

## Is Consumer Bankruptcy Strategic in Memphis?

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A major question regarding consumer bankruptcy is whether bankruptcy filing is a strategic move on the part of the consumer to avoid repayment of debt in order to strengthen his/her long-term asset base or whether filing is a response to financial hardship caused by circumstances largely beyond the control of the consumer (Gam, Sabarwal, and Zhang 2011). Much of the literature in the business discipline supports the first premise (Fay, Hurst and White 2002; Miyoshi 2008), while literature in the consumer and social disciplines more often supports the latter (Sullivan, Warren and Westbrook 2006). In both cases, however, conclusions are based primarily on economic and survey data, which often does not capture information needed to determine the motive and decision process associated with a filing. In this project, filers were given the opportunity to tell their story in narrative format, a method providing much more rich detail and insight into causes and motives than that obtained through secondary or quantitative sources. Information collected from the interviewees could then be compared to objective data obtained through the credit, net worth and cash flow statements filed with the Court.

The authors are members of a research team investigating bankruptcy in two Southern states with very high consumer bankruptcy rates (Tennessee and Mississippi) and one state with a very low rate of consumer bankruptcy (North Carolina). Researchers are using interview, observation and narrative techniques to collect information on the role of legal and cultural factors in bankruptcy filing in hopes that a comparison will shed light on variation in bankruptcy filings among the states. The pilot consisted of 20 case studies and court observation in the Memphis Bankruptcy Court between September 2010 and June 2011. Case study protocol included interviews and surveys with members of households filing Chapter 13 bankruptcy in the Memphis Bankruptcy Court. Quantitative data was obtained from PACER, the public information database containing financial and other records of each case filed with the court during the bankruptcy process.

Researchers found virtually no evidence to suggest that filings were strategic in protecting long-term assets. Rather, the planning horizons of filers were very short and their filing decisions were almost unequivocally reactive rather than pro-active. Some filings were, however, found to be strategic in the sense that they bought time for filers to seek additional ways to deal with home foreclosure, utility cut-off, wage garnishment, financial fall-out from divorce, medical issues and/or periods of unemployment or income reduction. The following quotes from interviewees are illustrative.

“So that’s why I filed really, for my light bill...The light bill was \$1,200. I needed to pay them that \$1,200 by that Wednesday, which I knew I wasn’t gonna have. So that Monday or that Tuesday I filed bankruptcy to stop it cause you know the lights were gonna go off, and I got my kids.”

“Basically, the reason I filed this time was because of that a previous creditor had started to garnish my wages so I couldn’t maintain. They were taking twenty-five percent of my earnings.”

“[[I]f I could get away with the medical bills...if I could wipe them off, and I could not pay the hundred and thirty six here, the two hundred, the hundred and fifty here a month, I probably wouldn’t have a problem. Cause ninety probably at least eighty percent of what I’m filing on is medical bills.”

“So now you got bills that’s going behind. When you don’t have that extra money, no cushion, no savings, it’s easy to go into bankruptcy because you don’t have it in the first place. Then if you miss a thirty day payment and got to make up sixty days the next months... You know it’s going to take forever to catch up...And I kept trying and trying..”

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“[W]hat really put me in bankruptcy is the check cashing place. Once I started I...it’s OK if I do it this time to keep the utilities on I’ll be OK. Then there one time I needed the next time, and the next time...find myself with six of them out there.”...”Cause it’s your whole check. You started going back giving your whole check to them. So you really haven’t paid the bills yet. You’re trying to keep yourself in good standing with them... And then you’re putting yourself in danger where you have to go to another one and another one...” “When the check cashing thing went through, everything was current. The car and the house was A-one OK. But when I start having to do that to do little things like buying food, gas, send the kids on field trips, buy clothes, uniforms...when I start doing that, then that’s when I started falling behind on the house note, the car note, and barely able to keep the utility going.”

Responses also indicated that filers may use repeated filings as a strategy to gain periods of “respite” from the pressures of financial stress and the collection processes that follow them throughout their adult lives.

“Starting over again and knowing that from week to week that I’ll have enough extra money to buy groceries to feed my kids, and when they have—you know—dances at school that I’ll have even just that eight dollars to let them go...or fieldtrips, or lunch money.”...”We’ve been sued forever...medical bills and stuff that we were paying back. So, there just wasn’t any—any extra money.”

### References

- Fay, S., Hurst, E. & White, M. J. (2002). The household bankruptcy decision. *The American Economics Review*, 92(3), 706-718.
- Gam, L., Sabarwal, T. & Zhang, S. (2011). Personal bankruptcy: Reconciling adverse events and strategic timing hypothesis using heterogeneity in filing types. Retrieved from <http://www2.ku.edu/~kuwpaper/2009Papers/201008.pdf>.
- Miyoshi, Y. (2008). *Adversity or strategy? The effects of credit constraint and expectation on mortgage default and personal bankruptcy decisions*. (Master’s thesis). Tufts University. Retrieved from <http://www.tufts.edu/~yioannid/Miyoshi080428final.pdf>.
- Sullivan, T. A., Warren, E., Westbrook, J. L. (2006). Less stigma or more financial distress: An empirical analysis of the extraordinary increase in bankruptcy filings. *Stanford Law Review*, 59(2), 213-256.