



Lawyers Serving the Public and the Justice System

Creditors' Rights Section Newsletter

SUMMER 2005

CREDITORS' RIGHTS SECTION LEADERSHIP 2004-2005 BAR YEAR

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MESSAGE FROM THE SECTION CO- CHAIRS:

I don't know about all of you, but most creditors' rights attorneys are overwhelmed with work. Perhaps that is why we have not had many volunteers to start new projects for our section. We would like to hear from you (our members) what projects would help you and your practice. We can then try to put together next year's program and committees. We are putting the finishing touches on our winter seminar so if anyone has any topics they want covered let us know. The seminar will be a good one that is pertinent to our practices.

SPECIAL THANKS TO GREG TAUBE FOR THIS NEWSLETTER!

Your Co-chairs,

Harriet Isenberg
Jan Rosser

UPCOMING SECTION EVENTS

Mark your calendars for October 28, 2005. The Section will meet on that date at Maggiano's in Buckhead for lunch and CLE. (Details as to exact time and cost to be announced.) Dale Goodman will speak on the impact on creditors of the new bankruptcy law.

The Section is also planning its annual CLE seminar for early 2006. If you have any suggestions as to topics you would like to see included in this year's seminar, please contact David Dolinsky (ddolinsky@maceywilensky.com; (404) 584-1200).

REVELATIONS & REMINDERS -- notes on law that may surprise you

SERVICE OF PROCESS ON A DOMESTIC CORPORATION by *Gordon M. Berger*

A party may no longer serve a complaint upon a domestic corporation through the Georgia Secretary of State without first attempting service at the corporation's correct (current) address, even if the corporation has not updated its information with the Secretary of State.

In *Stone Exchange, Inc. v. Surface Technology Corporation of Georgia, Inc.*, 269 Ga. App. 770, 605 S.E.2d 404 (2004), Surface Technology's counsel had been communicating with Stone Exchange's president (and registered agent) at a proper address located in Cobb County. Surface Technology's attorney then filed suit in Coweta County, which is where Stone Exchange's registered office was listed with the Georgia Secretary of State. Stone Exchange had moved, but had not updated its information with the Secretary of State.

Because the registered agent could not be found at the Coweta County address, Surface Technology served the Secretary of State under the substituted service provision in O.G.C.A. §9-11-4(e)(1).

Surface Technology thereafter obtained a default judgment against Stone Exchange. Stone Exchange sought to set aside the judgment, but the trial court denied it. Stone Exchange appealed.

The Court of Appeals held that under O.C.G.A. §9-11-4, substituted service upon the Secretary of State is proper *only* after a plaintiff has attempted to serve the persons listed in the statute (i.e., president or other officer of the corporation, secretary, cashier, managing agent, or other agent thereof) and "for any reason" that attempt is unsuccessful.

In support of its holding, the Court reasoned that "Surface Technology had actual knowledge of Stone Exchange's current address, had been corresponding with the corporation at that address, and has cited no 'reason' that service could not be had at that address on the corporation's president or one of the other persons listed in the statute." The court found that Surface Technology was not authorized under the statute to resort to substituted service on the Secretary of State because it did not attempt service at Stone Exchange's current address and that "[t]o hold otherwise would violate the clear language of O.C.G.A. §9-11-4(e)(1)."

ACKNOWLEDGMENT OF SERVICE by *Gregory M. Taube*

You probably use acknowledgements of service regularly. But, did you know that the Georgia Code contains a specific provision for them? O.C.G.A. § 9-10-73 provides: "The defendant may acknowledge service or waive process by a writing signed by the defendant or someone authorized by him." Significantly, acknowledgement of service under O.C.G.A. § 9-10-73 is not the same as waiver of service under O.C.G.A. § 9-11-4(d). *SRM Realty Servs. Group, LLC v. Capital Flooring Enters., Inc.*, ___ Ga. App. ___, ___ S.E.2d ___ (2005 WL 1594550 July 7, 2005). Under O.C.G.A. § 9-10-73, the defendant has only 30 days from the date of acknowledgement to file an answer, while the time limit under O.C.G.A. § 9-11-4(d) is 60 days. *Id.* In light of the potential for confusion, a party intending to waive service under O.C.G.A. § 9-11-4(d) should make sure that the plaintiff has complied with the notice and request provisions of that section and that the waiver specifies that the answer is due in 60 days.

If you have a revelation or reminder you don't mind sharing, please let us know so that we can include it in a future issue. (See SEEKING SUBMISSIONS for contact information.)

BILLS AND NOTES – comments on cases and legislation affecting creditors' rights

AUTOMATIC STAY BARS CREDITOR'S STATE COURT ALTER EGO ACTION AGAINST DEBTOR'S FORMER PRINCIPAL by *Gregory M. Taube*

In *Baillie Lumber Co., LP v. Thompson*, 413 F.3d 1293 (11th Cir. 2005), the Eleventh Circuit returned to its consideration of whether the automatic stay precluded a creditor of a corporate debtor from pursuing its claim against the debtor's principal on an alter ego theory. The court concluded that "the alter ego action here is property of the bankruptcy estate and is subject to an automatic stay." *Id.*

The case arose from a chapter 11 bankruptcy filed in the Middle District of Georgia. The debtor, Icarus Holdings, LLC, was a national manufacturer and distributor of hardwood flooring. The creditor, Baillie Lumber Co., LP, sold lumber to Icarus prior to the bankruptcy filing but was not paid. The creditor filed an action in Bibb County Superior Court against the debtor's principal member and president, Thompson. Baillie Lumber claimed that Thompson was the alter ego of the debtor and was personally liable for Icarus' debt to Baillie Lumber. The alter ego theory was based on commingling of assets, including Thompson's use of assets and resources of the debtor to improve Thompson's hunting lodge and to start a new company. In response to the suit, Thompson sought an injunction from the bankruptcy court against Baillie Lumber's suit on the grounds that the alter ego claim was property of the bankruptcy estate.

Although the bankruptcy court denied the injunction, the court effectively granted injunctive relief by finding that the alter ego claim belonged to the bankruptcy estate and that the automatic stay already prohibited Baillie Lumber from pursuing a claim against Thompson based on an alter ego theory. Baillie Lumber appealed unsuccessfully to the district court and then to the Eleventh Circuit. Like the bankruptcy court and the district court, the Eleventh Circuit concluded that the automatic stay prohibited Baillie Lumber from pursuing its claim.

The Eleventh Circuit reasoned that an alter ego claim is a cause of action that is property of the bankruptcy estate if (1) it is a general claim common to all creditors and (2) Georgia law allows a corporation to bring an alter ego claim against its

principal. *Baillie Lumber Co., LP v. Thompson*, 391 F.3d 1315, 1321 (11th Cir. 2005). The court determined the alter ego claim was a general claim common to all creditors, but could not decide whether Georgia law allows a corporation to pierce its own veil. *Id.* Accordingly, the federal appeals court sought help from the Supreme Court of Georgia, submitting two certified questions:

1. Will Georgia law allow a representative of a debtor corporation to bring an alter ego claim against the corporation's former principal?
2. If so, what is the measure of recovery?

Id. at 1322.

The Georgia court answered the first question in the affirmative, holding that a representative of a bankrupt corporation can pursue an alter ego action against its principal. *Baillie Lumber Co. v. Thompson*, 279 Ga. 288, 612 S.E.2d 296 (2005). As for the measure of recovery, the Georgia court found "it is readily apparent that where the corporate entity is disregarded, a principal found liable under an alter ego theory should be liable for the entirety of the corporation's debt." *Id.*

The bulk of the Georgia court's analysis in *Baillie Lumber* focused on the ability of a representative of a corporate debtor to pursue its principal on an alter ego theory. *Baillie Lumber*, 612 S.E.2d at 299-301. The court began its analysis with the general principles of veil piercing under Georgia law. The court noted that alter ego theory provides a basis for disregarding the corporate entity "for liability purposes when it is shown that the corporate form has been abused." *Id.* at 299. The court also emphasized the equitable nature of the alter ego theory. *Id.* The court next noted that the Georgia Court of Appeals has allowed corporate insiders to pursue claims against other corporate insiders using the alter ego theory, which represents a departure from the notion that only third-party creditors can benefit from application of the alter ego theory. *Id.* (citing *Paul v. Destito*, 250 Ga. App. 631, 550 S.E.2d 739 (2001) and *Cheney v. Moore*, 193 Ga. App. 312, 387 S.E.2d 575 (1989)). From this precedent, the court concluded:

It is clear that Georgia courts have extended the veil-piercing doctrine beyond traditional suits by a third-party

creditor, to cases where application of the doctrine is necessary to remedy injustices which arise where a party has extended his privilege in the use of a corporate entity in order to defeat justice, perpetrate fraud or defeat contractual or tort responsibility.

Id.

Following its initial discussion of Georgia law, the court switched to a discussion of federal bankruptcy law and policy. *Baillie Lumber*, 612 S.E.2d at 300. The court noted that the automatic stay provisions of federal bankruptcy law are intended to promote equitable distribution among creditors and recognized that a determination that alter ego claims are property of the estate would prevent individual creditors from pursuing those claims. *Id.* The court cited decisions of federal bankruptcy courts within Georgia allowing debtor corporations to pursue claims based on an alter ego theory. *Id.* (citing *In re City Communications*, 105 B.R. 1018, 1022 Bankr. N.D. Ga. 1989) and *In re Adam Furniture Indus.*, 191 B.R. 249, 254 (Bankr. S.D. Ga. 1996). The Georgia court described these decisions as "predicated on the finding that equitable principles espoused in Georgia alter ego decisions merit the allowance of such a claim." *Id.*

Based on its preliminary conclusions regarding the expansion of alter ego theory beyond suits brought only by third-party creditors, the characterization of alter ego theory as an equitable principle designed to prevent unjust treatment in appropriate circumstances, and the objectives of federal bankruptcy policy that would be furthered by a finding that an alter ego claim is property of the bankruptcy estate, the Georgia court felt compelled to recognize that "in these circumstances, a corporation has a right to pursue an alter ego action." *Baillie Lumber*, 612 S.E.2d at 300.

Following the Georgia court's ruling, the Eleventh Circuit affirmed the district court's decision to stay *Baillie Lumber's* action against *Thompson*. *Baillie Lumber Co., LP v. Thompson*, 413 F.3d 1293 (11th Cir. 2005). The court concluded that *Baillie Lumber's* action was property of *Icarus' Bankruptcy* estate and was subject to the automatic stay because the Georgia Court had held that "equitable principles required [it] to recognize that a corporation has the right to pursue an alter ego action." *Id.*

Undoubtedly, the bankruptcy policies underlying the holding in *Baillie Lumber* provide substantial support for an argument that allowing a representative of a corporate debtor to pierce the corporate veil to collect from a corporate principal all of the corporation's debts. Moreover, the Eleventh Circuit is not the first federal circuit court to conclude that a debtor corporation's representative could pierce the debtor's corporate veil. See, e.g., *Koch Refining v. Farmers Union Central Exchange, Inc.*, 831 F.2d 1339 (7th Cir. 1987). *Baillie Lumber* and similar decisions, however, run afoul of the rule that "such a policy decision must be left to Congress and not to the judiciary." See *Caplin v. Midland Grace Trust Co.*, 406 U.S. 416 (1972).

The conclusion that the debtor in possession or trustee has the right to bring an alter ego action requires a finding that the alter ego action is property of the bankruptcy estate under 11 U.S.C. § 541, which "establishes a debtor's estate and includes 'all legal and equitable interests of the debtor in property as of the commencement of the case.'" *Baillie Lumber*, 391 F.3d at 1318 (quoting from 11 U.S.C. § 541). Property of the estate "includes legal causes of action the debtor had against others at the commencement of the bankruptcy case." *Id.* Although the Eleventh Circuit recognized that the question whether an alter ego action belongs to a corporation must be determined by state law and found no controlling Georgia authority, the question it certified to the Georgia Supreme Court was not whether an alter ego action belongs to a corporation under Georgia law. Instead, the certified question was "whether Georgia law will allow a representative of a debtor corporation to bring an alter ego action." *Id.* at 1322.

Shifting the analysis from whether an alter ego action belongs to a corporation, to whether a representative of a debtor corporation can bring an alter ego action, created a fundamental problem. It set the stage for the Georgia Supreme Court to reach a decision based on an amalgam of state law and federal bankruptcy law and policy. As a result, *Baillie Lumber* established a rule that applies only in the bankruptcy context. This result violates the fundamental bankruptcy principle that "[p]roperty interests are created and defined by state law." *Butner v. United States*, 440 U.S. 48 (1979). "Unless some federal interest requires a different result, there is no reason why such interests should

be analyzed differently simply because an interested party is involved in a bankruptcy proceeding." *Id.* Arguably, some federal interest may require a different result in alter ego cases, but if so, Congress should make that determination, not the courts.

Nevertheless, *Baillie Lumber* now makes alter ego actions property of the bankruptcy estate in Georgia bankruptcy cases. As a result, when a corporation files bankruptcy the debtor or the trustees can bring an alter ego action but a creditor cannot, unless it first obtains relief from the automatic stay or the property is abandoned.

CONSUMER-BANKRUPTCY RATES IN GEORGIA: HISTORICAL TRENDS AND THE FUTURE by: *Rob Landry*

President George W. Bush recently signed into law the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("Reform Act"). A primary purpose of the Reform Act is to reduce consumer-bankruptcy filings, or at least shift chapter 7 filings over to chapter 13. Reviewing the filing trends in Georgia over the last couple of decades, in comparison with the other states, may be useful so that we can compare past filing trends with future filing trends after the Reform Act to help ascertain the impact of the Reform Act.

Filings Nationally

As reflected in Table 1, each year since 1980 to 2003 with the exception of six years, total bankruptcy filings have increased. From 1993 to 2003 the total number of filings have nearly doubled from 875,202 to 1,660,245. On the whole, after a first quarter with increased total filings, 2004 experienced a slight decrease in total filings of about 2%. Data for the first quarter in 2005 indicate that the total filings are up slightly over the same time period from 2004. However, the composition of the filings indicate that chapter 7 filings have increased, while chapter 13 filings have decreased during that time period.

Since 1980, 95% of all filings are consumer filings. In fact, from about 1986, business filings have declined by about 50%, whereas consumer filings have almost quadrupled. Of the consumer filings, about 70% of consumer bankruptcies are under chapter 7. The remaining consumer cases are filed under chapter 13, with the exception of a very few consumer chapter 11 filings.

TABLE 1: Total Filings and Consumer Filings by Chapter for CY1980-2003

Year	All Filings					Consumer Filings			
	Total	Chapter 7	Chapter 11	Chapter 12	Chapter 13	Total	Chapter 7	Chapter 11	Chapter 13
1980	331265	247083	6753		77429	287594	213987	460	73147
1981	363946	260744	10042		93160	315860	226636	1109	88115
1982	380252	257674	18821		103757	311010	212713	2182	96115
1983	348881	234551	20284		94046	286469	196232	3036	87201
1984	348521	234861	20325		93335	284307	195589	2452	86266
1985	412510	281053	23376		108081	341233	237653	2975	100605
1986	530438	374786	24773	607	130272	449203	324082	3376	121745
1987	577999	409595	20078	6125	142201	495553	362611	2779	130163
1988	613465	437769	17684	2037	155975	549612	399134	2140	148338
1989	679461	476470	18281	1445	183265	616226	439137	1974	175115
1990	782960	543334	20783	1346	217497	718107	506940	2501	208666
1991	943987	656460	23989	1496	262042	872437	617359	3195	251883
1992	971517	681663	22634	1608	265612	900874	643538	3198	254138
1993	875202	602980	19174	1244	251804	812897	568415	3018	241464
1994	832829	567240	14773	900	249916	780455	537551	2265	240639
1995	926601	626150	12904	926	286621	874642	597048	1369	276225
1996	1178555	810400	11911	1083	355161	1125006	779741	1173	344092
1997	1404145	989372	10765	949	403059	1350118	957117	1071	391930
1998	1442549	1035696	8386	807	397660	1398182	1007922	862	389398
1999	1319465	927074	9315	834	382242	1281581	904564	706	376311
2000	1253444	859220	9884	407	383933	1217972	838885	687	378400
2001	1492129	1054975	11424	383	425347	1452030	1031493	783	419754
2002	1577651	1109923	11270	485	455973	1539111	1087602	984	450525
2003	1660245	1176905	9404	712	437137	1625208	1156274	930	467999

Filings by State

The consumer-bankruptcy filing rate varies significantly among the states. As reflected in Table 2, the mean number of filings per 1000 people in a state for 1980, 1990 and 2000 varied from less than one filing per 1000 in Wisconsin to over six filing per 1000 in Tennessee. Georgia is on the upper end with 5.05 per a thousand in 2000. Examining each

time period and the overall ranking of filings for the states reflects that the same states tend to have the greatest and lowest number of filings over the three time periods. Tennessee, Alabama, Georgia, Nevada and Indiana consistently rank near the top, with Georgia ranking number three. Wisconsin, Vermont, Massachusetts, Alaska and South Carolina consistently rank near the bottom.

TABLE 2: Total Consumer Bankruptcies Per 1000 Population By State for CY 1980, 1990 and 2000

State	1980		1990		2000		Comb'd Mean Per 1000 Population	Overall Rank
	Number	Per 1000 Population	Number	Per 1000 Population	Number	Per 1000 Population		
AL	9,276	2.38	24,452	6.05	32,525	7.31	5.25	2
AK	212	0.53	983	1.79	1,301	2.07	1.46	48
AZ	3,217	1.18	15,854	4.33	20,169	3.93	3.15	18
AR	2,250	0.98	6,580	2.80	16,521	6.18	3.32	14
CA	39,379	1.66	100,311	3.36	138,035	4.08	3.03	19
CO	4,862	1.68	15,564	4.72	15,185	3.53	3.31	15

TABLE 2 (continued): Total Consumer Bankruptcies Per 1000 Population By State for CY 1980, 1990 and 2000

State	1980		1990		2000		Comb'd Mean	Overall Rank
	Number	Per 1000 Population	Number	Per 1000 Population	Number	Per 1000 Population	Per 1000 Population	
CT	1,830	0.59	5,099	1.55	10,487	3.08	1.74	40
DE	439	0.74	943	1.42	2,369	3.02	1.73	41
DC	555	0.87	949	1.56	2,283	3.99	2.14	34
FL	4,947	0.51	33,514	2.59	71,240	4.46	2.52	25
GA	9,748	1.78	39,969	6.17	58,903	7.20	5.05	3
HI	568	0.59	800	0.72	4,473	3.69	1.67	43
ID	1,689	1.79	3,730	3.70	6,840	5.29	3.59	9
IL	24,405	2.14	35,774	3.13	59,876	4.82	3.36	13
IN	11,980	2.18	23,002	4.15	37,114	6.10	4.15	5
IA	2,839	0.97	4,757	1.71	8,078	2.76	1.82	38
KS	3,713	1.57	8,248	3.33	11,145	4.15	3.02	20
KY	7,156	1.95	13,390	3.63	20,662	5.11	3.57	10
LA	4,271	1.02	11,545	2.73	22,508	5.04	2.93	21
ME	745	0.66	1,493	1.22	3,880	3.04	1.64	44
MD	3,552	0.84	8,948	1.87	29,645	5.60	2.77	23
MA	2,630	0.46	8,219	1.37	15,208	2.40	1.41	49
MI	12,661	1.37	18,867	2.03	35,831	3.61	2.33	30
MN	3,903	0.96	13,328	3.05	13,822	2.81	2.27	31
MS	4,409	1.75	10,908	4.24	18,252	6.42	4.13	6
MO	6,433	1.31	13,527	2.64	25,644	4.58	2.85	22
MT	845	1.07	1,726	2.16	3,195	3.54	2.26	33
NE	2,356	1.50	3,631	2.30	5,512	3.22	2.34	28
NV	1,856	2.32	6,083	5.06	13,671	6.84	4.74	4
NH	567	0.62	2,065	1.86	3,313	2.68	1.72	42
NJ	4,627	0.63	14,118	1.82	36,580	4.35	2.27	32
NM	1,276	0.98	3,828	2.53	6,517	3.58	2.36	27
NY	18,847	1.07	30,464	1.69	57,146	3.01	1.93	36
NC	6,798	1.18	11,367	1.71	26,639	3.31	2.07	35
ND	363	0.56	873	1.37	1,841	2.87	1.60	45
OH	23,938	2.22	37,877	3.49	52,703	4.64	3.45	11
OK	4,190	1.39	13,611	4.33	18,402	5.33	3.68	8
OR	4,105	1.56	11,023	3.88	16,774	4.90	3.45	12
PA	6,409	0.54	16,041	1.35	42,470	3.46	1.78	39
RI	790	0.83	2,001	2.00	4,383	4.18	2.34	29
SC	965	0.31	5,080	1.46	11,805	2.94	1.57	47
SD	396	0.57	1,104	1.59	1,972	2.61	1.59	46
TN	11,945	2.60	35,310	7.24	48,543	8.53	6.12	1
TX	6,180	0.43	37,779	2.22	59,497	2.85	1.84	37
UT	2,010	1.38	6,980	4.05	14,739	6.60	4.01	7
VT	175	0.34	521	0.93	1,421	2.33	1.20	50
VA	7,926	1.48	18,612	3.01	35,344	4.99	3.16	17
WA	6,301	1.52	14,423	2.96	30,396	5.16	3.22	16
WV	1,433	0.73	3,287	1.83	8,367	4.63	2.40	26
WI	858	0.18	2,247	0.46	5,086	0.95	0.53	51
WY	396	0.84	1,282	2.82	2,023	4.10	2.59	24

Beyond the wide variation in the number of consumer filings in a state, the percentage of filings under chapter 7 and chapter 13 vary significantly among the states. Table 3 shows that some states consistently have a low percentage of chapter 7 filings over all three time periods: Alabama, North Carolina and Tennessee only have about 40% of their consumer filings under chapter 7. Other states show a consistent pattern of having a very high percentage of chapter 7 filings: Wisconsin, West Virginia, North Dakota, New Hampshire and Iowa generally have more than 90% of their filings under chapter 7.

filings from approximately 65% in 1980 to 37% in 2000. In fact, in 2000, Georgia had the lowest percentage of chapter 7 filings among all states. It will be interesting to see if the recent legislation shifts any more debtors in Georgia from chapter 7 to chapter 13 in light of this very high chapter 13 rate. It is likely that states with higher chapter 13 filing rates, such as Georgia, Alabama, North Carolina and Tennessee, will experience very little change in the total composition of the filings. Additionally, the median income levels in states such as Georgia, Alabama and Tennessee are relatively low and, therefore, the impact of the means-testing may be very small on the whole.

Georgia has not had a consistent pattern over the last several decades. However, Georgia has experienced a dramatic decrease in the percentage of chapter 7

TABLE 3: Consumer Filings by State, Chapter and Percent Chapter 7 for CY 1980, 1990 and 2000

State	1980			1990			2000		
	Chapter 7 Number	Chapter 13 Number	Chapter 7 % of Total	Chapter 7 Number	Chapter 13 Number	Chapter 7 % of Total	Chapter 7 Number	Chapter 13 Number	Chapter 7 % of Total
AL	3,016	6,260	0.33	10,407	14,045	0.43	12,996	19,529	0.40
AK	186	26	0.88	861	122	0.88	1,179	122	0.91
AZ	3,057	160	0.95	12,225	3,629	0.77	16,475	3,694	0.82
AR	604	1,646	0.27	3,665	2,915	0.56	9,279	7,242	0.56
CA	31,323	8,056	0.80	78,236	22,075	0.78	109,665	28,370	0.79
CO	2,655	2,207	0.55	11,487	4,077	0.74	12,870	2,315	0.85
CT	1,697	133	0.93	4,421	678	0.87	9,054	1,433	0.86
DE	394	45	0.90	715	228	0.76	1,527	842	0.64
DC	517	38	0.93	505	444	0.53	1,479	804	0.65
FL	4,689	258	0.95	29,745	3,769	0.89	50,445	20,795	0.71
GA	6,300	3,448	0.65	17,456	22,513	0.44	21,519	37,384	0.37
HI	271	297	0.48	722	78	0.90	3,995	478	0.89
ID	1,156	533	0.68	2,501	1,229	0.67	5,577	1,263	0.82
IL	17,381	7,024	0.71	27,002	8,772	0.75	42,244	17,632	0.71
IN	11,428	552	0.95	20,752	2,250	0.90	29,613	7,501	0.80
IA	2,590	249	0.91	4,353	404	0.92	7,507	571	0.93
KS	2,699	1,014	0.73	6,709	1,539	0.81	9,101	2,044	0.82
KY	5,747	1,409	0.80	10,508	2,882	0.78	17,181	3,481	0.83
LA	3,443	828	0.81	8,351	3,194	0.72	12,960	9,548	0.58
ME	443	302	0.59	1,145	348	0.77	3,592	288	0.93
MD	3,361	191	0.95	5,938	3,010	0.66	20,156	9,489	0.68
MA	2,121	509	0.81	6,738	1,481	0.82	13,028	2,180	0.86
MI	9,764	2,897	0.77	14,314	4,553	0.76	25,849	9,982	0.72
MN	3,282	621	0.84	9,505	3,823	0.71	11,018	2,804	0.80
MS	2,930	1,479	0.66	6,706	4,202	0.61	10,852	7,400	0.59
MO	5,704	729	0.89	9,776	3,751	0.72	18,123	7,521	0.71
MT	830	15	0.98	1,557	169	0.90	2,830	365	0.89
NE	1,868	488	0.79	2,352	1,279	0.65	4,663	849	0.85

TABLE 3 (continued): Consumer Filings by State, Chapter and Percent Chapter 7 for CY 1980, 1990 and 2000

State	Chapter 7	1980 Chapter 13	Chapter 7 % of Total	Chapter 7	1990 Chapter 13	Chapter 7 % of Total	Chapter 7	2000 Chapter 13	Chapter 7 % of Total
	Number	Number		Number	Number		Number	Number	
NV	1,761	95	0.95	4,381	1,702	0.72	10,051	3,620	0.74
NH	557	10	0.98	1,872	193	0.91	3,018	295	0.91
NJ	3,417	1,210	0.74	10,270	3,848	0.73	23,207	13,373	0.63
NM	1,189	87	0.93	3,410	418	0.89	5,557	960	0.85
NY	15,058	3,789	0.80	24,485	5,979	0.80	45,956	11,190	0.80
NC	1,933	4,865	0.28	4,207	7,160	0.37	11,040	15,599	0.41
ND	353	10	0.97	838	35	0.96	1,782	59	0.97
OH	17,454	6,484	0.73	28,824	9,053	0.76	41,437	11,266	0.79
OK	4,045	145	0.97	12,191	1,420	0.90	15,795	2,607	0.86
OR	3,577	528	0.87	8,088	2,935	0.73	14,396	2,378	0.86
PA	4,995	1,414	0.78	11,160	4,881	0.70	29,438	13,032	0.69
RI	629	161	0.80	1,871	130	0.94	4,086	297	0.93
SC	710	255	0.74	2,567	2,513	0.51	5,592	6,213	0.47
SD	351	45	0.89	1,031	73	0.93	1,901	71	0.96
TN	6,440	5,505	0.54	14,079	21,231	0.40	21,265	27,278	0.44
TX	3,599	2,581	0.58	23,535	14,244	0.62	31,034	28,463	0.52
UT	1,821	189	0.91	4,953	2,027	0.71	8,771	5,968	0.60
VT	171	4	0.98	463	58	0.89	1,289	132	0.91
VA	6,755	1,171	0.85	14,968	3,644	0.80	26,310	9,034	0.74
WA	4,329	1,972	0.69	11,265	3,158	0.78	23,520	6,876	0.77
WV	1,370	63	0.96	3,005	282	0.91	7,946	421	0.95
WI	813	45	0.95	2,044	203	0.91	4,876	210	0.96
WY	356	40	0.90	1,143	139	0.89	1,908	115	0.94
U.S. Total	211,139	72,082	0.75	499,302	202,785	0.71	824,952	365,383	0.69

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quarterly, but we need your help. Anyone interested in submitting material for possible publication in future issues should contact Will Rountree (wrountree@maceywilensky.com; (404) 584-1200) or Greg Taube (greg.taube@nelsonmullins.com; (404) 817-6144).

SEEKING SUBMISSIONS

Your newsletter committee plans to publish a newsletter at least twice a year and possibly