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By the Numbers--Pro Se Filers in the Bankruptcy Courts

Over the last five years, the growth of pro se bankruptcy filings has outpaced the rate of growth of overall bankruptcy filings, increasing most rapidly in the western part of the United States, according to an Administrative Office analysis.

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AO statistical analysts recently examined pro se filings in the bankruptcy courts. Pro se legal representation refers to a person representing himself or herself without legal counsel in a court proceeding. During the 12-month period ending June 30, 2011, pro se cases accounted for 26 percent (75,229 cases) of the civil caseload in the district courts, 49 percent (27,112 appeals) of the appellate case count, and 9 percent (130,086 cases) of the bankruptcy tally— a significant portion of the overall judicial caseload.

The AO began collecting information on pro se bankruptcy filers from all bankruptcy courts during the 12-month period ending September 30, 2006—shortly after the implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA).

Ten Courts With the Most Pro Se Bankruptcy Filings

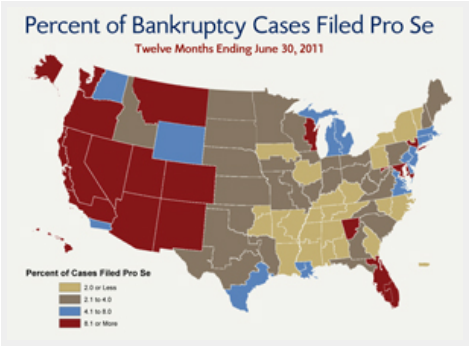
District	Pro Se Filings	Total Filings	Percentage
C.D. Cal.	39,478	145,741	27.1
E.D. Cal.	8,877	53,888	16.5
Ariz.	8,625	41,377	20.8
N.D. Ga.	6,283	55,298	11.4
M.D. Fla.	6,223	59,199	10.5
N.D. Cal.	5,554	38,060	14.6
S.D. Fla.	5,451	40,810	13.4
Nev.	3,239	27,978	11.6
Md.	3,162	28,499	11.1
Colo.	3,052	32,056	9.5

BAPCPA affected many areas of the bankruptcy system, including rules, forms, fees, and court procedures. Individuals filing for bankruptcy faced a series of additional requirements imposed by BAPCPA, including the completion of credit counseling and means testing to determine eligibility to file for chapter 7. These new requirements, combined with the pro se litigant's unfamiliarity with general court procedure, made it more challenging to negotiate a complicated system.

Research found that, while non-pro se bankruptcy petitions increased 98 percent over the last five years, pro se bankruptcy petitions grew 187 percent over the same time frame. Pro se chapter 7 (debt liquidation) filings rose 208 percent, and pro se chapter 13 (debt restructuring) filings increased 189 percent. Pro se filings increased from 6 percent of chapter 7 and chapter 13 filings in 2007 to 8 percent of chapter 7 and 10 percent of chapter 13 filings in 2011. Chapter 7 and chapter 13 filings comprise the vast majority of overall bankruptcy filings.

In addition, analysis found that the number of pro se petitions did not occur uniformly throughout the court system. The table above reports the ten courts with the most pro se bankruptcy filings in the 12 months ending June 30, 2011. The Central District of California led the nation in bankruptcy filings (145,741), pro se filings (39,478), and percentage of petitions that were filed pro se (27.1 percent). The large number of pro se filings in these bankruptcy courts should not, by itself, be too surprising, as most of these courts would be

considered to be among the most active courts in terms of overall filings. However, the relationship between the size of the court and the number of pro se filings is not a perfect one. For example, the Northern District of Illinois had the second most filings in 2011 (with 63,440 filings), but it ranked 39th for pro se filings (as a percentage of filings). Similarly, the Eastern District of Michigan ranked sixth for most filings overall, but ranked 33rd in terms of proportion of filings that are pro se.



Pro se filings in the bankruptcy courts also appear to differ in distinct geographic regions. Districts in the south, a region that has a historically high chapter 13 filing rate, generally have a lower pro se rate than the rest of the country, but districts where the foreclosure crisis has been particularly acute (the Northern District of Georgia, the Middle District of Florida, the Southern District of Florida, the Central District of California, the Eastern District of California, the District of Arizona, and the District of Nevada) tend to have higher pro se rates than other districts.

A district or bankruptcy court may waive the filing fee for qualified debtors who file for chapter 7 relief, and research found that waivers were more likely to be given for pro se petitioners than for bankruptcy filers with counsel. During the 12-month period ending June 30, 2011, 17,412 pro se chapter 7 petitioners had their filing fees waived by the district or bankruptcy court while fees were waived for 11,745 non-pro se filers. Proportionately, more cases in the smaller pro se pool had their fees waived than cases in the counseled pool.

A bankruptcy petitioner also may request to pay the filing fee in installments, but research showed that a fully paid filing fee was less likely among pro se bankruptcy petitioners than represented petitioners. The option to pay in installments applies to “an individual commencing a voluntary case or a joint case under title 11,” so this option is not limited to chapter 7 petitions like the fee waiver. The fee must be paid in no more than four installments, and some courts do not require an initial installment payment upon filing. Of the bankruptcy petitions closed during the 12-month period ending June 30, 2011, the fees in 31 percent of all pro se cases were not paid in full. In comparison, fees in only 2 percent of the non-pro se bankruptcy cases closed were unpaid.

Filing fees supply a significant amount of revenue to the courts, so a decline in bankruptcy fees collected will affect the resources available to the Judiciary at a time when they are needed to address an increase in workload.