

Filing Bankruptcy (Debt Relief): Surviving the Business Cycle

For a more detailed explanation of Chapter 13 vs. chapter 7, call the Law Office of T. Kevin Dougherty at 831-783-3440 and make an appointment. Our first consultation is free of charge.

A famous photographer, Annie Liebovitz, recently learned she would not have to give up her real estate and the rights to her photographs (you know, those artsy photos of movie stars posing in thought-provoking ways, like sitting in a bathtub of milk). She is in debt for a \$24 million loan. Annie needed money to maintain her lifestyle and had used her homes and her artwork as collateral. Her note came due, she couldn't pay the money, the loan people tried to take her stuff. Such is life. Pay up or get out.

An investment firm arranged with investors to help Annie out of her financial hole while allowing her to hang on to her artwork and three Manhattan townhouses. So for now, Annie gets to keep her stuff. However, she doesn't want to pay the investment firm for its services. She is being sued for \$800,000 and may be faced again with losing some of her stuff. (There are some people who are not victims of any business cycles, but of their own bad business decisions.)

Debt can be a relative thing. Is being in debt for \$24 million anymore scary than being in debt for \$24,000? If you're broke, you're broke. The once wealthy Annies of the world will appear in Bankruptcy Court, seated next to the broke hairdressers, police officers and truck drivers. They are all equal in the eyes of the Court. It would appear that all have failed to live within their means. Most Americans understand that to pay down debt you must 1) stop spending your money on new stuff and 2) use that money to pay for the old stuff. The reasonable assumption is that as your debt decreases your income will at least hold steady. You will have learned your lesson. Even if you borrowed money to pay your bills or you sold your property—you know you won't make *that* mistake again. No more getting in over your head for you.

There is one detail however, that needs to be considered. Unlike the famous Annies and famous subjects of her photos, the average person (that means YOU) is stuck with a median income (per household) that has *not* increased since 1973 (that's *after* inflation, if that makes you feel any better). Simply put, the cost of the stuff you want, even the stuff you need (food, shelter) has increased, but the value of your money has not.

It would take a knowledgeable economist to explain what the heck is going on in our economy, and where are you going to find one of those? Every TV news show offers different "experts" giving conflicting "expert" insight. If you haven't had to sell your furniture yet, maybe the TV set should be the first to go.

It would appear that the entire country is in a kind of debtors' prison. Wages aren't growing so you can't pay your growing expenses. You use credit (go into more debt) to make ends meet. One of the sickening things about this is that our government (thank you Alan Greenspan) encouraged this. The end result was that our economic growth was due to *debt* expansion, not to growing *income*.

Finally, if you are thinking of filing bankruptcy consider this (from Jill Lepore, *Annals of Finance*, "I.O.U.," *The New Yorker*, April 13, 2009, p. 34):

“The idea that debt is necessary for trade, and has to be forgiven, is consequent to the rise of a market economy. Americans fought to provide the same debt relief to everyone because we believe in equality and because bankruptcy protection makes taking risks less risky. Our willingness to forgive debt lies behind a good part of our prosperity. Pintard got out of jail in 1798, and he filed for bankruptcy in 1800. He went on to found the New-York Historical Society in 1804, and to help open the New York Bank for Savings in 1819. Mentions Joseph Dewey Fay. In 1841, Congress passed a sweeping federal bankruptcy law that offered bankruptcy to everyone. Meanwhile, in 1831, the New York State Legislature abolished imprisonment for debt. Other states soon followed. Debtors’ prison was abolished, and bankruptcy law was liberalized, because Americans came to see that most people who fall into debt are victims of the business cycle, and not of fate or divine retribution.”