

## Contents

Introduction .....	5
Summary of Findings .....	5
Methodology and Data Limitations .....	6
Debtor-Provided Data .....	6
Data on Cases Filed and Closed .....	6
Transaction Data .....	8
Tables .....	8
Assets and Liabilities Reported by Debtors .....	9
Income and Expenses Reported by Debtors .....	12
Time Interval from Filing to Closing .....	13
Reaffirmation Agreements .....	14
Property Valuation Orders .....	15
Chapter 13 Cases Closed by Dismissal or Plan Completion .....	16
Prior Filings Reported by Debtors .....	17
Creditor Misconduct and Punitive Damages .....	18
Rule 9011 Sanctions Imposed Against Debtors' Attorneys .....	19
BAPCPA Table 1A. U.S. Bankruptcy Courts—Assets and Liabilities Reported by Individual Debtors in Chapter 7 Cases With Predominantly Nonbusiness Debts .....	20
BAPCPA Table 1B. U.S. Bankruptcy Courts—Assets and Liabilities Reported by Individual Debtors in Chapter 11 Cases With Predominantly Nonbusiness Debts .....	24
BAPCPA Table 1D. U.S. Bankruptcy Courts—Assets and Liabilities Reported by Individual Debtors in Chapter 13 Cases With Predominantly Nonbusiness Debts .....	28
BAPCPA Table 1X. U.S. Bankruptcy Courts—Assets and Liabilities Reported by Individual Debtors in Cases With Predominantly Nonbusiness Debts .....	32
BAPCPA Table 2A. U.S. Bankruptcy Courts—Income and Expenses Reported by Individual Debtors in Chapter 7 Cases With Predominantly Nonbusiness Debts .....	36
BAPCPA Table 2B. U.S. Bankruptcy Courts—Income and Expenses Reported by Individual Debtors in Chapter 11 Cases With Predominantly Nonbusiness Debts .....	40
BAPCPA Table 2D. U.S. Bankruptcy Courts—Income and Expenses Reported by Individual Debtors in Chapter 13 Cases With Predominantly Nonbusiness Debts .....	44

BAPCPA Table 2X.  
U.S. Bankruptcy Courts—Income and Expenses Reported by Individual Debtors in Cases  
With Predominantly Nonbusiness Debts ..... 48

BAPCPA Table 3.  
U.S. Bankruptcy Courts—Time Intervals from Filing to Disposition of Individual Debtors’ Cases  
With Predominantly Nonbusiness Debts Closed, by Terminating Chapter ..... 52

BAPCPA Table 4.  
U.S. Bankruptcy Courts—Reaffirmation Agreements by Individual Debtors  
With Predominantly Nonbusiness Debts in Chapter 7 Cases ..... 56

BAPCPA Table 5.  
U.S. Bankruptcy Courts—Individual Debtor Cases With Predominantly Nonbusiness Debts in  
Which Property Valuation Orders were Entered in Chapter 13 Cases ..... 60

BAPCPA Table 6.  
U.S. Bankruptcy Courts—Chapter 13 Individual Debtor Cases With Predominantly  
Nonbusiness Debts Closed by Dismissal or Plan Completion ..... 64

BAPCPA Table 7.  
U.S. Bankruptcy Courts—Prior Filing Status Reported by Individual Debtors in Chapter 13 Cases  
With Predominantly Nonbusiness Debts ..... 68

BAPCPA Table 8A.  
U.S. Bankruptcy Courts—Creditor Misconduct in Chapter 7 Cases Involving Individual Debtors  
With Predominantly Nonbusiness Debts ..... 71

BAPCPA Table 8B.  
U.S. Bankruptcy Courts—Creditor Misconduct in Chapter 11 Cases Involving Individual Debtors  
With Predominantly Nonbusiness Debts ..... 74

BAPCPA Table 8D.  
U.S. Bankruptcy Courts—Creditor Misconduct in Chapter 13 Cases Involving Individual Debtors  
With Predominantly Nonbusiness Debts ..... 77

BAPCPA Table 8X.  
U.S. Bankruptcy Courts—Creditor Misconduct in Cases Involving Individual Debtors  
With Predominantly Nonbusiness Debts ..... 80

BAPCPA Table 9A.  
U.S. Bankruptcy Courts—FRBP 9011 Sanctions and Damages Imposed Against Debtors’ Attorneys  
in Chapter 7 Individual Debtor Cases With Predominantly Nonbusiness Debts ..... 83

BAPCPA Table 9B.  
U.S. Bankruptcy Courts—FRBP 9011 Sanctions and Damages Imposed Against Debtors’ Attorneys  
in Chapter 11 Individual Debtor Cases With Predominantly Nonbusiness Debts ..... 86

BAPCPA Table 9D.  
U.S. Bankruptcy Courts—FRBP 9011 Sanctions and Damages Imposed Against Debtors’ Attorneys  
in Chapter 13 Individual Debtor Cases With Predominantly Nonbusiness Debts ..... 89

BAPCPA Table 9X.  
U.S. Bankruptcy Courts—FRBP 9011 Sanctions and Damages Imposed Against Debtors’ Attorneys  
in Individual Debtor Cases With Predominantly Nonbusiness Debts ..... 92

# 2009 Report of Statistics Required by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

## Introduction

Pursuant to 28 U.S.C. § 159(b), enacted as part of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), the Director of the Administrative Office of the United States Courts (AO) is required to submit an annual report to Congress on certain bankruptcy statistics detailed in 28 U.S.C. § 159(c). Section 159(a) of Title 28 provides that clerks of the bankruptcy courts “shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11.” The Director of the AO is required to compile this information, analyze it, and make it accessible to the public as well as Congress. This report is prepared to fulfill this request. Tables in this report display data in the aggregate, by circuit, and by district.

## Summary of Findings

During calendar year 2009, nearly 1.4 million bankruptcy petitions were filed by individuals with predominantly nonbusiness debt, an increase of 32 percent over the number of filings in calendar year 2008. Approximately 71 percent of these cases, up from 66 percent in 2008, were filed under chapter 7, in which a debtor’s assets are liquidated and the nonexempt proceeds are distributed to creditors. About 29 percent, down from 34 percent in 2008, were filed under chapter 13, in which individu-

als who have regular income and debts below a statutory threshold make installment payments to creditors pursuant to a court-confirmed plan. Fewer than 1 percent of the cases were filed under chapter 11, which allows businesses and individuals to continue operating while they formulate plans to reorganize and repay their creditors.<sup>1</sup> More than 1.2 million consumer cases—that is, cases with predominantly nonbusiness debt—were closed during calendar year 2009. Of these, approximately 1 million (about 83 percent of the total) were filed after October 17, 2006, and therefore lie within the scope of the reporting requirement.<sup>2</sup> Approximately 85 percent of the 1 million closed consumer cases included in the data analyzed for this report were closed under chapter 7, about 15 percent were terminated under chapter 13, and fewer than 1 percent were closed under chapter 11. Since the duration of a typical chapter 11 case or chapter 13 case is three to five years, closings under these chapters are underrepresented in the data analyzed in this report. Likewise, closings under chapter 7 are overrepresented relative to the total population of cases closed by the bankruptcy courts in 2009.

Consumer debtors seeking bankruptcy protection under chapters 7, 11, or 13 during 2009 reported holding total assets in the aggregate amount of \$200 billion and total liabilities in the aggregate amount of \$325 billion. The total assets reported by consumer debtors rose 34 percent

---

<sup>1</sup> Consumer cases filed under chapter 11 are relatively infrequent (about 10 percent of chapter 11 cases filed in calendar year 2009 were nonbusiness cases) and are generally believed to result when debtors exceed the debt restrictions of 11 U.S.C. § 109(e), which, through March 31, 2010, restricted chapter 13 to debtors with less than \$336,900 in noncontingent, liquidated, unsecured debts and less than \$1,010,650 of noncontingent, liquidated, secured debts. Effective April 1, 2010, those limits were raised to \$360,475 and \$1,081,400, respectively.

<sup>2</sup> In 2007, 47 percent of the cases closed were eligible for inclusion in this report; in 2008, the total rose to 72 percent. This report includes data from 97 percent of chapter 7 nonbusiness cases (903,290 of 929,274) terminated during 2008, 83 percent of chapter 11 cases (515 of 624), and 51 percent of chapter 13 cases (156,494 of 309,308).

over the comparable 2008 numbers, and the total liabilities for the same set of cases rose 53 percent over the comparable data for 2008. (When considering the magnitude of these increases, recall that consumer filings in 2009 rose 32 percent over the previous year.) The median average monthly income of all debtors was \$2,723 (4 percent higher than 2008), and the median average expenses were \$2,819 (5 percent higher than 2007).<sup>3</sup> Chapter 7 consumer cases closed in 2009 had a mean time interval from filing to disposition of 168 days and a median time interval of 120 days. A total of 310,763 reaffirmation agreements were reported as filed in 215,423 chapter 7 consumer cases terminated during 2009. In 28 percent of the chapter 13 cases filed during 2009, debtors indicated they had filed for bankruptcy during the previous eight years, 2 percent fewer than in 2008.

## Methodology and Data Limitations

### Debtor-Provided Data

The U.S. bankruptcy courts send the AO data when a case is filed, when motions are entered in the case, and when the case is terminated. The data are then compiled annually for the purpose of this report. Many BAPCPA tables, particularly those reporting data on debtors' assets, liabilities, income, and expenses, rely on data provided by debtors when they submit forms, schedules, motions, agreements, and other filings to the court. These data are provided exclusively by the debtors and are not validated either by the courts or the AO.

With respect to data collected from forms and schedules submitted at filing, debtors may fail to provide some or all of the data required for BAPCPA tables. Therefore, analyses involving two or more columns in any table may overstate or understate differences. When all required data

are missing, either because of omission or delayed submission, analyses involving the data and the number of cases become unreliable. Therefore, caution should be used when analyzing columns of data or comparing any column of data to the number of cases filed.

Reliance on debtor-provided data can introduce other sources of error. One likely source of error arises when a debtor inaccurately reports assets, liabilities, income, or expenses at the time of filing. Those inaccuracies, if significant enough, can affect district, circuit, and national totals for the relevant fields in the tables in this report. For example, in 2009, one debtor filing a chapter 7 bankruptcy petition claimed assets of nearly \$38 million and debts of nearly \$10.5 billion split almost evenly between unsecured priority claims and unsecured nonpriority claims. The more than \$5 billion in unsecured priority claims reported by this one debtor constituted nearly two thirds of the total amount of unsecured nonpriority claims reported by the 943,995 debtors who filed petitions under chapter 7, completed schedules, and gave information included in the data analyzed in this report.

### Data on Cases Filed and Closed

Another limitation to the data relates to tables reporting on closed cases. Under 28 U.S.C. § 159(a), clerks of court must collect statistics on debtors who meet certain criteria. Judiciary data systems in place when BAPCPA was signed into law were not capable of collecting and reporting all such data. Accordingly, the Judiciary built a major new data system and software to collect the data required under 28 U.S.C. § 159. Those products were put in place on October 17, 2006.

The tables in this report reflect cases filed or closed during calendar year 2009. However,

<sup>3</sup> Debtors calculate their average monthly incomes and average monthly expenses during the six months prior to filing and report them to the courts on line 16 of Schedule I (income) and line 18 of Schedule J (expenses). The AO then calculates the median of the average monthly incomes reported by debtors for all districts and circuits.

although all cases filed in 2009 are addressed in the report, the statute's requirement to report on specified characteristics of specific types of debtors for which data have been collected since October 17, 2006, reduces the number of reported cases to only those commenced after October 17, 2006, and closed during the calendar year. As a result, tables based on cases closed during the reporting period reflect a subset of all cases closed during the period. The impact of this limitation cannot be determined until BAPCPA data have been collected for a few years. That is, because all cases included in this report must have been filed on or after October 17, 2006, the results for this report primarily will be based on shorter-duration cases and will exclude many of the longer-duration cases opened before October 17, 2006, that would have been included but for the statutory limitation on the filing date. Therefore, the characteristics associated with cases of shorter duration likely will have a greater influence on the data results than they would in a typical year. This limitation has the greatest effect on tables that address cases closed (Tables 3 and 6) and transaction data (Tables 4, 5, 8, and 9; see section on transaction data below).

As more data are accumulated in each succeeding year, the data will become more representative of all closed cases and all transactions that occur while cases are pending.

As a result of this data collection limitation, the cases included in the data analyzed for this report will not accurately reflect all cases closed in 2009. For example, a typical chapter 13 case that results in a standard discharge usually exceeds three years in duration—and often takes as long as five years—and could include an order on valuation of property. On the other hand, a typical chapter 13 case that terminates in a dismissal may last a few months or less and have no such orders. As a

result, the ratio of chapter 13 debtors dismissed during 2009 (the third full year after the effective date of the statute) to chapter 13 debtors discharged is higher than the ratio of dismissed debtors to discharged debtors for all chapter 13 cases closed in 2009.<sup>4</sup>

To understand the effect of this limitation, consider that 1,284,714 bankruptcy cases were closed during calendar year 2009, of which 1,239,209 were identified as cases with predominantly non-business debt.<sup>5</sup> Of those cases, 1,034,699 were closed during calendar year 2009 and had been filed on or after October 17, 2006, by individual debtors with predominantly nonbusiness debt seeking relief under chapters 7, 11, or 13. Due to this limitation, the cases closed that are reflected in the tables in this report account for approximately 83 percent of all cases closed in 2009 addressing predominantly nonbusiness debt. The data summarized in the tables in this year's report represent a significant improvement over the data analyzed in the previous two reports, published in 2007 and 2008, which covered only 47 percent and 72 percent, respectively, of all cases closed in which the nature of the debt reported was primarily non-business.

An additional limitation relates to the first column of data in each table, which presents total cases. Some tables include reopened and transferred cases in the totals, but others omit these cases. These cases are excluded when the data would be duplicative. For example, totals for assets and liabilities at the original filing of a case are the same for each reopening of that case. Counting the cases twice (once at filing and once at reopening) would distort the data on reported assets, liabilities, income, and expenses. In all other instances in which they would not affect the results, these cases are included.

---

<sup>4</sup> In chapter 13 cases with predominantly nonbusiness debt closed in 2009, 168,244 of 390,680 debtors (43 percent, down from 49 percent in 2008) received discharges in 309,308 cases. Data on nonbusiness cases closed are derived from unpublished AO table F-19D2.

<sup>5</sup> See Table F in *Statistical Tables for the Federal Judiciary: December 31, 2009*, for total number of closings.

## Transaction Data

“Transaction data” refers to case-related activities such as reaffirmation agreements, valuation orders, creditor misconduct, and attorney sanctions that occur during bankruptcy proceedings (see Tables 4, 5, 8, and 9). Such data are typically captured in docketing activity.

In many instances, BAPCPA requires a report of the total number of cases in which a specific type of transaction has occurred. This affects the way that transaction data are reported. A case may have more than one occurrence of a particular type of transaction. For this reason, the case must be concluded before one can report whether the case meets the requirement to be counted and to ensure that no case is counted more than once. Thus, tables based on transaction data are based only on data from cases closed during the reporting period. Therefore, these tables are subject to the same limitations noted in the section on cases filed and closed, not only because of the requirement to characterize the type of case, but also because case activity that occurred prior to October 17, 2006, on a case that closed during the reporting period would not have been captured, causing transaction data to be underreported.

In addition, because a case may have more than one occurrence of a specific type of transaction, but the characteristics of each transaction may be different, the case must be counted in each column of a table whenever any occurrence meets the criteria for data in that column. For example, a debtor may enter into more than one reaffirmation agreement. A case is counted in each column of the table whenever the case has one or more reaffirmation agreements meeting the criteria for such column. If a debtor enters into three reaffirmation agreements, two of which include certification from the debtor’s attorney and one of which does not, the case is counted in the column representing “number of cases with agreements filed pro se” as well as the column representing the “total number of cases with agreements filed.” Furthermore, if only one reaffirmation agreement in the example above is approved and two are denied by the court,

the case is also counted in the column representing the “number of cases with agreements approved.”

As noted above, the Judiciary had to implement new data collection methods based on docketing activity to report the specific transaction data required by BAPCPA. These new methods consisted of changes to information technology systems, forms, and court practices implemented in October 2006 to correspond with the effective date of certain provisions of BAPCPA. Due to the complex nature of capturing certain types of data in the ordinary course of bankruptcy practice and the challenges associated with new information technology systems and processes, some residual issues still affect the uniform and accurate collection of transaction data. The Judiciary has identified many of these issues and is actively pursuing remedies. For example, previously the electronic system had captured data only from orders on motions. Courts did not gain the ability to transmit to the AO data on orders issued by judges without a motion by one of the parties (*sua sponte* orders) until the release of version 3.2 (bankruptcy) of the Case Management/Electronic Case Files (CM/ECF) software on April 24, 2008, so data from *sua sponte* orders may be less complete than data from orders on motions. Those data collection efforts are in their early stages, so the results provided are likely to change as courts respond to new reporting processes and data collection processes improve.

Because transaction data are captured from docket activity, the collection of accurate transaction data relies on debtors, their attorneys, and other case parties who file motions, agreements and other documents with the court to identify them appropriately. If a filer fails to note the correct court event at docketing, the data may not be reported accurately or at all. If the filer submits multiple matters under a single court event, the activities may be undercounted or not counted at all.

## Tables

In accordance with BAPCPA, bankruptcy statistics are itemized by chapter with respect to Title 11

and report only data in cases filed by individual debtors with predominantly nonbusiness debts (“consumer cases”). In chapter 7 cases, debtors’ assets are liquidated, and the nonexempt proceeds are distributed to creditors. Under chapter 11, debtors are allowed to continue operating while they formulate plans to reorganize and repay their creditors. Under chapter 13, individuals with regular income and debts below a statutory threshold make installment payments to creditors pursuant to court-confirmed plans. The tables noted in the list below have been created for this report as specified in 28 U.S.C. § 159(c).

The naming convention used for the tables in this report provides that the alphabetic character immediately following the table number indicates the chapter(s) of the Bankruptcy Code associated with the cases included in the table. “A” indicates cases under chapter 7 only; “B” indicates cases under chapter 11 only; “D” indicates cases under chapter 13 only; and “X” indicates cases under chapters 7, 11, and 13 combined. For example,

Table 1D reports assets and liabilities for cases filed under chapter 13.<sup>6</sup>

### Assets and Liabilities Reported by Debtors

Tables 1A, 1B, 1D, and 1X report the assets and liabilities of debtors in total and by category of assets and liabilities, as well as the total net scheduled debt, reported by the debtors on Official Bankruptcy Form 6–Summary (B6–Summary of Schedules). All tables that report assets and liabilities (1A, 1B, 1D, and 1X) present data on cases filed during the reporting period by individual debtors with primarily nonbusiness debt. The data for these tables are provided exclusively by the debtors and cannot be validated by the courts. These data typically are provided by a debtor at the time of filing or within approximately 15 days of filing as required by statute and are not typically updated as the case proceeds. Only data provided during the initial filing of each case are included in Tables 1A, 1B, 1D, and 1X; data for reopened and

<b>BAPCPA Report Tables</b>		
<b>Code</b>	<b>Description</b>	<b>BAPCPA Table</b>
28 U.S.C. § 159(c)(3)(A) and 28 U.S.C. § 159(c)(3)(C)	Assets and Liabilities Reported by Debtors	1
28 U.S.C. § 159(c)(3)(B)	Income and Expenses Reported by Debtors	2
28 U.S.C. § 159(c)(3)(D)	Time Interval From Filing to Closing	3
28 U.S.C. § 159(c)(3)(E)	Reaffirmation Agreements	4
28 U.S.C. § 159(c)(3)(F)(i)	Property Valuation Orders	5
28 U.S.C. § 159(c)(3)(F)(ii)	Chapter 13 Cases Closed by Dismissal or Plan Completion	6
28 U.S.C. § 159(c)(3)(F)(iii)	Prior/No Prior Filings Reported by Debtors	7
28 U.S.C. § 159(c)(3)(G)	Creditor Misconduct and Punitive Damages	8
28 U.S.C. § 159(c)(3)(H)	Rule 9011 Sanctions Imposed Against Debtors’ Attorneys	9

<sup>6</sup> “C” is reserved for cases filed under chapter 12, which does not apply to consumer cases.

transferred cases are excluded to prevent duplicate reporting.

“Net scheduled debt” is defined in BAPCPA as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories that are predominantly non-dischargeable. Debt that is predominantly non-dischargeable may include, but is not limited to, domestic support obligations, taxes, student loans, and pension obligations. Thus, net scheduled debt approximates the amount of debt reported by the debtor at the time of filing that may be eligible for discharge (without regard to security interests) during the case and is referred to in 28 U.S.C. § 159(c)(3)(c) as the “aggregate amount of debt discharged in cases filed during the reporting period.”

“Net scheduled debt” overstates the amount of debt actually discharged by the amount of secured debt (e.g., mortgage(s) on real property and many car loans) that has not been voided. A discharge in bankruptcy releases the debtor from personal liability for certain specified types of debts. Although a debtor is not personally liable for discharged debts, a valid lien that has not been voided in the bankruptcy case will remain in effect after the bankruptcy case has been closed. Therefore, a secured creditor may enforce the lien to recover the property secured by the lien. The statute does not provide for linkage of either real or personal property valuations with any claims by creditors secured by such property in determination of “dischargeable” debt.

Table 1X shows that individual debtors with primarily nonbusiness debt seeking bankruptcy protection under chapters 7, 11, or 13 during 2009 reported holding total assets in the aggregate amount of \$200.3 billion. Eighty percent of these assets were categorized as real property, and 20 percent were categorized as personal property. By

comparison, filers in 2008 reported total assets in the aggregate amount of \$149.0 billion. The 2009 amount, which represents a 34 percent increase in reported assets, accompanied a 32 percent increase in the number of cases filed and a 33 percent increase in the number of cases filed with complete schedules. Filers in the Central District of California (CA-C) reported the largest amount of total assets for any district (\$24.7 billion), followed by the Middle District of Florida (FL-M) (\$9.7 billion) and the Eastern District of California (CA-E) (\$8.5 billion). Debtors reported total liabilities in the aggregate amount of \$325.6 billion, with 63 percent of liabilities categorized as secured claims, 3 percent categorized as unsecured priority claims, and 34 percent categorized as unsecured non-priority claims. Although total liabilities grew 53 percent over 2008, the distribution of assets among the three categories (secured, unsecured priority, and unsecured nonpriority claims) remained largely unchanged.<sup>7</sup> Overall, debtors categorized 95 percent of debts and obligations as dischargeable debt. The highest total was that for debtors in CA-C, who reported \$38.5 billion in liabilities, followed by that for FL-M with \$16.1 billion in liabilities.

Table 1A shows that debtors in chapter 7 consumer cases reported total assets in the aggregate amount of \$131.5 billion, a 47 percent increase over the 2008 amount, with 42 percent more cases filed and 43 percent more cases with completed schedules. Eighty-one percent of assets were categorized as real property and 19 percent as personal property. Filers in CA-C reported the largest amount of total assets at \$15.0 billion, followed by debtors in CA-E (\$6.5 billion) and FL-M (\$6.2 billion). Debtors reported total liabilities in the aggregate amount of \$237.7 billion, with 58 percent of liabilities categorized as secured claims, 3 percent categorized as unsecured priority claims, and 38 percent categorized as unsecured

<sup>7</sup> In 2009, unsecured priority claims constituted 3 percent of all liabilities, compared to 1 percent in 2008. The increase likely stems from one case filed in ME in which the debtor claimed roughly \$5.2 billion in unsecured priority claims.



non-priority claims.<sup>8</sup> The total reported for liabilities was 65 percent greater than the comparable number for 2008; the secured claims component of the liabilities rose 57 percent; the increases in unsecured priority claims (up 328 percent) and secured priority claims (up 69 percent) were more pronounced. Debtors in consumer cases in CA-C reported \$28.0 billion in total liabilities, the highest amount, followed by those in CA-E with \$12.6 billion. Overall, debtors categorized 95 percent of debts and obligations reported as dischargeable debt.

The aggregate amount of total assets in chapter 11 consumer cases is reported by debtors as \$2.7 billion in Table 1B, an increase of 63 percent over the amount of assets reported in comparable cases in 2008. A 73 percent rise occurred in the number of filings, and an 81 percent increase took place in the number of filings with complete schedules. Eighty percent of assets were categorized as real property, and 20 percent were categorized as personal property. Debtors in CA-C reported the largest amount of total assets in any district (\$582 million), followed by filers in the Northern District of California (CA-N) (\$294 million). As reflected in the table, debtors reported total liabilities in the aggregate amount of nearly \$3.4 billion, 4 percent below the comparable 2008 figure, with 73 percent of liabilities categorized as secured claims, 2 percent categorized as unsecured priority claims, and 25 percent categorized as unsecured non-priority claims.<sup>9</sup> Debtors in consumer cases in CA-C recorded the largest dollar amount of total liabilities for any district at \$703 million, and those in CA-N reported the second-largest dollar amount of liabilities with \$344 million.

Overall, debtors characterized 94 percent of debts and obligations as dischargeable debt.

Consumer cases filed under chapter 11 are relatively uncommon (chapter 11 cases accounted for 0.11 percent of all consumer cases filed in 2009) and are generally believed to be the result of debtors' failing to meet the debt restrictions of 11 U.S.C. § 109(e) that currently limit chapter 13 to debtors with less than \$336,900 in non-contingent, liquidated, unsecured debts and non-contingent, liquidated, secured debts of less than \$1,010,650.

As reflected in Table 1D, debtors filing consumer cases under chapter 13 reported total assets in the aggregate amount of \$66.1 billion, an increase of 15 percent over the comparable figure for 2007, compared to a 12 percent increase in filings and a 13 percent increase in the number of filings with completed schedules. Seventy-nine percent of reported assets were categorized as real property and 21 percent of assets as personal property. Debtors in CA-C reported \$9.1 billion in total assets, the largest amount for any district, while those in FL-M had the second-highest total assets with \$3.3 billion. Total liabilities were reported in the aggregate amount of \$84.6 billion, 29 percent more than the comparable figure for 2008. Seventy-six percent of those liabilities were categorized as secured claims, 2 percent as unsecured priority claims, and 22 percent as unsecured non-priority claims. Debtors in consumer cases in CA-C recorded the largest dollar amount of total liabilities for any district with \$9.8 billion, followed by those in FL-M, who reported \$4.9 billion in total liabilities. Overall, debtors categorized 96 percent of debts and obligations as dischargeable debt.

Data in these tables are subject to the limitations described in the section above on debtor-provided data. Therefore, caution should be used

<sup>8</sup> Due to rounding, percentages do not total 100 percent. As with overall filings, the percentage of total claims consisting of unsecured priority claims was higher in 2009 than in 2008, mainly because of one case filed in ME.

<sup>9</sup> These data are markedly different from the data reported for 2008. Data for that year were likely affected by one case filed in the Northern District of Illinois (IL-N) in which the debtor claimed assets of \$4.3 million and total liabilities of \$1.6 billion, almost all of them unsecured nonpriority claims. The reported unsecured nonpriority claims accounted for nearly two-thirds of the national total of unsecured nonpriority claims reported in Chapter 11 filings by individuals with predominantly nonbusiness debts in 2008.

when comparing data in any category of assets or liabilities to that in any other category of assets or liabilities or when comparing data in any category of assets or liabilities to the number of cases filed.

### Income and Expenses Reported by Debtors

Tables 2A, 2B, 2D, and 2X present data on the income and expenses of debtors as reported by the debtors themselves on the Official Bankruptcy Form 6–Summary (B6–Summary of Schedules). All tables in this series address cases filed during the reporting period by individual debtors with primarily nonbusiness debt. Current monthly income data reflect income from all sources for the last full month prior to the bankruptcy filing; average monthly income data reflect total income for the last full six months prior to the bankruptcy filing, divided by six.<sup>10</sup> The data for these tables are provided exclusively by the debtors and are not validated by the courts. A debtor typically provides these data at the time of filing or within 15 days of filing as required by statute. Only data provided during the initial filing of each case is counted in this table. Data for reopened and transferred cases are excluded to prevent duplicate reporting. Median values are calculated only when 10 or more cases are reported.<sup>11</sup>

As reflected in Table 2X, in 2009 a total of 1,385,120 consumer cases were filed under chapters 7, 11, and 13 across the nation; 1,316,206 debtors completed the forms needed to include their data in these tables.<sup>12</sup> The median current

monthly income of debtors who completed the relevant forms was \$3,054, a 3 percent increase over 2008. The median average monthly income<sup>13</sup> was \$2,723, a 4 percent increase over 2008, and the median average expenses<sup>14</sup> were \$2,819, a 5 percent increase over 2008. CA-N had the highest median current monthly income with \$3,922, and the District of Puerto Rico (PR) had the lowest median current monthly income with \$1,742. Filers in the same two districts also had the highest and lowest median average monthly incomes (CA-N with \$3,523 and PR with \$1,775, respectively). CA-N had the highest median average expenses with \$3,925, and PR had the lowest with \$1,589.

A total of 984,125 chapter 7 consumer cases were filed in 2009. Of these, 952,637 (97 percent) were filed with complete schedules needed to include data in Table 2A. The median current monthly income reported in such cases was \$2,830, the median average monthly income was \$2,487, and the median average expenses were \$2,805. The District of Connecticut (CT) had the highest median current monthly income with \$3,516, and PR had the lowest with \$1,090. Debtors in CA-E had the highest median average monthly income with \$3,008, and those in PR had the lowest with \$1,217. The median average for expenses was highest in the District of the Virgin Islands at \$4,126 and was lowest in PR at \$1,316.

Table 2B reveals that a total of 1,476 consumer cases were filed under chapter 11 during 2009. Of these, 1,125 (76 percent) were filed with completed schedules necessary to include data in Table 2B.

<sup>10</sup> Current monthly income data are reported on Form 22A Line 12 for chapter 7 filings, form 22B Line 11 for chapter 11 filings, and Form 22C Line 20 for chapter 13 filings. Data for average monthly income and average expenses are derived from Schedule I and Schedule J, respectively.

<sup>11</sup> It is not meaningful to calculate medians when the number of cases is small. For this reason, the AO does not calculate medians for fewer than 10 cases at any aggregate level (e.g., district, circuit).

<sup>12</sup> The number of cases with completed schedules differs between the Table 1 series and the Table 2 series because those tables draw data from different cells in the summary of schedules. If a debtor completed all necessary fields for inclusion in the Table 1 series, but not the Table 2 series, then that case and its data were included in the appropriate tables in the Table 1 series but not in the Table 2 series, and vice versa.

<sup>13</sup> See note 3.

<sup>14</sup> See note 3.

These numbers reflect the limited use of chapter 11 reorganizations by individual debtors. Thirteen districts reported no filings under this chapter. In the District of Rhode Island, no chapter 11 consumer cases were filed with completed schedules. CA-C reported the largest number of filings with 205. Nationwide, the median current monthly income reported was \$7,668, the median average monthly income was \$9,329, and the median average expenses were \$9,727.

A total of 399,519 chapter 13 consumer cases appear on Table 2D as filed in 2009. For 362,444 (91 percent) of those cases, completed schedules were filed as needed to include data in Table 2D. The median current monthly income for such cases was \$3,837, the median average monthly income was \$3,464, and the median average expenses were \$2,854. Filers in the Eastern District of New York (NY-E) had the highest median current monthly income with \$6,585, and those in PR had the lowest with \$2,031. Debtors in NY-E also had the highest median average monthly income at \$5,777, and debtors in PR had the lowest at \$1,981. The median average expenses were also highest in NY-E at \$4,882 and were lowest in the Western District of Tennessee (TN-W) at \$1,500.

Data in these tables are subject to the limitations described in the section above on debtor-provided data. Therefore, caution should be used when comparing data for any category of income or expenses to data for any other category of income or expenses or when comparing data for any category of income or expenses to the number of cases filed.

### **Time Interval from Filing to Closing**

In accordance with 28 U.S.C. § 159(c)(3)(D), Table 3 reports the mean time interval between filing and closing for consumer cases under chap-

ters 7, 11, and 13 closed during the reporting period. The median time interval also has been included to provide perspective on the mean value by reducing the effect of data outliers, although median values are calculated only when 10 or more cases are reported.

This table presents data on cases filed on or after October 17, 2006, by individual debtors with primarily nonbusiness debt closed during the reporting period. Reopened cases are excluded from this table because most reopened cases are filed and closed relatively quickly to settle administrative matters and do not proceed in the same way as original filings.<sup>15</sup> For transferred cases, the mean and median time intervals are calculated from the date the case is received at the new location to the closing of the case at that location.

During the 12-month period ending December 31, 2009, a total of 1,034,699 consumer cases that were opened on or after October 17, 2006, were terminated under chapters 7, 11, and 13, with a mean time interval from filing to disposition of 201 days and a median time interval of 125 days. The mean is 17 percent higher than that for 2008, and the median is 3 percent higher. The growth is likely due in part to a different universe of cases eligible for inclusion in the data calculations, a factor that becomes particularly evident in the time intervals elapsed for chapter 11 cases and chapter 13 cases, which typically take longer than chapter 7 cases to close, particularly if plans are completed.

Of the 880,654 chapter 7 consumer cases closed in 2009, the mean time interval from filing to disposition was 168 days, and the median time interval was 120 days. The District of Nevada had the highest median of any district at 205 days, and the Northern District of Texas had the lowest median at 98 days.

A total of 491 chapter 11 consumer cases were closed in 67 districts during 2009. The mean time interval from filing to disposition was 338

<sup>15</sup> Tables 4, 5, 6, 8A-8X, and 9A-9X include reopened cases, whereas Table 3 does not include reopened cases. Accordingly, the total for cases closed in Table 3 may differ from the total in other tables.

days, and the median time interval was 296 days. Only 16 districts had 10 or more chapter 11 cases closed. Of those 16 districts, the District of South Carolina had the highest median at 445 days, and the Southern District of New York and FL-M shared the lowest median at 177 days.

A total of 153,554 chapter 13 consumer cases were filed on or after October 17, 2006, and terminated during 2009. The mean time interval from filing to disposition was 393 days, and the median time interval was 337 days. The Northern District of New York (NY-N) had the highest median at 672 days, and NY-E had the lowest median at 109 days. However, the median and mean do not accurately convey the time required for a typical chapter 13 case because the majority of the chapter 13 cases closed were dismissed, not discharged.<sup>16</sup>

Data in this table are subject to the limitations described in the section above on cases filed and closed. Because the maximum period that a case covered in this report could have been open is 1,172 days, the means and medians noted in this report are especially low for chapter 11 cases and chapter 13 cases and will likely increase in future reports.<sup>17</sup> Therefore, caution should be used when relying on these data as representative of typical case duration.

## Reaffirmation Agreements

A debtor may enter into a reaffirmation agreement with a creditor to continue paying a dischargeable debt following bankruptcy. If an attorney represented the debtor during the bankruptcy, the debtor's attorney may or may not represent the debtor during negotiation of a reaffirmation agreement. For purposes of this report, a reaffirmation agreement is considered "pro se" if it was submitted without the certification of an attorney

contained in Part C of Form 240A, regardless of whether or not the debtor was otherwise represented in the case by an attorney.

Table 4 reports only on reaffirmation agreements filed in cases under chapter 7. Although reaffirmation agreements are technically possible under other chapters of the Bankruptcy Code, they are found almost exclusively in chapter 7 cases. This is largely the direct result of provisions in the code under chapters 11, 12, and 13 that permit modification and restructuring of secured claims. Modification of a secured creditor's rights is not possible under chapter 7 without consent of the creditor; hence, a debtor who wishes to retain collateral securing a claim will need to negotiate a reaffirmation agreement acceptable to the creditor. However, under chapters 11, 12 and 13, subject to certain restrictions, the terms of a secured claim may be altered, and the debtor will retain use of the collateral, obviating the need for a reaffirmation agreement.

Varying local practices govern the procedures for approving and denying reaffirmation agreements filed with the courts. In many districts, the court does not issue an order with respect to a reaffirmation agreement filed with the certification of the debtor's attorney. In these instances, the reaffirmation agreement between the debtor and creditor is implicitly accepted without further court action and may or may not be recorded or otherwise noted in court documentation of the case. Reaffirmation agreements filed without the certification of an attorney may or may not receive a ruling by order of the judge. However, in many cases the judge will hold a hearing regarding the reaffirmation agreement. In some districts, every reaffirmation agreement must be submitted with a motion and draft order as well as an affidavit of concurrence by the debtor's attorney (if any) and

<sup>16</sup> See Table 6.

<sup>17</sup> By December 31, 2009, the longest-running case reflected in the data presented in Table 3 could have been running for no more than 1,172 days (i.e., a case filed on October 17, 2006, and closed on December 31, 2009). By December 31, 2008, the maximum length could have been 806 days (i.e., a case filed on October 17, 2006, and closed on December 31, 2008).

is subject to a hearing before the judge. Often, multiple reaffirmation agreements may be submitted together under a single motion, some with and others without attorney concurrence, and the order may lack clarity as to the decision of the court on individual reaffirmation agreements. Some courts have changed or are considering changes to their local rules and procedures to better track and document reaffirmation agreements and actions on them.

For these reasons, the data reported for approved reaffirmation agreements may not be representative of the total number of reaffirmation agreements executed by the parties. Furthermore, the difference between the number of reaffirmation agreements filed and the number of reaffirmation agreements approved does not represent the number of reaffirmation agreements denied.

As Table 4 illustrates, a total of 310,763 reaffirmation agreements were reported as filed in 903,290 chapter 7 consumer cases terminated during the 12-month period ending December 31, 2009.<sup>18</sup> The Eastern District of Michigan had the highest total number of cases in which reaffirmation agreements were filed (11,244), followed by CA-C (10,918). In 10 percent of cases with reaffirmation agreements filed, one or more agreements were submitted without attorney certification (*pro se*). CA-C had the highest number of cases in which at least one *pro se* reaffirmation agreement was filed (1,948 out of 10,918 agreements). The Western District of Virginia had the highest percentage of cases in which one or more reaffirmation agreements were filed *pro se* (94 percent).

Slightly more than 1 percent of cases in which a reaffirmation agreement was filed had at least one reaffirmation agreement approved by order of the court. However, as described above, this does not

indicate that reaffirmation agreements were denied in 99 percent of the cases. In 2009, the District of Montana (MT) reported the highest percentage of cases in which at least one reaffirmation agreement was approved (369 of 414, or 89 percent), followed by the Northern District of Mississippi (842 of 1,478, or 57 percent), and the Southern District of Illinois (515 of 1,474 cases, or 35 percent). These three districts accounted for 56 percent of the cases in which at least one reaffirmation agreement was approved.

Table 4 presents data on cases filed on or after October 17, 2006, by individual debtors with primarily nonbusiness debt that were closed by the end of the reporting period. The data in this table are subject to the limitations described in the section above on cases filed and closed. Caution should be used when relying on these data as representative of cases closed during a reporting period. Data in this table are subject to the limitations of collecting data on docketing activity as described above in the sections on debtor-provided data and transaction data, including limitations with respect to *sua sponte* orders. Since data on reaffirmation agreements are captured from docket activity, the collection of accurate data for this table is dependent on the submission and accurate recording of the correct motions, agreements, and other filings with the court. If a filer fails to note the correct court event at docketing, the data may not be reported accurately or at all.

### Property Valuation Orders

In some cases, motions are made to the court to determine the value of property securing an allowed claim pursuant to 11 U.S.C. §§ 506 and 1325 and to Federal Rule of Bankruptcy Procedure

<sup>18</sup> Because a debtor may enter into more than one reaffirmation agreement, a case is counted in any column of the table for which the case has one or more reaffirmation agreements meeting the criteria for that column. For example, if a debtor enters into three reaffirmation agreements, two of which are endorsed by the debtor's attorney and one of which is not endorsed by the debtor's attorney, the case is counted in the column for "number of cases with agreements filed *pro se*." If only one of the three reaffirmation agreements in the example above is approved by the court, the case is counted in the column for "number of cases with agreements approved."

(FRBP) 3012. Table 5 shows the number of cases closed in which final orders were entered determining the value of property securing a claim in an amount less than the amount of the claim, as well as the number of final orders entered determining the value of property securing a claim. Additional columns of data were added to provide further perspective on the required data. Due to the complexities of implementing the data collection methods for transaction data, certain data collection issues have precluded the collection of all of the indicators as to whether a determination of value is above or below the amount of the claim.

A total of 156,494 chapter 13 consumer cases were terminated in 2009, including 9,937 cases in which plans were completed and 145,940 cases that were dismissed.<sup>19</sup> Final orders determining the value of property securing a claim were entered in 1,336 of the cases closed in 2009. In 705 cases, the value of property was reported in one or more final orders; in 360 of those cases, at least one final order valued the property at less than the full amount of the claim.

A case may have more than one final order determining the value of property securing a claim. As a result, 1,685 final orders were entered in 705 cases. Determinations of the value of property were reported in 935 final orders, of which 416 were valued below the amount of the claim. CA-E reported that 290 final orders had been entered determining the value of property securing a claim, the highest total of any district. Forty-six percent of the final orders determining the value of property securing a claim (770 final orders) were entered in districts that constitute the Eleventh Circuit, although 20 percent of chapter 13 consumer cases closed were closed in those districts.

Table 5 reports on cases that were filed on or after October 17, 2006, by individual debtors with primarily nonbusiness debt and were closed by the end of the reporting period. The data in

this table are subject to the limitations described in the section above on cases filed and closed. In particular, since the typical chapter 13 plan provides for payments over a period of three to five years, the proportion of closings by plan completion relative to cases closed by dismissal remains artificially low in this report. The issue of property valuation often may not arise until the case is at or near confirmation. Consequently, motions to value collateral should be relatively more infrequent among chapter 13 cases that are dismissed, especially among those dismissed prior to plan confirmation. Furthermore, since a plan under chapter 13 may not be completed for several years, and valuation orders will not be reported until the case is closed, the number of final property valuation orders reported for cases closed during 2009 will not be representative of a typical year. Thus, caution should be used when relying on these data as representative of typical cases closed during a reporting period.

Data in this table are also subject to the limitations of collecting docketing activity as described in the sections above on debtor-provided data and transaction data. Because data on valuation orders are captured from docket activity, collection of accurate data for this table is dependent on submission of the correct motions, agreements, and other matters with the court. If a filer fails to note the correct court event at docketing, the data may not be reported accurately or at all. In addition, if a filer submits multiple filings under a single court event, the activities will either be undercounted or not counted at all.

### **Chapter 13 Cases Closed by Dismissal or Plan Completion**

Table 6 shows the number of cases in which plans were completed in chapter 13 consumer cases, separately itemized by the number of modi-

<sup>19</sup> See Table 6.

fications made to the plans. Table 6 also reports the number of chapter 13 consumer cases dismissed, the number dismissed for failure to make payments under the plan, and the number refiled after dismissal. For purposes of this table, a chapter 13 consumer case is counted as “refiled after dismissal” if the case was filed during the reporting period by one or more debtors who were party to a separate chapter 13 consumer case that was dismissed no more than 180 days prior to the filing date of the current case. Cases that are reopened are not included in the total for cases refiled after dismissal.

A total of 156,494 chapter 13 consumer cases filed on or after October 17, 2006, were closed by dismissal or plan completion during the 12-month period ending December 31, 2009. Table 6 illustrates that 145,940 of these cases were dismissed, and 9,937 cases (6 percent of cases closed) were discharged after the debtors completed repayment plans. Of the 9,937 chapter 13 consumer cases in which debtors completed repayment plans, 707 had plans that were modified at least once prior to plan completion. The Eastern District of North Carolina (NC-E) had the most plan completions with 965, followed by NY-N with 701 plan completions. These two districts also had the highest percentages of cases closed by discharge, with 49 percent in NY-N and 39 percent in NC-E closed by plan completion.

CA-C had 12,909 cases closed by dismissal, the highest total for all districts. Nationwide, failure to make plan payments was cited in 49 percent of cases as the reason for dismissal, up from 42 percent in 2008. Eighty-three percent of all cases dismissed in NC-E were dismissed for failure to make payments, the highest percentage of any district. The District of the Northern Marianas Islands had the lowest percentage of cases dismissed for failure to make payments, as no cases there were dismissed for that reason, followed by CT, which had 3 percent dismissed for failure to make payments. Table 6 shows that 14,081 cases were refiled after dismissal, with 1,290 cases refiled in CA-C, the most in any district.

This table presents data on cases that were filed on or after October 17, 2006, by individual debtors with primarily nonbusiness debt that were closed by the end of the reporting period. Data in this table are subject to the limitations described in the section above on cases filed and closed. Caution should be used when relying on these data as representative of typical rates of plan completion, case dismissal, and refileing. The number of cases refiled after dismissal will be particularly affected, because data on both refiled cases and the prior dismissed cases are subject to these limitations. In addition, many cases apparently were erroneously reported as closed for failure to pay plan payments when in fact the cases were closed for failure to pay fees.

### **Prior Filings Reported by Debtors**

Table 7 reports the number of cases in which individual debtors with primarily nonbusiness debt filed for protection under chapter 13 during the reporting period and indicated on the voluntary petition for bankruptcy (Official Form 1) that they previously had filed for bankruptcy under any chapter of the bankruptcy code during the preceding eight years (“prior filings”). Data for this table are captured at the time of filing, and only data on the initial filing of each case are counted in this table; data on reopened cases are excluded to prevent duplicate reporting. The data for Table 7 are provided exclusively by the debtors and are subject to the limitations described in the section above on debtor-provided data.

In 28 percent (109,936) of the 399,519 cases in which debtors sought protection under chapter 13 in 2009, debtors indicated they had filed for bankruptcy during the previous 8 years. In the remaining 72 percent of cases, debtors either indicated they had not filed for bankruptcy during the previous 8 years (289,545) or did not report this information (38 cases). TN-W had the largest number of cases in which debtors reported prior filings at 7,063 cases, followed closely by the Northern District of Georgia with 6,849 cases.

Debtors filing in TN-W also recorded the highest percentage of cases with prior filings at 51 percent, followed by the District of Utah with 45 percent. Among districts with more than 10 chapter 13 consumer filings, the districts with the lowest percentage of cases in which debtors indicated prior filings were the Southern District of Florida and MT, where prior filings were reported in only 11 percent of cases.

### Creditor Misconduct and Punitive Damages

Title 28 U.S.C. § 159 (c)(3)(G) requires the Director of the AO to report on “the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct.” However, creditor misconduct is not a specific cause of action under Title 11. At least five violations of the Bankruptcy Code could be considered creditor misconduct:

- dismissal of an involuntary petition (11 U.S.C. § 303(I)),
- willful violation of the automatic stay (11 U.S.C. § 362(h)),
- collusive bidding (11 U.S.C. § 363(n)),
- violation of the injunction against attempting to collect a discharged debt (11 U.S.C. § 524(a)(2) and (3)), and
- determination of dischargeability of consumer debt (11 U.S.C. § 523(d)).

In addition, at least six activities related to the litigation process could also be considered creditor misconduct under certain circumstances:

- sanctionable filings under FRBP 9011,
- improper activity related to pretrial conference and order (FRBP 7016),
- sanctionable discovery requests, responses, or objections (FRBP 7026),
- failure to make or cooperate in discovery (FRBP 7037),
- failure to prosecute or to comply with court orders and rules (FRBP 7041), and
- unreasonably or vexatiously multiplying proceedings (28 U.S.C. § 1927).

As a consequence, what may be reported as creditor misconduct in one district may not be so reported in another.

Because a creditor may be reprimanded for misconduct in many ways, this table does not provide a comprehensive picture of sanctions imposed against creditors in bankruptcy courts. A sanction imposed for creditor misconduct is likely limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Although sanctions may consist of or include directives of a nonmonetary nature, an order to pay a penalty into court, or an order directing payment to the movant of some or all of the reasonable attorneys’ fees and other expenses incurred as a direct result of the violation, the Bankruptcy Code and Rules do not permit the award of punitive damages for every violation classifiable as creditor misconduct. However, only punitive damages are reflected in the Table 8 series.

Table 8X shows that creditors were fined for misconduct in 92 consumer cases closed during 2009 and that orders to pay punitive damages were issued in 15 of those cases. Creditor misconduct was recorded in 69 chapter 7 cases, including 10 in NY-N; punitive damages were awarded in 13 of those cases and totaled \$102,000. No creditor misconduct was reported for chapter 11 consumer cases closed during 2009. Creditor misconduct was recorded in 23 chapter 13 cases, with punitive damages totaling \$5,000 awarded in 2 of those cases.

This table reports on cases filed on or after October 17, 2006, by individual debtors with primarily nonbusiness debt and closed by the end of the reporting period. Therefore, the data in this table are subject to the limitations described in the section above on cases filed and closed. Caution should be used when relying on these data as representative of typical for cases closed during a reporting period. Furthermore, data in this table are subject to the limitations of collecting docketing activity as described in the sections above on debtor-provided data and transaction data, including those limitations involving *sua sponte* orders.



Data on creditor misconduct are captured from docket activity, so accurate collection of data for this table is dependent on accurate docketing and submission of correct information on motions, agreements, orders, and other filings with the court. If a filer fails to note the correct court event at docketing, the data may not be reported accurately or at all. In addition, if a filer submits multiple filings under a single court event, the activities will be undercounted or not counted at all.

### **Rule 9011 Sanctions Imposed Against Debtors' Attorneys**

FRBP 9011 provides that attorneys may be sanctioned for improper or frivolous representations to the court submitted in any petition, pleading, written motion, or other paper. The rule states that “a sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.” Any “sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, ... or an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.” The Table 9 series captures only misconduct that rises to the level required for sanctions under FRBP 9011. Because a debtor's attorney may be reprimanded for misconduct in other ways, this table does not provide a comprehensive picture of sanctions imposed against debtors' attorneys in bankruptcy courts.

Table 9X shows that 1,060,299 consumer cases were filed on or after October 17, 2006, and

terminated during the 12-month period ending December 31, 2009. Sanctions were imposed against debtors' attorneys in nine of these cases. FRBP 9011 sanctions were imposed against debtors' attorneys in five chapter 7 consumer cases; damages totaling \$1,000 were awarded in one case in the Western District of New York. No sanctions were imposed in any chapter 11 consumer cases. Of the 156,494 chapter 13 consumer cases terminated in 2009, sanctions were assessed in 4 cases, with damages awarded in no cases.

This table reports on cases filed on or after October 17, 2006, by individual debtors with primarily nonbusiness debt and closed by the end of the reporting period. Therefore, the data in this table are subject to the limitations described in the section above on cases filed and closed. Caution should be used when relying on these data as representative of typical cases closed during a reporting period. Furthermore, data in this table are subject to the limitations of collecting docketing activity as described in the sections above on debtor-provided data and transaction data, including limitations involving *sua sponte* orders. Data on FRBP 9011 sanctions are captured from docket activity, so accurate collection of data for this table is dependent on submission of correct information on motions, agreements, and other filings with the court. If a filer fails to note the correct court event at docketing, the data may not be reported accurately or at all. In addition, if a filer submits multiple filings under a single court event, the activities will either be undercounted or not counted at all.