



U.S. BANKRUPTCY COURT NEWSLETTER

FALL 2007

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August 2007 First Month Since Bankruptcy Law Change That More Than 1,000 Cases Filed in District of Arizona

By Terry Miller, Clerk of Court

It has been almost two years since the nation's bankruptcy law was revised and the same length of time that the U.S. Bankruptcy Court in Arizona received 1,000 or more new bankruptcy cases in any given month. But August 2007 saw 1,021 new bankruptcy cases filed in the court. According to data posted by the United States Bankruptcy Court for the District of Arizona, bankruptcy cases filed in Arizona are currently outpacing last year's filings by 62% through the end of August 2007. New filings received through August 2007 totaled 6,528 new bankruptcy cases. By comparison, in 2006 through August, the Court received just 4,025 new bankruptcy cases. At the current pace of filing, just under 10,000 new bankruptcy cases can be expected by the end of this year.

While new BAPCPA provisions require a prospective bankruptcy filer to complete pre-filing credit counseling and to determine whether they qualify to file a Chapter 7 case by completing a Chapter 7 means test; for individual or married filers, Chapter 7 bankruptcy remains the most frequently selected chapter, followed by Chapter 13 bankruptcy.

**Please see pp. 5-6 for calendar year 2007 vs. 2006 filing statistics.*

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Arizona's U.S. Bankruptcy Court Newsletter is a publication of court policies, procedures, and information designed to assist the public and members of the bar.

Redfield T. Baum, Chief Judge

George B. Nielsen, Jr., Judge

Sarah Sharer Curley, Judge

James M. Marlar, Judge

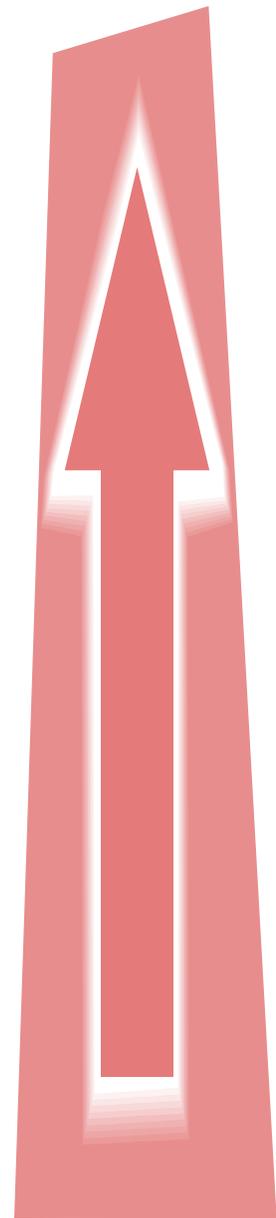
Charles G. Case II, Judge

Randolph J. Haines, Judge

Eileen W. Hollowell, Judge

Terrence S. Miller, Clerk of Court

Marta H. Labus, Editor



Welcome to Walsh!

The Tucson Division opened their new first floor lobby, intake and cashier areas in July. We welcome you to stop by!



From left to right: Judge James M. Marlar, Teresa, Cindy, Diana, Lupe, Betsy, Gloria, Bev, Keyryn, Maureen, Cheryl, Jannis, and Judge Eileen W. Hollowell



*From left to right: Shawn, Kathy, Nancy, Cynthia, Kay, Kathy, Trudy, Alicia, Shirley and David
(Not pictured: Eunice and Jill)*

AV Tronics Named New Court Transcript Provider; Transcript Ordering Procedures Revised 08/08/2007



AV Tronics has been awarded a contract for transcription services provision to the Arizona bankruptcy court. The initial one-year contract period runs from October 1, 2007 to September 30, 2008 and includes two one-year options to extend. A table of per page prices for transcripts appears at the end of this article.

Procedures for the ordering of written transcripts were revised as of August 8, 2007:

To place an order for a

written transcript in a Phoenix case, please call the ECR line at 602-682-4200. For Tucson, please call 520-202-7990 for cases in Judge Marlar's court and 520-202-7568 for cases in Judge Hollowell's court. For Yuma cases, please call 928-783-2288. The ECR department will provide an estimated cost of ordering written transcript(s) and will take confirmation of the order via phone.

Once you have confirmed your order, the order is deemed submitted and you will be obligated to pay the cost of the transcript directly to AV Tronics. AV Tronics

will notify you of the exact amount and arrange payment methods. Once completed, the transcript will be e-mailed to you. You can also make other arrangements with AV Tronics to receive a transcript.

For information regarding AV Tronics, please call **602-263-0885** for Phoenix and Yuma cases and **520-403-8024** for Tucson cases.

Av Tronics Per Page Prices, 10/01/2007-09/30/2008			
Ordinary Transcripts	Original: \$3.00	Copy to Each Party: \$.75	Each Addtl. Copy to Each Party: \$.50
Expedited Transcripts	Original: \$4.10	Copy to Each Party: \$.75	Each Addtl. Copy to Each Party: \$.50
Daily Transcripts	Original: \$5.20	Copy to Each Party: \$1.00	Each Addtl. Copy to Each Party: \$.75
Hourly Transcripts	Original: \$.6.30	Copy to Each Party: \$1.00	Each Addtl. Copy to Each Party: \$.75

High Foreclosures but Low Bankruptcies: Why the Disconnect?

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It's not news that foreclosure rates have skyrocketed. In the first half of this year, home foreclosure filings were up 128 percent in Arizona and 56 percent nationwide, compared to the first half of 2006, according to RealtyTrac. Yet bankruptcy filings are dramatically lower this year than in 2004 (the most recent comparable year, before the new bankruptcy law took effect). According to the U.S. Bankruptcy Court in the District of Arizona and the American Bankruptcy Institute, bankruptcy filings this year will be down 70 percent in Arizona and 50 percent nationwide, compared to 2004.

If foreclosures are up so dramatically compared to previous years, then why are bankruptcy numbers relatively low? "That is the question to find out," said Terry Miller, Clerk for the U.S. Bankruptcy Court in the District of Arizona. "It used to be that people would file for bankruptcy to stave off foreclosure, but we're just not seeing that now," he added.

Are more stringent bankruptcy laws the culprit?

On October 17, 2005, the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) went into effect. But it's not that the new law has changed how homeowners would go about saving their home through bankruptcy. "The basic rules about what to do to keep the house are the same under the new law," said Randy Haines, who is an adjunct professor at the Sandra Day O'Connor College of Law and a judge for the U.S. Bankruptcy Court in the District of Arizona.

But the new law, designed to counter perceived abuses of the bankruptcy system, has made filing for bankruptcy more complex, Miller said. "Under the new law, there are more requirements for individual filers," he said. Specifically, there are three new requirements:

1. Before filing, the individual must complete a consumer credit counseling program, within a relatively short period of time.
2. The individual must pass a means test to determine if his income, assets,

and debts qualify him for Chapter 13 (restructuring) or Chapter 7 (liquidation). But Haines said that the number of individual filers who are disqualified by the means test is very small.

3. Once the individual has filed for bankruptcy, he must complete a financial management program before discharge.

In addition, filing for bankruptcy has become more expensive. "In Arizona, filing fees for Chapter 7 have increased from \$209 to \$299 and filing fees for Chapter 13 have increased from \$194 to \$274," Miller said. And because filing is now more complicated and time-intensive (especially because of the means test requirement), attorneys' fees are also now more expensive.

Or does the new bankruptcy law just seem too daunting?

The combination of greater complexity and greater expense may make bankruptcy seem too daunting for many would-be filers, Miller suggested. But perhaps that is a misperception.

(Continued on page 13)



**United States Bankruptcy Court
Filing Statistics Analysis
Calendar Year 2007 vs. 2006**

<u>CHAPTER 7</u>	<u>PHOENIX</u>		%	<u>TUCSON</u>		%	<u>YUMA</u>		%	<u>DISTRICT</u>		%
	2006	2007		2006	2007		2006	2007		2006	2007	
January	162	273	68.5	42	106	152.3	8	31	287.0	212	410	93.3
February	195	320	64.1	66	122	84.8	12	37	208.3	273	479	75.4
March	282	431	52.8	137	167	21.8	26	57	119.2	445	655	47.1
April	288	417	44.8	131	140	6.9	25	41	64.0	444	598	34.7
May	307	417	35.8	116	199	71.6	24	39	62.5	447	655	46.5
June	296	423	42.9	128	200	56.3	27	44	63.0	451	667	47.9
July	280	458	63.6	107	173	61.7	20	64	220.0	407	695	70.8
August	321	529	64.8	123	193	56.9	38	61	60.5	482	783	62.4
September	314			107			45			466		
October	361			126			33			520		
November	329			127			34			490		
December	241			112			14			367		
TOTALS	3376			1322			306			5004		

<u>CHAPTER 11</u>	<u>PHOENIX</u>		%	<u>TUCSON</u>		%	<u>YUMA</u>		%	<u>DISTRICT</u>		%
	2006	2007		2006	2007		2006	2007		2006	2007	
January	5	12	140.0	2	0	(100.0)	1	2	100.0	8	14	75.0
February	5	27	440.0	3	2	(33.4)	0	0	0.0	8	29	262.5
March	19	15	(21.1)	1	4	300.0	0	1	100.0	20	20	0.0
April	14	10	(28.6)	2	3	50.0	0	1	100.0	16	14	(12.5)
May	5	18	260.0	1	4	300.0	0	0	0.0	6	22	266.7
June	17	13	(23.5)	0	1	100.0	0	1	100.0	17	15	(11.8)
July	8	14	75.0	0	1	100.0	1	6	500.0	9	21	133.3
August	7	12	71.4	6	6	0.0	0	0	0.0	13	18	38.5
September	8			0			0			8		
October	9			1			0			10		
November	10			0			0			10		
December	7			4			1			12		
TOTALS	114			20			3			137		

**United States Bankruptcy Court
Filing Statistics Analysis
Calendar Year 2007 vs. 2006**

<u>CHAPTER 13</u>	<u>PHOENIX</u>		%	<u>TUCSON</u>		%	<u>YUMA</u>		%	<u>DISTRICT</u>		%
	2006	2007		2006	2007		2006	2007		2006	2007	
January	63	113	79.3	19	42	121.0	1	13	1200.0	83	168	102.4
February	61	120	96.7	12	29	141.6	3	3	0.0	76	152	100.0
March	68	106	55.8	21	48	128.5	3	8	166.6	92	162	76.0
April	76	120	57.9	22	44	100.0	2	5	150.0	100	169	69.0
May	68	128	88.2	26	42	61.5	4	5	25.0	98	175	78.6
June	72	146	102.8	22	54	145.5	3	13	333.3	97	213	119.6
July	64	120	87.5	32	48	50.0	2	5	150.0	98	173	76.5
August	87	151	73.6	34	64	88.2	1	5	400.0	122	220	80.3
September	67			33			8			108		
October	93			57			7			157		
November	92			49			5			146		
December	117			37			6			160		
TOTALS	928			364			45			1337		

<u>TOTAL FILINGS</u>	<u>PHOENIX</u>		%	<u>TUCSON</u>		%	<u>YUMA</u>		%	<u>DISTRICT</u>		%
	2006	2007		2006	2007		2006	2007		2006	2007	
January	230	398	73.0	63	148	134.9	10	46	360.0	303	592	95.3
February	261	467	78.9	81	153	88.8	15	40	166.6	357	660	84.8
March	369	552	49.5	159	219	37.7	29	66	127.5	557	837	50.2
April	378	547	44.7	155	187	20.6	27	47	74.1	560	781	39.5
May	380	563	48.2	143	246	72.0	28	44	57.1	551	853	54.8
June	386	582	50.8	150	255	70.0	30	58	93.3	566	895	58.1
July	352	592	68.2	139	222	59.7	23	75	226.1	514	889	73.0
August	415	692	66.7	163	263	61.3	39	66	69.2	617	1021	65.5
September	389			140			53			582		
October	463			184			40			687		
November	431			176			39			646		
December	365			153			21			539		
TOTALS	4419			1706			354			6479		

ECF Filing Tips: October 2007



By Michael Temple, Chief Deputy

Adding Your Client as a Party to the Case:

When you file a pleading or other document in a case for the first time and you are required to add your client to the case, you need to consider the following before deciding whether to add an address for your client.

If you add the address for your client as follows, then you will receive two notices, one mailed to you as attorney for your client and the second mailed to your client at your law firm address:

ABC Corporation
c/o John Attorney
Attorney, Counselor & Jones LLP
123 North First Ave. Suite 111
Phoenix AZ 85001

Therefore, unless you want to receive two copies of the mailed notice, you should either: (1) input the mailing address of your client if your client wants to receive copies of mailings directly or (2) add no address and leave the address lines blank. If your client's address was included in the mailing list filed by the debtor and that address is correct, then your client will already have received a copy of notices mailed by the court or by another party using a creditor mailing matrix generated from ECF. In this instance you will want to leave the address line blank so that your client will not receive two copies.

Unclaimed Funds Fillable Forms and Instructions

Court clients can now click on the "Unclaimed Funds" link at the left on the court's home page at www.azb.uscourts.gov and access instructions for filing an application for payment of unclaimed funds. Instructions detail the rules for filings claims by individual claimants, corporations or partnerships, and representatives of deceased parties and list all

required supporting documentation. The Application for Payment of Unclaimed Funds includes an information sheet required for payment and a Notice of Service. These unclaimed funds forms and instructions can also be accessed from the "Creditor Help" menu at the top of the court's home page.

For additional information and/or assistance with un-

claimed funds recovery, please contact Rosie Staten at 602-682-4130 or Janet Spiker at 602-682-4132. You may also reach Financial Services at 800-556-9230 ext. 4130 or 800-556-9230 ext. 4132.



Live Chat

Comes to the USBC Website



On August 6, 2007, the U.S. Bankruptcy Court for the District of Arizona launched an online chat pilot program. Each business day from 10:00 a.m. to 2:00 p.m., a clerk's office representative has been available to assist with customer service inquiries from the court's website.

Initial usage has appeared promising; 30 live chat sessions were logged during the first two weeks of the program, and during the last week in August, 20 sessions were documented. The court thus plans to continue offering its customers the live chat option and will extend chat hours to match its hours of operation, 9 a.m.-4 p.m. Currently the court holds three operators' licenses and may add a fourth if live chat usage warrants it.

Those who use the service can categorize their questions as either general customer service-related or requests for ECF support. Questions received during the first weeks of the pilot program's operation include:

Creditor Question: "I'm a creditor in a bankruptcy case and want to find out if we have a court date or if the trustees attorneys have received the settlement."

Debtor Questions: "Hello we had the meeting of trustees in July and have heard nothing since and have no idea what comes next as far as court goes our case number is 07-xxxxx. Ok so we don't have anymore court dates unless someone objects then?"

"I just need to know what "terminated" means on a BK."

"I would like to know how I find out what exactly has been discharged on my Chapter 7 bankruptcy."

AZ Attorney Question: What credit counseling services do you recommend to fulfill the prepetition requirement?

General Question: Where can I find the bankruptcy docket on a borrower who filed June 11, 2007?

Below is a sample live chat session between one of the court's Data Quality Analysts and a satisfied customer.

Visitor Name: Trisha Viscardi

Browser Information: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; .NET CLR 1.1.4322)

Cindy: Welcome to the US Bankruptcy Court, District of Arizona, real-time support chat. How may I help you today?
How may I help you.

Trisha Viscardi: Hi there. I work for a mortgage company in Florida and my customer is trying to close on a new home next week and cannot locate his bankruptcy papers. His bankruptcy was in 2003 and I have the case number. How can I get a copy of the discharge of debtors.

Cindy: Please give me the case number and I'll see if the discharge is available to e-mail to you.

Trisha Viscardi: Thank you soooooooooooooooooooooo much
It is 03-03252-PHX-CGC

Cindy: Please give me a few minutes to research this. Thank you.

Cindy: To register for an ID and password or for billing and support inquiries, please contact the PACER Service Center at 1-800-676-8856 or go to their website at pacer.psc.uscourts.gov There is a charge for using PACER. Once you have obtained a password, you will be able to login at ecf.azb.uscourts.gov.

Cindy has sent this URL link:

<http://pacer.psc.uscourts.gov>

The discharge is imaged in; however, the court usually provides the debtor with a copy of the discharge papers. Please give me your e-mail address and I'll send you the copy of the papers. However, for future reference, I am attaching a link to PACER so you can obtain an account, and access future clients should the need arise.

Trisha Viscardi: Thank you. My borrower could only find the cover page and the attorney who prepared them was disbarred so I am not having much luck with them. Thank you for the PACER link. My email address is triscardi@minto7la.com. I really appreciate this. This man would have lost his earnest money deposit if we couldn't get these in time. :) Have a great day.

Cindy: You're very welcome. Glad to help. This concludes our chat session. Have a nice afternoon.



New Transcript Redaction Policy and Procedures

This court provides public access to transcripts of court proceedings. In doing so, effective August 1, 2007, the court will follow the [*Judicial Conference policy](#) on electronic availability of transcripts of court proceedings before making official transcripts electronically available to the public. The policy will apply to all transcripts of proceedings or parts of proceedings ordered on or after August 1, regardless of when the proceeding took place.

**(Click on the hyperlink above to view the Forms & Publication page on the court's web site and link to the entire document, with the Judicial Conference policy attached.)*

The policy establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public. A party must file a notice of intent to request redaction within five business days of the filing of the official tran-

script by the court reporter/transcriber. If a party fails to request redaction within this time frame, the transcript may be made electronically available without redaction. A copy of the officially filed transcript will be available for review or purchase from the clerk's office or court reporter/transcriber during this five day period. This copy of the transcript may be in paper format at 10¢ a page or disk/CD format for \$26 each.

If a party files a redaction notice, the transcript is not to be made remotely electronically available to the general public until the redactions are performed. A copy of the officially filed transcript will be available for review or purchase from the clerk's office or court reporter/transcriber during this time. Within 21 calendar days from the filing of the transcript with the clerk, or longer if ordered by the court, the parties must submit to the court reporter/transcriber a statement indicating where the personal

identifiers appear in the transcript by page and line and how they are to be redacted. For example, if a party wanted to redact the Social Security number 123-45-6789 appearing on page 12, line 9 of the transcript, the statement would read: "Redact the Social Security number on page 12, line 9 to read xxx-xx-6789." Parties are only responsible for reviewing and indicating the redactions in the testimony of the witnesses they called and their own statements (e.g. opening statements and closing arguments).

Only the personal identifiers listing in the Judicial Conference policy on the electronic availability of transcripts may be redacted by request. If a party wants to redact other information, that party should move the court for further redaction by separate motion served on all parties and the court reporter/transcriber within the 21 day period.



New Transcript Redaction Policy and Procedures: Notice of Intent to Request Transcript Redaction



UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In Re	Chapter
	Case No.
	Adv. No.
Debtor(s)	
v.	NOTICE OF INTENT TO REQUEST TRANSCRIPT REDACTION
Plaintiff(s)	
Defendant(s)	

Notice is hereby given that a statement of redaction will be submitted to the court reporter/transcriber within 21 days from the filing of the transcript with the Clerk of Court.

DATE:

Submitted By: _____

Address: _____

Certificate of Service

I hereby certify that on _____, I filed the foregoing with the Clerk of the Court and I hereby certify that I have mailed by US Postal Service the documents to the following participants:

Submitted By: _____

USBC Remote Self-Help Center Visits Extend To Prescott, Florence; Flagstaff, Show Low, Casa Grande Site Visits Also Planned

In support of its commitment to public education and assistance as a strategic goal, the Arizona bankruptcy court has set out to establish a fully integrated self-help system throughout the state for the public. Remote self-help center visits by managers and staff are thus being conducted in mid-size population centers throughout the state.

To date, the court has made three such visits. The most recent took place August 30 at the Yavapai County Courthouse in Prescott. Operations Manager Randy Merrill and Bankruptcy Generalist Michelle Radicke offered bankruptcy forms and information to Prescott Valley community members, in conjunction with the Community Legal Services group, which conducts a bimonthly family law ombudsman session at the courthouse.

Randy describes the Prescott site visit as a “great success.”

“When we arrived at the Prescott courthouse shortly after 9:00 a.m. to set up,”

the Phoenix Operations Manager continues, “there were already five people waiting to see us. We barely had time to set up the computers and handouts. Other visitors arrived while we were assisting the people waiting. All in all, we helped about 10 people before noon. . . . In the afternoon, we had another group come in for assistance. We had taken a new small printer to test out for use at future RSHC visits and were able to use it to print small handouts, since we were running out due to all the visitors. Even as we were packing up to go at 3:30 p.m., someone stopped in for assistance.”

The USBC’s remote self-help center visits began with travel to Bullhead City January 23, 2007. Randy and Clerk Terry Miller offered assistance at the local office of the Mohave County Superior Court. On April 30, Randy, Nancy Dickerson, Tucson Divisional Manager, and Phoenix Bankruptcy Generalist Eileen Dooley brought their “self-help center in a box” to the Pinal

County Superior Court. Nancy was fully trained on remote self-help center setup, and Randy and Eileen explored means of connectivity for the laptops and monitors they had included in their portable office.

For all remote self-help visits, The Bankruptcy Section of the Arizona State Bar and its Volunteer Lawyer Project have helped the court with coordination and have implemented an 800 number for free consultation with a volunteer bankruptcy attorney.

The remote self-help center team plans to make additional site visits in 2007-2008; extending to Flagstaff, Show Low, Sierra Vista, Casa Grande, and possibly to the Navajo and Hopi reservations.



USBC Arizona Bids Farewell to 9 Employees



As of September 30 2007, five Phoenix clerk’s office employees and four Tucson employees will have left the court to enjoy retirement or to pursue new opportunities. At Phoenix, the group includes Roxie, Financial Specialist; Stacy, ECRO; and Karla, Lois, and Mary, Bankruptcy Generalists. At Tucson, Diana, Operations Coordinator; Kay, Financial Services Specialist; Cherie, Courtroom Deputy; and Rose, Bankruptcy Generalist, are ending their court careers.

Please join with the court in thanking all of these employees for their years of service and wishing them the best of luck with their new endeavors.



New Phoenix Operations Teams Lists, Terminal Digits, Telephone Extension Numbers

Team A			Team B			Team C		
05-09	Diane	x4106	35-39	Sybil	x4062	70-74	Diane	x4216
10-14	Christel	x4108	40-44	Mary Helen	x4048	75-79	Donna	x4206
15-19	Phyllis	x4104	45-49	Liz	x4050	80-84	Evelyn	x4212
20-24	Michelle	x4038	50-54	Patty	x4052	85-89	Sharon	x4202
25-29	Ann	x4110	55-59	Eileen	x4046	90-94	Don	x4208
30-34	Alisha	x4112	60-64	Staci Jo	x4056	95-99	Barbara	x4116
Team Line		x4910	65-69	Erika	x4044	Team Line		x4914
			Team Line		x4912			
			Miscellaneous Proceedings					
			Miscellaneous Adversaries					

ECRO Team					
00	Juanita	x4190	03	Melanie	x4076
01	Andamo	x4150	04	Joann	x4170
02	Sheri	x4250			
	CD and Transcripts				x4200

High Foreclosures but Low Bankruptcies: Why the Disconnect?

(Continued from page 4)

"When looking at the amount of debt that can potentially be discharged (many thousands of dollars), the outcome would seem to still be worth the expense of filing for bankruptcy for many people in serious financial distress," Miller said. And, he added, "BAPCPA may not actually preclude people from successfully going through a bankruptcy."

Nevertheless, "there is a perception that bankruptcy is no longer a viable option for many people."

Haines thinks that perception comes, in part, from the heavy advertising that many bankruptcy attorneys did before the new law took effect. "The heavy file-now advertising that many bankruptcy attorneys did in 2005 may have convinced people that bankruptcy is no longer available. You don't see as many attorneys advertising today that bankruptcy is still an option."

Declining values and upwardly adjusting rates are other suspects

It's no secret that a large percentage of the nation's mortgage woes are caused by declining home values and upwardly adjusting interest rates -- especially on subprime loans. Ac-

ording to Anthony Sanders, a professor of finance and real estate at the W. P. Carey School, almost 37 percent of seriously delinquent loans (including loans 90 or more days past due and those in foreclosure) in the second quarter of 2007 are subprime ad-



justable rate mortgages (ARMs) -- even though they make up only 7 percent of all loans.

"Some subprime borrowers speculated on the market in 2005 -- they took out too much debt -- and their gamble turned out wrong," Sanders said. Now that those borrowers' adjustable rate mortgages are resetting to much higher interest rates, many borrowers are finding that they can no longer afford their homes. One option, available to many borrowers during the boom, was to refinance the loan at a lower rate. But now that home values have declined many borrowers have too little equity to refinance.

"The recent cooldown in

housing prices, coupled with ARM resets, have caused problems, particularly in the housing types populated by subprime borrowers (including starter homes on the urban/rural fringe and condominiums)," Sanders said.

Homeowners in that situation may not be helped by bankruptcy, said Haines. "A person could file for bankruptcy to stop a foreclosure if they wanted to hold on to the house and had the ability to pay the mortgage," he said. In a Chapter 13 bankruptcy, for example, a homeowner would have the ability to pay back already-late payments over a period of three years but would have to keep current on all future mortgage payments as they were defined in the original mortgage agreement.

In Chapter 7, Haines said, the individual would still have to stay current on his regular mortgage payments, but wouldn't have the option of paying down already-late payments over three years.

Either way, Haines said, bankruptcy would only save a person from foreclosure if the individual could still afford the mortgage payment. In the case

(Continued on page 14)



High Foreclosures but Low Bankruptcies: Why the Disconnect?

(Continued from page 13)

of dramatically increasing mortgage payments due to ARM resets, that may often not be the case.

Or could it be the investors?

Because of low interest rates, creative financing (zero-down, interest-only, and adjustable rate mortgages), and rapidly rising home values in many areas, the last few years of the housing market have been characterized by heavy investment. W. P. Carey School Research Economist Dawn McLaren said that in the bubble areas, where housing appreciation -- and, now, depreciation and foreclosures -- was highest, 20 to 30 percent of homes were owned by investors.

And now, a lot of the homes that are being foreclosed on are owned by investors, said Haines. Investors, he said, are more likely to cut their losses -- simply walk away from a home (and let it fall into foreclosure) -- than an individual who lives there. And, most investors see the loss as they would any other investment loss and aren't inclined to file for bankruptcy over it. Many homeowners, in contrast, will file for bankruptcy to keep the home because it's

the roof over their heads.

McLaren agrees that investors behave differently when the market turns -- perhaps turning to foreclosure more easily than homeowners inclined to try to save their home.

She said it's because investors have different decision criteria than other homeowners. The different motivations are even greater for foreign investors, McLaren said. And according to a report released by the National Association of Realtors in July 2007, 32 percent of realtors report having had at least one international client between April 2006 and April 2007. More than two-thirds of those foreign buyers used mortgage financing to purchase their U.S. home.

Yet the combination of stagnating (or declining) home values and the weakening value of the dollar make the U.S. a less attractive place for foreigners' investments, McLaren said. "The foreign investor has the exchange rate to think about. With the weak value of the dollar relative to other currencies, investments here in the U.S. are worth less than when the dollar was strong."

Many foreign investors

may decide to cut their losses and walk away from their U.S. property investments -- sending them into foreclosure -- in order to invest their money where it's more profitable.

Bridging the disconnect

The policy prescription for bridging the gap between the high number of foreclosures and relatively low number of bankruptcies depends in large part on which factor caused the gap. Where the disconnect is attributable to more complex and expensive bankruptcy filing requirements or a misperception that bankruptcy is no longer an available option, public education to help homeowners facing foreclosure understand their options available under the current bankruptcy law is probably the answer.

McLaren said that the key is to correct asymmetric information -- cases where actual reality is different than perceived reality. According to Miller, the U.S. Bankruptcy Court in the District of Arizona is trying to do just that, through activities that include public education programs, presentations to local Fresh Start women's groups, and outreach to local high school students.

(Continued on page 15)



High Foreclosures but Low Bankruptcies: Why the Disconnect?

(Continued from page 14)

Where the disconnect is caused by declining home values and rising interest rates that make people's mortgages simply unaffordable, the solution may be in new legislation that would modify the current bankruptcy law to help more homeowners who are facing foreclosure. In April, the National Association of Consumer Bankruptcy Attorneys (NACBA), in partnership with a number of other consumer organizations, proposed to Congress a series of bankruptcy reforms, including expanding Chapter 13 to allow debtors to write down mortgage loan amounts to the current fair market value of their home and restructure the mortgage debt based on a fixed interest rate. Senator Richard Durbin of Illinois reportedly plans to introduce an amendment, called the Helping Families Avoid Foreclosure Act, with provisions akin to the NACBA's proposal.

A better public understanding of the law as it stands would also help. In Arizona, the Phoenix and Tucson Bankruptcy Courts in partnership with local attorneys created educational materials on the bankruptcy process. The

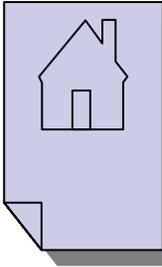
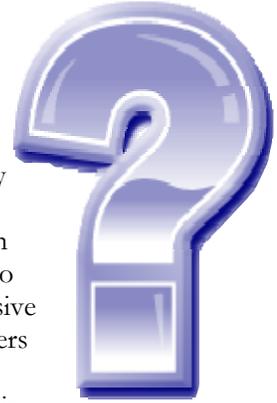
courts also established self-help centers, and a "live chat" service from the court's revamped website assists self-represented debtors and creditors. The court has also reached out to the far flung communities of Prescott Valley, Florence and Bullhead City, and is looking to continue this effort.

As for foreclosures on homes owned by investors -- foreign or domestic -- the most realistic policy prescription is to do nothing; investors, more than anyone, should have calculated their risk when entering the booming housing market.

Bottom Line:

- Foreclosure rates -- nationwide and in Arizona -- have increased dramatically in the last year. Yet bankruptcy filings are much lower than they were before the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) went into effect.
- Homeowners used to file for bankruptcy to stave off foreclosure, but they're not anymore -- at least not at comparable rates. There are four possible explanations:

1. BAPCPA makes filing for bankruptcy more complex and more expensive than before -- perhaps too complex and expensive for some homeowners in financial distress.
 2. There is a general misperception that BAPCPA means bankruptcy is no longer an option for individuals in financial crisis.
 3. Declining home values and rising interest rates may make people's mortgages unaffordable, and current bankruptcy laws don't allow homeowners to change their monthly mortgage obligations.
 4. The housing market boom was characterized by heavy investment -- both foreign and domestic. Investors account for a large percentage of homeowners in default, but investors are less likely to file for bankruptcy in an attempt to keep the investment property.
- The best response to the disconnect between foreclosures and bankruptcies depends on which explanation is at work, and may include public education and/or legislation to revise the bankruptcy laws.



Court Assumes Responsibility For Noticing of Chapter 13 Plans Effective 08/20/2007



UNITED STATES BANKRUPTCY COURT DISTRICT OF ARIZONA

NOTICE TO ATTORNEYS WHO REPRESENT CHAPTER 13 DEBTORS

Effective with chapter 13 plans, amended plans, modified plans or motions for moratorium filed on or after August 20, 2007, the office of the clerk of the bankruptcy court will commence mailing of the plan or motion to all creditors through the Bankruptcy Noticing Center. This will eliminate the requirement that the attorney for the debtor mail the plan or motion to all creditors.

In addition to mailing the plan or motion, when you file the plan or motion, the clerk's office will also generate a standard form Notice of Date to File Objections to the plan or motion and that notice will also be mailed to all creditors through the Bankruptcy Noticing Center with the plan or motion.

The plan or motion and the court generated Notice will be sent to the Bankruptcy Noticing Center the day that you file the plan or motion along with the creditor list that exists in CM/ECF at the time the plan or motion was filed. Therefore, it is important, especially when filing the initial plan in a new case, that the creditor list already have been uploaded into CM/ECF before filing the plan.

In summary, the attorney for the chapter 13 debtor, effective August 20, 2007, will no longer be required to mail the plan or motion to all creditors and will not need to file a Notice of Date to File Objections. All the attorney for the debtor will need to do is file the plan, amended plan, modified plan or motion for moratorium using one of the following entries located under the Plan option on the Bankruptcy Events menu (the Notice will be automatically generated by the court.)

Amended Chapter 13 Plan and Notice of Date to File Objection
Chapter 13 Plan and Application for Pmt of Administrative Expense and Notc of Date to File Objection
Chapter 13 Plan and Notice of Date to File Objection
Modified Chapter 13 Plan and Notice of Date to File Objection
Motion for Moratorium and Notice of Date to File Objection

Dated: August 10, 2007

Terrence S. Miller
Clerk of Court

Attorney Reminders From Chambers



- ☛ **When marking exhibits . . .**For a scheduled trial, please review guidelines provided on the court's website for each USBC Arizona judge under Judges' Procedures in the sections headed "Exhibit Procedures." You may also call an individual judge's chambers for instructions on marking exhibits.
- ☛ **All order inquires for Judge Sarah Sharer Curley . . .**except for those dealing with hearings, should be referred to Maria Mathus at 602-682-4146 or by emailing Maria_Mathus@azb.uscourts.gov.