DEBT WITHOUT RELIEF: AN EMPIRICAL STUDY OF UNDOCUMENTED IMMIGRANTS

*Chrystin Ondersma**

I been scoping ya dudes
Ya'll ain't been working like I do
I'll outwork you, it hurts you
You claim I'm stealing jobs though
Peter Piper claimed he picked them he just underpaid Pablo
But there ain't a paper trail when you living in the shadows
We're America's ghost writers, the credit's only borrowed
It's a matter of time before the checks all come
But...
Immigrants, we get the job done[1]

Abstract

Can undocumented debtors benefit from bankruptcy relief? If so, would they consider pursuing bankruptcy relief? This Article seeks to answer these questions through an empirical study designed to explain why so few undocumented debtors appear in the bankruptcy system, as well as to tell the broader story of undocumented debtors' experiences with debt in our economy. Specifically, the empirical study covers a broad array of questions, including what types of debts undocumented immigrants incur, experiences of undocumented immigrants with debts over the past three years, and undocumented immigrants' experiences with the bankruptcy system. As this

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1. *K'naan, Immigrants (We Get The Job Done), on* THE HAMILTON MIXTAPE (Atl. Records 2016).

Article will show, these questions are all tightly interknit: Income shortfalls can make borrowing a necessity for this group, but borrowing is often accompanied by feelings of shame and trepidation. And although the ambivalence around borrowing is overcome by necessity—such that the vast majority of study participants had borrowed—shame and fear prevented study participants from seeking bankruptcy relief.

Overall, the study demonstrated that undocumented immigrants face internal as well as external barriers to bankruptcy relief. Although many participants in the study experienced over-indebtedness and expressed needing relief that bankruptcy could offer, they did not view bankruptcy as an option. Bankruptcy can be an important tool for restoring financial security and dignity to the economically disenfranchised. Making this a meaningful option for undocumented immigrants will require the combined efforts of bankruptcy practitioners and administrators, advocates, policymakers, and community organizations.

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I. INTRODUCTION

Can undocumented debtors benefit from bankruptcy relief? My earlier article, *Undocumented Debtors*, explored the degree to which undocumented debtors can and do seek bankruptcy protection.[2] In that work, I explained that while undocumented debtors are *eligible* for bankruptcy, there likely are, for this population, substantial barriers to filing.[3] This prompted me to empirically investigate the incidence of undocumented immigrants filing for bankruptcy. I found that extraordinarily few undocumented debtors filed,[4] and thus concluded that because undocumented debtors can access various forms of credit, and because there is no reason to think they are less likely than the general population to carry medical debt, at least some number of undocumented debtors could benefit from bankruptcy, but are currently facing barriers to filing.[5] For example, bankruptcy rules require debtors to submit pay stubs and tax returns, to which many undocumented immigrants lack access.[6]

In that paper, I also approached the potential barriers to bankruptcy theoretically, because I lacked empirical data regarding the reasons for the low filing numbers.[7] The literature has so far not addressed the degree to which undocumented debtors faced medical and other types of debt.[8] Nor has it addressed the degree to which over-indebtedness was a problem for some undocumented debtors. Finally, no empirical study has been conducted to examine whether undocumented debtors would consider filing for bankruptcy, and if not, why not.

This Article seeks to begin to fill this sizable gap in the literature. I

2. Chrystin Ondersma, *Undocumented Debtors*, 45 U. MICH. J.L. REFORM 517, 517 (2012).
3. *Id.*
4. *Id.* at 535, 537.
5. *Id.* at 559–60.
6. 11 U.S.C. § 521(i) (2012).
7. *See* Ondersma, *supra* note 2, at 540.
8. *See id.* at 528.

partnered with Professor Nathalie Martin to conduct an empirical study designed to explain why so few undocumented debtors appear in the bankruptcy system, as well as to tell the broader story of undocumented debtors' experiences with debt in our economy. Professor Martin conducted the study in New Mexico,[9] and I conducted the study in New York City, which forms the basis of this paper. This paper addresses the following questions: First, what debt do undocumented debtors incur and under what circumstances? Second, if an appreciable number of undocumented debtors experience over-indebtedness, why do they not access bankruptcy relief? As we will see, these questions are tightly interknit: Income shortfalls can make borrowing a necessity for this group, but borrowing is often accompanied by feelings of shame and trepidation. And although the ambivalence around borrowing is overcome by necessity—such that the vast majority of study participants had borrowed—shame and fear prevented study participants from seeking bankruptcy relief.

Because individuals are not likely to self-identify as undocumented, it is extremely difficult to access empirical information about the financial experiences of this population. Using a snowball sampling method, I was able to conduct fifty-two in-depth, qualitative interviews with undocumented individuals in New York City about their borrowing experiences.

Forty-four of these individuals, or 81%, had borrowed from at least one source, and twenty-seven individuals, or 51.9%, had borrowed from multiple sources. In addition, almost one third of these individuals indicated that they had current medical debt. Of the seventeen borrowers with medical debt, thirteen indicated that their household *did not* have enough money to repay their medical debts. Of the fifty-two individuals surveyed, seventeen (almost one-third) indicated that they often or always felt their debts were more than they could handle, while twenty (nearly 40%) indicated that they occasionally felt that their debts were more than they could handle.

Despite the majority of debtors experiencing some anxiety about debt, none of the debtors had filed for bankruptcy, and only eight debtors had considered filing. However, twenty-six participants indicated that they felt bankruptcy could be helpful if they or a family member had trouble repaying debt, and nearly half of participants responded that they did want or need one of the specific benefits of

9. Nathalie Martin, *Giving Credit Where Credit is Due: What We Can Learn from the Banking and Credit Habits of Undocumented Immigrants*, 2015 MICH. ST. L. REV. 989, 989–90 (2015).

bankruptcy—such as stopping creditor calls, avoiding repossession, or not having to repay debt.

Participants expressed substantial ambivalence about incurring debt, whether in the traditional or non-traditional borrowing sectors, and feelings about bankruptcy were primarily negative, with many participants reporting that they associated feelings of embarrassment or failure with bankruptcy filings. Despite this reluctance and despite borrowers not choosing to access bankruptcy, many participants nevertheless viewed bankruptcy as something potentially helpful for over-indebted individuals.

The responses suggested that removing the external barriers on which I focused in my previous paper—statutory barriers as well as barriers created by local rules and local practices—would be insufficient to increase filing rates among undocumented debtors. When those who considered filing for bankruptcy were asked why they decided against doing so, none mentioned these external barriers as reasons for not filing for bankruptcy. The reasons given for choosing not to file for bankruptcy included: the belief that undocumented debtors were ineligible for bankruptcy, the belief that bankruptcy would not be helpful, and the belief that bankruptcy filing was unethical or that debts should be repaid. In addition, a number of the participants' answers reflected a mistaken understanding about the consequences of bankruptcy. Of the eight who actually considered filing, five did not file, at least in part, because they were undocumented.

This study rules out the possibility that over-indebtedness is *not* a problem for at least *some* undocumented debtors, and reinforces the need for access to information about bankruptcy for this population, as well as clear guidance about bankruptcy for attorneys and non-profit organizations that work with undocumented debtors.

This Article proceeds as follows: Part II provides a background discussion of the relatively complicated issue of the availability of bankruptcy for undocumented debtors. Part III explains the study methodology. Part IV reports the key results of the study. I focus on explaining undocumented immigrants' experiences with borrowing in order to understand whether there is a potential need for bankruptcy relief among this population, and if so, whether bankruptcy is something undocumented immigrants may consider. First, I explain the type and extent of financial hardships participants faced and the methods for financing these hardships, as well as day-today needs; second, I describe participants' opinions and feelings about the various types of financing; third, I describe participants' experiences with over-indebtedness; fourth, I report participants' perception of and decisions with regard to bankruptcy filings. Part V discusses the implications of

this study, including the potential need for bankruptcy among this population and the changes necessary to create meaningful access to bankruptcy relief.

II. THE CONUNDRUM OF UNDOCUMENTED DEBTORS AND BANKRUPTCY

Undocumented debtors are eligible to file for bankruptcy: there is no citizenship or residency requirement for filing in the Bankruptcy Code,[10] and the Federal Rule of Bankruptcy Procedure 1007(f) allows a debtor to indicate that they have no social security number or have an Individual Taxpayer Identification Number ("ITIN") number rather than a social security number.[11] Rule 1007(f) requires debtors to "submit a verified statement that sets out the debtor's social security number, or states that the debtor does not have a social security number."[12] This verification form, Form B121, allows a debtor to submit social security numbers, ITIN numbers, or declare that they have neither of these.[13]

However, despite this eligibility, my previous empirical study revealed that extraordinarily few undocumented debtors filed for bankruptcy—less than 1/100th the rate of filings among the general population.[14] Fewer than three thousand cases between 2004 and 2010 were filed without a social security number[15]—and this figure likely over-counts undocumented debtors, as cases are often filed without social security numbers where bankruptcy discharge is not sought but instead debtors are looking for temporary relief of the automatic stay.[16] If undocumented debtors filed for bankruptcy at the same rate as the general population, there would have been around fifty thousand filings

10. 11 U.S.C. § 109(a). In order to file for bankruptcy under Chapter 7, you must be a "person" (whether individual or corporate) who is not a railroad, a bank or bank-like entity, or a domestic or foreign insurance company. *Id.* § 109(b). Indeed, foreign corporations with subsidiaries in the United States often seek bankruptcy relief in the United States, most frequently under Chapter 11 of the Bankruptcy Code. *See, e.g.*, *In re* Glob. Ocean Carriers Ltd., 251 B.R. 31, 50 (Bankr. D. Del. 2000) (holding that shipping company headquartered in Greece with a few thousand dollars in a Delaware bank account permitted to file Chapter 11 petitions in Delaware).

11. FED. R. BANKR. P. 1007(f).

12. *Id.*

13. *Your Statement About Your Social Security Numbers*, U.S. COURTS, http://www.uscourts.gov/forms/bankruptcy-forms/your-statement-about-your-social-security-numbers (last visited June 26, 2016) (download Form B 121).

14. Ondersma, *supra* note 2, at 537.

15. *Id.*

16. *See* 11 U.S.C. §§ 362(a), 524(a), 727(b).

without social security numbers each year.[17] In addition, I was able to reach bankruptcy clerks from forty-eight districts to ask whether they have ever had a case where a debtor filed for bankruptcy without a social security number.[18] Fifty-five percent were aware of no such case, fifteen percent were aware of exactly one such case, and thirty percent answered that they had experienced such cases, but that they were extremely rare.[19]

The empirical evidence demonstrated that very few undocumented debtors filed for bankruptcy—however, the empirical evidence could not show *why* the number of undocumented filers is so low. I explored several possible barriers to filing for undocumented bankruptcy, including statutory barriers, barriers in local rules (such as certain localities requiring proof of social security number), and local practices (such as trustees requiring proof of social security number).[20] I also discussed the possibility that few undocumented debtors had the type of debt that bankruptcy can ameliorate, although I emphasized that, at the very least, they would be no less likely to carry medical debt than the general population.[21] I also discussed fear of deportation as a potential barrier.[22]

Prior to our empirical study of undocumented immigrants in New Mexico and New York, the existing literature did not include empirical evidence regarding the extent to which undocumented debtors carry certain types of debt, including credit cards, pawn shop loans, bank loans, payday loans, loans from *tandas* (community borrowing groups), or loans from family and friends.[23] Neither was there any empirical evidence exploring whether over-indebtedness was a concern for this population. Finally, there was nothing in the literature to answer whether undocumented debtors would even consider filing for bankruptcy, and if not, why not. This study seeks to close some of these gaps in understanding. Although an in-depth, qualitative study of the experiences of fifty-two undocumented individuals cannot answer these questions conclusively, it can shed light on the borrowing experiences of some undocumented debtors, as well as on the potential need for bankruptcy and willingness to consider bankruptcy among this

17. Ondersma, *supra* note 2, at 537.
18. *Id.* at 536–37.
19. *Id.* at 538.
20. *Id.* at 540–48.
21. *Id.* at 528–30.
22. *Id.* at 547–48.
23. *Id.* at 518.

population.

III. THE STUDY

Because of the impossibility of a random sample of this community (undocumented individuals are not likely to respond to mass mailings, specifically those that ask them to self-identify as undocumented), I recruited participants using a "snowball sample."[24] Snowball sampling is a standard technique for reaching populations that cannot be reached through randomized methods.[25] In a "snowball sample," initial interviews are conducted based on existing personal relationships.[26] This group of participants is then encouraged to invite friends or family members to participate in the study.[27]

The genesis of the snowball sample in New York was a group of undocumented immigrants from Latin America living in New York City

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24. The methodology for this study is based on a study conducted by Angela Littwin that addressed the borrowing behavior of low-income women. *See* Angela Littwin, *Testing the Substitution Hypothesis: Would Credit Card Regulations Force Low-Income Borrowers into Less Desirable Lending Alternatives?*, 2009 U. ILL. L. REV. 403, 408–09 (2009); Angela Littwin, *Beyond Usury: A Study of Credit-Card Use and Preference Among Low-Income Consumers*, 86 TEX. L. REV. 451, 456–57 (2008).

25. *See, e.g.*, Jean Faugier & Mary Sargeant, *Sampling Hard to Reach Populations*, 26 J. ADVANCED NURSING 790, 792 (1997) (recognizing the use of nonrandom-sampling techniques termed snowball sampling to study hard-to-reach populations); Sarah H. Ramsey & Robert F. Kelly, *Using Social Science Research in Family Law Analysis and Formation: Problems and Prospects*, 3 S. CAL. INTERDISC. L.J. 631, 643 (1994) (observing the popularity of snowball samples in social-science research). For examples of snowball sampling in social research, see José B. Ashford, *Comparing the Effects of Judicial Versus Child Protective Service Relationships on Parental Attitudes in the Juvenile Dependency Process*, 16 RES. ON SOC. WORK PRAC. 582, 584 (2006) (using a "convenience sample" of forty subjects to study the effect of judicial and caseworker relationships on perceptions of fairness by parents in the child-protective-services process); Elizabeth Chambliss & David B. Wilkins, *The Emerging Role of Ethics Advisors, General Counsel, and Other Compliance Specialists in Large Law Firms*, 44 ARIZ. L. REV. 559, 561 (2002) (investigating "the emerging role of compliance specialists in large law firms" using a snowball sample); Mariano-Florentino Cuéllar, *Refugee Security and the Organizational Logic of Legal Mandates*, 37 GEO. J. INT'L L. 583, 586 & n.6 (2006) (using a snowball sample to obtain one of three sets of interviews on "the legal, political, and bureaucratic dynamics affecting refugees' physical security"); Rosanna Hertz, *The Contemporary Myth of Choice*, 596 ANNALS AM. ACAD. POL. & SOC. SCI. 232, 243–44 (2004) (reviewing a study in which researcher Phyllis Moen used a snowball sample to locate women who left full-time careers when they had children).

26. Faugier & Sargeant, *supra* note 25, at 793 ("[I]t is [personal] relationships that are the basis for finding respondents . . . .").

27. *See id.*

who worked as street vendors. These individuals were then asked to invite anyone they knew who met the research criteria (undocumented immigrants from Latin America or the Caribbean living in New York city). The interviews were conducted in two parts: the initial interviews and the follow-up interview. Participants were paid fifty dollars for the initial interview and fifty dollars for the follow-up interview. They were not required to participate in the follow up interview, they were invited to stop the interview at any time, and they were permitted to keep the fifty dollars regardless of when they stopped the interview.[28]

The initial interview included questions about demographic information, including race, income, age, education level, employment information, and marital status. These questions addressed general financial information, such as income, savings, debt load, monthly bills, and bank-account status. Next, we asked participants which forms of borrowing they have used (home mortgage, car loan, catalog, loan shark, credit card, rent-to-own, payday loan, relative or friend). We also asked what financial coping mechanisms the individuals turned to first in the event of a sudden financial crisis.

The follow-up interview included detailed questions for interviewees regarding experiences with or opinions regarding specific types of borrowing, and experience with or opinions regarding bankruptcy. For each borrowing method employed, we asked participants about their experience with the method; we also asked about individuals' opinions of the various types of borrowing. Finally, we asked questions addressing the borrower's opinion and use (or lack thereof) of bankruptcy. The interviews included many open-ended questions and opportunities to discuss their experiences in detail. The questionnaire is attached as Appendix A. The interviews were conducted in Spanish and were audio recorded. Research assistants transcribed the interviews in Spanish and then translated the interviews into English.

We interviewed thirty-three (63.5%) women and nineteen (36.5%) men who were first-generation immigrants from Latin America or the Caribbean. Thirty-four (65.4%) participants were from Mexico, seven (13.5%) from the Dominican Republic, six (11.5%) from Trinidad and Tobago, two (3.9%) from Honduras, two (3.9%) from Nicaragua, and one (1.9%) from Grenada.

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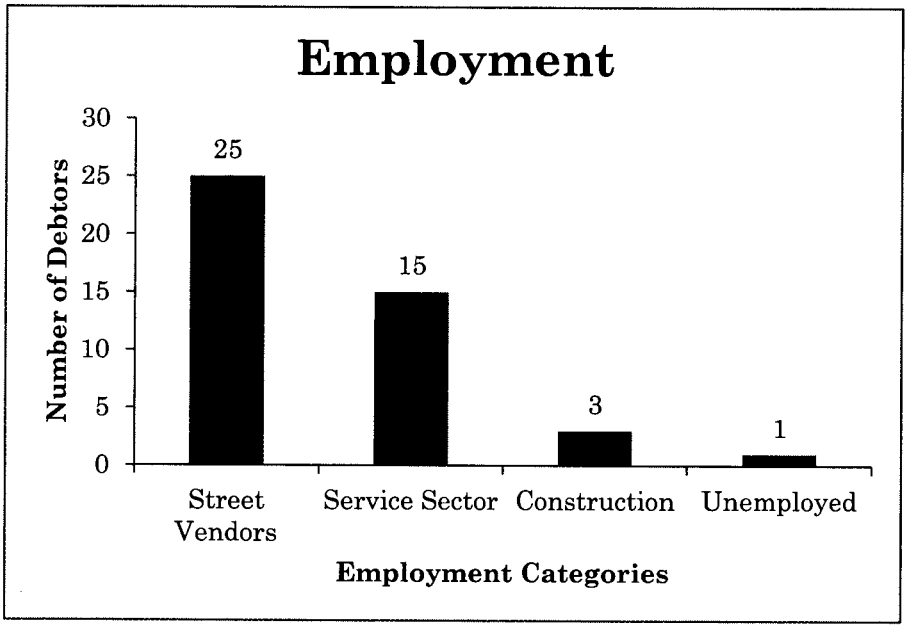
28. Funding for the interviews (as well as research assistance for translation and data analysis) was provided by a generous grant from the National Conference of Bankruptcy Judges. Participants were given an information sheet but were not required to provide signatures in order to preserve anonymity. These procedures were approved by the Rutgers Human Research Subjects Institutional Review Board.

Because the initial interviews came from connections with a street vendor group, the majority of our participants worked as street vendors, and the remainder had a variety of other positions. Twenty-five (48.1%) worked as street vendors, nine (17.3%) were unemployed or did not report an answer, three (5.8%) worked in construction or maintenance, and fifteen (28.9%) worked in various service sector jobs.[29]



The vast majority of study participants experienced low-incomes. Ten (19.2%) earned less than $500 per month. Nineteen (36.5%) earned between $500 and $1000 per month. Sixteen (30.8%) earned between $1000 and $2500 per month, and only one (1.9%) earned more than $2500 per month. In addition to income deficiencies, most experienced specific financial hardships, as I report in the following section.

Most had lived in the United States for at least ten years,[30] with a median age of sixteen years. Fifteen participants (28.9%) had lived in

29. Six worked at restaurants, delis, or grocery stores; one worked in both a restaurant and in construction; two worked as handymen or did odd jobs; two worked as nannies; one worked as a housekeeper for her sister; one worked at a pharmacy; one worked at a small corner store; and one worked as a peer educator.

30. To be exact, thirty-six (69.2%) respondents lived in the United States for at least ten years.

the United States for at least twenty years, with only six participants (11.5%) living in the United States for five years or less. The vast majority of participants (thirty-nine, or 75%) were responsible for at least one dependent, with twenty participants (38.5%) being responsible for three or more dependents. Thirty individuals (57.7%) sent remittances to family members in their country of origin. Most were unmarried, with seventeen participants (32.7%) either married or with a live-in partner.

IV. RECONCILING INCOME AND (UNEXPECTED) EXPENSES

A. *Hardships*

When an individual or household experiences chronically low income, it is extremely difficult to cope with unexpected emergencies such as job loss, family break-up, medical expenses, or other expenses such as car repair or funeral expenses. We asked participants whether they had faced a variety of unexpected expenses or income loss in the past three years. Thirty-one (59.6%) responded that they had lost a job at some point over the past three years. Eleven (21.2%) had a spouse who had lost a job.[31] Two (3.8%) experienced the death of a spouse. Thirteen (25%) experienced divorce or family break-up. Nine participants (17.3%) experienced eviction or foreclosure. Twenty-two (42.3%) were hospitalized. Two participants (3.9%) had to deal with deportation proceedings for themselves or a family member. Five (9.6%) respondents dealt with expenses relating to an arrest. Ten participants (19.2%) experienced one of these crises; twenty-nine (55.8%) participants experienced two or more of these crises; and fifteen participants (28.9%) experienced three or more of these crisis.

Medical debt was a reality for nearly one third of participants, with seventeen individuals (32.7%) carrying medical debt. Six of the sixteen individuals that answered further questions about their medical debt owed more than $1000, while the remaining ten owed less than $1000. The chart below shows the amount of medical debt each individual carried. Three respondents answered that they owed less than $100, six answered that they owed between $100 and $500, one owed between $500 and $1000, three owed between $1000 and $1500, two owed between $5000 and $10,000, and one owed more than $10,000.

31. Recall that only seventeen participants were either married or lived with a partner. Taken together with eleven partner job losses, 64.7% of partnered participants experienced a job loss or partner job loss.

Three participants repay their medical debt under payment plans.[32] Two participants reported success in negotiating a reduction in the monthly payments, with one explaining, "I couldn't pay it all at once so I set up a payment plan to pay back the money I owed."[33] Many others simply pay what they can, which in most cases is not much: nine of the seventeen respondents with medical debt paid less than fifty dollars per month over the past six months toward their medical bills. One participant paid $250 per month toward a total bill, which was over $100,000, stemming from two strokes she had two years ago.[34] When asked if their household had enough money to repay their medical debts, thirteen answered no and four responded yes.

One individual explained that he does not have the money to repay his medical debt, which exceeded $5000: "I got laid off from work, and then I got sick, so I didn't have the money to pay for it."[35] Some participants reported dealing with medical bills from multiple medical problems, with one individual describing bills from her significant other's high blood pressure and lupus, in additional to bills stemming from a car accident.[36] One individual reported foregoing medical visits due to owing over $1000 in medical bills.[37]

Study participants had very little cash or savings on hand or access to cash in the event of emergencies. Most individuals in the study reported that they would not be able to pay an unexpected expense of $100. We asked participants: If you *had* to pay a $100 bill tomorrow, would you have the money to pay it? Thirty-six (69.2%) indicated that they would not have the $100.

Although some of the hardships facing this population were unrelated to immigration status, many individuals reported feeling that they had been taken advantage of as a result of their immigration status. Forty-six of the fifty-two participants answered questions about whether they felt they had been taken advantage of due to their lack of

32. Interview with Respondent 0004; interview with Respondent 0007; interview with Respondent 0038. Respondent 0049 also used a payment plan to pay down debt from dental work.

33. Interview with Respondent 0007; *see also* Interview with Respondent 0004 (reporting reduction in monthly payments and explaining remaining monthly bill was between $100 and $150).

34. Interview with Respondent 0019.

35. Interview with Respondent 0001.

36. Interview with Respondent 0021; *see also* interview with Respondent 0055 (describing debt from mother's surgery); interview with Respondent 0058 (describing debt stemming from mother's diagnosis of lupus).

37. Interview with Respondent 0039.

social security number.[38] Twenty-five (54.3%) indicated that they did feel taken advantage of, while twenty-one (45.6%) answered that they did not feel taken advantage of. In elaborating on feeling taken advantage of, some participants discussed lenders denying credit based on lack of social security number, while others responded that lenders offered loans with higher interest rates since they "knew it was easy to take advantage of someone without a social security number."[39] Several also mentioned employment discrimination, indicating that employers knew that not having a social security number meant that they had all of the leverage regarding lower pay for more hours.[40]

B. Funding the Hardships

Of the forty-four participants that had experienced financial hardships in the past three years, they had deployed a variety of strategies to cope with those hardships. Twenty-six (59.1%) had to take out money from savings; twenty-three (52.3%) stopped paying one or more bills; twenty-two (50%) paid bills late; twenty-four cut down on spending (54.6%); twenty-three (52.3%) made do with less food; twenty-eight (63.6%) borrowed from a friend or family member; thirteen (29.6%) received other assistance from a friend or family member; eight (18.2%) used a credit card or bank loan; nine (20.5%) used a *prestamista*, or loan shark; eleven (25%) used a *tanda* (an informal borrowing program where all members contribute and can receive loans in rotation); eleven (25%) got help from church; eleven (25%) moved in with a family member or friend; and fourteen (31.8%) received some kind of government assistance (such as food stamps or Medicaid for children). Most individuals employed three or more of these strategies to cope with the unexpected expense or loss of income.[41]

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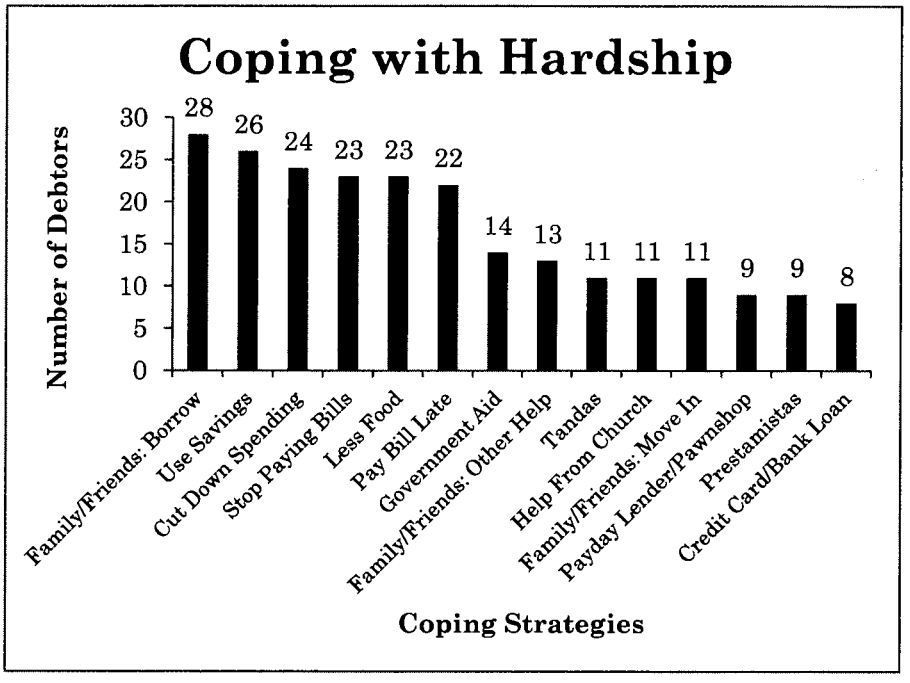
38. Six participants did not answer.

39. *See, e.g.*, Interview with Respondent 0007; interview with Respondent 0033.

40. *See, e.g.*, Interview with Respondent 0038 ("I feel more than capable of doing that type of work, but because I don't have a social security number, I am not accepted.").

41. Thirty-three (63.5%) of the forty-four respondents who had experienced financial hardship employed three or more of these strategies.



When asked what they would do to finance an unexpected expense of $100, seventeen respondents said that they would borrow the money. Eight of these seventeen did not specify where they would borrow from, but seven replied that they would borrow from family or friends, and one indicated that he would borrow from a *prestamista*, or loan shark.[42] Seven participants responded that they would work to get the $100, with one saying she would "probably look for a job as a babysitter or something,"[43] one saying he would "find an odd job and try to make it,"[44] and another saying, "I'd try to scramble for work and make the money."[45]

In addition to asking about strategies used to cope with specific hardships, we also asked each participant whether, for any reason, they had borrowed from specific sources—banks, credit cards, pawn shops, title lenders, family and friends, loan sharks, or *tandas*—over the past

42. Another indicated that she would borrow from "a company that lends money if [one] wants to start a business." Interview with Respondent 0013.

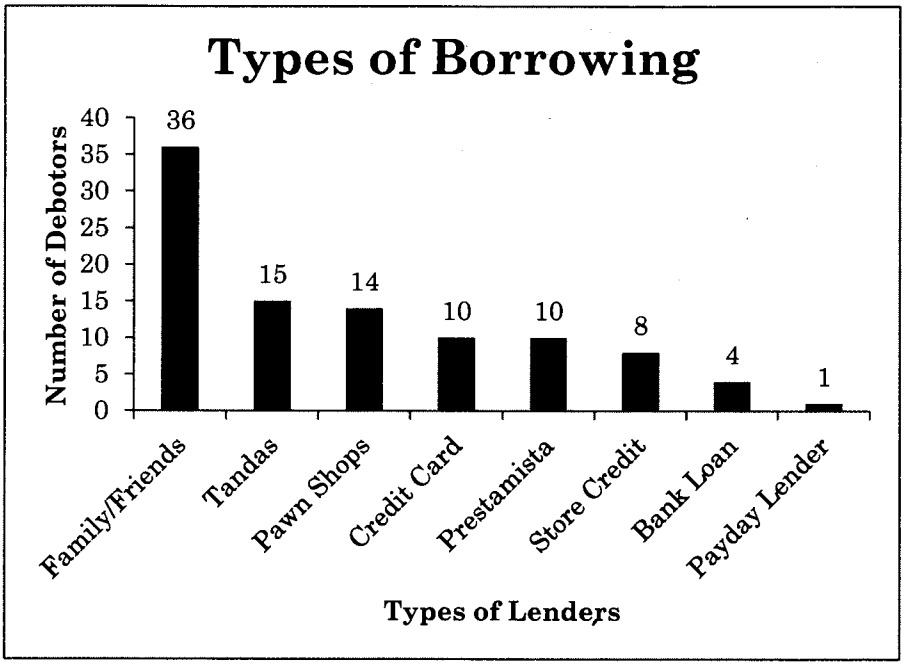
43. Interview with Respondent 0037.

44. Interview with Respondent 0021.

45. Interview with Respondent 0022.

year. We also asked how much they borrowed, and how much they repaid over the past six months (the minimum requested, the full amount owed, or somewhere in between). For participants who had specific experience with particular forms of borrowing, we asked whether that experience was positive, negative, or somewhere in between. Regardless of whether participants had borrowed from a particular source, we asked them to describe the feelings they associated with three forms of borrowing: credit cards, bank loans, and borrowing from family and friends. Participants could choose among relieved, embarrassed, scared, uncomfortable, proud, or could describe another feeling.

Participants in our study described a myriad of borrowing experiences. Forty-four (84.6%) of the participants had borrowed from at least one source, and over 50% of participants borrowed from multiple sources. A number of borrowers—twenty-seven or 51.9%—borrowed from more than one source. Participants borrowed from a variety of sources. The most common borrowing source was family and friends, with thirty-six participants (69.2%) borrowing from family and friends. Ten participants (19.2%) borrowed from a *prestamista* while fifteen (28.9%) used *tandas*. Several participants had also borrowed from pawn shops, with fourteen individuals (26.9%) describing loans from pawn shops in the past year. Although unconventional borrowing was more common, a number of participants had access to more traditional credit, with four (7.7%) participants having borrowed from a bank in the past year, and ten (19.2%) using credit cards.



Several participants borrowed from both friends and family and from pawnshops within the past year,[46] with two borrowers borrowing from five different friends or family members, and also using a pawnshop.[47] A number borrowed from more than two sources; for example, one person borrowed from family and friends, *tandas*, a pawnshop, store credit, and used a credit card,[48] and another used store credit, borrowed from family and friends, and borrowed from a pawnshop.[49] Another borrower borrowed from friends and family, a loan shark, a title lender, and a pawnshop.[50] Three borrowers borrowed from friends and family, a loan shark, *tandas*, and a pawnshop.[51] One

46. Interview with Respondent 0012; interview with Respondent 0017; interview with Respondent 0018; interview with Respondent 0019.

47. Interview with Respondent 0012; interview with Respondent 0017.

48. Interview with Respondent 0011.

49. Interview with Respondent 0015.

50. Interview with Respondent 0055.

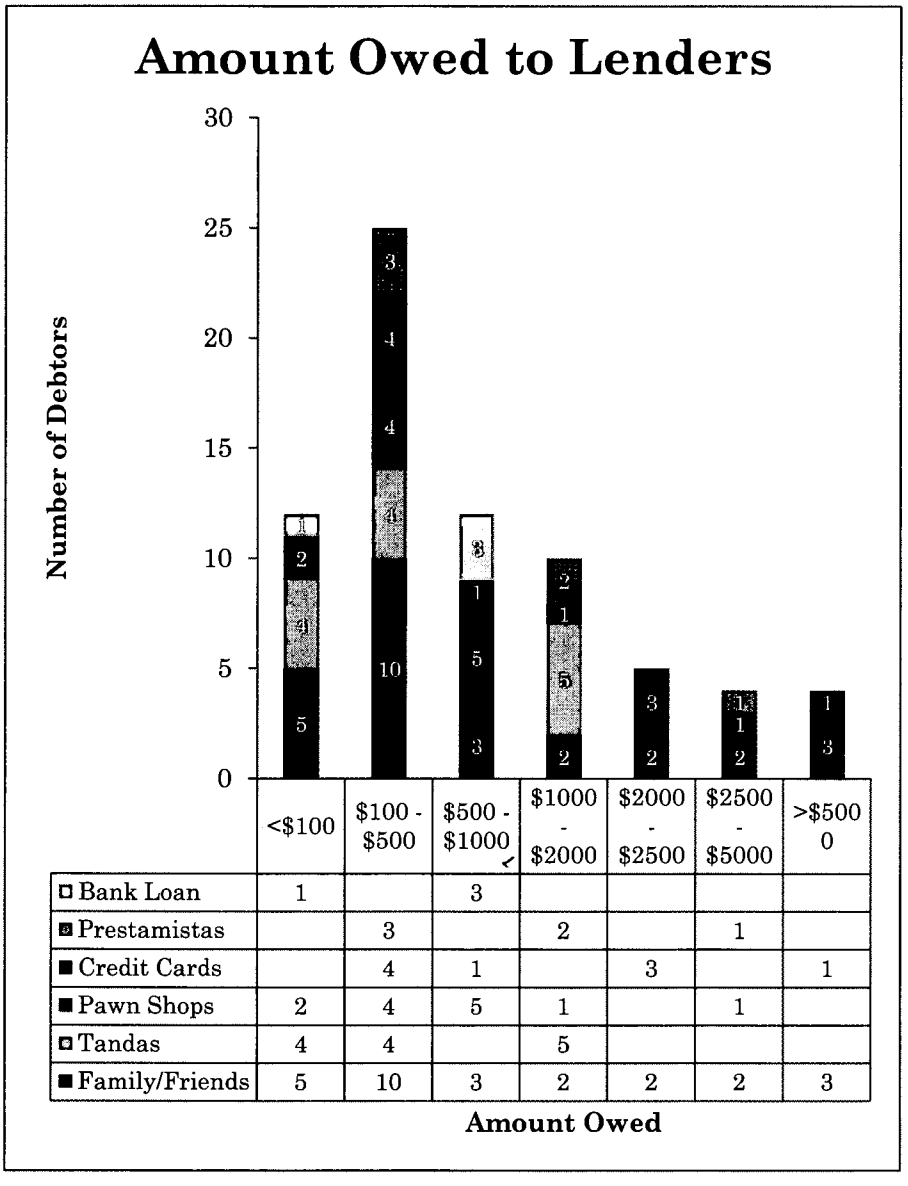
51. Interview with Respondent 0002; interview with Respondent 0048; interview with Respondent 0050. Respondent 0048 and Respondent 0050 also borrowed from other sources.

individual borrowed from family and friends, a loan shark, a title lender, *tandas*, and a pawnshop.[52]

Amounts borrowed from each source varied. Twelve borrowers (23%) owed less than $100. Twenty-five borrowers (48%) owed between $100 and $500. Twelve borrowers (23%) owed between $500 and $1,000. Twenty-three (44.2%) owed more than $1,000. Four participants (7.7%) owed more than $5,000.

Borrowers in some cases borrowed from one source to pay off another debt. For example, one individual borrowed from friends/family, *tandas*, and a pawnshop.[53] He used the money from some loans to pay other loans: "For example, the money from my friend, I had to pawn to get the money back, I pawned the TV. Had to pay the rent, etc."[54] He said the most important debts to pay were "rent because I need to live," and friends and family.[55] He used the pawnshop money and *tandas* money to pay his friends back.[56]

52. Interview with Respondent 0048.
53. Interview with Respondent 0017.
54. *Id.*
55. *Id.*
56. *Id.*



	<$100	$100 - $500	$500 - $1000	$1000 - $2000	$2000 - $2500	$2500 - $5000	>$5000
Bank Loan	1		3				
Prestamistas		3		2		1	
Credit Cards		4	1		3		1
Pawn Shops	2	4	5	1		1	
Tandas	4	4		5			
Family/Friends	5	10	3	2	2	2	3

Most borrowers did not report using social security numbers to borrow, and did not report knowing individuals who obtained a social

security number;[57] eight participants (15.1%) knew someone who was undocumented but who obtained a social security number, while thirty-six (67.9%) did not. Seven of the eight who did know someone who obtained a social security number reported that the individual used the number for borrowing purposes. When asked whether they believed it was common for individuals without a social security number to obtain one for borrowing purposes, thirty-two (60.4%) said no while nine (17%) said yes.

Several borrowers specifically described experiences incurring debt in order to cope with unexpected expenses. One debtor had a gas leak in her apartment that resulted in unexpected food expenses; she ended up pawning a gold chain and an iPad and was unable to re-purchase the iPad.[58] Another took out a title loan to pay for a car repair.[59] Others borrowed to cover routine expenses such as rent.[60]

1. Friends and Family

Friends and family were the most popular borrowing source, with thirty-six participants (69.2%) responding that they had borrowed from family members within the past year. The amounts owed and repaid varied significantly. Half of the respondents[61] had borrowed less than $1000, with five borrowing less than $100, ten borrowing between $100 and $500, and three borrowing between $500 and $1000. However, several participants had borrowed more than $1000 from family and friends, with two borrowing between $1000 and $2000, two borrowing between $2000 and $2500, two borrowing between $2500 and $5000, and three borrowing more than $5000.[62] A number of these borrowers—fourteen, or 38.9%—had repaid the full amount owed within the past six months.[63] Ten paid the minimum requested, five paid somewhere

57. There were fifty-three participants for questions about social security numbers; the percentages are updated accordingly.

58. Interview with Respondent 0016.

59. Interview with Respondent 0048.

60. Interview with Respondent 0009; interview with Respondent 0020; interview with Respondent 0023; interview with Respondent 0027; interview with Respondent 0039; interview with Respondent 0046; interview with Respondent 0047; interview with Respondent 0049. One woman who borrowed to pay for rent at one time also had to borrow to cover the cost of car repairs.

61. Thirty-three participants responded to this question, while three participants did not specify the amount borrowed.

62. One individual specified that she owed between $2500 and $5000 and had paid off her debt. Interview with Respondent 0016.

63. One respondent answered that she repaid the amount in full and repaid

between the full amount owed and the minimum requested, and two paid none.

2. Tandas

Tandas were the second most popular borrowing source, with fifteen individuals (28.9%) having borrowed using *tandas*.[64] With *tandas*, a number of individuals in the community regularly contribute funds to the group.[65] When one member in the group has a need for a loan, the amount is borrowed from the group and then repaid to the group.[66] Most individuals borrowed small amounts from the *tanda*, with four borrowing less than $100 over the past year, four borrowing between $100 and $500, three borrowing between $1000 and $1500, and two borrowing between $1500 and $2000.[67] Five of these borrowers were able to repay the full amount over the past six months, two paid the minimum requested, four paid somewhere between the full amount and the minimum, and one paid nothing.[68]

3. Pawnshops

Pawnshops were used almost as frequently as *tandas*, with fourteen individuals (26.9%) borrowing from pawn shops over the past year. Seven of those who borrowed from pawnshops borrowed over $500, with two borrowers borrowing over $1000 (one borrowing between $1500 and $2000 and one borrowing between $2500 and $5000). Four participants borrowed between $100 and $500, and two borrowed less than $100.[69] When asked how much they paid per month over the last six months, seven respondents stated that they paid the minimum amount, three paid the full amount, one paid an amount in between the minimum and full amounts due, and three did not pay anything. The majority of these

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somewhere in between the full amount and the minimum requested. Interview with Respondent 0037.

64. Two more individuals responded that they had used a *tanda* but did not answer specifics about that borrowing.

65. *See, e.g.*, Shereen Marisol Meraji, *Lending Circles Help Latinas Pay Bills and Invest*, NPR CODESWITCH (Apr. 1, 2014, 3:05 AM), http://www.npr.org/sections/codeswitch/2014/04/01/292580644/lending-circles-help-latinas-pay-bills-and-invest.

66. *See id.*

67. Two participants did not specify the amount borrowed.

68. Three did not specify how much was repaid over the past six months.

69. One respondent did not answer the follow-up questions about the pawnshop borrowing that dealt with amount borrowed. Interview with Respondent 0033.

respondents (eight) answered that they ended up owing more to the pawnshop than they expected to owe.

4. Credit Cards

After pawnshops, credit cards were the next most common source of borrowing. Although only ten participants (19.2%) owed a credit card at the time of the interview, twenty-four participants (46.2%) wanted to apply for a credit card but decided against it. Twenty-two (42.3%) had received an offer to sign up for a credit card. There was substantial variation among participants in both the amounts borrowed in the past year and the amounts being repaid over the past six months.[70] More than half borrowed less than $1000, with two borrowing nothing, four borrowing between $100 and $500, and one borrowing between $500 and $1000. Three borrowed between $2000 and $2500. Four individuals who were repaying paid somewhere between the minimum balance and the full balance over the past six months, but two repaid everything owed, and three paid only the minimum balance.

5. Prestamistas

Almost as many borrowers had borrowed from a loan shark, or *prestamista*, as owned a credit card, with ten participants (19.2%) having borrowed from a *prestamista* in the past year. However, only seven participants decided to answer more detailed questions regarding these loans. Five participants discussed borrowing from a *prestamista*, or loan shark. Three borrowed small amounts in the past year—between $100 and $500. Two borrowed between $1000 and $1500, and one borrowed between $2000 and $2500. Two individuals repaid the minimum requested over the past six months, two paid the full amount owed, and three paid somewhere in between the minimum requested and the full balance.

6. Bank Loans

Only four debtors (7.7%) had taken out a loan from a bank or credit union. This is consistent with the expectation that undocumented individuals have less access to traditional forms of borrowing; however,

70. Eleven participants gave their opinions about their experiences with credit cards. These participants currently had credit cards or had used credit cards in the past.

it indicates that traditional borrowing forms are not completely inaccessible to undocumented individuals. Three of these four borrowers owed between $500 and $1000,[71] while one had borrowed less than $100.[72] The three respondents who borrowed over $500 paid the minimum owed each month, which was between $100 and $200.[73] The borrower who owed less than $100 had already paid the full amount owed within the past six months.[74]

7. Title Loans

Only one individual described using a title loan; she took out the loan to pay a mechanic.[75] It was less than $100 and she repaid the minimum requested over the past six months, which was less than the balance.[76]

C. *Opinions and Feelings about Borrowing*

Not only did participants vary substantially in the type of borrowing used, but they also described a range of opinions of and experience with each type of borrowing. In many cases the borrowing experiences were described as both positive and negative: positive because they were able to obtain needed cash; negative because the debt is still there, or in the case of pawn shops, possessions are lost. Many borrowers reported feelings of embarrassment about borrowing, even when using borrowing methods that they largely described as positive, such as borrowing from family and friends. Forty-nine participants answered questions regarding their opinions and experiences about various types of borrowing.[77] Borrowing from friends or family was perceived as the best deal (fifteen, or 28.9%, chose friends or family as best deal).[78] Nineteen of the thirty-one respondents (61.3%) who

71. Interview with Respondent 0010; interview with Respondent 0032; interview with Respondent 0033.

72. Interview with Respondent 0003.

73. Interview with Respondent 0010; interview with Respondent 0032; interview with Respondent 0033.

74. Interview with Respondent 0003.

75. Interview with Respondent 0048.

76. *Id.*

77. Three participants did not answer these questions. Interview with Respondent 0025; interview with Respondent 0031; interview with Respondent 0039.

78. One respondent also answered that friends and family was the best form of borrowing along with another form of borrowing. Interview with Respondent 0048.

described their experiences borrowing from friends and family described the experience as positive while none found the experience negative, eight (25.8%) reported their experience as somewhere in between, and four (12.9%) described borrowing from friends and family as both positive and negative. *Prestamistas* were perceived as the worst deal (twelve, or 23.1%, chose *prestamistas* as the worst deal).[79]

1. Family and Friends

Most individuals who borrowed from family and friends described the experience as positive—friends and family members were willing to help out when asked, seldom charged interest, and were flexible regarding repayment. Borrowers described feelings of comfort and trust when it came to borrowing from family and friends. Indeed, when asked about which type of borrowing was the best or worst deal, fifteen (28.9%) listed friends and family as offering the best deal, while three (5.8%) suggested that borrowing from friends and family was the worst deal.

Interestingly and notwithstanding the overall positive view of borrowing from friends and family, embarrassment was the feeling most commonly associated with borrowing from family and friends, with twenty (38.5%) answering that they felt embarrassed or would feel embarrassed about borrowing from family and friends.[80] Fifteen (30%) responded that they would feel uncomfortable, only five (9.6%) chose "relieved," and only four (7.7%) chose "proud."[81] This data may suggest that participants felt positively about the procedure of borrowing from family and friends, but negatively about the perceptions associated with such borrowing.[82]

One individual borrowed from five different friends or family

79. Four respondents also answered that *prestamistas* were the worst deal in conjunction with some other form of borrowing. Interview with Respondent 0012; interview with Respondent 0014; interview with Respondent 0017; interview with Respondent 0054.

80. Two respondents felt embarrassed along with some other feeling.

81. One participant answered "other." Interview with Respondent 0038.

82. *See, e.g.*, Interview with Respondent 0008 (reporting that he "[got] to borrow money" but felt "uncomfortable" asking for the money"). Indeed, many participants expressed favorable views of borrowing from friends and family because of the lack of interest payments and the pre-existing, trusting relationship. *See, e.g.*, Interview with Respondent 0029 ("Your family has more consideration for you than a card."); interview with Respondent 0030 ("I feel more comfortable because it's someone I know and won't talk bad about what I owe."); interview with Respondent 0051 ("[T]hey will not charge me interest.").

members and said the experience was "more flexible when having to pay back. They don't charge interest or anything."[83] The woman who had lost her son's iPad to the pawnshop had also borrowed from her brother and described that experience as positive, explaining that "my brother told me to take my time and not to stress."[84] One woman described her experience as in-between because "sometimes it's right and sometimes it's not, if you need it then it's right."[85] One woman said borrowing from her brothers was a positive experience "because when I needed it they gave it to me."[86]

Many borrowers described feelings of trust and comfort with family members or close friends. One gentleman had a positive experience borrowing from his sister who did not charge him interest: "I am very close with my sister," he explained.[87] A woman who borrowed from her mom and cousin explained that she decided to ask her cousin, explaining that "I grew up with her, and well she's older than me so she's like my big sister. And I always go to her and she's married and saves her money so if she knows sometimes I need it she'll just let me borrow it."[88] Another borrower described asking to borrow from two particular friends or family members "because they're the ones that I trust the most" and described the experience as positive: "they are my family and best friends and they will not charge me interest."[89] One individual borrowed from two uncles and three friends, describing that "my uncles are family and my three friends because I trust them and I don't have a savings account."[90] Another individual borrowed from a particular family member because, as she described, "I trust him so when I need it he lets me borrow money."[91]

The experience of borrowing from friends or family was not universally described as positive, however. One individual who borrowed from family to cover another debt explained, "in one part you're relieved from having to pay the immediate debt, but then you still have this other debt to pay."[92] One woman who described positive experiences borrowing from *tandas* and title loans described borrowing

83. Interview with Respondent 0012.
84. Interview with Respondent 0015.
85. Interview with Respondent 0050.
86. Interview with Respondent 0011.
87. Interview with Respondent 0019.
88. Interview with Respondent 0052.
89. Interview with Respondent 0055.
90. Interview with Respondent 0054.
91. Interview with Respondent 0011.
92. Interview with Respondent 0012.

from friends and family as negative "because of owing money and being embarrassed," and also because she had "plans for the money [that] had to wait."[93] One gentleman who had also used a pawn shop described borrowing from two friends as better, explaining that "I feel the most comfortable with them, rather than going to a loan shark or something like that." But he reported that the experience was somewhere in between positive and negative: "I liked having access to the money but when my friend, who I borrowed from, approached me in a negative way I didn't like it." One individual described his experience borrowing from his uncles and three friends was in between positive and negative, stating, "I get embarrassed."[94] Another described the experience as "in between [positive and negative]—it's good but it's bad" because "you don't have to depend on them, you have to depend on yourself. You have to learn how to save, you have to learn. Even though I'm still young, I know I'm broke and I'll see something, and I'll still want it and buy it even though I'm broke."[95]

2. Tandas

Participants' views of borrowing from *tandas* were primarily positive. Six (11.5%) participants suggested that borrowing from *tandas* was the best deal while two (3.9%) participants found it to be the worst deal.[96] Of the thirteen respondents who described their experiences with *tandas*, ten (76.9%) found the experience to be positive, none found it to be negative, one (7.7%) found the experience to be in between, and two (15.4%) found borrowing from *tandas* to be both positive and negative. One described borrowing with *tandas* to be both positive and negative because it gave him money, but the interest rate was high.[97] Another described her experience with *tandas* as "positive because the whole amount was correct,"[98] suggesting that the borrowing terms were clear. One woman described her experience with *tandas* as positive "because I was able to use the money to pay,"[99] and another commented

93. Interview with Respondent 0048.
94. Interview with Respondent 0054.
95. Interview with Respondent 0052.
96. One respondent answered that a *tanda* was the best deal along with another form of borrowing, while one respondent also answered that a *tanda* was the worst form of borrowing along with another form of borrowing. Interview with Respondent 0014; interview with Respondent 0048.
97. Interview with Respondent 0002.
98. Interview with Respondent 0011.
99. Interview with Respondent 0048.

that borrowing from *tandas* was a positive experience "because it was very useful."[100]

3. Pawnshops

Participants reported mixed views of borrowing from pawnshops. Six of the individuals who had borrowed from a pawnshop described their experience with borrowing from a pawnshop as positive, three described it as negative, five stated their experience was somewhere in between, and two answered that their experience was both positive and negative. Many borrowers described pawnshops as a mix of positive and negative—pawn shops were described as an easy and quick source of cash, but often resulted in the repossession of personal property. One individual borrowed from a pawnshop to pay off his friends from whom he had borrowed; he ended up losing the items he pawned. He described his experience as partially positive and partially negative, explaining: "it was good because I finally got to pay back debt, but now I don't have any of my things."[101] Another individual described borrowing with pawnshops as both positive and negative, explaining that "I got to get the money but they got my jewelry."[102] Another described his experience using a pawnshop as in between positive and negative "because you pawn stuff and then you can't take it back." One woman described losing an iPad to the pawnshop and purchasing another iPad on credit. Initially, she had an issue with a gas leak in her apartment and could not cook, so she had to buy extra food. To cover the costs, she pawned a gold chain and the iPad. She described, "I got back my chain but I didn't get my iPad, I couldn't. And my son was so in love with it and he would fight with his other cousins because they had one."[103] This borrower ultimately purchased another iPad on credit from Target:

> Then, after a lot of crying from my son, I was able to buy another one on credit, $25 monthly . . . from Target. . . . This was much easier for me since I'm not working right now, paying $500 was too much, so not I'm paying $25 monthly and it's much more easy for me.

Even debtors who were ultimately able to keep their items

100. Interview with Respondent 0050.
101. Interview with Respondent 0012.
102. Interview with Respondent 0002.
103. Interview with Respondent 0015.

described the burden of having to devote income to repaying the debt. One individual borrowed from a pawnshop to pay back other debts, and described his experience as both positive and negative: "Positive because you finally have money to get rid of your debt. Negative because you're basically working to pay back the pawn shop."[104]

Although several borrowers described losing items to pawn shops, several others described pawnshops borrowing as positive. One woman who had borrowed from family, *tandas*, and pawnshops described pawn shops as the best deal and said her experience was positive:

> [B]ecause I would call them on the phone and explain that they needed to wait and they did wait for me[,] . . . well they charge you interest, but tell you okay in one month bring me the money, and if in that month you don't bring the money then they charge you interest."[105]

Another, who had borrowed from family and friends as well as from a pawnshop, thought pawn shops offered the best deal because "they give you enough time to pay [the loan] back."[106]

A number of borrowers commented that pawnshops were a quick and relatively easy method of procuring needed cash. One borrower explained that the experience was, "positive because I easily got the money I needed to take care of business."[107] Another borrower described her experience with pawn shops as also positive, "because I was able to pay the rent."[108] One expressed borrowing from a pawnshop as a positive experience, "because it gets you out of your problems fast."[109] However, although viewed by some as a flexible and quick solution (at least in the short term), one debtor expressed feeling uncomfortable about borrowing from a pawnshop, saying, "I felt uncomfortable having to resort to those means."[110]

4. Credit Cards

Participants also had varying views on credit card borrowing. Three individuals reported a positive experience with credit cards, six

104. Interview with Respondent 0011.
105. Interview with Respondent 0011.
106. Interview with Respondent 0019.
107. Interview with Respondent 0019.
108. Interview with Respondent 0048.
109. Interview with Respondent 0050.
110. Interview with Respondent 0018.

reported an experience between positive and negative, and two indicated that the experience was both positive and negative. No participant reported an exclusively negative experience. One woman said she found borrowing with a credit card "useful, very useful" because it let her borrow money; however, she also ranked credit cards as the worst deal because she believed that if she did not pay it would cause her taxes to go up.[111] When asked what type of borrowing was the best and worst deal, eight participants chose credit cards as the worst deal,[112] while twelve chose credit cards as the best deal. Relief was the feeling most commonly associated with credit cards, with eighteen (34.6%) participants indicating that they felt relieved or would feel relieved when getting a credit card.[113] Six individuals reported feelings of pride, and three reported feelings of embarrassment associated with credit cards.[114]

5. Prestamistas

Several participants who had borrowed from a *prestamista* described the experience as mixed. These borrowers had an urgent need for cash and obtained the cash quickly, but at a cost. Contrary to friends and family, loan sharks charged high interest and used aggressive collection methods. One individual described borrowing with a *prestamista* as both positive and negative, "because when I asked him to borrow money he was there but the interest is too high."[115] One woman who borrowed from a *prestamista* so she could "pay the rent" described the experience as in between positive and negative, "because of the phone calls all the time."[116] Another borrowed from a *prestamista*, "because I had to pay for the room where I live" and described the experience as in between positive and negative, "because I get embarrassed."[117] One chose to borrow from a *prestamista*, "because at the time it was an unexpected expense and I was embarrassed to ask my friends and family members." He said the experience was in

111. Interview with Respondent 0011.

112. Three participants also choose credit cards as the worst deal in conjunction with some other form of borrowing.

113. Four individuals also indicated that they felt relieved along with some other feeling.

114. Three individuals also reported feeling proud along with some other feeling, and two individuals felt embarrassed as well as another feeling.

115. Interview with Respondent 0002.

116. Interview with Respondent 0048.

117. Interview with Respondent 0054.

between positive and negative, explaining that "at the time it gets you out of something, like an emergency, you have to do it."[118]

When asked about what types of borrowing offered the best and worst deals, *prestamistas* were most often listed as the worst deal, with twelve (23.1%) respondents choosing *prestamistas* as the worst deal.[119]

6. Bank Loans

All four participants who had taken out bank loans within the past year described their experiences with the bank loan as positive, and six (11.5%) participants thought bank loans offered the best deal, while three (5.8%) participants also thought bank loans offered the worst deal.[120] One participant explained, "I was able to borrow money to do my business."[121] Another replied, "since we qualify for the loan, we get the money fast and interests are low."[122] One participant was particularly effusive with respect to bank borrowing: "This is beautiful. No one focuses on who has more and who has less."[123] However, when participants were asked about their feelings associated with borrowing from a bank, discomfort was the most common feeling, with fifteen (28.9%) respondents choosing "uncomfortable." Still, ten participants (19.2%) chose "proud" to describe borrowing from a bank, and nine (17.3%) chose "relieved" to describe borrowing from a bank.

7. Title Loans

The one participant who had taken out a title loan described her experience as positive, stating that "it helped me pay the mechanic."[124]

D. Over-Indebtedness

The experience of over-indebtedness was at least an occasional reality for the majority of study participants, and was a frequent or

118. Interview with Respondent 0055.

119. Four individuals also chose *prestamistas* as the worst deal, along with another form of borrowing.

120. One participant rated bank loans as the best form of borrowing along with another form of borrowing, while four participants rated bank loans as the worst form, along with other forms of borrowing.

121. Interview with Respondent 0003.

122. Interview with Respondent 0034.

123. Interview with Respondent 0039.

124. Interview with Respondent 0048.

constant issue for roughly one third of participants. Of the fifty-three individuals who responded to this set of questions, seventeen, or 32.1%, responded that they often or always felt their debts were more than they could handle, while twenty (37.7%) replied that they occasionally felt that their debts were more than they could handle. Thirteen (24.5%) borrowers replied that they never felt their debts were too much to handle.

A number of participants reported receiving calls from creditors. Ten (18.9%) participants indicated that they occasionally received calls from creditors, five (9.4%) participants reported receiving creditor calls somewhat frequently, and three (5.7%) responded that they received creditor calls very frequently.[125] Fourteen debtors discussed the pressure, persistence, or harassment of creditor calls. Debtors described creditors trying to collect a past-due debt by calling "everyday 2-3 times a day,"[126] "when I am busy and at work,"[127] or just "calling and calling and calling."[128] Another said that some creditors call "just to bother you for no reason and they keep calling you only to annoy you."[129] Some described creditors making harassing calls even after they had agreed to a negotiated payment schedule: "The thing is they know the times that I'm supposed to pay, since we had an agreement. They still keep calling you, they harass but you already had an agreement."[130] A number of participants described feelings of distress at repeated calls: "when they call repeatedly I get nervous, I feel like someone's going to choke me";[131] "[the repeated calling] stresses me out and put me in a bad mood."[132]

Finally, when asked whether they wanted or needed specific types of debt relief, several answered yes. Twenty-one (39.6%) participants said they would like calls from creditors to end, fifteen (28.3%) said they would like not to have to repay money owed, ten (18.9%) said they would like to prevent a creditor from repossessing property, and eleven (20.8%) said they would like to avoid foreclosure or eviction.

125. Five respondents did not answer this question.
126. Interview with Respondent 0001.
127. Interview with Respondent 0004.
128. Interview with Respondent 0009.
129. Interview with Respondent 0003.
130. Interview with Respondent 0012.
131. Interview with Respondent 0030.
132. Interview with Respondent 0048.

E. Reactions to Bankruptcy

Although the vast majority (81%) of participants in the study had borrowed, and the majority of borrowers expressed some anxiety about this debt, none had filed for bankruptcy and only eight (15.1%) had considered filing. However, twenty-six (49.1%) individuals indicated that they felt bankruptcy would be helpful for someone who was over-indebted, and a number of individuals further reported desiring results that bankruptcy could help them achieve. In addition, as discussed above, many debtors reported desiring relief that bankruptcy could make possible, such as stopping creditor calls, not paying back money owed, or preventing foreclosure, eviction, or repossession.[133]

Despite many participants feeling overwhelmed by their debt, and despite many indicating that bankruptcy that bankruptcy might be helpful, only eight participants ever considered filing for bankruptcy. Responses suggested that resistance to bankruptcy could be attributed to two separate causes; first, negative feelings about bankruptcy, including embarrassment or a belief that bankruptcy is unethical, second, confusion about the consequences of bankruptcy filing.

Participants who considered filing but did not file cited a variety of reasons for deciding not to file for bankruptcy. Six of the debtors who considered filing for bankruptcy explained that they decided not to file, at least in part, because of their immigration status and belief that they did not qualify. One debtor explained, "I didn't know if I qualified since I am undocumented,"[134] while another indicated, "I do not think I qualify since I don't have a social security number. . . . I also would be embarrassed if I went to apply and didn't qualify."[135] Another said he did not believe he qualified "because I am an immigrant."[136] Several of these debtors who cited immigration status as a reason for not filing also listed other factors, including the belief that bankruptcy would not be helpful. One participant thought that bankruptcy "would ruin your credit and you wouldn't be able to get help,"[137] and another explained, "I'd feel like I'd fail at progressing. . . . I'd think that instead of going forward I'd be going backward."[138] Two participants did not cite immigration status as a factor, but rather indicated that they chose not

133. *See supra* Section IV.D.
134. Interview with Respondent 0001.
135. Interview with Respondent 0025.
136. Interview with Respondent 0039.
137. Interview with Respondent 0001.
138. Interview with Respondent 0015.

to file because they preferred to repay their creditors, or as one participant said, "save over time" to repay debts rather than file.[139]

Even participants who did not consider filing for bankruptcy were given the opportunity to discuss their feelings about filing for bankruptcy. Fifty-three respondents were asked questions about this part of the survey.[140] Twenty-eight (52.8%) indicated that they would feel embarrassed about filing. In elaborating on this feeling of embarrassment, several associated bankruptcy with feelings of failure. One said, "I think I would feel like I failed and bankruptcy would be a consequence of my failure."[141] Others described embarrassment in terms of feeling that "you aren't stable", or " you are at the bottom"[142] or the "very bottom."[143] One debtor felt bankruptcy was only for "extreme cases."[144] One thought bankruptcy "shows that you're not financially stable,"[145] while another said that filing for bankruptcy was "just saying that you're unstable."[146] Three debtors described feelings of embarrassment at not being able to repay their creditors, with one indicating, "I would feel embarrassed not paying money back that I owed,"[147] and two others saying that they would be embarrassed about being unable to pay. One debtor expressed a belief that bankruptcy was only for those who were shirking their debts, saying, "I feel like people would do that just to avoid paying their debts but I wouldn't do that."[148] Several respondents discussed feeling that a bankruptcy filing would ruin their credit.[149]

A number of responses reflected confusion about how bankruptcy works. In explaining that they would feel embarrassed, one replied that "it's shameful to feel like the government is indirectly paying your bills."[150] Another replied, "it's government money you wouldn't want to pay the government money so I wouldn't really go for that but if I really

139. Interview with Respondent 0017. One of the nine debtors who responded that they considered filing for bankruptcy but decided not to did not cite a reason for deciding not to file. Interview with Respondent 0017.

140. Two participants did not answer. Interview with Respondent 0027; interview with Respondent 0032.

141. Interview with Respondent 0003.

142. Interview with Respondent 0020.

143. Interview with Respondent 0012.

144. Interview with Respondent 0051.

145. Interview with Respondent 0021.

146. Interview with Respondent 0022.

147. Interview with Respondent 0005.

148. Interview with Respondent 0033.

149. Interview with Respondent 0001; interview with Respondent 0037.

150. Interview with Respondent 0008.

need it and have to, I would."[151]

Four participants believed that bankruptcy filing triggered foreclosure or repossession, with one saying, "when you are bankrupt you are at the very bottom, you have no money for anything; you cannot have a home and get evicted,"[152] and another saying:

> [T]he banks are doing is just waiting to take everything from you, that's what happens in this country. Foreclose on your property, you lose your home. Borrow for your business, you lose that, too. It's not even worth it because you work so hard and then you lost everything.[153]

One participant thought that her vending business could not file for bankruptcy, believing that bankruptcy was only for "bigger more established companies."[154]

Finally, one debtor believed that bankruptcy would not result in the elimination of debt, explaining: "From what I've heard if you declare you can't pay debts even if you end up doing better you still have to pay what you owed. And not even that, but your credit also gets ruined."[155]

Although much of the reactions to the idea of bankruptcy were negative, at least with respect to their specific situation, twenty-eight (52.8%) respondents agreed that bankruptcy could be helpful for situations of serious over-indebtedness. Several said that it would be helpful if there were "no other option."[156] One thought bankruptcy might be helpful "because there will be no other option for certain people who can't pay."[157] Another thought bankruptcy might be helpful "because you don't have another option to pay the money you owe."[158] One third of respondents thought bankruptcy might be helpful "because I would imagine there is no other option."[159] Finally, one thought bankruptcy might be helpful "if there's no other way."[160] "A few participants described bankruptcy as an opportunity for a "fresh

151. Interview with Respondent 0052.
152. Interview with Respondent 0012.
153. Interview with Respondent 0014.
154. Interview with Respondent 0026.
155. Interview with Respondent 0037.
156. Interview with Respondent 0008; interview with Respondent 0011; interview with Respondent 0030.
157. Interview with Respondent 0008.
158. Interview with Respondent 0011.
159. Interview with Respondent 0013.
160. Interview with Respondent 0030.

start."[161]

In sum, although many participants described being over-indebted, needing or wanting some form of debt relief (such as stopping creditor calls, avoiding repossession, or not having to repay debt), and a number of participants agreed in theory that bankruptcy could be helpful for those who cannot repay their debts, none had come close to filing for bankruptcy. Fear, embarrassment, misunderstanding, and belief that bankruptcy would do more harm than good, or a desire to repay debts trumped the need for debt relief.

V. REMOVING BARRIERS TO BANKRUPTCY

This study suggests that undocumented debtors have a variety of borrowing experiences and that some undocumented debtors can benefit from bankruptcy relief—but that few actually consider filing. This Part proceeds as follows. First, I review some of the key findings that support the conclusion that some undocumented debtors may benefit from bankruptcy. In doing so, I acknowledge the limitations of bankruptcy relief—for example, bankruptcy is not a long-term solution for chronic income shortfalls that are unrelated to debt. Second, I discuss the key findings suggesting that there are substantial internal barriers to bankruptcy filing. Third, I explore some steps that could be taken to increase access to bankruptcy among undocumented debtors. I discuss the work necessary to remove both internal and external barriers, as both must be removed before bankruptcy can be truly accessible to this population.

A. Need for Bankruptcy

The vast majority of study participants—84.6%—had debt,[162] and the vast majority of the indebted individuals described at least occasionally feeling that debts were more than they can handle.[163] Indeed, roughly one-third indicated that their debts were often more than they can handle.[164] In addition, when asked whether it would be helpful to stop creditor calls, to stop foreclosure, eviction, or

161. Interview with Respondent 0012; interview with Respondent 0019; interview with Respondent 0022.

162. *Supra* Section IV.B.

163. *See supra* Section IV.D. (finding that thirty-seven participants, or 69.8%, reported some anxiety about their debts).

164. *Supra* Section IV.D.

repossession actions, or to not have to pay back debts that are owed, many participants answered yes.[165]

Of course, whether bankruptcy is truly a solution for this population depends on a variety of factors. For individuals with chronic income shortfalls, bankruptcy can alleviate the existing debt burden but cannot prevent future indebtedness if income is insufficient to meet expenses. Although many individuals in our study did have low incomes suggesting difficulty meeting ongoing expenses, many also had experienced a sudden, unexpected expense or loss of income.[166] For example, thirty-one experienced job loss and eleven experienced the job loss of a spouse.[167] Most of these individuals have regained employment, so debt incurred in the immediate aftermath of the job loss could be discharged in bankruptcy, leaving more income available to meet basic needs.[168] Bankruptcy can also be extremely useful for resolving medical debt; with twenty-two participants reporting hospitalization in the past three years and seventeen carrying medical debt,[169] bankruptcy could alleviate that burden, again freeing income for other needs.[170] For other types of debt incurred to cope with emergencies, the usefulness of bankruptcy varies. It is well suited for unsecured debt such as credit card and bank debt.[171] It may not benefit the five participants with debts related to criminal proceedings, as court fines and restitution awards are generally non-dischargeable.[172] It will remove debt owed to pawn shops, but is unlikely to save the items already pawned. It will discharge debt owed to loan sharks, but loan sharks may deploy aggressive collection tactics even after the debt is officially discharged, and it may be difficult to hold them accountable for violating the post-discharge injunction on collection actions.[173] With respect to debt owed to family and friends, bankruptcy may be neither helpful nor necessary. Family and friends are unlikely to employ aggressive collection efforts. Embarrassment or sense of obligation may be the primary reason for repaying such debt, and bankruptcy will not eliminate those factors. However, in cases where an individual is unable to repay and a friend of

165. *Supra* Section IV.D.
166. *See supra* Section IV.A.
167. *Supra* Section IV.A.
168. *See supra* Section IV.A.
169. *See supra* Section IV.A.
170. *See* 11 U.S.C. § 524(a) (2012).
171. *See id.* §§ 523, 524(a), 727(b).
172. *Id.* §§ 523(a)(7), 524(a), 727(b).
173. *See id.* §§ 523(a)(7), 524(a) (imposing an injunction on collection activity related to any debt discharged in bankruptcy).

family member continues to insist upon repayment, even knowledge of bankruptcy can be helpful in negotiating repayment time or a lower repayment amount because the individual can explain that if they are unable to pay, they will have to resort to bankruptcy, and the lender will most likely not be able to collect anything.

B. Removing Barriers

The finding that none of these individuals had filed for bankruptcy is consistent with my previous study suggesting that extraordinarily few undocumented debtors access the bankruptcy system.[174] However, in my previous paper I suggested that removing external barriers to bankruptcy proceedings for undocumented debtors could increase access to bankruptcy.[175] I hypothesized that the significant barriers to bankruptcy for undocumented debtors included (1) statutory barriers; (2) local rules; (3) local practice, and; (4) a fear of deportation.[176] The data presented in this paper suggests that these reasons are likely not the primary barriers to filing among undocumented immigrants; instead, the very low filing rate among undocumented immigrants is likely primarily attributable to internal barriers rather than to external barriers. Undocumented debtors who considered filing but decided not to file reported declining to file for a variety of reasons, none of which included statutory barriers or barriers in local bankruptcy rules or practice. Indeed, none of the participants had gotten close enough to filing to encounter such barriers.[177] Instead, there were two predominant internal barriers to filing: first, confusion or misinformation; second, a perception that filing for bankruptcy was improper, embarrassing, or unethical.[178] Misinformation included the belief that they were eligible for bankruptcy because they were undocumented (or, in some cases, because they were individuals rather than businesses).[179] Some participants also misunderstood the consequences of bankruptcy or did not believe bankruptcy could help them.[180] With respect to feelings about bankruptcy, a number of individuals had decided repaying their debts was the "right" thing to do,

174. *See* Ondersma, *supra* note 2, at 559–60.
175. *Id.* at 548–59.
176. *Id.* at 541–49.
177. *See supra* Section IV.D.
178. *See supra* Section IV.E.
179. *Supra* Section IV.E.
180. *Supra* Section IV.E.

or believed that bankruptcy filing was unethical.[181]

This evidence suggests that removing the external barriers, as I propose in my previous paper, would not lead to an increase in filing among undocumented debtors. Instead, it is also necessary to provide more information to undocumented debtors about bankruptcy. First, undocumented debtors would have to be informed that they are indeed eligible for bankruptcy. Second, undocumented debtors would need access to accurate information about how bankruptcy works and about the consequences of bankruptcy filing. For example, some debtors believed that bankruptcy filing causes foreclosure or repossession and others believed that bankruptcy was a type of government bailout for debtors.[182] In addition, many expressed concerns that bankruptcy would not be helpful, but when asked whether certain results—stopping creditor calls, not having to repay debt—would be helpful, answered yes.[183] This suggests that more undocumented debtors might file if accurately informed about the bankruptcy process. Information could be provided by non-profit organizations that work with immigrants, such as immigration attorneys, religious centers, community leaders, or other groups. These centers could provide pamphlets that accurately describe the bankruptcy system. In addition, employees at these organizations should be trained to understand the bankruptcy system so that they can recognize situations where bankruptcy might be helpful and can refer clients to pro bono attorneys that specialize in bankruptcy. Whether the information is provided in person or in pamphlets, it should include both an accurate description of the bankruptcy process, as well as an accurate description of the consequences of a bankruptcy filing. For example, individuals potentially in need of bankruptcy relief need to be informed that bankruptcy filing can stop creditor calls[184] and results in debts not having to be repaid.[185] Some of the responses to our interviews suggest that individuals also need to understand what bankruptcy does *not* do to address some of the confusion identified here. For example, the government does not repay a borrower's unsecured debts, but rather unsecured creditors simply are not repaid.[186] In addition, bankruptcy

181. *Supra* Section IV.E.

182. *Supra* Section IV.E.

183. *Supra* Section IV.D.

184. 11 U.S.C. § 362(a)(6) (extending the automatic stay to "any act to collect, assess, or recover a claim against the debtor that arose before the [bankruptcy filing]").

185. *Id.* §§ 524(a), 727(b).

186. *See id.* §§ 507(a), 726(b); *see also* Mark J. Roe & Frederick Tung, *Breaking the Bankruptcy Priority: How Rent-Seeking Upends the Creditors' Bargain*, 99 VA. L. REV.

does not trigger foreclosure, eviction, or repossession actions—in fact, bankruptcy can stop these procedures and provide breathing room to negotiate with creditors;[187] unsecured debts are discharged, potentially leaving sufficient income for critical expenses like car payments and rent.[188] Of course, it is also important to explain that bankruptcy cannot guarantee that a debtor will be able to keep an automobile or remain in a home,[189] but the breathing room provided by the automatic stay does give time to strategize around these concerns.

Those providing bankruptcy information to undocumented debtors will also have to take steps to overcome the perception that bankruptcy filing is unethical. Some methods that may be helpful are explanations that bankruptcy is provided for in the Constitution,[190] that freeing ones' income from being devoted to repaying debts is good for the overall economy,[191] and that creditors realize that when they lend money some individuals will not be able to repay.[192] It may also help to explain that bankruptcy is a very common experience.[193]

1235, 1238 (2013) (noting that unsecured creditors conventionally receive "ten cents on the dollar").

187. *See* 11 U.S.C. § 362(a).

188. *See id.* §§ 524(a), 727(b).

189. *See, e.g., id.* § 362(b) (listing exceptions to the automatic stay); *id.* § 366 (excluding utility service from automatic stay under certain circumstances).

190. U.S. CONST. art. I, § 8, cl. 4 ("To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States.").

191. Indeed, increasing private consumption through consumer debt relief seems to be at the heart of many European countries' laws to that effect. *See, e.g.*, Adam Feibelman, *Consumer Bankruptcy as Development Policy*, 39 SETON HALL L. REV. 63, 92–93 (2009) (analyzing several international systems and noting that "debt relief in bankruptcy enables individuals to smooth consumption of non-discretionary goods and services as well as 'discretionary' goods and services like health care and education."); Maria Elvira Méndez Pinedo, *Iceland's New Plan for Debt Relief: Jubilee or Waiting for Godot?*, 5 EUR. J. RISK REG. 517, 529 (2014) (analyzing Iceland's plan of consumer debt relief and noting: "Households will benefit directly and immediately from the mortgage debt relief and this will support private consumption.").

192. *See, e.g.*, Charles A. Bruch, *Taking the Pay Out of Payday Loans: Putting an End to the Usurious and Unconscionable Interest Rates Charged by Payday Lenders*, 69 U. CIN. L. REV. 1257, 1280–82 (2001) ("[Payday lenders] target customers that [they] know are unable to repay their loans.").

193. *See* U.S. Bankruptcy Courts – Business and Nonbusiness Cases Commenced, by Chapter of the Bankruptcy Code, During the Three-Month Period Ending December 31, 2015, Based on Data Current as of December 31, 2015, U.S. COURTS, http://www.uscourts.gov/statistics-reports/caseload-statistics-data-tables (search for "F-2 (Three Months)"; then download table for the December 31, 2015, reporting period) (finding that 194,947 bankruptcies were filed between October 1, and December 31, 2015, of which almost sixty percent were nonbusiness, Chapter 7 filings).

In addition to adequately informing potential filers, external barriers to filing will also have to be removed. Although this study suggests it is not *sufficient* to remove external barriers in order to increase bankruptcy access for undocumented individuals, that does not mean that it is not *necessary* to remove them. That is, although external barriers were not the primary reason study participants gave for declining to file bankruptcy, that does not mean that these barriers would not preclude a bankruptcy filing in cases where internal barriers were overcome. Individuals involved in the bankruptcy system will need to be prepared that undocumented debtors may file for bankruptcy and will need to provide accurate information. If the bankruptcy system itself is not sufficiently prepared for undocumented debtors, bankruptcy obviously will remain inaccessible to this population. As I discussed in my previous paper, there are a number of statutory and local barriers to filing for this population. Despite the lack of official statutory barriers, some trustees do not permit filings by debtors without social security numbers, and some have gone so far as to initiate prosecution of debtors without social security numbers for false representation if the debtor at one point used a false social security number, even if the debtor was not seeking debt relief for any transactions associated with that number.[194] If an over-indebted undocumented immigrant is given sufficient bankruptcy information to conclude that a bankruptcy filing would be helpful, but is later incorrectly told that a social security number is required, the individual will be denied access despite statutory eligibility. Requirements that the debtor provide tax returns and pay stubs may constitute a barrier for those whose employer does not provide tax stubs or file taxes for the employee.[195] Bankruptcy judges, attorneys, trustees, clerks, and help desk operators will all need to be prepared for the nuances that arise in cases of undocumented individuals seeking bankruptcy relief in order for bankruptcy to be truly accessible to this population.

VI. CONCLUSION

This study demonstrated that undocumented immigrants face internal as well as external barriers to bankruptcy relief. Although many participants in this study experienced over-indebtedness and

194. *See, e.g.*, Indictment ¶ 1, United States v. Hernandez, No. 3-15CR-0167L (N.D. Tex. May 6, 2015).

195. *See* 11 U.S.C. § 521(e)(2)(A)(i) (2012); *see also id.* § 521(e)(2)(B) (directing that courts shall dismiss any petition where a debtor does not timely submit tax returns).

expressed needing relief that bankruptcy could offer, they did not view bankruptcy as an option. Bankruptcy can be an important tool for restoring financial security and dignity to the economically disenfranchised. Making this a meaningful option for undocumented immigrants will require the combined efforts of bankruptcy practitioners and administrators, advocates, policymakers, and community organizations.