

Law Suits, Garnishments & Bankruptcy

By Arizona Bankruptcy Attorney John Skiba

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Lately I have seen an influx of clients who are facing a wage garnishment or who have recently had a creditor garnish their bank accounts. This is likely due to the fact that this bad economy has been going for years now and creditors are working through the stages of collection calls, filing a law suit, obtaining a judgment, and now obtaining a garnishment. This process is not a quick one and it make take literally years before a creditor decides to file suit and come after you.

The good news is a chapter 7 bankruptcy or a chapter 13 bankruptcy can take care of these types of debts and stop any garnishments immediately. Many aren't aware that your creditors can garnish your bank accounts. In many ways the bank account garnishment is more devastating than a wage garnishment. With wage garnishments you are given notice that it is coming and it is capped at 25% of your paycheck. When it comes to bank account garnishments they can take all but \$300 out of your account and the only notice you have is when you go to the store and your debit card is declined.

I am hearing of a lot of people that have received several thousands of dollars in a tax refund only to have it all taken by a creditor. In order for a creditor to garnish your bank account two things are necessary: first, they must have a judgment against you. This means that they have sued you and obtained a judgment, signed by a judge, against you. Second, they have to know where you bank. It is not necessary that they know what branch you bank at and they don't need to know your account number. All that is necessary is for them to know which bank (i.e., Wells Fargo, U.S. Bank, Chase, etc.) and then they can serve the garnishment documents on that bank and take your money. You may wonder how they will ever know where you bank. Creditors can simply follow the money trail. They can go back and look at the checks or debits you paid your prior bills with and start there.

If you have been sued or if you are facing a garnishment, bankruptcy will stop the garnishment immediately and discharge or eliminate the debt. Chapter 7 bankruptcy is particularly effective at dealing with law suits and garnishments. On these types of debts there is generally no pay back required and the process is relatively short. Further, immediately upon the filing of your bankruptcy case the bankruptcy court will issue an order called the Automatic Stay. This order stops all collection efforts against you, including law suits, garnishments, telephone calls, letters, etc. If you are having your wages garnished and payday is just a few days a way, we can file a bankruptcy case and stop the garnishment.

I offer a free bankruptcy consultation where we can discuss your situation and put together a plan on how to deal with the law suit or garnishment and how to get you back on track.

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