

Will Filing for Bankruptcy Protection Affect My Job?

As Nevada continues to lead the country in per capita bankruptcy filings, many Las Vegans are concerned that they might be fired or face other retaliation by their employer if they file bankruptcy.

Even though Nevada, like most states, considers an employee an "at will" employee, which means that the employee can generally be fired for any reason or even no reason, as long as it is not done in violation of certain public policy protections (race, gender, etc.), the **bankruptcy code specifically states that a person may not be fired simply because he/she filed for bankruptcy.** The Bankruptcy Code, at 11 U.S.C. sec. 525(b), states that "No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such debtor or bankrupt." If you are unlawfully terminated based on the simple fact you filed for bankruptcy you may receive back pay, including fringe benefits and reinstatement, and may also recover damages for emotional distress.

However, it is highly unlikely your employer, or anyone for that matter, will ever know you filed for bankruptcy unless you decide to tell them. The only parties that will know you filed for bankruptcy are creditors and any co-debtors (co-signer). No one stands outside the court house to read off the names of who filed for bankruptcy that day and the names of people who have filed for bankruptcy is not published in your local newspaper or community newsletter.

In summary, your employer will probably not know that you are filing for Chapter 7 bankruptcy protection unless you decide to tell them. Furthermore, if your employer does somehow learn of the filing or attempt to retaliate against or fire you because of the bankruptcy, you can avail yourself of the protections provided by the bankruptcy code. Individuals that are subjected to unlawful bankruptcy discrimination may receive back pay, including fringe benefits and reinstatement, and may also recover damages for emotional distress.