

Creditors' Rights

Our firm has represented various small and larger businesses, assisting such creditors and explaining creditors' substantive and procedural rights when a debtor files for bankruptcy. Creditors need not throw up their hands once a bankruptcy is filed. When repayment of a legitimate debt is at stake, a creditor is urged to consult knowledgeable and experienced bankruptcy counsel. A creditor does not have to absorb the loss without first seeking the opportunity to mitigate or alleviate the loss. There are many ways that Vermont creditors can try to recover partial or total amounts owed by clients who are filing Chapter 7, Chapter 11, Chapter 12, or Chapter 13 bankruptcies. The higher the stakes, the more worthwhile it is to examine all possible defenses.

Your options as a creditor may include:

- * A creditor may assert an "administrative expense" priority claim for goods received by the bankrupt customer within 20 days of a bankruptcy filing.
- * A creditor may assert a "reclamation claim" for goods delivered to an insolvent customer within the 45 days before a bankruptcy filing.
- * A creditor may assert rights as a "lien holder" with regard to special classifications of supplies.
- * A creditor may assert a right to compensation as an "essential supplier" or "critical vendor."
- * A creditor may pursue priority litigation versus other lien holders, including secured creditors, taxing authorities and landlords.
- * A judge may grant relief from the automatic stay or except your debt from the discharge if it can be shown that a debtor is committing fraud or acting in bad faith.

Our firm can also defend you should a bankruptcy trustee seek to recover as a preferential payment or fraudulent transfer money that the debtor paid you or goods that you recovered on a legitimate debt before the debtor filed bankruptcy.

In addition, we represent commercial and retail clients outside bankruptcy in the collection of commercial debt, secured and unsecured, for small and large businesses, contractors, subcontractors, banks, lenders, commercial landlords and equipment lessors. On your behalf we can undertake:

- Construction collections - filing and enforcement of mechanic's lien claims, and labor and material payment bond claims
- Replevins - repossession and recovery of collateral from defaulting commercial debtors for lessors and other secured creditors
- Litigation – prosecution of debt collection civil actions in state and federal courts and before alternative dispute resolution forums (arbitration, mediation), and defense against commercial debtor's counterclaims.

Contact us to schedule a free consultation to protect your rights as a creditor rather than risking total loss through a customer's bankruptcy.