

BANKRUPTCY REPEAT FILINGS

JOHN GOLMANT AND TOM ULRICH*

ABSTRACT

Using statistics assembled from most of the 94 United States judicial districts, this paper provides the first comprehensive examination of bankruptcy refiling rates. The study employs two measures to quantify this phenomenon. The first, repeat filings, is defined as the percentage of personal bankruptcy filings that result from a debtor filing more than once. The second, repeat filers, is the percentage of debtors who have filed more than once. A repeat filer is not necessarily an abusive filer, and this paper does not examine abusive filers—debtors who take advantage of the bankruptcy system to avoid paying their debts.

The study found that 16% of filings nationwide were repeat filings, and 8% of filers were repeat filers. As one would expect, percentages varied from circuit to circuit and district to district.¹ For example, in the Second Circuit, the percentage of repeat filings was 12%, whereas in the Sixth Circuit, the percentage of repeat filings was 19%. The variation among the judicial districts was even greater, with the District of Utah and the Western District of Tennessee exhibiting the highest percentages (35 and 46%, respectively) and the District of Maine and the District of North Dakota exhibiting the lowest (4% each) among those courts included in our study. The paper discusses implications of district differences in the proportion of filings that are repeat filings, and the degree to which filings by repeat filers in a district may influence a district's statistics on per-capita bankruptcy filings.²

* John Golmant is a Statistician and Tom Ulrich is a Social Science Analyst for the Administrative Office of the U.S. Courts.

¹ In the context of the bankruptcy courts, a circuit is more of a geographical entity than a jurisdictional one in that very little over-riding circuit-wide authority exists, *i.e.*, the bankruptcy courts operate with autonomy irrespective of the circuit they lie in. Most appeals of a bankruptcy cases go to district judges. A few circuits have constructed bankruptcy appellate panels ("BAP"), which may also hear appeals. In addition, appeals from both BAP and district judge rulings in bankruptcy cases may be further appealed to the circuit court of appeals. 28 U.S.C. § 158(b), (c) (2000) (establishing appellate jurisdiction of the district courts of the United States, including power of appeal for bankruptcy findings and power of appeal for bankruptcy appellate panels); see John Foster, *Bankruptcy on the Blackboard: A Collection of Graphic Illustrations Used in the Teaching of the Bankruptcy Course at the University of North Dakota School of Law*, 81 N.D. L. REV. 263, 272 (2005) ("In a federal jurisdiction which has created a Bankruptcy Appellate Panel ("BAP"), appeals from the Bankruptcy Court are directed to the BAP, and if an appellant or appellee has grounds to disagree with the result at the BAP, then the matter may be appealed to the Circuit Court of Appeals").

² This study was completed before the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) was signed into law, April 20, 2005. Hence, discussions of legal code may involve bankruptcy law prior to the enactment date. Part of the BAPCPA places new limitations on refiling. Specifically, amendments to section 727 and section 1328 of the Bankruptcy Code (sections which deal with discharge provisions for chapter 7 and chapter 13 petitions, respectively), affect the timing of when new petitions can be filed, and amendments to section 362 affect the availability of the automatic stay. Bankruptcy Abuse Prevention and Consumer Protection

Reasons for the repeat filings are many, including (1) the debtor had a discharge granted more than six years previous and desired another discharge; (2) the debtor had a chapter 7 discharge and subsequently filed a chapter 13; (3) the debtor had a discharge granted less than six years ago, and erroneously believed they could get another discharge by filing another petition; (4) the debtor had a case dismissed for technical or other reasons, and wanted to file again, and (5) the debtor filed repeatedly, perhaps to secure an automatic stay (each time).

INTRODUCTION

In the United States, personal bankruptcies have been growing at a significant rate for over a decade and have reached record levels in recent years.³ The causes of the bankruptcy explosion have been debated, but debt, as a percentage of income, has reached record levels in recent years and appears to be a factor.⁴ The effect of another factor, repeat filings by individual debtors, has remained largely unknown.⁵ Until now, no study has conducted a comprehensive, nation-wide examination of repeat filers. The few studies that examined this issue were limited in geography and time. For

Act of 2005, Pub. L. No. 109-8, § 106(b), 119 Stat. 23, 38 (codified at 11 U.S.C. § 727); *id.* § 106(c), 119 Stat. at 38 (codified at 11 U.S.C. § 1328); *id.* §§ 106(f), 214, 224(b), 302, 303, 305(1), 311, 320, 401(b), 441, 444, 709, 718, 907(d), (o)(1), (2), 1106, 1225, 119 Stat. at 41, 54, 64, 75, 77, 79, 84, 94, 104, 114, 117, 127, 131, 176, 181, 182, 192, 199 (codified at 11 U.S.C. § 362). The degree to which these amendments may affect the rate of repeat filing cannot be determined at this time. *See generally* Ellen Vergos, *Bankruptcy Blues: New Risks, Responsibilities Face All Tennessee Attorneys under New Bankruptcy Law*, 42 TENN. B.J. 14 (2006) (discussing effect of new bankruptcy laws).

³ For example, during the 12-month period ending September 30, 1990, non-business (*i.e.*, personal) filings reached 682,090 petitions. During 1995, non-business filings had risen to 832,415 petitions. By September 30, 2000, filings had grown to 1,226,037 petitions, an 80% rise over the 1990 figure. And the September 30, 2003 figure, 1,625,813 petitions, is an all-time record. For corroborating statistics to year end for each of these time periods, see American Bankruptcy Institute, *Annual Business and Non-Business Filings by Year (1980-2004)* (2006), <http://www.abiworld.org/ContentManagement/ContentDisplay.cfm?ContentID=17627> (noting filings for 1990 totaled 782,960, reached 1,253,444 in 2000 and 1,660,245 for 2003).

⁴ The bankruptcy statistics subsection of the online resources section of the American Bankruptcy Institute website, www.abiworld.org provides valuable data in this respect. *See, e.g.*, American Bankruptcy Institute, *Influence of Total Consumer Debt on Bankruptcy Filings Trends by Year 1980-2004* (2006), <http://www.abiworld.org/statcharts/CDebt.pdf> (recording debt payments as percentage of disposable personal income and indicating direct correlation between such debt payments and consumer filings).

⁵ A debtor can file chapter 7, which involves a liquidation of available assets, or chapter 13, which involves the court-approved restructuring of debt, so long as they meet the requirements of being a debtor under the code. *See* 11 U.S.C. §§ 109, 301, 727, 1321 (2000) (listing requirements for debtors generally in section 109, allowing debtor to file in an applicable chapter under section 301, limiting which debtors may not be granted a discharge under chapter 7 in section 727, and indicating that debtor files under chapter 13 under section 1321). Consumers can have their debts discharged through chapter 7 or chapter 13 once every six years. 11 U.S.C. § 727(a)(8) (2006). Generally, a consumer must wait a minimum of 180 days to file a new petition if their original petition is not granted. 11 U.S.C. § 109(g) (2006). Under the amended bankruptcy code, a chapter 13 can be filed subsequent to a chapter 7 filing only after a four year wait. 11 U.S.C. § 1328(f)(1) (2006). Conversion to chapter 13 from chapter seven may be done at any time, subject to some exceptions. 11 U.S.C. § 706 (2006). Additionally, the amended code provides, subject to some exceptions, that a bankruptcy petition will be dismissed if it is filed within one year of a petition that had been previously dismissed. 11 U.S.C. § 362(c)(3) (2006).

example, in the groundbreaking work *As We Forgive Our Debtors*, the authors determined that about 8% of the debtors had filed more than once.⁶ However, the study examined a survey sample of petitioners (from three states) who filed in 1981.⁷ Another study, which examined cases filed during 1990 in Manitoba and Iowa, determined that 14% of filers were repeat filers.⁸ Also, one study, which examined bankruptcy filings in Utah during 1997, found that about 8% of the chapter 7 filers and 27% of the chapter 13 filers had filed before.⁹ Given the variation by district in repeat filings, such limited studies can be very misleading if applied to the broader population. Unlike the previous studies, the current study is based on the repetitive occurrence of the same social security number rather than the debtors' responses to questions about prior bankruptcy petitions, thereby avoiding the issue of non-disclosure. The current study also employs a database that is thousands of times larger, broader in extent, and covers a longer time period, which allows the results to be much more representative of the nation.

This paper ends the mystery and presents the results of our research on the percent of personal bankruptcy filings that are due to repeat filings. It is organized into five sections. Following this introduction, a background section provides a brief synopsis of bankruptcy law and of when a debtor can file subsequent petitions. Next, a section on data development discusses the nuances of the data collection, the extensive editing necessary to achieve a viable data set, and the inherent limitations of the data at hand. A results section follows, and the percentages of repeat filings are presented here. Finally, a discussion section concludes the paper and offers suggestions for further study.

I. BACKGROUND¹⁰

Federal courts have exclusive jurisdiction over bankruptcy cases. Each of the 94 federal judicial districts handles bankruptcy matters. The main purposes of the laws of

⁶ TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, *AS WE FORGIVE OUR DEBTORS* 192 (1989).

⁷ *Id.* at 18–19.

⁸ Jean Lown & Barbara Rowe, *A Profile of Utah Consumer Bankruptcy Petitioners*, 5 J.L. & FAM. STUD. 113, 116 (2003) (citing J. STRAND, T. HIRA & R. CARTER, *REPEAT CONSUMER BANKRUPTCY: A COMPARATIVE ANALYSIS WITH ONE TIME PETITIONERS IN THE UNITED STATES AND CANADA*, PROCEEDINGS, PUBLIC POLICY AND ECONOMIC WELL-BEING: THE FINANCIAL COUNSELOR'S ROLE, ASSOCIATION FOR FINANCIAL COUNSELING AND PLANNING EDUCATION (AFCPE) (1994)).

⁹ Jean Lown & Barbara Rowe, *A Profile of Consumer Bankruptcy Petitioners*, presented at the Annual Conference of AFCPE, 2002.

¹⁰ Much of the information presented here can be found in more detailed form in *Bankruptcy Basics*, April 2004, available in the U.S. Bankruptcy Courts section of the U.S. Courts website, www.uscourts.gov. This presentation should not be considered as an exhaustive, comprehensive explanation of bankruptcy law, nor is its intended purpose to provide the reader with legally-binding advice or instruction. For more details concerning bankruptcy law, please consult *BANKRUPTCY CODE, RULES AND FORMS, 2006 EDITION* (Thomson-West), or a bankruptcy attorney.

bankruptcy are to give a financially-stressed debtor a "fresh start" by relieving the debtor of most of his or her debts and to repay creditors in an orderly manner to the extent that the debtor has property available for payment. There are five basic types of bankruptcy cases provided for under the Bankruptcy Code. The cases are traditionally given the names of the chapters (within the Bankruptcy Code) that describe them. For the purposes of this study, we examined only those cases filed under two of the chapters, chapter 7 and chapter 13.¹¹ Together, chapter 7 and chapter 13 cases comprise close to 100% of personal bankruptcies. Chapter 7, entitled Liquidation, provides a court-supervised procedure by which a trustee collects the assets of the debtor's estate, reduces them to cash, and makes distributions to creditors, subject to the debtor's right to retain certain exempt property and the rights of secured creditors. Under the federal bankruptcy statute, a discharge releases the debtor from personal liability for certain specified types of debt, *i.e.*, the debtor is no longer required to pay any debts that are discharged.¹² For a chapter 7 filing, the discharge is usually granted promptly after the expiration of the time allotted for filing a complaint objecting to the discharge or the time allotted for filing a motion to dismiss the case (for substantial abuse). Typically, this occurs a few months after the debtor files the petition. If, however, an objection to the discharge is filed by a creditor, the trustee in the case, or the United States Trustee, a discharge may or may not be granted depending on the outcome of the lawsuit (*i.e.*, adversary proceeding).

Chapter 13, entitled Adjustment of Debts of an Individual with Regular Income, is designed for the debtor who has a regular source of income. Chapter 13 enables the debtor to keep a valuable asset, such as a house, and allows the debtor to propose a financial plan to repay creditors over time, usually three to five years.¹³ At a confirmation hearing, the court either approves or disapproves the plan, depending on whether the plan meets the Bankruptcy Code's requirements for confirmation. Generally, the debtor must complete the payments required under the plan before the discharge is received by the debtor.¹⁴ The Bankruptcy Code does not provide grounds for objecting to the discharge.

Not all discharges are granted. For example, a discharge will be denied in a subsequent chapter 7 filing if the debtor has been granted a discharge in a chapter 7 case commenced within six years before the filing of the new petition.¹⁵ The debtor may also be denied a discharge under chapter 7 if the debtor has been granted a discharge in a chapter 13 case commenced within six years before the filing of the new

¹¹ The study focused on individual debtors. Filings under Chapter 9, Chapter 11, and Chapter 12 were not relevant because they pertain primarily to municipalities, business organizations, and family farmers.

¹² *See generally* 11 U.S.C. § 523 (2000) (stating debts are released in discharge, but there are 19 categories of debt which are exempted from discharge).

¹³ Compared to chapter 7 discharges, a more limited list of exceptions applies to cases under chapter 13.

¹⁴ *See* 11 U.S.C. § 1328(b) (2000) (outlining situations where court retains ability to grant discharge to debtor even though debtor has not completed payments under their plan).

¹⁵ 11 U.S.C. § 727(a)(8) (2000).

petition and certain other obligations are not met.¹⁶ (It should be noted that under certain circumstances, a debtor need not wait six years after the filing of a chapter 13 case.)¹⁷

A bankruptcy petition can be dismissed at any time for a variety of reasons. For chapter 7 cases, the court can dismiss a case only after a notice and a hearing and only for cause.¹⁸ Examples of cause include a.) the unreasonable delay by the debtor that is prejudicial to the creditors and b.) the nonpayment of any fees or charges.¹⁹

The court can also dismiss a case if the court finds that the granting of relief would be a substantial abuse of the provisions of this chapter.²⁰ For chapter 13 cases, the court will dismiss a case if the debtor requests a dismissal (for any reason).²¹ In addition, the court can dismiss a case, after a notice and hearing, for a number of reasons, including: a.) the unreasonable delay by the debtor that is prejudicial to the creditors, b.) the nonpayment of any fees or charges, and c.) the failure to commence making timely payments under the proposed plan.²²

A dismissal would preclude any discharge. Generally, once a case has been dismissed, a debtor can file another bankruptcy petition at any time. However, a debtor cannot file for 180 days if the case was dismissed by the court for willful failure of the debtor to abide by orders of the court or to appear before the court in proper prosecution of the case; or the debtor obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay.²³

Finally, a filing of a chapter 7 or chapter 13 petition "automatically stays" most actions against the debtor or the debtor's property.²⁴ As long as the stay is in effect, creditors cannot initiate or continue any lawsuits, wage garnishment, or even telephone calls demanding payment. A creditor can obtain an order from the court granting "relief from the automatic stay," which, under specific conditions, could terminate, annul, modify, or condition the stay.²⁵

II. DEVELOPMENT OF THE DATASET

¹⁶ 11 U.S.C. § 727(a)(9) (2000).

¹⁷ *Id.*

¹⁸ 11 U.S.C. § 707(a) (2000).

¹⁹ *Id.*

²⁰ 11 U.S.C. § 707(b) (2000) (amended 2005) (mandating presumption in favor of granting relief requested by debtor).

²¹ 11 U.S.C. § 1307(b) (2000) (demonstrating Congressional intent to draft statutory language which left little discretion in bankruptcy court to deny chapter 13 requests).

²² 11 U.S.C. § 1307(c)(1),(2),(4) (2000) ("[T]he court may convert a case under this chapter . . . to a case under chapter 7 of this title . . . or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including unreasonable delay . . .; nonpayment of any fees. . .;[or] failure to commence making timely payments under section 1326 of this title.").

²³ 11 U.S.C. § 109(g) (2000) (barring debtor from filing bankruptcy for period of 180 days if prior bankruptcy petition is dismissed with prejudice).

²⁴ 11 U.S.C. § 362(a) (2000) (amended 2005) (providing broad automatic stay upon filing of petition).

²⁵ 11 U.S.C. § 362(d) (2000) (amended 2005) ("the court shall grant relief from the stay . . . for cause, including the lack of adequate protection of an interest in property of such party in interest").

A dataset containing over 13 million records was assembled, containing chapter 7 and chapter 13 bankruptcy filings from the years 1993 to 2002. This time frame covers a period when bankruptcy filings increased at an extremely fast pace. The year 1993 was the earliest year for which we could obtain viable and complete data, and the endpoint of 2002 was selected to provide a logical ten-year focus.

Data came from the PACER²⁶ system, as supplied by the PACER Service Center, or as available online.²⁷ Additional data were obtained directly from the courts, and some data were confirmed using the database maintained by the Administrative Office of the US Courts ("AO").

Appendix 1 provides an annual summary, by district, of the data in our dataset. The dataset contains data obtained from all but six of the districts nationwide, and each district dataset included records from each of the ten years between 1993 and 2002.²⁸

The data elements collected in each record included: the district name, the case number, the petitioner name, the petitioner's social security number, the chapter filed, and the date filed. In the case of joint filings, PACER records provide a separate record for each joint filer in a bankruptcy case; thus, the dataset captured a listing of all filers and permitted us to examine instances where a person may have filed both separately and jointly (as the second party) between 1993 and 2002.

Extensive scrubbing of the data was performed.²⁹ Data were edited to include only

²⁶ PACER refers to the Public Access to Court Electronic Records, which is a service of the United States Judiciary. The AO runs the PACER Service Center. It is an electronic, public access service used to obtain case and docket information from the U.S. Party/Case Index (USPCI), as well as from the Federal Appellate, District and Bankruptcy courts. Each individual court maintains its own database with case information, most of which are available on the Internet.

²⁷ Researchers were able to obtain copies of district PACER extracts on compact disks because the AO is a component of the Federal Judiciary. However, some courts did not participate in the PACER system, and, as of this study, a national standard for archiving electronic data was still lacking. As a result, obtaining data through PACER was a valuable first step, but additional queries were necessary.

In many cases the data from PACER was comprehensive and useful. However, a number of districts had incomplete data, and extensive coordination between both the PACER and court staff was necessary. The PACER staff conducted multiple queries over a span of a few months, during which they customized queries to account for the unique data format of a particular district. The difficulty in estimating the degree of incomplete data resulted in frequent resubmissions of initial data queries in order to account for any perceived missing data. Follow-up queries were also submitted, either directly to those courts whose PACER data were incomplete or to those courts that did not participate in PACER. The excellent cooperation and hard work from the staffs at both PACER and the courts are appreciated.

²⁸ The unavailability of PACER data in a few districts was reflected in the study by the lower number of records available for the earlier years of those districts. The districts for which PACER data was not available were the Northern District of Alabama, the Southern District of Georgia, and the Districts of the Virgin Islands, Idaho, Guam, and the Northern Mariana Islands.

²⁹ Numerous steps were taken to ensure the dataset contained the types of records appropriate for the analysis. Researchers worked full-time for 3 months on the data capture and scrubbing effort and utilized various quality control efforts on the records and data. One of the steps taken by the researchers was the adjusting of variable formats to ensure compatibility when all of the district data was concatenated into one national file. Another step taken was to write and run syntax in order to identify invalid duplicate records in situations where the same case, name, and date of filing were on more than one record.

those cases that recorded social security numbers in a valid format³⁰ and to exclude obvious business (non-consumer) cases that could be identified in the PACER records.³¹ Duplicate PACER records were identified by isolating records where the case number, filing date, and social security number were identical, and only one of the records was retained in the dataset. We noted that, if a data entry error had been made on the social security number entered into PACER, there could be a match with other records that would create a false "hit" as a repeat filer.³² Data cleaning efforts also included deletion of records where we could identify that the party on the record was something other than a debtor.³³ Not infrequently, we observed that a person with multiple filings had filed once or twice as a debtor, but was listed as a party in other cases in other roles;³⁴ in these instances, only the records where the person was listed as the debtor in the case were retained in our dataset. Variations in spelling, inclusion of middle names or initials, nicknames, or even name changes were evident on multiple records from the same petitioner whose records were matched based on the social security number.³⁵

The dataset we compiled is one of the very few comprehensive national sets of

³⁰ The records in the dataset all had 9-digit social security numbers. Those records in which the social security number field appeared to be fabricated, such as 999-99-999 or 000-00-000, were deleted from the dataset, along with records where the field was blank, incomplete, or contained non-numeric characters. The number of records deleted due to invalid social security numbers varied from district to district, but was relatively low for most jurisdictions. The few districts with many such numbers appeared to reflect districts where the PACER files included some records on parties other than the debtors, such as petition preparers or attorneys.

³¹ The dataset was examined with syntax that isolated records where the petitioner field contained character strings that indicated possible business filings, such as "Inc." or "Trucking." Those records that were identified were then examined and deleted if the full text in the petitioner field was an obvious business name.

³² There were a few instances in which the social security number of the individual was recorded incorrectly. For example, a debtor/petitioner whose name indicated he was a male with 12 repeat filings associated with his social security number actually proved to have only 11. The 12th filing was on the record of a female from another district who, apparently, had filed only that one time. It is highly likely that her social security number was entered incorrectly and there is no evidence to indicate that there are many records with this problem.

³³ Initial tallies of repeat filings within the districts revealed that in some of the districts the dataset had instances where the social security numbers appeared suspiciously frequently—dozens, even hundreds, of times. The analysis involved queries of live PACER files, which revealed that some records in the dataset were associated with the social security number of a party who was not the debtor, but a person in another role such as: petition preparer; auctioneer; attorney; or interested party. In order to preclude false "hits" of repeat filers, an extensive data scrubbing effort was instituted, and all records where the social security number was one of 10 or more repeat filings were run against PACER. Those records where the party was not the debtor were then removed from the dataset. The process enabled the confirmation, in PACER, of the validity of numerous examples of repeat filers who had 10 or more discrete repeat filings in the bankruptcy system during the period.

³⁴ There were instances in which a person was shown to be something akin to a "petition preparer" on a large number of other persons' pro se case filings, but they had filed as a debtor themselves under chapter 7 or chapter 13 once or twice.

³⁵ When the matching logic was applied to the full 13-million record dataset, the majority of repeat filing records showed identical entries in the petitioner/debtor name field. However, it was not uncommon to find a person with multiple filings showing variations of his/her name, such as "William" on one record and "Bill" on a repeat filing some time later. In some instances, the data enabled us to see that a person who filed as "Mary Smith" at another point in time filed as "Mary Smith Jones," consistent with a scenario involving filing under a maiden name and later under a married name.

bankruptcy data currently assembled for analysis, and the focus on data integrity was extensive in order to minimize inclusion of records that were inappropriate. Nevertheless, the following limitation should be noted: if petitioners were actually businesses filing as individuals, our dataset derived from PACER had no code to tell us whether a filing was a business filing or not; thus, these records may appear to be non-business debtor filings which we included in the dataset.³⁶

III. RESULTS

We defined a "repeat filing record" to be an instance where the petitioner's social security number on a record also appeared on one or more additional records in the dataset. A "repeat filer" is defined as someone who filed more than once, either as a sole petitioner or as part of a joint petition.³⁷

Table 1 presents the number of records and filing frequency in the full dataset for the nation. The table indicates that 84% of the records in the national dataset were identified as belonging to filers who filed only once anywhere in the nation during the ten-year period, leaving 16% of the records as "repeat filing records." Filers with two filings in the period were the largest group of repeat filing records by far, constituting 11% of the filings nationwide. The table goes on to show the number of situations where the same person had 3, 4, and 5 filing records—up to the single instance where the same person had filed 17 times in the 10 year period.³⁸

While Table 1 presents data for the nation as a whole, Table 2 shows data on repeat filing records by judicial circuit and district. A judicial circuit encompasses a number of judicial districts, grouped by geographic area. The circuit that had the lowest repeat filing rate was the Second Circuit at 12%, and the circuit that had the largest rate was the Sixth at 19%. Variation in the district court rates was evident both across circuits and within circuits. For example, repeat filings in the First Circuit ranged from 4% (in the District of Maine) to 26% (in the District of Puerto Rico). Repeat filings within the Second Circuit ranged from 4% (in the District of Vermont) to 17% (in the Eastern District of New York). Across the nation, the percent of filings ranged from just under 4% (in the District of Maine) to just over 46% (in the Western District of Tennessee).³⁹

³⁶ Subsequent analyses are planned, based on case-matching techniques which will allow us to append additional variables available through records maintained at the AO on nature of filing (consumer vs. business) and the outcomes (such as dismissal or granting of the petition) to the PACER records used for the analyses described in this paper. Preliminary examination of an expanded dataset reveals that the number of business filings still included in our analytical dataset is small and our analyses of the percentage of repeat filings should not change.

³⁷ Appendix 2 contains a more detailed explanation of the methodology used to examine repeat filings and repeat filers.

³⁸ Appendix 3 contains examples of actual filing histories for three repeat filers.

³⁹ The data presented in Appendix 1 show the year-by-year breakdown of the full dataset for the 88 districts, with ten one-year sets of bankruptcy filings for each district. An examination of these data reveals that some of the by-district computations were based on incomplete sets of data. For example, the data set used for the District of Montana computation appears to be missing some data for the years 1995 through 1997. In fact, approximately

Figure 1 summarizes the distribution of percentages of repeat filing records, and shows that while only 12 districts have repeat filing record rates greater than 20%, only 6 districts have rates of 5% or lower and most districts have rates between 5% and 15%.⁴⁰

Tables 3 and 4 parallel the first two tables, only they present the data on individual filers rather than filings. Table 3 provides the data on the national dataset, and presents the data showing that the 13,347,471 bankruptcy filings in the 10 year period on Table 1 were filed by 12,177,219 different filers. Table 3 reveals that 92% of the individuals filed just one case in the ten-year period, and the remainder filed more than one. Data for each frequency appear in the table. Table 4 provides data on the filers by district, and in the final column shows the repeat filer percentages for each circuit and district.

Because the dataset had filing dates and discrete filer identifiers, it was possible to group the filings of an individual who filed more than once in chronological order, and calculate the time between filings. Table 5 presents data on time between filings by repeat filers nationwide.⁴¹ The table begins with the 2,089,161 records that had been shown on Table 2, and shows that there were over 1.1 million "intervals" between filings by the same defendant. The mean number of days between filing is approximately 854 days (2.3 years). The distribution of periods between consecutive findings is shown in the table—ranging from 2% of pairs of consecutive filings occurring within 30 days, to 11% occurring over 6 years apart.

IV. DISCUSSION

A few of the reasons why a petitioner might file more than once include: (1) the debtor had a chapter 7 discharge granted more than six years previous and desired another chapter 7 discharge;⁴² (2) the debtor had a chapter 7 discharge and subsequently filed a chapter 13; (3) the debtor had a discharge granted for a petition that was commenced less than six years ago, and filed another petition (knowingly or unknowingly) too soon; (4) the debtor had a petition dismissed for technical or other reasons, and wanted to file again,⁴³ and (5) the debtor files repeatedly to secure the

6% of the annual counts appear to be substantially below what one would expect. Sixteen districts accounted for these low counts, and, in most instances, the missing data were apparent for the earliest years of the analysis. However, it is impossible to determine what type of bias, if any, the shortfall in these districts causes, other than to note that the proportion of missing yearly data is low.

⁴⁰ Note that these data consider a record to be a "repeat filing record" if the filer's social security number appears on other records anywhere in the nation, and so some persons may have only one record in the district and his or her other filing(s) will be found in another district. Our analysis allowed us to identify this possibility, although it did not occur often enough to distort the percentage comparisons across districts.

⁴¹ Because we had data across districts, these data include computations of time between filings that occurred in different districts if, in fact, the same person filed in more than one district. All of his/her filings were examined, and the time between filings was computed without regard to which district he or she filed in.

⁴² "Example A" in Appendix 2 shows an example of a repeat filer with multiple discharges granted more than 6 years apart.

⁴³ "Example B" in Appendix 2 shows an example of a repeat filer with multiple dismissals over the 10 year period, and no discharge(s) granted, while "Example C" shows an example of a filer with several filings

automatic stay.^{44,45}

The capacity to identify a repeat filer is important to the courts. For example, an abusive filer, someone who takes advantage of the bankruptcy system to avoid paying their debts, can more easily be identified if the courts can determine that a filer has filed before.⁴⁶ And, indeed, the PACER Service Center generates repeat filing reports for courts that provide filing data to the USPCI. The purpose of these reports is to provide each court with a listing of debtors who had filed very recently and who had filed at least once before. How these reports are used is determined by each individual court, and their degree of implementation is unknown. Finally, in some courts, local rules require that the debtor's attorney check the USPCI and certify whether the debtor has filed before.

Just as there is great variation across the nation regarding the per capita rate at which debtors file bankruptcy petitions,⁴⁷ so, too, is there great variation across the nation regarding the distribution of repeat filers. And it appears that the variation in the per capita filing rate is related to the repeat filing rate. As the analysis presented in Appendix 4 shows, the statistical relationship between chapter 13 per capita filing rates and repeat filing rates is strong, whereas the statistical relationship between chapter 7 per capita filing rates and repeat filing rates is weak. In other words, those districts that had a high chapter 13 per capita rate also had a high repeat filing rate, and those that had a low per capita rate had a low repeat filing rate. In contrast, the chapter 7 per capita filing rate could not be used as an indicator. Those districts that had a high chapter 7 per capita filing rate did not necessarily have a higher repeat filing rate than those districts with a low per capita rate. This suggests, not surprisingly, that a repeat filing likely involves a chapter 13 filing—either as a filing subsequent to a chapter 7 petition or as a filing subsequent to a chapter 13 petition. Indeed, those debtors that filed more than 10 times often had filed many more chapter 13 petitions than chapter 7

dismissed over a period of time, and finally one where a discharge was granted.

⁴⁴ Unfortunately, our data does not allow us to determine the relative importance of each of these reasons. A more detailed discussion can be found in Paul B. Lewis, *The Repeat Bankruptcy Filer: Some Economic Considerations*, in 10 *NEW DIRECTIONS IN BANKRUPTCY*, 18, (Aug. 2000).

⁴⁵ There are a few other special cases, which involve debtors who appear twice in our database but who, in fact, are not repeat filers. For example, some joint petition filings are "split," whereby one of the joint petitioners is separated from the original petition and assigned to a new case, which is then disposed with a "discharge waived" code. The "discharge waived" code, in effect, disposes the case administratively. Another example involves intradistrict transfers. A debtor files a petition in one of the field offices within a district, and the field office transfers the case to another field office within the same district. In each of these special cases, the debtors social security number would appear twice in our database, but they are not true repeat filers in that they did not initiate the second filing themselves. The extent to which each of these special cases has occurred appears to be minimal based on a preliminary analysis.

⁴⁶ This is not to suggest that a repeat filer is necessarily an abusive filer, or vice versa. However, an example of an abusive filer would be a debtor that files chapter 13 petitions repeatedly to secure automatic stays and avoid foreclosure on their property. See, e.g., Kimberly L. Nelson, *Abusive Filings: Can Courts Stop the Abuse within the Confines of the Bankruptcy Code*, 17 *BANKR. DEV. J.* 331, 334–35 (2000) (providing description of an abusive filing).

⁴⁷ See, e.g., Ed Flynn & Gordon Bermant, *Who's Number One?*, *AMER. BANKR. INST. J.*, Mar. 2004, at 40–41 (including chart listing bankruptcy filings per state).

petitions.

Chapter 7 cases are less likely to be dismissed and more likely to result in the "discharge granted" or "discharge not granted" outcome. In the case of the "discharge granted" outcome, a petitioner would not be able to file again for six years, making the likelihood of a repeat filing involving another chapter 7 petition within a ten-year period less likely than a repeat filing involving a chapter 13 petition. In addition, chapter 13 petitions can be filed subsequent to a chapter 7 discharge or a chapter 13 dismissal.

There is no ready explanation for the difference in repeat filing rates among districts. The statistical relationship between chapter 13 cases and repeat filing rates, while not implying direct causality, suggests a greater opportunity for refiling offered by chapter 13. Some districts have had consistently high chapter 13 per capita rates⁴⁸ and, likewise, relatively high repeat filing rates, but the reasons for these consistencies remain unknown.⁴⁹ The extent to which some of the repeat filings are due to debtors "abusing" the system requires additional research. Economic, cultural, and administrative reasons have been proposed and widely discussed,⁵⁰ but a comprehensive national study has yet to be conducted that would convincingly weight the factors by importance. In addition, repeat filings appear to be an important component of the overall national filing count (and a very important component in the overall filing count for some districts), but the degree to which repeat filings have contributed to the recent rise in overall bankruptcy filings cannot be determined solely from these data. Some analyses have suggested that economic and cultural forces played the major roles.⁵¹ However, the data compiled for this study is an important first step. We now know the answers to the question, "What is the national repeat filing rate and how does it vary by district?"

TABLES AND FIGURES

⁴⁸ See, e.g., Gordon Bermant, Ed Flynn & Karen Bakewell, *Thoughts on the "Local Legal Culture" The Case of Consumer Chapter Choice*, AMER. BANKR. INST. J., Feb. 2002, at 24 (listing states with high per capita filings like Puerto Rico, Georgia and Alabama).

⁴⁹ *Id.* at 29 (stating that more detailed information about economic differences amongst debtors is needed).

⁵⁰ *Id.* at 24 (discussing the impact of "local legal practices" for the disparate number of filings across districts and positing that economic and social factors may also play a role).

⁵¹ See, e.g., Ann Morales, Olazabal & Andrew J. Foti, *Consumer Bankruptcy Reform and 11 U.S.C. § 707(b): A Case-Based Analysis*, 12 B.U. PUB. INT. L.J. 317, 345-46 (2003) (giving credit interest rate deregulation, prosperous economy, attorney advertising, and increase in divorces amongst other examples of economic and non-economic factors increasing abusive filings).

Table 1: Number of Records and Filing Frequency				
<i>Analysis of Total Dataset - 13,347,471 records</i>				
# of filings	RECORDS	Grouped		Percent
	Count			
1	11,258,262	Records from filers who filed only once	11,258,262	84.3%
2	1,473,032	Records from filers with 2 filings	1,473,032	11.0%
3	405,981			
4	132,644			
5	46,530			
		Records from filers with 3-5 filings	585,155	4.4%
6	17,262			
7	7,294			
8	3,048			
9	1,674			
10	960			
		Records from filers with 6-10 filings	30,238	0.23%
11	352			
12	180			
13	117			
14	42			
15	60			
16	16			
17	17			
		Records from filers with more than 10 filings	784	0.01%
Total	13,347,471			

** Count of Persons (defined by SSN identifier) in dataset with number of filings shown*

Table 2. Filings (Records) and Repeat Filing Records, by Circuit and District			
	FILINGS	REPEAT FILING RECORDS	REPEAT FILING RECORD PERCENTAGE
		Of filings in district, number in which filer SSN appears on 1 or more other records in the full dataset	Percent of filings that are repeat filing records
Circuit and District	Total count of filing records for the district		
TOTAL	13,347,471	2,089,161	15.7%
DC	21,109	3,214	15.2%
First	505,026	68,350	13.5%
ME	45,382	1,742	3.8%
MA	195,045	18,640	9.6%
NH	51,062	2,156	4.2%
PR	158,915	42,306	26.6%
RI	54,622	3,506	6.4%
Second	765,314	91,141	11.9%
CT	132,121	17,239	13.0%
NY-E	248,378	42,154	17.0%
NY-N	173,990	16,171	9.3%
NY-S	54,163	4,282	7.9%
NY-W	137,333	10,508	7.7%
VT	19,329	787	4.1%
Third	564,427	90,135	16.0%
DE	27,375	2,769	10.1%
NJ	147,709	25,447	17.2%
PA-E	145,082	39,400	27.2%
PA-M	102,900	9,303	9.0%
PA-W	141,361	13,216	9.3%
VI	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
Fourth	1,225,744	176,695	14.4%
MD	250,327	32,826	13.1%
NC-E	129,806	20,176	15.5%
NC-M	98,479	21,050	21.4%
NC-W	85,378	9,215	10.8%
SC	141,319	21,295	15.1%
VA-E	328,474	59,491	18.1%
VA-W	89,357	7,995	8.9%
WV-N	40,577	2,099	5.2%
WV-S	62,027	2,548	4.1%

Table 2. (Continued)			
	FILINGS	REPEAT FILING RECORDS	REPEAT FILING RECORD PERCENTAGE
Fifth	1,168,121	192,924	16.5%
LA-E	90,663	18,631	20.5%
LA-M	31,617	3,838	12.1%
LA-W	149,833	25,311	16.9%
MS-N	70,925	12,855	18.1%
MS-S	132,942	25,101	18.9%
TX-E	78,563	8,144	10.4%
TX-N	211,790	36,399	17.2%
TX-S	222,687	39,271	17.6%
TX-W	179,101	23,374	13.1%
Sixth	1,933,908	373,791	19.3%
KY-E	121,509	11,275	9.3%
KY-W	145,612	23,922	16.4%
MI-E	292,485	44,060	15.1%
MI-W	141,782	17,093	12.1%
OH-N	341,093	43,176	12.7%
OH-S	341,054	47,402	13.9%
TN-E	191,349	47,821	25.0%
TN-M	108,274	22,496	20.8%
TN-W	250,750	116,546	46.5%
Seventh	1,368,970	211,371	15.4%
IL-C	140,905	16,284	11.6%
IL-N	447,198	88,566	19.8%
IL-S	86,416	15,097	17.5%
IN-N	176,125	22,013	12.5%
IN-S	293,884	41,792	14.2%
WI-E	146,782	19,991	13.6%
WI-W	77,660	7,628	9.8%
Eighth	962,142	141,748	14.7%
AR-E	127,004	27,198	21.4%
AR-W	77,659	11,194	14.4%
IA-N	45,788	2,137	4.7%
IA-S	68,458	4,911	7.2%
MN	201,305	28,914	14.4%
MO-E	173,888	44,042	25.3%
MO-W	144,865	14,435	10.0%
NE	71,881	6,483	9.0%
ND	23,697	944	4.0%
SD	27,597	1,490	5.4%

Table 2. (Continued)			
	FILINGS	REPEAT FILING RECORDS	REPEAT FILING RECORD PERCENTAGE
Ninth	2,473,512	315,946	12.8%
AK	16,057	859	5.3%
AZ	283,812	40,715	14.3%
CA-C	478,683	59,368	12.4%
CA-E	402,321	44,439	11.0%
CA-N	255,821	34,934	13.7%
CA-S	192,899	29,518	15.3%
HI	45,378	2,479	5.5%
ID	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
MT	30,784	2,697	8.8%
NV	151,292	15,763	10.4%
OR	229,274	35,203	15.4%
WA-E	92,614	11,639	12.6%
WA-W	294,577	38,332	13.0%
GU	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
NMI	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
Tenth	910,580	146,448	16.1%
CO	210,578	24,519	11.6%
KS	150,323	17,426	11.6%
NM	86,589	7,273	8.4%
OK-E	43,377	3,913	9.0%
OK-N	68,218	7,611	11.2%
OK-W	147,734	20,709	14.0%
UT	178,066	63,166	35.5%
WY	25,695	1,831	7.1%
Eleventh	1,448,618	277,398	19.1%
AL-M	45,312	6,433	14.2%
AL-N	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
AL-S	59,713	12,141	20.3%
FL-M	489,410	60,534	12.4%
FL-N	53,832	3,579	6.6%
FL-S	267,637	22,781	8.5%
GA-M	157,705	43,162	27.4%
GA-N	375,009	128,768	34.3%
GA-S	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>

Table 3: Number of Filers and Filing Frequency				
<i>Analysis of Total Dataset - 13,347,471 records</i>				
# of filings per person	PERSONS* Count	Grouped		Percent
1	11,258,262	Persons with 1 filing	11,258,262	92.5%
2	736,516	Persons with 2 filings	736,516	6.0%
3	135,327			
4	33,161			
5	9,306			
		Persons with 3-5 filings	177,794	1.5%
6	2,877			
7	1,042			
8	381			
9	186			
10	96			
		Persons with 6-10 filings	4,582	0.04%
11	32			
12	15			
13	9			
14	3			
15	4			
16	1			
17	1			
		Persons with more than 10 filings	65	0.00%
Total	12,177,219			

** Count of Persons (defined by SSN identifier) in dataset with number of filings shown*

Table 4. Filers and Repeat Filers Within District

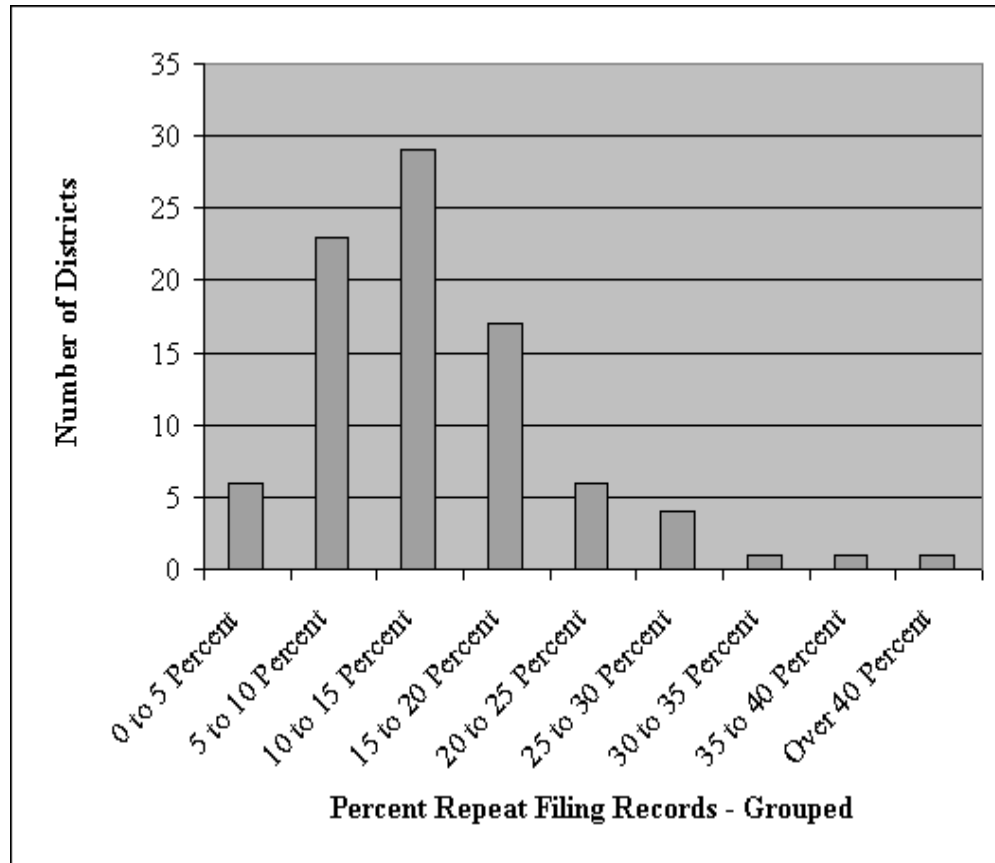
	FILINGS	FILERS	SINGLE TIME FILERS WITHIN DISTRICT	REPEAT FILERS WITHIN DISTRICT	REPEAT FILER PERCENTAGE
Circuit and District	Total count of filing records for the district	Number of different individuals who filed in the district	Count of filers with only 1 filing in the district in the 10 year period	Count of filers with more than 1 filing in the district in the 10 year period	Percent of filers who are repeat filers in the district
DC	21,109	19,611	18,427	1,184	6.0%
First	505,026	468,365	438,400	29,965	6.4%
ME	45,382	44,584	43,843	741	1.7%
MA	195,045	185,129	177,048	8,081	4.4%
NH	51,062	50,066	49,181	885	1.8%
PR	158,915	135,670	116,965	18,705	13.8%
RI	54,622	52,916	51,363	1,553	2.9%
Second	765,314	715,423	677,770	37,653	5.3%
CT	132,121	122,432	115,381	7,051	5.8%
NY-E	248,378	224,056	207,199	16,857	7.5%
NY-N	173,990	165,778	158,641	7,137	4.3%
NY-S	54,163	52,036	50,386	1,650	3.2%
NY-W	137,333	132,138	127,502	4,636	3.5%
VT	19,329	18,983	18,661	322	1.7%
Third	564,427	514,037	476,655	37,382	7.3%
DE	27,375	25,972	24,803	1,169	4.5%
NJ	147,709	133,949	122,793	11,156	8.3%
PA-E	145,082	121,708	106,235	15,473	12.7%
PA-M	102,900	98,111	94,201	3,910	4.0%
PA-W	141,361	134,297	128,623	5,674	4.2%
VI	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
Fourth	1,225,744	1,135,518	1,060,858	74,660	6.6%
MD	250,327	233,356	219,040	14,316	6.1%
NC-E	129,806	120,005	111,912	8,093	6.7%
NC-M	98,479	87,851	79,179	8,672	9.9%
NC-W	85,378	80,979	77,008	3,971	4.9%
SC	141,319	130,522	121,088	9,434	7.2%
VA-E	328,474	296,773	271,896	24,877	8.4%
VA-W	89,357	85,456	82,082	3,374	3.9%
WV-N	40,577	39,655	38,786	869	2.2%
WV-S	62,027	60,921	59,867	1,054	1.7%

Table 4. (Continued)					
	FILINGS	FILERS	SINGLE TIME FILERS WITHIN DISTRICT	REPEAT FILERS WITHIN DISTRICT	REPEAT FILER PERCENTAGE
Fifth	1,168,121	1,069,079	987,162	81,917	7.7%
LA-E	90,663	80,249	72,607	7,642	9.5%
LA-M	31,617	29,748	28,091	1,657	5.6%
LA-W	149,833	136,944	125,681	11,263	8.2%
MS-N	70,925	64,807	59,479	5,328	8.2%
MS-S	132,942	119,973	109,043	10,930	9.1%
TX-E	78,563	75,145	72,014	3,131	4.2%
TX-N	211,790	193,131	177,885	15,246	7.9%
TX-S	222,687	201,518	184,851	16,667	8.3%
TX-W	179,101	167,564	157,511	10,053	6.0%
Sixth	1,933,908	1,729,746	1,575,264	154,482	8.9%
KY-E	121,509	116,081	111,213	4,868	4.2%
KY-W	145,612	133,424	123,270	10,154	7.6%
MI-E	292,485	268,978	249,991	18,987	7.1%
MI-W	141,782	133,130	125,959	7,171	5.4%
OH-N	341,093	318,356	299,655	18,701	5.9%
OH-S	341,054	316,424	295,793	20,631	6.5%
TN-E	191,349	165,283	145,373	19,910	12.0%
TN-M	108,274	96,463	87,170	9,293	9.6%
TN-W	250,750	181,607	136,840	44,767	24.7%
Seventh	1,368,970	1,257,904	1,169,294	88,610	7.0%
IL-C	140,905	133,243	126,328	6,915	5.2%
IL-N	447,198	397,605	361,253	36,352	9.1%
IL-S	86,416	78,636	72,421	6,215	7.9%
IN-N	176,125	165,024	155,740	9,284	5.6%
IN-S	293,884	272,687	254,506	18,181	6.7%
WI-E	146,782	136,722	128,034	8,688	6.4%
WI-W	77,660	73,987	71,012	2,975	4.0%
Eighth	962,142	887,960	829,718	58,242	6.6%
AR-E	127,004	112,767	101,383	11,384	10.1%
AR-W	77,659	72,202	67,543	4,659	6.5%
IA-N	45,788	44,908	44,076	832	1.9%
IA-S	68,458	66,282	64,302	1,980	3.0%
MN	201,305	185,988	173,639	12,349	6.6%
MO-E	173,888	148,729	131,220	17,509	11.8%
MO-W	144,865	137,889	132,032	5,857	4.2%
NE	71,881	68,877	66,137	2,740	4.0%
ND	23,697	23,322	22,967	355	1.5%
SD	27,597	26,996	26,419	577	2.1%

Table 4. (Continued)					
	FILINGS	FILERS	SINGLE TIME FILERS WITHIN DISTRICT	REPEAT FILERS WITHIN DISTRICT	REPEAT FILER PERCENTAGE
Ninth	2,473,512	2,311,362	2,180,918	130,444	5.6%
AK	16,057	15,733	15,441	292	1.9%
AZ	283,812	262,283	245,925	16,358	6.2%
CA-C	478,683	446,989	422,088	24,901	5.6%
CA-E	402,321	379,615	361,145	18,470	4.9%
CA-N	255,821	237,551	223,152	14,399	6.1%
CA-S	192,899	177,778	165,764	12,014	6.8%
HI	45,378	44,332	43,414	918	2.1%
ID	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
MT	30,784	29,560	28,484	1,076	3.6%
NV	151,292	144,135	137,679	6,456	4.5%
OR	229,274	211,093	196,288	14,805	7.0%
WA-E	92,614	86,978	82,129	4,849	5.6%
WA-W	294,577	275,315	259,409	15,906	5.8%
GU	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
NMI	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
Tenth	910,580	833,099	774,600	58,499	7.0%
CO	210,578	198,400	188,282	10,118	5.1%
KS	150,323	141,752	134,507	7,245	5.1%
NM	86,589	83,199	80,133	3,066	3.7%
OK-E	43,377	41,907	40,562	1,345	3.2%
OK-N	68,218	64,735	61,763	2,972	4.6%
OK-W	147,734	137,205	128,756	8,449	6.2%
UT	178,066	140,943	116,307	24,636	17.5%
WY	25,695	24,958	24,290	668	2.7%
Eleventh	1,448,618	1,299,684	1,184,845	114,839	8.8%
AL-M	45,312	42,355	39,634	2,721	6.4%
AL-N	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>
AL-S	59,713	53,409	48,112	5,297	9.9%
FL-M	489,410	457,026	432,777	24,249	5.3%
FL-N	53,832	52,269	50,879	1,390	2.7%
FL-S	267,637	256,144	246,252	9,892	3.9%
GA-M	157,705	134,819	116,670	18,149	13.5%
GA-N	375,009	303,662	250,521	53,141	17.5%
GA-S	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>	<i>data not available</i>

Table 5: Time Between Filings by Repeat Filers			
<i>Based on National Dataset -- looking at all filings within and across districts</i>			
Distribution of Periods Between Consecutive Filings			
	Time Between Filings	Frequency	Percent
	Within 30 days	21,039	1.8%
	31 to 180 days	199,984	17.1%
	Six months to 1 year	235,940	20.2%
	1 to 6 years	582,564	49.8%
	Over 6 years	130,675	11.2%
	Total	1,170,202	
The mean number of days between filing is 854 days			
The standard deviation is 832 days			
NOTE:			
In the full 13 million record dataset, there are 2,089,161 repeat filer records, and there are 1,170,202 "intervals" between filing by the same defendant *			
* For example: a defendant with 2 filings had 1 interval to be computed; a defendant with 9 filings had 8 intervals to be computed; etc.			

FIGURE 1



Percent Repeat Filing Records - Grouped

	Number of Districts	Percent
0 to 5%	6	6.8
5 to 10%	23	26.1
10 to 15%	29	33.0
15 to 20%	17	19.3
20 to 25%	6	6.8
25 to 30%	4	4.5
30 to 35%	1	1.1
35 to 40%	1	1.1
Over 40%	1	1.1
Total	88	100

APPENDICES

APPENDIX 1: Summary of Records in National Dataset – by Circuit, District, and Year⁵²**DC Circuit**

Year	DC
1993	1,240
1994	1,311
1995	1,424
1996	1,889
1997	2,469
1998	2,871
1999	2,651
2000	2,299
2001	2,516
2002	2,440

First Circuit

Year	MA	ME	NH	PR	RI
1993	6,986	2,429	4,961	9,579	4,082
1994	12,603	2,314	4,189	9,483	3,774
1995	18,247	2,941	4,298	10,805	4,211
1996	22,046	4,125	4,955	14,616	5,444
1997	26,643	5,764	6,605	21,229	6,884
1998	27,356	6,081	6,643	23,496	6,866
1999	22,187	5,466	5,337	24,051	6,202
2000	18,348	5,318	4,670	19,915	5,391
2001	20,509	6,018	5,043	18,862	5,950
2002	20,341	4,942	4,361	6,880	5,864

Second Circuit

Year	CT	NY-E	NY-N	NY-S	NY-W	VT
1993	11,029	20,623	11,686	51	8,846	1,110
1994	10,157	19,531	10,965	95	8,556	1,063
1995	11,087	20,054	12,847	220	10,159	1,425
1996	13,816	21,731	17,758	402	13,273	1,831
1997	16,542	17,753	21,631	849	17,356	2,563
1998	16,774	36,700	22,071	1,367	17,592	2,671
1999	13,778	29,890	18,678	5,991	14,545	2,313
2000	12,261	25,089	17,333	13,190	13,582	1,973
2001	13,302	28,167	20,180	15,386	16,421	2,299
2002	13,483	28,843	20,874	16,618	17,071	2,087

⁵² An examination of these data reveals that some of the by-district computations were based on incomplete sets of data. For example, the data set used for the District of Montana computation appears to be missing some data for the years 1995 through 1997. In fact, approximately 6% of the annual counts appear to be substantially below what one would expect. Sixteen districts accounted for these low counts, and, in most instances, the missing data were apparent for the earliest years of the analysis. However, it is impossible to determine what type of bias, if any, the shortfall in these districts causes, other than to note that the proportion of missing yearly data is low.

APPENDIX 1 (Continued)

Third Circuit

Year	DE	NJ	PA-E	PA-M	PA-W
1993	1,824	65	423	4,540	7,281
1994	1,507	123	796	4,326	6,978
1995	1,828	659	1,483	6,580	8,458
1996	2,459	2,273	2,912	9,269	11,392
1997	3,277	4,599	5,477	13,087	15,522
1998	3,326	7,637	22,808	14,412	16,894
1999	3,097	9,750	26,448	6,068	15,593
2000	3,041	24,175	25,433	12,686	16,269
2001	3,610	49,701	29,137	15,236	20,490
2002	3,406	49,103	30,165	16,696	22,484

Fourth Circuit

Year	MD	NC-E	NC-M	NC-W	SC	VA-E	VA-W	WV-N	WV-S
1993	7,409	7,046	5,128	4,875	8,677	23,972	5,043	1,974	3,230
1994	3,585	7,324	5,326	4,591	8,658	20,863	5,337	1,859	3,395
1995	7,208	8,531	6,223	5,725	9,861	26,860	6,535	2,258	3,712
1996	12,749	11,641	9,153	8,329	13,125	33,997	8,892	3,425	5,302
1997	34,044	13,008	11,461	9,915	14,926	41,103	10,399	4,976	7,375
1998	33,987	14,505	11,112	9,745	15,573	41,199	10,348	5,059	7,355
1999	37,818	13,734	10,447	9,611	15,192	35,138	9,589	4,635	6,894
2000	31,119	14,600	11,424	9,395	15,794	32,300	9,455	4,650	7,535
2001	41,384	18,796	13,460	12,268	18,695	36,004	11,387	5,680	8,682
2002	41,061	20,621	14,745	10,924	20,818	37,040	12,373	6,061	8,547

Fifth Circuit

Year	LA-E	LA-M	LA-W	MS-N	MS-S	TX-E	TX-N	TX-S	TX-W
1993	6,306	1,937	8,996	4,486	8,592	74	2,550	5,893	3,416
1994	5,911	2,002	9,040	4,219	7,949	585	3,811	16,023	4,339
1995	6,622	2,234	11,049	4,990	9,700	1,656	5,640	19,010	6,651
1996	8,513	3,426	15,907	6,726	12,948	4,007	10,293	24,069	15,060
1997	9,644	3,672	17,971	8,208	15,840	5,613	23,848	27,281	26,395
1998	9,225	3,826	17,655	7,601	15,604	6,510	34,515	26,910	25,629
1999	9,850	3,450	16,661	7,250	14,599	13,407	29,251	23,908	23,683
2000	10,686	3,648	16,202	7,799	15,158	12,872	27,909	23,316	21,942
2001	13,308	4,455	17,980	9,703	17,983	16,528	36,553	27,660	25,637
2002	10,604	3,134	18,374	9,962	14,570	17,489	37,513	28,997	26,371

APPENDIX 1 (Continued)

Sixth Circuit

Year	KY-E	KY-W	MI-E	MI-W	OH-N	OH-S	TN-E	TN-M	TN-W
1993	7,630	9,119	19,792	8,773	22,235	24,068	13,141	9,101	18,791
1994	7,302	8,866	17,753	8,278	19,877	22,242	12,627	8,093	18,217
1995	8,902	11,018	19,727	9,603	21,705	23,961	14,368	8,510	20,484
1996	11,927	14,321	25,588	13,088	28,447	31,067	19,271	10,681	25,892
1997	13,630	16,577	31,991	16,319	34,849	37,132	21,058	11,273	28,108
1998	13,687	17,051	32,963	16,527	37,401	37,867	20,680	11,034	26,762
1999	12,700	15,760	30,041	15,053	35,800	34,657	19,293	10,111	23,626
2000	12,823	16,081	29,015	14,696	36,552	34,999	20,307	10,933	25,128
2001	16,050	19,512	38,354	18,600	48,917	45,886	25,310	13,945	30,849
2002	16,860	17,326	47,292	20,849	55,316	49,647	25,307	14,593	32,900

Seventh Circuit

Year	IL-C	IL-N	IL-S	IN-N	IN-S	WI-E	WI-W
1993	8,431	10,064	4,620	11,285	19,830	9,024	4,924
1994	8,393	9,467	4,715	10,382	18,403	9,118	4,895
1995	9,712	34,724	6,015	11,561	19,389	10,685	5,966
1996	12,954	47,253	8,233	14,440	25,240	13,712	7,548
1997	16,930	54,164	9,882	18,269	30,903	16,600	8,730
1998	16,308	56,780	10,439	19,245	32,858	16,502	8,947
1999	15,007	53,942	10,055	18,974	31,773	15,825	8,165
2000	14,544	50,786	10,130	18,608	31,277	15,231	7,903
2001	18,612	61,418	11,932	25,339	39,879	18,610	10,383
2002	20,014	68,600	10,422	28,022	44,333	21,475	10,199

Eighth Circuit

Year	AR-E	AR-W	IA-N	IA-S	MN	MO-E	MO-W	ND	NE	SD
1993	5,880	4,082	3,053	4,434	18,843	10,380	9,503	1,438	5,062	1,906
1994	5,618	3,875	2,966	4,452	16,813	10,467	8,798	1,561	4,725	1,644
1995	8,311	4,781	3,579	5,324	18,133	12,120	9,626	1,759	5,117	2,004
1996	11,918	6,664	4,749	7,140	22,856	16,582	13,091	2,250	7,235	2,608
1997	13,733	8,254	5,529	7,847	25,394	19,363	15,697	2,621	8,089	3,337
1998	14,803	9,067	5,348	7,546	22,953	21,185	16,479	2,934	8,299	3,144
1999	13,701	8,999	4,628	6,537	17,289	20,196	15,301	2,875	7,306	3,062
2000	14,199	8,724	4,607	6,563	11,159	19,115	14,953	2,550	7,570	2,893
2001	18,546	11,171	6,037	9,027	23,497	21,341	19,214	2,972	9,765	3,819
2002	20,305	12,042	5,292	9,588	24,374	23,140	22,204	2,737	8,713	3,180

APPENDIX 1 (Continued)

Ninth Circuit

Year	AK	AZ	CA-C	CA-E	CA-N	CA-S	HI	MT	NV	OR	WA-E	WA-W
1993	1,152	22,427	21,919	29,504	5,214	19,250	1,698	2,539	2,012	16,902	4,585	18,700
1994	1,085	19,121	22,806	27,149	6,492	18,091	1,846	2,516	2,658	16,469	4,420	18,982
1995	1,192	20,973	24,211	31,015	15,619	19,514	2,502	978	6,283	18,310	5,723	22,884
1996	1,589	26,799	60,726	41,140	38,397	17,968	3,852	16	13,962	21,572	7,853	31,178
1997	1,755	33,301	65,759	49,288	43,713	26,228	5,761	735	17,909	23,653	9,805	35,797
1998	1,912	31,602	69,204	53,195	42,299	24,872	7,516	5,139	20,866	23,728	10,918	34,787
1999	1,887	28,430	50,136	47,358	32,336	20,431	7,119	4,492	19,188	23,506	10,801	32,115
2000	1,763	27,301	53,269	39,773	23,262	16,099	5,819	4,323	18,297	23,575	11,136	30,065
2001	1,860	33,595	61,490	42,631	23,204	16,907	6,516	4,894	24,042	29,811	13,686	36,206
2002	1,862	40,552	49,165	41,288	25,333	13,560	2,749	5,153	26,076	31,748	13,687	33,863

Tenth Circuit

Year	CO	KS	NM	OK-E	OK-N	OK-W	UT	WY
1993	13,802	10,642	5,051	2,218	5,704	10,503	9,556	1,660
1994	16,289	10,510	4,618	2,338	5,244	10,088	9,008	1,624
1995	17,325	11,950	5,661	2,693	5,495	10,928	9,980	1,713
1996	20,883	15,063	7,787	3,038	7,308	14,149	12,944	2,548
1997	21,915	17,499	10,101	5,034	8,242	18,055	16,963	2,920
1998	24,545	17,345	10,497	5,486	7,392	17,935	19,673	3,198
1999	21,477	14,875	9,742	4,987	6,868	15,659	19,867	2,822
2000	20,728	14,689	9,493	5,077	6,653	14,447	21,447	2,915
2001	24,949	18,263	11,523	5,948	7,837	18,213	27,430	3,500
2002	28,722	19,682	12,232	6,593	7,475	17,761	31,204	2,797

Eleventh Circuit

Year	AL-M	AL-S	FL-M	FL-N	FL-S	GA-M	GA-N
1993	5,613	2,872	32,033	3,256	2,815	9,959	27,685
1994	5,161	3,553	31,045	3,016	15,833	10,001	29,939
1995	1,429	4,739	34,175	3,440	18,930	12,368	31,715
1996	111	6,147	44,151	4,930	24,452	15,554	36,910
1997	125	6,075	54,421	6,494	31,874	17,853	42,093
1998	244	5,961	58,894	7,211	35,219	17,442	41,613
1999	2,153	5,867	53,054	6,629	33,446	16,383	37,999
2000	9,001	6,660	51,287	6,781	31,281	17,344	38,125
2001	10,287	8,447	62,655	8,176	36,520	20,002	46,287
2002	11,188	9,408	67,697	3,903	37,267	20,801	42,655

APPENDIX 2: Methodology for Examining Repeat Filings and Repeat Filers

Once the 88 separate district files were concatenated to create the full 13-million record dataset, variables were created and the dataset was scanned so that each record was coded to be either unique (the social security number on that record appeared only once) or a repeat filing record.⁵³

Of course, a count of repeat filing records differs from a count of repeat filers. For example, suppose an individual filer filed for chapter 7 two times and chapter 13 three times during the ten-year period. This one individual repeat filer would be tabulated as five repeat filing records because there were five records in the dataset attributed to his/her social security number. To examine the frequency of filings assigned to individual petitioners, the dataset was further sorted and counters applied to the record to enable a tally of the number of persons with 2 records, 3 records, or however many separate bankruptcy filings were attributed to them (*i.e.*, to their social security number) during the ten years under examination.

Descriptive analyses were run so that characteristics of repeat filing records could be tabulated. Analyses were run by circuit and district, by year, and by chapter. We noted that there were some cases where the repeat filer had filed for bankruptcy in more than one district and sometimes in more than one circuit—something that would not have been possible to identify without having combined data from all districts into a single dataset.

Validity checks of records in the dataset were conducted by examining a subset of cases from the dataset to confirm the presence of the filings in the live PACER system and in the AO's bankruptcy database. By accessing cases in the live PACER system, we were able to call up the case summaries and confirm not only the petitioner identifiers and filing information on multiple filings, but we were able to observe patterns of case disposition and time between the closing of one repeat filer's case and the filing of his/her next one.⁵⁴ Consistently, when records in this study appeared to be multiple filings by the same person, a query against the AO's bankruptcy database confirmed the presence of multiple records in the bankruptcy files.⁵⁵

⁵³ The dataset was assembled as one large file using SPSS, a statistical software package, and the data analyses and record examinations were performed using the descriptive statistical analytical tools of SPSS.

⁵⁴ Analysis of outcomes (case dismissed, discharge granted, or other dispositions) was not feasible in this portion of the research because disposition data were not available on the records we received and assembled in the 13-million record file. Looking up records one-by-one in live PACER is, of course, very time consuming; nonetheless, we were able to assemble anecdotal evidence of patterns of repeat filings where cases were dismissed and the same petitioner re-filed again, often soon after a dismissal.

⁵⁵ The AO's bankruptcy database does not have the filer's social security number, but it does have the case number and filing date, and queries were conducted against the filing dates and case numbers from PACER and

APPENDIX 3

Example A: Example of a Repeat Filer with Multiple Discharges
Case Disposition as shown on PACER Dataset

The following records are for the same person:

Case Number	Chapter	Date Filed	Disposition	Date Discharged
96-xxxxx	7	2-Apr-1996	Discharge Granted	18-Jul-1996
02-xxxxx	7	23-Oct-2002	Discharge Granted	6-Feb-2003

then a match was confirmed based on the petitioner's name in the AO database.

Example B: Example of a Repeat Filer with Multiple Dismissals
Case Disposition as shown on PACER Dataset

The following records are for the same person:

Case Number	Chapter	Date Filed	Disposition	Date Case Terminated *
95-xxxxx	13	3-Mar-1995	Dismissed	25-May-1995
95-xxxxx	13	18-May-1995	Dismissed	4-Aug-1995
95-xxxxx	13	25-Sep-1995	Dismissed	2-Nov-1995
95-xxxxx	13	29-Dec-1995	Dismissed	13-Mar-1996
96-xxxxx	7	10-Apr-1996	Dismissed	10-Jun-1996
96-xxxxx	7	10-Jul-1996	Dismissed	17-Sep-1996
96-xxxxx	7	7-Oct-1996	Dismissed	21-Mar-1997
97-xxxxx	13	7-Mar-1997	Dismissed	19-Dec-1997
98-xxxxx	13	2-Apr-1998	Dismissed	5-May-1998
98-xxxxx	13	4-Aug-1998	Dismissed	9-Sep-1998
98-xxxxx	7	3-Dec-1998	Dismissed	4-Jan-1999
99-xxxxx	7	12-May-1999	Dismissed	29-Jun-1999
99-xxxxx	13	9-Aug-1999	Dismissed	10-Sep-1999
99-xxxxx	7	12-Nov-1999	Dismissed	10-Jan-2000
00-xxxxx	7	13-Jan-2000	Dismissed	17-Mar-2000

* *Date case was terminated in PACER; actual dismissal may have been earlier.*

APPENDIX 3 (Continued)

Example C: Example of a Repeat Filer with Dismissals and Discharge
Case Disposition as shown on PACER Dataset

The following records are for the same person:

Case Number	Chapter	Date Filed	Disposition	Date Dismissed (if shown)	Date Case Terminated *
97-xxxxx	13	1-May-1997	Dismissed	22-Dec-1997	30-Jul-1998
98-xxxxx	13	19-Jun-1998	Dismissed	22-Jul-1998	14-Oct-1998
99-xxxxx	13	18-Aug-1999	Dismissed	25-Oct-1999	7-Jan-2000
00-xxxxx	7	23-Aug-2000	Discharge Granted	n/a	8-Dec-2000

* *Date case was terminated in PACER; actual dismissal date was earlier.*

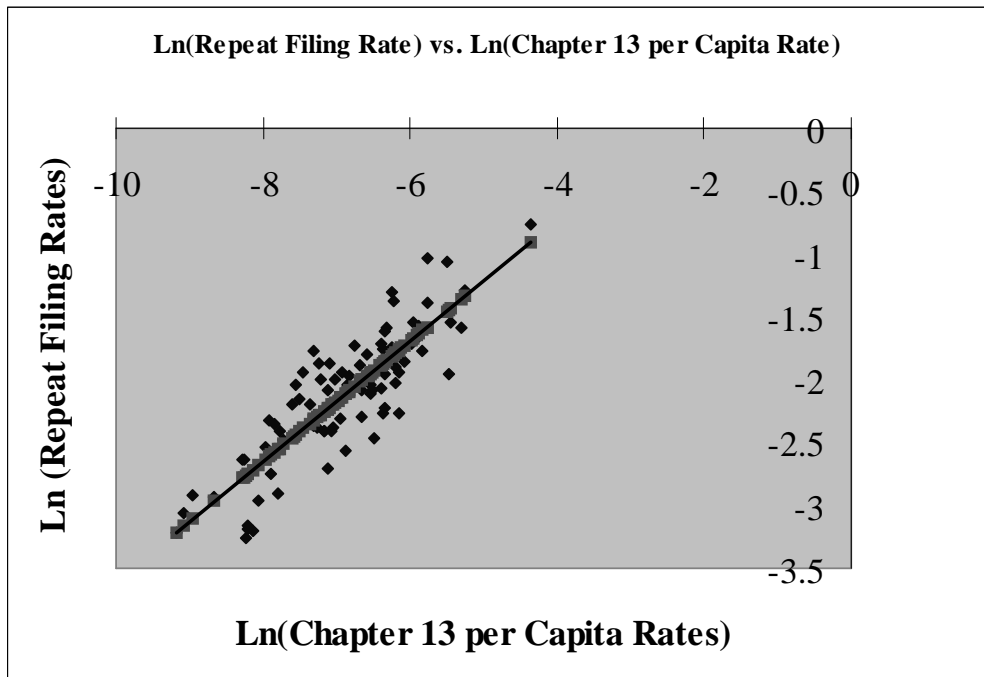
APPENDIX 4

Regression Models⁵⁶

Model: $\text{Ln}(\text{Repeat Filing Rate}) = 1.18 + 0.48 * \text{Ln}(\text{Chapter 13 per Capita Rate}) + a$

where $a \sim N(0, s^2)$

Regression Statistics	
Multiple R	0.855806
R Square	0.732404
Adjusted R Square	0.729255
Standard Error	0.266563
Observations	87



⁵⁶ The models presented here use transformed data. The data were transformed using the natural log function, which is a one-to-one and strictly increasing function. The transformation was necessary to ensure that the residuals behaved according to the normal distribution.

APPENDIX 4 (Continued)

Model: $\text{Ln}(\text{Repeat Filing Rate}) = -0.96 + 0.20 * \text{Ln}(\text{Chapter 7 per Capita Rate}) + a$

where $a \sim N(0, s^2)$

Regression Statistics	
Multiple R	0.14136
R Square	0.01998
Adjusted R Square	0.00845
Standard Error	0.51012
Observations	87

