

Introduction: For over five years the Bankruptcy Code was the target of a massively financed campaign by the lending lobby to make the bankruptcy process more difficult, painful, and expensive for the people in need of a financial fresh start. In October 2005, the bill was passed and became law.

In the course of 30 years of representing East Texans in Bankruptcy Court, I have become aware of a number of common misconceptions about the process and the people involved. I hope this article helps.

Common Myths & Interesting Facts About Bankruptcy

Myth 1: Bankruptcy- A Ten Year Mistake.

Reality: Many people may remember this slogan from years ago regarding ads for Consumer Credit Counseling. This is simply just not true. If you are already having financial difficulty and are considering bankruptcy then your credit has probably already gone bad. Chances are bankruptcy is not going to make things any worse. Because bankruptcy can wipe out your old debts, you are likely to be in a better position to pay your current bills, and may even be able to get new credit. If handled well, the fresh start from a bankruptcy can be exactly that- [AN OPPORTUNITY RE REBUILD A FAMILY'S FINANCIAL LIFE.](#)

Myth 2: Most People Who File Bankruptcy Over-Spent Frivolously and Wasted Money

Reality: This myth is called the “[overconsumption myth](#)”. While this may be true in some cases, no one is exempt from unfortunate circumstances. There are many reasons while people file bankruptcy. Listed in the top reasons, based on several independent sources, and from most of the people I see, the main reasons for filing bankruptcy for the average consumer is:

**Unexpected Medical Expenses, Job Loss, Divorce/Separation, Unexpected Expenses
Loss of Investments**

Myth 3: But I Won't Be Able to Borrow Money

Reality: While it is not recommended that you incur new debt after filing a bankruptcy, according to one survey, within 6 months of filing for bankruptcy 84% of families had already received unsolicited offers for new credit. Half of the families received more than 30 offers!

Myth 4: Don't Most Debtors Create Their Own Problems?

Reality: While this may be true, it is not in a way that you might think. According to research done by the 2001 Consumer Bankruptcy Project, “the people who consistently rank in the worst financial trouble are parents with children at home. Having a child is now the single best predictor that a woman will end up in financial collapse. A divorced woman raising a youngster is nearly three times more likely to file for bankruptcy than her single friend who never had children.*

Myth 5: Lots of People Who File Bankruptcy Don't Really Need To. They Are Abusing The System

Reality: I call this the **myth of the Immoral Debtor**. “Even the credit industry estimates that only about 10% of families who file for bankruptcy could actually afford to repay even a portion of their discharged debt. Independent academics put that number closer to 1-2%.

Myth 6: It Is Morally Wrong Not To Pay My Debts

Reality: The concept of bankruptcy is found in the U.S. Constitution, but the origin goes back much farther. The bankruptcy code requires individuals to wait until the seventh year after filing for bankruptcy before they are permitted to file (Chapter 7) again. That timeline is actually drawn from biblical references: “At the end of every seven years thou shalt make a release. And this is the manner of the release: creditors release that which he has lent unto his neighbor and his brother; because the Lord’s release hath been proclaimed”. Deuteronomy 15:1-2

Myth 7: Chapter 7 Is Called“Liquidation”. Won't I Lose My Stuff?

Reality: This is the **“lose my stuff myth”**. The bankruptcy process allows debtors to retain certain items of property pursuant to various exemption statutes. Texas has very generous exemption provisions and many people who file bankruptcy are able to retain most and sometimes all of their property. **Every case is different and will need to be evaluated by a qualified bankruptcy attorney.**

Myth 8: I Get To Keep My Stuff Without Paying For It

Reality: This is what I call the **“brother-in-law myth”**. Have you ever heard this; my brother-in-law knew someone who knew someone that filed bankruptcy and got to keep all their stuff without paying for it. Most properly perfected liens will survive a bankruptcy such as a persons homestead or even possibly the lien on a car however, **each case is different and this is actually a complex topic in which you need to seek the advice of a qualified bankruptcy attorney.**

Myth 9: Chapter 13 Is A Debt Consolidation

Reality: This has been a common misconception from the past caused partly by ads run by bankruptcy attorneys who did not want to use the word bankruptcy in their advertising. Current laws state that you have to use the words bankruptcy in your ad and in some instances, Chapter 13 can be used to pay back all your creditors. More often, it is a method for dealing with issues arising from secured debt on property that the debtor needs to keep such as a homestead. It can also be very helpful in dealing with tax liabilities. There are certain statutory requirements that determine how much must be repaid to the creditors.

Myth 10: It Could Never Happen To Me

Reality: While most families are now living paycheck to paycheck, many families are only **ONE** setback away from a financial crisis. According to a study, more than 90 percent of those in bankruptcy would qualify as middle class. (*The Two Income Trap* by Elizabeth Warren)

"Economists estimate that for every family that officially declares bankruptcy there are seven more whose debt loads, suggest they SHOULD file for bankruptcy- if only they were savvier about financial matters".

*We would never suggest that you just stop paying your bills for no apparent reason, or intentionally mishandle your finances, but when life happens sometimes we find ourselves in a position where there seems to be no way out. Living paycheck to paycheck and getting further and further behind. The good news is that if you find yourself in this position, Federal Law actually allows you to gain a new **Financial Fresh Start**.*

Remember that every case is different and will need to be evaluated by a qualified bankruptcy attorney. Rodney S. Scott is Board Certified in Consumer Bankruptcy and has been serving East Texas now for 30 years. If you or someone you care about is struggling financially, I encourage you to call our office for a **FREE INITIAL CONSULTATION to see if bankruptcy is the right option for you to gain a new **Peace of Mind** and get a **Financial Fresh Start**.**

Call our office today to set up your free initial consultation or complete our on-line evaluation and one of our qualified staff will contact you.

903-753-3023 or 800-572-9629

- Citations and statistics are from the book, *The Two Income Trap: Why Middle Class Mothers and Fathers Are Going Broke*, by Elizabeth Warren and Amelia Warren Tyagi