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BANKRUPTCY DOV COHEN AND ROBERT LAWLESS

Chapter 1 : Page - mammonmessiah site

Abstract. For a consumer considering bankruptcy, Chapter 7 and Chapter 13 are options with vastly different consequences. In Chapter 7, a consumer earns a quick discharge after turning over all nonexempt or unencumbered assets to the bankruptcy trustee.

Vaneigem reminds us of a moment when or a place where it seemed as if we brushed up against the future we wanted, or at least the conditions for imagining ideal scenarios for living. Hans Ulrich Obrist e-flux journal issue 6: I refuse to cultivate any relationship whatsoever with people of power. I agree with the Zapatistas from Chiapas who want nothing to do with either the state or its masters, the multinational mafias. I call for civil disobedience so that local communities can form, coordinate, and begin self-producing natural power, a more natural form of farming, and public services that are finally liberated from the scams of government by the Left or the Right. On the other hand, I welcome the appeal by Chamoiseau, Glissant, and their friends for the creation of an existence in which the poetry of a life rediscovered will put an end to the deadly stranglehold of the commodity. Could we talk about your beginnings? How did your participation in situationism begin, and what was your fundamental contribution? At the outset of your relationship with the SI, there was the figure of Henri Lefebvre. What did he mean to you at the time? Why did you decide to send him poetic essays? I would first like to clarify that situationism is an ideology that the situationists were unanimous in rejecting. Its particularity kept us from being mistaken for the throngs of ideologues. I have nothing in common with the spectacular recuperation of a project that, in my case, has remained revolutionary throughout. My participation in a group that has now disappeared was an important moment in my personal evolution, an evolution I have personally pressed on with in the spirit of the situationist project at its most revolutionary. My own radicality absolves me from any label. I grew up in an environment in which our fighting spirit was fueled by working class consciousness and a rather festive conception of existence. Lefebvre kindly responded by putting me in touch with Guy Debord who immediately invited me to Paris. Which situationist projects remain unrealized? Psychogeography, the construction of situations, the superseding of predatory behavior. The radicality, which, notwithstanding some lapses, never ceased to motivate us, remains a source of inspiration to this day. Its effects are just beginning to manifest themselves in the autonomous groups that are now coming to grips with the collapse of financial capitalism. The Situationist International defined the situationist as someone who commits her- or himself to the construction of situations. What were those situations for you, concretely? How would you define the situationist project in ? By its very style of living and thinking, our group was already sketching out a situation, like a beachhead active within enemy territory. The military metaphor is questionable, but it does convey our will to liberate daily life from the control and stranglehold of an economy based on the profitable exploitation of man. By showing its limits and its weaknesses, the situationist experience can also be seen as a critical meditation on the new type of society sketched out by the Paris Commune, by the Makhnovist movement and the Republic of Councils wiped out by Lenin and Trotsky, by the libertarian communities in Spain later smashed by the Communist Party. The situationist project is not about what happens once consumer society is rejected and a genuinely human society has emerged. Rather, it illuminates now how lifestyle can supersede survival, predatory behavior, power, trade and the death-reflex. You and Guy Debord are the main protagonists of the situationist movement. That is precisely what situationism in its most ridiculous version aims at: I am simply the spokesman, among others, of a radical consciousness. I just do what I can to see that resistance to market exploitation is transformed into an offensive of life, and that an art of living sweeps away the ruins of oppression. What were your reasons for resigning from the group? Following the occupation movements of May , we knew that some recuperation was afoot. We were familiar with the mechanisms of alienation that would falsify our ideas and fit them neatly into the cultural puzzle. It became clear to us, during the last conference in Venice, that we had failed to shatter those mechanisms, that in fact they were shattering us from

the inside. The group was crumbling, the Venice conference was demonstrating its increasing uselessness, and the only answers put forward were commensurate with the self-parody we had fallen into. Dissension intensified to the point of paranoid denunciation: Those times of catharsis and anathema are now long past, and it might be useful to examine how it is that we sowed the seeds of failure for which the group ended up paying such a heavy price. The shipwreck, however, did not indiscriminately sweep away to the shores of oblivion all of us who participated in the adventure. The group vanished in such a way as to allow the individuals to either consolidate their radicality, disown it, or lapse into the imposture of radicalism. I have attempted to analyze our experimental adventure in *Entre le deuil du monde et la joie de vivre* [Between Mourning the World and Exuberant Life]. You have written a lot on life, not survival. What is the difference? Survival is budgeted life. The system of exploitation of nature and man, starting in the Middle Neolithic with intensive farming, caused an involution in which creativity—a quality specific to humans—was supplanted by work, by the production of a covetous power. Creative life, as had begun to unfold during the Paleolithic, declined and gave way to a brutish struggle for subsistence. From then on, predation, which defines animal behavior, became the generator of all economic mechanisms. We are witnessing the collapse of financial capitalism. This was easily predictable. Even among economists, where one finds even more idiots than in the political sphere, a number had been sounding the alarm for a decade or so. Our situation is paradoxical: Still, insurrectional consciousness always sleeps with one eye open. The arrogance, incompetence, and powerlessness of the governing classes will eventually rouse it from its slumber, as will the progression in hearts and minds of what was most radical about May. Has it all been appropriated? Even if we are today seeing recycled ideologies and old religious infirmities being patched up in a hurry and tossed out to feed a general despair, which our ruling wheelers and dealers cash in on, they cannot conceal for long the shift in civilization revealed by May. The break with patriarchal values is final. We are moving toward the end of the exploitation of nature, of work, of trade, of predation, of separation from the self, of sacrifice, of guilt, of the forsaking of happiness, of the fetishizing of money, of power, of hierarchy, of contempt for and fear of women, of the misleading of children, of intellectual dominion, of military and police despotism, of religions, of ideologies, of repression and the deadly resolutions of psychic tensions. This is not a fact I am describing, but an ongoing process that simply requires from us increased vigilance, awareness, and solidarity with life. We have to regroup ourselves in order to rebuild—on human foundations—a world that has been ruined by the inhumanity of the cult of the commodity. What do you think of the current moment, in ? For him, everything must be reinvented. He says that a new world is emerging now in which the attempt to establish a US-led globalization has been aborted. Similarly, the stock-dabbling speculative capitalism whose debacle we now witness is about to give way to a capitalism reenergized by the production of non-polluting natural power, the return to use value, organic farming, a hastily patched-up public sector, and a hypocritical moralization of trade. The idea is to produce for us, for our own use—that is to say, no longer in order to sell them—goods that we are currently forced to buy at market prices even though they were conceived and manufactured by workers. It is time to break with the laws of a political racketeering that is designing, together with its own bankruptcy, that of our existence. Is this a war of a new kind, as Page claims? An economic Third World War? We are at war, yes, but this is not an economic war. It is a world war against the economy. Against the economy that for thousands of years has been based on the exploitation of nature and man. And against a patched-up capitalism that will try to save its skin by investing in natural power and making us pay the high price for that which—once the new means of production are created—will be free as the wind, the sun, and the energy of plants and soil. If we do not exit economic reality and create a human reality in its place, we will once again allow market barbarism to live on. In his book *Making Globalization Work*, Joseph Stiglitz argues for a reorganization of globalization along the lines of greater justice, in order to shrink global imbalances. What do you think of globalization? How does one get rid of profit as motive and pursue well-being instead? How does one escape from the growth imperative? The moralization of profit is an illusion and a fraud. There must be a decisive break with an economic system that has consistently spread ruin and destruction while

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pretending, amidst constant destitution, to deliver a most hypothetical well-being. Human relations must supersede and cancel out commercial relations. Civil disobedience means disregarding the decisions of a government that embezzles from its citizens to support the embezzlements of financial capitalism. Why pay taxes to the bankster-state, taxes vainly used to try to plug the sinkhole of corruption, when we could allocate them instead to the self-management of free power networks in every local community? The direct democracy of self-managed councils has every right to ignore the decrees of corrupt parliamentary democracy. Civil disobedience towards a state that is plundering us is a right. It is up to us to capitalize on this epochal shift to create communities where desire for life overwhelms the tyranny of money and power. Edouard Glissant distinguishes between globality and globalization. Globalization eradicates differences and homogenizes, while globality is a global dialogue that produces differences. What do you think of his notion of globality? For me, it should mean acting locally and globally through a federation of communities in which our pork-barreling, corrupt parliamentary democracy is made obsolete by direct democracy. Local councils will be set up to take measures in favor of the environment and the daily lives of everyone. Do you think the current economic despair might push the new generations to rebel? What we are facing today is an implosion of the economy as a management system. It is the collapse of market civilization and the emergence of human civilization. The current turmoil signals a deep shift: Percolating instead, still just barely and confusedly, are the early markers of a lifestyle that is genuinely human, an alliance with nature that puts an end to its exploitation, rape, and plundering. The worst would be the unawareness of life, the absence of sentient intelligence, violence without conscience. Nothing is more profitable to the racketeering mafias than chaos, despair, suicidal rebellion, and the nihilism that is spread by mercenary greed, in which money, even devalued in a panic, remains the only value.

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Chapter 2 : Racial Disparities in Bankruptcy Filings - Sociological Images

The New York Times recently reported the results of a study of racial disparities in bankruptcy filings. When filing personal bankruptcy, most people have two options: Chapter 7 and Chapter 13. With Chapter 7, you have to turn over all non-exempt assets, which will be used to pay off as much of your.

Social change makes life interesting. She is the author of *American Hookup*, a book about college sexual culture, and a textbook about gender. You can follow her on Twitter, Facebook, and Instagram. When filing personal bankruptcy, most people have two options: Chapter 7 and Chapter 13. Under Chapter 13, on the other hand, you have to continue to try to pay your debts for years. According to Braucher et al. But in their study, Braucher et al. Rates of Chapter 13 filings vary quite a bit across different judicial districts, but African Americans consistently filed Chapter 13 at a higher rate than other groups, regardless of what the overall rate was: They sent surveys to randomly-selected attorneys who represent individuals filing for bankruptcy, providing information about a married couple considering bankruptcy; of the attorneys responded. When the potential filers gave the names Reggie and Latisha, attorneys were more likely to recommend Chapter 13 than when they gave the names Todd and Allison, suggesting that attorneys may play a role in tracking clients toward different bankruptcy options based on race. The result is that African Americans are, overall, more likely to use the version of personal bankruptcy that costs them more and requires them to continue struggling to pay their debts for several more years, reducing the immediate relief most people assume bankruptcy provides. Forthcoming in the *Journal of Empirical Legal Studies*. Available free online here. Gwen Sharp is an associate professor of sociology at Nevada State College. You can follow her on Twitter at [gwensharppnv](#). I thought this bit about food and drink consumption was especially great: Lisa Wade, PhD on February 4, Feminists have done a powerful job of making the sexual assault of women by men a public issue. Male victims, though, have remained largely invisible. In fact, one in ten victims of sexual assault is male. Most of these men are raped by other men. The reliance on filed complaints appeared to understate the problem. For example, the government had previously tallied confirmed instances of sexual abuse. After asking around, and performing some calculations, the Justice Department came up with a new number: These victims are often assaulted multiple times over the course of the year. The Justice Department now seems to be saying that prison rape accounted for the majority of all rapes committed in the US in 2012, likely making the United States the first country in the history of the world to count more rapes for men than for women.

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Chapter 3 : Full text of "Mississippi Law Journal Spring Book 3"

3 Less Forgiven: Race and Chapter 13 (with Dov Cohen) in BROKE: HOW DEBT BANKRUPTS THE MIDDLE CLASS (Stanford University Press , K. Porter ed.) Striking Out on Their Own: The Self-Employed in Bankruptcy in BROKE: HOW DEBT BANKRUPTS THE.

Stanford University Press, [] Description Book " xi, pages ; 24 cm. Summary Contents and Abstracts

Introduction chapter abstractThis chapter provides an overview of how SNAP has evolved over the past fifty years and, previewing the findings from the remainder of the volume, discusses the factors that have affected changes in participation over time-- the impact of SNAP on poverty, food security, consumption, health, and obesity-- and the interplay between SNAP and other public assistance programs. SNAP is highly responsive to macroeconomic pressures as well as policy choices and has become the most effective antipoverty program for nonelderly households. The program differentially serves the most at-risk households, which creates challenges in assessing program impacts. **The Role of the Economy, Policy, and Demographics chapter abstract**This chapter describes the socioeconomic and policy climate in recent decades that had bearing on SNAP participation and presents a formal empirical analysis of those determinants along with detailed simulations of the relative contributions of the economy, policy, and demographics to changes in SNAP participation over time. The results suggest that SNAP is operating effectively as an automatic fiscal stabilizer--nearly 50 percent of the increase in participation from to was due to the weak economy--but policy reforms expanding access and benefit generosity also affected participation, accounting for nearly 30 percent of the increase after the Great Recession. The analysis shows that SNAP reduced poverty by 16 percent in , after adjusting for underreporting, and produced even greater reductions in the depth and severity of poverty. The program has a particularly strong alleviative effect on poverty among children, who experience significantly higher rates of poverty than the overall population. SNAP significantly improves the welfare of poor families and plays an important role in mitigating the effect of economic downturns on poverty. The authors find that recent evidence suggesting an ameliorative effect of SNAP on food insecurity may not be robust to specification choice or data. Most specifications mirror the existing literature in finding a positive association of food insecurity with SNAP participation. It presents the neoclassical framework for analyzing in-kind transfers such as SNAP, which unambiguously predicts an increase in food spending, and follows with an explanation of the SNAP benefit formula. The chapter then presents new evidence from the Consumer Expenditure Survey on food spending patterns among households overall, SNAP households, and other subgroups of interest. Actual benefit levels are smaller than the needs standards, and most families spend more on food than their predicted benefit allotment. Because of this, the neoclassical model implies that most families treat their benefits like cash. First, differences between SNAP recipients and nonrecipients are summarized. The chapter concludes by reviewing the causal literature about the health and nutrition effects of SNAP. Recently, some have argued that SNAP should also be used to help reduce obesity rates. This chapter begins by showing how, theoretically, the impact of SNAP on obesity is ambiguous. Next, using data from the National Health and Nutrition Examination Survey NHANES , higher incomes are, in general, associated with lower rates of obesity, implying that that SNAP participation, which increases resources available for food purchases, would lead to reductions in obesity. Consistent with this, the majority of well-done studies find that SNAP participation leads to declines or no change in the probability of obesity for recipients in comparison to eligible nonrecipients. This chapter concludes with cautionary remarks about how some recent proposals to restructure aspects of SNAP to be "antiobesity" are unlikely to have any impact on obesity but would lead to increases in food insecurity. Using data from the Survey of Income and Program Participation, the chapter reveals considerable variation in the way that children access and package programs, both cross-sectionally and over time. The sequencing of programs is consistent with use of food assistance as part of a managed process for dealing with food needs: Children are far likelier to add programs sequentially than all at once, in

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ways that are not always consistent with changes in eligibility, and low-income nonparticipants who are food insecure are substantially more likely to begin participating than are their food-secure counterparts. Evidence from the Survey of Income and Program Participation SIPP indicates that receipt of benefits from other traditional transfer programs by SNAP families is common, with 76 percent of those families receiving at least one other major benefit of that type in to , excluding Medicaid. The analysis shows that high marginal tax rates generated by multiple program receipt are relevant for only a small portion of the TANF caseload, namely, the portion of the caseload that is nondisabled, nonelderly, and has earnings in the phase-out regions of the programs where marginal tax rates are high.

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Chapter 4 : 47 results in SearchWorks catalog

Less Forgiven: Race and Chapter 13 Bankruptcy, authored by Dov Cohen (University of Illinois psychology/law professor) and Robert Lawless, is the title of Chapter

Jacoby and Mirya R. Holman A significant body of research documents the volatility of household financial circumstances over the life cycle Rank and Hirschl ; Hacker ; Rank and Hirschl The US bankruptcy system is among the policy interventions directed to serious financial disruptions, although its long-term effectiveness remains disputed Zagorsky and Lupica ; Han and Li Millions of people—largely middle class, as measured by homeownership, occupational prestige, and educational levels Warren and Thorne —have passed through the bankruptcy system in the past decade to manage the effects of financial disruption. Bankruptcy filers encounter more extreme problems than those experienced by other households that face difficult financial constraints but do not file for bankruptcy Bucks Medical problems provide a particularly compelling example of how unexpected financial outlays can combine with other destabilizing factors to affect household finances. This chapter draws on the Consumer Bankruptcy Project CBP to further enrich the picture of medical-related financial trouble. Electronic copy available at: Insurance coverage still may be relevant in multiple ways, as temporal gaps in insurance coverage are prevalent and associated with very high medical costs. However, gaps in insurance coverage do not fully explain the pattern of medical expenses or medical bill problems. We find that respondents use a variety of techniques to manage medical bills, employing cash, credit cards, and, in some cases, home equity loans. As we explain here for the first time, a significant percentage of filers report receiving credit directly from medical providers. One of every four respondents with medical expenses reports accepting a payment plan offered by a medical provider. Not surprisingly, these filers are far more likely than most others to bring identifiable medical debt, and therefore their medical providers, into their bankruptcy cases. Payment plan users also employ many strategies—including but not limited to fringe and informal borrowing—to manage financial distress before resorting to bankruptcy. As a form of social insurance, bankruptcy protects against debt collection. The discharge of personal liability on prebankruptcy debts allows future income to be dedicated to such critical expenses as home mortgages or domestic support obligations. This characterization of personal bankruptcy best fits Chapter 7 bankruptcy filings. Other than the Electronic copy available at: However, Chapter 7 contains no mechanism for curing home mortgage arrears; as such, it does not address the threat of foreclosure facing about a third of the homeowners in bankruptcy Jacoby It usually does not produce a discharge of student loans absent a showing of undue hardship. In addition, Chapter 7 rarely helps a debtor restructure other kinds of secured debt, such as car loans, especially if the debtor already is in default on the obligation. The remaining personal bankruptcy cases involve repayment plans. They usually are filed under Chapter 13 of the bankruptcy code 11 U. Chapter 13 suspends the discharge of debt until the debtor completes the repayment plan. Chapter 13 thus represents a different policy trade-off than Chapter 7. Chapter 13 protects a jointly liable family member or third party from collection. Ratios of Chapter 7 and 13 cases vary greatly by geography. Chapter 13 filings are as low as 5 percent of consumer bankruptcy cases in some districts and as high as 74 percent in others Braucher, Cohen, and Lawless , The patterns have not been explained by the expected household, regional, or economic variables. Jean Braucher and colleagues find that African Americans are overrepresented in Chapter 13, and those authors present evidence that steering by lawyers is a determinant. In prior research Jacoby ; Jacoby and Holman , Chapter 7 filers report medical-related financial difficulties at rates equal to those reported by Chapter 13 filers, even in cases where illness-related job problems reduce the likelihood of completing a Chapter 13 plan. Concerns that filers are not selecting the optimal chapter generate proposals to restructure and dramatically simplify the two-chapter consumer bankruptcy system Braucher They find that incomes and median net worth among filers have gone down over time as debts have gone up. These patterns, Sullivan and associates contend, are inconsistent with claims that bankruptcy filings are driven by financial convenience or declines in

the stigma of bankruptcy. Other research echoes the findings of Sullivan and associates. For example, Benjamin Keys, 3 finds evidence supporting the adverse events thesis, particularly evidence of the role of unemployment, through an analysis of the National Longitudinal Survey of Youth and county-level bankruptcy filing data. Using the Panel Study of Income Dynamics PSID, Scott Fay, Erik Hurst, and Michelle White find less support for the adverse events hypothesis and more support for the thesis that filers are rational actors weighing the financial benefits of bankruptcy. However, the significance of these findings is complicated by, among other factors, a 50 percent undercount of people self-reporting bankruptcy in the PSID and use of retrospective questions about the year of filing Filer and Fisher. Other studies focus on the relationship between bankruptcy rates and the massive growth of consumer credit during the twentieth century. For example, Robert Lawless finds that increases in consumer credit contributed to long-term increases in bankruptcy filings but to a decrease in filings in the short term. The earliest CBP from finds medical debt in over half of the court records studied, and this accounts for about 11 percent of total unsecured debt Sullivan et al. Sullivan and colleagues, report, based on open-ended questionnaire responses, that From a questionnaire study in, Jacoby and colleagues find that one out of four debtors identifies an illness or injury as a reason for filing for bankruptcy; when this finding is combined with separate indicators of medical problems, the proportion of filers with some medical dimension to their bankruptcies tops 50 percent. The CBP studied filers in five judicial districts. It used a questionnaire and a follow-up telephone survey to collect supplemental medical-related information. David Himmelstein and associates report that more than half of all bankruptcies can be attributed at least in part to medical problems. Jacoby and Warren emphasize the contribution of income loss and other indirect financial fallout rather than that of direct medical bills alone. In the telephone survey, for example, 72 percent report that income loss due to health problems contributed very much to their bankruptcies. Among the respondents who report curtailing income due to illness or injury, more than half reduce it to care for someone else, such as a sick child, parent, or spouse. Himmelstein and associates, examine nationally representative data from the CBP and report results of analyses that employ the more restrictive of their two definitions. According to those analyses, 62 percent of bankruptcies are related to medical problems. The rest lost significant income due to illness or mortgaged a home to pay medical bills. Comparing data from and, Himmelstein and associates conclude that the share of medical-related bankruptcies rose by nearly 50 percent. Other researchers use non-CBP sources to evaluate the role of medical debt in bankruptcy. Pairing bankruptcy and Survey of Consumer Finances data, Ian Domowitz and Robert Sartain find that medical debt has a stronger effect on bankruptcy filings than any other household variable. They estimate that high medical debt alone could be responsible for approximately 30 percent of filings in. Using PSID data, Aparna Mathur reports that nearly 27 percent of bankruptcy filings are a consequence of primarily medical debt Mathur. In a study of filing rates, Tal Gross and Matthew Notowidigdo estimate that 26 percent of bankruptcies can be attributed to a lack of health insurance and that a 10 percent increase in Medicaid eligibility would decrease bankruptcies by approximately 8 percent. Medical researchers also have examined the incidence of bankruptcy and significant medical debt among people with particular diagnoses, such as cancer and brain or spinal cord injuries USA Today, Kaiser Family Foundation, and Harvard School of Public Health, chart 7; Hollingworth et al. The questionnaire also asks respondents about direct responsibility for medical bills in the 2 years prior to filing and about the range of expense. Furthermore, the questionnaire collects information on how respondents manage those obligations, such as through credit cards or home equity loans figure 3. Medical-related information is available from two other sources as well. The CBP codes for identifiable medical debt in the federal bankruptcy court files. A subset of respondents also completed a telephone interview Himmelstein et al. Telephone survey participants resemble other respondents on most financial and demographic characteristics except that they are slightly older and better educated Lawless et al. Although a substantially greater portion of the CBP attended college 43 percent than do so in the general population, only 11 percent of the bankruptcy filers graduated, and an additional 4 percent have both a college and graduate degree Warren and Thorne. About 14 percent of respondents report self-employment at the time

of bankruptcy Lawless At 43 years, the median age of respondents is older than the median in the general US population in 36 years. Approximately 22 percent of cases in the sample include petitioners who identify themselves as African American or black. Approximately 10 percent identify themselves as another nonwhite race or ethnicity. Nearly 80 percent of the sample has negative net worth, and the amount of unsecured debt is substantially higher among sample members than among financially constrained respondents who participated in the Survey of Consumer Finances but did not file for bankruptcy Bucks , About half of the debtors were homeowners when they filed for bankruptcy, and an additional 15 percent were homeowners within the 5 years prior to filing. Looking at respondents who participated in a portion of the telephone survey for homeowners, Jacoby, Daniel McCue, and Eric Belsky report that about half miss at least one mortgage payment in the 2 years prior to filing; among those who miss at least one payment, respondents average four missed payments over that period. Multivariate analysis indicates that missing a mortgage payment is negatively associated with access to other forms of credit but positively associated with income problems, use of a mortgage broker, and self-identification of mortgage problems as a reason for bankruptcy. Access to credit and self-identification of mortgage problems significantly predict foreclosure. Also, longer foreclosure timelines at state law are associated with lower odds of foreclosure. Being over age 55 is negatively associated with foreclosure Jacoby et al. Finally, respondents report that they do not rush to bankruptcy court at the first sign of trouble. Forty-four percent report experiencing serious financial struggles for more than 2 years before filing, and 27 percent report struggling for more than a year Lawless et al. Nearly eight of 10 respondents 78 percent report incurring some medical expense not covered by insurance within the 2 years prior to filing for bankruptcy. Most CBP filers report 2-year-aggregate out-of-pocket expenses that are significantly higher than this average. Compared with sampled filers who report no out-of-pocket medical expense, those reporting any medical expense are more likely to own a home at the time of filing 52 percent vs. Those with a medical expense also are more likely to live with someone else 53 percent vs. In contrast to counterparts with no medical expense, respondents with such an expense report higher rates of working additional hours, negotiating with creditors, pawning, using a payday loan, and accepting money from family or help from charities to make ends meet. The difference can be attributed in part to the exclusion of debts that have a medical origin and are now owed to a creditor whose name does not indicate a healthcare identity. Even using the more conservative court record measure, Brian Bucks , 60 finds that CBP filers are much more likely to have medical debt than are financially vulnerable households outside of bankruptcy. Although this is a small fraction of overall out-of-pocket expenses and health costs, the amounts are significant for the providers at issue. Seventy-two percent of respondents had health insurance at the time of the questionnaire e. The great majority of insured households 79 percent obtain it through an employer for at least one member of the household. Medicare, Medicaid, and veterans or military offerings cover Five percent report resorting to the individual insurance market. As we note below, certain methods of managing out-of- pocket expense notably, provider payment plans are strongly associated with insurance coverage problems. In addition, three in 10 of the insured respondents with medical expenses report a gap in insurance coverage in their household within the 2 years prior to filingâ€”the same proportion reported by those with no out-of-pocket expenses. The pattern changes with high levels of expense: Overall, medical bills are cited as a reason for filing by 29 percent of all respondents and by 35 percent of those who have out- of-pocket medical expenses in the 2 years prior to filing. Respondents with medical expenses over that level are otherwise demographically similar to sample members with lower levels of medical expense and to those with no expense. One of four respondents uses regular credit cards; this is a relatively low proportion given the saturation of credit cards among bankruptcy filers, but the result may be attributable to the diminished availability of credit at the time the medical bill is incurred. Although use of home equity among only recent homeowners may seem low, the rate among those who cite a medical bill as a reason for bankruptcy is nearly double that among those who report any medical expense Jacoby and Holman ,

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Chapter 5 : Financial Fragility, Medical Problems, and the Bankruptcy System | Mirya R Holman - blog.quir

About million households filed bankruptcy in the last year, making bankruptcy as common as college graduation and divorce. The recession has pushed more and more families into financial collapse-with unemployment, declines in retirement wealth, and falling house values destabilizing the American middle class.

Madeira, and Christopher Odinet for helpful comments on this Essay, and to the editors of the Emory Bankruptcy Developments Journal for inviting me to contribute to this symposium on vindicating the rights of consumer debtors. Introduction Over the past decade, each year, about a million households filed bankruptcy. This rough estimate is based on nonbusiness bankruptcy cases commenced between and , as reported on Table F Nonbusiness bankruptcy filings peaked in at about 1. This amounts to a little less than one percent of American households filing bankruptcy per year. See Number of Households in the U. From to in millions , Statista, <https://www.statista.com/statistics/263424/number-of-households-in-the-us/>: This figure initially may loom large. Financial distress undoubtedly leads people to seek bankruptcy protection, but the path to filing is more complicated than mere finances. Indeed, on a purely financial basis, far fewer households than one might estimate would benefit financially from bankruptcy actually file. It most often is associated with the delivery of legal services and the dearth of lawyers. Lupica, Self-Help, Reimagined, 92 Ind. Rhode, Access to Justice: It also encompasses how people decide to use law and the legal system to deal with justiciable problems in their lives. See infra Part I. This Essay examines the state of access to justice in the context of consumer bankruptcy. As with the use of any legal remedy, before turning to bankruptcy, people first must recognize the relevancy of law, the legal system, and bankruptcy to help solve their financial problems. These narratives provide a previously unexplored perspective on how people connect their financial troubles to the legal solution of filing bankruptcy, both adding to our understanding of how they come to the legal system and revealing what remains unknown. With these knowledge gaps in mind, I outline key questions for future research about how individuals translate their financial problems to legal problems addressable by filing bankruptcy. Having decided that filing bankruptcy is the most suitable avenue to deal with their financial troubles, people must actually be able to file for it to be a viable solution. Final Report, 20 Am. Attorneys interact the most with people considering bankruptcy, positioning attorneys as the most important system actors in terms of delivering access to justice. Attorneys provide their clients with the information about the benefits and drawbacks to choose between chapter 7 and chapter 13, the two bankruptcy chapters that consumers most often use. Which chapter households file dictates nearly every aspect of their experience, from how much they will pay their attorney, to what property they will keep, to their likelihood of obtaining a discharge of debts. For details about the CBP, see id. This breakdown of access to justice in the bankruptcy system has endured for decades. But simply because people experience financial distress does not mean that they all will file bankruptcy. Hynes, Broke but Not Bankrupt: Some debts, such as student loans, are effectively non-dischargeable, making filing futile. Pardo, The Undue Hardship Thicket: To evaluate access to consumer bankruptcy, the first inquiry must be how people determine that their serious financial problems can be remedied by filing bankruptcy. Lawyers naturally tend to see law everywhere. The same is not true for laypeople, even though Americans are noted for their litigious nature. Legal and Nonlegal Institutions of Remedy, 42 Loy. Sandefur, The Importance of Doing Nothing: They may try to solve these problems on their own, may turn to third parties for help, or may simply ignore them, taking no action at all. Eventually, some people determine that the worrisome situations in their lives should be addressed by invoking law. How people respond to civil legal problems in general depends significantly on how these problems are socially constructed. Addressing a justiciable problem through the legal system also requires action. But for many people, particularly low- and moderate-income individuals, day-to-day struggles to provide for themselves and their families capture their time and attention, creating a condition of scarcity. Although lack of money or the cost of legal services are important, they are not leading reasons why people do not turn to law to resolve problems. Combined, few people mobilize their legal rights, and most civil justice

problems remain outside the legal system. Bankruptcy Decisions of Churches, 76 Ohio St. Lempert, Mobilizing Private Law: Those few who decide to take legal action then must choose a particular legal solution and find an attorney. Coming to Bankruptcy Little systematic research exists about how people come to view their financial problems as legal problems and then decide to deal with them by filing bankruptcy. People stick their heads in the sand and hope that their financial problems will go away—that is, they do nothing. One Code, Many Cultures, 67 Am. Research from the CBP confirms that people seriously struggle with their debts for years before they file bankruptcy. One-third state that they struggled for more than five years before filing. See Lawless, et al. When debtors finally file bankruptcy, they tell their attorneys that they should have done so years before. During the years that bankruptcy debtors struggle, they report going without necessities, such as food and healthcare, losing their property in foreclosure actions, selling other property, and trying to work out deals with their creditors. People also view filing bankruptcy as shameful, which may blind people from thinking of bankruptcy—or law at all—as an appropriate response to financial problems. See Sandefur, Fulcrum Point, supra note 30, at — The Current CBP questionnaire asks debtors about their feelings upon filing bankruptcy and provides them with a list of major emotions. Other qualitative studies of people who have filed bankruptcy likewise find that most debtors file while feeling shame and that bankruptcy remains stigmatized. Focus 77, 77, 86—87 describing how couples reported postponing filing for months or even years to avoid the stigma of bankruptcy and hiding their bankruptcies post-filing from relatives and friends because of fear of stigmatization ; Michael D. A Socio-Legal Study, 87 Am. If anything, bankruptcy may have become more stigmatized in recent years than in prior decades. Sousa, Persistence of Bankruptcy Stigma, 26 Am. Three-quarters of debtors cited pressure from debt collectors as a reason that they turned to bankruptcy. In this way, outside pressures may help to remove the aleality of financial troubles, transforming them into legal issues. Finally, to get from financial problem to filing bankruptcy, people must decide that seeking bankruptcy protection is a suitable legal solution. Even less empirical research exists about the sub-question of how people decide upon the specific legal option of bankruptcy. The Role of Social Stigma vs. Bank of Boston, Working Paper No. In the context of consumer bankruptcy, studies suggest that filing rates increase in a given year if filing rates increased in the same geographic location in the prior year. Scholars link this increase to both diffusion of information about bankruptcy and a decline in the perceived stigma of filing bankruptcy. This clumping further suggests that social searching and spillover effects drive bankruptcy filings, in line with research about how people generally mobilize their legal rights. There is a dearth of research that directly asks people how they chose bankruptcy from the menu of available legal responses to financial troubles. Little research focuses on those people who struggle with their finances but do not turn to bankruptcy. One reaction to research findings about how long debtors struggle with their financial problems before filing bankruptcy is a concern that people wait an unduly long time to file. By the time many households file, the financial benefits of bankruptcy almost undoubtedly outweigh the costs. While people struggle, they seem to deplete not only their financial resources, but also their emotional and physical well-being. Yet, people who do not file might successfully address their problems in other ways. See generally Terrell A. White, Underwater and Not Walking Away: Or individuals may take other legal action to deal with their financial problems, only to find these solutions ineffective. To collect complaints, the CFPB established an interactive webpage. When consumers submit complaints via the webpage, they have the option to write narratives describing their problems, and can also choose to allow the CFPB to make their complaints public through its consumer complaint database. From December , when the CFPB began collecting complaints that are publicly downloadable, to the end of January , consumers submitted over , complaints online. The CFPB also allows consumers to submit complaints via telephone, mail, email, or fax. One-quarter of these submissions include narratives that consumers allowed the CFPB to make public. See Consumer Complaint Database, supra note This amounts to over 5, complaint narratives published each month. These narratives provide some of the first data about how people express their financial problems and how they think about solutions to those issues in a context not linked to bankruptcy. There is a significant hole in research about

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how people deal with their finances because it is especially difficult to identify and gain access to a relevant group of people with financial problems, apart from relying on public records of who has filed bankruptcy. See supra note Debt collection proceedings may provide another venue to draw a sample of financially-distressed individuals. James Greiner, et al. A Research and Clinical Approach, 20 Geo. By lodging complaints through the CFPB, people self-identify as being in financial distress or as having an issue with a financial product or service sufficiently severe to merit complaint. In my prior work, I analyzed a random sample of 6, complaints with narratives submitted between May 1, and April 30, Together with research assistants to provide inter-coder reliability , I read each narrative to identify language expressing anger, frustration, disgust, sadness, fear, shame, and guilt. I also created variables to assess whether consumers were directing their complaints to the CFPB or the financial company, and whether consumers discussed law in their complaints. When people expressed anger and frustration, they more often raised legal claims and asked the CFPB to investigate the company generally. With this in mind, I identified new ways that the CFPB and other agencies with similar complaint mechanisms may help people in need that turn to them for assistance, including encouraging these individuals to think of their issues as legal problems. As relevant to this Essay, when I initially analyzed the sample of narratives, I also created a variable for instances in which narratives mentioned bankruptcy.

Chapter 6 : Study reveals consistency in bankruptcy misconceptions | The Daily Illini

From the publisher. About million households filed bankruptcy in the last year, making bankruptcy as common as college graduation and divorce.

Chapter 7 : The Week - Jeff Spross

filing the more expensive and less successful chapter "No money down" bankruptcy is a distortion in the delivery of legal help. Dov Cohen, & Robert M.

Chapter 8 : Access to Consumer Bankruptcy

Robert Lawless, law professor and co-author of the study, said chapter 13 bankruptcy is generally not as advantageous as the other option of chapter seven bankruptcy, so it is problematic that there is this racial disparity.

Chapter 9 : Sociological Images

See Jean Braucher, Dov Cohen, & Robert M. Lawless, Race, Attorney Influence, and Bankruptcy Chapter Choice, 9 J. EMPIRICAL LEGAL STUD. , () [hereinafter Braucher et al., Race] (overviewing the variations in incidences across the United States of chapter 13 proceedings as.