

## BANKRUPTCY BY THE NUMBERS

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### Who's Number One?

From time to time we see references regarding which state<sup>2</sup> or locality has the highest bankruptcy rate in the country. In this article we show that there are several contenders for this crown, depending on how the rate is calculated. We rely on state-level rates for convenience, even though, as we have noted earlier, there are sometimes wide variations between judicial districts in a state and between divisions in a district.<sup>3</sup> But for the purpose of showing that counting bankruptcies is subtler than one might think, using data by state will do.<sup>4</sup> The filing statistics used here, unless otherwise noted, are for the year ended September 30, 2003. The state rankings change slightly over time.

**Total Filings:** Based on total case filings alone, **California** is the perennial leader. There were 146,130 cases filed in California during the year ended September 30, 2003. This is no surprise, since California's population of 35.5 million is about 60 percent more than second place Texas. The top states in total case filings for the year were California (146,130), Florida (95,478 filings, 17.0 million population), Texas (89,469, 22.1 million population), Ohio (87,833, 11.4 million population), and Illinois (86,802, 12.7 million population). Each of these states was among the top seven states in population.

**Filings Relative to Population:** The easiest way to level the playing field in the bankruptcy

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<sup>1</sup>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.

<sup>2</sup>A quick Google search revealed a variety of recent articles variously claiming that Missouri, Utah, Tennessee, and Indiana had the highest filing rates in the country.

<sup>3</sup> Bermant, Gordon Flynn, Ed, and Bakewell, Karen "Where is Local legal Culture? The Case of Consumer Chapter Choice," *ABI Journal*, February 2002.

<sup>4</sup> Also included in the rankings are the District of Columbia and Puerto Rico.

sweepstakes is to divide filings<sup>5</sup> by total population. A very different picture then emerges, with none of the leaders in total filings making the top five on the per capita list. Here the current leaders are **Tennessee** (11.29), Utah (9.54), Alabama (9.41), Nevada (9.23), and Georgia (9.21). Each of these states has unusually high levels of chapter 13 filings. Based on chapter 7 filings alone, the national leader is Indiana. The top five states for chapter 7 filings relative to population are **Indiana** (7.18), Nevada (6.91), Oklahoma (6.82), Utah (6.52), and Oregon (6.15). The top five states for chapter 13 filings relative to population are **Tennessee** (5.74), Georgia (4.97), Alabama (4.84), Arkansas (3.60), and Utah (3.00). Utah is the only state to appear on all three of these lists.

**Households:** It is arguable that the household is a natural unit of consumer bankruptcy and should therefore be the basis on which rates across the states are compared. States differ considerably in average household size, ranging from a low of 2.21 in the District of Columbia to a high of 3.06 in Utah<sup>6</sup>. The states with the highest filing levels based on filings per 1,000 households are **Utah** (30.14), Tennessee (29.23), Georgia (25.98), Nevada (25.60), and Alabama (24.49)

**Joint Filings:** There is also an argument in favor of disaggregating families by doubling the count of joint filings: after all, two people's debts are now in play. At the national level, nearly one-third of all filings are joint filings involving a married couple. There is considerable variation in the proportion of cases that are joint filings, ranging from a low of 6.3% in the District of Columbia to a high of 49.6% in Idaho. The top five in estates (joint cases counted twice) filed per 1,000 population are **Tennessee** (14.43), Utah (13.67), Nevada (12.58), Arkansas (12.41), and Indiana (12.24).

**Adults:** Still another variation on this theme is to observe that children do not file bankruptcies, so that the natural unit should be the number of potential filers, i.e adults in the population. A further refinement would be to exclude the 2.2% of chapter 7 and 13 cases nationally that are listed as business cases. The net result of these two changes is a measure of bankruptcy based on consumer filings per 1,000 adults. When we make this calculation, the top five states are **Utah** (20.06), Tennessee (19.19), Nevada (17.61), Arkansas (16.64), and Indiana (16.62).

The following chart shows the state rankings for seven of the methodologies discussed above. Tennessee is the national leader for three, Utah for two, and Indiana and California lead in one each. As far as the lowest bankruptcy filing rate goes, Alaska appears to be the clear winner--ranking lowest on five of the measures and 49<sup>th</sup> and 51<sup>st</sup> on the remaining two.

**CHAPTER 11 AND CHAPTER 12 CASES:** The state with the most chapter 11 filings for each of the past three years has been **New York**. Delaware was highest during 1999 and 2000,

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<sup>5</sup> Generally, this analysis includes all filings including chapter 11 and chapter 12 cases. Their inclusion has very little impact on the results, as these chapters comprise well under one percent of all filings.

<sup>6</sup> American Community Survey Profile 2002, U.S. Census Bureau

and California had the most chapter 11 filings each year between 1983 and 1998. The state leader in chapter 12 filings has varied. **Nebraska** is the current leader, a position it also held in 1987, 1988, and 1999. Between 1989 and 2002, Texas had the most chapter 12 filings 10 times, and Oklahoma, Illinois, and California each led the nation for one year.

**CONCLUSION:** The lesson to be learned from this exercise is that determining relative bankruptcy rates among the different jurisdictions requires a prior decision about the proper denominator to use to even out population differences among the jurisdictions. This decision, in turn, should have some grounding in what the natural unit of consumer bankruptcy is.

	<b>NATIONAL RANK (OUT OF 52)*</b>						
			CHAPTER 7	CHAPTER 13		TOTAL	CONSUMER
	TOTAL	FILINGS	FILINGS	FILINGS	ESTATES	FILINGS	ESTATES
	CASE	PER 1,000	PER 1,000	PER 1,000	PER 1,000	PER 1,000	PER 1,000
FILINGS	POPULATION	POP.	POP.	POP.	HOUSEHOLDS	18 OR OLDER	
Alabama	14	3	21	3	6	5	6
Alaska	52	52	49	51	52	52	52
Arizona	19	23	20	28	20	20	19
Arkansas	26	7	13	4	4	7	5
California	1	38	35	35	40	32	37
Colorado	25	25	15	38	23	26	22
Connecticut	36	46	43	37	48	46	46
Delaware	45	31	46	17	33	29	36
District of Columbia	49	37	42	27	46	43	48
Florida	2	24	30	22	26	25	26
Georgia	6	5	25	2	7	3	7
Hawaii	46	49	45	44	50	45	50
Idaho	39	13	6	31	9	11	8
Illinois	5	14	14	19	18	12	17
Indiana	11	6	1	16	5	6	4
Iowa	35	36	29	50	35	39	35
Kansas	33	21	18	26	19	23	18
Kentucky	20	12	8	25	12	13	12
Louisiana	21	17	31	8	17	15	15
Maine	42	47	38	48	44	49	45
Maryland	18	18	26	12	25	16	24
Massachusetts	31	51	47	42	51	51	51
Michigan	9	19	22	14	21	19	21
Minnesota	30	39	36	36	39	42	41
Mississippi	27	8	11	7	10	8	10
Missouri	17	16	16	15	15	18	16
Montana	44	32	27	39	39	33	30
Nebraska	40	30	32	30	29	30	29
Nevada	29	4	2	10	3	4	3
New Hampshire	43	48	41	45	47	47	47
New Jersey	13	29	39	18	34	27	32
New Mexico	38	26	17	40	24	24	25
New York	7	42	40	33	45	40	44
North Carolina	16	34	48	9	31	35	31
North Dakota	50	45	34	52	42	48	43
Ohio	4	9	7	21	11	10	11
Oklahoma	23	10	3	34	8	9	9
Oregon	24	11	5	29	13	14	13
Pennsylvania	10	33	37	23	32	34	33
Puerto Rico	34	44	52	6	43	38	42
Rhode Island	41	35	28	46	37	37	39
South Carolina	32	41	51	11	41	41	38
South Dakota	47	43	33	49	38	44	40
Tennessee	8	1	10	1	1	2	2
Texas	3	40	50	13	36	36	34
Utah	28	2	4	5	2	1	1
Vermont	51	50	44	41	49	50	49
Virginia	12	22	24	20	22	21	23
Washington	15	15	12	24	14	17	14
West Virginia	37	20	9	47	16	22	20
Wisconsin	22	27	23	32	28	28	28
Wyoming	48	28	19	43	27	31	27

\* Case filings are for the year ended 9/30/03; population statistics are Census Bureau estimates as of 7/1/03

