The Newsletter
FAUCHER LAW
TAX & BANKRUPTCY

How Public Is the Information in a Bankruptcy?

Unless a Celebrity Filed, Bankruptcy is Not Very Public

INSIDE STORIES

· Components of a Bankruptcy Petition
· Sebastian Googles A Client Bankruptcy
· Black Bean Recipe

Clients often worry about who has access to their bankruptcy filing. After all, a debtor submits a 50-plus-page petition in U.S. Bankruptcy Court that overviews all their income, assets, debts and financial transactions for the past 1-3 years. Since bankruptcies are legal filings, they are also public documents, accessible to anyone. But in reality, it's hard to access a bankruptcy. Why?

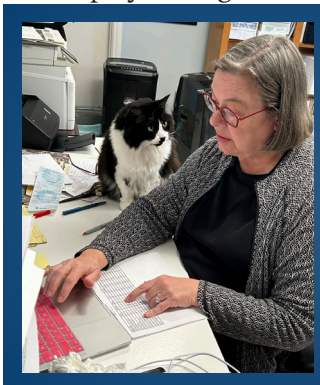
Only Creditors Receive Bankruptcy Notices. When a bankruptcy is filed in one of the 94 districts of U.S. Bankruptcy Court, a Notice is automatically mailed to every creditor listed. Thus, anyone owed money by the debtor will know about the bankruptcy: every credit card, car loan, student loan, tax agency, doctor, mortgage holder, entity with a legal judgment against the debtor, and financial institution or friend/family member who loaned money to the debtor. These creditors have the right to attend the 341 Hearing at which the debtor is questioned by a Bankruptcy Trustee, and object to their debt being discharged (erased) by the bankruptcy.

While creditors may attend the 341 Hearing, almost none do. Credit cards don't show because it's a waste of resources: they chose to lend money without collateral, and the debtor is entitled to have unsecured debt erased if they qualify for bankruptcy. Tax agencies and lenders don't show up for the same reasons: it makes no economic sense to object to erasing a debt that can be legally discharged in bankruptcy. The few creditors who do show up at 341 Meetings are usually people with an axe to grind, like wronged friends or business associates.

Other than creditors, no one else is notified of a debtor's bankruptcy. Note who isn't informed of a bankruptcy: the banks where debtors' checking, savings and brokerage accounts are held, fee-for-service vendors, employers, or even landlords. Unless a debtor owes more than just last month's bill, no vendor paid a monthly fee for a service essential to living is notified of a bankruptcy. Fee-for-service vendors are not creditors, unless the debtor has many unpaid bills and has included the vendor on their bankruptcy petition.

Google Search. It's hard to find a bankruptcy with a simple Google search. Using a debtor's name and "bankruptcy" to guide the search is too general for the Google search algorithm to place the result in the first few pages - in other words, in the easy to find places. For Google to generate a highly ranked result (first or second page), the specific divisional court in which the bankruptcy was filed must also be included in the search parameter or the case must have generated unusual litigation. There are 94 district bankruptcy courts: each with multiple divisions. It's difficult to find the court a bankruptcy was filed in because the national, searchable databases that contain this information, such as Pacer, are all paid, subscription databases used primarily by attorneys. Even knowing the specific court a bankruptcy was filed in, accessing the debtor's petition (on that court's website) often involves payment of a fee, as most courts charge for downloading legal documents.

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Karen is working on a client matter here, rather than processing Sebastian the Feline Paralegal's business expense reimbursement. I think that shows we know clients come first at Faucher Law. Sebastian disagrees, but only when it's his reimbursement needing processing. Clearly, Karen is the Boss in this dispute, don't you agree?



Milo, our Feline Intern, is hard at work and wants to help. Call us.
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Implications? Almost no one has the incentive to casually search for whether someone's filed bankruptcy because it requires specific knowledge to find a bankruptcy. Of course, that doesn't apply to celebrities. Media outlets constantly scour court databases across the country for things like arrests and bankruptcies of public figures. That's not the case for regular "civilians."

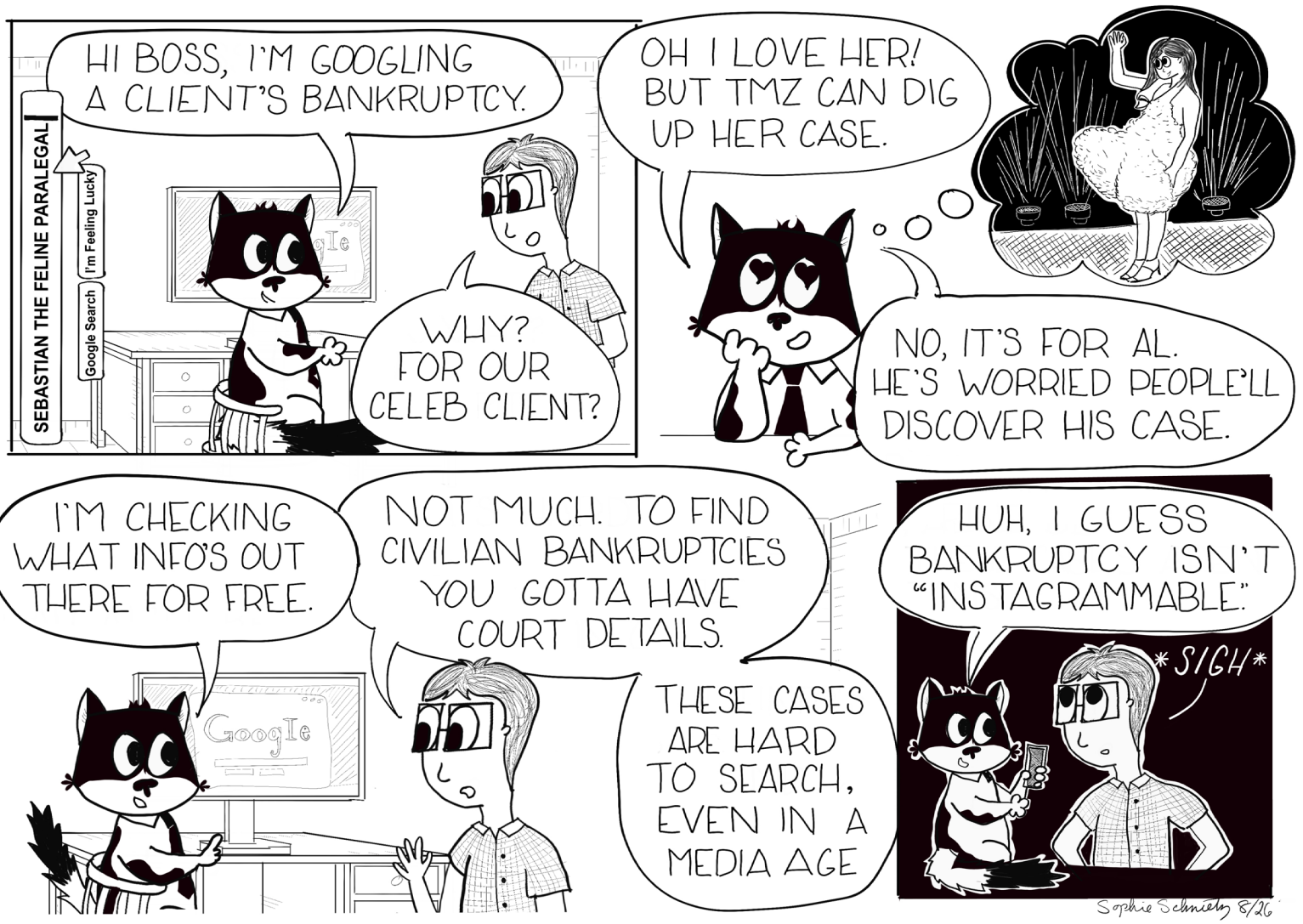
Bankruptcy Shows On Credit Reports for 10 Years.

Credit reports will list the date, case number and jurisdiction of a bankruptcy for 10 years (chapter 7) and 7 years (chapter 13). But credit reports show only these facts of a bankruptcy; they do not include any details from the petition. And only people/institutions given permission by the debtor to access their credit report are able to see the fact of the bankruptcy. Credit reports are not public information.

JDF

What Information Does a Chapter 7 Bankruptcy Petition Contain?

Schedule	Description
Form 101: **Voluntary Petition**	7-page summary of debtor's general information about creditors and assets
Statement Related Cases	1-page list of prior bankruptcies
Form 106: **Summary of Assets & Liabilities**	2-page summary of assets, debts, income and expenses; indication of consumer vs. non-consumer debtor status
Schedule A/B: **Property**	Multipage list of all real property and other assets, with values
Schedule C: **Exemptions**	1-page list of assets debtor is claiming under either Homestead or Wildcard exemption, with amounts
Schedule D: **Secured Creditors**	1-page list of secured creditors with collateral (mortgage & car notes), with amounts
Schedule E/F: **Unsecured Creditors**	Multi-page list of unsecured creditors (credit cards, personal loans, medical debt, collection agencies), with amounts
Schedule G: **Executory Contracts & Leases**	1-page list of leases and other longer-term rental agreements; if not in arrears, landlords don't need to be listed
Schedule H: **Codebtors**	1-page list of others who also are responsible for the debts
Schedule I: **Income**	2-page list of all employers, debtor's occupation, and detailed breakdown of monthly income and deductions from each over past 6 months (from paychecks); or details of business income if self-employed (from profit & loss, or 1099s)
Schedule J: **Expenses**	2-page list of average monthly personal expenses, for past 6 months, with calculation of difference between monthly income and expenses
Form 106Dec: **Declaration**	1-page confirming the schedules are true and correct
Form 107: **Statement Financial Affairs**	Multi-page answer to 28 questions about debtor's financial situations (3 years income, storage units, recent asset sales, etc)
Form 121: **SSN Statement**	1-pg confirmation social security number is correct (not public)
Form 122A: **Means Test**	The means test is what is used to determine if someone qualifies for BK if they are a consumer debtor. This section breaks down how that calculation is done.
Creditor Mailing List & Verification	Debtor attests that all creditors (who will be notified of BK) are listed in petition
F2090-1: **Compensation**	1-page re John's fee, and that it was paid before filing



Gourmet Black Beans

This is a great addition to any grilled or Mexican food. Karen freezes it so we always have some when needed.

1 pound (about 2 ¼ cups) dried black beans, picked over and rinsed	1 tbsp ground cumin
2 tsp salt	1/3 cup olive oil
1 onion, chopped fine	3 tbsp tomato paste
1 green bell pepper, chopped fine	2 tbsp red-wine vinegar, or to taste
1 red bell pepper, chopped fine	1/3 cup finely chopped scallion
4 garlic cloves, minced	1/3 cup chopped fresh coriander

Instructions:

• In a large bowl let the beans soak in enough cold water to cover them by 2 inches for 1 hour and drain them.

• In a large heavy saucepan simmer the beans in enough cold water to cover them by 1 inch, uncovered, adding more water as necessary to keep the beans barely covered, for 1 to 2 hours, or until they are tender. Add the salt and simmer the beans for 5 minutes.

• While the beans are cooking, in a heavy skillet cook the onion, the bell peppers, the garlic, and the cumin in the oil over moderately low heat, stirring, until the vegetables are softened, add tomato paste, and cook the mixture, stirring, for 2 minutes.

•Stir the vegetable mixture into the beans, add the vinegar and salt and pepper to taste, and simmer the mixture, stirring occasionally, for 15 minutes, or until it is thickened to the desired consistency.

•The beans may be prepared up to this point 2 days in advance, kept covered and chilled, and reheated, adding additional water if necessary.

Serves 4-6

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WELCOME TO FAUCHER LAW

John D. Faucher worked for 10 years as an IRS trial attorney and has been in private practice since 2008. He and his team speak the legal language. They know the **tax and bankruptcy systems** and can help you get the best result. Have other legal issues? Call us. We'll find the lawyer who's right for you, your friends, or family.

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You've Filed Bankruptcy:

How Easy Is It To Find A Bankruptcy?



A big concern of people considering bankruptcy is who will find out about it. Many clients don't want employers, clients, landlords, friends or even adult children and former spouses to know they have filed bankruptcy. The answer is that it's surprisingly difficult to sleuth information on non-celebrity bankruptcies, let alone get access to the 50-page bankruptcy petition each debtor files in one of the country's 94 Bankruptcy Courts. In this edition of ***The Newsletter***, I explain why it's hard to access information on most bankruptcies--even for Sherlock Holmes and Dr. Sebastian Watson. Also in this issue, **Sebastian my Feline Paralegal** tries to Google a client's bankruptcy, and a **recipe for black beans** that go well with any Latin dish.