

## Many Needing Bankruptcy Don't File

By Attorney John Skiba

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At my office I meet with about 50 to 70 families per month who are looking into whether bankruptcy is appropriate for their situation. The overwhelming majority of the families I meet with desperately need help and bankruptcy is a good option. However, many never file, even though it would be the best financial move they could make at the time. Often it is due to concerns about stigma or an unflinching belief that things will get better soon. The most difficult cases to watch are people who meet with me, don't file, and then come back 6 months later having fully spent their retirement funds trying to keep up on their credit cards and then have to file.

USA Today has a good article on its website today entitled "Only a Fraction of Those in Need File for Bankruptcy" by Christine Dugas. This article explores reasons why people don't file, but focuses on student loan debt. As I have discussed in prior articles student loan debts are generally non-dischargeable, meaning they don't go away in bankruptcy. The only exception to this rule is if the debtor can show that payment of the student loans would cause an undue hardship. In deciding what constitutes an "undue hardship" the courts have been fairly harsh. As an intern at the bankruptcy court in the District of Nevada I recall watching a trial for an attorney who had significant student loan debt but had been in a car accident and lost the use of her legs and much of her upper body. The court cut her student loans in half, but determined that she could still find a way to earn a living and pay the debts back — a pretty high standard.

For those thinking about filing you should consult with an attorney and try and evaluate your bankruptcy as a financial decision. As with many things emotion often clouds our judgment when it comes to making wise financial decisions. A good example of this is the current mortgage situation in the valley. 51% of homes in Arizona are upside down. Economist Elliott Pollack stated yesterday that home prices have not hit bottom yet and it could be three to four years before significant price increases return. Despite this, it is not unusual for me to meet with a person who is literally \$200,000 upside down in their home and still want to figure out a way to save it. In bankruptcy, a person can walk away from their home and incur no liability. While a tough decision to make, in the long run it often makes the most sense.

Bankruptcy is not the best option for everyone, but for many it will allow you to move more quickly through an already difficult time in your life. If you would like to discuss your specific situation I offer a free bankruptcy consultation and can be reached at (480) 464-1111.