

## How Bankruptcy Can Help You If You Get Sued

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Often the event that pushes people from thinking about bankruptcy to actually filing bankruptcy is the arrival of a process server at their door and being served with a law suit. As an attorney it is easy to become desensitized to the emotional impact of being served with a law suit, but for many the arrival of a law suit rocks their world to the core. Panic sets in, you are not sure what to do, and start having nightmares of your creditors taking everything you have.

First thing you should do if you get served with a law suit is meet with an attorney to review the complaint and determine if the claims against you are legitimate or if you have valid legal defenses. Sometimes people filing law suits are flat out wrong, or at least have filed the law suit based upon incorrect facts. The real problem occurs when you get sued and there are really no legal defenses. At times clients will ask me to file an answer to the law suit even though all the facts and allegations are true. Other than admitting all the facts, an attorney cannot file an Answer that they know is not factually correct.

In Arizona Superior Court you are generally permitted 20 days to submit a written answer to the court. If you fail to do that you risk a default judgment being entered against you. If you owe the debt and don't have any legal defenses for non-payment, it is likely only a matter of time before judgment will be entered against you. Bankruptcy will not only stop a pending law suit, but if judgment has already been entered against you it will void that judgment.

Immediately upon filing your bankruptcy case the bankruptcy court will enter an order called the Automatic Stay. This order stops any collection efforts from proceeding against you, including the continuation of any law suits against you. Your bankruptcy attorney will notify the Superior Court of your bankruptcy filing and no further action should be taken by the plaintiff to that law suit. Filing bankruptcy provides the immediate relief of knowing that the law suit will not proceed, you will not have to incur any court costs or attorney's fees in defending that law suit, and your creditors will not be able to go after any of your assets or wages.

If judgment has already been entered the creditor now has the ability to garnish wages, garnish bank accounts, or take non-exempt property. A bankruptcy filing will not only stop any type of garnishment or execution on your property, but upon entry of the bankruptcy discharge will void the judgment that was entered against you.

Here in Arizona I see a lot of law suits and judgments for deficiency balances on homes after a foreclosure or short sale. Often these law suits are for very large amounts of money. The thought of paying back tens of thousands — or even hundred of thousands of dollars on a home you no longer own is not very appealing to most. A bankruptcy filing will stop such law suits and eliminate the underlying debt.

I offer a free bankruptcy consultation where we can discuss your individual situation. If you have been sued or are anticipating a law suit please give me a call and we can prepare a plan of action to help you out of this difficult situation. I can be reached at (480) 464-1111.