

# Wyrick, Sisson and Staab in ABA Franchise Law Journal: The Franchise Lawyer's Guide to Bankruptcy

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**PRACTICES** Franchise and Distribution, Restructuring

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Haynes Boone Counsel [David Staab](#) and Associates [Martha Wyrick](#) and [Lauren Sisson](#) discuss the initial steps of entering bankruptcy in an article for the American Bar Association's *Franchise Law Journal*. They explore important issues that may arise during bankruptcy in the franchise industry.

Read an excerpt below.

## **Overview and Introduction**

"You can't have capitalism without bankruptcy." It is likely that those in the franchise industry will cross paths with a bankruptcy filing. Indeed, there have been several significant franchisor bankruptcies in the past year: the Franchise Group, Party City, Red Lobster, and TGI Friday's, to name a few.

This article is a manual for franchise practitioners and provides an overview of key issues in a business bankruptcy case. The authors structured this article to mirror their approach to a bankruptcy filing from a debtor- or company-side representation. First, the article considers entering bankruptcy: which rules apply, where to file, and which type of bankruptcy is the best fit for the client's situation. Second, the article explains the key issues that arise during a bankruptcy that are relevant to the franchise industry, including the automatic stay and the contract assumption and rejection process. Third, the article concludes with approaches to exiting bankruptcy.

## **Entering Bankruptcy**

### **The Bankruptcy Code and the Bankruptcy Rules**

Title 11 of the United States Code (Bankruptcy Code) "provides the law applicable to bankruptcy cases." Congress designed the Bankruptcy Code to protect debtors and creditors in liquidation and reorganization proceedings. The Bankruptcy Code and the Federal Rules of Bankruptcy Procedure govern the procedures and actions by all parties to a bankruptcy proceeding. State and federal law apply with respect to non-bankruptcy substantive legal issues. Accordingly, there is an intersection of state franchise law with bankruptcy law.

[Read the full article here.](#)