

## Bankruptcy as a Home-Saving Device

**California homeowners** don't stand a chance to save their homes outside of bankruptcy because we are in a non-judicial foreclosure state. This means that lenders can foreclose on a home without going to court. Filing a civil action in state or federal court is quite costly and, it seems, that many attorneys simply do not recognize a fraudulent claim by a mortgagee when they see it. So what's a homeowner to do? File a [chapter 13 bankruptcy](#).

A [chapter 13 bankruptcy](#) is a very cost effective device to saving a debtor's home because it immediately brings the mortgage current, and allows the arrears to be paid over time through the plan. Chapter 13 bankruptcy puts the debtor in control of their case from the very start.

After the case is filed, the mortgagee must file a proof of claim in order to receive any payments under your plan. The problem starts here. Professor **Katherine Porter**, of University of Iowa College of Law wrote and abstract, [Misbehavior and mistakes in bankruptcy mortgage claims](#) and says that this misbehavior has largely gone unchecked on a national level. Scrutinizing the lender's proof of claim is a crucial step to saving your client's home. Many times there are violations of [Federal Rule of Bankruptcy Procedure \("F.R.B.P."\) 3001](#), which requires the use of official court forms and evidentiary requirements.

We have seen a vast majority of [errors in proofs of claims](#) where they fail to properly itemize their fees; or perfect their security interest; or they do not attach any documents at all. These are just a few reasons counsel should rigorously enforce [Rule 3001](#) and object to any proof of claim that has even the slightest of errors. As debtor's counsel, it is our duty to preserve the fairness and accuracy of the bankruptcy system because neither the creditors, nor their counsel seem to be voluntarily complying with all procedures and laws. Isn't that how we got into this [current financial mess](#) in the first place?