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Data Analysis: Bankruptcy and Race in America

An in-depth discussion of racial patterns in bankruptcy filings and outcomes.

Paul Kiel and Hannah Fresques

September 27, 2017

Introduction and Findings

Alongside this analysis, please also see our narrative story, which provides examples of debtor experiences and the perspective of attorneys, trustees, and judges, and our interactive national map, which shows bankruptcy chapter choice at the county level. See the ProPublica Data Store to download the data behind this analysis.

In this analysis[1], using a national dataset of bankruptcy filings, we document the scope of racial disparities in bankruptcy filings and outcomes. These disparities are large, pervasive and remain even when considering a host of factors, including income, assets, and the court districts where debtors lived. Specifically, we found that for people residing in majority black zip codes who file for bankruptcy, the odds of having their cases dismissed (and failing to attain lasting relief) were more than twice as high as those of debtors living in mostly white zip codes.

The main driver of this disparity is chapter choice. Black people struggling with debts are choosing to file under Chapter 13, as opposed to Chapter 7, at much higher rates. Unlike Chapter 7, which in almost all cases provides permanent debt relief within a matter of months, Chapter 13 is a particularly risky choice for these debtors, because Chapter 13 usually requires five years of payments before any debt is wiped out, and black Americans are much less likely to have the resources to run this gauntlet. Nationally, for the years 2008 through 2010, only 39 percent of Chapter 13 cases filed by debtors from majority black zip codes ultimately resulted in a discharge of debts. In contrast, 58 percent of the cases filed by debtors from majority white zip codes were discharged. When we examined this disparity, controlling for income and other factors, a large gap remained.

To diagnose the causes of this disparity, we closely studied two court districts with a high number of Chapter 13 filings by black debtors: the Western District of Tennessee and the Northern District of Illinois. These are important districts: Shelby County (which contains Memphis) in Western Tennessee perennially has the highest per capita bankruptcy filing rate of any county in the country, and Northern Illinois (which contains Chicago) had the most consumer bankruptcy filings of any district in the country in 2015. Because bankruptcy filings do not list the debtor's race, we used geography as a proxy for race, using zip codes when examining national trends and census tracts for individual court districts.

We also looked at the financial profile of debtors filing bankruptcy, the types of debts driving these bankruptcies, how debtors fared in Chapter 13 payment plans, and which attorneys filed the most bankruptcy cases, as well as other factors.

The causes of the disparities we found are complex, but we present evidence of factors, both within the judicial system and outside of it, that, if addressed, would likely reduce the racial gap. We focus mostly on Western Tennessee, since the patterns there are decades-old and more indicative of the rest of the South, where Chapter 13 filing rates have long been higher than those of the rest of the country. The surge in Chapter 13 filings in Northern Illinois is more recent.

[1] We are grateful to the experts who were generous with their time in reading an earlier draft of this analysis and providing valuable feedback: William Darity, Jr. of Duke University, Paul Goldsmith-Pinkham of the Federal Reserve Bank of New York, Robert M. Lawless of University of Illinois College of Law, Wenli Li of the Federal Reserve Bank of Philadelphia, Lois Lupica of University of Maine School of Law, David Pate of the University of Wisconsin, John Rao of the National Consumer Law Center, and Henry Sommer, President of the National Consumer Bankruptcy Rights Center. Also, special thanks to Bruce Ralston, a knowledgeable solo-practitioner debtor attorney in Memphis who was very generous with his time. Additionally, Mike Tigas, ProPublica News Applications Developer, contributed to this analysis.

First, the role of bankruptcy attorneys is central. Attorneys counsel debtors on which chapter to file under, but particularly important is the fee they charge for their services. Chapter 13 is predominant in Western Tennessee because attorneys generally charge $0 down to start a case - the remainder of the fee ($3,000, until this year when it rose to $3,800) is due over the course of the five-year plan. This makes Chapter 13 accessible for even the poorest debtors. Chapter 7, by contrast, generally requires around $1,000, either in one lump sum or over a few weeks. (Chapter 13 is generally more expensive because it is more complicated, and the case lasts for five years.)

As a result, the less income debtors have in Western Tennessee, the more likely they are to file under Chapter 13. At the same time, low-income debtors are particularly likely to have their cases dismissed and end up in a deeper hole than when they filed. Discharge rates are extremely low in the district. For the years 2008 through 2010, only 22 percent of Chapter 13 cases filed by debtors residing in majority black census tracts resulted in a discharge. Debtors from majority white tracts successfully completed their plans 40 percent of the time. This contributes to a remarkably high number of repeat filings. Black debtors, we show, suffer more from these problems than white debtors in the district, even when controlling for income and other factors.

The largest bankruptcy law firms in Western Tennessee play an important role in driving these trends. The market is highly concentrated, with five law firms accounting for nearly half of all Chapter 13 filings in the district. About nine in 10 filings at these firms were under Chapter 13, and many more of their black clients filed under Chapter 13 than their white clients.

When we examined the Chapter 13 fees collected by these firms, we found that - despite the high dismissal rate, which means they rarely collect more than a fraction of the $3,000 fee - these firms still reap significant revenue due to the very high number of cases they file. This provides a financial incentive to file cases even when the clients are unlikely to succeed.

To demonstrate that another approach is possible, we examined the mid-sized practices of two attorneys in Western Tennessee who operate very differently. These attorneys file a much larger number of Chapter 7 cases for their black clients and exhibit lower racial disparities between the chapter choices of their black and white clients. Interviews with attorneys in the district show that these attorneys favor Chapter 7 more than the average attorney, but we argue that their flexibility with attorney fees is the most important factor. Put simply, these attorneys have made Chapter 7 more affordable for their cash-strapped clients, making the choice between chapters more balanced.

Later in the analysis, we discuss how the Northern District of Georgia has found ways around the regional patterns found in Western Tennessee, and we point to broad acceptance by attorneys there of $0 down Chapter 7 filings as the key reason why.

Second, certain types of debt that drive people to Chapter 13 bankruptcy may be disproportionately borne by black debtors. In Tennessee, unpaid criminal court debt can lead to a driver's license suspension, and so, in Memphis, many debtors file under Chapter 13 to regain their licenses. We present figures showing wide racial disparities in license suspensions in Shelby County, which are then carried over into bankruptcy filings. Similarly, in Northern Illinois, there has been an explosion in Chapter 13 filings in recent years, mainly driven by black debtors. There, debtors often file to undo the harsh consequences of unpaid parking tickets: license revocations or car impoundments.

Scrutiny of racial disparities in bankruptcy is particularly important now, because poorer debtors, and particularly poor black debtors, are increasingly turning to Chapter 13 in recent years. This is worrisome, because, as we show, low-income black debtors fare particularly poorly in Chapter 13.

Our findings build on earlier studies[2] that identified strong racial patterns in consumer bankruptcy filings. However, while the focus of this analysis is on racial disparities, we believe that the problems (and potential solutions) we identify here have important ramifications for financially vulnerable debtors of any race.

[2] "Race, Attorney Influence, and Bankruptcy Chapter Choice" by Jean Braucher, Dov Cohen, and Robert M .Lawless. "Consumer Bankruptcy Pathologies" by Edward R. Morrison and Antoine Uettwiller. "'No Money Down' Bankruptcy" by Pamela Foohey, Robert M. Lawless, Katherine Porter, and Deborah Thorne.

About our Data

We drew on two types of datasets to perform this analysis:

1) The national dataset. Provided by the Administrative Office of the Courts, this dataset contained data[3] for all bankruptcy cases filed from 2008 through 2015. In order to perform our analysis, we limited the data to consumer cases initiated either under Chapter 7 or Chapter 13. This data allowed us to examine the discharge rates of Chapter 13 cases filed from 2008 through 2010, because most Chapter 13 plans run for five years.

2) The local datasets for the Western District of Tennessee and Northern District of Illinois.[4]

For the national database, we used zip codes to infer the debtor's race. We supplemented the data with the racial composition and household median income for each zip code. This demographic data came from the Census Bureau's American Community Survey's five-year estimates.[5] Each case was identified as being in a majority black or majority non-Hispanic white zip code.[6]

For the district datasets, which included addresses for all debtors, we mapped each address and then placed it into a census tract. From the census, we added race and household income data to our dataset for each debtor. Each case was then identified as being in a majority black or majority non-Hispanic white census tract.

The majority race of those living in a debtor's zip code or census tract is an imperfect but useful proxy for the debtor's race. Most cases in our analyses were located in highly segregated areas[7]. As a sensitivity check, we re-ran our national analysis using only cases from zip codes that were above 80% white or black and found an even starker racial contrast in outcomes. And, finally, the wide racial disparities persisted even when we controlled for debtors' financial characteristics and the court district where they filed. Given these findings, we are confident that our analyses measure racial differences, not some other phenomenon.

Comparing only majority white and majority black zip codes excludes 27% of the bankruptcy cases filed from 2008 to 2010. These were from zip codes where the racial majority is not black or white, or where there is no racial majority. We are specifically interested in how bankruptcy differs between black and white debtors. Future work could look at bankruptcy in other communities.

Chapter 7 vs. Chapter 13 - A Brief Primer

The two main bankruptcy options available to individuals with consumer debt are Chapter 7 or Chapter 13. Below are some very basic attributes of each chapter, with actual statistics drawn from our analysis of all filings from 2008 through 2010 in the national dataset.

[3] The database contains the following fields, among others: the zip code of the debtor's address, original chapter, converted chapter, disposition, relevant case dates, and various data about the debtor's financial profile. Most of these come from the summary of schedules and include: debtor total assets, real estate assets, personal assets, total liabilities, secured liabilities, unsecured liabilities (priority and nonpriority), income (both average monthly from Schedule I and current monthly from Form 22A or 22C), and expenses.

[4] These included structured data for all cases filed 2001-2015 and were obtained from the courts in the summer of 2016, including dispositions for just about all the Chapter 13 cases filed through 2010 (accounting for five-year plans). Beyond the basic identifying data (case number, relevant dates, disposition), the structured data from the districts also provided debtor addresses and the name of their attorneys. In addition, for a large random sample of cases filed in 2010, we extracted additional data from court documents. The main document of interest was the trustee's final report, which accounted for the plan payments, including the amount paid to attorneys.

[5] For the national database, we used the ACS estimates for 2010-2014. For the district database, we used the 2000 decennial census and different five-year spans of the ACS, depending on which seemed the most appropriate for each year of filings (i.e. we chose the 2014 five-year ACS estimates for 2012 filings, because 2012 was in the middle of the five-year span).

[6] "Majority black" here means above 50 percent beyond the margin of error.

[7] Nationally, of cases filed in majority black zip codes, the median filer lived in a zip code that was 76 percent black. Of cases filed in majority white zip codes, the median filer lived in a zip code that was 80 percent non-Hispanic white. For Western Tennessee, of cases filed in majority black census tracts, the median filer lived in a census tract that was 86 percent black, while of cases filed in majority white census tracts, the median filer lived in a tract that was 79 percent non-Hispanic white. For Northern Illinois, of cases filed in majority black census tracts, the median filer lived in a census tract that was 91 percent black, while of cases filed in majority white census tracts, the median filer lived in a tract that was 76 percent non-Hispanic white.

Chapter 7 is a form of liquidation, meaning the debtor's assets are divvied up among creditors. However, 95 percent of cases involve debtors who do not have assets above the legal threshold and therefore don't have to give up anything. The median Chapter 7 case lasts three and a half months from filing to discharge. In cases filed between 2008 and 2010, about 96 percent of debtors who filed under Chapter 7 received a discharge of their debts.

When a debt is discharged, it is no longer legally owed. Unsecured debts are typically dischargeable with some important exceptions like student loans.

Chapter 13 is a form of repayment plan. The debtor's obligations are combined into one, regular payment[8], and those payments are calibrated to the debtor's income. The law allows for three- to five-year Chapter 13 plans, but most plans are five-year plans. In cases filed between 2008 and 2010, about 41 percent of debtors who filed under Chapter 13 received a discharge of the debts through Chapter 13. Another 10 percent first filed under Chapter 13, but then converted to Chapter 7 and received a discharge that way.

Speaking generally, the primary benefit offered by Chapter 7 is near-guaranteed debt relief. Chapter 13 primarily offers benefits related to secured debt. For example, debtors who have fallen behind on their mortgages can catch up on their arrears over time without the danger of foreclosure.

Another important distinction between the chapters is in how much attorneys are paid and, perhaps more importantly, how they are paid. A comprehensive study of attorney fees[9] put the average price of a Chapter 7 in 2009 at around $1,000 and a Chapter 13 at around $2,600. Chapter 7 attorney fees are generally due in full before filing, while at least a portion of (and frequently all) Chapter 13 fees may be paid through the plan.

Nationally, about 71 percent of consumer filings were through Chapter 7 during the years following the Great Recession (2009-2011), but Chapter 7 filings fell off in more recent years (2013-2015) and accounted for 66 percent of filings.

National Bankruptcy Filing Rates by Race

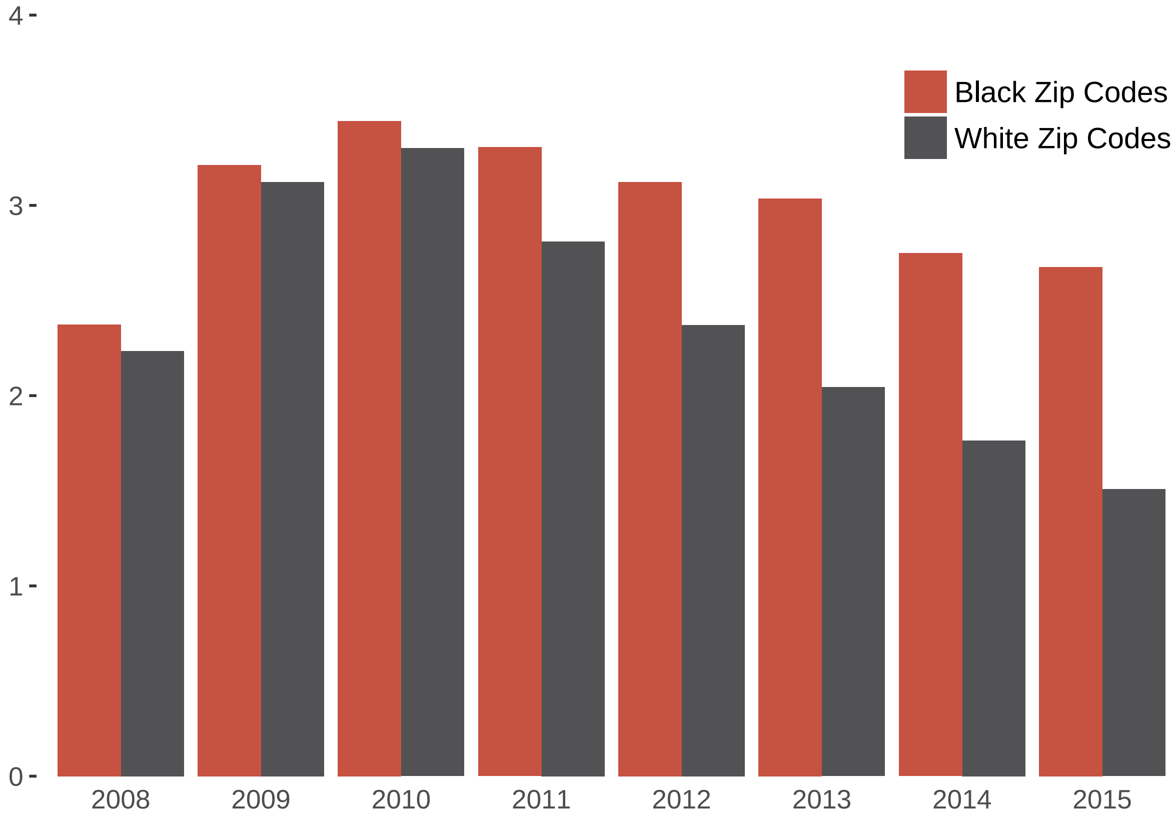
Nationally, bankruptcy filings are much higher among blacks than whites, but how the two populations use bankruptcy is very different.

Chapter 7 filings were noticeably higher for black debtors, especially in recent years, remaining elevated even after the recession, while filings by white debtors dropped off.

Chapter 7 Filing Rates Are Higher in Black Areas, But the Patterns Are Similar to White Filings

Chapter 7 filings per 1,000 residents - black zip codes vs. white zip codes

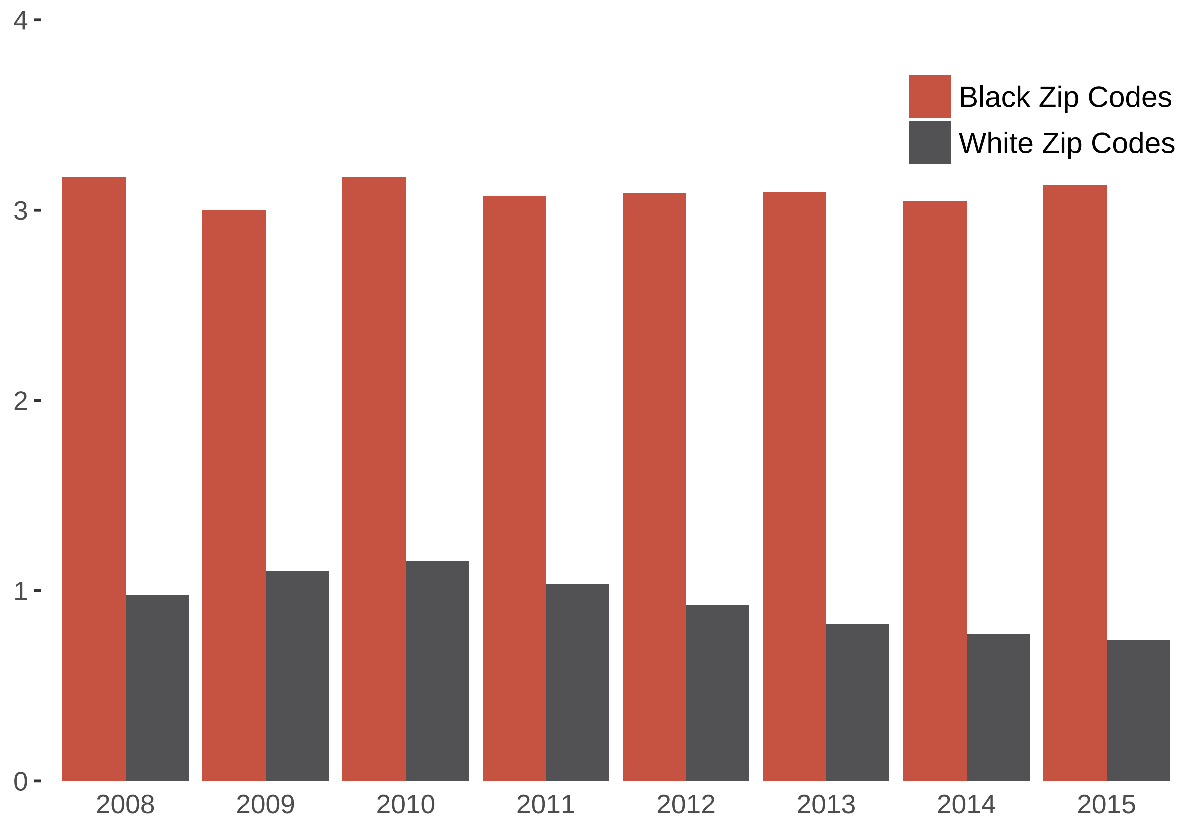
[8] Certain ongoing obligations like rent or utility payments may not be part of the plan, among other possible exceptions.
[9] "The Consumer Bankruptcy Fee Study" by Lois Lupica.



But an examination of Chapter 13 filings shows a wildly different pattern: Among black populations, filings were sky high and showed little relationship to macroeconomic trends. Among white populations, Chapter 13 filings, never very high, peaked in 2010, and have been diminishing since.

Chapter 13 Filing Rates Are Extremely High in Black Areas When Compared to White Areas

Chapter 13 filings per 1,000 residents - black zip codes vs. white zip codes



From 2008 through 2015, 72 percent of the filings in white zip codes were under Chapter 7, while debtors in black zip codes chose Chapter 7 only 49 percent of the time.

Evidence of Greater Financial Vulnerability among Black Debtors

The higher filing rates among black communities can be partly explained by greater financial stress on the population as a whole. Income is the first factor to consider, and black families tend to have less income than white families. But as we show throughout this analysis, the trends we found cannot be explained merely by income differences. Looking beyond income, there is an ample and growing literature on the greater financial vulnerability of black families and that forms an important background to our findings. Black families have far less wealth than white families, even white families at the same income level.[10] They are more likely to have large swings in income year-to-year, which causes greater instability.[11] They tend to be more destabilized by financial shocks (sudden expenses or drops in income).[12] Considering all these factors, a higher rate of bankruptcy filings among black populations should be expected.

[10]We provided a breakdown of assets by race, relying on data from the Federal Reserve's Survey of Consumer Finances, in [our discussion of the financial vulnerability of black households here] (https://www.propublica.org/article/why-small-debts-matter-so-much-to-black-lives) (see also our story and analysis of the racial disparity in debt collection lawsuits). Importantly, the deficit in assets extends to liquid assets as well, which can most readily be used in a financial emergency. These asset deficits are also found among social networks, meaning black households are less likely to be able to borrow a significant sum of money ($3,000 in the Fed's survey) from friends or family. See also "Umbrellas Don't Make It Rain" by Darrick Hamilton, William Darity, Jr., Anne Price, Vishnu Sridharan, and Rebecca Tippett for an excellent overview of these issues.

[11]See the Pew Charitable Trust's recent study on income instability. Also, "Income Instability and the Response of the Safety Net," by Bradley Hardy.

[12]See the Pew Charitable Trust's reports on financial shocks, which found that black households had less in liquid savings and were more destabilized by financial shocks.

Below is a table showing the median total assets for debtors in the second income quintile,[13] which is roughly $20,000 through $40,000 in annual gross income.[14] The primary sources of the asset gap relate to homeownership. Fewer debtors in majority black zip codes own real estate assets, and there is a significant difference in the value of those assets.

Black Debtors Have Fewer Assets Than White Debtors at the Same Income Level

Assets for low-middle income debtors (second income quintile), 2012-2015

		Median Total Assets	Percent of Debtors with Real Estate Assets
Residents of White Zip Codes	Chapter 7	$20,535	39%
Residents of White Zip Codes	Chapter 13	$60,437	57%
Residents of Black Zip Codes	Chapter 7	$13,900	32%
Residents of Black Zip Codes	Chapter 13	$24,740	45%

The extra financial vulnerability of black debtors makes them less able to afford the attorney fees for a Chapter 7 filing. In 2014, approximately 20 percent of Chapter 7 filings by debtors in majority black zip codes were filed pro se.[15] The number for white zip codes was 6 percent. Results for other recent years were similar.

The gap was even larger when examining four states with large black populations and with a relatively large number of Chapter 7 filings:

Chapter 7 Pro Se Filings Are Much More Common Among Black Filers

	Black Zip Codes - Pro Se Rate	White Zip Codes - Pro Se Rate
Illinois	28%	5%
Michigan	16%	4%
Missouri	23%	4%
Wisconsin	47%	4%

Note: Includes only cases filed in 2014.

The data suggests that Chapter 7s filed without the aid of lawyers resulted in noticeably fewer discharges.

More Pro Se Filings Lead to Fewer Black Debtors Getting Relief

[13] We adopted the national household income quintiles from the Census Bureau and chose the second income quintile for this table, because it is at the level of the median for all bankruptcy filers.

[14] The Justice Department collects the debtor's "current income" and "average income." Here, and throughout this analysis, we prefer "current income" as a measure for a number of reasons. First, it is the household's gross income, and so more directly comparable to the census household survey data, which is also gross. Second, its definition is more standard and based on a significant time period (a monthly average of the last six months) as opposed to the "average income" number, which is the debtor's "average or projected" monthly net income at the time of filing. While there are some important differences in how the two types of income are tallied (such as the exclusion of Social Security when tallying "current income"), we found that they were essentially interchangeable when we ran our analyses. Therefore, for consistency and clarity, we stuck with "current income" for all analyses here.

[15] The national dataset does not indicate whether a pro se debtor used a petition preparer.

	Black Zip Codes - Discharge Rate	White Zip Codes - Discharge Rate
Illinois	87%	97%
Michigan	94%	97%
Missouri	93%	97%
Wisconsin	72%	98%

Note: Includes only cases filed in 2014.

Nationally, the discharge rate in 2014 for debtors from black zip codes in Chapter 7 was 90 percent and 97 percent for debtors from white zip codes. Almost the entirety of this gap was due to the higher rate of pro se filings. For debtors with attorneys, the discharge rate was 96 percent and 98 percent for debtors from black and white zip codes, respectively.

In Southern states where $0 down Chapter 13 plans are widely available, this struggle to afford Chapter 7 fees among black debtors results in a higher number of Chapter 13 filings.

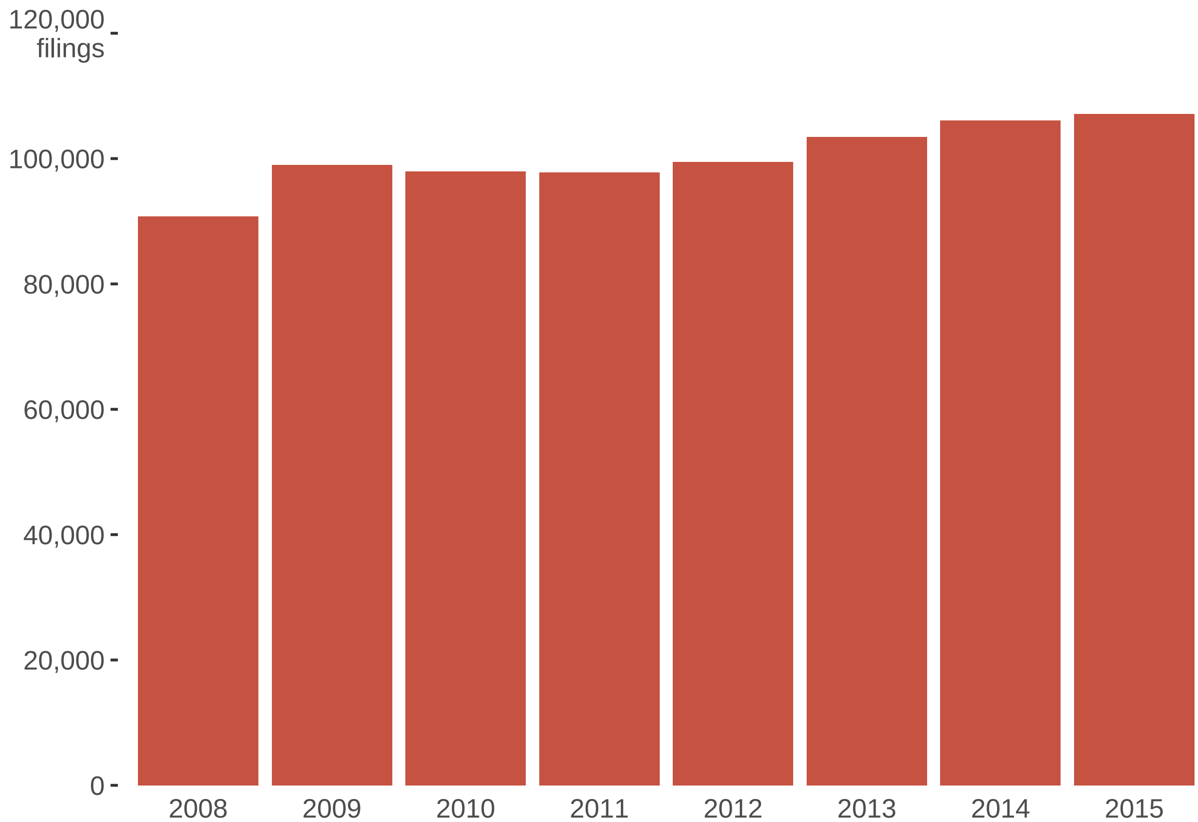
Black Debtors Filing Under Chapter 13 Are Increasingly Poorer

The differences between black and white debtors in Chapter 13 are even more marked than in Chapter 7. In a textbook Chapter 13 case, the debtor files to prevent foreclosure. Most debtors from majority black zip codes who filed under Chapter 13 in 2014 and 2015 did not own a home.

This phenomenon is not limited to black debtors. However, the trend among debtors from majority white zip codes in recent years was basically flat, while the number of these filings in majority black zip codes rose by 50 percent from 2010 through 2015. Of course, Chapter 13 filings overall are down since the recession, making the changing nature of the Chapter 13 usage even more stark. In 2015, Chapter 13 filings by debtors without real estate assets comprised about 40 percent of all Chapter 13 filings (up from 25 percent in 2010).

More and More Debtors Are Filing Under Chapter 13 Despite Not Owning a Home

Chapter 13 filings with no real estate assets

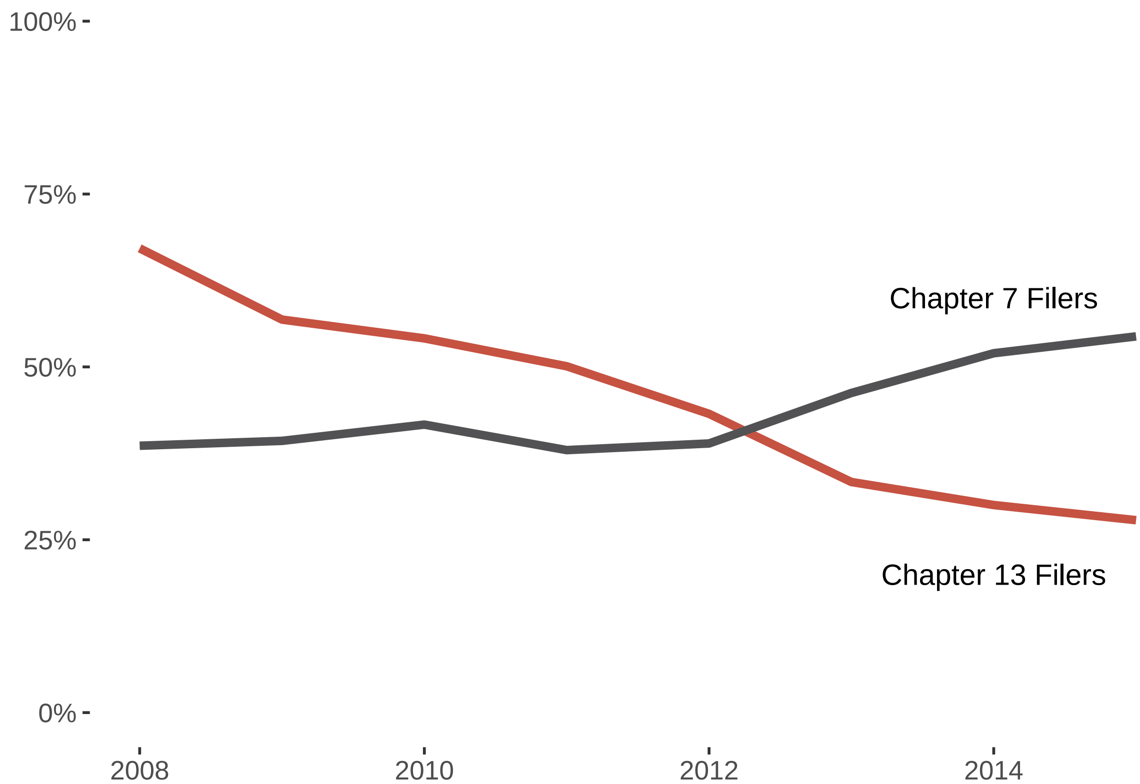


This increase is leading to a larger and larger racial asset gap among debtors who choose Chapter 13. In 2008, the typical Chapter 13 debtor from a majority black zip code had total assets worth about 67 percent of the total assets of the typical debtor from a majority white zip code. By 2015, that number was down to 28 percent.

But, crucially, Chapter 7 filings have not followed the same trend. Black debtors who choose Chapter 7 are still poorer than their white counterparts, but they are becoming comparatively less poor.

The Asset Gap Between Black and White Debtors Who File Under Chapter 13 Is Widening

Median total assets of debtors in black zip codes, as a percentage of median total assets of debtors in white zip codes.



This trend of poorer black debtors choosing Chapter 13 is also evident when you look at income levels. Among white debtors, those who file under Chapter 7 tend to have far less income than those who file under Chapter 13. Among debtors from majority white zip codes in 2015, the median Chapter 7 debtor had 75 percent of the income of the median Chapter 13 debtor. But among debtors from majority black zip codes, those who filed under Chapter 13 in 2015 had about the same median income as those who chose Chapter 7.

In their recent paper,[16] researchers with the Consumer Bankruptcy Project found that "no money down" Chapter 13 filings are on the rise in recent years and are particularly prevalent among black debtors. Coupled with our findings, it shows that more, and poorer, black debtors are choosing Chapter 13 because it is cheap.

In Chapter 13, Less Success for Black Debtors

So, how do black, low-income debtors fare in Chapter 13? The answer is not well.

In this section, we examine what portion of cases ultimately resulted in discharge, whether through the completion of Chapter 13 payment plans or conversion to Chapter 7. We recognize that some debtors may voluntarily dismiss Chapter 13s because their goals have been achieved. For example, a debtor files to avoid foreclosure, and subsequently obtains a mortgage modification with a mortgage servicer, removing the need for the protection of bankruptcy. As a result, a discharge rate of 100 percent is not expected.

Nevertheless, the data clearly shows that the number of discharges rise with debtors' income. The most common reason for a Chapter 13 dismissal is the failure to make plan payments. Furthermore, at each income level white debtors fare better than black debtors.[17]

[16] "'No Money Down' Bankruptcy" by Pamela Foohey, Robert M. Lawless, Katherine Porter, and Deborah Thorne.

[17] Given the financial vulnerabilities we enumerate above, the lower success rate of black debtors in Chapter 13 should be expected.

In Chapter 13, Black Debtors Are Less Likely to Reach Discharge Than White Debtors, Even At The Same Income Level

Chapter 13 Discharge Rates for 2008-2010 by Income Quintile and Race

Income Group	Filings in Black Zip Codes	Filings in White Zip Codes	Discharge Rate in Black Zip Codes	Discharge Rate in White Zip Codes
Low	37,400	104,957	28%	47%
Low-Mid	45,748	143,801	40%	54%
Mid	35,747	176,559	48%	62%
High-Mid	19,619	163,283	54%	68%
High	5,107	64,047	54%	69%
ALL	154,875	691,596	39%	58%

Note: The discharge rate here is the percentage of all cases originally filed under Chapter 13 that ultimately resulted in discharge, including conversions to Chapter 7. This table includes cases filed from 2008 to 2010 because 2010 is the last year for which we have the final dispositions for almost all cases. We use the Census Bureau's income quintiles. The ALL line of the table includes cases where the Justice Department data did not have income information. About 92 percent of cases had income information, and the ones without it have extremely low discharge rates, since the lack of that information indicates that not all the required forms were filled out (these cases are disproportionately pro se).

Statistical Analysis: Quantifying the Racial Disparity in Dismissals and Chapter Choice

So far, our analysis has relied primarily on simple, counting statistics to draw conclusions. To more rigorously evaluate racial differences, we used multivariate logistic regression. This allowed us to evaluate racial differences while holding debtor income and other characteristics constant.

For our analyses, we included all Chapter 7 and Chapter 13 cases from 2008-2010. Cases were identified as being in majority black or non-Hispanic white zip codes, and only cases in majority black or white zip codes were included in the analysis. We used multivariate logistic regression to model the relationship between race and the relevant dependent variable. Below we present the main findings of each analysis.

Logistic regression models the odds of an event,[18] which is shown below. The standard error and an indicator of statistical significance are also shown. Statistical significance at the 1 percent level is indicated with three stars. Full regression results and model specifications are available in Appendix A.

1) How big was the racial disparity in the outcome of all bankruptcy filings?

Income plays a clear role in the outcome of debtors' cases, as does the court district where debtors file. To control for these factors when analyzing the role of race, we used a logistic regression. This analysis included all filings, whether under Chapter 7 or Chapter 13. ***We found that for debtors living in black areas, the odds of having a case dismissed were about twice as high as those of debtors living in white areas***, controlling for the court district where the case was filed, income, and other financial characteristics of the debtor.

Odds of Dismissal (All Filings)

[18] Odds are the ratio between the number of times an event occurs and the numbers of times it does not. For example, the odds of dismissal are the number of cases dismissed divided by and the number of cases not dismissed. (Cases that are not dismissed are discharged.) We also calculate the odds ratio, which is the odds of dismissal among debtors from black tracts, divided by the odds of dismissal among debtors from white tracts. An odds ratio of one indicates equal odds in black and white debtors. An odds ratio greater than one indicates an event is more likely among black debtors. We present unadjusted odds ratios (a simple arithmetic calculation) and adjusted odds ratios (the coefficient from logistic regression).

	Discharged Cases	Dismissed Cases	Odds of Dismissal	Standard Error	
White Zip Codes	2,154,632	299,057	0.139		
Black Zip Codes	193,757	88,945	0.459		
Unadjusted Odds Ratio			3.307		
Modeled Odds Ratio			2.194	0.005	***

2) How big was the racial disparity in the outcome of just Chapter 13 filings?

Using the same methods described above, we evaluated the racial difference in discharge rates for Chapter 13 cases only. ***We found that for debtors living in black areas, the odds of having a Chapter 13 case dismissed were about 50 percent higher than those of debtors living in white areas***, controlling for district, income, and other financial characteristics of the debtor.

Odds of Dismissal (Chapter 13 Filings)

	Discharged Cases	Dismissed Cases	Odds of Dismissal	Standard Error	
White Zip Codes	389,656	255,261	0.655		
Black Zip Codes	59,043	82,786	1.402		
Unadjusted Odds Ratio			2.140		
Modeled Odds Ratio			1.459	0.007	***

3) How big was the racial disparity in chapter choice?

Using the same methods described above, we evaluated the racial difference in chapter selection. ***We found that for debtors living in black areas, the odds of filing under Chapter 13 were more than twice as high as those for debtors living in white areas***, controlling for district, income, and other financial characteristics of the debtor.

Odds of Filing Under Chapter 13

	Chapter 7 Cases	Chapter 13 Cases	Odds of Chapter 13	Standard Error	
White Zip Codes	1,808,772	644,917	0.357		
Black Zip Codes	140,873	141,829	1.007		
Unadjusted Odds Ratio			2.824		
Modeled Odds Ratio			2.330	0.005	***

Chapter 13's Popularity in the South Among Low-Income Debtors

Before continuing to our examination of the Western District of Tennessee, it's important to understand a bit of context. In addition to the racial differences discussed throughout this analysis, there are also huge differences regionally in how frequently Chapter 13 is used. Only in the South is Chapter 13 the predominant form of bankruptcy.

For the purposes of discussion, the "South" consists of the states where Chapter 13 cases have accounted for at least half of filings in recent years: Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas.

Because there are large black populations in the South, and, as shown above, black debtors disproportionately file under Chapter 13, this means the style of bankruptcy practiced in the South particularly affects black debtors. It also means that, although we found racial disparities all over the country, it is in the South where black debtors see their cases dismissed in the greatest numbers.

An important reason why Chapter 13 bankruptcy is so popular in the South is the way attorneys are paid. In the South, it is common for attorneys to file Chapter 13s for no money up front, with the entirety of their fees paid through the Chapter 13 plan. In a sample of cases gathered by the Consumer Bankruptcy Project, 56 percent of Chapter 13 filings in the South were filed in this "no money down" fashion. The percentage was even higher (67 percent) in the districts with the highest proportion of Chapter 13 filings. Meanwhile, outside the South, only 21 percent of Chapter 13 cases were filed with $0 down.[19]

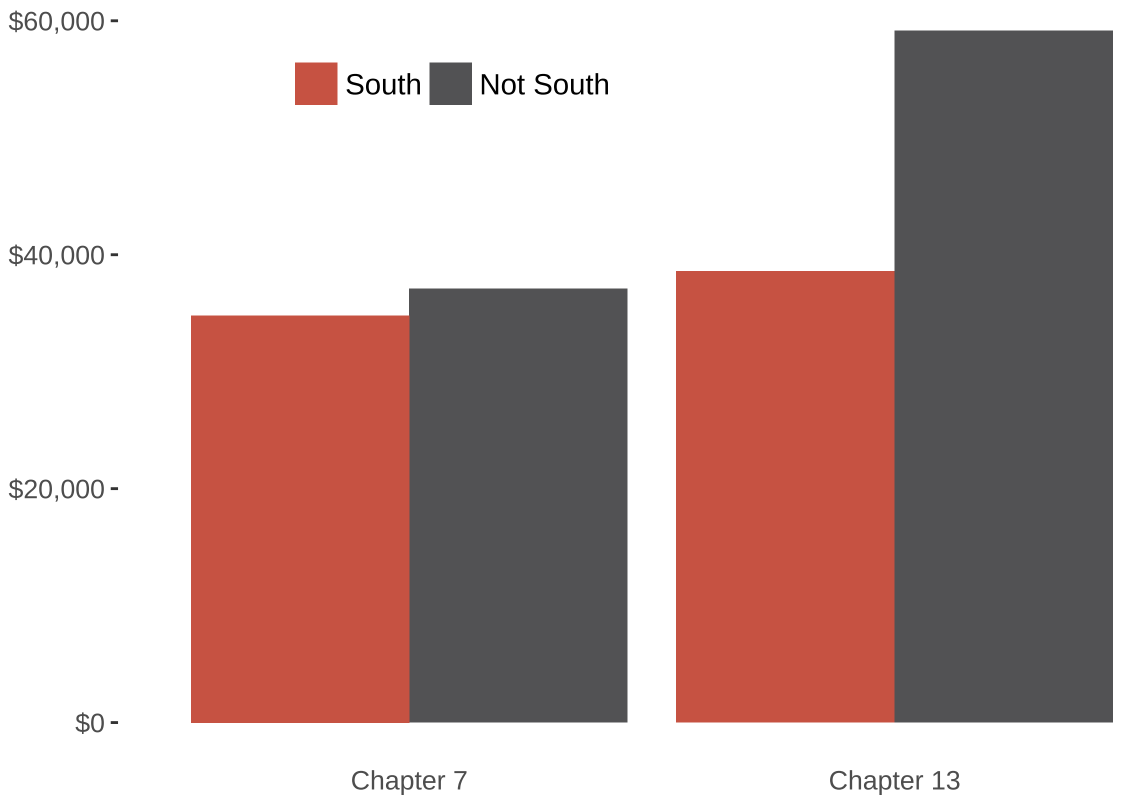
The "no money down" Chapter 13 arrangement has an obvious attraction for debtors with less income. As a result, large numbers of lower-income black and white debtors file under Chapter 13 in the South. In contrast, outside the South, Chapter 13 is overwhelmingly used by middle-income homeowners.

This chart, using our national dataset, shows the median annual incomes of debtors who filed for bankruptcy in 2010, broken down by the chapter they chose and whether they resided in a southern state or not:

Chapter 13 Debtors in the South Have Much Less Income than Chapter 13 Debtors in the Rest of the Country

Median debtor income at filing (2015 dollars)

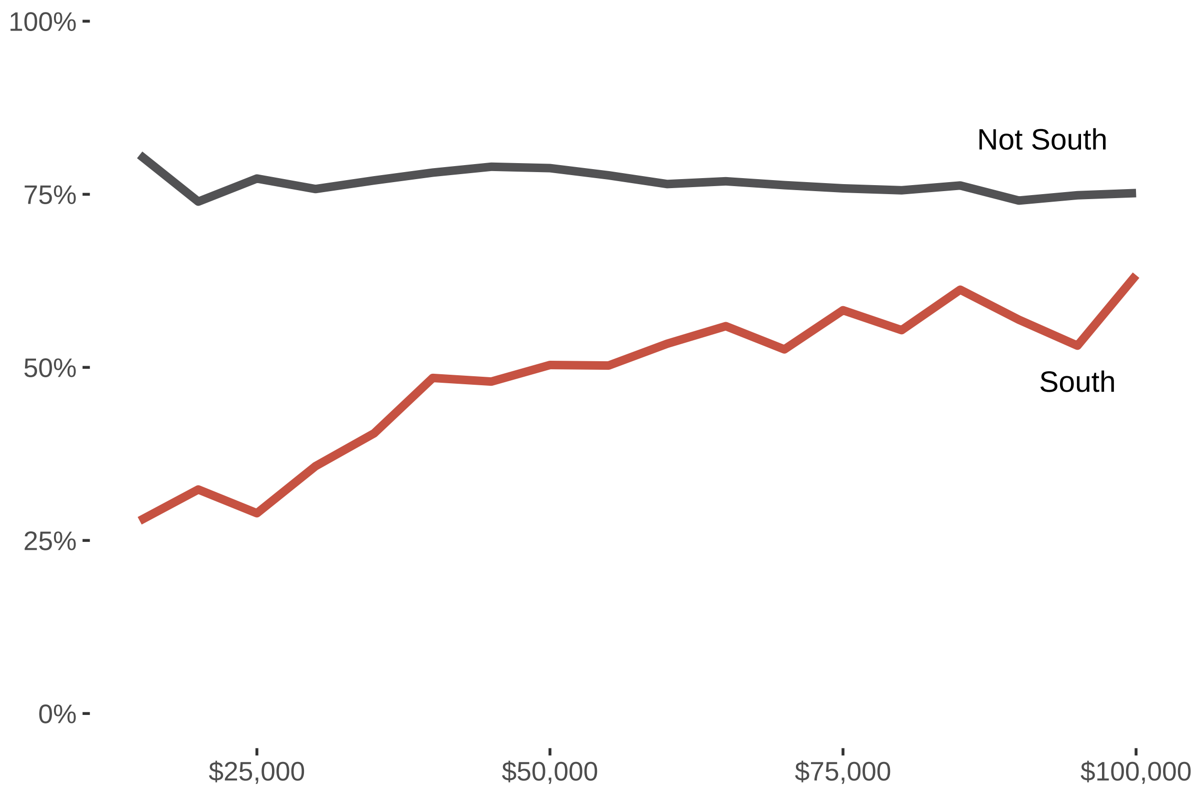
[19] This is our analysis of data collected by the Consumer Bankruptcy Project and generously shared with us by Robert Lawless. The definition of "South" here is the same collection of states listed earlier in this section. The CBP's data includes samples of cases from 2007 and then 2013 through 2015. The districts referred to here are: GASB, LAWB, ALMB, TNWB, ALSB, NCEB, GAMB, and TXSB. For the period 2008-2015, Chapter 13 filings accounted for over 60 percent of filings in these districts.



This very strong contrast was also evident when we sorted 2010 debtors by the median household income of their zip codes. In the South, debtors who lived in communities further up the income scale were far more likely to choose Chapter 7 than those in predominantly lower income communities. Meanwhile, outside the South this is not the case:

In the South, Debtors From Wealthier Zip Codes Are Far More Likely to Choose Chapter 7

Chapter choice by zip code household median income - South vs not South - 2010



Note: We grouped the median household income of each debtor's zip code into income bands of $5,000. We then calculated the percentage of filings that were under Chapter 7 in each band.

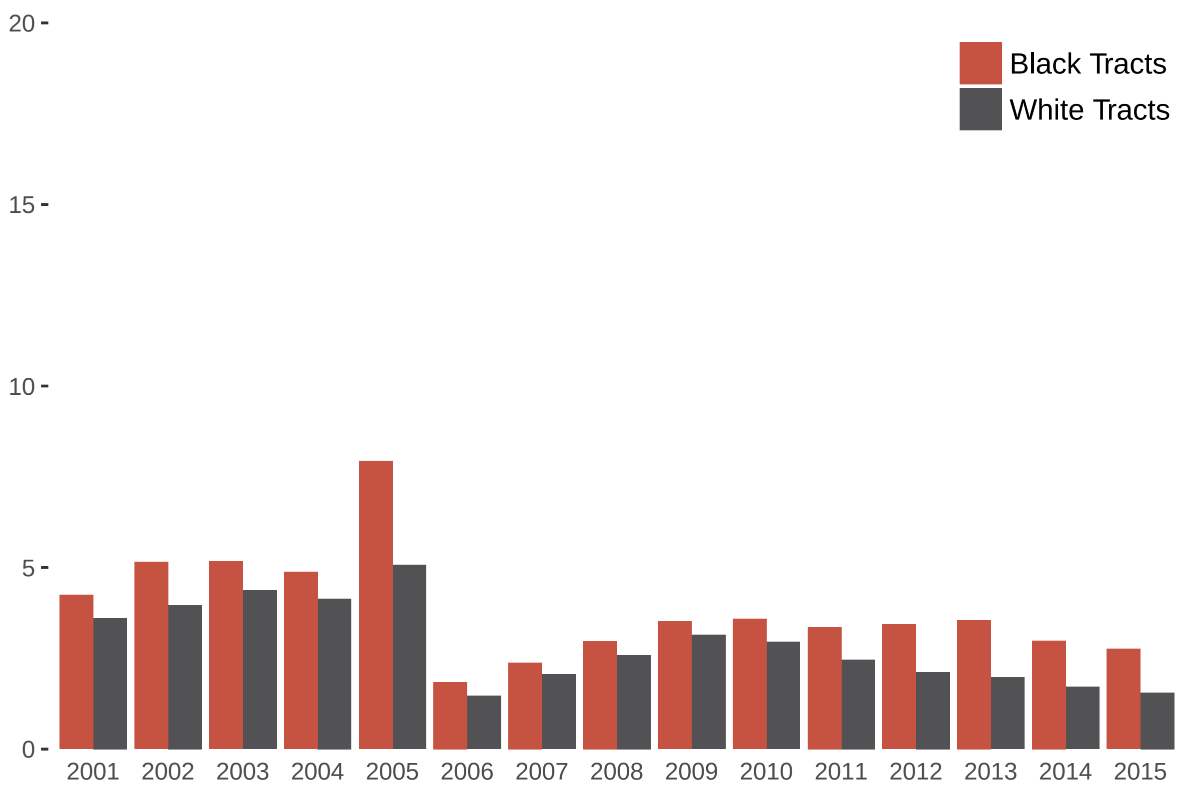
The style of Chapter 13 practiced in the South creates two important dynamics: First, low-income debtors are more likely than debtors with more income to file under Chapter 13. Second, black debtors are more likely to file under Chapter 13 than white debtors, even at the same income level.

Western Tennessee - A High Filing Rate Driven by Black Debtors Choosing Chapter 13

Our examination of the Western District of Tennessee begins with a breakdown of filings by chapter and race. As with the national dataset, Chapter 7 filings for debtors in mostly black areas were higher and generally tracked the trend in the mostly white areas. Chapter 13 filings, on the other hand, tell a very different story. (Since we are now moving from the national level to the district, we are also moving from analysis based on zip codes to one based on census tracts.)

In Western Tennessee, Chapter 7 Filing Rates Are Higher in Black Areas, But The Patterns Are Similar to White Filings

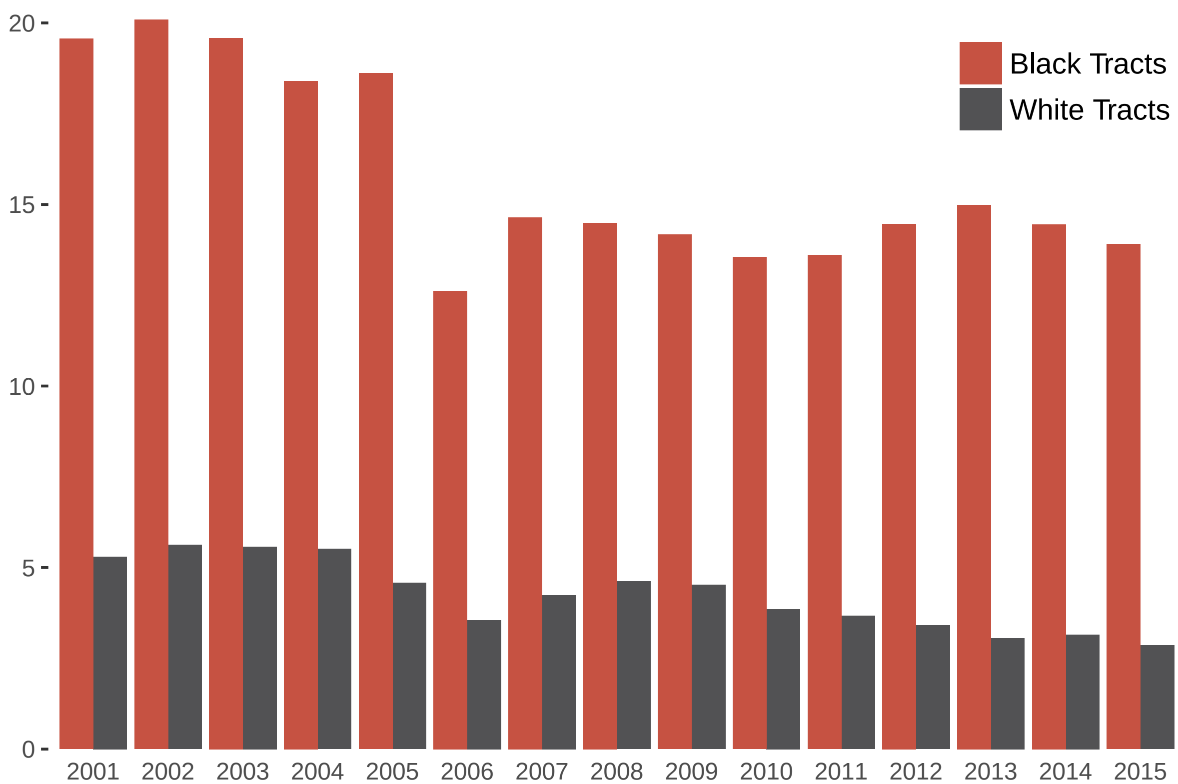
Chapter 7 filings per 1,000 residents - black census tracts vs. white census tracts



Note: The surge in filings in 2005 was due to the bankruptcy reform bill going into effect and also took place nationally.

In Western Tennessee, Chapter 13 Filing Rates Are Extremely High in Black Areas

Chapter 13 filings per 1,000 residents - black census tracts vs. white census tracts



Bankruptcy has worked this way in Western Tennessee for decades. Since 2001, the percentage of Chapter 7 filings has been fairly stable. The only exception was a spike prior to the passage of the 2005 bankruptcy reform bill (BAPCPA) and a dip in subsequent years. The chart below shows the chapter choice mix in the years just before the passage of BAPCPA[20] and in recent years:

Western Tennessee Chapter Choice by Race Has Been Consistent for Decades

Percent of cases filed under Chapter 7.

	Black Tracts	White Tracts
2001-2004	20%	42%
2012-2015	18%	37%

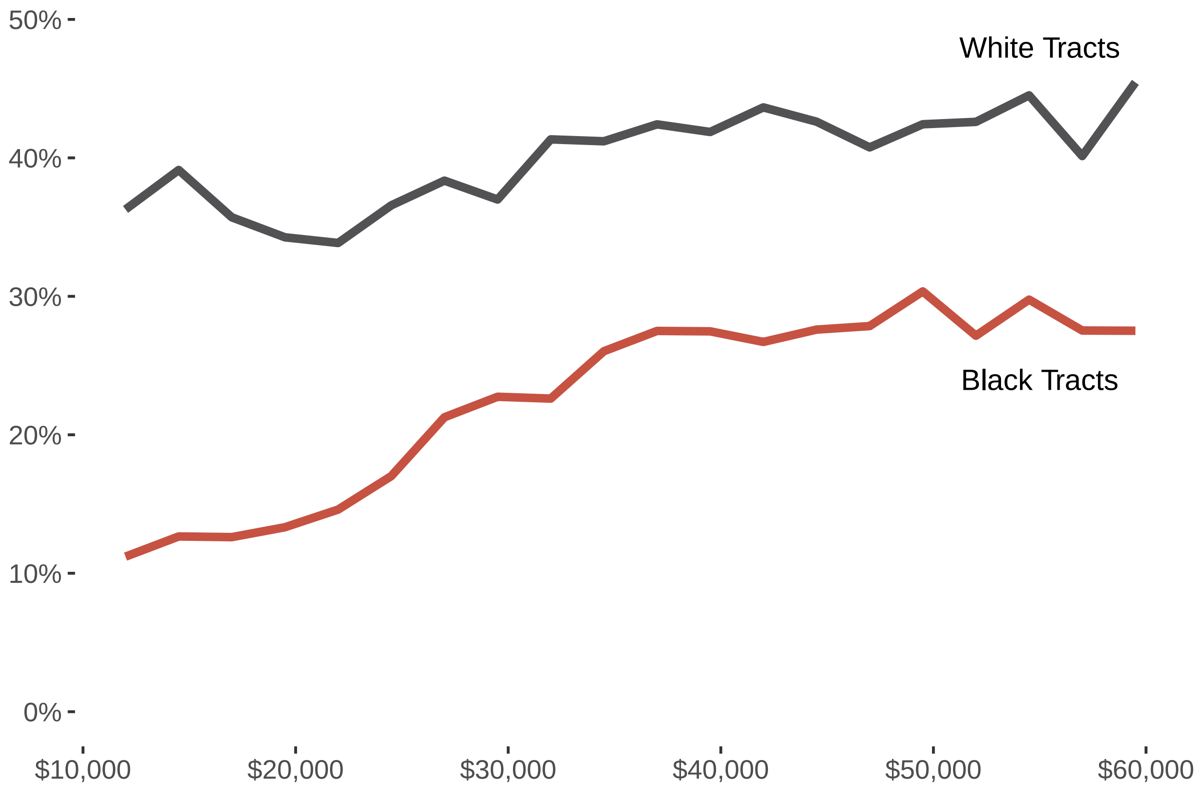
Western Tennessee - With More Income, More Likelihood of Choosing Chapter 7

As elsewhere in the South, Chapter 13 filings in Western Tennessee are most common among low-income debtors.

Below is a chart showing debtors' chapter choice by narrow bands of monthly income (increments of $250) for the years 2011-2015. A debtor from a mostly black tract making around $3,000 per month was twice as likely as one making half that much to file under Chapter 7.

[20]For our discussion of whether the BAPCPA means test might be a reason for the high Chapter 13 filings in the district, see Appendix B: Effect of Means Test on Western Tennessee Filings.

In Western Tennessee, Debtors With Higher Income Are Far More Likely to Choose Chapter 7



Note: Cases filed from 2011 to 2015 are included. Income is the monthly "current income" of the debtor in 2015 dollars. Omitted are debtors who declared current income of $0. These debtors, who accounted for 4 percent of black debtors and 5 percent of white debtors, tended to file under Chapter 7 in higher numbers (22 percent for black debtors and 46 percent for white debtors).

Western Tennessee - Discharge Rates are Very Low in the District, Especially for Black Debtors

As is the case nationally, the discharge rate for Chapter 13 debtors from mostly black areas in Western Tennessee is lower than that of debtors from mostly white areas, even when comparing debtors at the same income level. Below is a chart showing the discharge rate for debtors in the same income group for cases filed from 2008 through 2010. (We grouped by slices of $20,000, so low-income is annual income below $20,000, low-mid income is between $20,000 and $40,000, etc.)

In Western Tennessee, the Chapter 13 Discharge Rate is Very Low, Especially for Black Debtors

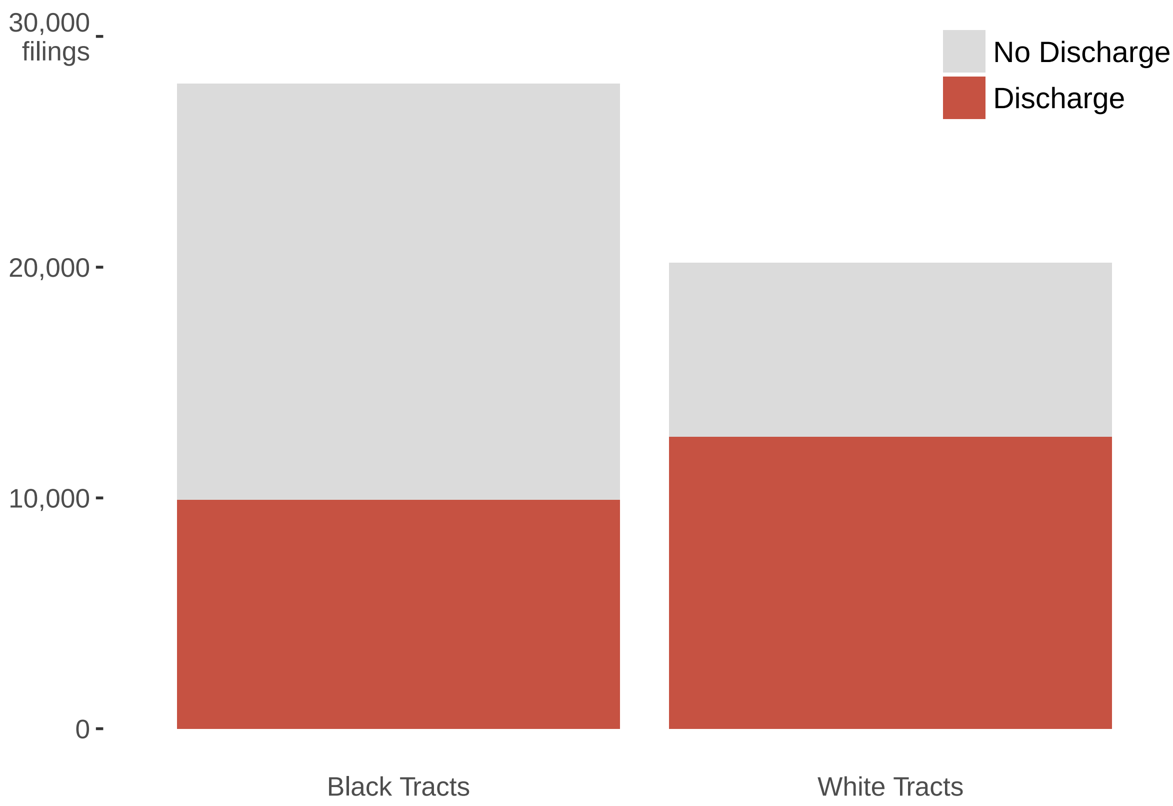
Income	Filings in Black Tracts	Filings in White Tracts	Discharge Rate in Black Tracts	Discharge Rate in White Tracts
Low	8,595	2,917	11%	26%
Low-Mid	8,560	4,055	24%	36%

Income	Filings in Black Tracts	Filings in White Tracts	Discharge Rate in Black Tracts	Discharge Rate in White Tracts
Mid	3,055	2,405	38%	47%
Mid-High	1,063	1,231	44%	54%
ALL	22,573	12,107	22%	40%

Note: The discharge rate here is the percentage of all cases originally filed under Chapter 13 that ultimately resulted in discharge, including conversions to Chapter 7. This table includes cases filed from 2008 to 2010 because 2010 is the last year for which we have the final dispositions for almost all cases. The ALL line of the table includes cases where the Justice Department data did not have income information. Income is grouped by slices of $20,000. Low-income is annual income below $20,000, low-mid income is between $20,000 and $40,000, etc. The income groups here are different from the national census quintiles and so are not directly comparable to those national charts above.

Together, the racial disparities in chapter choice and Chapter 13 discharge rate in the district combine for a striking result: Even though residents of mostly black areas file for bankruptcy in much higher numbers than residents of white areas, they actually receive far fewer discharges. Below is a breakdown of all filings regardless of chapter for the years 2008 through 2010. With Chapter 7 and Chapter 13 filings combined, there were almost 8,000 more filings by debtors from mostly black census tracts over these years, but debtors from mostly white tracts received almost 3,000 more discharges.

In Western Tennessee, More Bankruptcy Filings for Black Debtors, But Fewer Discharges



Note: Includes cases filed from 2008-2010, under all chapters.

Western Tennessee Statistical Analysis: Racial Disparities Persist Even Controlling for Income and Other Debtor Characteristics

As with the national analysis, we used multivariate logistic regression to evaluate three key questions about the role of race in the district while holding constant debtor income and other characteristics. The analysis included cases from 2008-2010. Cases were identified as being in majority black or non-Hispanic white census tracts, and only cases in majority black or white census tracts were included in the analysis. Full regression results and model specifications are available in Appendix A.

1) How big was the racial disparity in the outcome of all bankruptcy filings?

Using the methods employed to analyze the national data, we evaluated the disparity evident in both Chapter 7 and 13 filings in the Western District of Tennessee. ***For debtors living in mostly black areas, the odds of having a case dismissed were about 2-1/2 times as high as those for debtors living in mostly white areas***, controlling for income and other financial characteristics of debtors.

Odds of Dismissal (All Filings)

	Discharged Cases	Dismissed Cases	Odds of Dismissal	Standard Error	
White Tracts	12,371	7,178	0.580		
Black Tracts	9,675	17,253	1.783		
Unadjusted Odds Ratio			3.073		
Modeled Odds Ratio			2.470	0.021	***

2) How big was the racial disparity in the outcome of Chapter 13 filings?

For debtors living in mostly black areas, the odds of having a Chapter 13 case dismissed were about 70 percent higher than those of debtors living in mostly white areas, controlling for income and other financial characteristics of debtors.

Odds of Dismissal (Chapter 13 Filings)

	Discharged Cases	Dismissed Cases	Odds of Dismissal	Standard Error	
White Tracts	4,626	6,958	1.504		
Black Tracts	4,848	16,829	3.471		
Unadjusted Odds Ratio			2.308		
Modeled Odds Ratio			1.720	0.027	***

3) How big was the racial disparity in chapter choice?

For debtors living in mostly black areas, the odds of filing under Chapter 13 were two-and-a-half times as high as those for debtors living in mostly white areas, controlling for income and other financial characteristics of debtors.

Odds of Filing Under Chapter 13

	Chapter 7 Cases	Chapter 13 Cases	Odds of Chapter 13	Standard Error	
White Tracts	7,965	11,584	1.454		
Black Tracts	5,251	21,677	4.128		
Unadjusted Odds Ratio			2.838		
Modeled Odds Ratio			2.509	0.023	***

Western Tennessee - Many Black Debtors Are Ill-Suited to Chapter 13

The financial profile of debtors in the district shows that black debtors are particularly ill-served by the predominance of Chapter 13.

Below is a breakdown of the median value of several financial categories,[21] by race and chapter. We have bolded the most important categories.

Median Assets, Liabilities, and Income for Debtors, 2015

		Total Assets	Real Property	Personal Property	Total Liabilities	Secured Claims	Unsecured Nonpriority Claims	Annual Income
Black Tracts	Chapter 7	**$12,300**	$0	$9,587	$50,965	**$6,500**	**$29,972**	**$26,829**
Black Tracts	Chapter 13	**$9,251**	$0	$6,740	$23,576	**$5,590**	**$9,961**	**$19,493**
White Tracts	Chapter 7	**$20,250**	$0	$10,891	$74,165	**$13,963**	**$33,391**	**$28,764**
White Tracts	Chapter 13	**$31,000**	$0	$12,006	$54,303	**$24,121**	**$14,796**	**$30,000**

Clearly the median debtor, both black and white, is low-income, but black debtors filing under Chapter 13 stand out as particularly poor. The financial profile of Chapter 13 debtors in Western Tennessee is vastly different than that of Chapter 13 debtors nationally. Below are four metrics that underscore how ill-suited many district debtors are for Chapter 13:

1) Debtors from mostly black census tracts in Western Tennessee who chose Chapter 13 had less income than those who chose Chapter 7. Usually, the inverse is true. Nationally, the median Chapter 7 debtor in 2015 had 82 percent of the median Chapter 13 debtor's income.[22]

2) Debtors from mostly black tracts in Western Tennessee who chose Chapter 13 were poorer in terms of assets than those who chose Chapter 7. Nationally, the median Chapter 7 debtor in 2015 had 28 percent of the total assets of the median Chapter 13 debtor.

3) Debtors from mostly black tracts in Western Tennessee who chose Chapter 13 actually had less in secured claims than those who chose Chapter 7. Nationally, the median Chapter 7 debtor in 2015 had 22 percent of the median Chapter 13 debtor's secured debt.

[21] These categories do not sum to the total assets or liabilities because each field is a median.
[22] As noted above, this was even lower (75 percent) for the national median debtor from a mostly white zip code.

4) Debtors from mostly black tracts in Western Tennessee who chose Chapter 7 had dramatically more in unsecured claims than those who chose Chapter 13. On the face of it, this might seem normal, since Chapter 7 is the ideal chapter for dispensing with unsecured debt. However, the scale of this difference (three times as much) is unusual. Nationally, the median Chapter 7 debtor in 2015 had 163 percent as much unsecured debt as the median Chapter 13 debtor.

Chapter 13's supporters generally tout it as a potentially superior choice for debtors burdened by secured debt and particularly those facing foreclosure. But debtors from mostly black tracts in Western Tennessee tend to have less secured debt than the debtors ending up in Chapter 7. Compounding that discrepancy, their low income makes it highly likely their cases will be dismissed.

In contrast, the typical debtor from a mostly black census tract filing under Chapter 7 has higher income, making it more likely they can afford the attorney fee for Chapter 7, and a disproportionately large load of unsecured debt, making it manifestly unwise to choose Chapter 13.

Western Tennessee - Repeat Filing is Common, Especially Among Black Debtors

Another indication that Chapter 13 is a perilous choice is the surprising number of debtors who have filed repeatedly under Chapter 13 in a relatively short period of time. Below is a breakdown, by race and chapter, of filings in the last quarter of 2015. We counted how many times each debtor had filed in the previous five years[23] (from 2011-2015), and the chart below shows what portion of debtors were filing for the first time since 2011, the second, etc.:

Repeat Filing in Western Tennessee is Most Common Among Black Debtors Filing Under Chapter 13

Portion of repeat filings, October through December 2015, by race and chapter

		1st	2nd	3rd	4th,5th	6th+
Black Tracts	Chapter 7	76%	11%	4%	4%	6%
Black Tracts	Chapter 13	50%	23%	11%	11%	6%
White Tracts	Chapter 7	89%	7%	3%	1%	0%
White Tracts	Chapter 13	71%	20%	5%	3%	1%

Part of what drives this churn is not only a high rate of Chapter 13 plan failures, but the speed with which they fail. Twenty-three percent of the cases filed in 2015 were dismissed within the first three months. Forty percent were dismissed within the first six months.

Western Tennessee - The Types of Debt Driving Debtors to Chapter 13

Certain kinds of debt help explain why some debtors may be choosing Chapter 13 over Chapter 7, and, to some extent, the racial disparities in the district.

We analyzed the creditors who registered claims against debtors who filed under Chapter 13 in 2010. This analysis was based off of court records obtained for a random sample of 2,394 Chapter 13 cases, about 20 percent of those filed in the district in that year. We then categorized claimants by type of creditor.[24] There

[23] We identified each debtor by first name, last name, and the last four digits of the social security number. As a result, these are conservative estimates, since such a method would miss debtors who changed their names (e.g. due to marriage), filed as a joint debtor in a previous case, or had filed bankruptcy in another district.

[24] To be specific, we started with the list of creditors in the claims register for each case. Our categories were: Mortgage, Bank - Mix (where the creditor was a bank or credit union, but we could not easily divine the type of debt), Auto, Debt Buyer, Student Loan, Tax, Credit Card / Personal Loan, Medical, Court Debt, Utility, Misc Lender (nonbank lenders), High-Cost

are drawbacks to this technique. Some major creditors/claimants, namely debt buyers, don't clearly show the source of debt. However, the patterns we identified are very strong and were supported by interviews with attorneys, trustees and judges in the district.

The four categories of debt that are most important to understanding the dynamics of the district are: mortgage, auto, court debt (mostly related to traffic offenses) and utility. The key categories of debt were determined by analyzing the percentage of cases that included each type of debt and how often each type of debt was the largest.

Mortgages: In 2010, most debtors from mostly white census tracts who filed under Chapter 13 had real estate assets (this was not true in more recent years). A mortgage was the largest debt in at least 38 percent of cases filed by these debtors in our sample. For debtors from mostly black census tracts, a mortgage was the largest debt in at least 27 percent of cases.

Filing a Chapter 13 makes sense for someone who is behind on a mortgage because it places an automatic stay on the debt, allowing the debtor to catch up and avoid foreclosure.

In 2010, debtors from mostly black tracts had real estate assets in only 41 percent of Chapter 13 cases. That portion has continued to drop in the district. In 2015 only about a quarter had real estate assets. As a result, auto debt is probably the leading driver of bankruptcies in more recent years.

Auto loans: This was a distant second largest debt for debtors from white tracts, but a close second (20 percent) for debtors from black tracts. The predominant lenders for debtors from mostly black tracts were subprime indirect lenders like Credit Acceptance and Santander. Bankruptcy attorneys told us that debtors often sought bankruptcy protection to avoid having a car repossessed.

Court debt: In our sample, 29 percent of debtors from black tracts had this kind of debt (compared to 9 percent of debtors from white tracts), and for 6 percent of cases, it was the largest debt. The vast majority of this debt came from Shelby County's General Sessions Criminal Court, which handles traffic cases and misdemeanors. In interviews, bankruptcy attorneys said this was generally related to driver's license issues. Nonpayment of a court debt can lead to suspension of a driver's license, and debtors often file under Chapter 13 either to prevent suspension of a license or to have their licenses reinstated. Debtors' driver's licenses are generally reinstated upon confirmation of their cases. This type of debt is not dischargeable in a Chapter 7.

The racial disparity for this kind of debt in bankruptcy cases is reflective of a disparity in the suspension of driver's licenses. We obtained data on driver's license suspensions in Shelby County and found that suspensions stemming from traffic infractions (the most common source of a suspension) were six times more common among black residents than white residents.[25]

Utility debt: Nearly half the debtors from mostly black census tracts had utility debt, which consisted almost entirely of bills owed to Memphis Light, Gas and Water. Only a quarter of debtors from white tracts had this kind of debt. For about 5 percent of debtors from black tracts, this was their largest debt.

Although we do not have data that speaks directly to racial disparities in utility debt in Memphis, federal survey data[26] does show that black low-income households in the South have their electricity disconnected at twice the rate of low-income white households.

Attorneys told us that debtors often filed a Chapter 13 bankruptcy in order to prevent a shutoff of service or to regain service.

Why are these debtors choosing Chapter 13? Most likely because it is affordable. The median MLGW debt in our sample was around $1,100. If these debtors had the money to hire an attorney to file a Chapter 7, it

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Lender (lenders with APRs above 36 percent), Bankruptcy Admin, Landlord, Child Support, Bail Bond, Government, and Other (a catchall for claimants that appeared only a few times in our database).

[25] The data was generously shared with ProPublica by Just City, a Memphis nonprofit advocacy organization, after it was obtained through a request under Tennessee's Public Records Act from the state Department of Public Safety and Homeland Security. The data reflects license suspensions due to nonpayment of a traffic fine or failing to appear in response to a traffic citation.

[26] Analysis by John Howat of the National Consumer Law Center. In the 2009 national survey of lower-income households by the federal Energy Information Administration, 9 percent of blacks reported having their electricity disconnected in the previous year because they had been unable to pay. For whites, the number was less than 4 percent.

seems likely they would have used that to pay their utility bill. Additionally, while the debt is dischargeable in a Chapter 7, discharging the debt would not achieve the goal of regaining service. In order to connect service, MLGW currently requires a $400 deposit from residents who have had debt written off within the last six years.

Of course, there are other noteworthy types of debt beyond these four categories. However, no others demonstrated similarly outsized racial disparities. For example, about half of all debtors had outstanding medical debt, but this was the largest type of debt only about 3 to 4 percent of the time. Student loans, tax obligations, debt buyers (the most common form of debt) and credit cards (which skewed strongly white) are other categories worth mentioning.

Finally, it is hard to gauge the role of garnishments in driving debtors to file for bankruptcy, but it is surely significant, and it is something that bankruptcy attorneys in the district mentioned when they listed reasons that people file. Creditors who get court judgments against debtors can pursue garnishments. In Tennessee, these allow creditors to take up to a quarter of debtors' wages and zero out their bank accounts. We pulled data on garnishment cases in Shelby County's General Sessions court and counted garnishment actions on 22,266 separate cases in 2010 alone. As we detailed in our 2015 paper on racial disparity in debt collection lawsuits, such court judgments are twice as common in black communities, holding income constant. Of course, Chapter 7 would generally be a better fit for debtors struggling with a garnishment, since the debt is unsecured, but we spoke with debtors in Memphis who had filed under Chapter 13 in response to a garnishment.

The most common garnishment actions in Shelby County are brought by hospitals,[27] auto lenders like Credit Acceptance that are collecting deficiency judgments on already repossessed vehicles, and debt buyers collecting on old debts (usually credit cards).

Western Tennessee - The Highest Volume Firms Account for an Outsized Portion of Filings and Exhibit Higher Racial Disparities

To examine the role of bankruptcy attorneys in the filings, we used the district data set, which identified the attorney for each case, and interviews with attorneys.

A few law firms (and at least since the 1990's, the same ones) account for a large number of Chapter 13 filings. This concentration means that the customs and practices of a handful of lawyers have had a large effect on filings in the district.

Since 2001, the same five law firms in the district have dominated Chapter 13 filings. Chapter 7 filings have a little more variation, with only two of the five firms remaining constant across all three blocks of years.

Chapter 13 Filings in Western Tennessee Are Highly Concentrated

	2001-2005	2006-2010	2011-2015
Top 2 Law Firms - Number of Filings	20,442	13,954	15,344
Top 2 Law Firms - Percentage of All Filings in District	22%	21%	25%
Top 5 Law Firms - Number of Filings	36,490	25,979	27,104
Top 5 Law Firms - Percentage of All Filings in District	40%	40%	43%

Chapter 7 Filings in Western Tennessee Are Less Concentrated

[27] Specifically, nonprofit hospitals receiving federal tax breaks because they are supposed to be helping care for the poor. This is a problem we focused on in earlier stories.

	2001-2005	2006-2010	2011-2015
Top 2 Law Firms - Number of Filings	3,350	1,772	1,769
Top 2 Law Firms - Percentage of All Filings in District	8%	8%	8%
Top 5 Law Firms - Number of Filings	7,724	3,967	3,946
Top 5 Law Firms - Percentage of All Filings in District	18%	18%	19%

An examination of the high-volume Chapter 13 firms found that their cases displayed greater racial disparities. For the district, the rate of Chapter 7 cases as a percentage of all filings was 2.1 times higher for debtors from mostly white census tracts than it was for debtors from mostly black tracts. For these large firms, the "White/Black Chapter 7 Ratio" as we call it in the table below, was even higher, while the ratio for smaller firms was lower.

In Western Tennessee, Racial Disparities in Chapter Choice Are Wider at Higher Volume Firms

High-volume firms vs. others, Chapter 7 percentage by race, 2008-2015

	Chapter 7 as Percentage of All Filings	Chapter 7 as Percentage of All Filings - White Tracts	Chapter 7 as Percentage of All Filings - Black Tracts	White/Black Chapter 7 ratio
Top Five Chapter 13 Filers Only	11%	19%	8%	2.3
All Other Attorneys	35%	44%	27%	1.6
DISTRICT TOTAL	26%	39%	19%	2.1

There are, of course, law firms with less volume than these top five firms that have similar (or even much greater) racial disparities. The customs of these firms are not unique to them, but studying how they operate is important to understand the dynamics of the district.

Western Tennessee - Differences Among The Largest Firms

The top Chapter 13 firms are alike in that they all file almost exclusively under Chapter 13 for their clients, but we also found important differences.

Western Tennessee: High-Volume Attorney Breakdown, Chapter 7 Percentage by Race, 2008-2015

	Chapter 7 as Percentage of All Filings	Chapter 7 as Percentage of All Filings - White Tracts	Chapter 7 as Percentage of All Filings - Black Tracts	White/Black Chapter 7 ratio
Cohen & Fila	14%	25%	12%	2.1

	Chapter 7 as Percentage of All Filings	Chapter 7 as Percentage of All Filings - White Tracts	Chapter 7 as Percentage of All Filings - Black Tracts	White/Black Chapter 7 ratio
Hurst Law Firm	13%	21%	11%	1.9
Jimmy E. McElroy & Associates	10%	17%	8%	2.1
Long, Umsted Jones & Kriger	7%	16%	5%	2.9
Teel & Maroney	16%	20%	8%	2.6
DISTRICT TOTAL	26%	39%	19%	2.1

Western Tennessee: High-Volume Attorney Breakdown, Chapter 13 Performance, Client Characteristics, 2008-2010

Law Firm	Total Chapter 13 Cases Filed	Percentage of Chapter 13 Cases Converted to Chapter 7	Percentage of Debtors from Mostly Black Tracts	Median Annual Income, Black Tracts	Median Annual Income, White Tracts	Chapter 13 Discharge Rate, Black Tracts	Chapter 13 Discharge Rate, White Tracts
Jimmy E. McElroy & Associates	4,649	2%	78%	$27,909	$35,680	20%	24%
Long, Umsted Jones & Kriger	4,017	5%	83%	$18,260	$29,512	10%	20%
Cohen & Fila	2,902	9%	80%	$19,096	$31,644	15%	26%
Teel & Maroney	2,758	5%	27%	$26,272	$30,738	37%	45%
Hurst Law Firm	2,192	4%	70%	$28,261	$38,168	27%	42%
DISTRICT TOTAL	40,671	6%	54%	$25,073	$33,500	22%	40%

Note: The median income here (annualized, but based on the monthly "current income" number) is for all cases (Chapter 7 and Chapter 13) filed in the time period and the amount is in 2015 dollars. For the discharge rate, we are using the same method described above. The "Percentage of Debtors from Mostly Black Tracts" is based on all filers (Chapter 7 and Chapter 13).

First, there is one clear outlier: Teel & Maroney has a much whiter clientele than the others. This is likely because the firm is located in Jackson, the county seat of a majority white county, as opposed to all the other firms, which are located in Memphis.

The four remaining firms can be broken into two groups. Both Jimmy McElroy, the long-reigning Chapter 13 champion of Memphis, and the Hurst Law Firm advertise on television. They also have a clientele that is relatively higher income, at least when compared to the full population of district filers.

Cohen & Fila and Long, Umsted, Jones & Kriger have very low-income clients and don't advertise on TV, instead relying exclusively on word of mouth (Long, et al doesn't even have a website). They have more clients with court or utility debt, which are more common among low-income debtors. The firms have correspondingly low discharge rates, the main difference between the two being a higher rate of Chapter 7 conversions at Cohen & Fila.

The differences between the two groups are evident when you examine what portion of each firm's clientele are repeat filers. The following breakdown is for 2015 and shows what portion of each firm's Chapter 13 filings in 2015 were for debtors who only filed once from 2011 to 2015 and what portion were for high repeat filers (those who filed four or more times in that span of time):

Western Tennessee: Measuring Repeat Filings by Top Volume Law Firms, 2015

Law Firm	Single Filing	Four or More
Cohen & Fila	34%	27%
Hurst Law Firm	59%	6%
Jimmy E. McElroy & Associates	60%	5%
Long, Umsted Jones & Kriger	33%	30%
Teel & Maroney	75%	1%

It's possible that the TV advertising by McElroy and Hurst brings in new clients, thus leading to a higher rate of unique filings. Long, Umsted, Jones & Kriger and Cohen & Fila, meanwhile, file a Chapter 13 cases for debtors who have not filed in the previous five years only about a third of the time. Often the repeat filings are for regular clients of the firm. Here, for instance, is an example of a client of Cohen & Fila who has filed 17 times since 2004,[28] all with the firm.[29] In the debtor's last filing in December 2015, she declared a current monthly income of $520. Her sources of income were disability, child support and food stamps.

Filing History for Cohen & Fila Client

Chapter	Date Filed	Date Dismissed	Result
13	Mar 18, 2004	Apr 18, 2005	Dismissed
13	Aug 3, 2006	Nov 9, 2006	Dismissed
7	Feb 5, 2007	Jul 18, 2007	Dismissed
13	Oct 31, 2007	Oct 30, 2008	Dismissed
13	Feb 2, 2009	May 15, 2009	Dismissed
13	Jul 28, 2009	Sep 24, 2009	Dismissed
7	Oct 28, 2009		Discharged
13	Sep 8, 2011	Dec 20, 2011	Dismissed
13	Dec 20, 2011	Apr 20, 2012	Dismissed
13	Apr 26, 2012	Dec 13, 2012	Dismissed
13	Dec 17, 2012	Jul 15, 2013	Dismissed
13	Jul 17, 2013	Dec 16, 2013	Dismissed
13	Dec 23, 2013	Sep 12, 2014	Dismissed
13	Oct 1, 2014	Dec 12, 2014	Dismissed

[28]Notably, the client filed under Chapter 7 in late 2009 and received a discharge. This may be one reason she chose Chapter 13 in subsequent years, since she would have been prohibited from receiving another Chapter 7 discharge in that time period.

[29]According to Tom Fila of Cohen & Fila, the firm received a total of $1,411.23 in attorney fees from this client for the 14 Chapter 13 cases filed from 2006 onward. In nine of the cases, the firm received nothing. In the next section, we discuss the issue of attorney compensation.

Chapter	Date Filed	Date Dismissed	Result
13	Feb 5, 2015	Aug 12, 2015	Dismissed
13	Sep 15, 2015	Dec 4, 2015	Dismissed
13	Dec 7, 2015	Aug 26, 2016	Dismissed

Western Tennessee - How Debtor Attorneys are Paid

No-money-down Chapter 13 cases have been predominant in Western Tennessee for as long as the judges, trustees and attorneys in the district can remember. About 71 percent of Chapter 13 cases in 2010 were filed with no money paid to the attorney prior to filing.[30] For other cases, the average amount paid up front was $326.

To examine debtor payments to attorneys in Chapter 13 plans, we used our sample of 2,394 cases[31] from 2010 (approximately 20 percent of the Chapter 13 cases filed that year). From these cases, we extracted information from the Trustee's Final Report, which lists the amount debtors paid through the plan to attorneys in addition to creditors. We also had the attorney's fee as disclosed in the order confirming the debtor's proposed plan.

Of the top five high-volume Chapter 13 filers, four firms always or nearly always filed with $0 down. McElroy's firm filed with $0 down in 83 percent of cases. The exception, he told us, is typically for debtors who have filed multiple times in recent years (we heard other attorneys say the same). For those cases, the average amount paid up front was $213.

The exception was Long, Umsted, Jones & Kriger. However, their average up-front payment was a nominal $30.

The standard Chapter 13 attorney fee for the district was until recently $3,000. However, with such a low discharge rate, attorneys rarely received that full amount. The trustees distribute payments to attorneys over time through the plan, meaning that attorneys typically do not approach full payment until the fifth year of the plan.

Accordingly, we found that the median payment to attorneys through a Chapter 13 plan for cases filed in 2010 was $861. The average payment (boosted by the minority of cases that reached discharge) was $1,249. When you add the average up-front payment of $94, you get an average total earned attorney fee of $1,343 per Chapter 13 case for the district.

Using our payment data, we estimated the earnings[32] from Chapter 13 cases by the highest volume debtor attorneys for cases filed in 2010. We found that, even though attorneys generally don't receive the stated Chapter 13 attorney fee of $3,000, they still pull in substantial revenue.

Western Tennessee Earned Chapter 13 Fees by Top Volume Law Firms, 2010

Law Firm	Total Filings 2010	Average Paid per Case	Estimated earnings from 2010 Chapter 13 cases	Percentage of Total District Filings	Percentage of Total Est. District Earnings
Cohen & Fila	836	$697	$582,300	7%	4%
Hurst Law Firm	630	$1,550	$976,623	5%	6%

[30] To calculate the amount paid up front, we isolated discharged cases and then subtracted the amount that had been paid to the attorney through the plan from the total attorney fee. We used this indirect method because we did not have the field showing how much had been paid up front. However, we checked our results against attorney fee disclosures (in addition to our conversations with attorneys) and found our results were reliable.

[31] For simplicity, we limited our sample to cases that did not convert to Chapter 7.

[32] As stated above, we excluded cases that converted to Chapter 7 from this analysis, so these numbers are an underestimate of all Chapter 13 cases. The "total filings" column is restricted to Chapter 13 cases that did not convert.

Law Firm	Total Filings 2010	Average Paid per Case	Estimated earnings from 2010 Chapter 13 cases	Percentage of Total District Filings	Percentage of Total Est. District Earnings
Jimmy E. McElroy & Associates	1,521	$1,299	$1,976,511	13%	12%
Long, Umsted Jones & Kriger	1,420	$581	$824,396	12%	5%
Teel & Maroney	746	$1,711	$1,276,480	6%	8%
DISTRICT TOTAL	11,970	$1,343	$16,077,362		

In particular, even though less than a quarter of McElroy's Chapter 13 cases reached discharge, his firm still reaped significant revenue. Meanwhile, Teel & Maroney, with its whiter clientele and higher discharge rates, outperformed its market share. The two firms with the lowest income client base (Long, Umsted and Cohen & Fila) underperformed their market share.

Finally, this data complicates the argument by some scholars that these attorneys steer their clients to Chapter 13 because of the higher $3,000 fee. In actuality, the average amount earned for Chapter 13 cases in the district was only a few hundred dollars more than the average attorney fee for a Chapter 7 filing, which was around $885.[33] Instead, we believe the balance of the evidence suggests that the difference in down payments between Chapter 13 and Chapter 7 is more important.

Western Tennessee - Examples of Attorneys Who File More Chapter 7 Cases for Black Debtors

To understand how the racial disparities in Western Tennessee might be alleviated, we looked at attorneys who, with a similar client pool as the highest volume attorneys (black debtors in the Memphis area), were filing under Chapter 7 more often or achieving higher Chapter 13 discharge rates.

We focused on two attorneys, Brad George and Jerome Payne, with mid-volume bankruptcy practices filing around 200 cases per year. To supplement the data, we interviewed both attorneys extensively.

The two firms are notable for different reasons. George has a much higher Chapter 13 discharge rate than is typical for the district and files a similar number of Chapter 13 and Chapter 7 cases for his black clients. Payne is one of the relatively few black bankruptcy attorneys in the district. For the period 2011-2015, he filed the most Chapter 7 cases on behalf of debtors from mostly black census tracts of any law firm. In both practices, Chapter 7 cases are slightly more common for white clients than for black clients, but the disparities are far smaller than is typical in the district.

In order to provide a direct comparison with the highest volume practices, here are versions of the same tables that we produced above.[34]

Western Tennessee Selected Attorney Breakdown, Chapter 7 Percentage By Race, 2008-2015

[33] "The Consumer Bankruptcy Fee Study" by Lois Lupica.

[34] To refresh your memory, these tables show monthly "current income" in 2015 dollars, the percentage of all clients that are black, and all cases that resulted in discharge, including Chapter 7 conversions.

Law Firm	Chapter 7 as Percentage of All Filings	Chapter 7 as Percentage of All Filings - White Tracts	Chapter 7 as Percentage of All Filings - Black Tracts	White/Black Chapter 7 ratio
Law Office of Brad George	45%	51%	44%	1.2
Payne Law Firm	65%	69%	63%	1.1
DISTRICT TOTAL	26%	39%	19%	2.1

Western Tennessee Selected Attorney Breakdown, Chapter 13 Performance, Client Characteristics, 2008-2010

Law Firm	Total Chapter 13 Cases Filed	Percentage of Chapter 13 Cases Converted to Chapter 7	Percentage of Debtors from Mostly Black Tracts	Median Annual Income, Black Tracts	Chapter 13 Discharge Rate, Black Tracts
Law Office of Brad George	348	17%	75%	$28,275	46%
Payne Law Firm	144	16%	78%	$28,904	28%
DISTRICT TOTAL	40,671	6%	54%	$25,073	22%

Why are these attorneys filing more Chapter 7 cases?

There is evidence, both in the attorneys' stated philosophies and in the data, that they more readily consider Chapter 7 than other attorneys in the district.[35]

"I think you should try and always, always, always do a [Chapter] 7," is how George put it. (We should also note that neither attorney shunned Chapter 13. Both said it was the best solution in certain situations: for instance, with court debt.)

As for the data, it's evident these attorneys have a dramatically different approach for evaluating the suitability of Chapter 13. Above, we identified four concerning metrics when it came to black debtors in the district: Black Chapter 13 debtors tend to have less income, fewer assets, less in secured claims, and dramatically less in unsecured claims than black Chapter 7 debtors.

For George and Payne, the first three of these metrics aren't true and the last is less extreme. In the chart below, we compared the financial profiles of the median Chapter 7 debtor to that of the median Chapter 13 debtor from a mostly black census tract. We compared the clients of George and Payne to those of McElroy, who has clients with a similar median income and the highest volume practice.

Western Tennessee Select Attorney Comparison: For Debtors from Mostly Black Census Tracts, Median Chapter 7 Values as Percentage of Median Chapter 13 Values, 2013-2015

[35] One possible factor is that the median income for the black debtors at each practice is slightly higher than the district median, and black Chapter 7 debtors in the district tend to have higher incomes than black Chapter 13 debtors. Further, Payne advertises by sending direct mail to people who have been sued over a debt, are the subject of a garnishment order, or have had a lien entered against them. This is a subset of debtors who might be naturally a better fit for a Chapter 7, since garnishments tend to arise from unsecured claims.

Law Firm	Current Income	Total Assests	Secured Claims	Unsecured Claims
Jimmy E. McElroy & Associates	111%	135%	99%	253%
Law Office of Brad George	103%	53%	7%	218%
Payne Law Firm	99%	27%	6%	210%
DISTRICT TOTAL	137%	129%	105%	299%

Attorney fees are also clearly a factor. Neither George nor Payne file Chapter 13 cases for $0 down. George said he requires between $140 and $240. For Payne, it's $250-$500.

Their Chapter 7 fees are also notable. George requires $550-$590 (low for the district), with $480 up front, although he will accept $400 in emergency cases, he said.

Payne's typical fee is around $1,200, higher than most attorneys, but his office is very flexible with payment plans, and as a result, cases are often filed with only $200-$400 down.[36] The total fee can also change depending on the resources of the debtor, he said. Payne was candid in saying that his clients will sometimes not make all the payments due, but he did not have data for how often that happened.

The way that George and Payne price their services make the Chapter 7 versus Chapter 13 decision very different. Typically debtors have a choice between paying $0 down to file under Chapter 13 or having to produce around $1,000[37] in a relatively short period of time[38] to file under Chapter 7.

With George, debtors choose, in the short term, between paying around $200 up front for a Chapter 13 or coming up with $480 for a Chapter 7. With Payne, the down payment alternatives are about the same. This has the effect of diminishing down payments as a factor in the debtor's choice of chapter.

Both Payne and George thought that their fee structures were important drivers of the higher number of Chapter 7 cases at their firms.

Western Tennessee - Discussion of Contributors to The High Rate of Chapter 13 Cases

Our analysis found that two primary factors contributed to the high rate of Chapter 13s among black debtors.

1) **The types of debt.** Mortgage, auto, court, and utility debt all provide reasons to file under Chapter 13 as opposed to Chapter 7. In particular, court and utility debt problems might be disproportionately borne by black debtors and exacerbate racial disparities in the bankruptcy system as a result.

2) **The attorney, as a result of fee structure and guidance.** We contrasted two attorneys with higher Chapter 7 filing rates to the largest firms in the district. Tellingly, these two attorneys differed from the high volume filers both in what sort of debtor they were putting into each chapter (judging by the financial profile of their debtors) and in fee structure (by avoiding $0 down Chapter 13 cases and making Chapter 7 fees more flexible).

These two factors are not distinct - and in fact can be very hard to disentangle. Debtors with very low income are more likely to have court or utility debt, and since these debts are unsecured, on paper the debtor might appear to be spectacularly unfit for Chapter 13 when in fact there are defensible reasons for filing that way. These are debtors who are also less likely to be able to afford any attorney fee that's more than nominal, thus predisposing them to Chapter 13 even if Chapter 7 were preferable.

[36] Such Chapter 7 installment plans are rare in the district for understandable reasons, given that attorney fees are discharged along with other debts. See below, in our section on the Northern District of Georgia, for more discussion.

[37] Lupica's study, cited above, found the median Chapter 7 fee in the district to be $885 in 2009. We did not collect Chapter 7 fees, but from reviewing a few dozen filings in 2010, it appeared most cases are filed with at least 50 percent of the fee paid.

[38] McElroy told us that he will file with a large down payment, with the remainder due before the creditors' meeting, which usually occurs two to four weeks after filing.

All that said, the abysmal discharge rates in the district mean that Chapter 13 is a troubling choice for many, if not most, debtors who file under that chapter. Further, the extreme differences between attorneys like Payne and George and the highest volume attorneys suggest that a very substantial percentage of Chapter 13 debtors would be better off filing under Chapter 7. In 2015, less than 20 percent of filings by debtors from mostly black census tracts were through Chapter 7. It is hard to say whether that number ought to be 40 percent or 60 percent, but it is clear it should be significantly higher.

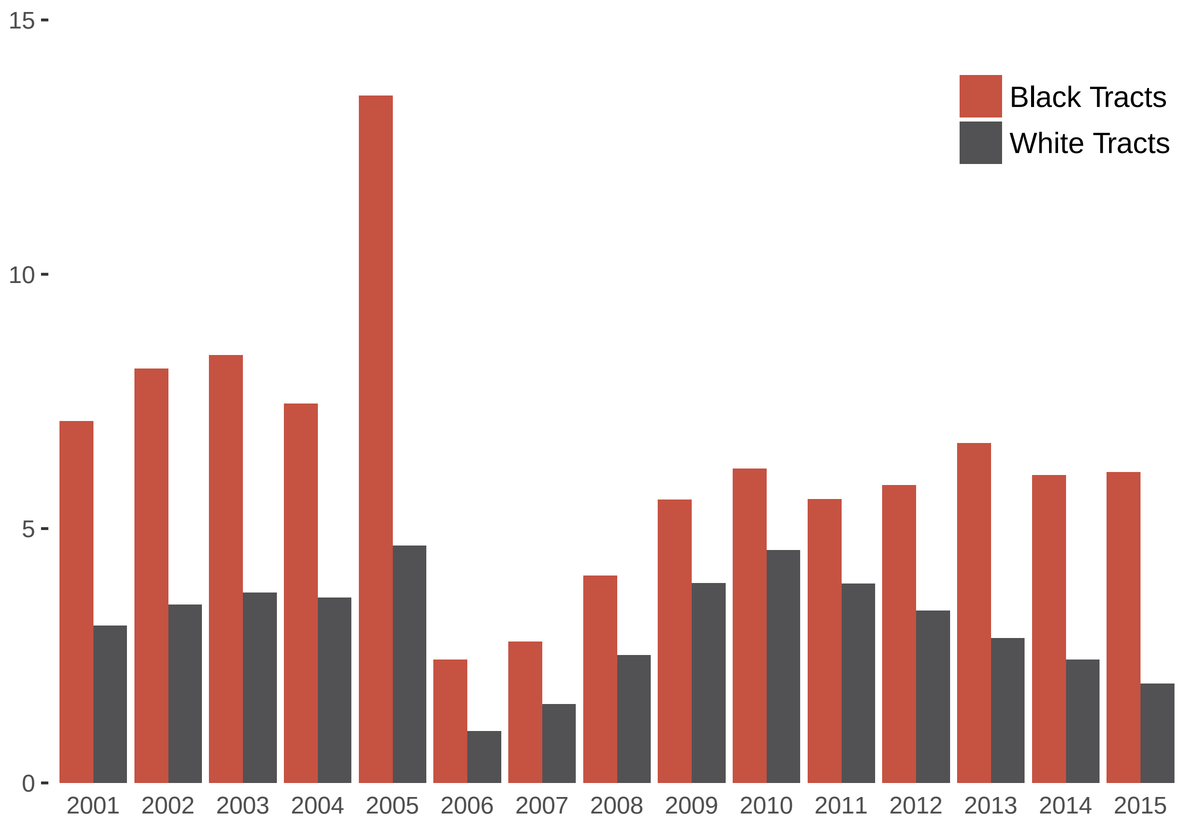
Northern Illinois - A District Emulating Memphis in Recent Years

Since 2012, the Northern District of Illinois has experienced an increase in Chapter 13 filings as Chapter 7 filings have declined. This trend is driven entirely by black debtors,[39] and almost entirely by those without real estate assets. In certain respects, there are strong similarities to the way the Western District of Tennessee has operated for years.

As above, we start with per capita filing patterns by race in the district, for both Chapter 7 and Chapter 13:

In Northern Illinois, Chapter 7 Filing Rates Are Higher in Black Areas, Have Remained Elevated

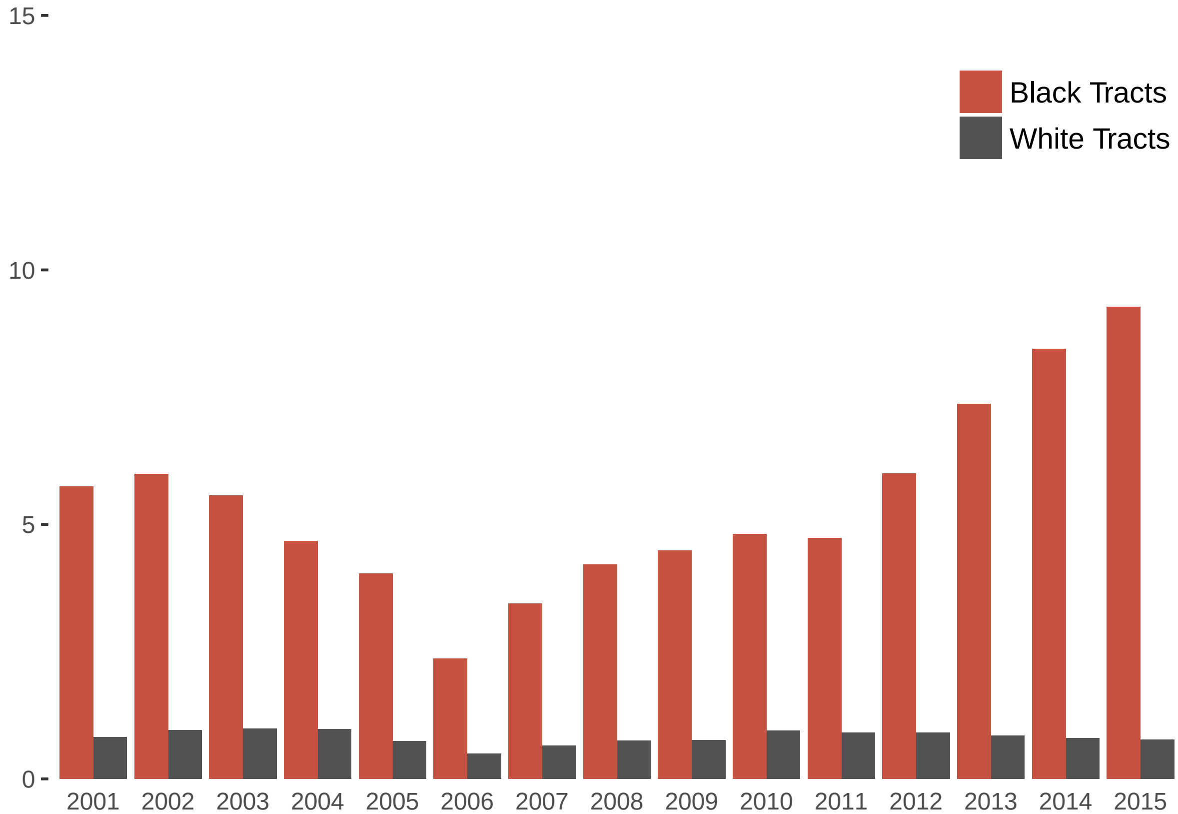
Chapter 7 filings per 1,000 residents - black census tracts vs. white census tracts



[39] A 2011 analysis by the Woodstock Institute of Cook County bankruptcy filings from 2006 through 2010 explored racial patterns in per capita filing rate and chapter choice, based on the zip code of the debtor. Our results accord with theirs. One aspect they examined and we did not is gender: they found a disproportionate number of filings by black women. They write: "Of all bankruptcy filings in Cook County in this period, 16.7 percent were filed by women in predominately African-American communities."

In Northern Illinois, Chapter 13 Filing Rates Have Been Rising Steeply in Black Areas

Chapter 13 filings per 1,000 residents - black census tracts vs. white census tracts



The rise in Chapter 13 filings has been particularly sharp among lower-income filers. The median annual income[40] in 2015 for a Chapter 13 debtor from a mostly black census tract was $25,241, down 39 percent (inflation adjusted) from 2008.[41]

Like the Western District of Tennessee, black Chapter 13 debtors in the Northern District of Illinois have tended to have lower incomes than black Chapter 7 debtors in more recent years (2014 and 2015). These are debtors largely without real estate assets. Seventy-nine percent of Chapter 13 debtors from mostly black tracts declared no real estate assets in 2015, a portion even higher than what we found in the Western District of Tennessee that year.

Also like Western Tennessee, the largest bankruptcy firms are an important force in determining the dynamics of the district. In Northern Illinois, the recent surge in filings appears to be driven mostly by the growth in filings at one particular law firm, the Semrad Law Firm, also known as DebtStoppers.[42] Below, we show the growth in market share of the top bankruptcy firms in Northern Illinois. The top two firms accounted for 46 percent of Chapter 13 filings in 2011-2015, up from 13 percent in 2001-2005. And as in the Western District of Tennessee, a broader array of attorneys file under Chapter 7.

Chapter 13 Filings in Northern Illinois Have Become Increasingly Concentrated

[40] Annualized monthly “current income.”

[41] Given this drop in the income of Chapter 13 filers in Northern Illinois, it stands to reason that the rise in Chapter 13 cases in the district has nothing to do with debtors being forced into Chapter 13 by the BAPCPA means test.

[42] The Semrad Law Firm did not respond to our requests for comment.

	2001-2005	2006-2010	2011-2015
Top 2 Law Firms - Number of Filings	9,613	15,998	40,867
Top 2 Law Firms - Percentage of All Filings in District	13%	28%	46%
Top 5 Law Firms - Number of Filings	18,890	21,019	47,416
Top 5 Law Firms - Percentage of All Filings in District	25%	36%	53%

Chapter 7 Filings in Northern Illinois are Less Concentrated

	2001-2005	2006-2010	2011-2015
Top 2 Law Firms - Number of Filings	24,589	18,122	30,280
Top 2 Law Firms - Percentage of All Filings in District	11%	13%	18%
Top 5 Law Firms - Number of Filings	44,083	27,591	40,239
Top 5 Law Firms - Percentage of All Filings in District	20%	19%	24%

From 2012-2015, DebtStoppers accounted for 29 percent of all Chapter 13 filings, and based on our data, 69 percent of their clients resided in mostly black census tracts. As a result, the firm actually accounted for 40 percent of filings by Chapter 13 debtors from mostly black tracts during that period. The firm seems to specialize in Chapter 13: Only 22 percent of filings were under Chapter 7.[43]

This rise in Chapter 13 filings in Northern Illinois by lower income black debtors is concerning because these debtors are unlikely to reach discharge.[44] Below are the district's discharge rates for debtors, broken out by income groupings and race, for Chapter 13 cases filed from 2008 through 2010:

In Northern Illinois, the Chapter 13 Discharge Rate is Lower for Black Debtors at Every Income Level

Chapter 13 discharge rates for 2008-2010 by income level and race

Income Group	Filings in Black Tracts	Filings in White Tracts	Discharge Rate in Black Tracts	Discharge Rate in White Tracts
Low	2,916	1,504	22%	33%
Low-Mid	4,303	1,835	30%	44%
Mid	3,869	2,626	38%	50%
Mid-High	2,529	2,615	45%	56%
ALL	16,384	14,297	36%	54%

Note: The discharge rate here is the percentage of all cases originally filed under Chapter 13 that ultimately resulted in discharge, including conversions to Chapter 7. This table includes cases filed from 2008 to 2010 because 2010 is the last year for which we have the final dispositions for almost all cases. The ALL line of the

[43] About 41 percent of their clients from white census tracts filed under Chapter 7 from 2012-2015, while 17 percent of their clients from black tracts did.

[44] The data we obtained from the Northern District of Illinois did not contain the partial social security number for each debtor, and as a result, we were not able to perform our analysis of repeat filings by debtors. However, given the high dismissal rates in the district, it is probable that repeat filings are at least somewhat common and will likely become more common if these increased rates of filings continue.

table includes cases where the Justice Department data did not have income information. Income is grouped by slices of $20,000. Low-income is annual income below $20,000, low-mid income is between $20,000 and $40,000, etc. The income groups here are different from the national census quintiles and so are not directly comparable to those national charts above.

As we did in the Western District of Tennessee, we examined the types of debt common among a sample[45] of Chapter 13 debtors, as evidenced by claims made by creditors. Our sample was from 2010, the height of the foreclosure crisis, so predictably mortgage debts played a very large role and were far and away the largest debt.[46]

However, as in Western Tennessee, we found large amounts of traffic-related debt, mainly owed to the City of Chicago. Even with mortgages driving the Chapter 13 filing patterns in 2010, we found that 45 percent of the debtors from mostly black tracts in our sample had traffic debt. For 8 percent of debtors, this was their largest debt. Tellingly, that number rose to 16 percent when we focused just on debtors who did not own a home.

In a recent examination of bankruptcy filings in Cook County,[47] Illinois (which comprises the bulk of filings in the Northern District), Edward Morrison and Antoine Uettwiller of Columbia Law School came to the conclusion that fines from state and local governments (mainly parking tickets) were a primary driver of the racial disparities in the district. Black debtors often chose to file under Chapter 13 in order to prevent the seizure of a car or suspension of a driver's license,[48] they found.[49] And since these debtors tended to have lower incomes, they were failing to complete their Chapter 13 plans at higher rates.

Northern Illinois - Important Differences with Memphis

All that said, the rise in Chapter 13 filings by black debtors in Chicago does not mean that the district has completely morphed into Memphis.

First, the Northern District of Illinois only matched one of the four concerning metrics we found in the Western District of Tennessee: The median income of Chapter 7 debtors from mostly black census tracts is higher than the median income of Chapter 13 debtors. But black Chapter 13 debtors in the Chicago-area still tend to have more assets than Chapter 7 debtors (although the difference is narrowing), secured claims still tend to be larger in Chapter 13 cases, and the difference in unsecured claims between Chapter 7 and Chapter 13 cases is fairly normal by national standards.

Second, even with the steep increase in Chapter 13 filings, debtors from mostly black census tracts still filed under Chapter 7 about 40 percent of the time in 2015. That is twice the rate of Western Tennessee (17 percent in 2015).

Third, the debt mix is different. Auto debt appears to be much less of a salient factor in Chicago than in Memphis. Further, utility debt was fairly common in Chicago (46 percent of debtors from mostly black tracts, according to our sample), but it was extremely rare for it to be the largest debt. Based on our findings and those of Morrison and Uettwiller, it appears that court/traffic debt is much more of a dominant factor in Northern Illinois filings than in Western Tennessee.

[45] Using the methodology explained above in the Western District of Tennessee analysis, we categorized all creditors listed in the claims register for 1,000 Chapter 13 filings in the Northern District of Illinois from 2010.

[46] In filings by debtors from mostly black tracts, a mortgage was the largest debt in at least 42 percent of cases. No other type of debt was above 15 percent.

[47] "Consumer Bankruptcy Pathologies" by Edward R. Morrison and Antoine Uettwiller (2016).

[48] On the website for DebtStoppers, the firm highlights this as one of the key forms of debt: "A DebtStoppers bankruptcy plan can wipe out your entire parking ticket balance and get your license back immediately."

[49] Morrison and Uettwiller write that one reason for the large number of these types of cases in the district is a 2009 appeals court decision that made it easier for debtors to have repossessed property returned to them upon filing under Chapter 13. This gives debtors an incentive to use Chapter 13 to get their cars back from the city. Similarly, attorneys in the Western District of Tennessee told us a key reason for the large number of cases associated with driver's licenses in that district was cooperation from the local criminal court in arranging for licenses to be reinstated upon confirmation of a Chapter 13. So, while it is unclear how common these sorts of legal or traffic debts are in other parts of the country, it seems that some special conditions are necessary for them to be a routine feature of Chapter 13 cases.

Northern Illinois Statistical Analysis: Racial Disparities Persist Even Controlling for Income and Other Debtor Characteristics

As with the national analysis, we used multivariate logistic regression to evaluate three key questions about the role of race in the district while holding constant debtor income and other characteristics. The analysis included cases from 2008-2010. Cases were identified as being in a majority black or non-Hispanic white census tract, and only cases in majority black or white census tracts were included in the analysis. Full regression results and model specifications are available in Appendix A.

1) How big was the racial disparity in the outcome of all bankruptcy filings?

Using the methods employed in the analysis of the national data, we evaluated the disparity evident in all filings in the Northern District of Illinois. ***For debtors living in black areas, the odds of having a case dismissed were about four times as high as those of debtors living in white areas***, controlling for income and other financial characteristics.

Odds of Dismissal (All Filings)

	Discharged Cases	Dismissed Cases	Odds of Dismissal	Standard Error	
White Tracts	69,434	7,273	0.105		
Black Tracts	23,721	10,634	0.448		
Unadjusted Odds Ratio			4.280		
Modeled Odds Ratio			3.855	0.018	***

2) How big was the racial disparity in the outcome of Chapter 13 filings?

For debtors living in black areas, the odds of having a Chapter 13 case dismissed were about 70 percent higher than those of debtors living in white areas, controlling for income and other financial characteristics.

Odds of Dismissal (Chapter 13 Filings)

	Discharged Cases	Dismissed Cases	Odds of Dismissal	Standard Error	
White Tracts	7,685	6,101	0.794		
Black Tracts	5,807	9,962	1.716		
Unadjusted Odds Ratio			2.161		
Modeled Odds Ratio			1.727	0.025	***

3) How big was the racial disparity in chapter choice?

For debtors living in black areas, the odds of filing under Chapter 13 were about four times as high as those for debtors living in white areas, controlling for income and other financial characteristics.

Odds of Filing Under Chapter 13

	Chapter 7 Cases	Chapter 13 Cases	Odds of Chapter 13	Standard Error	
White Tracts	62,921	13,786	0.219		
Black Tracts	18,586	15,769	0.848		
Unadjusted Odds Ratio			3.872		
Modeled Odds Ratio			4.172	0.016	***

Areas for Further Inquiry - Districts with Worrying Chapter 13 Patterns

As our national analysis showed, racial disparities pervade the bankruptcy system. But there are certain districts where it is especially clear that debtors are being poorly served because of an overreliance on Chapter 13. How might we identify other such districts that are worthy of scrutiny - and, potentially, reform?

We used our four metrics to identify problem districts. Meeting one of these metrics might indicate that a large number of debtors in the district are filing under Chapter 13 when they would be better off under Chapter 7.

The metrics, again, are: The median Chapter 13 debtor had less income, was poorer in terms of assets, had less in secured claims, and had dramatically fewer unsecured claims than the median Chapter 7 debtor.

We looked at these metrics for each district (all filings, not limited by race) for the time period 2013-2015. We calculated the median Chapter 7 debtor's value as a percentage of the median Chapter 13 debtor's value and found that 14 of the country's 91 districts[50] met at least one of these metrics. All but one had higher Chapter 13 filing rates than the national rate of 33 percent of all filings. The only districts that met all four metrics were Western Tennessee and Southern Georgia. Two other districts, Northern Illinois and Northern Alabama, met two. To perform this analysis we calculated the median value for all filings in each district, by chapter, for 2013-2015.

Below we show the 14 districts that met at least one metric, shading the cells blue where the district crossed the threshold for the metric. Again, each field provides the median Chapter 7 value as a percentage of the median Chapter 13 value for each district.

[50] For this analysis, we excluded Guam, the Virgin Islands, and the Northern Mariana Islands.

Outlier Districts, Median Chapter 7 Values as Percentage of Median Chapter 13 Values, 2013-2015

District Name	Total Assets	Secured Claims	Unsecured Claims	Current Income	Chapter 13%
Alabama Middle	95%	96%	190%	110%	81%
Alabama Northern	61%	76%	211%	103%	52%
Alabama Southern	46%	54%	185%	102%	71%
Connecticut	55%	51%	269%	70%	14%
Georgia Middle	98%	95%	187%	104%	69%
Georgia Southern	123%	113%	221%	101%	80%
Illinois Northern	104%	88%	160%	101%	38%
Mississippi Northern	84%	69%	179%	104%	59%
Mississippi Southern	58%	43%	204%	94%	47%
Tennessee Eastern	52%	55%	217%	99%	46%
Tennessee Western	140%	114%	298%	131%	76%
Texas Northern	63%	31%	202%	93%	61%
Texas Southern	60%	24%	227%	74%	62%
Texas Western	65%	35%	207%	88%	51%
NATIONAL	30%	21%	164%	82%	33%

Note: We chose the admittedly arbitrary cutoff of 200 percent to mean "dramatically more" unsecured debt.

Areas for Further Inquiry - The Higher Rate of Chapter 7 Filings in North Georgia

The Northern District of Georgia is a notable exception to the list above. $0 down Chapter 13 cases are common in the district, and the Atlanta area has a large black population.

But almost half of filings in the mostly black zip codes in the Northern District of Georgia from 2013 through 2015 were under Chapter 7. That was more than double the rate in the mostly black zip codes in the rest of the state.

The highest-volume firm in the Atlanta area is Clark & Washington, according to our review of filings in the district for 2010 and 2014,[51] when the firm filed the most Chapter 7 and Chapter 13 cases. Crucially, the firm offers a Chapter 7 installment plan for $0 down.[52] One example we reviewed from 2014 involved $150 payments spread out 10 months.

Chapter 7 installment plans are not common in most districts because the bankruptcy attorney risks violating the automatic stay on debts or the discharge by collecting fees after the case commences.

In recent years, Clark & Washington dealt with this issue by collecting fees via a dual contract arrangement: one prior to filing (involving $0 in attorney fees) and the second after the petition is filed (involving the full fee). The arrangement was upheld[53] in 2012 by a judge in the Middle District of Florida, where Clark & Washington also have offices. More recently, a 2015 decision by the chief judge in the Northern District

[51] We performed an analysis of all consumer filings in the district in 2010 and 2014. The data was based on case reports from PACER, which identified the debtor attorney for each case.

[52] See the firm's website. Both Chapter 7 and Chapter 13 involve no up-front attorney fee, although a Chapter 13 requires $75 before filing for the filing fee and other case costs (like credit counseling).

[53] See the judge's decision here. The case arose from a challenge by the U.S. Trustee to Clark & Washington's previous practice of accepting post-dated checks from debtors to pay for Chapter 7 cases in installments. After the judge decided against that practice, Clark & Washington moved to the two-contract procedure. The U.S. Trustee then challenged that practice as well, which is when the judge decided in Clark & Washington's favor. Other high-volume firms in the Atlanta area also adopted this procedure.

of Georgia approved the use of post-dated checks to pay attorney fees over several months, and Clark & Washington and other large firms in the district subsequently switched back to a single contract arrangement.[54]

The availability of a Chapter 7 installment plan appears to have resulted in a much higher rate of Chapter 7 filings. Tellingly, 54 percent of Clark & Washington's filings were under Chapter 7 in the years we examined, which was about the same as the total for the district, 56 percent. As we have shown above in our discussions of Western Tennessee and Northern Illinois, the highest-volume firms in a district can have an outsized effect on the filing patterns there.

Together with the examples of attorneys in the Western District of Tennessee who file a higher number of Chapter 7 cases for their black clients, the striking contrast of Northern Georgia with the rest of the state provides more evidence that flexibility with Chapter 7 attorney fees is an important factor in mitigating high Chapter 13 rates and potentially reducing racial disparities in chapter choice.

Appendix A: Regression Results

We used multivariate logistic regression to evaluate racial differences in chapter choice and outcomes while holding debtor income and other characteristics constant.

For our analyses, we included all Chapter 7 and Chapter 13 cases from 2008-2010. 2008 is the first year we have data for, and 2010 is the last year for which we have the final dispositions for almost all cases. Cases were identified as being in majority black or non-Hispanic white areas, and only cases in majority black or white areas were included in the analysis. List wise deletion was used to exclude cases with missing data or data quality issues, which removed about 4 percent of all cases.

The log of current monthly income was included as a covariate. As is common practice, cases where current monthly income was reported as zero dollars were included in the continuous log measure as if they had one dollar of income. An additional binary variable was included in the model to identify those cases. The log of secured debts was also included as a covariate, handling cases with no secured debts in the same manner. Log current monthly income and log secured debts were measured in 2015 inflation-adjusted dollars.

A binary variable indicating cases where the debtor held real estate assets was included. The ratio of secured to total debt was also included as a covariate. In the national analysis, fixed effects for court district were included. Because there are 91 court districts in the country, model estimates for court districts are not shown. Court district was not included in the Tennessee-West or Illinois-North models because the models were within a single court district.

Cases were categorized as dismissed if they had some form of disposition, but did not result in a discharge. This included the small percentage of cases (about 2 percent of dispositions) where the debtor did not receive a discharge for failure to provide certification of the financial management course.

Adjusted odds ratios, standard errors, and p-values are reported. Two-sided z-tests were used to test the null hypothesis that dismissal (or chapter selection) is independent of race. Stars indicate p-values at the follow levels: *** less than 1 percent; ** less than 5 percent; * less than 10 percent.

All analyses were conducted using R statistical software.

National: Odds of Dismissal (All Filings)

	Estimate	Standard Error	P-Value	
Race - black	2.194	0.005	<0.001	***
Monthly income, log	1.116	0.003	<0.001	***
Monthly income is zero	2.651	0.023	<0.001	***

[54]From the decision: "If courts were to prohibit the use of post-dated checks in Chapter 7 bankruptcies, it would defeat the very purpose of chapter 7 filings and would deter many attorneys from representing chapter 7 debtors."

	Estimate	Standard Error	P-Value	
Secured debts, log	0.717	0.003	<0.001	***
Secured debts are zero	0.063	0.024	<0.001	***
Has real estate	0.792	0.007	<0.001	***
Ratio of secured debt to total debt	20.146	0.013	<0.001	***

Note: 2,736,391 total cases included.

National: Odds of Dismissal (Chapter 13 Filings)

	Estimate	Standard Error	P-Value	
Race - black	1.459	0.007	<0.001	***
Monthly income, log	0.721	0.004	<0.001	***
Monthly income is zero	0.111	0.032	<0.001	***
Secured debts, log	0.847	0.004	<0.001	***
Secured debts are zero	0.316	0.033	<0.001	***
Has real estate	0.651	0.009	<0.001	***
Ratio of secured debt to total debt	5.973	0.016	<0.001	***

Note: 786,746 total cases included.

National: Odds of Filing Under Chapter 13

	Estimate	Standard Error	P-Value	
Race - black	2.330	0.005	<0.001	***
Monthly income, log	1.905	0.002	<0.001	***
Monthly income is zero	108.451	0.021	<0.001	***
Secured debts, log	0.691	0.002	<0.001	***
Secured debts are zero	0.030	0.020	<0.001	***
Has real estate	1.198	0.006	<0.001	***
Ratio of secured debt to total debt	15.662	0.011	<0.001	***

Note: 2,736,391 total cases included.

Western Tennessee: Odds of Dismissal (All Filings)

	Estimate	Standard Error	P-Value	
Race - black	2.470	0.021	<0.001	***
Monthly income, log	0.725	0.014	<0.001	***
Monthly income is zero	0.090	0.120	<0.001	***
Secured debts, log	0.605	0.015	<0.001	***
Secured debts are zero	0.028	0.128	<0.001	***
Has real estate	0.608	0.035	<0.001	***
Ratio of secured debt to total debt	24.960	0.067	<0.001	***

Note: 46,477 total cases included.

Western Tennessee: Odds of Dismissal (Chapter 13 Filings)

	Estimate	Standard Error	P-Value	
Race - black	1.720	0.027	<0.001	***
Monthly income, log	0.566	0.021	<0.001	***
Monthly income is zero	0.018	0.179	<0.001	***
Secured debts, log	0.890	0.019	<0.001	***
Secured debts are zero	0.835	0.159	0.26	
Has real estate	0.516	0.043	<0.001	***
Ratio of secured debt to total debt	3.816	0.079	<0.001	***

Note: 33,261 total cases included.

Western Tennessee: Odds of Filing Under Chapter 13

	Estimate	Standard Error	P-Value	
Race - black	2.509	0.023	<0.001	***
Monthly income, log	1.035	0.015	0.022	**
Monthly income is zero	0.948	0.125	0.67	
Secured debts, log	0.447	0.018	<0.001	***
Secured debts are zero	0.002	0.150	<0.001	***
Has real estate	0.899	0.039	0.007	***
Ratio of secured debt to total debt	100.059	0.080	<0.001	***

Note: 46,477 total cases included.

Northern Illinois: Odds of Dismissal (All Filings)

	Estimate	Standard Error	P-Value	
Race - black	3.855	0.018	<0.001	***
Monthly income, log	1.226	0.013	<0.001	***
Monthly income is zero	4.618	0.115	<0.001	***
Secured debts, log	0.615	0.014	<0.001	***
Secured debts are zero	0.019	0.123	<0.001	***
Has real estate	0.788	0.037	<0.001	***
Ratio of secured debt to total debt	28.096	0.070	<0.001	***

Note: 111,062 total cases included.

Northern Illinois: Odds of Dismissal (Chapter 13 Filings)

	Estimate	Standard Error	P-Value	
Race - black	1.727	0.025	<0.001	***
Monthly income, log	0.661	0.020	<0.001	***
Monthly income is zero	0.047	0.185	<0.001	***
Secured debts, log	0.873	0.020	<0.001	***
Secured debts are zero	0.456	0.176	<0.001	***
Has real estate	0.612	0.051	<0.001	***
Ratio of secured debt to total debt	5.308	0.093	<0.001	***

Note: 29,555 total cases included.

Northern Illinois: Odds of Filing Under Chapter 13

	Estimate	Standard Error	P-Value	
Race - black	4.172	0.016	<0.001	***
Monthly income, log	2.194	0.013	<0.001	***
Monthly income is zero	276.711	0.116	<0.001	***
Secured debts, log	0.552	0.013	<0.001	***
Secured debts are zero	0.005	0.109	<0.001	***
Has real estate	1.106	0.032	0.002	***
Ratio of secured debt to total debt	27.279	0.061	<0.001	***

Note: 111,062 total cases included.

Appendix B: Effect of Means Test on Western Tennessee Filings

One reason some debtors might file under Chapter 13 in the Western District of Tennessee is that they are forced to by the means test established by BAPCPA, which prevents debtors with sufficient disposable income from filing under Chapter 7. To quantify the role of the means test, we collected the household size and disposable income disclosures from our sample of 20 percent of Chapter 13 cases (2,394 cases), then matched that with the income and unsecured claims data that we already had. This allowed us to run the means test.

We found that about 9 percent of Chapter 13 filers in the district had high enough income and disposable income that they did not have the choice to file under Chapter 7. Predictably, this number was smaller for debtors from mostly black census tracts (5 percent).

It's likely that the means test is even less of a factor in more recent years, since the incomes of filers have fallen lower. From this we conclude that the means test is not a significant factor in explaining the high rates of Chapter 13 cases in the Western District. Furthermore, the very high rate of Chapter 13 filings in the district dating back to 2001 makes clear that the predominance of Chapter 13 in the district predates BAPCPA.