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CONSUMER BANKRUPTCY

Bankruptcy Has Become a Middle Class Phenomenon

by Craig D. Robins, Esq.

Nowadays, those who are most likely to file for bankruptcy are middle-class families of the baby-boomer generation. In other words, the typical Long Island family. We previously considered middle-class families as a stereotypical group noted for their financial stability and for the vitality they provide to the American economic system. It is the middle-class family, however, that now has become the stereotypical bankruptcy filer.

I have observed this phenomenon in my consumer bankruptcy practice. Aside from some truly destitute clients that I represent on a *pro-bono* basis as part of the Nassau-Suffolk Legal Services Project, most of my clients are somewhat educated and hold, or have held, typical jobs, often "white collar," that fuel the Long Island economy. Most of them are not young.

Yet, bankruptcies were



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once the primary domain of the young and struggling, or the lesser-educated who would spend their money recklessly, or those with young families who did not have savings cushions to carry them through lean times. However, it appears that we must now discard these stereotypes of bankruptcy debtors. More and more, even

families with many years of positive financial experience, retirement nest eggs, home ownership, and perfect credit are finding themselves in financial holes that they cannot dig themselves out of.

Last month, the *Wall Street Journal* featured a front-page article: "New Group Swells Bankruptcy Court: The Middle-Aged." The *Journal* story focused on "an emerging class of middle-age, white-collar Americans who make the grim odyssey from comfortable circumstances to going broke."

It now appears that the demographic group with the highest rate of personal bankruptcies in the U.S. is no longer people with little education in the youngest employment bracket (age 25-34), but rather middle class, educated, white-collar workers in the 35-44 and 45-54 age brackets, representing an important shift from a decade ago.

The increase in middle-aged, middle-class people filing for bankruptcy is largely attributable to soaring medical costs, an unstable job market and years of easy money from aggressive credit-card marketing. Also, today's baby boomers are not as frugal as their Depression-era parents, perhaps largely the result of being driven by societal pressure and temptation to finance the American dream by purchasing and spending beyond their means. This has all led to staggering amounts of personal debt which many middle-class families are becoming increasingly unable to handle, especially when the household becomes overextended. Many middle-aged individuals who have borrowed heavily have brushed off concerns, saying they expect to live longer and work longer.

As the *Journal* reported, "debt burdens.....are at record levels because families have been stretched to the limit in recent years. With more income going to housing and other rising expenses related to medical care, education, vehicles, child care, and so forth, families are relying on credit as a way to meet everyday needs. Remarkably, a family with two earners today actually has less discretionary income, after fixed costs like medical insurance and mortgage payments are accounted for, than did a family with only one breadwinner in the 1970's."

Common financial burdens that the middle class typically encounter include paying expensive tuition for their children, and supporting elderly parents with expensive medical

requirements. When the family is overextended, all it takes is one major event (job loss, death of a family member, reduced ability to earn overtime salary, a serious medical problem, divorce, etc.) to take the family from a lucrative position to one requiring bankruptcy relief. To compound the dilemma, families facing such tragedies are increasingly unable to depend on built-up equity in their homes, as the recent boom in real estate values combined with historically low interest rates may have led them to refinance and withdraw large amounts of equity to meet previous financial needs.

In my own practice, I have seen many older, middle class parents get into risky financial situations by rushing to financially help their grown children with tuition assistance, payments for large weddings, or financial rescue from failed marriages and drug addictions.

Perhaps this country's foremost authority on the sociology of Americans who file bankruptcy is Elizabeth Warren, a Harvard University bankruptcy law professor. In 2000 she co-authored a book, "The Fragile Middle Class," and last year she co-authored another book, "The Two-Income Trap: Why Middle-Class Mothers and Fathers Are Going Broke." In the latter book she stated: "This year, more people will end up bankrupt than will suffer a heart attack. More adults will file for bankruptcy than will be diagnosed with cancer. More people will file for bankruptcy than will graduate from college. And, in an era when traditionalists decry the demise of the institution of

marriage, Americans will file more petitions for bankruptcy than for divorce."

Here are some statistics. Last year, household debt soared to \$8.9 trillion, a record high relative to disposable income. In the last four years, home mortgage foreclosures increased 45 percent. Bankruptcy filings are at an all-time high. Personal bankruptcies peaked in 2003 with a record 1.6 million cases filed. That annual total is nearly double the 812,898 filings in 1993. The increase in filings by middle class debtors has greatly contributed to these record numbers.

Thus, we are now seeing that typical bankruptcy filers are neither poor nor rich; they are middle-class, middle-income Americans. The stereotypical bankruptcy debtor has changed.

Editor's Note (revised 2008): Craig D. Robins, Esq., a regular columnist, is a bankruptcy attorney who has represented thousands of consumer and business clients during the past twenty years. He has offices in Medford, Commack, Woodbury and Valley Stream. (516) 496-0800. He can be reached at CraigR@CraigRobinsLaw.com. Please visit his Bankruptcy Website: CraigRobinsLaw.com.