

Will Bankruptcy Stop the Lawsuit Filed Against Me? What Happens if There is Already a Judgment Against Me?

A lot of people get the motivation to file bankruptcy after they have been served with a lawsuit. There are many different types of civil lawsuits for which this article will focus on a typical civil lawsuit regarding failure to pay on a debt. I get a lot of phone calls from distressed clients wondering about whether their wages will be garnished, whether money will be taken out of their bank accounts, or whether the creditor will attach a lien on their property. Fortunately if you have just been served with a lawsuit you some time before your money or property will be taken to satisfy your debts.

Let's assume you have just been served with a lawsuit. You have the option of responding or doing nothing at all. If you do not file an answer within the allotted time (usually stated on the summons), the plaintiff can ask for a default judgment for the amount stated in the complaint. Once you have a judgment against you, a creditor can garnish your wages, levy your bank accounts, or put a lien on your property. However, filing bankruptcy will terminate garnishments as to wages earned after filing bankruptcy, and will stop bank account levies.

It's possible that you are not even aware of a judgment against you. You may be picking up your check on Friday and notice that 25% of your wages are missing, or you try to withdraw money from your bank account and a large sum of money has been taken out. This means you have either not been properly notified or you have been noticed by alternative means approved by the court. Either way, you are in a position where you will want to file bankruptcy right away, given the rest of your financial situation makes sense to do so.

Unfortunately I rarely see clients with a legal defense as to why they were unable to pay their debts. That's not to say I haven't heard plenty of legitimate factual explanations, but regrettably they will fall on deaf ears with the court. Most clients respond to the complaint to buy themselves time. If you wish to file a response, you should visit the self-help center for the court which is listed on the paperwork you were served with. You can expect to pay a response fee as well, usually between \$50 and \$200. I would also try and get assistance on who needs to be served and in what manner. Usually the court clerks are rather friendly, but remember they cannot provide you with legal advice. You should always consult with an experienced bankruptcy lawyer in Tucson, Phoenix, or your surrounding area.

If you dispute the claims in the complaint the court will set a hearing for you usually about 30 days out. During that time you can either prepare your defense, if you have one, or prepare for what you are going to do if the court rules against you. There is no requirement that you file bankruptcy before a creditor gets a judgment against you. However, if you have a judgment lien, if the debt is non-dischargeable, or you have debts that are unliquidated, you will want to consult with a qualified bankruptcy lawyer about how the judgment will affect your bankruptcy case.