

Women in Bankruptcy¹

by

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A silent feminization of bankruptcy may be underway as more women seek help from bankruptcy law to stabilize their failing economic circumstances. The most striking finding from an initial analysis of our newest empirical data is that the proportion of women filing alone in bankruptcy has increased dramatically since 1981. In 1981, single filing women were the smallest group, comprising 17% of all filers in our sample.² By 1991, single filing women had overtaken single filing men and were 30% of all filers in the sample.³ By 1999, our initial analysis suggests that single filing women have increased even more and now constitute almost 40% of all filers.⁴ This makes single filing women the fastest growing group in bankruptcy by a large margin and means that women filing alone now outnumber either men filing alone or married couples.

Because overall bankruptcy filings have risen dramatically in the past two decades, the increase in the proportion of filings among women represents a particularly steep increase in their filing rates. If our multi-district samples of consumer debtors were representative of all debtors in bankruptcy, the increase in filings would look like this:

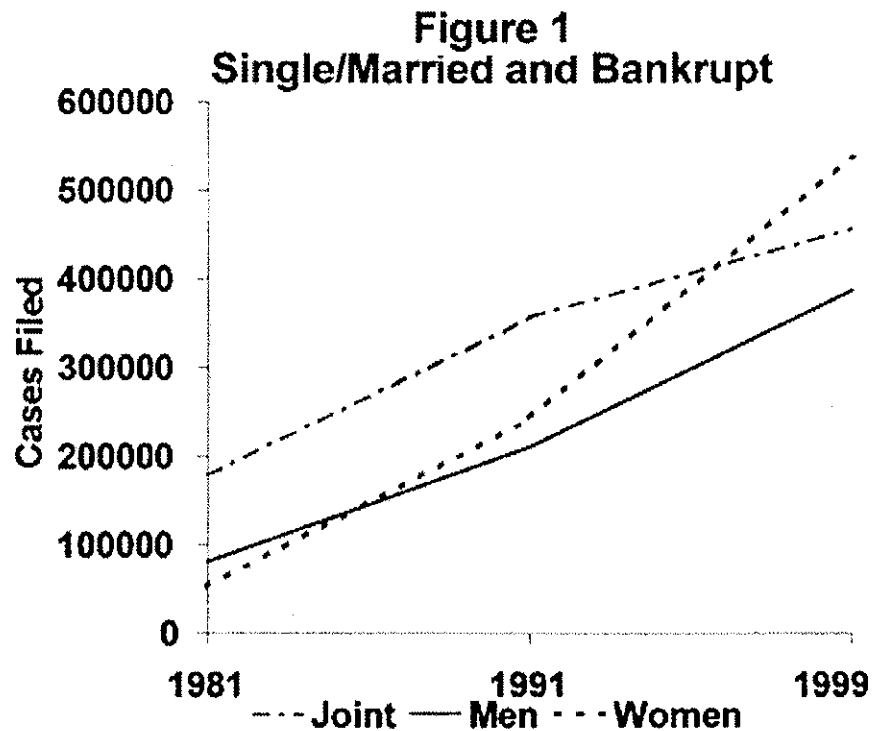
Projected National Filings for Single-Filing Men, Women and Joint Petitions

	1981	1991	1999
Joint	178,000	357,000	455,000
Men	81,000	211,000	386,000
Women	53,000	243,000	538,000
Total	312,000	811,000	1,379,000

Note: Numbers are rounded to nearest thousand

Source: Administrative Office of the U.S. Courts, Consumer Bankruptcy Project I (1981), Consumer Bankruptcy Project II (1991), and Consumer Bankruptcy Project III (1999)

While bankruptcies for couples have grown by about 150% from 1981 to 1999, and bankruptcies by men filing alone have grown by about 375%, bankruptcy filings for women have increased by more than nine-fold. The "bankruptcy boom" has been widely reported. We now know, however, that it has been fueled in large part by divorced, widowed and single women streaming into the bankruptcy courts for help. These figures are displayed graphically in Figure 1.



Source: Proportions of debtors by marital status taken from
Consumer Bankruptcy Project I, 1981
Consumer Bankruptcy Project II, 1991
Consumer Bankruptcy Project III, 1999

National data on non-business bankruptcy filings published by Administrative Office of the United States Courts

In our continuing analysis, we will examine the reasons why so many women file for bankruptcy. One obvious place to look is the effects of divorce. Research has been accumulating for years showing that divorce is a financial catastrophe for many women. Women typically are left with children to support and bills to pay from the marriage. They are often granted inadequate support payments--and sixty percent are unable to collect what that they are awarded.⁵ Our study collected data about child support and alimony, family size, and age of the debtors and dependents, along with employment, income, and debt information. We also have asked the debtors about the reasons for their filings, which provides rich possibilities for better understanding the increase in filings.

Other researchers also have identified a noticeable increase in women heads of households filing for bankruptcy. Professors Marianne Culhane and Michaela White have conducted a study of 1,047 Chapter 7 cases filed in seven judicial districts in 1995. The protocols for that study are reported fully in Marianne B. Culhane & Michaela M. White, "Preliminary Results of the Bankruptcy Reaffirmation Project" (Oct. 1998)(unpublished manuscript on file with authors) and in Marianne B. Culhane & Michaela M. White, "Taking the New Consumer Bankruptcy Model for a Test Drive: Means-Testing Real Chapter 7 Debtors," *7 American Bankruptcy Institute Law Review* 27 (1999). Professors Culhane and White report that in their 1995 sample 35.8% of the debtors were single-filing women, a figure entirely consistent with the rise we document from 1991 to 1999.

Professor Oliver Pollak suggests that the trend extends over a long period of time. He examined

5,441 consumer filings in a single district (Nebraska) for 1996-97, and he found that 32.4% were by women filing alone, again consistent with the rise during the 1990s. His protocols and data are reported in full in Oliver B. Pollak, "Gender and Bankruptcy: An Empirical Analysis of Evolving Trends in Chapter 7 and Chapter 13 Bankruptcy Filings 1996-1997," *Commercial Law Journal* 102, 3 (1998): 333-338. By comparison, he reports that the proportion of single-filing women was 14.6% in 1967, 11.1% in 1977, and 22.2% in 1987, demonstrating a thirty-year growth trend among women in bankruptcy filings.⁶ Together, the Pollack data and the Culhane and White data help fill in a picture of women increasingly turning to the bankruptcy courts for financial help.

Although not directly comparable, a Canadian study also shows a high proportion of women filing alone. Forty-one percent of a 1997 Canadian sample of bankrupt debtors were women. Saul Schwartz and Leigh Anderson, *An Empirical Study of Canadians Seeking Personal Bankruptcy Protection* 3 (Carleton University, 1998).

For additional commentary on women in bankruptcy, readers might consult Zipporah Batshaw Wiseman, "Women in Bankruptcy and Beyond," 65 *Indiana Law Journal* 107-121 (Winter 1989); Karen Gross, *Failure and Forgiveness* 67, 22, 245-246 (New Haven: Yale, 1997). For a longer view of the role of women in the bankruptcy system, Karen Gross, Marie Stefanini Newman, and Denise Campbell, "Ladies in Red: Learning from America's First Female Bankrupts," 40 *American Journal of Legal History* 1 (January 1996), have provided a fascinating account. For a more contemporary view about the roles of women in the bankruptcy system from bankruptcy to lawyer, see Commission on Gender, Commission on Race and Ethnicity, "Report of the Third Circuit Task Force on Equal Treatment in the Courts," 42 *Villanova Law Review* 1355 (1997); "Final Report and Recommendations of the Eighth Circuit Gender Fairness Task Force," 31 *Creighton L. Rev.* 9 (1997); "The Effects of Gender in the Federal Courts: The Final Report of the Ninth Circuit Gender Bias Task Force," 67 *Southern California Law Review* 745 (1994).

Footnotes

¹ For a paper entitled "The Price of Equality? Women in Bankruptcy," we are examining empirical data about who has filed for bankruptcy in 1999 and their reasons for filing bankruptcy. ABI Executive Director Sam Gerdano asked us if we would write a very brief summary of our initial findings. We agreed, although we emphasize that this report is confined to only a small corner of the newest data, and that we are continuing with the full analysis. The comparative data from earlier years have already been published and are referred to in this summary. [[RETURN TO TEXT](#)]

² The data for these reports come from three sources, a 1981 database, a 1991 database and a 1999 database. The 1981 data were collected from 1,547 bankruptcy cases filed in ten federal districts. The protocols for that study and the data are reported fully in Sullivan, Warren & Westbrook, *As We Forgive Our Debtors: Bankruptcy and Consumer Credit in America* (Oxford University Press 1989), 149. As we report there, the proportion of single women filers in 1981 was 17%. [[RETURN TO TEXT](#)]

³ The 1991 data were collected from 2,650 cases filed in sixteen federal judicial districts. The protocols for that study and the data are reported fully in Sullivan, Warren & Westbrook, *The Fragile Middle Class: Americans in Debt* (Yale University Press 1999). The proportion of single filing women in that sample is 30%. (This book will be available in the fall from Yale University Press, but the chapter on research protocols is available on request from the authors.) Data from this study and protocols on the study have already been published in Teresa Sullivan, Elizabeth Warren and Jay Lawrence Westbrook, "From Golden Years to Bankruptcy Years," *Norton Bankruptcy Law Advisor* 1 (July 1998) (a report on the growth in bankruptcy filings among older Americans). [[RETURN TO TEXT](#)]

⁴ In addition to the two published studies, the two of us have developed a data base of consumer filings in 1999. The 1999 data were collected from 1,521 bankruptcy cases in the bankruptcy courts

during the first quarter of 1999. The districts are the Northern District of California, the Northern District of Illinois, the Eastern District of Kentucky, the Southern District of Ohio, the Eastern District of Pennsylvania, the Middle District of Tennessee, the Northern District of Texas, and the Western District of Wisconsin. The cases are all in consumer cases filed initially in Chapter 7 or Chapter 13. The data were collected from questionnaires distributed during the statutorily required meeting between the debtors, the trustees and the creditors (the so-called 341 meetings, named after the statutory provision that mandates them) during late January, February, and March of 1999. Funding was provided by the Harvard Law School. [\[RETURN TO TEXT\]](#)

⁵ A report of the United States Office of Child Support Enforcement, *Twentieth Annual Report to Congress for the Period Ending September 30, 1995*, at 1 (1997) explains that only 35% of 11.5 million custodial parents actually receive *any* child support payments--even a single payment. Either they did not receive a support order or they had an order but did not receive any payments. According to the report, less than half of all custodial parents of minor children (46%) had support orders and were supposed to receive child support payments. Of those parents, only 51% received full payment, 24% received partial payment, and 25% got nothing. [\[RETURN TO TEXT\]](#)

⁶ Because there were no joint petitions before 1979, the earlier data must be interpreted with great caution. Women who filed alone before 1978 may or may not have been filing alone in fact. In their study of bankrupt debtors whose cases closed in 1964, pioneer researchers David T. Stanley and Marjorie Girth found that 76% of the debtors they interviewed were married. David T. Stanley and Marjorie Girth, *Bankruptcy: Problem, Process, Reform* (Washington, DC: Brookings Institution, 1971), 42. If both husband and wife filed petitions, the proportion of women "single-filers" would not be comparable to the number today when married couples can file a joint petition for a single filing fee. [\[RETURN TO TEXT\]](#)

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