintenance, or alimony.
* If the debtor has agreed, or been ordered to pay you money or turn over property in a divorce or to pay marital debts.
* If you have co-signed a debt for someone else, and the other person filed bankruptcy.
* If a business which owes you money files bankruptcy;
* Any other time you feel you have been treated unfairly, or simply wish to know your legal rights.