

# Portraits of Bankruptcy Filers

*based on research and papers by:*

*Jean Braucher, Dov Cohen,  
Pamela Foohey, Bob Lawless,  
Angela Littwin, Katherine Porter,  
Faith Shin & Deborah Thorne*

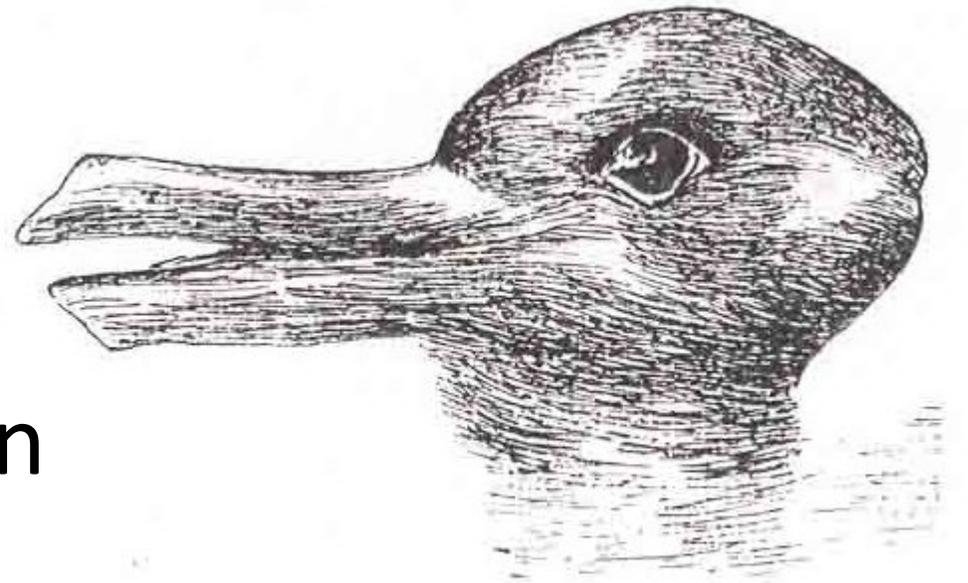


[A]ll lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.

Model Rules of Professional Conduct preamble

# How We Know What Isn't So

- National random sample of consumer bankruptcy attorneys
- “For each group below, please estimate the percentage of bankruptcies in that group that were filed as chapter 13s . . . .”



# Attorney Errors

	<u>Atty Est. (mean)</u>	<u>Actual Ch. 13 Rates</u>	<u>Error</u>
Whites	46.3%	28.6%	<b>+17.8%</b>
Homeowners	54.5%	47.1%	<b>+7.3%</b>
Hispanics	14.0%	21.7%	<b>-7.7%</b>
Women filing alone	23.1%	31.4%	<b>-9.3%</b>
65 and over	14.7%	25.3%	<b>-10.6%</b>
Men filing alone	21.5%	33.3%	<b>-11.8%</b>
Southerners	34.1%	48.6%	<b>-14.5%</b>
Asian-Americans	9.9%	24.4%	<b>-14.5%</b>
Pro se debtors	8.6%	25.6%	<b>-17.0%</b>
African Americans	22.0%	54.6%	<b>-32.6%</b>
Prior bankrupts	35.2%	82.6%	<b>-47.4%</b>

# Attorney vs. mTurkers

	<u>Atty Est. (mean)</u>	<u>Actual Ch. 13 Rates</u>	<u>MTurk Estimate</u>
Whites	46.3%	28.6%	43.0%
Homeowners	54.5%	47.1%	48.6%
Hispanics	14.0%	21.7%	23.2%
Women filing alone	23.1%	31.4%	25.1%
65 and over	14.7%	25.3%	30.5%
Men filing alone	21.5%	33.3%	32.8%
Southerners	34.1%	48.6%	30.2%
Asian-Americans	9.9%	24.4%	31.7%
Pro se debtors	8.6%	25.6%	25.1%
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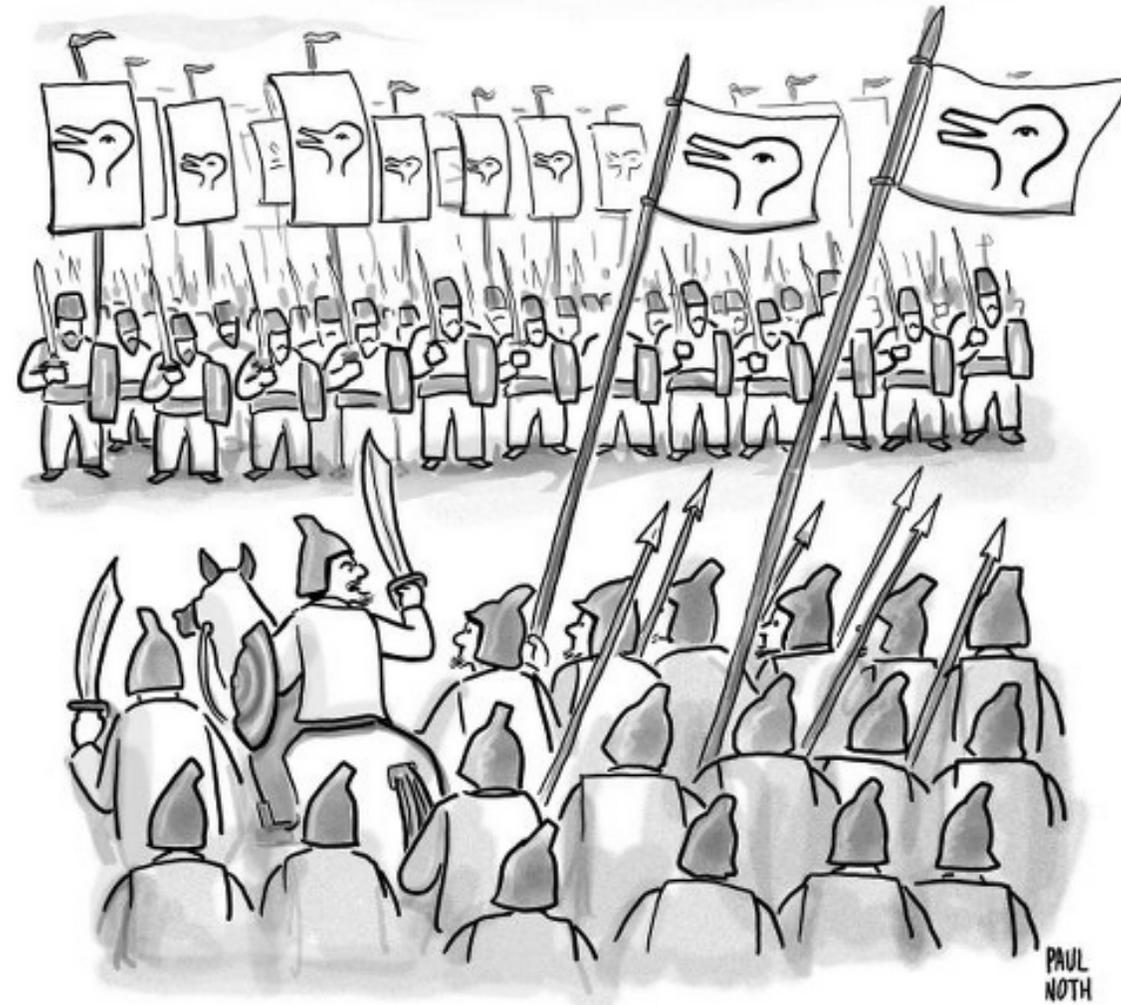
Attorneys did better and statistically significant (5%)

Attorneys did worse and statistically significant (5%)

# Base Rate Neglect

- Chap. 13 rate (stated on questionnaire) = 28%
- Average distance from base rate\*
  - Attorneys = 20.8%
  - mTurkers = 17.4%

\* - statistically significant at 5% level



*“There can be no peace until they renounce their Rabbit God and accept our Duck God.”*

# Outline

1. Overview of Consumer Bankruptcy Project
2. The “Typical” Bankruptcy Debtor
3. The Graying of Bankruptcy
4. Life in the Sweatbox
5. Race & Chapter 13
6. Q&A

# Consumer Bankruptcy Project

- Waves in 1981, 1991, 2001
- 2007 wave
  - National random sample
  - Court records, questionnaires, telephone interviews
- 2013 - present
  - National random samples
  - Court records, questionnaires

# The “Typical” Bankruptcy Debtor

(2007, 2013-16 data with means and (medians))

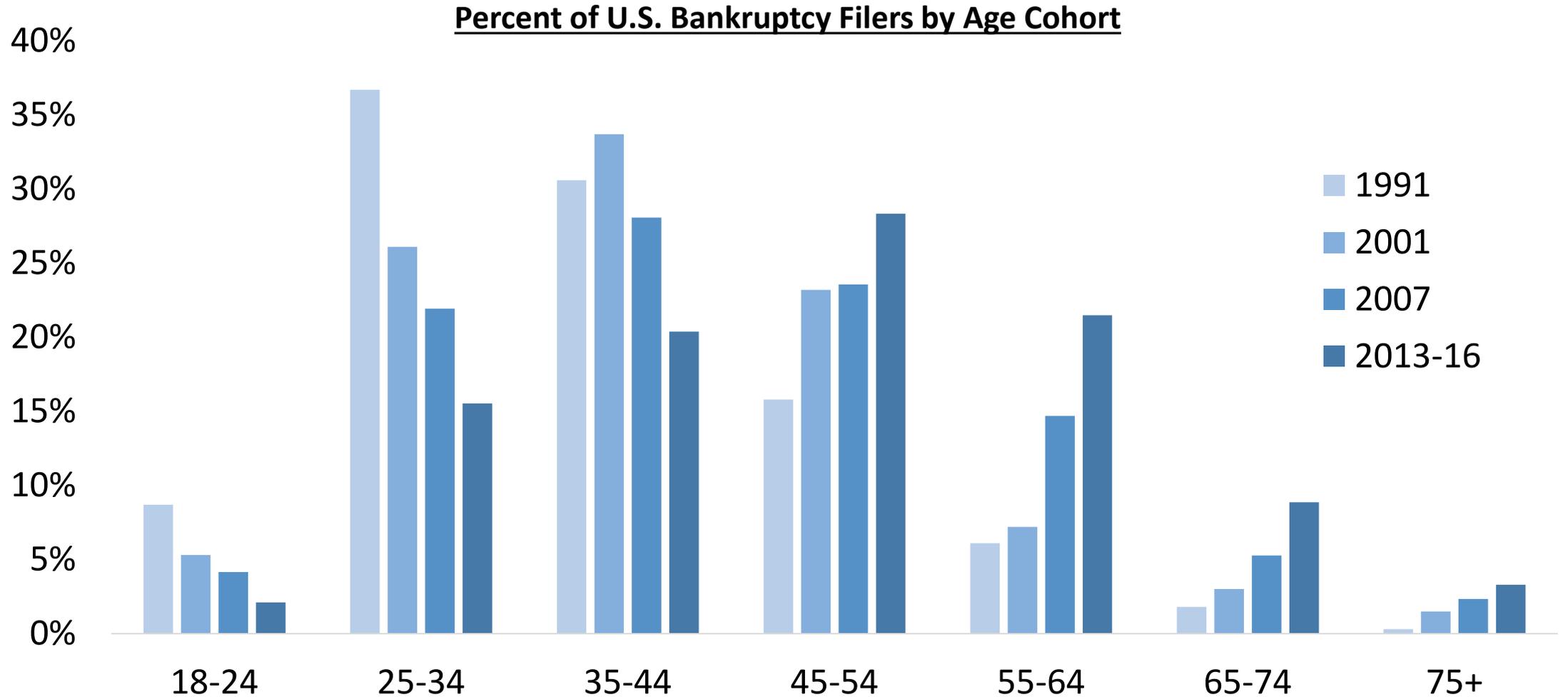
	<b>All Filers (n = 5,407)</b>	<b>ED, Missouri (n = 72)</b>	<b>National Population (2016 Census &amp; Fed)</b>
Annual Income (trimmed)	\$36,574 (\$31,827)	\$32,271 (\$29,581)	\$77,866 (\$55,322)
Debt-to-Income Ratio (trimmed)	3.99 (2.56)	5.23 (3.22)	1.13 (0.37)
% Homeowners	47.0%	39.7%	63.5%
% w/ College Degree	21.2%	24.0%	30.3%
% African American	23.5%	30.0%	13.8%
% Married/live with partner	50.2%	52.0%	
% Female head of household	34.5%	38.0%	
% Chapter 13s	35.4%	35.1%	

# *The Graying of Bankruptcy*

## Percent of U.S. Bankruptcy Filers by Age Cohort

Age Cohort	1991	2001	2007	2013-16	% Change from 1991
18-24	8.7	5.3	4.2	2.1	-75.8%
25-34	36.7	26.1	21.9	15.5	-57.7%
35-44	30.6	33.7	28.1	20.4	-33.4%
45-54	15.8	23.2	23.6	28.3	+79.3%
55-64	6.1	7.2	14.7	21.5	+252.1%
65-74	1.8	3.0	5.3	8.9	+392.6%
75+	0.3	1.5	2.3	3.3	+996.9%
65+	2.1	4.5	7.6	12.2	+478.9%
75+	0.3	1.5	2.3	3.3	+996.9%

# *The Graying of Bankruptcy*

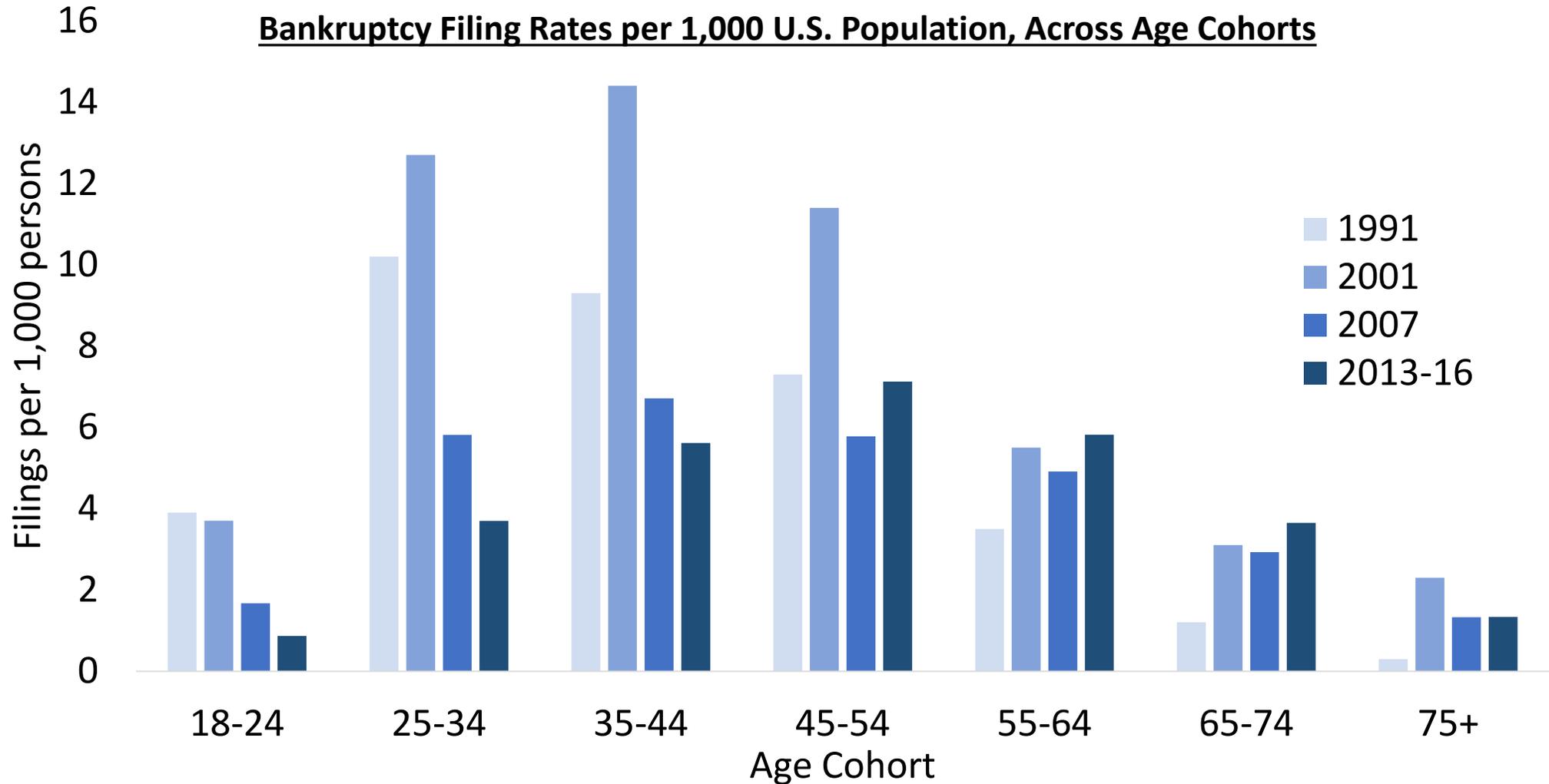


# *The Graying of Bankruptcy*

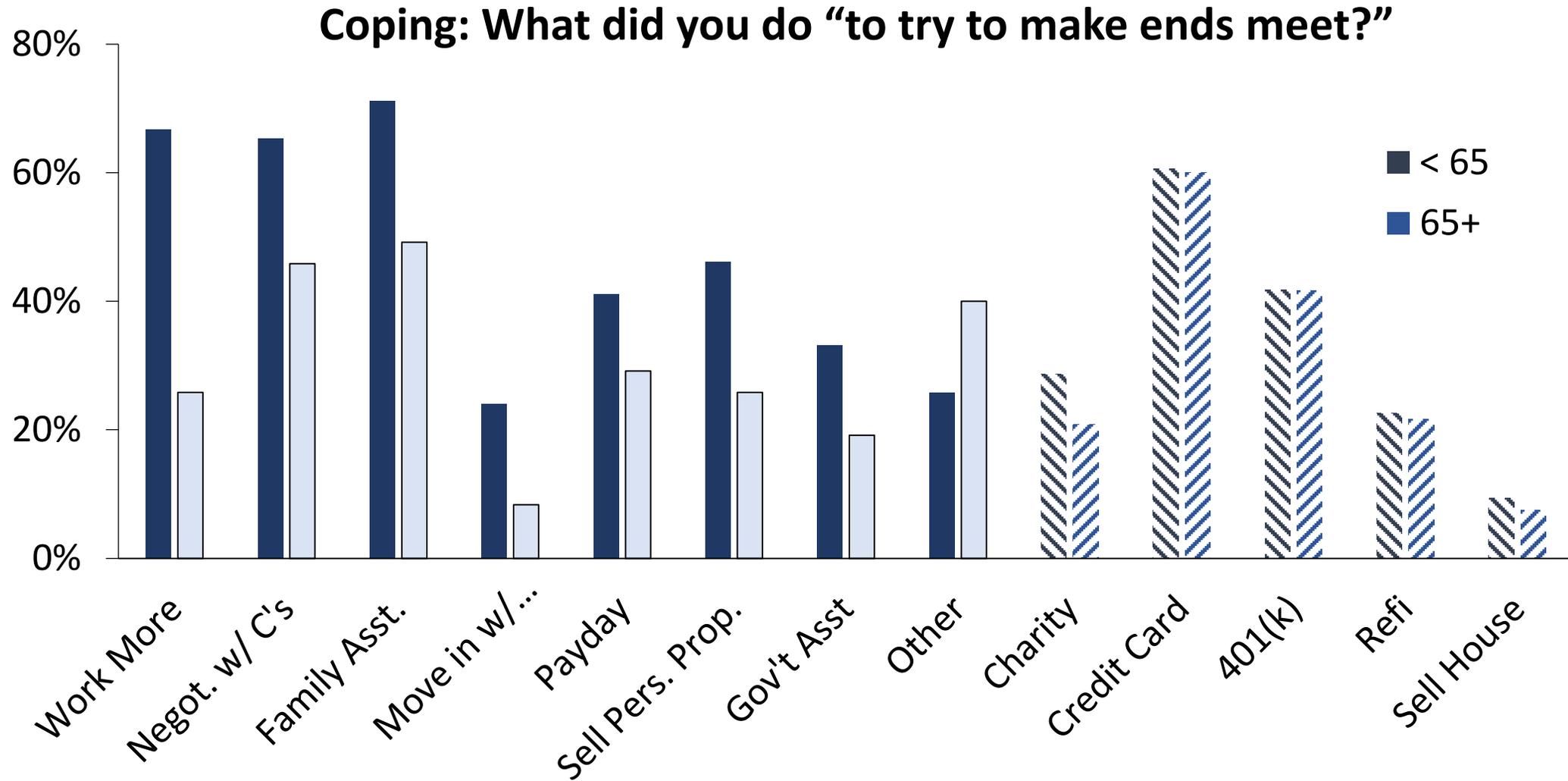
## Bankruptcy Filing Rates per 1,000 U.S. Population

Age Cohort	1991	2001	2007	2013-16	% Change from 1991
18-24	3.9	3.7	1.7	0.9	-77.8%
25-34	10.2	12.7	5.8	3.7	-63.8%
35-44	9.3	14.4	6.7	5.6	-39.6%
45-54	7.3	11.4	5.8	7.1	-2.4%
55-64	3.5	5.5	4.9	5.8	+66.2%
65-74	1.2	3.1	2.9	3.6	+203.9%
75+	0.3	2.3	1.3	1.3	+345.1%
65+	n/a	n/a	2.5	2.8	
<65	n/a	n/a	5.2	4.8	

# *The Graying of Bankruptcy*

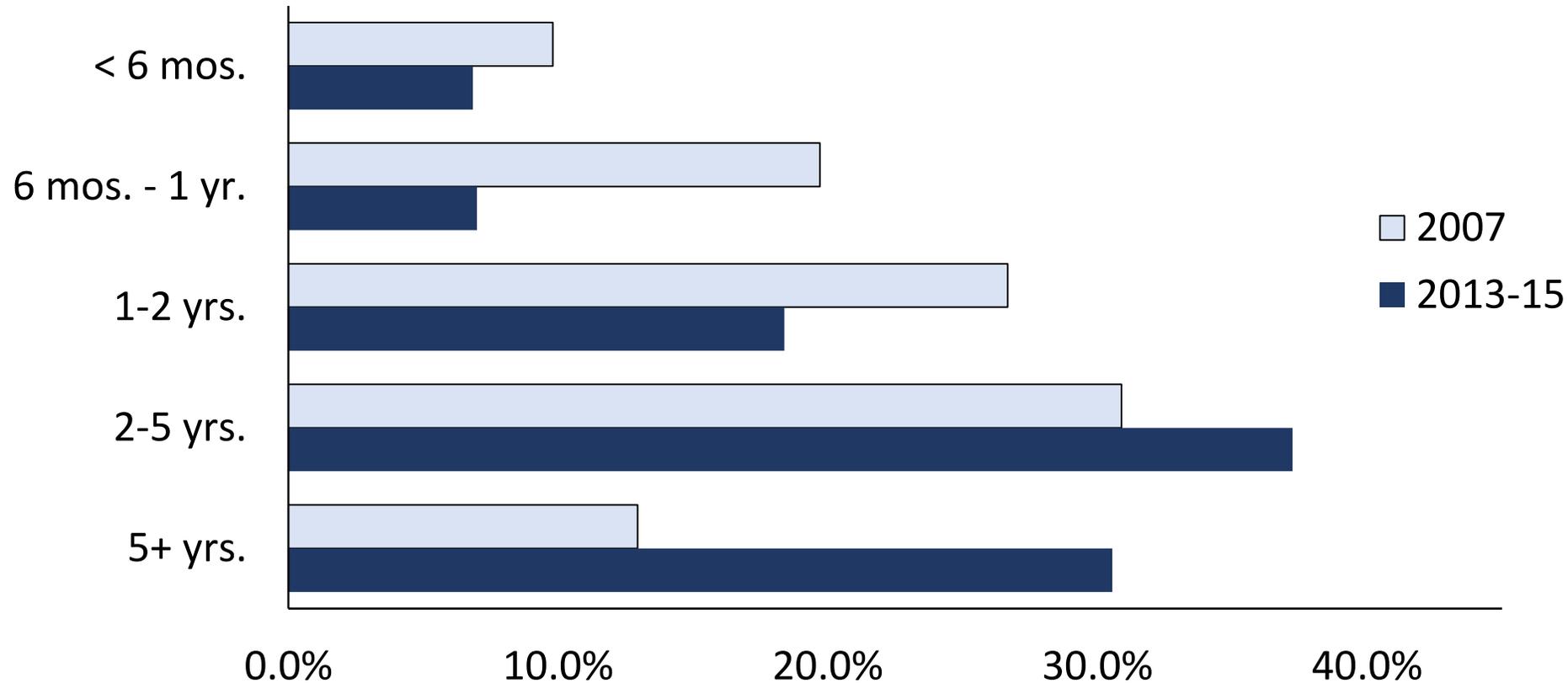


# The Graying of Bankruptcy



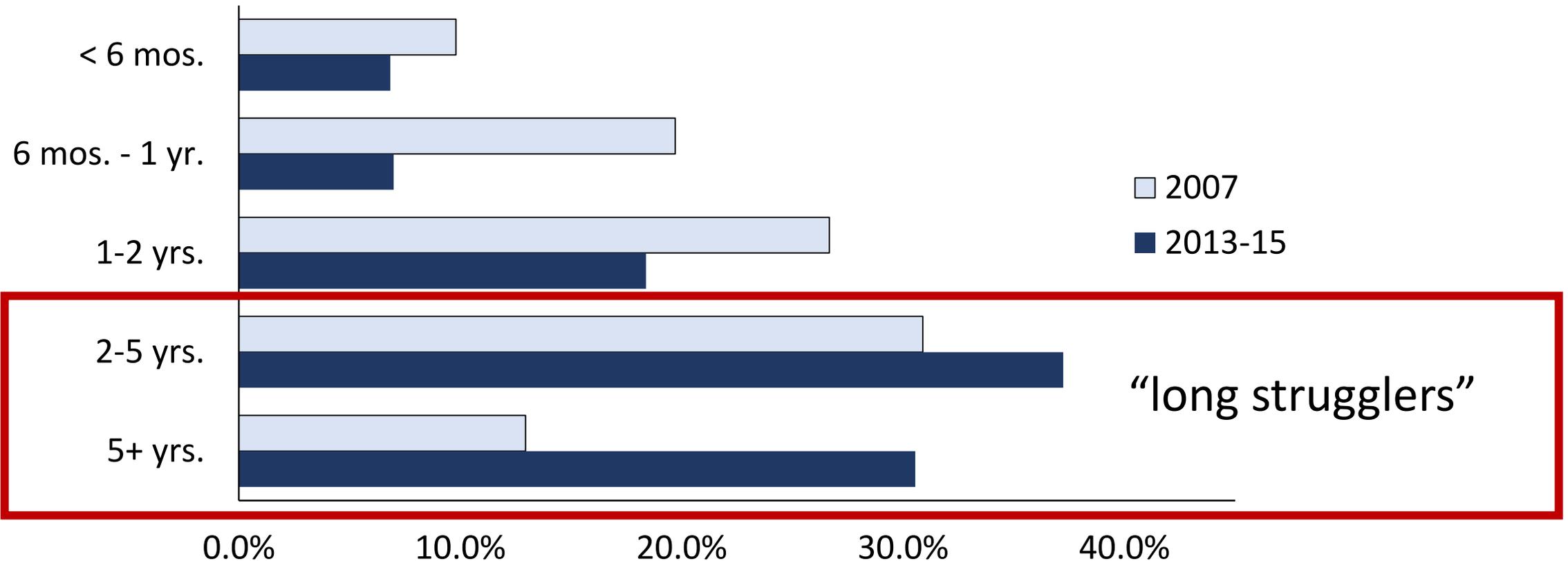
# Life in the Sweatbox

“Before bankruptcy, how long did you seriously struggle with your debts?”



# Life in the Sweatbox

“Before bankruptcy, how long did you seriously struggle with your debts?”



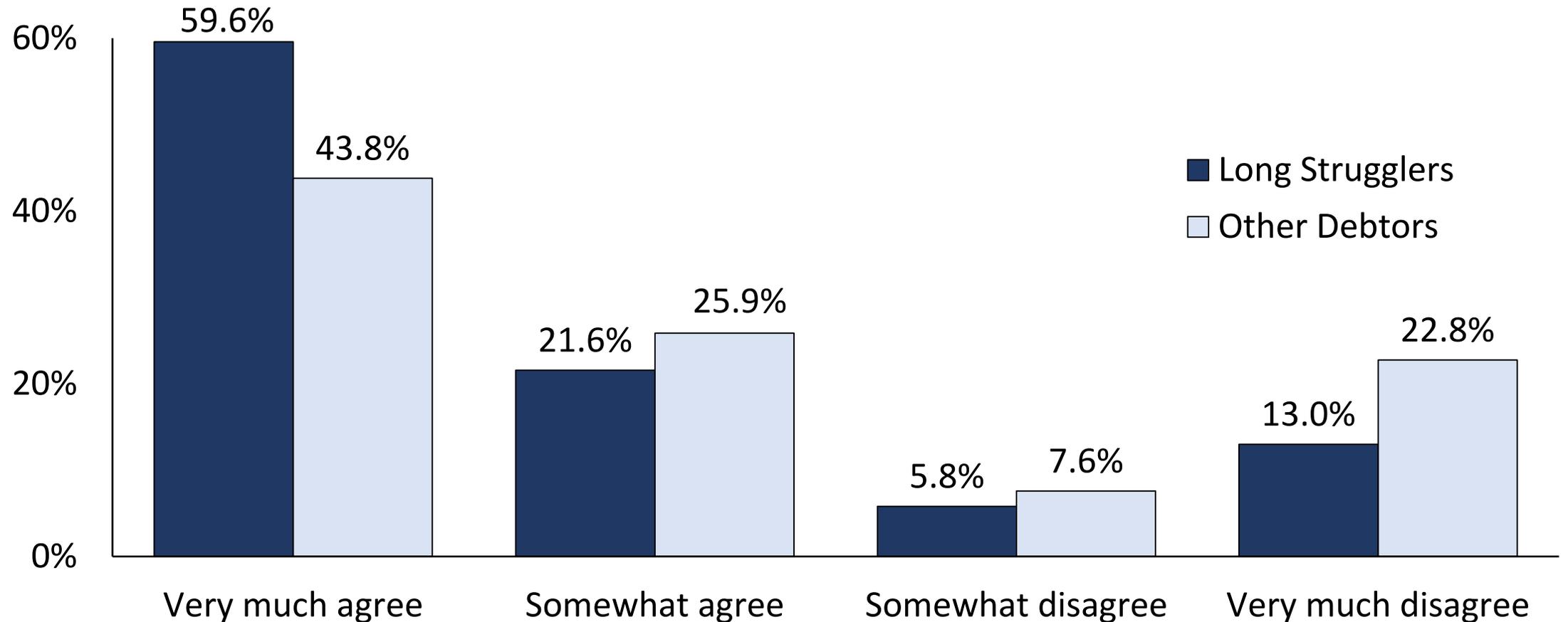
# *Life in the Sweatbox*

## **Reasons for Filing Bankruptcy**

	<u>Long Strugglers</u>	<u>Other Debtors</u>
Unaffordable mortgage payments	45.9%	31.4%
Home foreclosure	26.5%	17.9%
Divorce	27.2%	19.4%
Medical expenses	60.9%	52.3%
Pressure from debt collectors	81.2%	69.7%

# *Life in the Sweatbox*

## Pressure from Debt Collection Was Reason for Bankruptcy



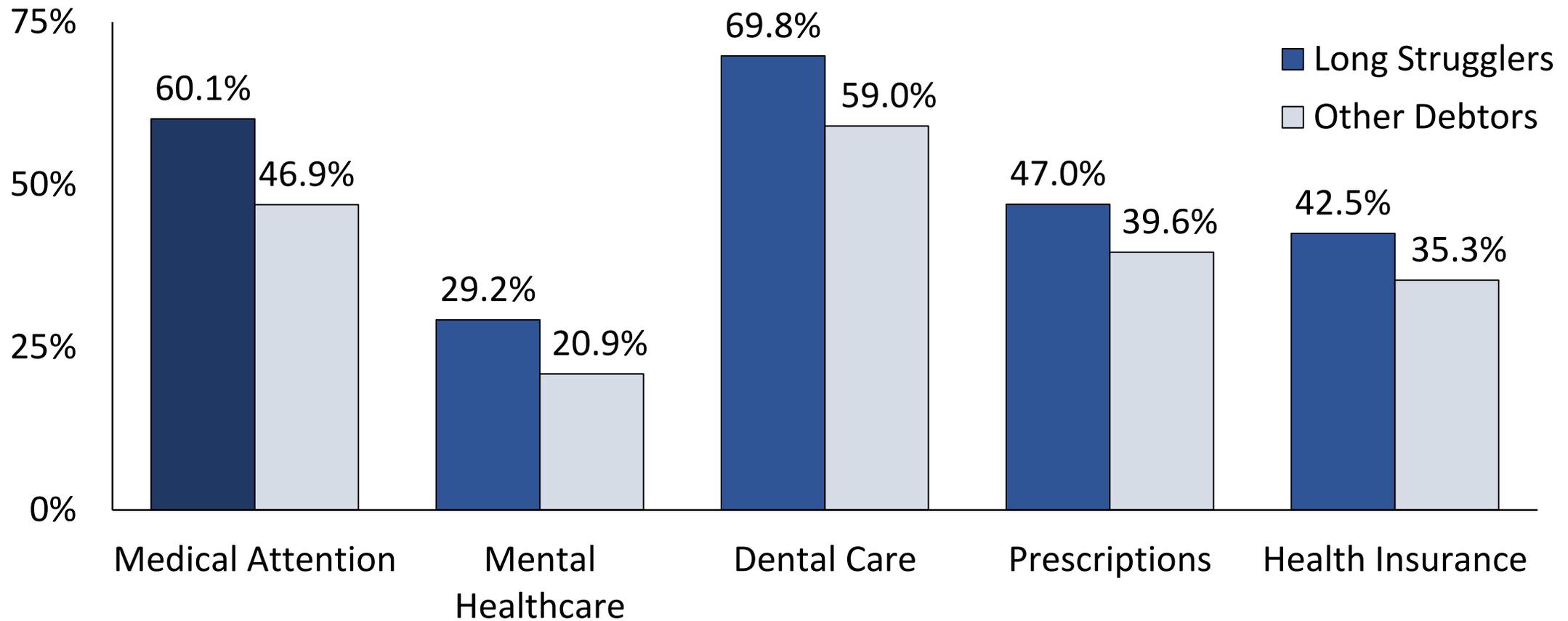
# *Life in the Sweatbox*

## Comparisons of Privations

	<u>Long Strugglers</u>	<u>Other Debtors</u>
Health-privation index (mean)	2.5	2.0
Went without food	31.9%	24.1%
Went without utilities	22.1%	14.6%
Went without other insurance	39.8%	27.0%
total # of privations (mean)	4.1	3.3

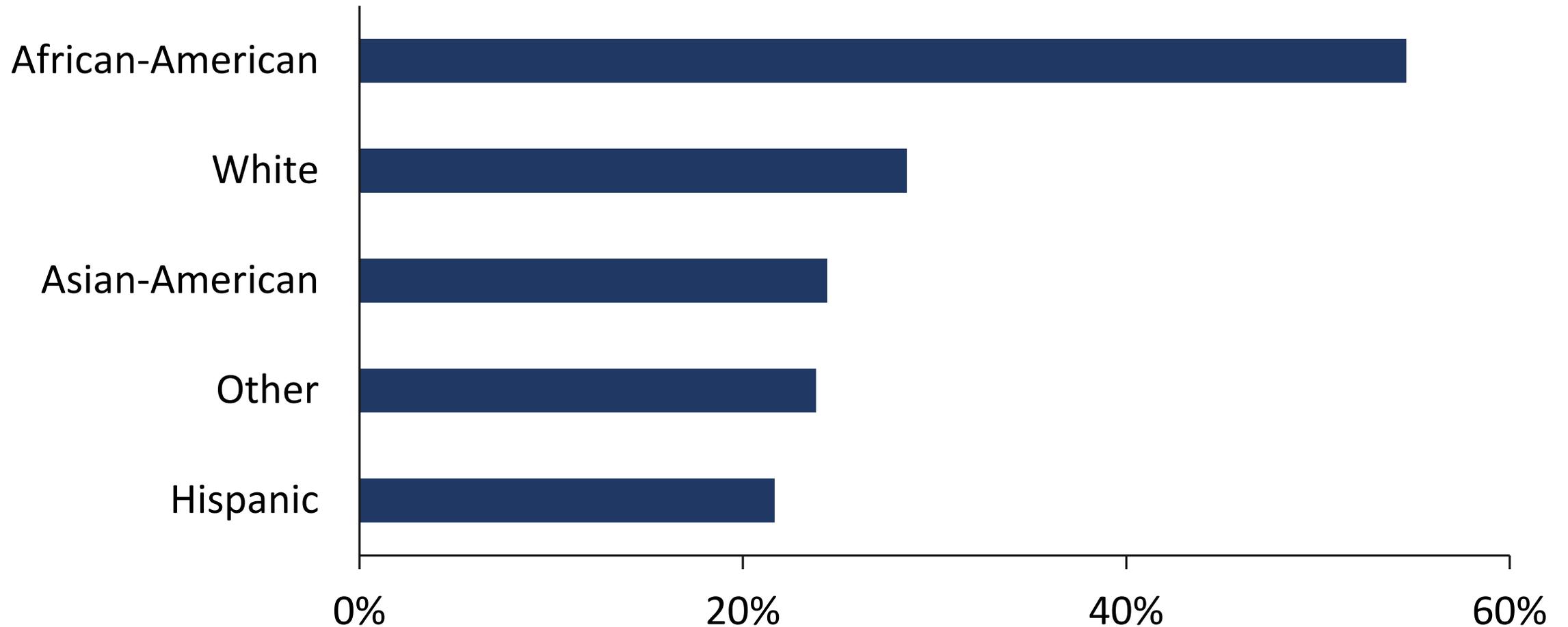
# *Life in the Sweatbox*

## Went Without in Two Years Before Bankruptcy



# *Race & Chapter 13*

## **Debtors Filing Chapter 13**



# *Race & Chapter 13*

## **Debtors Filing Chapter 13**

African-Americans (N = 511)	54.6%
All other races (N = 1,754)	28.2%

Chi-square = 122.40\*

\* -- statistically significant at 5% level

# *Race & Chapter 13*

Variable of interest: African-American debtor(s)

Controls:

Percent 13's in district

Prior bankruptcy

Home owner

Income (ln)

Total assets (ln)

Total debt (ln)

Priority debt (ln)

Foreclosure reason for bkr.

Secured debt/total debt

Credit card debt/total debt

Represented by attorney

Bachelor's degree (or higher)

Occupational prestige score

Number of dependents

Live with spouse or partner

Female head of household

Tried to consolidate/credit card

Tried to consolidate/home eq.

Tried to "work with" creditors

Tried to refinance mortgage

Non-Af/Am chapter 13 Rate

# Race & Chapter 13

Variable of interest: African-American debtor(s)

Controls:

Percent 13's in district	Prior bankruptcy	Home owner
Income (ln)	Total assets (ln)	Total debt (ln)
Priority debt (ln)	Foreclosure reason for bkr.	Secured debt/total debt
Credit card debt/total debt	Represented by attorney	Bachelor's degree (or higher)
Occupational prestige score	Number of dependents	Live with spouse or partner
Female head of household	Tried to consolidate/credit card	Tried to consolidate/home eq.
Tried to "work with" creditors	Tried to refinance mortgage	Non-Af/Am chapter 13 Rate

 More likely to file chapter 13  
and statistically significant (5%)

 Less likely to file chapter 13  
and statistically significant (5%)

## *Race & Chapter 13*

A married couple is considering bankruptcy and has come to you for advice. The wife, L., has an associate's degree from a community college and has worked off and on as a teacher's aide in elementary schools. The husband, R., is a high school graduate who works as a custodian at the church he and L. attend regularly.

## *Race & Chapter 13*

A married couple is considering bankruptcy and has come to you for advice. The wife, Latisha, has an associate's degree from a community college and has worked off and on as a teacher's aide in elementary schools. The husband, Reggie, is a high school graduate who works as a custodian at Bethel A.M.E. Church, which he and Latisha attend regularly.

## *Race & Chapter 13*

A married couple is considering bankruptcy and has come to you for advice. The wife, Allison, has an associate's degree from a community college and has worked off and on as a teacher's aide in elementary schools. The husband, Todd, is a high school graduate who works as a custodian at First United Methodist Church, which he and Allison attend regularly.

## *Race & Chapter 13*

In the intake interview \_\_\_\_\_ and \_\_\_\_\_ said their goals are to pay their creditors as much as they can, keep their home, and keep their car. . . . At the end of the interview, \_\_\_\_\_ and \_\_\_\_\_ expressed a preference for chapter 7/13/omitted.

# *Race & Chapter 13*

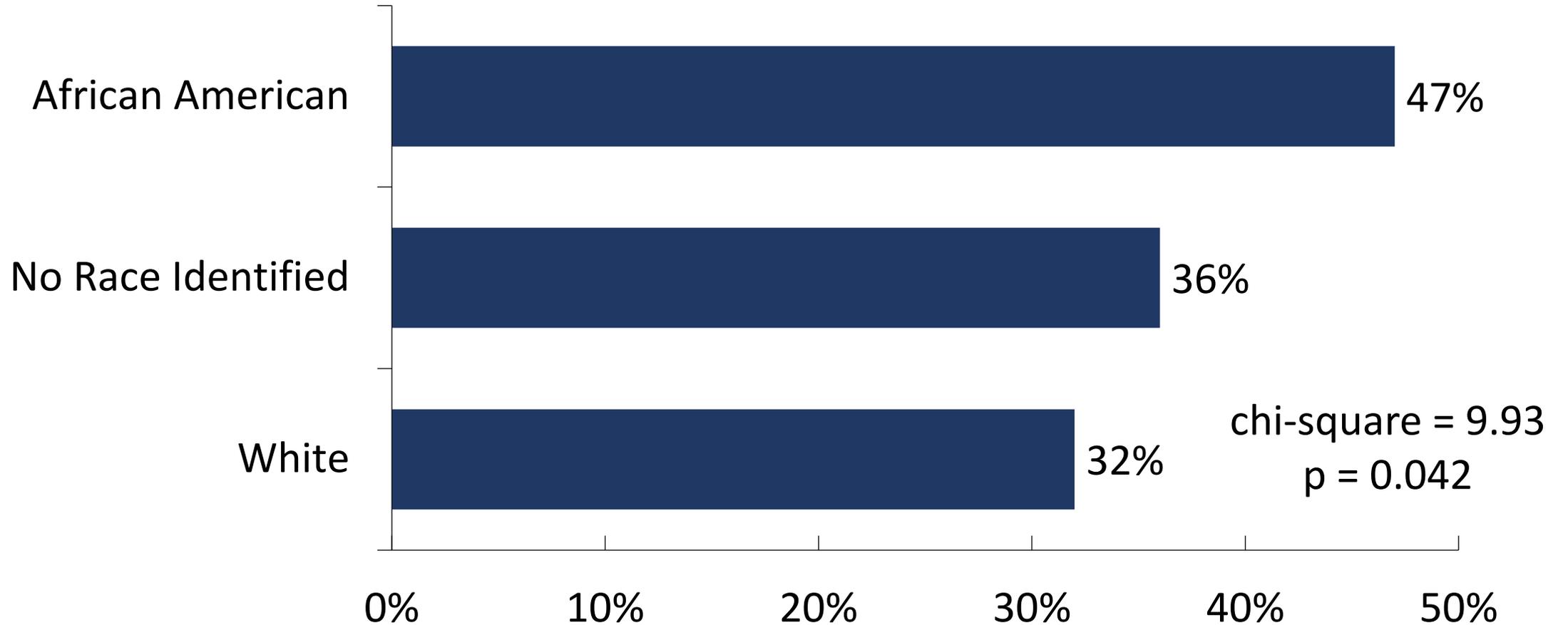
I would recommend that \_\_\_\_\_ and \_\_\_\_\_

*Definitely*  
*file chap. 7* 1 2 3 4 5 6 7 8 9 *Definitely*  
*file chap.13*

- Also

- Attitudinal questions about debtors
- Attitudinal questions about bankruptcy
- Basic demographic information about attorney

# Percentage Recommendation for Chapter 13



# *Race & Chapter 13*

## Attorney Perception of “Competence”

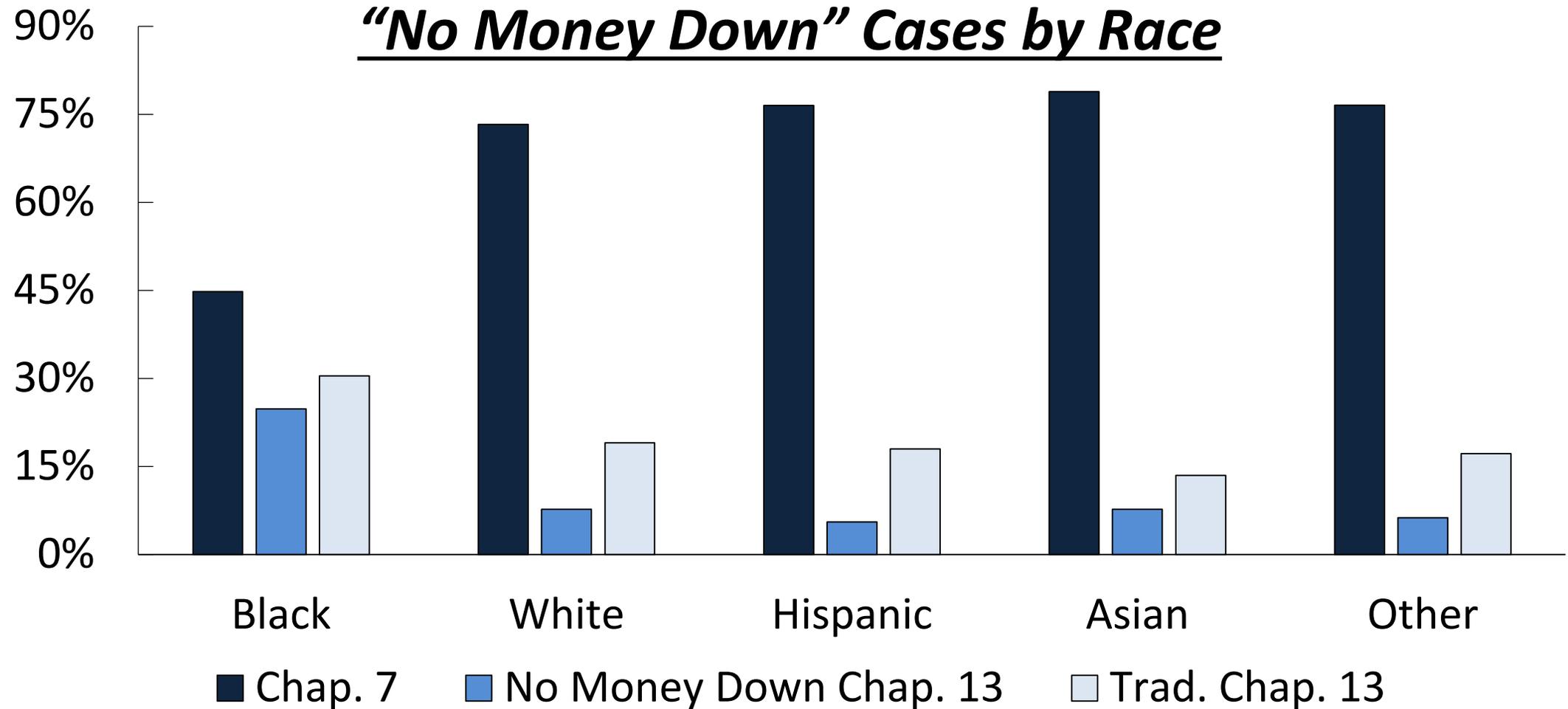
- Reggie & Latisha:
  - Want to file chapter 7 = 4.89
  - Want to file chapter 13 = 5.31
- Todd & Allison
  - Want to file chapter 7 = 5.36
  - Want to file chapter 13 = 4.32

# *Race & Chapter 13*

## Attorney Perception of “Competence”

- Reggie & Latisha:
  - Want to file chapter 7 = 5.38
  - Want to file chapter 13 = 6.12
- Todd & Allison
  - Want to file chapter 7 = 6.42
  - Want to file chapter 13 = 5.56

# Race & Chapter 13



# Controlling for Other Things

## Variables of interest

District 13 rate

African-American household

## Controls

Prior bankruptcy

Priority debts (ln)

Bachelors' degree or higher

Foreclosure reason for bkr.

Secured debt/total debt (ln)

Dependents under 18

Homeowner

Tried to "work with" creditors

Lived with spouse/partner

Monthly income (ln)

Tried to refinance debts

Female head of household

Total assets (ln)

Borrowed from family/friends

Age in years

*Base case = chapter 7*

# Controlling for Other Things

## Variables of interest

District 13 rate  
African-American household

## Controls

Prior bankruptcy	Priority debts (ln)	Bachelors' degree or higher
Foreclosure reason for bkr.	Secured debt/total debt (ln)	Dependents under 18
Homeowner	Tried to "work with" creditors	Lived with spouse/partner
Monthly income (ln)	Tried to refinance debts	Female head of household
Total assets (ln)	Borrowed from family/friends	Age in years

*Base case = chapter 7*

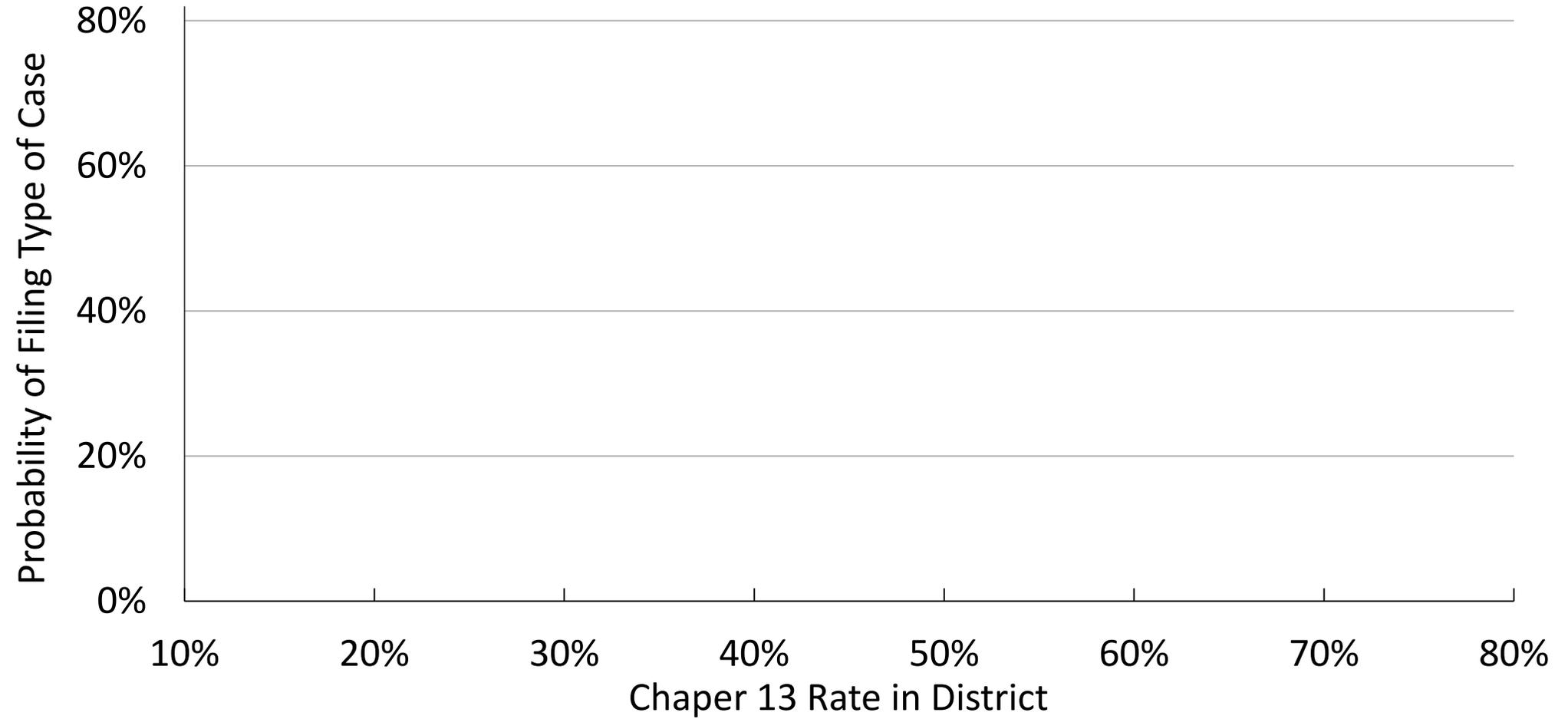
 more likely to file trad. or NMD 13  
 less likely to file trad. or NMD 13

 more likely to file trad. 13

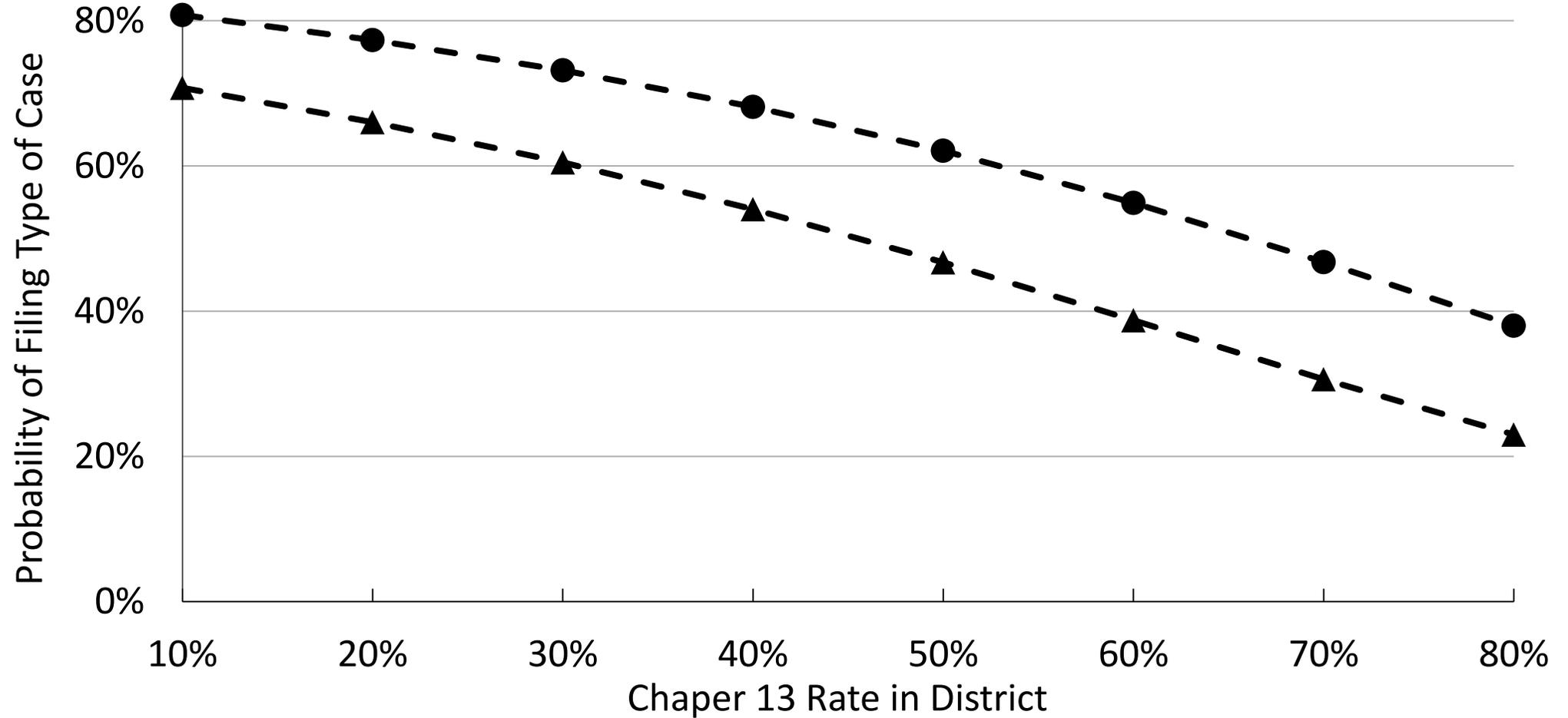
# Predicted Probabilities



# Predicted Probabilities



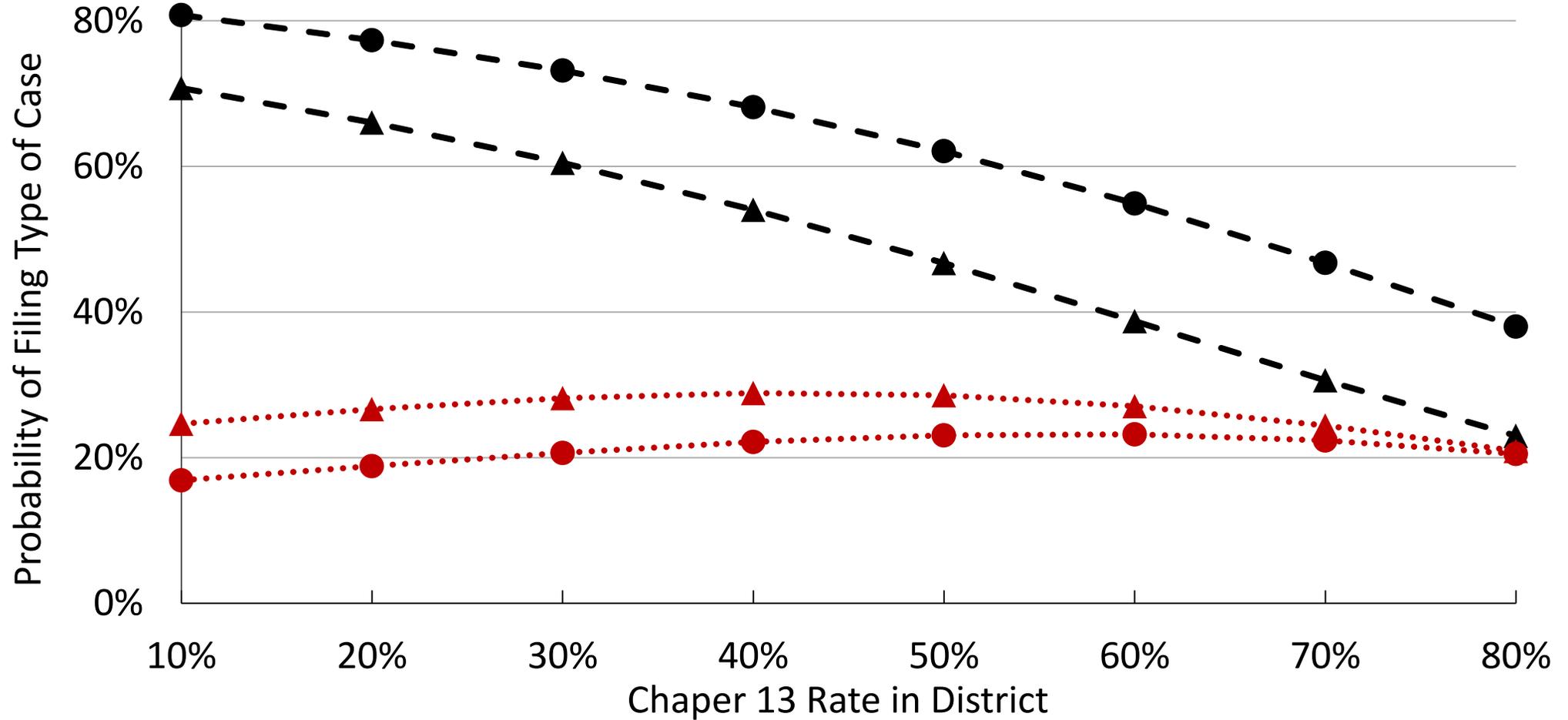
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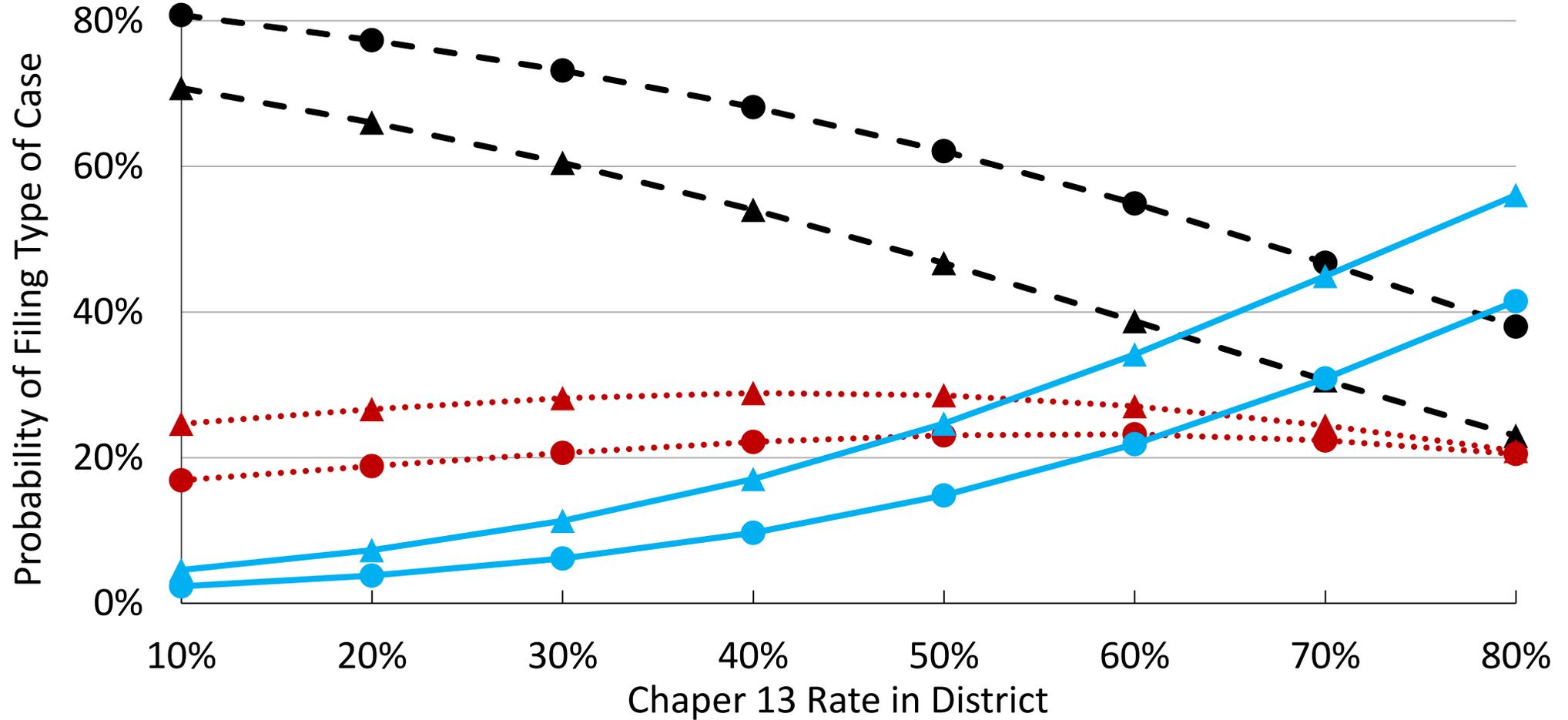
▲-Chap 7s, AfAm

●-Chap 7s, Not AfAm

# Predicted Probabilities



# Predicted Probabilities



# Takeaways

- More elderly people in bankruptcy
- Filers are waiting longer to file bankruptcy and live in sweatbox
- Racial disparities in chapter 13
  - “No money down” chapter 13s may be playing a role
- More social-science research (grants) in our specialty so we can know what is so.

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