



10 Things Every Lawyer Should Know About Bankruptcy: #1 Stay Means “Stay”

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If you receive notice that an opposing party in your litigation has filed bankruptcy, you should immediately stop what you are doing in the case and contact the debtor’s bankruptcy attorney. The moment a bankruptcy case is filed, an “automatic stay” goes into effect, protecting the debtor from most forms of prosecution, including suits for collection of money judgments, some family court actions, and the imposition of liens.

Even if you or your client has not received official notice of the bankruptcy case filing, actual knowledge is enough to support damages for violation of the automatic stay.

Some types of cases are not stayed by the bankruptcy filing, such as child support enforcement actions, paternity suits, and some other types of actions. But state court judges often want a “comfort order” from the bankruptcy court that specifically states the litigation will be allowed to continue, and under what conditions. If in doubt, it is best to consult with a bankruptcy attorney or reach an agreement with the debtor’s bankruptcy attorney before continuing to prosecute any action against a bankruptcy debtor.