BANKRUPTCY BY THE NUMBERS

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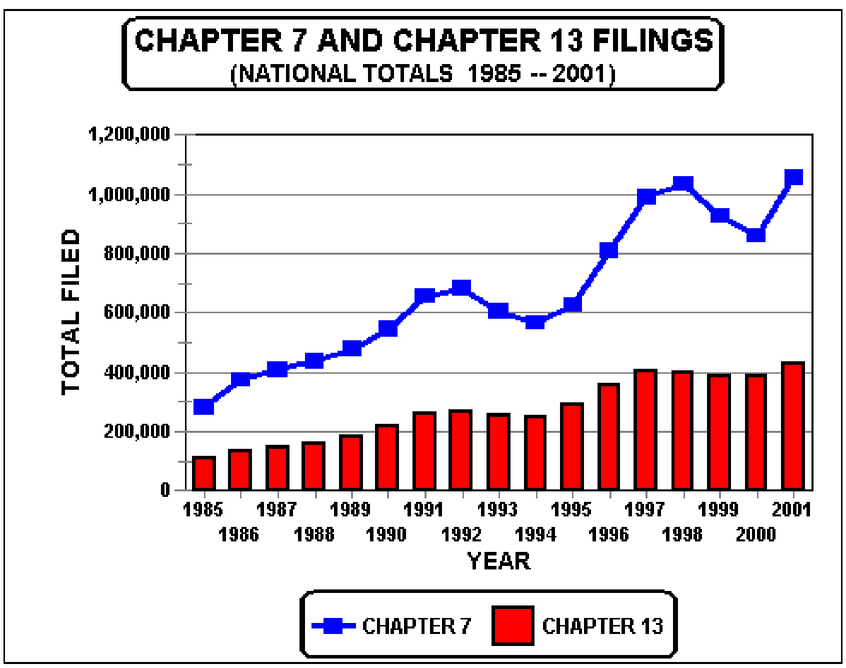
A TALE OF TWO CHAPTERS:

Consumer debtors have two primary options in bankruptcy –to pay some or all of their debts out of future earnings under chapter 13, or to liquidate non-exempt property, if any, to satisfy creditors while protecting future earnings under chapter 7. To date, the majority of consumer debtors have opted for chapter 7. A series of legislative proposals have been made since 1997 in an attempt to encourage more debtors to file under chapter 13 rather than under chapter 7. This is the first in a series of articles in which we compare chapter 7 and chapter 13 cases and debtors.

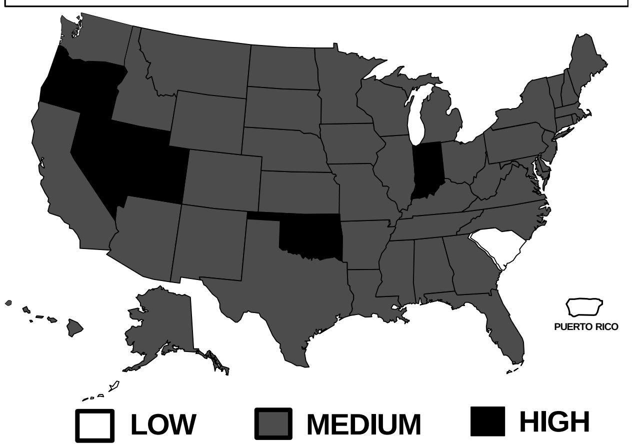
Filings: Chapter 7 and chapter 13 filings have followed relatively similar patterns since 1985. Between 1985 and 2001 chapter 7 filings nationwide increased by 275%, while chapter 13 filings increased by 294%. During that period filings in both chapters increased during 12 years and decreased during four years. Throughout the period there have been about 2.5 chapter 7 filings for each chapter 13 filing nationwide.



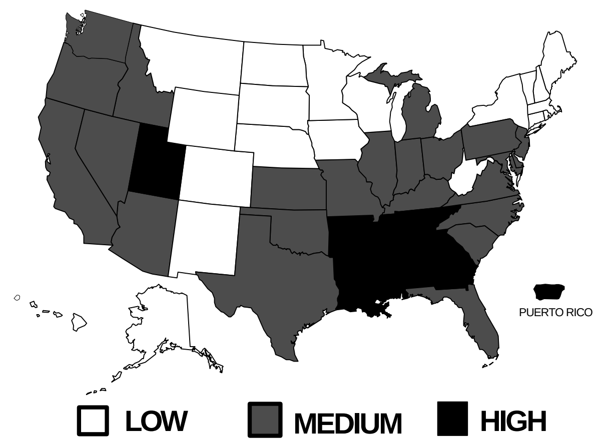
[1] All views expressed in this article are those of the authors, and do not necessarily represent the views of the Executive Office for United States Trustees or the Department of Justice.

Geographic Filing Patterns: Chapter 7 filing rates relative to population are somewhat comparable around the country. For example, in 2001 the filing rate in 29 states and the District of Columbia were within 25% of the national average (3.65 per 1,000 population). Chapter 13 filing rates show much greater variation, with only 12 states and the District of Columbia within 25% of the national average of 1.47 per 1,000 population. In general, Chapter 13 filings are extremely heavy in most of the Southeast, and very light in New England and the upper Midwest. This is illustrated on the following two maps, in which white indicates a filing rate of less than one-half the national average, a checkered pattern indicates a filing rate of between 50% and 150% of the national average, and black indicates filings at more than 150% of the national average. Chapter 7 filing rates fall outside of the middle range in few states, while about one-half of the states have chapter 13 filing rates that are either in the high or low ranges.

CHAPTER 7 FILINGS RELATIVE TO POPULATION IN 2001



CHAPTER 13 FILINGS RELATIVE TO POPULATION IN 2001



Disbursements: Several factors create difficulties for making case-based comparisons between chapter 7 and chapter 13 disbursements. Disbursements in chapter 7 cases are made when the case is closed and are reported at that time. The average life-span of chapter 7 cases filed by consumers in which assets are liquidated and disbursed is about three years. Chapter 7 trustees report the disbursements individually for each case. Chapter 13 payments, by contrast, are made monthly during the life of the case. At the end of each fiscal year, standing chapter 13 trustees report, in the aggregate, the disbursements they made to various classes of creditors. Disbursements from a single case may be spread over five annual reports. Although the total disbursements from each case become part of the case file in the court, there is no national data base of case-by-case distributions comparable to the one for chapter 7. Therefore, direct comparisons are not possible. Additionally, some chapter 13 payments include non-delinquent post-petition mortgage payments and installment payments to debtors' attorneys.

Despite these difficulties, we can be confident that the amount of money collected by trustees and disbursed to creditors in chapter 13 cases is much higher than the amount collected in chapter 7 cases. For example total payments to secured, priority, and unsecured creditors in chapter 13 cases during FY 2001 was $3.13 billion, more than triple the $902 million in chapter 7 cases.[2] Moreover, the bulk of the

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[2] Distributions data does not include cases in the six judicial districts in Alabama and North Carolina. These districts are not part of the United States Trustee Program, and are served

money in chapter 7 cases came from a relatively few large cases, most of which involved commercial debtors. (We will explore this in more detail in a later article.).

The following chart compares disbursements by chapter in FY 2001.

	CHAPTER 7	CHAPTER 13[3]
TOTAL PAID OUT	**$1,532,093,993**	**$3,607,765,406**
PROFESSIONAL FEES & EXPENSES	**$473,274,384**	**$208,156,954**
DISBURSEMENT TO SECURED CREDITORS	**$451,101,002**	**$2,053,316,845**
DISBURSEMENT TO PRIORITY CREDITORS	**$93,887,058**	**$270,584,007**
DISBURSEMENTS TO UNSECURED CREDITORS	**$356,777,304**	**$805,360,552**

Debtor Demographics: Although chapter 7 debtors have been fairly well studied in recent years, less information is available on chapter 13 debtors. We will present what is available in a later article, but here we give a brief summary. In some ways the debtor groups are quite similar. For example, the percentage jointly filed by married couples is nearly identical, as are their educational backgrounds. Chapter 13 debtors have more dependents and are more likely to be homeowners than are chapter 7 debtors, and a higher percentage of chapter 13 debtors report having a prior bankruptcy. While income levels appear to be slightly higher for chapter 13 debtors, these debtors also report larger family sizes. There appear to be wide differences in the debt structures of the debtors. Chapter 7 debtors have much higher general unsecured debt, particularly credit card debt, while chapter 13 debtors tend to have higher secured debt and priority debt levels.[4]

Conclusion: It is well known that very few chapter 7 cases make disbursements to creditors. A large percentage of those cases are consumer cases. These cases create an interesting comparison with chapter 13 cases that are confirmed and go on to create disbursements for creditors. In this article we have made some early comparisons of these two groups of consumer cases in bankruptcy. In future articles, we intend to focus more closely on particular aspects of these comparisons.

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by Bankruptcy Administrators.

[3] These figures are subject to change as the accounts of individual trustees are audited throughout the year.

[4] There is no disagreement about the presence of these differences, but there is no consensus that these differences influence the debtors' choice of chapter.