NATURE DUTIES AND RIGHTS OF BANKRUPTCY PRACTITIONER IN THE UNITED STATES OF AMERICA

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Introduction

This paper underscores the nature, duties and rights of company liquidator which is known in the United States of America as Bankruptcy Practitioner. Bankruptcy in the United States is a matter placed under Federal jurisdiction by the United States Constitution (in Article 1, Section 8, Clause 4), which allows congress to enact "uniform laws on the subject of bankruptcies throughout the United States". The Congress has enacted law governing bankruptcy, primarily in the form of the Bankruptcy Code, located at Title 11 of the United States Code. Federal law is amplified by state law in some places where Federal law fails to speak or expressly defers to state law.

While bankruptcy cases are always filed in United States Bankruptcy Court (an adjunct to the U.S. District Courts), bankruptcy cases, particularly with respect to the validity of claims and

exemptions, are often dependent upon State law. State law therefore plays a major role in many bankruptcy cases, and it is often not possible to generalize bankruptcy law across state lines. Generally, a debtor declares bankruptcy to obtain relief from debt, and this is accomplished either through a discharge of the debt or through a restructuring of the debt. Generally, when a debtor files a voluntary petition, his or her bankruptcy case commences.[1]

Nature of Bankruptcy Practitioner in United States of America

There are six types of bankruptcy under the Bankruptcy Code, located in Title 11 of the United States Code:

- **Chapter 7**: basic liquidation for individuals and businesses; also known as straight bankruptcy; it is the simplest and quickest form of bankruptcy available.
- **Chapter 9**: municipal bankruptcy: a federal mechanism for the resolution of municipal debts.
- **Chapter 11**: rehabilitation or reorganization, used primarily by business debtors, but sometimes by individuals with substantial debts and assets; known as corporate bankruptcy, it is a form of corporate financial reorganization which typically allows companies to continue to function while they follow debt repayment plans.
- **Chapter 12**: rehabilitation for family, farmers and fishermen.
- **Chapter 13**: rehabilitation with a payment plan for individuals with a regular source of income; enables individuals with regular income to develop a plan to repay all or part of their debts; also known as Wage Earner Bankruptcy.

[1]Books.google.com

- **Chapter 15**: ancillary and other international cases; provides a mechanism for dealing with bankruptcy debtors and helps foreign debtors to clear debts.

The most common types of personal bankruptcy for individuals are Chapter 7 and Chapter 13. As much as 65% of all U.S. consumer bankruptcy filings are Chapter 7 cases. Corporations and other business forms file under Chapters 7 or 11.

In Chapter 7, a debtor surrenders his or her non-exempt property to a bankruptcy trustee who then liquidates the property and distributes the proceeds to the debtor's unsecured creditors. In exchange, the debtor is entitled to a discharge of some debt; however, the debtor will not be granted a discharge if he or she is guilty of certain types of inappropriate behaviour (e.g. concealing records relating to financial condition) and certain debts (e.g. spousal and child support, student loans, some taxes) will not be discharged even though the debtor is generally discharged from his or her debt. Many individuals in financial distress only exempt property (e.g. clothes, household goods, an older car) and will not have to surrender any property) to the trustee.

The amount of property that a debtor may exempt varies from state to state. Chapter 7 relief is available only once in any eight year period. Generally, the right of secured creditors to their collateral continues even though their debt is discharged. For example, exempt some arrangement by a debtor to surrender a car or “reaffirm” a debt, the creditor with a security interest in the debtor's car may repossess the car even if the debt to the creditor is discharged.

The 2005 amendments to the Bankruptcy Code introduced the “means lest” for eligibility for Chapter 7. An individual who sails the means test will have his or her Chapter 7 case dismissed or may have to convert his or her case to a case under chapter 13. Generally, a trustee will sell

most of the debtor's assets to pay off creditors. However, certain assets of the debtor are protected to some extent. For example, Social Security payments, unemployment compensation, and limited values of your equity in a home, car or truck, household goods and appliances, trade tools, and books are protected. However, these exemptions vary from state to state.

In Chapter 13, the debtor retains ownership and possession of all of his or her asset, but must devote some portion of his or her future income to repaying creditors, generally over a period of three to five years. The amount of payment and the period of the repayment plan depend upon a variety of factors, including the value of the debtor's property and the amount of a debtor's income and expenses. Secured creditors may be entitled to greater payment than unsecured creditors. Relief under Chapter 13 is available only to individuals with regular income whose debts do not exceed prescribed limits.

An individual or a sole proprietor, are allowed to file for a Chapter 13 bankruptcy to repay all or part of his debts. Under this chapter, one can propose a repayment plan in which one is to pay one's creditors over three to five years. If one's monthly income is less than the state's median income, the plan will be for three years unless the courts finds "just cause" to extend the plan for a longer period. If the monthly income is greater than the state's median income, the plan must generally be for five years. A plan cannot exceed the five-year limitation.

In contrast to Chapter 7, the debtor in Chapter 13 may keep all of his or her property, whether or not exempted. If the plan appears feasible and if the debtor complies with all the other. Chapter 7 of the Title 11 of the United States Code (Bankruptcy Code) governs the process of liquidation under the bankruptcy laws of the United States. Chapter 7 is the most common

form of bankruptcy in the United States. When a troubled business is badly in debt and unable to service that debt or pay its creditors, it may file (or be forced by its creditors to file) for bankruptcy in a federal court under Chapter 7. A Chapter 7 filing means that the business ceases operations unless continued by the Chapter 7 Trustee. A Chapter 7 Trustee is appointed almost immediately, with broad powers to examine the business's financial affairs. The Trustee generally sells all the assets and distributes the proceeds to the creditors. This may or may not mean that all employees will lose their jobs. When a very large company enters Chapter 7 bankruptcy, entire divisions of the company may be sold intact to other companies during the liquidation.

Fully secured creditors, such as collateralized bondholders or mortgage lenders, have a legally enforceable right to the collateral securing their loans or to the equivalent value, a right which cannot be defeated by bankruptcy. A creditor is fully secured if the value of the collateral for its loan to the debtor equals or exceeds the amount of the debt. For this reason, however, fully secured creditors are not entitled to participate in any distribution of liquidated assets that the bankruptcy trustee might make. In a Chapter 7 case, a corporation or partnership does not receive a bankruptcy discharge - instead, the entity is dissolved. Only an individual can receive a Chapter 7 discharge (see 11 U.S.C. § 727(a)(1)). Once all assets of the corporate or partnership debtor have been fully administered, the case is closed. The debts of the corporation or partnership theoretically continue to exist until applicable statutory periods of limitations expire.[2]

[2] DePamphilis, Donald M. (2009). *Mergers, Acquisitions and Other Restructurings*, 5th Edition. Elsevier, Academic Press.

Ways of Filing for Bankruptcy in the United States of America

Functionally, templates are more or less the computer based equivalent of paper bankruptcy forms. The official Federal bankruptcy forms prescribed in the Federal bankruptcy Rules come as Microsoft Word and Adobe Acrobat formatted templates where each bankruptcy form is represented by a Word or Acrobat file. While these forms are electronic in nature and reside on a computer, they do not contain intelligence that would guide the debtor. The debtor still has to fill in each bankruptcy form separately as they would with paper forms and the debtor still has to grapple with the complexity of bankruptcy law.

In bankruptcy software, the debtor interacts with the software through a web page and is shielded from the actual bankruptcy forms and from the intricacies of bankruptcy law. The debtor responds to questions in an interview setting, much like with tax programs such as TurboTax or automated documents made through HotDocs. The debtor enters names and addresses, a list of their creditors and assets and other financial information and the software generates all the court-ready forms and delivers them to the debtor via email or a download link. The accuracy of the forms is nevertheless imperfect, as it is difficult for software to ensure that the debtor understands what has to be disclosed, what the exemptions for their state are, whether they qualify for said exemptions, and whether expenses included on the means test are allowable.[3]

An alternative to do-it-yourself is the Non-attorney bankruptcy petition preparer. This method appeals to those who cannot afford the higher cost of bankruptcy attorneys and at the same time-do not want the hassle and uncertainty of self-prepared document templates and software.

[3]Bankruptcy, 1911 Encyclopedia Britannica.

Bankruptcy petition preparers fill this need. The bankruptcy forms are prepared by trained individuals rather than by the debtor themselves. However, having a preparer or paralegal prepare the petition does not guarantee compliance with all applicable laws, or assure that maximum advantage will be taken of exemptions.

As with online bankruptcy software, debtors in some-cases submit their bankruptcy information through a simple web page interface. Rather than having some software automatically generate the forms, trained paralegals use the information to prepare the document and then deliver them to the debtor. Bankruptcy trustees will check the bankruptcy petition to ensure that the petition was prepared properly, much like the trustee would do if a lawyer had prepared the forms. The BAPCPA provides guidelines for petition preparers to follow to protect the consumer.

A bankruptcy attorney can advise the consumer on when the best time to file is, whether they qualify for a chapter 7 or need to file a chapter 13, ensure that all requirements arc fulfilled so that the bankruptcy will go smoothly, and whether the debtor's assets will be safe if they file. With expanded requirements of the BAPCPA Bankruptcy Act of 2005, filing a personal chapter 7 bankruptcy is complicated. Many attorneys that used to practice bankruptcy in addition to their other fields have stopped doing so due to the additional requirements, liability and work involved. After the petition is filed, the attorney can provide other services.

Under section 1279 of the Corporation Act, 2001 United States, trustee is responsible to look after the Bankruptcy proceedings. Once the order of Relief is made in the case of liquidation proceedings under chapter one of the Bankruptcy Code, the United States Trustee shall appoint one disinterested person that is a member of the panel of private trustees established under

section 586(a) (I) of title 28 or that is serving as trustee in the case immediately before the order for relief under this chapter to serve as interim trustee in the case. The service of an interim trustee under this section terminates when a trustee elected by creditors or designated under section 702 of title 11 agrees to serve as trustee. Creditors meeting held under section 341 of Title 11, a Trustee can be elected by the creditors and if a Trustee is not elected then the interim trustee will serve as the Trustee in the case.[4]

Qualifications of Private Trustee

The qualifications for membership on the panel as a Private Trustee are as follows:

1) The person who can be appointed as a trustee must be:-
    i. Be a member in good standing of the bar of the highest court of a state or of the District of Columbia; or
    ii. Be a certified public accountant: or
    iii. Hold a bachelor's degree from a full four-year course of study (or the equivalent) of an accredited college or university with a major in business-related field of study or at least 20 semester-hours of business-related courses or hold a master's or doctoral degree in a business-related field of study from a college or university of the type described above; or
    iv. Be a senior law student or candidate for a master's degree in business administration recommended by relevant law school or business school dean and working under the direct supervision of:
        a) A member of law school faculty; or

[4] Carmen M. Reinhart, Kenneth S. Rogot (2009). "*This time is different: eight centuries of financial folly*". Princeton University Press, p.30.

b) A member of the panel of private trustees; or

c) A member of a program established by the local bar association to provide clinical experience to students; or

v. Have equivalent experience as deemed acceptable by the U.S. Trustee.

2) The United States Trustee Programme is an agency of the United State Department of Justice that is responsible for overseeing the administration of bankruptcy cases and private trustees. The United State Attorney General generally appoints a separate United States Trustee for each of twenty-one geographical regions for a five year term. Each United States Trustee is removable from office by and works under the general supervision of the Attorney General.

3) The qualification for private trustee is provided under part 58, chapter 1, Title 28 of the United States Code to with.

4) Possess integrity and good moral character.

5) Be physically and mentally able to satisfactorily perform a trustee's duties

6) Be courteous and accessible to all parties with reasonable inquiries or comments about a case for which such individual is serving as private trustee.

7) Be free of prejudices against an individual, entity, or group of individuals or entities which would interfere with unbiased performance of a trustee's duties.[5]

The US Government created the U.S. Trustee Program in 1978 as part of the Bankruptcy Reform Act and Bankruptcy trustees are overseen by the U.S. Trustee Program. United States Trustees appoint and supervise private trustees who are assigned to judicial districts in their

[5] http://en.wikipedia.org/wiki/unitedstates.February 15, 2014

respective states. Bankruptcy trustees (Private Trustees) in chapter 7 cases are not government employees, according to the National Association of Bankruptcy Trustees. Chapter 7 bankruptcy trustees are private citizens, usually attorneys or accountants, appointed by the U.S. Trustee Program to administer bankruptcy cases. The bankruptcy trustee's primary role in a Chapter 7 case is to liquidate those assets for the greatest benefit to creditors.

Under 586(a) (3)(F), the trustee is to report to the U.S. Attorney any action which may constitute a crime. Most of the crimes for which the U.S. Trustees watch out for are listed in Title 11, section 152 of the U.S. Code, and described more thoroughly in Volume 5 of the United States Trustee Manual. These crimes include concealment of properly, fraudulent destruction of documents, extortion, bribery and embezzlement. If the trustee detects the elements of these crimes as described in the manual, he is obliged to make a report to the U.S. Attorney. The standing trustee, as a representative of the Department of Justice, reviews the actions of private trustees in individual bankruptcy cases and can remove trustees from the panel of eligible trustees for actions that violate the appropriate ethical standard.

Chapter 7 of the US Bankruptcy code deals with the liquidation of the Companies, and under that the United States Trustee appoints and supervises administration of Bankruptcy cases by the Bankruptcy Trustees. The responsibilities and duties of a Bankruptcy Trustee are provided under the Chapter itself'. In US there is a US Manual which specifically outlines the duties and responsibilities of Bankruptcy Trustee under different chapters of the Bankruptcy Code. Volume 2 of the US Trustee Manual deals with Chapter 7 Case administration (liquidation of companies) deals with appointment of Bankruptcy Trustee, their remuneration, duties, responsibilities and supervision of its administration of the Bankruptcy of the case. The failure by the Bankruptcy Trustee to properly file the Report with the US Trustee and the Court may

attract any remedial action (damages can be recovered from the Security bond are given by the Bankruptcy Trustee before taking up the assignment) penalty or removing his name from the panel of the Bankruptcy Trustee depending upon the facts and circumstances of the case.[6]

Duties of Bankruptcy Practitioner in the United States of America

1. Fundamental Principles

a) **Integrity**: - A Bankruptcy Practitioner should be straightforward and honest in all professional and business relationships.

b) **Objectivity**: - A Bankruptcy Practitioner should not allow bias, conflict of interest or undue influence of others to override professional or business judgements.

c) **Professional competence and due care**: - It is the duty of a Bankruptcy Practitioner to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service.[7]

d) **Confidentiality**: - A Bankruptcy Practitioner should respect the confidentiality of information acquired as a result of professional and business relationships and should not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and business relationships should not be used for the personal advantage of the Insolvency Practitioner or third parties.

e) **Professional behaviour**: - A Bankruptcy Practitioner should comply with relevant laws and regulations and should avoid any action that discredits the profession. Bankruptcy/insolvency practitioners should conduct themselves with courtesy and

[6] Dubois and Anderson (2010), *Managing household debts: Social service provision in the HU*. Working paper Dublin: European Foundation for the Improvement of Living and Working Conditions, eurofound.europa.eu.
[7] See 140 Cong. Rec. S14. 461 (daily ed. Oct. 6. 1994)

consideration towards all with whom they come into contact when performing their work.

2. **Conflict of Interest**: - A Bankruptcy Practitioner should take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may give rise to threats to compliance with the fundamental principles.[8]
3. **Professional and Personal Relationships**: - The principle of objectivity may be threatened if any individual within the practice, the close or immediate family of an individual within the practice or the practice itself, has or has had a professional or personal relationship which relates to the insolvency appointment being considered. Where a professional or personal relationship has been identified, the Insolvency Practitioner should evaluate the impact of the relationship in the context of the insolvency appointment being sought or considered.[9]
4. **Transparency:** - An insolvency practitioner in the role as office holder has a professional duty to report openly to those with an interest in the outcome of the insolvency. An insolvency practitioner should always report on his acts and dealings as fully as possible given the circumstances of the case, in a way that is transparent and understandable.[10]
5. **Dealing with the Assets of the Company**: - Actual or perceived threats (for example self interest threats) to the fundamental principles may arise when during an insolvency appointment, an Insolvency practitioner realizes assets. Save in circumstances which clearly do not impair the Insolvency Practitioner's objectivity.

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[8] See 18 U.S.C. sec 152. Trac.syr.edu
[9] "Hearing before the Senate Judiciary Committee on Bankruptcy Reform" 109th Cong. February 10, 2005. Retrieved November 30 2013 at 1 p.m
[10] Press Release, White House, "*President Signs Bankruptcy Abuse Prevention. Consumer Protection Act*" (April 20, 2005). Retrieved November 10th 2013 at 3 p.m

Insolvency practitioners appointed to insolvency appointment in relation to an entity, should not themselves acquire, directly or indirectly, any of the assets of an entity, nor knowingly permit any individual within the practice, or any close or immediate family member of the Insolvency Practitioner or of an individual within the practice, directly or indirectly, to do so.[11]

6. **Gifts and Hospitality**: - A Bankruptcy Practitioner, or a close or immediate family member, may be offered gifts and hospitality. In relation to an insolvency appointment, such an offer will give rise to threats to compliance with the fundamental principles. The significance of such threats will depend on the nature, value and intent behind the offer. In deciding whether to accept any offer of a gift or hospitality the Insolvency practitioner should have regard to what a reasonable and informed third party having knowledge of all relevant information would consider to be appropriate.[12]
7. **Record Keeping**: - It will be always for the Bankruptcy/ Insolvency Practitioner to justify his actions. An Insolvency Practitioner will be able to demonstrate the steps that he took and the conclusion that he reached identifying, evaluating and responding to any threats, both leading up to and during an insolvency appointment, by reference to written contemporaneous records. The records an Insolvency Practitioner maintains, in relation to the steps that he took and the conclusions that he reached, should be sufficient to enable a reasonable and informed third party to reach a view on the appropriateness of his actions.[13]

Rights of Bankruptcy Practitioner in the United States of America

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[11] Sandae, Scott A. (2006). *Born Losers: A History of Failure in America*; Cambridge, Mass: Harvard University Press.
[12] Kubasek Nancy. *Student mastery guide to accompany modern business law*: *The Regulatory environment*.
[13] The Library Congress – US Congress and Bill Status and Text of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 .

1. Notifying the creditors of his appointment

   - Seeking creditors' claims.
   - Assembling creditor's liabilities in order of preference.
   - Dealing with secured creditors.
   - Distributing any surplus in the liquidation to the creditors in order of preferentiality.

2. Company Books and Records

   - Recovering the books and records from those responsible for maintaining them.
   - Examining the records to establish ownership of company property and to verify the claims of the creditors.
   - Checking to see whether any property was disposed of prior to the appointment of the liquidator.
   - Assembling the information necessary to compile the statutory Section 56 Report.
   - Maintaining the books and records during the period of liquidation and storing them for a specified period after completion.[14]

3. Directors

   - Liaising with the directors to establish and identify the property of the company.
   - Seeking the assistance of the directors in relation to matters they dealt with prior to the liquidation of the company.
   - Taking action against the director or individual directors on the direction of the Director of Corporate Enforcement.
   - Taking action against the director where matters of wrongdoing have been identified.[15]

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[14] Retrieved from http://en.wikipedia.org/wiki/chapter 7, Title 11 United States Code
[15] United States Bankruptcy Legislation Chapters of the United States Code.

4. Committee of Inspection (if one is formed)

- Convening meetings of the Committee of Inspection to discuss matters of concern in the liquidation.
- Seeking approval from the Committee with regard to payment of the bankruptcy practitioner's fees and expenses in the liquidation.
- Seeking approval if the bankruptcy practitioner proposes to take significant action in the liquidation.[16]

Table 4.1, 4.2, 4.3 and 4.4 below shows liquidated companies in the state of California, United States of America. The state of California is taken as a case study out of the fifty (50) states of America. This is in view of the vastness of the nation of America. The data obtained cover from 1990 – 1993. The state of California is carefully marked out throughout.

[16] L.C.B. Gower, "*Some Contrasts between British and American Corporation Law* (1956) 68(8) Harvard Law Review 1969.

TABLE 4.1 U.S. Bankruptcy Courts

Business and Non-Business Bankruptcy Code Petitions Commenced by Chapter of the Bankruptcy Code During the Twelve Month Period Ended Dec. 31, 1990

CIRCUIT AND DISTRICT	TOTAL FILINGS	CHAP. 7	CHAP. 11	CHAP. 12	CHAP. 13	TOTAL BUSINESS FILLINGS*	CHAP. 7	CHAP. 11	CHAP. 12	CHAP. 13	TOTAL NON-BUSINESS FILLINGS*	CHAP. 7	CHAP. 11	CHAP. 13
7TH …	72,707	58,950	1,007	134	12,615	4,500	3,034	965	134	366	68,207	55,916	42	12,249
IL.N….	26,801	19,018	371	5	7,407	1,152	717	357	5	73	25,649	18,301	14	7,334
IL.C….	7,218	6,341	78	21	778	214	108	75	21	10	7,004	6,233	3	768
IL.S….	3,813	2,966	65	23	759	675	498	65	23	89	3,138	2,468	-	670
IN.N….	8,479	7,323	133	15	1,008	598	401	130	15	52	7,881	6,922	3	956
IN.S….	15,630	14,090	197	21	1,321	495	260	186	21	27	15,135	13,830	11	1,294
WI.E….	7,081	6,138	73	11	859	530	402	63	11	54	6,551	5,736	10	805
WI.W….	3,685	3,074	90	38	483	836	648	89	38	61	2,849	2,426	1	422
8TH…	49,302	35,217	796	351	12,934	5,480	3,697	774	351	654	43,822	31,520	22	12,280
AR.E….	4,549	2,068	80	14	2,387	288	135	69	14	70	4,261	1,933	11	2,317
AR.W….	2,513	1,810	65	12	626	179	78	61	12	28	2,334	1,732	4	598
IA.N….	2,321	2,169	37	24	91	618	524	37	24	33	1,703	1,645	-	58
IA.S….	3,340	2,933	31	13	363	283	225	28	13	17	3,057	2,708	3	346
MN……	15,100	10,784	227	40	4,0449	1,771	1,279	226	40	226	13,329	9,505	1	3,523
MO.E….	8,030	4,922	105	12	2,990	435	277	105	12	40	7,595	4,645	-	2,950
MO.W….	6,817	5,766	131	41	879	884	635	130	41	78	5,933	5,131	1	80
NE……	4,058	2,526	68	80	1,382	425	174	66	80	103	3,633	2,352	2	1,279
ND.....	1,082	959	24	45	54	209	121	24	45	19	873	838	-	35
SD……	1,492	1,280	28	70	113	388	249	28	770	40	1,104	1,031	-	73
9TH…	170,102	127,559	4,770	195	37,574	14,194	7,693	3,827	195	2,475	155,908	119,866	943	35,099
AK……	1,153	942	65	-	146	164	81	59	-	24	989	861	6	122
AZ……	18,385	13,371	1,032	10	3,971	2,377	1,146	878	10	342	16,008	12,225	154	3,529
+CA.N….	19,192	13,139	622	7	5,423	2,052	1,075	503	7	466	17,140	12,064	119	4,957
+CA.E….	18,231	14,305	391	32	3,503	1,614	851	350	32	381	16,617	13,454	41	3,122
+CA.C….	59,645	47,996	1,503	3	10,141	3,125	1,898	1,000	3	222	56,520	46,098	503	9,919
+CA.S….	11,539	7,110	257	3	4,169	800	4890	215	3	92	10,739	6,620	42	4,077
HI.....	882	765	39	-	78	74	43	31	-	-	808	722	8	78
ID……	4,100	2,682	59	35	1,324	365	181	54	35	95	3,735	2,501	5	1,229
MT……	1,951	1,664	49	41	197	223	107	47	41	28	1,728	1,557	2	159
NV……	6,488	4,507	224	3	1,734	354	126	193	3	32	6,114	4,381	31	1,702
OR……	12,091	8,536	143	21	3,391	1,061	448	136	21	4556	11,030	8,088	7	2,935

WA.E….	3,840	3,025	102	36	677	522	285	102	36	99	3,318	2,740	-	573
WA.W….	12,585	9,482	281	4	2,818	1,455	957	256	4	238	11,130	8,525	25	2,580
GUAM….	39	35	2	-	2	7	5	2	-	-	32	30	-	2
NMI	1	-	1	-	-	1	-	1	-	-	-	-	-	-
10TH…	54,233	43,075	886	129	10,135	4,643	3,182	809	129	515	49,590	39,893	77	9,620
CO……	16,671	12,224	231	23	4,186	1,088	737	212	23	109	15,583	11,487	19	4,077
KS……	8,811	7,066	133	29	1,583	560	357	130	29	44	8,251	6,709	3	1,539
NM……	4,200	3,616	114	9	461	348	206	90	9	43	3,852	3,410	24	418
OK.N….	4,267	3,903	85	1	278	608	483	84	1	40	3,659	3,420	1	238
OK.E….	1,612	1,418	24	17	153	201	143	20	17	21	1,411	1,275	4	132
OK.W….	9,354	8,123	94	36	1,101	807	627	93	36	51	8,547	7,496	1	1,050
UT……	7,894	5,504	163	7	2,219	895	551	144	7	192	6,999	4,953	19	2,027
WY……	1,424	1,221	42	7	154	136	78	36	7	15	1,288	1,143	6	139
11TH…	104,812	60,960	2,297	117	41,438	6,563	3,352	1,983	117	1,111	98,249	57,608	314	40.327
AL.N….	18,061	7,184	195	12	10,670	1,033	502	173	12	346	17,028	6,682	22	10,324
AL.M….	5,119	1,849	65	6	3,199	254	131	62	6	55	4,865	1,718	3	3,144
AL.S….	2,673	2,040	50	3	580	69	33	30	3	3	2,604	2,007	20	577
FL.N	2,488	2,214	119	17	138	238	90	111	17	20	2,250	2,124	8	118
FL.M….	24,154	20,661	713	10	2,770	1,756	1,011	590	10	145	22,398	19,650	123	2,625
FL.S….	9,910	8,354	525	4	1,027	846	383	458	4	1	9,064	7,971	67	1,026
GA.N….	26,171	12,000	484	6	13,681	1,974	1,038	430	6	500	24,197	10,962	54	13,181
GA.M….	8,813	4,308	77	41	4,387	229	97	69	41	22	8,584	4,211	8	4,365
GA.S….	7,423	2,350	69	18	4,986	164	67	60	18	19	7,259	2,283	9	4,967

*These Figures Include The Following Petitions Not Reflected Elsewhere:

NY.S…. Section 304 = 04	VT…… Chapt 7 SB = 01	PA.W…. Chapter 9 = 01
TX.N…. Section 304= 01	TX.S…. Chapt 7 SB = 03	TX.S. Chapter 9 = 01
OH.N…. Chap 7 SB= 01	IN.S…. Chapt 11 RR= 01	MO.E…. Chapt 11 RR = 01
NE…… Chapter 9 = 02	SD…… Chapt 7 SB = 01	AZ…… Section 304 = 01
+CA.N…. Chapt 7 Sb = 01	+CA.C…. Chapter 9 = 01	+CA.C….. Section 304 = 01
CD…… Chapter 9 = 07	UT…… Chapter 9 = 01	

Although, this study covers the United States of America, the emphasis is on the state of California marked (+) on the table.

Source: Wikipedia.org

TABLE 4.2 U.S. Bankruptcy Courts

Business and Non-Business Bankruptcy Code Petitions Commenced by Chapter of The Bankruptcy Code During the Twelve Month Period Ended Dec. 31, 1991

CIRCUIT AND DISTRICT	TOTAL FILINGS	CHAP. 7	CHAP. 11	CHAP. 12	CHAP. 13	TOTAL BUSINESS FILLINGS*	CHAP. 7	CHAP. 11	CHAP. 12	CHAP. 13	TOTAL NON-BUSINESS FILLINGS*	CHAP. 7	CHAP. 11	CHAP. 13
7TH …	72,707	58,950	1,007	134	12,615	4,500	3,034	965	134	366	68,207	55,916	42	12,249
IL.N….	26,801	19,018	371	5	7,407	1,152	717	357	5	73	25,649	18,301	14	7,334
IL.C….	7,218	6,341	78	21	778	214	108	75	21	10	7,004	6,233	3	768
IL.S….	3,813	2,966	65	23	759	675	498	65	23	89	3,138	2,468	-	670
IN.N….	8,479	7,323	133	15	1,008	598	401	130	15	52	7,881	6,922	3	956
IN.S….	15,630	14,090	197	21	1,321	495	260	186	21	27	15,135	13,830	11	1,294
WI.E….	7,081	6,138	73	11	859	530	402	63	11	54	6,551	5,736	10	805
WI.W….	3,685	3,074	90	38	483	836	648	89	38	61	2,849	2,426	1	422
8TH…	49,302	35,217	796	351	12,934	5,480	3,697	774	351	654	43,822	31,520	22	12,280
AR.E….	4,549	2,068	80	14	2,387	288	135	69	14	70	4,261	1,933	11	2,317
AR.W….	2,513	1,810	65	12	626	179	78	61	12	28	2,334	1,732	4	598
IA.N….	2,321	2,169	37	24	91	618	524	37	24	33	1,703	1,645	-	58
IA.S….	3,340	2,933	31	13	363	283	225	28	13	17	3,057	2,708	3	346
MN……	15,100	10,784	227	40	4,0449	1,771	1,279	226	40	226	13,329	9,505	1	3,523
MO.E….	8,030	4,922	105	12	2,990	435	277	105	12	40	7,595	4,645	-	2,950
MO.W….	6,817	5,766	131	41	879	884	635	130	41	78	5,933	5,131	1	80
NE……	4,058	2,526	68	80	1,382	425	174	66	80	103	3,633	2,352	2	1,279
ND.....	1,082	959	24	45	54	209	121	24	45	19	873	838	-	35
SD……	1,492	1,280	28	70	113	388	249	28	770	40	1,104	1,031	-	73
9TH…	170,102	127,559	4,770	195	37,574	14,194	7,693	3,827	195	2,475	155,908	119,866	943	35,099
AK……	1,153	942	65	-	146	164	81	59	-	24	989	861	6	122
AZ……	18,385	13,371	1,032	10	3,971	2,377	1,146	878	10	342	16,008	12,225	154	3,529
+CA.N….	19,192	13,139	622	7	5,423	2,052	1,075	503	7	466	17,140	12,064	119	4,957
+CA.E….	18,231	14,305	391	32	3,503	1,614	851	350	32	381	16,617	13,454	41	3,122
+CA.C….	59,645	47,996	1,503	3	10,141	3,125	1,898	1,000	3	222	56,520	46,098	503	9,919
+CA.S….	11,539	7,110	257	3	4,169	800	4890	215	3	92	10,739	6,620	42	4,077
HI.....	882	765	39	-	78	74	43	31	-	-	808	722	8	78
ID……	4,100	2,682	59	35	1,324	365	181	54	35	95	3,735	2,501	5	1,229
MT……	1,951	1,664	49	41	197	223	107	47	41	28	1,728	1,557	2	159
NV……	6,488	4,507	224	3	1,734	354	126	193	3	32	6,114	4,381	31	1,702
OR……	12,091	8,536	143	21	3,391	1,061	448	136	21	4556	11,030	8,088	7	2,935

WA.E….	3,840	3,025	102	36	677	522	285	102	36	99	3,318	2,740	-	573
WA.W….	12,585	9,482	281	4	2,818	1,455	957	256	4	238	11,130	8,525	25	2,580
GUAM….	39	35	2	-	2	7	5	2	-	-	32	30	-	2
NMI	1	-	1	-	-	1	-	1	-	-	-	-	-	-
10TH…	54,233	43,075	886	129	10,135	4,643	3,182	809	129	515	49,590	39,893	77	9,620
CO……	16,671	12,224	231	23	4,186	1,088	737	212	23	109	15,583	11,487	19	4,077
KS……	8,811	7,066	133	29	1,583	560	357	130	29	44	8,251	6,709	3	1,539
NM……	4,200	3,616	114	9	461	348	206	90	9	43	3,852	3,410	24	418
OK.N….	4,267	3,903	85	1	278	608	483	84	1	40	3,659	3,420	1	238
OK.E….	1,612	1,418	24	17	153	201	143	20	17	21	1,411	1,275	4	132
OK.W….	9,354	8,123	94	36	1,101	807	627	93	36	51	8,547	7,496	1	1,050
UT……	7,894	5,504	163	7	2,219	895	551	144	7	192	6,999	4,953	19	2,027
WY……	1,424	1,221	42	7	154	136	78	36	7	15	1,288	1,143	6	139
11TH…	104,812	60,960	2,297	117	41,438	6,563	3,352	1,983	117	1,111	98,249	57,608	314	40.327
AL.N….	18,061	7,184	195	12	10,670	1,033	502	173	12	346	17,028	6,682	22	10,324
AL.M….	5,119	1,849	65	6	3,199	254	131	62	6	55	4,865	1,718	3	3,144
AL.S….	2,673	2,040	50	3	580	69	33	30	3	3	2,604	2,007	20	577
FL.N	2,488	2,214	119	17	138	238	90	111	17	20	2,250	2,124	8	118
FL.M….	24,154	20,661	713	10	2,770	1,756	1,011	590	10	145	22,398	19,650	123	2,625
FL.S….	9,910	8,354	525	4	1,027	846	383	458	4	1	9,064	7,971	67	1,026
GA.N….	26,171	12,000	484	6	13,681	1,974	1,038	430	6	500	24,197	10,962	54	13,181
GA.M….	8,813	4,308	77	41	4,387	229	97	69	41	22	8,584	4,211	8	4,365
GA.S….	7,423	2,350	69	18	4,986	164	67	60	18	19	7,259	2,283	9	4,967

*These Figures Include The Following Petitions Not Reflected Elsewhere:

NY.S…. Section 304 = 04	VT…… Chapt 7 SB = 01	PA.W…. Chapter 9 = 01
TX.N…. Section 304 = 01	TX.S…. Chapt 7 SB = 03	TX.S … Chapter 9 = 01
OH.N…. Chap 7 SB = 01	IN.S…. Chapt 11 R 01	MO.E…. Chapt 11 RR = 01
NE…… Chapter 9 = 02	SD…… Chapt 7 SB = 01	AZ…… Section 304 = 01
+CA.N…. Chapt 7 SB = 01	+CA.C…. Chapter 9 = 01	+CA.C….. Section 304 = 01
CD…… Chapter 9 = 07	UT…… Chapter 9 = 01	

Although this study covers the United States of America, the emphasis is on the state of California marked (+) on the table.

Source: Wikipedia.org

Table 4.3 U.S. Bankruptcy Courts

Business And Non-Business Bankruptcy Code Petitions Commenced By Chapter Of The Bankruptcy Code During The Twelve Month Period Ended Dec. 31, 1992

CIRCUIT AND DISTRICT	TOTAL FILINGS	CHAP. 7	CHAP. 11	CHAP. 12	CHAP. 13	TOTAL BUSINESS FILLINGS*	CHAP. 7	CHAP. 11	CHAP. 12	CHAP. 13	TOTAL NON-BUSINESS FILLINGS*	CHAP. 7	CHAP. 11	CHAP. 13
7TH …	72,707	58,950	1,007	134	12,615	4,500	3,034	965	134	366	68,207	55,916	42	12,249
IL.N….	26,801	19,018	371	5	7,407	1,152	717	357	5	73	25,649	18,301	14	7,334
IL.C….	7,218	6,341	78	21	778	214	108	75	21	10	7,004	6,233	3	768
IL.S….	3,813	2,966	65	23	759	675	498	65	23	89	3,138	2,468	-	670
IN.N….	8,479	7,323	133	15	1,008	598	401	130	15	52	7,881	6,922	3	956
IN.S….	15,630	14,090	197	21	1,321	495	260	186	21	27	15,135	13,830	11	1,294
WI.E….	7,081	6,138	73	11	859	530	402	63	11	54	6,551	5,736	10	805
WI.W….	3,685	3,074	90	38	483	836	648	89	38	61	2,849	2,426	1	422
8TH…	49,302	35,217	796	351	12,934	5,480	3,697	774	351	654	43,822	31,520	22	12,280
AR.E….	4,549	2,068	80	14	2,387	288	135	69	14	70	4,261	1,933	11	2,317
AR.W….	2,513	1,810	65	12	626	179	78	61	12	28	2,334	1,732	4	598
IA.N….	2,321	2,169	37	24	91	618	524	37	24	33	1,703	1,645	-	58
IA.S….	3,340	2,933	31	13	363	283	225	28	13	17	3,057	2,708	3	346
MN……	15,100	10,784	227	40	4,0449	1,771	1,279	226	40	226	13,329	9,505	1	3,523
MO.E….	8,030	4,922	105	12	2,990	435	277	105	12	40	7,595	4,645	-	2,950
MO.W….	6,817	5,766	131	41	879	884	635	130	41	78	5,933	5,131	1	80
NE……	4,058	2,526	68	80	1,382	425	174	66	80	103	3,633	2,352	2	1,279
ND.....	1,082	959	24	45	54	209	121	24	45	19	873	838	-	35
SD……	1,492	1,280	28	70	113	388	249	28	770	40	1,104	1,031	-	73
9TH…	170,102	127,559	4,770	195	37,574	14,194	7,693	3,827	195	2,475	155,908	119,866	943	35,099
AK……	1,153	942	65	-	146	164	81	59	-	24	989	861	6	122
AZ……	18,385	13,371	1,032	10	3,971	2,377	1,146	878	10	342	16,008	12,225	154	3,529
+CA.N….	19,192	13,139	622	7	5,423	2,052	1,075	503	7	466	17,140	12,064	119	4,957
+CA.E….	18,231	14,305	391	32	3,503	1,614	851	350	32	381	16,617	13,454	41	3,122
+CA.C….	59,645	47,996	1,503	3	10,141	3,125	1,898	1,000	3	222	56,520	46,098	503	9,919
+CA.S….	11,539	7,110	257	3	4,169	800	4890	215	3	92	10,739	6,620	42	4,077
HI.....	882	765	39	-	78	74	43	31	-	-	808	722	8	78
ID……	4,100	2,682	59	35	1,324	365	181	54	35	95	3,735	2,501	5	1,229
MT……	1,951	1,664	49	41	197	223	107	47	41	28	1,728	1,557	2	159
NV……	6,488	4,507	224	3	1,734	354	126	193	3	32	6,114	4,381	31	1,702
OR……	12,091	8,536	143	21	3,391	1,061	448	136	21	4556	11,030	8,088	7	2,935
WA.E….	3,840	3,025	102	36	677	522	285	102	36	99	3,318	2,740	-	573

WA.W….	12,585	9,482	281	4	2,818	1,455	957	256	4	238	11,130	8,525	25	2,580
GUAM….	39	35	2	-	2	7	5	2	-	-	32	30	-	2
NMI	1	-	1	-	-	1	-	1	-	-	-	-	-	-
10TH…	54,233	43,075	886	129	10,135	4,643	3,182	809	129	515	49,590	39,893	77	9,620
CO……	16,671	12,224	231	23	4,186	1,088	737	212	23	109	15,583	11,487	19	4,077
KS……	8,811	7,066	133	29	1,583	560	357	130	29	44	8,251	6,709	3	1,539
NM……	4,200	3,616	114	9	461	348	206	90	9	43	3,852	3,410	24	418
OK.N….	4,267	3,903	85	1	278	608	483	84	1	40	3,659	3,420	1	238
OK.E….	1,612	1,418	24	17	153	201	143	20	17	21	1,411	1,275	4	132
OK.W….	9,354	8,123	94	36	1,101	807	627	93	36	51	8,547	7,496	1	1,050
UT……	7,894	5,504	163	7	2,219	895	551	144	7	192	6,999	4,953	19	2,027
WY……	1,424	1,221	42	7	154	136	78	36	7	15	1,288	1,143	6	139
11TH…	104,812	60,960	2,297	117	41,438	6,563	3,352	1,983	117	1,111	98,249	57,608	314	40.327
AL.N….	18,061	7,184	195	12	10,670	1,033	502	173	12	346	17,028	6,682	22	10,324
AL.M….	5,119	1,849	65	6	3,199	254	131	62	6	55	4,865	1,718	3	3,144
AL.S….	2,673	2,040	50	3	580	69	33	30	3	3	2,604	2,007	20	577
FL.N	2,488	2,214	119	17	138	238	90	111	17	20	2,250	2,124	8	118
FL.M….	24,154	20,661	713	10	2,770	1,756	1,011	590	10	145	22,398	19,650	123	2,625
FL.S….	9,910	8,354	525	4	1,027	846	383	458	4	1	9,064	7,971	67	1,026
GA.N….	26,171	12,000	484	6	13,681	1,974	1,038	430	6	500	24,197	10,962	54	13,181
GA.M….	8,813	4,308	77	41	4,387	229	97	69	41	22	8,584	4,211	8	4,365
GA.S….	7,423	2,350	69	18	4,986	164	67	60	18	19	7,259	2,283	9	4,967

*These Figures Include The Following Petitions Not Reflected Elsewhere:

NY.S…. Section 304 = 04 VT…… Chapt 7 SB = 01 PA.W…. Chapter 9 = 01
TX.N…. Section 304 = 01 TX.S…. Chapt 7 SB = 03 TXS…. Chapter 9 = 01
OH.N…. Chap 7 SB = 01 IN.S…. Chapt 11 RR = 01 MO.E…. Chapt 11 RR = 01
NE…… Chapter 9 = 02 SD…… Chapt 7 SB = 01 AZ…… Section 304 = 01
+CA.N…. Chapt 7 SB = 01 +CA.C…. Chapter 9 = 01 +CA.C….. Section 304 = 01
CD…… Chapter 9 = 07 UT…… Chapter 9 = 01

Although this study covers the United States of America, the emphasis is on the state of California marked (+) on the table.

Source: Wikipedia.org

Table 4.4 U.S. Bankruptcy Courts

Business And Non-Business Bankruptcy Code Petitions Commenced By Chapter Of The Bankruptcy Code During The Twelve Month Period Ended Dec. 31, 1993

CIRCUIT AND DISTRICT	TOTAL FILINGS	CHAP. 7	CHAP. 11	CHAP. 12	CHAP. 13	TOTAL BUSINESS FILLINGS*	CHAP. 7	CHAP. 11	CHAP. 12	CHAP. 13	TOTAL NON-BUSINESS FILLINGS*	CHAP. 7	CHAP. 11	CHAP. 13
7TH …	72,707	58,950	1,007	134	12,615	4,500	3,034	965	134	366	68,207	55,916	42	12,249
IL.N….	26,801	19,018	371	5	7,407	1,152	717	357	5	73	25,649	18,301	14	7,334
IL.C….	7,218	6,341	78	21	778	214	108	75	21	10	7,004	6,233	3	768
IL.S….	3,813	2,966	65	23	759	675	498	65	23	89	3,138	2,468	-	670
IN.N….	8,479	7,323	133	15	1,008	598	401	130	15	52	7,881	6,922	3	956
IN.S….	15,630	14,090	197	21	1,321	495	260	186	21	27	15,135	13,830	11	1,294
WI.E….	7,081	6,138	73	11	859	530	402	63	11	54	6,551	5,736	10	805
WI.W….	3,685	3,074	90	38	483	836	648	89	38	61	2,849	2,426	1	422
8TH…	49,302	35,217	796	351	12,934	5,480	3,697	774	351	654	43,822	31,520	22	12,280
AR.E….	4,549	2,068	80	14	2,387	288	135	69	14	70	4,261	1,933	11	2,317
AR.W….	2,513	1,810	65	12	626	179	78	61	12	28	2,334	1,732	4	598
IA.N….	2,321	2,169	37	24	91	618	524	37	24	33	1,703	1,645	-	58
IA.S….	3,340	2,933	31	13	363	283	225	28	13	17	3,057	2,708	3	346
MN……	15,100	10,784	227	40	4,0449	1,771	1,279	226	40	226	13,329	9,505	1	3,523
MO.E….	8,030	4,922	105	12	2,990	435	277	105	12	40	7,595	4,645	-	2,950
MO.W….	6,817	5,766	131	41	879	884	635	130	41	78	5,933	5,131	1	80
NE……	4,058	2,526	68	80	1,382	425	174	66	80	103	3,633	2,352	2	1,279
ND.....	1,082	959	24	45	54	209	121	24	45	19	873	838	-	35
SD……	1,492	1,280	28	70	113	388	249	28	770	40	1,104	1,031	-	73
9TH…	170,102	127,559	4,770	195	37,574	14,194	7,693	3,827	195	2,475	155,908	119,866	943	35,099
AK……	1,153	942	65	-	146	164	81	59	-	24	989	861	6	122
AZ……	18,385	13,371	1,032	10	3,971	2,377	1,146	878	10	342	16,008	12,225	154	3,529
+CA.N….	19,192	13,139	622	7	5,423	2,052	1,075	503	7	466	17,140	12,064	119	4,957
+CA.E….	18,231	14,305	391	32	3,503	1,614	851	350	32	381	16,617	13,454	41	3,122
+CA.C….	59,645	47,996	1,503	3	10,141	3,125	1,898	1,000	3	222	56,520	46,098	503	9,919
+CA.S….	11,539	7,110	257	3	4,169	800	4890	215	3	92	10,739	6,620	42	4,077
HI.....	882	765	39	-	78	74	43	31	-	-	808	722	8	78
ID……	4,100	2,682	59	35	1,324	365	181	54	35	95	3,735	2,501	5	1,229
MT……	1,951	1,664	49	41	197	223	107	47	41	28	1,728	1,557	2	159
NV……	6,488	4,507	224	3	1,734	354	126	193	3	32	6,114	4,381	31	1,702
OR……	12,091	8,536	143	21	3,391	1,061	448	136	21	4556	11,030	8,088	7	2,935
WA.E….	3,840	3,025	102	36	677	522	285	102	36	99	3,318	2,740	-	573

WA.W….	12,585	9,482	281	4	2,818	1,455	957	256	4	238	11,130	8,525	25	2,580
GUAM….	39	35	2	-	2	7	5	2	-	-	32	30	-	2
NMI	1	-	1	-	-	1	-	1	-	-	-	-	-	-
10TH…	54,233	43,075	886	129	10,135	4,643	3,182	809	129	515	49,590	39,893	77	9,620
CO……	16,671	12,224	231	23	4,186	1,088	737	212	23	109	15,583	11,487	19	4,077
KS……	8,811	7,066	133	29	1,583	560	357	130	29	44	8,251	6,709	3	1,539
NM……	4,200	3,616	114	9	461	348	206	90	9	43	3,852	3,410	24	418
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OK.E….	1,612	1,418	24	17	153	201	143	20	17	21	1,411	1,275	4	132
OK.W….	9,354	8,123	94	36	1,101	807	627	93	36	51	8,547	7,496	1	1,050
UT……	7,894	5,504	163	7	2,219	895	551	144	7	192	6,999	4,953	19	2,027
WY……	1,424	1,221	42	7	154	136	78	36	7	15	1,288	1,143	6	139
11TH…	104,812	60,960	2,297	117	41,438	6,563	3,352	1,983	117	1,111	98,249	57,608	314	40.327
AL.N….	18,061	7,184	195	12	10,670	1,033	502	173	12	346	17,028	6,682	22	10,324
AL.M….	5,119	1,849	65	6	3,199	254	131	62	6	55	4,865	1,718	3	3,144
AL.S….	2,673	2,040	50	3	580	69	33	30	3	3	2,604	2,007	20	577
FL.N	2,488	2,214	119	17	138	238	90	111	17	20	2,250	2,124	8	118
FL.M….	24,154	20,661	713	10	2,770	1,756	1,011	590	10	145	22,398	19,650	123	2,625
FL.S….	9,910	8,354	525	4	1,027	846	383	458	4	1	9,064	7,971	67	1,026
GA.N….	26,171	12,000	484	6	13,681	1,974	1,038	430	6	500	24,197	10,962	54	13,181
GA.M….	8,813	4,308	77	41	4,387	229	97	69	41	22	8,584	4,211	8	4,365
GA.S….	7,423	2,350	69	18	4,986	164	67	60	18	19	7,259	2,283	9	4,967

*These Figures Include The Following Petitions not Reflected Elsewhere:

NY.S…. Section 304 = 04	VT…… Chapt 7 SB = 01	PA.W…. Chapter 9 = 01
TX.N…. Section 304 = 01	TX.S…. Chapt 7 SB = 03	TXS. Chapter 9 = 01
OH.N…. Chap 7 SB = 01	IN.S…. Chapt 11 RR 01	MO.E…. Chapt 11 RR = 01
NE…… Chapter 9 = 02	SD…… Chapt 7 SB = 01	AZ…… Section 304 = 01
CAN…. Chapt 7 SB = 01	+CA.C…. Chapter 9 = 01	+CA.C….. Section 304 = 01
CD…… Chapter 9 = 07	UT…… Chapter 9 = 01	

Although this study covers the United States of America, the emphasis is on the state of California marked (+) on the table.

Source: Wikipedia.org

Discussion (s) of Tables

Table 4.1

Table 4.1 is the US Bankruptcy Courts, business and non business bankruptcy code petitions commenced by chapter of the bankruptcy code 1990.

Since the scope of this thesis covers the state of California, (circuit and district) find below:

Under the 9th circuit court, with regard to total filings, California N, recorded 19, 192, California E-18, 231, California C-59, 645 California S- 11, 539.

The total business filings for the 9th circuit court were as follows California N-2,052, California E-1,614, California C-3125, and California S-800.

The total non-business filings for the 9th circuit court were as follows:

California N-17,140, California E-16, 617, California C-56,520 and California S-10,739.

The above figures centered on bankruptcy proceedings under chapter 7, chapter 11, chapter 13 and chapter 13 bankruptcy code of the United States.

Table 4.2

Table 4.2 is the United States bankruptcy courts, business and non business bankruptcy code petitions commenced by chapter of the bankruptcy code 1991.

Find below the relevant data as it relates to the state of California (circuit and district) courts.

The 9th circuit court pertaining to total filings, California N, got 24, 346, California E-21, 559, California C-78, 668 and California -14, 799.

The total business filings for the 9th circuit court are as follows; California N-2,577, California E-2,026, California C-7,003 and California E-689. The total non-business filings for the 9th circuit court were as follows; California N-21679, California E-19, 5333 , California C-71,665, and California E-14 , 110.

The afore-cited data pertains to bankruptcy proceedings under chapter 7, chapter 11, chapter 12 and chapter 13, bankruptcy code of the United States.

Table 4.3

Table 4.3 is the United States bankruptcy courts, business and non business bankruptcy code petitions under chapter of the bankruptcy code 1992. The useful data pertaining to the state of California (circuit and circuits' courts) with regard to total filings, California N had 27,872, California E-24,045, California C-94,579 and California S-15,312.

Again, the total business filings for the 9th circuit court are as follows; California N-2,718, California E-2,668, California C-1,314 and California S-515.

Furthermore, the total non-business filings for the 9th circuit court are the following; California N-25,154, California E-21,377, California C-88,265 and California S-14,847.

The above information centers on bankruptcy proceedings under chapter 7, chapter 11, chapter 12 and chapter 13, bankruptcy code of the United States.

Table 4.4

Table 4.4 is the United States bankruptcy courts, business and non business bankruptcy code petitions under chapter of the bankruptcy code 1993.

The information is stated as it concerns the state of California (ca) (circuit and circuit) courts.

The total filings for California N are 26,353, California E-23,213, California C-92,396 and California S-14,440. The total business filings for the 9th circuit court were as follows; California N 3,008, California E 2,549, California C and California S-453 while, the total non-business filings for the 9th circuit court were California N 23,347, California E 20,664, California C 85,461, and California S 3,987.

The data above centers on chapter 7, chapter 11, chapter 12 and chapter 13, bankruptcy code of the United States.

The above table shows companies liquidated in the United States of America between 1990 – 1993, in the first, second, third and fourth quarter of the relevant period, according to each state. The state of California (a) which is the scope of this study is asterisked throughout. The aggregate total companies liquidated in 1990, 1991, 1992, and 1993 are showed respectively.

The foregoing clearly buttress that in America, there are documentary and concise record of bankruptcy/liquidated companies for official reference purposes.

Comparative Analysis of the Incident of Liquidation in Nigeria, Britain, and the United States of America

Discussion on the Comparative Incidence of Liquidation in Nigeria, Britain and U.S.A

The Nigerian nation has a poor, unreliable record of institutional corporate liquidation data keeping. In Nigeria, there is no transparency, and easy access to information relating to companies liquidated from the Corporate Affairs Commission (C.A.C). There is high rate of inefficient planning, lack of co-operation and defective data, which certainly propels poor

economic growth and development. Nigeria is characterized by weak, institutional structures, hence the great need and importance of easy access to information through the freedom of information law, which in other sense, conversion, the need for a specialized liquidatorship commission. Another defect is the inconsistent, uncertain and conflicting decisions by our law courts. A case on point is the Babalakin case where there are now two divergent decisions by the Federal High Courts on the same subject matter. It remains to be seen how the Court of Appeal and the Supreme Court will decide the matter.

In Nigeria there is a challenge faced by the company liquidator and insolvency practitioners. Many people do not know about bankruptcy practitioners, either. There is no exact statistics or figures on companies liquidated, as well as jobs at risk, unlike in Britain and America where there are high number of companies liquidated in those two nations. It is very obvious and doubtful, if companies are ever successfully saved in Nigeria. Company liquidation is still at the infancy stage in Nigeria with numerous attendant problems.

Hence, very many people lack knowledge and experience in liquidations matters. In short, the expertise is restricted to few lawyers and accountants. The practice of liquidatorship with clear and strong emphasis in the appointment of receivers is becoming popular, but compounded with conflicting, judicial decisions by the Federal High Courts charged with jurisdiction in such cases by virtue of section 251 of the 1999 Constitution of the Federal Republic of Nigeria.

Appeals from the Federal High Court goes to the Count of Appeal, and then to the Supreme Court in that succession. Nigeria has poor, irregular and uncoordinated economic policies, fraudulent practices, high interest bank rates and poor rate of repayment of loan facilities, which are unique features in contrast to Britain and United States of America. The resultant

consequences are poor, inefficient, undeveloped, weak structural, institutional, judicial and legal frame work relating to company liquidatorship practices.

It is imperative for an effective, strong and developed company liquidatorship practice, the institutions and mechanism, must be predictable, definite, clear and certain judicial decision with enforceable mechanism essential to its implementation and success. That is crucial to any legal regime on company liquidators and receivership. It is now settled that the law of company liquidations in Nigeria remains unsettled, because is yet to achieve excellent rulings and judgments. Nigerian judicial system is slow and lack activism in this area.

Even when there are laws and judgments/rulings, they are still greatly unenforced, underutilized due to corruption, nepotism and lack of political will to do so, there occasioning in abuses of court processes. A classical example to buttress the above assertion is the Babalakin/Bi-Courtney case Vide Suit No. FHC/ABJ/CS/50/09 (unreported) as will be shown very shortly.

On September 29, 2014 Justice Ibrahim Buba of the federal high court vacated the order made by his brother judge Justice Okon Abang, Appointing Asset Management Corporation of Nigeria (AMCON) as receiver/manager over the assets of Bi-Courtney Limited, Operators of Murtala Mohammed International Airport Terminal 2 Ikeja, Lagos. The order vacated by the court included those appointing Dr. Olisa Agbakoba SAN as receiver/manager over assets of chartered investment limited, Resort. International limited, Roygate Properties limited. The order restraining some commercial banks in Nigeria from permitting these companies to operate bank accounts held in banks in whatever from pending the determination of the substantive action. Dr Babalakins is the president and chairman of Bi-Courtney group.

Justice Buba had upturned the orders made on September 22nd 2014 by Justice Abang empowering AMCON to take over assets of Babalakins companies in that order, Dr. Olisa Agbakoba SAN was earlier appointed as the receiver / manager over all the companies of Babalakin, including Bi-Courtney limited, Chartered investments limited, Resort international limited and Roygate.

Later the Chief Judge of the Federal High Court, Justice Ibrahim re-assigned the case to Justice Buba, who was previously handling the case between the parties. When the case came up for determinations, counsel to Dr. Babalakin and his companies contended that the court should suspend the interim made by Justice Abang enabling Dr Olisa Agbakoba SAN to serve as the receiver/manager for the companies. They argued that the integrity of the court had been badly affected with the conflicting order, so there was need for the court to act quickly to abate that development. They also submitted that the Federal High Court as an institution had been scandalized with the orders of Justice Abang, because Justice Buba had specifically restrained AMCON from appointing a receiver/manager and or taking over the companies.

> For AMCON to now secretly obtain another order at variance with a subsisting order from a different court is an attempt to scandalize this court and cause confusion". Already, banks and the police are already implementing Abang's orders, and that is the more reason why this court should act fast.

In his reply Agbakoba SAN submitted that as far as he was concerned there was no confusion with Abang's orders. He noted that the suit before Abang was filed pursuant to the new cause of action that emanated out of an admission by Babalakin that he was indebted to AMCON to the tune of fifty billion naira. He asserted that before now, the heap of cases were basically on determining the actual debt owned Babalakin and debt swap arising from the contention by the

defendants that the Federal Government of Nigeria was indebted to Babalakin to the amount of over ₦132 billion naira pursuant to a judgment.

Furthermore, after series of meetings, Babalakin accepted that he was owing AMCON, and that all suits be withdrawn from the court. However, Dr, Babalakin reneged from the terms of the agreements, especially regarding transferring the federal secretariat in Ikoyi to AMCON as agreed. Agbakoba concluded that Babalakin and his lawyers failed to understand when cause of action arose in a case and ends. In a well considered ruling Justice Buba held that

(1) the action of AMCON was clearly an abuse and a nullity, as the suits before Abang were filed and orders obtained in the face of previous cases and specific orders.

(2) The judge decried the actions of AMCON, noticing that it felt that a court can only bark but not bite.

(3) It was clear from the processes before the court that Justice Abang was misled by AMCON to grant the interim orders having failed to notify the court of the existing orders

. (4) Finally, Justice Buba then vacated the orders of Justice Abang, and held that it was clearly an abuse of court process. The case was subsequently adjourned to December 9, 2014 for mention. The above ruling by Justice Buba setting aside Justice Abang earlier orders are not only conflicting, but portrays the uncertain, unstable and unpredictable nature of the Nigerian Judicial system. The last may not have been heard on that matter due to the resultant controversies generated by Justice Buba's ruling dated 29th September 2014 nullifying Justice Abang's ruling on 22nd September 2014.[17]

[17] *AMCON: Court Vacates Order Against Babalakins Bi-Courtney*. Vanguard Tuesday, September 30, 2014, P 11

Now, there has been war of words, accusation and counter – accusations by the parties in and outside the court room more specifically in the print and electronic media.

AMCON and Dr Agbakoba have since appealed to the Court of Appeal. It is doubtful if the case will not get to the supreme court of Nigeria. It remains to be seen how the apex court may decide the matter. The above scenario clearly poses danger and uncertainty to our legal system. It clear shows inherent weaknesses in Nigerian legal system, judicial mechanisms and institutional failure. In a country, where there are uncertainty about the applicable laws different pronouncement by courts of coordinate Jurisdictions on the same subject matters, the end result is chaos, crisis, anarchy lawlessness, illegality and abuse of court processes.

There cannot be economic growth and development and peace in that country. For the avoidance of doubt the researcher is of the conviction that Justice Ibrahim Buba decision represents the correct position of law, for the reasons already stated. AMCON action is clearly mischievous and an abuse of court process. Bi – Courtney submission represents the correct position of the law, and we strongly predict that the Supreme Court will have no difficulty in affirming Justice Ibrahim Buba's ruling.

The above is a lucid portrayal that Nigerian laws and judicial systems requires urgent over hauling and re-engineering when compared to the advanced and developed nations of Britain and United States of America. A comparative analysis and appraisal of the Nigerian, British and America Jurisdiction reveals that company liquidatorship, bankruptcy practice requires a comprehensive complete review and overhauling. There is compelling necessity to absolutely strengthen the Nigerian system to realize the much desired strengths, development and growth.

This will no doubt eliminate abuse of court processes, culture of impunity, unpalatable, unpopular and judicially indefensible pronouncements by superior courts of records. Despite the fact that the researcher wrote to the C.A.C (Executive Secretary) requesting for access to official information relating to companies liquidated in Nigeria, the C.A.C refused to grant it. In Nigeria, there is dearth of information on actual liquidated companies due to official bureaucracy. That explains why in this thesis, there no data on liquidated companies in Nigeria except those on liquidated banks depicted in Table 2.1 (closed financial institutions in Nigeria at pages 119 - 120).

In this paper, the data relating to Britain are contained in Tables 3.1, 3.2, 3.3, and 3.4 respectively. While the relevant data on the United States of America are contained in tables 4.1, 4.2, 4.3 and 4.4. In Britain and the U.S.A, there is easy access to information due to transparency. This allows for effective planning co-operation and economic growth and development. The rational for the variation in the three countries namely Nigeria, Britain and United States of America hinges solely on efficient record keeping system, quick and easy access to information, the rate of development.

One is therefore not surprised at the legal, political economic growth, advancement and development of these two industrialised nations. There is therefore the need to overhaul the Nigerian system, so as to move the nation forward. From this research work, the following findings emerged with regards to Nigeria.

(a) Paucity of data relating to liquidated companies in Nigeria.

(b) High secrecy and official bureaucracy in Nigeria, hence the need for the full utilisation of the freedom of information law.

(c) Poor record keeping and corruption in Nigeria.

(d) Weakness of the existing legal, corporate and institutional structures, and the need to create a liquidatorship commission.

With regards to Britain and United States of America, the under listed factors were evident from the above

(a) Transparency and easy access to information relating to liquidation/liquidated companies.

(b) Effective planning, co-operation and economic growth and development.

(c) Efficient record keeping and abundance of data relating to liquidated companies.

(d) Clear institutional and developmental strengths.