



# 10 Things Every Lawyer Should Know About Bankruptcy: #2 List It Or Lose It

Published on February 16, 2010 by **Kathleen Munden**

If the debtor in a bankruptcy case fails to list a lawsuit or possible claim in which they are the plaintiff, they may lose the ability to proceed on that claim. For example, if a debtor has a personal injury lawsuit pending and fails to list it as an asset in the bankruptcy case, they have essentially committed bankruptcy fraud, and may be prohibited from prosecuting the case after the bankruptcy case has been concluded.

Debtors are required to list all of their property in their bankruptcy schedules, and a claim against another party is considered an asset. Unless the proceeds of the claim are exempt under the Bankruptcy Code, the trustee in the bankruptcy case may be entitled to step into the shoes of the debtor and receive any money that is collected. That money will then be distributed to the debtor's creditors.

You should be careful to tell all your clients that they should inform you if they are currently or later become involved in a bankruptcy case, and also to inform their bankruptcy lawyer of any possible claims or lawsuits they have. You may be required to apply to the bankruptcy judge for approval of your employment to continue with a lawsuit in which you represent the plaintiff if your client becomes a debtor in a bankruptcy case. The best course of action is to contact your client's bankruptcy attorney as soon as you become aware that the client plans to file a bankruptcy case, so you can work together to protect your client's rights.

Kraft & Associates  
2777 Stemmons Freeway  
Suite 1300  
Dallas, Texas 75207  
Toll Free: (800) 989-9999  
FAX: (214) 637-2118  
E-mail: [info@kraftlaw.com](mailto:info@kraftlaw.com)