It is incumbent upon those who represent financially troubled clients to have a basic knowledge of what can be accomplished through the use of bankruptcy. Not only may such knowledge save a client thousands of dollars, a home, a car, or a job, but it may accomplish these desired results better, faster, and with less expenditure of attorney and client resources than any other means. The bankruptcy court may be a more favorable forum for the raising of affirmative claims and may dispose of them more quickly. Moreover, it may be malpractice not to make available to clients the powerful tools available in bankruptcy for solving their problems.

Probably even more important is the impact of bankruptcy practice on creditor behavior in a particular community. The use of bankruptcy when appropriate often makes a lasting impression, and the ever-present threat of bankruptcy in subsequent cases causes many creditors to become a lot more reasonable than they were before in settling cases and in dealing with their customers. Practitioners have sometimes found regular and skillful use of bankruptcy remedies to have greater deterrent effect than a dozen class actions. The creditor facing an attorney known for filing class actions usually is of the firm belief that it has little to worry about because it firmly believes all of its practices are legal (at least in the particular case involved). But the creditor facing an attorney known to be well-versed in bankruptcy will know, or soon learn, that it stands to lose money in almost every case the bankruptcy attorney handles and that every case is one in which it can be forced to be reasonable, if indeed bankruptcy leaves any claim to be reasonable about.

Of course, bankruptcy is not always the preferable remedy and consumer attorneys should not hesitate to bring class actions whenever appropriate. The well-rounded advocate should know how to use all kinds of remedies, often in conjunction with each other, as tools to effect clients’ objectives.

Source: National Consumer Law Center, Consumer Bankruptcy Law and Practice [12th ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/bankr/010104