The past forty years have, with a brief retrenchment after the 2008 financial crisis, seen an explosive increase in the already easy availability of consumer credit in the United States.\(^1\) The significantly higher debt loads carried by more and more American consumers, particularly those of low and moderate income, render them and their families vulnerable to enormous financial difficulties when they suffer income interruptions.\(^2\) Exorbitant interest rates and fees that quickly accumulate upon a default have left more families than ever vulnerable to a financial death spiral when they experience even a short term drop in income or an emergency expense that disrupts their debt payments. Aggressive creditors regularly threaten to throw debtors’ lives into chaos, through foreclosures, repossessions, levies, executions, garnishments, collection harassment, and utility shut-offs.

In many cases bankruptcy is the only option that will bring order, rational planning and permanent or at least temporary relief to people who are under immense financial pressure. Bankruptcy provides an effective means of leveling the playing field between debtors and creditors, and it can profoundly improve the well-being of individuals and families.

It should come as no surprise, then, that up to one million families file consumer bankruptcy cases each year.\(^3\) As credit expands and bankruptcy becomes increasingly central to our economic and legal systems, large numbers of consumers and businesses seek bankruptcy relief. Bankruptcy gives them an opportunity to reorder their finances and obtain a fresh start. Although the 2005 bankruptcy legislation enacted by Congress made bankruptcy more cumbersome, more costly and, in some cases, less effective, it did not change the stark economic realities that drive people to file bankruptcy cases. Consumers continue to need bankruptcy relief and will continue to seek it in large numbers.

It has become impossible to ignore bankruptcy. Not only is bankruptcy an important option to offer a client with financial difficulties, but it also frequently affects individuals and corporations with whom a client may be involved through employment, marriage, a tenancy, a consumer relationship, or as party to a lawsuit. Bankruptcy can eliminate both long and short term debts, with a minimum of effort in many cases, and can upset the firmest of expectations about consumer, landlord-tenant, and even marital relationships. Large municipal governments, like Detroit, Michigan and Orange County, California, have filed bankruptcy cases with significant implications for all residents.

As the importance of bankruptcy increases, so does the need for low and moderate income clients to have access to the bankruptcy system. Unfortunately, though, because of high filing and attorney fees, it is those with low and moderate incomes who have had the least access to bankruptcy and have had an even more difficult time due to the 2005 bankruptcy amendments. This book is intended to serve as a guide for those interested in providing high quality bankruptcy representation to consumers, particularly for those serving consumers with low and moderate incomes.

Footnotes


3 \(^{[3]}\) After the effective date of the 2005 amendments to the Bankruptcy Code, the number of bankruptcy cases filed fell precipitously. The number of filings later increased to pre-2005 levels, even though those amendments raised serious barriers to access through burdensome and costly new requirements. The effect of those barriers has become apparent in more recent years, as bankruptcy filings have fallen by over thirty percent from pre-2005 levels.
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