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PREPARING FOR THE WORST

Bankruptcy Filings Creep Upward

Filings still drastically lower than in quarters preceding new bankruptcy law

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In an indication of growing economic turmoil, U.S. bankruptcy filings increased by 48 percent during the first half of this year, compared with the same period the year before, according to the American Bankruptcy Institute, which compiles data from the Administrative Office of the U.S. Courts.

This year, bankruptcy filings totaled 404,090, compared to 272,604 during the first half of 2006, according to the ABI. The increase marks a significant shift since filings plummeted after the Bankruptcy Abuse Prevention and Consumer Protection Act became effective on Oct. 17, 2005.

Bankruptcy lawyers said they expect the increase to continue, particularly in light of the recent mortgage meltdown and growing credit crunch. In preparation for the impending economic downturn, several law firms have launched bankruptcy and restructuring practices or plan to increase those departments in coming months.

"Clearly, the state of the economy is having an impact," said Harvey R. Miller, with the business finance and restructuring department at New York's Weil, Gotshal & Manges. "You have an economy stretched on credit a year ago or more, and the rubber band has been stretched to the point where it's breaking."

Filings for the most recent quarter totaled 210,449, the highest since the new bankruptcy law became effective, according



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to the ABI. In the first quarter of 2006, total filings had dropped to 116,771 after a rush to file under the previous bankruptcy law caused them to soar to 667,431 in the last quarter of 2005.

Sam Gerdano, executive director of the ABI, noted that filings remain drastically lower than they were in quarters preceding the new bankruptcy law, but predicted that the increase will continue.

"Any kind of pull-back in financial availability means a whole group of enterprises that have been using the liquidity to stave

off the inevitable are going to come to an end," he said.

While most of those filings represent consumer bankruptcies, rather than business restructurings, law firms are predicting a wave of corporate activity in the fourth quarter and beyond, Gerdano said.

Business filings for the first half of 2007 rose to 12,985, up 45 percent from the same period last year.

"If you're in the legal business, this activity is really going to throw off, and is already throwing off, a growing amount of work," Gerdano said. "That's why a lot of firms are jockeying for position, ramping up and acquiring practice groups from other firms. They believe the next wave is coming and want to be ready from day one when it hits."

In Connecticut, bankruptcy filings have steadily risen over the past four quarters, according to ABI figures. Elizabeth J. Austin, a bankruptcy practitioner in Pullman & Comley's Bridgeport office, said those increases are mostly due to consumer filings. But more recently, there have been rumblings that business filings are about to pick up, as well, she said. Business bankruptcies in Connecticut were "really flat last year. ... Now there's something where before there was nothing," Austin said.

Unlike large New York firms that resort to mass layoffs when bankruptcy work dries up, Connecticut firms that have bankruptcy practices, said Austin, tend to have those lawyers handle transactional matters in good times so they don't need to go on a hiring spree when the economy goes south. ■