The Real Effects of Bankruptcy Forum Shopping*

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Abstract: Many non-Delaware firms strategically file for bankruptcy in Delaware. Should this "forum shopping" be allowed? This question has motivated six congressional bill proposals over decades of policy debate. Using a novel natural experiment and Census-Bureau microdata, we inform this debate. Comparing observably similar firms within a Delaware-adjacent state, we show that physical proximity to Delaware predicts forum shopping. Instrumenting with proximity, we find that forum shopping causally: (i) prevents closures and liquidations, (ii) shortens bankruptcies, (iii) boosts creditor recovery, and (iv) increases post-bankruptcy employment by 62%. Proximity to Delaware is uncorrelated with pre-bankruptcy employment trends, validating the exclusion restriction.

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1 Introduction

Should a firm be able to choose its legal environment? In many contexts, firms can take legal action in multiple potential courts.[1] For example, a U.S. firm filing for bankruptcy can file in any of the 90 bankruptcy district courts. In a practice known as "forum shopping," 23% of bankruptcies are filed outside of the state in which the filing firm is headquartered. Delaware is the most popular forum-shopping destination: roughly half of forum-shopping firms file in Delaware. This forum shopping to Delaware has drawn more policy attention than any other issue in corporate bankruptcy. We show causal evidence that forum shopping to Delaware preserves firms and saves jobs.

There is substantial disagreement about the social merits of forum shopping. In a debate lasting more than 25 years, academics, practitioners, and policymakers have argued about whether the forum-shopping trend is efficient.[2] Proponents claim that firms forum shop to access expert bankruptcy judges and court-specific legal precedents, leading to more effective and predictable bankruptcy processes (Ellias, 2018). Bankruptcy lawyers echoed this same opinion in a recent Government Accountability Office (GAO) survey commissioned by the U.S. Senate.[3] Critics argue that firms and lawyers voice this opinion to cover more insidious forum-shopping motives. For example, LoPucki (2010) argues that lawyers, managers, and secured lenders collude to file in Delaware, where favorable judges allow them to extract value from other stakeholders (e.g., employees).

This forum-shopping debate has received substantial attention from policy makers. For decades, there have been more congressional bill proposals about forum shopping than any other corporate bankruptcy issue. Senators Warren and Cornyn recently introduced the

[1] See Guzman (2000); Enriques and Gelter (2006); Rasmussen (2006).
[2] See page 37 of https://govinfo.library.unt.edu/nbrc/report/03recomm.pdf.
[3] See https://www.gao.gov/assets/gao-15-839.pdf.

Bankruptcy Venue Reform Act of 2021 to limit forum shopping.[4] Similar bills were introduced earlier in 2021,[5] in 2019,[6] in 2018,[7] and 2011.[8] As far back as 1997, the National Bankruptcy Review Commission's final report recommended limiting forum shopping, which motivated a 1998 congressional bill proposal (Ayotte and Skeel, 2004). We inform this policy debate with causal evidence that forum shopping to Delaware can be the difference between liquidation and continuation for distressed firms.

Forum shopping is controversial because its consequences are difficult to estimate. Two key challenges hindered earlier studies of forum shopping. First, it is difficult to measure bankruptcy outcomes for private firms. Consequently, earlier work has focused exclusively on small samples of large public firms. We overcome this measurement challenge with a novel dataset. We collect data from several sources to observe the vast majority of U.S. Chapter 11 corporate bankruptcy filings since the 1990s. Our novel dataset contains detailed information about 158,374 bankruptcies filed by public and private firms of all sizes. For each bankruptcy, we observe the firm's chosen bankruptcy court and the ZIP code of the firm's headquarters. We can therefore identify forum shopping. We also observe several key outcomes in each case: conversion from Chapter 11 reorganization to Chapter 7 liquidation, case duration, and a measure of creditor recovery. We merge this rich bankruptcy data with administrative data from the U.S. Census Bureau. For each bankrupt firm, we observe microdata (e.g. annual employment) for all of its establishments. Our annual panel tracks each establishment from its opening date to its closing date. We can therefore observe employment at an establishment

[4] See https://www.warren.senate.gov/newsroom/press-releases/warren-cornyn-introduce-bill-to-prevent-large-corporations-from-forum-shopping-in-bankruptcy-cases.

[5] See https://www.restructuring-globalview.com/wp-content/uploads/sites/21/2021/10/BVRA-House.pdf.

[6] See https://www.congress.gov/bill/116th-congress/house-bill/4421.

[7] See https://www.congress.gov/bill/115th-congress/senate-bill/2282/text.

[8] See https://www.govinfo.gov/content/pkg/CHRG-112hhrg68185/html/CHRG-112hhrg68185.htm.

both before and after its bankruptcy filing. We use this Census panel to measure important post-bankruptcy outcomes (e.g., employment and establishment creation or closure).

In addition to this measurement problem, a second challenge has foiled earlier forum-shopping studies: the unobserved firm characteristics that motivate forum shopping are likely correlated with outcomes. For example, sophisticated firms might (i) forum shop more often and (ii) perform better than unsophisticated firms in any court. Alternatively, firms with weak prospects might (i) forum shop to avoid liquidation and (ii) perform poorly in any court. Because of this potential omitted-variables problem, the correlations between forum shopping and outcomes documented by earlier papers are unlikely to capture causal effects.

To overcome the identification challenge described above, we use an instrumental-variables approach. Specifically, we exploit physical proximity to the Delaware bankruptcy court as an instrument for forum shopping to Delaware. In other contexts, long travel times discourage managers and investors from monitoring firms (Bernstein, Giroud, and Townsend, 2016; Giroud, 2013). In our context, distance is likely to be relevant in the forum-shopping decision because 33% of bankruptcy professionals interviewed in the GAO survey "cited convenience or proximity of the parties involved to the court as a factor in venue selection." To maximize the relevance of the instrument, we focus our analysis on firms headquartered in states neighboring Delaware: Maryland, New Jersey, and Pennsylvania. Intuitively, the distance to Delaware is likely less relevant when managers and employees fly to the bankruptcy court. We show that bankrupt firms in these three states are broadly representative of bankrupt firms in other states. Within a Delaware-adjacent state, a one-standard-deviation reduction in the distance to Delaware (63 miles) increases the forum-shopping rate by 5.8 percentage points. A weak-instrument problem is unlikely because the corresponding F statistic is 26.5.

Our exclusion restriction requires that a bankrupt firm's distance to Delaware only in-

fluences its bankruptcy outcome through the decision to file in Delaware. Our empirical specification addresses many potential threats to this exclusion restriction. First, we include state-by-year fixed effects. Our estimation therefore only compares firms facing the same state laws and home bankruptcy courts. Second, we include county-year-level proxies for local economic activity as control variables. We therefore only compare firms facing similar local economic conditions. Third, we exploit our rich dataset to tightly control for a wide set of observable firm characteristics. In some specifications, we include industry-by-filing-year fixed effects. In other specifications, we include fixed effects corresponding to binned financial data from bankruptcy petitions (e.g., $1 to $10 million in liabilities). These specifications compare firms near the Delaware border to observably similar firms far from the border. These comparisons address the concern that distinct cities in a given state have different types of firms (e.g., larger firms, different industries, etc). We further defend our exclusion restriction with two placebo tests, which we describe below.

We use our distance-to-Delaware instrument in a two-stage-least-squares (2SLS) approach. In our first stage, we regress a Delaware-forum-shopping indicator on the distance-to-Delaware instrument. In the second stage, we regress a bankruptcy outcome on the instrumented value of the forum-shopping indicator from the first stage. Each 2SLS estimate corresponds to a local average treatment effect: the causal effect of forum shopping for marginal firms (those with managers unwilling to travel a long distance to court).

In our first 2SLS regression, we show that forum shopping to Delaware causally boosts post-bankruptcy employment. For each establishment, we measure employment three years after its bankruptcy filing. We also measure employment one year before the filing. Taking a difference, we measure post-bankruptcy changes in employment. The average change is negative, corresponding to a loss of employees after bankruptcy. We show that forum

shopping to Delaware mitigates this loss. Each establishment of a forum-shopping firm loses 9.78 fewer employees than it would have in the absence of forum shopping. For context, the average establishment has 15.87 employees in the year before its bankruptcy filing. In this sense, forum shopping causally boosts post-bankruptcy employment by 62% of the pre-bankruptcy average employment level.

The outcome variable corresponding to this first result is a *change* in employment. This result is therefore robust to the concern that our instrument is correlated with employment *levels*. However, one might also worry that our instrument is correlated with changes in employment. In theory, our result could be a spurious correlation if cities near the Delaware border have stronger economic growth than cities further from the border. We rule out this possibility with a placebo test. We construct a placebo outcome: the number of employees two years *before* a filing minus the corresponding employment in the year before filing. In an analogous 2SLS estimation, we find an economically and statistically insignificant treatment effect. In this sense, our instrument is uncorrelated with changes in employment two years before a bankruptcy filing. We find the same result using changes in employment three years before filing. This placebo test bolsters our exclusion restriction by showing that our instrument does not capture across-city differences in economic growth.

How does forum shopping boost post-bankruptcy employment? We show that forum shopping to Delaware prevents liquidation. Specifically, we estimate a 2SLS regression in which the outcome variable is an indicator for conversion from Chapter 11 to Chapter 7 liquidation. Relative to the counterfactual of filing for Chapter 11 in another court, we find that filing for Chapter 11 in Delaware dramatically lowers the probability that a firm eventually liquidates in Chapter 7 — liquidation rates fall by 25 percentage points.

Our indicator for conversion to Chapter 7 does not capture firms that liquidate in Chapter

11 or downsize after a reorganization. To study these outcomes, we examine establishment closure in the Census data. Specifically, we define an indicator that is equal to one if an establishment is closed three years after its bankruptcy. We show that forum shopping causally reduces the likelihood of establishment closure by 30 percentage points.[9] In a placebo test, we show that forum shopping does not reduce establishment closure prior to bankruptcy. This placebo result validates our exclusion restriction.

In theory, forum shopping could boost post-bankruptcy employment by encouraging the opening of new establishments. To test this, we isolate establishments that are created by a firm in the three years after the firm's bankruptcy filing. We find weak evidence that forum shopping boosts employment at these newly opened establishments. However, the corresponding 2SLS estimate is statistically insignificant. In contrast, our employment treatment effect remains significant when we restrict our sample to only those establishments that are open in the year before the corresponding firm's bankruptcy filing. Together, these results suggest that forum shopping primarily boosts employment by preventing liquidations that close existing establishments.

Next, we show that forum shopping improves bankruptcy efficiency on other dimensions. Specifically, we show that forum shopping causally shortens the duration of a bankruptcy. We also find that forum shopping dramatically increases the probability that unsecured creditors' recovery is strictly positive. This improvement in recovery is inconsistent with a potential concern that forum shopping might exacerbate excessive continuation. Instead, the lower rate of liquidation achieved by forum shopping benefits creditors.

Why does filing in Delaware cause such a stark improvement in bankruptcy outcomes? Following the views expressed by industry practitioners, we hypothesize that access to ex-

[9]For reference, averaging across all establishments operated by any firm in the year before the firm's bankruptcy, we find that 38% of establishments are closed three years after the bankruptcy filing.

pert Delaware judges improves outcomes. To test this, we compare Delaware filers to non-Delaware filers that happen to draw a "Delaware-like judge." Following earlier literature, we characterize each judge by her proclivity for liquidating firms. We find that our 2SLS estimates shrink dramatically and become statistically insignificant after controlling for judge liquidation tastes. In other words, Delaware bankruptcies have similar outcomes to non-Delaware bankruptcies overseen by Delaware-like judges. This result supports our exclusion restriction: the result is inconsistent with the alternative hypothesis that our effects are driven by unobservable differences between firms located in distinct cities. Instead, it appears that firms file in Delaware to increase the likelihood of obtaining a liquidation-averse judge. We show that this works: in a 2SLS regression, filing in Delaware causally reduces the liquidation taste of the assigned judge. Consistent with the random assignment of judges, this effect disappears after controlling for court fixed effects.

Finally, we utilize the unique scope of our dataset to provide new descriptive facts about forum shopping. We find that 23% of firms forum shop. Forum shoppers are dramatically more likely to file in Delaware than in any other court. The high frequency of forum shopping and the preference for Delaware have both been persistent since at least 2010. Interestingly, forum shopping to Delaware declined briefly around 2005. Motivated by this observation, we examine how the 2005 Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) impacted forum shopping. Our test is based on Iverson (2018), who finds that BAPCPA (i) reduced court congestion by limiting consumer bankruptcy access and (ii) increased efficiency in corporate bankruptcies by freeing up judges' time. We hypothesize that this improved efficency motivated more firms to file in their newly-improved home courts. We test this using the difference-in-differences approach of Iverson (2018), which exploits the fact that consumer-bankruptcy-focused courts experienced a greater decline in caseloads

after BAPCPA. We compare the period before and after BAPCPA (the first difference) and more versus less consumer-focused courts (the second difference). We find that a firm is less likely to forum shop after its home court becomes less congested (more efficient). This result is consistent with our overall narrative: firms forum shop to Delaware to avoid their less efficient home courts, leading to fewer liquidations and higher post-bankruptcy employment.

1.1 Related literature

Relative to the existing literature, we contribute new causal evidence that forum shopping to Delaware boosts post-bankruptcy employment, prevents liquidations, improves creditor recovery, and expedites bankruptcies. Evidence like this is essential for resolving the decades-long policy debate over whether a firm should be allowed to choose its bankruptcy court.

We contribute to the finance literature studying the determinants of liquidation (Iverson, 2018; Bernstein, Colonnelli, Giroud, and Iverson, 2019; Bernstein, Colonnelli, and Iverson, 2019; Antill, 2022; Müller, 2022; Dahiya, John, Puri, and Ramirez, 2003), the efficacy of corporate bankruptcy (Gilson, John, and Lang, 1990; Dou, Taylor, Wang, and Wang, 2021; Wang, 2021; Antill, 2024; Antill and Hunter, 2023; Morrison, 2007; Ayotte and Morrison, 2009), post bankruptcy performance (Hotchkiss, 1995), and how bankruptcy rules and practices affect not only investors' welfare but also stakeholders outcomes (Araujo, Ferreira, Lagaras, Moraes, Ponticelli, and Tsoutsoura, 2021; Akey and Appel, 2021; Bellon, 2021; Ohlrogge, 2022; Chen, 2022; Ohlrogge, 2023; Graham, Kim, Li, and Qiu, 2023). Unlike all of these papers, we examine the policy relevant topic of forum shopping in bankruptcy.

We also build on a law literature examining correlations between forum shopping and various outcomes using small samples of large public firms (LoPucki and Kalin, 2001; Ayotte and Skeel, 2004; LoPucki and Doherty, 2006; Ellias, 2018; Boudt et al., 2024). We contribute

to this literature with the first causal evidence that filing in Delaware leads to fewer liquidations and higher post-bankruptcy employment. While the correlations documented in these earlier papers are informative, our instrumental-variables approach accounts for selection into bankruptcy venues based on unobservable characteristics. This allows us to estimate the relevant counterfactual outcome that a forum-shopping firm would have experienced in its home court. Importantly, an early version of Ayotte and Skeel (2004) included one specification in which the distance to Delaware is used as an instrument for filing in Delaware. However, the small sample size (165 observations) prevented that study from showing statistically significant causal evidence. Moreover, our larger sample size allows us to include far more controls (e.g., interactions of fixed effects for assets, liabilities, and number of creditors) than this earlier work, aiding our identification and making distance more plausibly exogenous. More broadly, we contribute to this earlier work by examining how forum shopping impacts all firms, not only the largest public firms. This comprehensive view is important for ensuring bankruptcy reforms are not designed solely for the largest firms.

2 Institutional details and data description

2.1 Institutional details

This section provides institutional details that are relevant for our empirical framework.

Forum shopping: According to 28 U.S.C §1408,[10] firms have several options when choosing where to file for bankruptcy. A firm can file in the district court for the district in which: (i) it is headquartered; or (ii) its principal place of business is located; or (iii) its principal

[10]See https://www.law.cornell.edu/uscode/text/28/1408.

assets are located; or (iv) an affiliate has a pending bankruptcy. For a single-establishment firm, the first three options typically correspond to the same district court. Likewise, a single-establishment firm typically has no affiliates.

For firms with multiple establishments, these four options allow for substantial flexibility when choosing a bankruptcy court. The fourth option, allowing firms to file where an affiliate has a pending bankruptcy, is particularly broad. Firms regularly utilize this option in a two-step process. In the first step, a subsidiary or affiliate files for bankruptcy in the desired court. In a second step, the entire multi-establishment firm uses this "affiliate option" to file in the desired court. This allows a firm to pick a court in any district where an affiliate operates, regardless of where the firm is headquartered or conducts most of its business. In particularly stark examples, large firms have created subsidiaries in new locations for the sole purpose of filing for bankruptcy in those locations. For example, Purdue Pharma filed for bankruptcy in White Plains, New York to take advantage of its precedent regarding third-party releases. While Purdue's primary business was in Connecticut, it was nonetheless able to file in New York by having a non-equity general partner change its service of process address to an address in Westchester county.[11] Importantly, our dataset correctly identifies a firm's principal address rather than the address it uses for forum-shopping purposes: Purdue lists a Connecticut ZIP code in our data.

Firms forum shop for many reasons. In 2015, the GAO interviewed 39 bankruptcy attorneys and bankruptcy judges about their experience with forum shopping.[12] Most respondents identified the experience of Delaware judges and the predictability of Delaware cases, due to the high number of large historical bankruptcies filed in Delaware, as key reasons that

[11] See https://docs.house.gov/meetings/JU/JU05/20210728/113996/HHRG-117-JU05-Wstate-LevitinA-20210728.pdf.

[12] See https://www.gao.gov/assets/gao-15-839.pdf

firms forum shop. However, roughly a third of these practitioners also indicated that firms consider convenience and physical proximity when choosing a bankruptcy court:

> Twelve of 39 attorneys and judges cited convenience or proximity of the parties involved to the court as a factor in venue selection.[13]

Given this preference expressed by bankruptcy professionals, it is reasonable to expect that some marginal firms will decide whether to file in Delaware based on the physical distance to the court. Notably, some policy makers and academics are skeptical of these responses, arguing that practitioners give innocuous responses like these to hide more nefarious forum-shopping motives. For example, these critics say that lawyers choose courts that approve high fee reimbursements and lenders choose courts that allow them to maximize recovery at the expense of workers (LoPucki, 2006; Ellias, 2018).

Random assignment of judges and conversion to Chapter 7: Chapter 11 allows firms to reorganize or liquidate. In contrast, Chapter 7 only allows for liquidation. Some firms file for Chapter 11 with hopes of reorganizing but are ultimately converted to Chapter 7 liquidation.

Bankruptcy judges have significant discretion over bankruptcy cases. In particular, they approve or deny Chapter 11 reorganization plans.[14] Their decisions impact the distribution of value between claimants. Yet, different judges have different interpretations of the bankruptcy code. As a result, previous research has shown that some judges are more in-

[13] See page 25 of https://www.gao.gov/assets/gao-15-839.pdf.

[14] Bankruptcy judges approve or deny Chapter 11 reorganization plans, evaluate whether the valuation method is appropriate, and solve disputes relating to claim priority and the validity of liens. Bankruptcy judges also approve or deny Debtor-in-Possession (DIP) financing requests and can grant relief from the automatic stay for some creditors. Judges also appoint a trustee to oversee or replace management in some cases.

clined to convert cases to Chapter 7 than others (Chang and Schoar, 2006; Bernstein et al., 2019; Bernstein, Colonnelli, and Iverson, 2019; Antill, 2022).

While firms have substantial flexibility in choosing their bankruptcy court, firms cannot select their judge. Once a firm chooses a bankruptcy court, local rules determine which office of that court handles the case. Conditional on the court and office, judges are randomly assigned to cases. A large empirical literature has shown that, conditional on the court and office, judge characteristics are uncorrelated with firm characteristics (Chang and Schoar, 2006; Bernstein et al., 2019; Bernstein, Colonnelli, and Iverson, 2019; Antill, 2022). While Hüther and Kleiner (2022) argue that hedge funds are able to time their bankruptcy filings to increase the likelihood of obtaining a particular judge, this finding is mostly driven by selection into offices within a district.

Given that judges are randomly assigned within a given court, forum shopping is the best option for a firm seeking a particular type of judge. By choosing a court where most judges share a desired characteristic, a firm is more likely to be assigned a judge with that characteristic. Indeed, we show that firms are more likely to obtain a liquidation-averse judge when they file in Delaware. This result, which is consistent with the random assignment of judges, appears to drive our main finding that forum shopping to Delaware prevents liquidation.

2.2 Data

We combine several datasets for our empirical analysis. We now describe each dataset.

Federal Judicial Center: We begin with bankruptcy data from the publicly available Federal

Judicial Center's Integrated Database (FJC).[15] The FJC is maintained by the U.S. courts. The FJC covers every bankruptcy filed in the United States since 2008. The FJC also includes some earlier bankruptcies.

For each bankruptcy, the FJC includes the court and office in which the bankruptcy was filed. It also includes the filing date and other information from the bankruptcy filing petition, such as the bankrupt firm's (i) total liabilities, (ii) total assets, and (iii) estimated number of creditors. These variables are binned according to the bins on the standard bankruptcy filing petition (e.g., $1 million to $10 million). For cases that conclude during our sample period, the FJC also contains the following information about the bankruptcy outcome: (i) an indicator equal to one if the Chapter 11 case is converted to Chapter 7 liquidation, (ii) an indicator equal to one if the unsecured lenders receive any recovery, and (iii) the bankruptcy closing date, which we use to calculate the duration of the bankruptcy.

Crucially, the FJC also includes the bankrupt debtor's ZIP code. The ZIP code corresponds to the primary ZIP code listed for the debtor on the Public Access to Court Electronic Records (PACER) site for the debtor. With rare exceptions, this is the ZIP code of the debtor's headquarters. We merge these ZIP codes with a comprehensive U.S. ZIP code database[16] to determine the state, county, longitude, and latitude corresponding to each ZIP code. We use these latitudes and longitudes to calculate our key distance variable: Miles to DE is calculated as the straight-line distance, in miles, between (i) the longitude and latitude associated with the ZIP code of the bankrupt firm's headquarters and (ii) the Delaware bankruptcy court.[17] We calculate this distance using the stata command geodist.

[15] See https://www.fjc.gov/research/idb.

[16] See https://www.unitedstateszipcodes.org/zip-code-database/.

[17] The Delaware bankruptcy court is located at 824 N Market St # 500, Wilmington, DE 19801, with latitude and longitude of 39.7440486,-75.550901.

PACER: The FJC has limited coverage before 2008 and it omits any directly identifying information about the bankrupt debtor or the bankruptcy judge. To obtain identifying information and expand our sample before 2008, we merge our FJC dataset with PACER data. PACER is the official website for obtaining court records in the United States. Each federal court maintains a court-specific PACER website and each case filed in the court has its own website.

The PACER website for a bankruptcy case includes a summary of the case that contains the following information: (i) the name and address of the debtor, (ii) the EIN of the debtor if it is a business,[18] (iii) the name of the bankruptcy judge, (iv) the court and office handling the bankruptcy, and (v) a numeric case identifier that uniquely identifies the bankruptcy in both the FJC and PACER datasets, allowing us to merge the two datasets. Finally, for cases filed before 2008 that do not appear in the FJC, the PACER summary allows us to measure two outcomes: (i) the duration of the bankruptcy, and (ii) an indicator for a case getting converted to Chapter 7 liquidation.

We are grateful to the 41 bankruptcy courts that granted us free PACER access and permission to scrape their PACER websites.[19] For cases filed in these 41 courts, we obtain data directly from PACER. For cases filed in the remaining courts, we obtain data from Bankruptcydata.com and Lexis Nexis, two data providers that clean and sell PACER data.

Census data: We measure economic activity at bankrupt firms using the Longitudinal Business Database (LBD), a comprehensive establishment-level dataset from the U.S. Census. The LBD is the highest quality source of information on U.S. firms' (i) establishment creation, (ii) establishment closure, (iii) employment, (iv) NAICS industry code, (v) legal status (e.g.,

[18]While most Chapter 11 cases are filed by businesses, some cases are filed by individuals. To focus on corporate cases, we include only those cases in which we observe an EIN.

[19]While PACER is publicly available, there is a 10 cent charge for each page viewed.

corporation, partnership, etc.), and (vi) payroll. The LBD is constructed using (i) federal mandatory business surveys conducted by the U.S. Census and (ii) administrative records from business tax filings, which are provided by the Internal Revenue Service (IRS) (Chow, Fort, Goetz, Goldschlag, Lawrence, Perlman, Stinson, and White, 2021). Since a firm can have multiple establishments, the LBD also contains a map from establishments to firms. The LBD is a panel, so we can track these establishment-level variables over time.

We link our bankruptcy data to the LBD using a Census multi-relational database called the Business Register (BR).[20] For each establishment, the BR contains identifying information such as the names, mailing and physical addresses, and EIN. We match bankruptcies to Census firms using the names, addresses, and EINs that appear in PACER and the BR. We provide details about this merge and present evidence validating the accuracy of this merge in the appendix. We describe the resultant establishment-level dataset in Section 2.3.

County-year level economic data: Finally, we obtain county-year level proxies for economic conditions from the publicly available Business Dynamics Statistics (BDS) dataset from the U.S. Census.[21] The BDS includes data only up to the year 2021. For bankruptcies filed before 2022, we merge each bankruptcy with the BDS variables in the bankruptcy filing year and the county of the bankrupt firm's headquarters, both obtained from the FJC or PACER. The BDS gives us county-year level aggregate estimates of: (i) the total number of establishments; (ii) the total number of employees; (iii) the number of closing establishments divided by the total number of establishments in the previous year; (iv) the number of new establishments divided by the total number of establishments in the previous year. We use these county-year-level estimates as control variables.

[20] The BR is a relational database that serves as the sampling frame for most economic surveys conducted by the Census Bureau. The data is regularly updated using administrative-records data and survey data.

[21] See https://www.census.gov/data/developers/data-sets/business-dynamics.html.

2.3 Sample construction and summary statistics

Some of our tests analyze different samples than other tests. We combine the datasets described above to form four distinct samples. We now describe each sample and provide summary statistics related to bankruptcy outcomes and firm characteristics. We summarize forum-shopping behavior in Section 2.4.

Sample 1 (all Chapter 11 corporate bankruptcies): To characterize forum-shopping behavior across the Chapter 11 bankruptcy system, we study a nearly comprehensive sample of 158,374 Chapter 11 corporate bankruptcies. In this sample, an observation is a corporate Chapter 11 bankruptcy case. A case appears in this sample if we are able to obtain the corresponding PACER data and we observe an EIN.[22] Our sample covers decades of bankruptcy filings. Most bankruptcies in our sample are filed over the period 1992-2023 because PACER coverage is limited before 1992. PACER coverage became nearly universal in the early 2000s. Comparing our dataset to aggregate statistics from the U.S. courts, our sample contains 83% of corporate Chapter 11 cases filed since 2005.

Table 1(A) presents summary statistics for this first sample. Across bankruptcies filed by firms in all states, 12% are converted to Chapter 7. The median bankruptcy lasts 533 days, including post-reorganization litigation. Unsecured lenders receive strictly positive recovery in 93% of bankruptcies. We summarize forum-shopping behavior in Section 2.4.

Sample 2 (bankruptcies filed by firms headquartered in Delaware-adjacent states): For most of our analysis, we focus on firms headquartered in the three states neighboring Delaware:

[22]Specifically, if a case appears in the FJC and is filed in one of the 41 courts that granted us an exemption, then we scrape its PACER information. We include all of these cases that list an EIN on PACER. We supplement this with all Chapter 11 cases that appear in the PACER data provided by Lexis Nexis and list an EIN. Finally, we supplement this with all cases that (i) appear in the Bankruptcydata.com corporate Chapter 11 dataset and (ii) appear in FJC, allowing us to measure conversion to Chapter 7.

Maryland, Pennsylvania, and New Jersey. Specifically, we construct a second sample containing the subset of cases from Sample 1 in which the bankrupt firm's headquarters is located in one of the three Delaware-adjacent states. We focus on these states because physical distance is more likely to drive forum-shopping decisions when it is feasible to avoid a flight. We do not restrict the sample based on the chosen court.

Table 1(B) presents summary statistics for this second sample. As in Sample 1, an observation in Sample 2 is a corporate Chapter 11 case. The sample contains 15,837 cases. Comparing panels A and B of Table 1, we observe that 10% of bankrupt firms are headquartered in Delaware-adjacent states. This comparison also reveals that bankrupt firms headquartered in Delaware-adjacent states are comparable to other bankrupt firms. Unsecured lenders receive strictly positive recovery in 92% of the cases in Sample 2, which precisely matches the corresponding Sample 1 statistic (93%). In Sample 2, 14% of cases are converted to Chapter 7 liquidation, compared to 12% in Sample 1. The median bankruptcy in Sample 2 lasts 610 days, similar to the Sample 1 median of 533 days. In summary, bankruptcies filed by firms headquartered in Delaware-adjacent states appear comparable to other bankruptcies.

Table 1(B) presents additional facts. In Sample 2, the shares of cases corresponding to firms headquartered in New Jersey, Pennsylvania, and Maryland are 38%, 41%, and 21%, respectively. The median bankrupt firm in Sample 2 is headquartered 83 miles away from the Delaware bankruptcy court. Importantly, there is meaningful variation in the distance. A one-standard-deviation increase in the distance to Delaware corresponds to an additional 63 miles for a one-way trip.

We observe the name of the judge in 14,981 cases. For some of our analyses, we use the tendency of the bankruptcy judge to convert cases to Chapter 7 liquidation. We calculate

this variable as a leave-one-out average in our sample of 14,981 cases. Specifically, let J_i denote the judge in bankruptcy i. For each bankruptcy i, we calculate Judge Convert Rate by (i) counting the number of cases other than i in which the judge is J_i and the case is converted to Chapter 7, and then (ii) dividing by the number of cases other than i in which the judge is J_i. As expected, Panel A of Table 1 shows that the average judge conversion rate is equal to the overall rate at which cases are converted to Chapter 7. However, there is meaningful variation, with a standard deviation of 0.11.

The FJC contains binned information about the filing firm. Since the information is binned across many different values, we summarize this data graphically. Figure IA.1 in the appendix displays the distribution of total liabilities in our sample. In our sample, 30% of firms have between $1 million and $10 million in total liabilities. Summing across bins, 43% of firms have less than $1 million in total liabilities while 26% of firms have over $10 million in total liabilities. Figure IA.2 displays the distribution of total assets in our sample. Because bankrupt firms are typically insolvent, bankrupt firms often have total liabilities that exceed total assets. In our sample, 23% of firms have between $1 million and $10 million in total assets. Summing across bins, 56% of firms have less than $1 million in total assets while 22% of firms have over $10 million in total assets. For the bankrupt firms in our sample, Figure IA.3 displays the distribution of the number of creditors. The vast majority — 72% — have between 1 and 49 creditors. Summing across bins, roughly 9% of cases involve more than 1,000 creditors.

Sample 3 (Establishments of firms headquartered in Delaware-adjacent states): For our main analysis, we study an establishment-level dataset covering establishments of bankrupt firms headquartered in Delaware-adjacent states. Specifically, for each bankruptcy in Sample 2, we

identify the corresponding firm and all of its establishments in the Census data.[23] We match 66% of the bankruptcies in Sample 2 to a Census firm. Sample 3 includes every establishment that (i) is associated with a firm that we successfully match to a bankruptcy in Sample 2, and (ii) is active at some point within three years of the bankruptcy filing. [24] The second condition deserves emphasis. Suppose that a firm headquartered in a Delaware-adjacent state files for bankruptcy in year t. An establishment of the firm that permanently closes in year $t-2$ is included in the sample if it is active in year $t-3$. Likewise, an establishment of the firm that first opens in year $t+3$ is included in the sample. We define an establishment to be active if and only if it reports a strictly positive number of employees and strictly positive payroll. This sample construction yields approximately 477,000 establishments corresponding to the 66% of bankruptcies in Sample 2 that we match to Census data.

Fix an establishment of a firm that files for bankruptcy in year t. Our key outcome is $\Delta\text{Employ}_{t-1 \to t+3}$: the difference between (i) the number of employees at the establishment three years after it files and (ii) the number of employees at the establishment one year before it files. If an establishment is inactive at either year $t+3$ or year $t-1$, then it has zero employees in that year by definition. Table 1(C) reports that the average establishment has one fewer employee three years after filing for bankruptcy than it has in the year before it files.[25] There is substantial heterogeneity: the corresponding standard deviation is roughly 10 employees. For reference, the average establishment has 15.87 employees in the year before a bankruptcy filing, with a standard deviation of 123.6.

Another important outcome is establishment closure. We define an indicator Inactive_{t+3} that is equal to one if an establishment is inactive three years after the associated firm files

[23] See the appendix for details about this matching process.

[24] Notice that as the current version of the LBD ends in 2021, we do not include the bankruptcy cases that were filed after 2018, so that we always have 3 years of observation after the bankruptcy.

[25] This is consistent with previous empirical findings (Graham et al., 2023).

for bankruptcy. Among those establishments that are active one year before a bankruptcy filing, 37.78% are inactive three years after the filing ($\text{Inactive}_{t+3} = 1$).

Sample 4 (Bankruptcies by Non-Delaware firms, 2003 to 2007): Finally, in Section 4.2, we study the impact of the 2005 BAPCPA on forum shopping. In these tests, we use the subset of cases that are filed between 2003 and 2007 by firms headquartered outside of Delaware. For brevity, we do not report summary statistics for this sample, which we study only in Section 4.2.

2.4 Facts about forum shopping

We conclude this section by providing the first comprehensive summary of bankruptcy forum shopping. We begin by studying Sample 1, which contains 158,374 corporate bankruptcies filed by firms headquartered in all states. Table 1(A) shows that roughly 23% of bankruptcies are forum shopped: the firm files in a court located outside of the state in which it is headquartered. The frequency of forum shopping has been stable over time. To show this, we bin bankruptcies based on the filing year. For each $T \in \{1995, 2000, 2005, 2010, 2015, 2020\}$, we form a bin containing bankruptcy filed between year $T - 2$ and year $T + 2$. Figure 1 plots the fraction of forum shopped cases (the y axis) in each five-year bin (indexed on the x axis). Forum shopping was less common in the early 1990s, but over 30% of cases were forum shopped in period from 1998 to 2002. In each five-year period since then, roughly 20-25% of cases have been forum shopped.

Forum-shopping firms are more likely to file in Delaware than in any other court. To show this, we focus on the 23% of cases in Sample 1 that are forum shopped. Figure 2 shows that 47% of forum-shopped bankruptcies are filed in Delaware. The southern district of New

York is the second most popular court with 22% of forum-shopped cases. While anecdotes suggest that southern district of Texas, New Jersey, and the eastern district of Virginia are popular courts, they each receive fewer than 4% of forum-shopped cases. Delaware has been the dominant forum-shopping venue for a long time. To show this, we form five-year bins as described above. Figure 1 shows that Delaware received over 60% of forum shopped cases over the period 1998 to 2002. After a dip following BAPCPA (see Section 4.2 for an explanation), Delaware received almost 50% of forum-shopped cases over the period 2008 to 2012. It has become more popular in each five-year window since. Contrary to anecdotes, Delaware remains the dominant forum-shopping venue and its popularity is growing.

Finally, we demonstrate that our primary Sample 2 (firms headquartered in a Delaware-adjacent state) is comparable to the comprehensive Sample 1. Table 1(B) shows that 32% of bankruptcies in Sample 2 are forum shopped, slightly higher than the country-wide statistic in 1(A). However, Figure 1(B) shows that forum-shopping rates in Sample 2 were roughly 20-28% over the period 2003 to 2023, similar to the country-wide statistics. Among forum-shopping firms headquartered in Delaware-adjacent states, 45% file in Delaware (Figure 2). This is almost identical to the corresponding statistic for the country-wide sample. Figure 1 shows that Delaware-adjacent firms have filed in Delaware at a stable rate over time.

In summary, a meaningful fraction of bankrupt firms choose to forum shop and Delaware is by far the most common forum-shopping destination.

3 Main results

3.1 Empirical specification

To estimate the causal effect of filing for bankruptcy in Delaware, we use a 2SLS approach. In a first stage, we instrument for filing in Delaware using the physical distance between a firm's headquarters and the Delaware bankruptcy court. In a second stage, we use our instrument to generate plausibly exogenous variation in forum-shopping decisions, which reveals the causal effects of forum shopping on various outcomes.

Throughout this section, we focus on firms headquartered in a Delaware-adjacent state. However, we alternate between bankruptcy-level analysis and establishment-level analysis (Samples 2 and 3 in Section 2.3). We now describe the corresponding regression specifications.

Establishment-level analysis: For our main results, we focus on our establishment-level dataset (Sample 3 in Section 2.3). An observation is an establishment e of a firm f located in state s filing for bankruptcy in year t. We begin by estimating the following first-stage regression by ordinary least squares (OLS):

$$\text{File in DE}_{e,f,s,t} = \beta_1 \text{Log Miles to DE}_f + \delta_{st} + \gamma X_{e,f,s,t} + \epsilon_{e,f,s,t}. \tag{1}$$

The dependent variable is an indicator equal to one if the bankruptcy associated with establishment e is filed in Delaware. Since our sample consists of firms headquartered in Maryland, Pennsylvania, or New Jersey, this is equivalent to an indicator for forum shopping to Delaware. The key independent variable Log Miles to DE_f is the logarithm of the number of miles between firm f's headquarters and the Delaware bankruptcy court (see

Section 2.2).[26] We include establishment-state-by-filing-year fixed effects δ_{st} to control for local economic activity and state laws. Finally, we include extensive controls, including: (i) establishment-industry-by-year fixed effects, (ii) establishment-legal-status-by-year fixed effects (e.g., corporation, partnership, etc.), (iii) the county-year level proxies for economic activity from the BDS described in Section 2.2 and their interactions.

A single firm with multiple establishments will sometimes file multiple related bankruptcy filings at once. We account for potential correlations across related bankruptcy filings and establishments by clustering standard errors at the firm level.

Once we demonstrate the relevance of our distance instrument with equation (1), we estimate the causal effects of forum shopping. Specifically, we estimate the following equation by 2SLS:

$$\text{Outcome}_{e,f,s,t} = \beta_2 \overline{\text{File in DE}}_{e,f,s,t} + \delta_{st} + \gamma X_{e,f,s,t} + \epsilon_{e,f,s,t}. \tag{2}$$

In this equation, the dependent variable is an establishment-level outcome (e.g., the change in employment at the establishment relative to the year before bankruptcy). The outcome varies across tests. The key independent variable is an indicator for the firm filing in Delaware. Our 2SLS estimation uses instrumented values of this endogenous variable from our first stage (1). The fixed effects δ_{st} and controls $X_{e,f,s,t}$ are identical to those in (1). We cluster standard errors by firm.

Bankruptcy-level analysis: In some of our analysis, we focus on our bankruptcy-level dataset (Sample 2 in Section 2.3). Let b index bankruptcies filed in year t by firms head-

[26] Recall that this distance is calculated as the straight line distance between (i) the ZIP code of firm f's headquarters, based on the assigned longitude/latitude in the U.S. ZIP code database and (ii) the location of the Delaware bankruptcy court. The distance is measured in miles.

quartered in state s. We estimate the following first-stage regression by OLS:

$$\text{File in DE}_{b,s,t} = \beta_1 \text{Log Miles to DE}_b + \delta_{st} + \gamma X_{b,s,t} + \epsilon_{b,s,t}. \tag{3}$$

This is analogous to equation (1), except that the unit of observation is a bankruptcy. The dependent variable is an indicator for filing in Delaware. The independent variable Log Miles to DE_b is the logarithm of the distance between the firm's headquarters and the Delaware bankruptcy court. We include state-of-headquarters-by-filing-year fixed effects δ_{st}. This ensures that we only compare firms facing the same state laws and the same home bankruptcy court option. The vector $X_{b,s,t}$ contains the following controls: (i) fixed effects for the firm's selected liabilities bin (e.g., \$1 million to \$10 million in liabilities), (ii) fixed effects for the selected number-of-creditors bin, (iii) fixed effects for the selected total-assets bin, (iv) interactions between the bin fixed effects (i) to (iii), and (v) the county-year proxies for economic activity described in Section 2.2. For the reasons described above, we cluster standard errors at the headquarter-ZIP-code-by-filing-year level.[27]

Finally, after demonstrating the relevance of the distance instrument, we estimate the following equation by 2SLS:

$$\text{Outcome}_{b,s,t} = \beta_2 \overline{\text{File in DE}}_{b,s,t} + \delta_{st} + \gamma X_{b,s,t} + \epsilon_{b,s,t}. \tag{4}$$

The dependent variable is a bankruptcy-level outcome (e.g., conversion to Chapter 7). Our 2SLS estimation uses instrumented values for $\text{File in DE}_{b,s,t}$ from equation (3). The fixed effects and controls are identical to those from equation (3). As before, we cluster

[27] Since it is difficult to reliably link multiple bankruptcies filed by the same firm without the Census BR, we cluster standard errors at the headquarter-ZIP-code-by-year level. This ensures that all of a firm's bankruptcies will be contained within the same cluster.

standard errors at the headquarter-ZIP-code-by-year level.

3.2 First stage

To begin, we show that firms located further from Delaware are less likely to file for bankruptcy in Delaware. First, we estimate our first-stage regression (1) in our establishment-level dataset (Sample 3). Column 1 of Table 2 reports the result. We find a strong negative relationship between the distance to Delaware and the forum-shopping indicator (File in DE). The F statistic is 29.76, so a weak-instrument problem is unlikely. The economic magnitude is meaningful: The coefficient is equal to -0.1543. Table 1 reports that the standard deviation of the instrument (taken at the bankruptcy level in Sample 2) is 0.71. Multiplying these two numbers, we see that a one-standard-deviation decline in the distance to Delaware increases the likelihood of forum shopping by 11 percentage points.

We confirm the same result using our bankruptcy-level sample and specification. We estimate our bankruptcy-level specification (3) using Sample 2.[28] In column 2 of Table 2, we again report a strong negative relationship between the distance to Delaware and the forum-shopping indicator. The F statistic is 26.50. A one-standard-deviation decline in the distance to Delaware increases the likelihood of forum shopping by 5.8 percentage points.

We observe financial information for firms (assets, liabilities, and the number of creditors) in bankruptcies that appear in the FJC (Section 2.2). In a final specification, we add interacted fixed effects for these financial variables. This bankruptcy-level specification compares firms with similar assets, liabilities, and creditor structures. Limiting our sample to FJC bankruptcies reduces our sample size. We nonetheless find a statistically significant estimate of β_1 when we estimate (3) (Table 2 column 2). The F statistic remains above 10.

[28] Following standard conventions, we omit "singleton observations" that are the sole observation identifying a fixed effect.

To summarize, in both our bankruptcy-level Sample 2 and our establishment-level Sample 3, we find strong evidence that physical proximity to Delaware predicts forum shopping. Within a state, firms closer to the Delaware border are far more likely to file in Delaware.

3.3 Forum shopping boosts post-bankruptcy employment

We have established that a firm's distance to the Delaware border impacts its likelihood of filing for bankruptcy in Delaware. This holds even when comparing observably similar firms in the same state. We now use this fact to identify the causal effects of forum shopping.

We begin by studying post-bankruptcy employment changes at the establishment level (Sample 3). Let t denote the year in which an establishment e files for bankruptcy. Starting in year $t-3$, we measure the total number of employees at establishment e. If an establishment permanently closes, we set this number to equal zero in every year that the establishment is closed. Likewise, this number is zero in each year before an establishment first opens. We define our key outcome variable Δ Employ$_{t-1 \to t+3}$ as the employment in year $t+3$ minus the employment in year $t-1$.

We use Δ Employ$_{t-1 \to t+3}$ as an outcome variable and estimate equation (2) by 2SLS. We report the result in column 2 of Table 3. Forum shopping causally increases the average number of employees in year $t+3$ by 9.78, relative to the corresponding number in year $t-1$. The estimate is strongly statistically significant. Therefore, forum shopping mitigates the loss of employees that a typical firm experiences in bankruptcy (Graham et al., 2023). Our treatment effect is equal to 62% of the number of employees at the average establishment in year $t-1$ (Table 1).

To understand the selection into forum shopping, we estimate (2) by OLS, using actual values of the endogenous variable File in DE rather than instrumented values. Column 1 of

Table 3 shows a coefficient near zero. This suggests that firms that forum shop have worse employment-growth trends than the firms that file in their home courts. In other words, firms forum shop when they have poor economic prospects.

Why does forum shopping boost post-bankruptcy employment? In principle, forum shopping could promote the creation of new establishments after bankruptcy. To test this, we examine the subsample of establishments that first open in years $t+1$ to $t+3$ (i.e., that open after the corresponding firm's bankruptcy filing). These establishments have zero employment in earlier years. Using this subsample of new establishments, we estimate the same 2SLS and OLS regressions described above. Column 6 of Table 3 shows a positive but statistically insignificant 2SLS estimate. This provides weak evidence that forum shopping leads to more establishment creation. However, we cannot reject the null hypothesis that forum shopping leads to no establishment creation.

Alternatively, forum shopping could boost post-bankruptcy employment by preventing liquidation and the closure of existing establishments. To test this hypothesis, we examine the subsample of establishments that are open at year $t-1$ (one year before a bankruptcy filing). We estimate the same OLS and 2SLS regressions. We find a positive and statistically significant 2SLS estimate. This implies that post-bankruptcy employment grows at establishments that were open before bankruptcy. This is consistent with the story that forum shopping boosts employment by preventing the liquidation of existing establishments. We provide further evidence in support of this interpretation in the following section.

Placebo test and the exclusion restriction: We now describe a placebo test that supports the validity of our exclusion restriction. We construct a placebo outcome Δ Employ$_{t-1 \to t-3}$. This is analogous to our main outcome, except that we use employment in year $t-3$ minus

employment in year $t-1$. If our 2SLS estimate is driven by the causal effect of filing for bankruptcy in Delaware, then the 2SLS estimate should be zero for this placebo outcome: a bankruptcy filing cannot causally change employment in the past. In contrast, if our 2SLS estimate is driven by unobservable differences between firms in different cities, thereby violating our exclusion restriction, then the 2SLS estimate could be different from zero. We estimate (2) by 2SLS and report the result in Figure 3. The point estimate is economically and statistically insignificant. The 95% confidence interval indicated by the error bars contains zero. Figure 3 shows the same result when we use employment two years before a bankruptcy filing. We repeat the same exercise using employment in years $t, t+1, t+2$, and $t+3$ (relative to $t-1$). Figure 3 shows that forum shopping begins to improve employment one year after a filing. The effect grows and stabilizes by year $t+3$.

3.4 Forum shopping prevents liquidation and closure

In the previous section, we show that forum shopping increases post-bankruptcy employment growth. We now show that this improvement is driven by a reduction in liquidations and establishment closures.

We first analyze our bankruptcy-level dataset Sample 2. We define an indicator Convert that is equal to one if a Chapter 11 bankruptcy is converted to Chapter 7 liquidation. We use this indicator as an outcome variable and estimate equation (4) by 2SLS. Column 2 of Table 4 shows that filing in Delaware substantially lowers the likelihood that a firm will be converted to Chapter 7 liquidation. The estimate implies that compliers of our distance instrument are 25 percentage points less likely to be converted in Delaware than they are in their home court. Our estimate is statistically significant with a p value below 0.05. Column 4 shows that this effect is robust to controlling for observable firm financial characteristics

— liability-by-asset-by-creditor bin fixed effects. We find a much larger coefficient in column 4, likely because of the limited sample period in which the FJC controls are available.

We estimate analogous OLS regressions with actual rather than instrumented values for the endogenous forum-shopping indicator. Columns 1 and 3 show coefficients near zero. This suggests that firms select into forum shopping when they are likely to liquidate, cancelling out the negative causal effects shown in columns 2 and 4.

Next, we return to our establishment-level Sample 3 to examine establishment closures. We define an indicator Inactive_{t+3} that is equal to one if an establishment is closed three years after its associated bankruptcy filing. We use this as an outcome and estimate equation (2) by 2SLS. Column 6 of Table 4 shows that forum shopping reduces the establishment-closure rate by 30 percentages points. The corresponding OLS estimate in Column 5 again suggests that firms forum shop when they are more likely to close establishments. All of this evidence supports our preferred interpretation: forum shopping boosts post-bankruptcy employment by preventing liquidations.

Placebo test and the exclusion restriction: We now describe another placebo test analogous to the one described above. We construct a placebo outcome Inactive_{t-3}. This is analogous to the previously described outcome variable, except that we measure whether an establishment is closed three years *before* its bankruptcy filing. We use this as an outcome and estimate equation (4). Figure 4 shows a strong *positive* treatment effect: forum shoppers have more inactive establishments at year $t-3$. This is the opposite sign from our treatment effect above, which is inconsistent with the alternative hypothesis that firms in cities near Delaware always close fewer establishments. We find similar results using a placebo outcome based on data from year $t-2$.

At first, it may seem surprising that the treatment effect is not zero. However, this positive sign is consistent with the exclusion restriction because of our sample construction. Consider the following illustrative example. Imagine that each firm creates one new establishment every year until it liquidates. Imagine that every forum-shopping firm survives its bankruptcy, while every non-forum-shopping firm liquidates. It follows that a forum-shopping firm opening its first establishment in year $t-3$ will have seven establishments in our sample (opened in years $t-3, t-2, ..., t+3$). The non-forum-shopping firm will have three: it opens a new establishment in year $t-3, t-2$ and $t-1$, then it liquidates all of them in year $t=0$. Because the forum-shopping firm has more establishments in our sample, it appears to have more inactive establishments at year $t-3$: six out of seven are inactive. In contrast, for the non-forum-shopping firm, only one out of three establishments are inactive. In summary, the result of Figure 4 supports our exclusion restriction.

3.5 Forum shopping shortens bankruptcies and improves recovery

Finally, we return to our bankruptcy-level Sample 2 and examine the effect of filing in Delaware on other measures of bankruptcy efficiency. We first study creditor recovery. We define an indicator equal to one if unsecured lenders receive strictly positive recovery in a bankruptcy. We estimate (4) by 2SLS using this recovery measure as an outcome. Column 2 shows a large positive and statistically significant treatment effect. Forum shopping thus improves recovery. In column 3, we show that our result is robust to controlling for firm financial characteristics. In column 1, we estimate an analogous regression by OLS, using actual rather than instrumented values for the forum-shopping indicator. We find no correlation between forum shopping and recovery. Again, this suggests that firms forum shop when they expect low recovery in their home courts.

Next, we estimate (4) by 2SLS using duration as an outcome. We define duration as the logarithm of the number of days between the closing date for the bankruptcy and the filing date. In column 5 of Table 5, we show that forum shopping leads to a dramatic reduction in bankruptcy duration. We find a similar effect in column 6 after controlling for financial characteristics.

4 Mechanisms

In this section, we examine the mechanism by which forum shopping improves bankruptcy outcomes. In Section 4.1, we show that our results are driven by expert Delaware judges. In Section 4.2, we show that firms forum shop more often when their home courts are more congested (less efficient).

4.1 Controlling for judge efficiency

Our results thus far show that filing in Delaware leads to fewer liquidation. We now show evidence that this treatment effect is driven by access to Delaware judges.

We first calculate each judge's rate of converting cases to Chapter 7. We calculate this in our bankruptcy-level Sample 2 as a leave-one-out average (Section 2.3) to avoid a mechanical correlation between the outcome in case i and the judge's conversion rate in case i. We then estimate (4) by 2SLS using the judge conversion rate as an outcome. This reveals how filing in Delaware impacts the assigned judge's preference for liquidation. Table 6 shows that firms that file in DE because of their proximity to the border receive a judge with a much lower rate of converting cases to Chapter 7. The effect is economically and statistically significant.

Next, we confirm a standard result in the literature: within firms filing in the same court

in a tight time window, judges are randomly assigned. We estimate

$$\text{Judge Conversion Rate}_{b,s,c,t} = \gamma \text{Log Miles to DE}_b + \delta_{st} + \kappa_{ct} + \eta X_{b,s,t} + \epsilon_{b,s,c,t}, \qquad (5)$$

where κ_{ct} are court-by-filing-year fixed effects. As expected, Table 6 shows that distance has zero correlation with the assigned judge's liquidation preference. Combining these two findings, we see that firms closer to the state border get judges with lower liquidation rates, and this is entirely driven by the choice of filing court.

The above findings imply that our main result, filing in Delaware causally prevents liquidations, is driven by access to Delaware judges. An alternative explanation for our main result is that the distance from Delaware is correlated with unobservable firm characteristics that drive liquidations. In this alternative story, firms far from Delaware should be more likely to get liquidated than firms close to Delaware *regardless of the assigned judge.*

This suggests a falsification test. Consider two firms in Maryland. One is close to Delaware and files in Delaware and one is far from Delaware and files in Maryland. Suppose by chance the firm filing in Maryland draws the most liquidation-averse judge in Maryland, and as a result the two firms get judges with the same conversion rate. If distance from Delaware only drives liquidations through the reduced chance of filing in Delaware, then these firms should have similar probabilities of liquidation: the Maryland filer happened to draw a Delaware-like judge, so the Maryland filer had a Delaware-like bankruptcy. In contrast, if distance from Delaware drives liquidations through a correlation between distance and unobservable firm characteristics, then the fact that it drew a Delaware-like judge should be irrelevant.

We conduct this falsification test by estimating our 2SLS equation (4) and including the judge conversion rate as a control. Table 6 shows our estimates of equation (4) with and without the conversion rate as a control. We see that including the judge conversion rate — comparing firms that happened to draw similar judges — lowers the magnitude of the effect by roughly 90%. Moreover, the effect of filing in Delaware is statistically insignificant after controlling for the judge conversion rate. This is thus consistent with our effect being driven by the pool of judges available in Delaware. It is inconsistent with our results being driven by a correlation between distance and unobservable firm characteristics.

The final column of Table 6 shows that the decline in significance after controlling for the judge conversion rate is not driven by a change in the first stage; column 5 shows that our first stage is still strongly significant after controlling for judge conversion tastes.

4.2 Why do firms file in Delaware? The role of court efficiency

The goal of this section is to understand why firms forum shop to Delaware. We show that a firm is less likely to file in Delaware after the efficiency of its local bankruptcy court improves. This implies that firms file in Delaware to improve the efficiency of their bankruptcy process.

We proxy for bankruptcy-court efficiency using judge case loads. Bankruptcy judges who need to handle more cases take more time to make decisions and are more likely to make suboptimal decisions, which impacts bankruptcy outcomes (Iverson, 2018).

Judge case loads are endogenous: they are correlated with unobservable local economic conditions, which creates an omitted-variable bias if those local economic conditions impact bankruptcy outcomes. Our ideal experiment would randomly assign high or low judge case loads.

To generate plausibly exogenous variation in judge case loads, we follow Iverson (2018)

and exploit the passage of BAPCPA. This act increased the cost of filing for personal bankruptcy. It also made personal bankruptcy less attractive. In particular, earners above a certain income level were excluded from filing for Chapter 7 and homestead exemptions were capped. One consequence of this reform is that it significantly diminished the number of personal bankruptcy filings. This reduced judge case loads, as bankruptcy judges handle both personal and corporate cases. Our empirical design exploits the fact that bankruptcy courts with primarily personal bankruptcies experienced a large decline in judge case loads, relative to courts with primarily corporate cases.

Specifically, we use our bankruptcy-level Sample 4, which covers the period 2003 to 2007, to estimate the following equation by OLS:

$$\text{File in DE}_{b,s,t} = \gamma \text{Low caseload court}_{b,s,t} + \delta_t + \gamma_s + \epsilon_{b,s,t} \tag{6}$$

The dependent variable File in $\text{DE}_{b,s,t}$ is a dummy variable that takes the value one if the bankruptcy b is filed in Delaware and zero otherwise. Low caseload $\text{court}_{b,s,t}$ is our time-varying treatment variable. For each bankrupt firm b, we observe its home court[29] and measure the share of non-business bankruptcy filings in the home court in 2003. We interact this time-invariant measure of non-business caseloads with a dummy variable that takes the value one after October 17, 2005, the passage date of the BAPCPA. In other words, Low caseload $\text{court}_{b,s,t}$ is equal to zero prior to BAPCPA. After BAPCPA, it is equal to the fraction of bankruptcy filings in a firm's home court in 2003 that are filed by non-business debtors. A high value thus corresponds to a "treated" firm, because these firms experienced larger declines in case loads in their home courts due to the higher relative

[29]For each county and state s, we find the court in state s that receives the most bankruptcy filings by firms headquartered in that county and state. We call this court the "home court" for any firm headquartered in that county and state.

prevalence of personal bankruptcies. We include firm-headquarter-state fixed effects and filing-year fixed effects to implement a difference-in-differences design. This accounts for other changes occurring after 2005 and any time-invariant differences between high-personal-bankruptcy states and low-personal-bankruptcy states. The coefficient γ represents the impact of a lower caseload on the probability that the firm b files in Delaware. We cluster standard errors at the headquarter-ZIP-code-by-filing-year level.

We focus on the sample of firms whose headquarters are outside Delaware that filed for bankruptcy within two years (before or after) of the passage of the BAPCPA (2003 to 2007).

Table 7 reports the results. Column 1 estimates the baseline specification, as described in equation (6). The coefficient is negative and statistically significant. The coefficient is equal to a 2.87 percentage point reduction in the probability of filing to Delaware.

Column 2 shows that the results are robust to adding bankruptcy-specific controls. We add liability-by-asset-by-creditor bin fixed effects to equation (6). We observe these variables in the FJC, which primarily covers cases filed starting in 2008. As a result, the inclusion of these fixed effects reduces our sample size. With this caveat in mind, we observe a statistically significant negative estimate, and the point estimate is larger in magnitude than the one in the baseline specification.

Overall, our results are consistent with the view that firms are more likely to file for bankruptcy in Delaware if their local bankruptcy courts have more judges with a high case load. This test supports our view that firms file in Delaware to experience a more efficient bankruptcy process.

5 Conclusion

Congress is currently considering legislation to limit forum shopping, a practice in which firms file for bankruptcy outside of their home state. When introducing the bill, Senator Warren wrote

> "Wealthy corporations should not be able to run across the country to find a favorable court to file bankruptcy. While they manipulate the system to file for bankruptcy wherever they please, affected communities — like workers, creditors, and consumers — lose."

Contrasting this view, proponents of forum shopping argue that judges in districts like Delaware have more expertise and a large body of legal precedents that reduce bankruptcy uncertainty and excess delays, leading to more efficient outcomes for all stakeholders. We inform this debate by estimating the causal effects of forum shopping to Delaware, the most popular forum-shopping destination by a wide margin.

Within a Delaware-neighboring state, we show that firms headquartered closer to Delaware are more likely to file for bankruptcy in Delaware. We combine a comprehensive dataset of corporate bankruptcies in these Delaware-adjacent states with administrative data from the U.S. Census Bureau. We estimate 2SLS regressions in which we instrument for the endogenous forum-shopping decision using the distance to Delaware. To ensure our distance instrument is plausibly exogenous, we control for an extensive list of observable firm characteristics and local economic conditions. We also show our main results disappear after controlling for the liquidation preference of the judge, which is inconsistent with our results being driven by unobservable firm heterogeneity.

We show that forum shopping to Delaware causally lowers liquidation rates, increases

creditor recovery, shortens cases, and increases post-bankruptcy employment. Our results thus suggest that workers benefit from higher employment when firms forum shop to Delaware. If consumers benefit from fewer liquidations and creditors benefit from shorter bankruptcies, our results likewise imply that forum shopping improves outcomes for other stakeholders. Importantly, our paper is silent on the implications of forum shopping to courts other than Delaware.

References

Akey, P., and I. Appel. 2021. The limits of limited liability: Evidence from industrial pollution. *The Journal of Finance* 76:5–55.

Antill, S. 2022. Do the right firms survive bankruptcy? *Journal of Financial Economics* 144:523–46.

———. 2024. Are bankruptcy professional fees excessively high? *The Review of Financial Studies* 37:3595–647.

Antill, S., and M. Hunter. 2023. Consumer choice and corporate bankruptcy. *Available at SSRN 3879775* .

Araujo, A., R. Ferreira, S. Lagaras, F. Moraes, J. Ponticelli, and M. Tsoutsoura. 2021. The labor effects of pro-labor bias in bankruptcy. Working Paper, National Bureau of Economic Research.

Ayotte, K., and D. A. Skeel. 2004. Why do distressed companies choose delaware? an empirical analysis of venue choice in bankruptcy. *An Empirical Analysis of Venue Choice in Bankruptcy (October 18, 2004)* .

Ayotte, K. M., and E. R. Morrison. 2009. Creditor control and conflict in chapter 11. *Journal of Legal Analysis* 1:511–51.

Bellon, A. 2021. Fresh start or fresh water: The impact of environmental lender liability. *Available at SSRN 3877378* .

Bernstein, S., E. Colonnelli, X. Giroud, and B. Iverson. 2019. Bankruptcy spillovers. *Journal of Financial Economics* 133:608–33.

Bernstein, S., E. Colonnelli, and B. Iverson. 2019. Asset allocation in bankruptcy. *The Journal of Finance* 74:5–53.

Bernstein, S., X. Giroud, and R. R. Townsend. 2016. The impact of venture capital monitoring. *The Journal of Finance* 71:1591–622.

Boudt, K., F. López-de Silanes, R. Matta, and S. Zhang. 2024. Pro-debtor bias, court shopping, and bankruptcy outcomes. Working Paper, Ghent University, Faculty of Economics and Business Administration.

Chang, T., and A. Schoar. 2006. The effect of judicial bias in chapter 11 reorganization. *Unpublished manuscript. Massachusetts Institute of Technology, Cambridge, Mass* .

Chen, J. 2022. Redeploying dirty assets: The impact of environmental liability. In *Redeploying Dirty Assets: The Impact of Environmental Liability: Chen, Jason (Pang-Li)*. [Sl]: SSRN.

Chow, M. C., T. C. Fort, C. Goetz, N. Goldschlag, J. Lawrence, E. R. Perlman, M. Stinson, and T. K. White. 2021. Redesigning the longitudinal business database. Working Paper, National Bureau of Economic Research.

Dahiya, S., K. John, M. Puri, and G. Ramirez. 2003. Debtor-in-possession financing and bankruptcy resolution: Empirical evidence. *Journal of Financial Economics* 69:259–80.

Dou, W. W., L. A. Taylor, W. Wang, and W. Wang. 2021. Dissecting bankruptcy frictions. *Journal of Financial Economics* 142:975–1000.

Ellias, J. A. 2018. What drives bankruptcy forum shopping? evidence from market data. *The Journal of Legal Studies* 47:119–49.

Enriques, L., and M. Gelter. 2006. Regulatory competition in european company law and creditor protection. *European Business Organization Law Review (EBOR)* 7:417–53.

Gilson, S. C., K. John, and L. H. Lang. 1990. Troubled debt restructurings: An empirical study of private reorganization of firms in default. *Journal of financial economics* 27:315–53.

Giroud, X. 2013. Proximity and investment: Evidence from plant-level data. *The Quarterly Journal of Economics* 128:861–915.

Graham, J. R., H. Kim, S. Li, and J. Qiu. 2023. Employee costs of corporate bankruptcy. *The Journal of Finance* 78:2087–137.

Guzman, A. T. 2000. International bankruptcy: In defense of universalism. *Michigan Law Review* 98:2177–215.

Hotchkiss, E. S. 1995. Postbankruptcy performance and management turnover. *The Journal of Finance* 50:3–21.

Hüther, N., and K. Kleiner. 2022. Are judges randomly assigned to chapter 11 bankruptcies? not according to hedge funds. *SSRN (January 27, 2022)* .

Iverson, B. 2018. Get in line: Chapter 11 restructuring in crowded bankruptcy courts. *Management Science* 64:5370–94.

LoPucki, L. 2006. *Courting failure: How competition for big cases is corrupting the bankruptcy courts*. University of Michigan press.

LoPucki, L. M. 2010. *Courting failure: How competition for big cases is corrupting the bankruptcy courts*. University of Michigan Press.

LoPucki, L. M., and J. W. Doherty. 2006. Delaware bankruptcy: Failure in the ascendancy. *U. Chi. L. Rev.* 73:1387–.

LoPucki, L. M., and S. D. Kalin. 2001. Failure of public company bankruptcies in delaware and new york: empirical evidence of a race to the bottom. *Vand. L. Rev.* 54:231–.

Morrison, E. R. 2007. Bankruptcy decision making: an empirical study of continuation bias in small-business bankruptcies. *The Journal of Law and Economics* 50:381–419.

Müller, K. 2022. Busy bankruptcy courts and the cost of credit. *Journal of Financial Economics* 143:824–45.

Ohlrogge, M. 2022. Bankruptcy claim dischargeability and public externalities: Evidence from a natural experiment. *Available at SSRN 3273486* .

———. 2023. Down the tubes: Financial distress, bankruptcy, and industrial water pollution. *Bankruptcy, and Industrial Water Pollution (August 4, 2023)* .

Rasmussen, R. K. 2006. Where are all the transnational bankruptcies-the puzzling case for universalism. *Brook. J. Int'l L.* 32:983–.

Wang, W. 2021. The costs of bankruptcy restructuring. *Available at SSRN 3985613* .

Table 1: Summary statistics

This table displays summary statistics. Panel A describes Sample 1 (bankruptcies filed by firms headquartered in any state). Panel B describes Sample 2 (bankruptcies filed by firms headquartered in Delaware-adjacent states). Panel C describes Sample 3 (establishments of bankrupt firms headquartered in Delaware-adjacent states). See Sections 2.2 and 2.3 for variable definitions. Panel C was estimated at a Federal Statistical Research Data Center under FSRDC Project Number 2910. (CBDRB-FY24-P2910-R11734). Estimates have been rounded to four significant digits according to the disclosure avoidance practices in place at the Census Bureau.

	Mean	SD	P50	N
Panel A: All States				
Forum Shop	0.23	0.42	0.00	158,374
Converted	0.12	0.32	0.00	158,374
Case Duration (Days)	886.78	1,028.19	533.00	146,942
Unsecured Recovery	0.93	0.25	1.00	104,295
Panel B: Delaware-Adjacent States				
Forum Shop	0.32	0.46	0.00	15,837
File in DE	0.14	0.35	0.00	15,837
Converted	0.14	0.35	0.00	15,837
Case Duration (Days)	1,030.39	1,174.47	610.00	14,623
Unsecured Recovery	0.92	0.27	1.00	10,213
Miles to DE	93.33	63.45	83.12	15,837
Log Miles to DE	4.31	0.71	4.42	15,837
Judge Convert Rate	0.14	0.11	0.13	14,981
Maryland HQ	0.21	0.41	0.00	15,837
New Jersey HQ	0.38	0.49	0.00	15,837
Pennsylvania HQ	0.41	0.49	0.00	15,837
Panel C: Establishment-level dataset				
$\Delta\text{Employ}_{t-1 \to t+3}$	-1.08	9.991	-	477,000
Employ_{t-1}	15.87	123.6	-	477,000

Table 2: First stage: proximity to Delaware predicts forum shopping

This table displays estimates from OLS regressions in which the dependent variable is an indicator for filing in Delaware. The independent variable is the logarithm of the straight-line distance, in miles, between the bankrupt firm's headquarters and the Delaware bankruptcy court. In column 1, each observation is an establishment. We include establishment-state-by-filing-year fixed effects, county-year-level proxies for economic activity, NAICS-by-filing-year fixed effects, and legal-status-by-filing-year fixed effects. We cluster standard errors by firm. In columns 2-3, each observation is a bankruptcy. We include headquarter-state-by-filing-year fixed effects and county-year-level proxies for economic activity. In column 3, we add interacted fixed effects for (i) the total assets of the bankrupt firm, (ii) the total liabilities of the bankrupt firm, and (iii) the total number of creditors of the bankrupt firm, as indicated by the firm's selected bin on the bankruptcy filing petition. We cluster standard errors at the headquarter-ZIP-code-by-filing-year level. Stars denote statistical significance: $*p < 0.1$, $**p < 0.05$, $***p < 0.01$. Column 1 was estimated at a Federal Statistical Research Data Center under FSRDC Project Number 2910. (CBDRB-FY24-P2910-R11734). Estimates have been rounded to four significant digits according to the disclosure avoidance practices in place at the Census Bureau.

	File in DE		
	(1)	(2)	(3)
Log Miles to DE	-0.1543***	-0.0821***	-0.0420***
	(0.02829)	(0.0160)	(0.0117)
State X Year FE	Y	Y	Y
Controls	Y	Y	Y
NAICS X Year FE	Y	N	N
Assets X Liabilities X Creditors FE	N	N	Y
Unit of Observation	Estab	Case	Case
Observations	477,000	15,040	9,507
Instrument F-Stat	29.76	26.50	12.76

Table 3: Forum shopping increases post-bankruptcy employment

This table displays estimates from OLS and 2SLS regressions in which the dependent variable is the post-bankruptcy change in employment. Each observation is an establishment of a bankrupt firm. For each establishment e filing for bankruptcy in year t, we calculate employment in year $t+3$. We also calculate employment in year $t-1$. The dependent variable is the employment in year $t+3$ minus the employment in year $t-1$. We set employment equal to zero in any year in which the establishment is inactive. The independent variable is an indicator for filing in Delaware. In columns 2, 4, and 6, we instrument for this endogenous variable using the distance from the bankrupt firm's headquarters to the Delaware bankruptcy court (see Table 2). In columns 3 and 4, we include only those establishments that are open in year $t-1$. In columns 5 and 6, we include only those establishments that first open after year t. We include establishment-state-by-filing-year fixed effects, county-year-level proxies for economic activity, NAICS-by-filing-year fixed effects, and legal-status-by-filing-year fixed effects. We cluster standard errors by firm. Stars denote statistical significance: $^{*}p < 0.1$, $^{**}p < 0.05$, $^{***}p < 0.01$. This table was estimated at a Federal Statistical Research Data Center under FSRDC Project Number 2910. (CBDRB-FY24-P2910-R11734).

	Δ Employ$_{t-1 \to t+3}$					
	All Establishments		Existing $(t-1)$ Establishments		New $(>t)$ Establishments	
	(1)	(2)	(3)	(4)	(5)	(6)
File in DE	-0.4663	9.784***	-0.4427	6.704*	1.665***	2.281
	(0.6267)	(3.484)	(0.7418)	(3.757)	(0.3824)	(2.278)
State X Year FE	Y	Y	Y	Y	Y	Y
Controls	Y	Y	Y	Y	Y	Y
NAICS X Year FE	Y	Y	Y	Y	Y	Y
Estimator	OLS	2SLS	OLS	2SLS	OLS	2SLS
Observations	477,000	477,000	294,000	294,000	183,000	183,000

Table 4: Forum shopping prevents liquidation and establishment closure

This table displays estimates from OLS and 2SLS regressions in which the dependent variable is an indicator for conversion to Chapter 7 liquidation or an indicator for establishment closure. The independent variable is an indicator for filing in Delaware. In columns 2, 4, and 6, we instrument for this endogenous variable using the distance from the bankrupt firm's headquarters to the Delaware bankruptcy court (see Table 2). In columns 1-4, each observation is a bankruptcy. The outcome is conversion to Chapter 7. We include headquarter-state-by-filing-year fixed effects and county-year-level proxies for economic activity. In columns 3-4, we add interacted fixed effects for firm financial variables (see Table 2). We cluster standard errors at the headquarter-ZIP-code-by-filing-year level. In columns 5 and 6, an observation is an establishment of a firm filing for bankruptcy in year t. The outcome is an indicator equal to one if the establishment is inactive in year $t+3$. In columns 5 and 6, we include establishment-state-by-filing-year fixed effects, county-year-level proxies for economic activity, NAICS-by-filing-year fixed effects, and legal-status-by-filing-year fixed effects. We cluster standard errors by firm. Stars denote statistical significance: $^{*}p < 0.1$, $^{**}p < 0.05$, $^{***}p < 0.01$. This research was performed at a Federal Statistical Research Data Center under FSRDC Project Number 2910. (CBDRB-FY24-P2910-R11734). Columns 5 and 6 were estimated at a Federal Statistical Research Data Center under FSRDC Project Number 2910. (CBDRB-FY24-P2910-R11734). Estimates have been rounded to four significant digits according to the disclosure avoidance practices in place at the Census Bureau.

	Convert to 7				Inactive	
	(1)	(2)	(3)	(4)	(5)	(6)
File in DE	0.00	-0.25**	0.01	-1.16***	-0.03113	-0.3026**
	(0.03)	(0.10)	(0.03)	(0.37)	(0.03843)	(0.1476)
State X Year FE	Y	Y	Y	Y	Y	Y
Controls	Y	Y	Y	Y	Y	Y
NAICS X Year FE	N	N	N	N	Y	Y
Assets X Liabilities X Creditors FE	N	N	Y	Y	N	N
Unit of Observation	Case	Case	Case	Case	Estab	Estab
Estimator	OLS	2SLS	OLS	2SLS	OLS	2SLS
Observations	15,040	15,040	9,507	9,507	477,000	477,000

Table 5: Forum shopping improves recovery and shortens bankruptcies

This table displays estimates from OLS and 2SLS regressions in which the dependent variable is a measure of bankruptcy efficiency. Each observation is a bankruptcy. The independent variable is an indicator for filing in Delaware. In columns 2, 3, 5, and 6, we instrument for this endogenous variable using the distance from the bankrupt firm's headquarters to the Delaware bankruptcy court (see Table 2). In columns 1-3, the outcome variable is an indicator for unsecured lenders receiving strictly positive recovery. In columns 4-6, the outcome variable is the logarithm of the duration of the bankruptcy in days. We include headquarter-state-by-filing-year fixed effects and county-year-level proxies for economic activity. In columns 3 and 6, we add interacted fixed effects for firm financial variables (see Table 2). We cluster standard errors at the headquarter-ZIP-code-by-filing-year level. Stars denote statistical significance: $^{*}p < 0.1$, $^{**}p < 0.05$, $^{***}p < 0.01$.

	Unsecured Recovery			Log Duration		
	(1)	(2)	(3)	(4)	(5)	(6)
File in DE	0.01	0.27*	0.53***	0.80***	-1.31**	-3.99***
	(0.04)	(0.16)	(0.20)	(0.08)	(0.54)	(1.31)
State X Year FE	Y	Y	Y	Y	Y	Y
Controls	Y	Y	Y	Y	Y	Y
Assets X Liabilities X Creditors FE	N	N	Y	N	N	Y
Estimator	OLS	2SLS	2SLS	OLS	2SLS	2SLS
Observations	9,419	9,419	8,888	14,374	14,374	9,064

Table 6: Forum shopping treatment effects are driven by Delaware judge characteristics

This table shows that forum shopping does not prevent liquidation after controlling for the conversion rate of the assigned judge, suggesting that the effects of filing in Delaware are driven by the pool of Delaware judges. Each observation is a bankruptcy. Columns 1, 3, and 4 display estimates from 2SLS regressions in which the endogenous independent variable, an indicator for filing in Delaware, is instrumented by the log distance between the firm's headquarters and the Delaware bankruptcy court. In column 1, the dependent variable is the assigned judge's rate of converting cases to Chapter 7 liquidation. In columns 3 and 4, the dependent variable is an indicator for the case being converted to Chapter 7 liquidation. Column 2 displays the results of an OLS regression of the judge conversion rate on the distance to Delaware, controlling for filing-court-by-year fixed effects. Column 3 shows the same regression depicted in column 2 of Table 4. In column 4, we control for the judge conversion rate. In column 5, we show our first stage (Table 2 column 2) is robust to controlling for the judge conversion rate. All regressions include state-by-filing-year fixed effects and county-year-level proxies for economic activity. We cluster standard errors at the headquarter-ZIP-code-by-filing-year level. Stars denote statistical significance: $^{*}p < 0.1$, $^{**}p < 0.05$, $^{***}p < 0.01$.

	Judge Convert Rate		Convert to 7		File in DE
	(1)	(2)	(3)	(4)	(5)
File in DE	-0.2811***		-0.2539**	-0.0279	
	(0.0688)		(0.1026)	(0.0950)	
Log Miles to DE		0.0004			-0.0811***
		(0.0040)			(0.0158)
Judge Convert Rate				0.7921***	-0.0641
				(0.0499)	(0.0695)
State X Year FE	Y	Y	Y	Y	Y
Controls	Y	Y	Y	Y	Y
Court X Year FE	N	Y	N	N	N
Estimator	2SLS	OLS	2SLS	2SLS	OLS
Observations	14,207	14,088	15,040	14,207	14,207

Table 7: Firms forum shop to avoid congested home courts

This table displays estimates from OLS regressions in which the dependent variable is an indicator for filing in Delaware. The independent variable is the product of (i) an indicator for filing in the post-BAPCPA period (starting October 17, 2005) and (ii) the share of all bankruptcies filed by nonbusiness debtors in 2003, measured in the "home court" corresponding to the county of the debtor's headquarters. The sample covers bankruptcies filed by firms headquartered in all states except Delaware over the period 2003 to 2007. We include state-of-headquarter fixed effects, filing-year fixed effects, and county-year-level proxies for economic activity in all specifications. In column 2, we add interacted fixed effects for firm financial variables (see Table 2). We cluster standard errors at the headquarter-ZIP-code-by-filing-year level. Stars denote statistical significance: $^{*}p < 0.1$, $^{**}p < 0.05$, $^{***}p < 0.01$.

	File in DE	
	(1)	(2)
Low Caseload Home Court	-0.0287**	-0.0485**
	(0.0141)	(0.0216)
State FE	Y	Y
Year FE	Y	Y
Controls	Y	Y
Assets X Liabilities X Creditors FE	N	Y
Observations	16,808	6,853
Adj. R^2	0.0270	0.217

Figure 1: Forum shopping rates are stable over time

We bin bankruptcies based on the filing year. For each $T \in \{1995, 2000, 2005, 2010, 2015, 2020\}$, we form bins containing bankruptcies filed between year $T-2$ and year $T+2$. Panel A shows the rate of forum shopping on the y axis for each bin on the x axis. We then construct bins containing only bankruptcies that are forum shopped. Panel B shows the average rate of filing in Delaware on the y axis for each bin of forum shopped bankruptcies on the x axis.

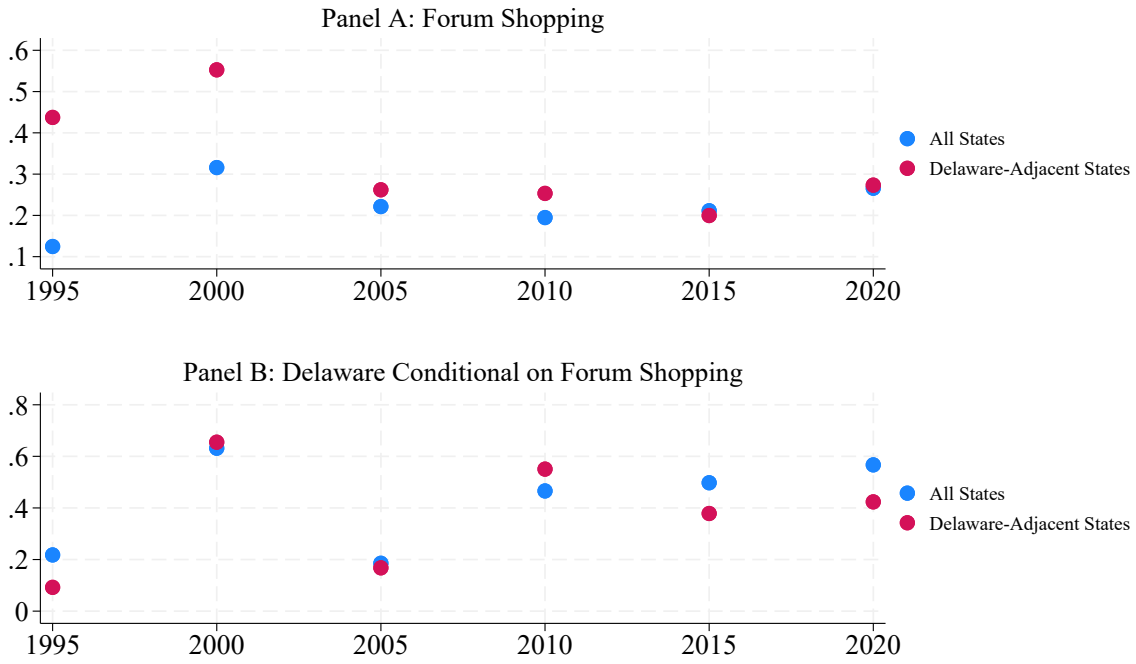
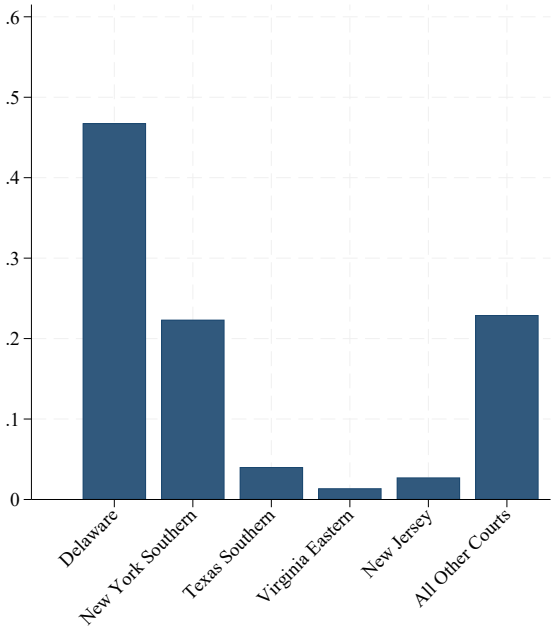
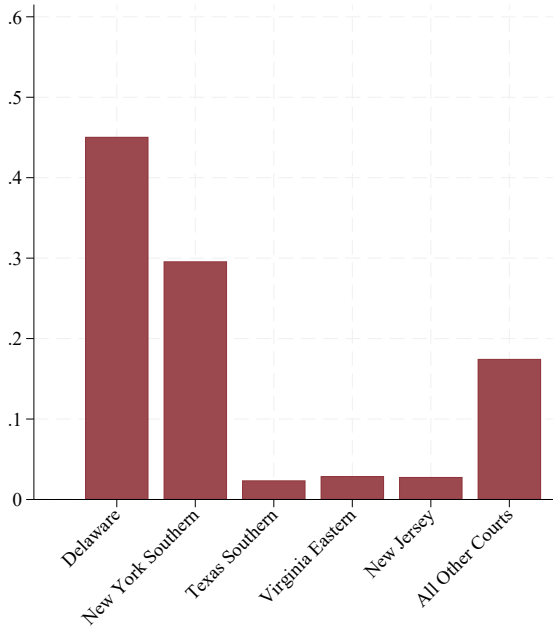


Figure 2: Delaware is the dominant forum shopping destination

We examine the subsample of bankruptcies in Sample 1 that are forum shopped. In this sample of firms headquartered in any state, Panel A displays the fraction of firms filing in each of five bankruptcy courts: Delaware, New York Southern, Texas Southern, Virginia Eastern, or New Jersey. We add a sixth category covering forum shopped bankruptcies filed in any other court. In Panel B, we repeat the same exercise using only those firms headquartered in a Delaware-adjacent states (Sample 2).



Panel A: Headquartered in Any State



Panel B: Headquartered in Delaware-Adjacent State

Figure 3: Placebo test: forum shopping does not boost pre-bankruptcy employment

This figure displays estimates from 2SLS regressions in which the dependent variable is the change in employment experienced by an establishment. We use our establishment-level Sample 3, in which each observation is an establishment of a firm filing for bankruptcy in year t. For each establishment e and each year $t-3, t-2, ..., t+3$, we calculate employment at establishment e in that year. We set employment equal to zero in any year in which the establishment is inactive. For each $T' \in \{t-3, t-2, t, t+1, t+2, t+3\}$, we calculate an outcome as the difference between employment in year T' and year $t-1$. We regress this on an indicator for filing for bankruptcy in Delaware. We instrument for this endogenous variable using the distance from the bankrupt firm's headquarters to the Delaware bankruptcy court (see Table 2). Each specification mirrors the specification described in Table 3. This figure plots each 2SLS estimate (on the y axis) corresponding to each year T' (on the x axis) in which employment is measured. Standard errors are clustered at the firm level, and confidence intervals are calculated with a 95% confidence level. This graph was estimated at a Federal Statistical Research Data Center under FSRDC Project Number 2910. (CBDRB-FY24-P2910-R11734). Estimates have been rounded to four significant digits according to the disclosure avoidance practices in place at the Census Bureau.

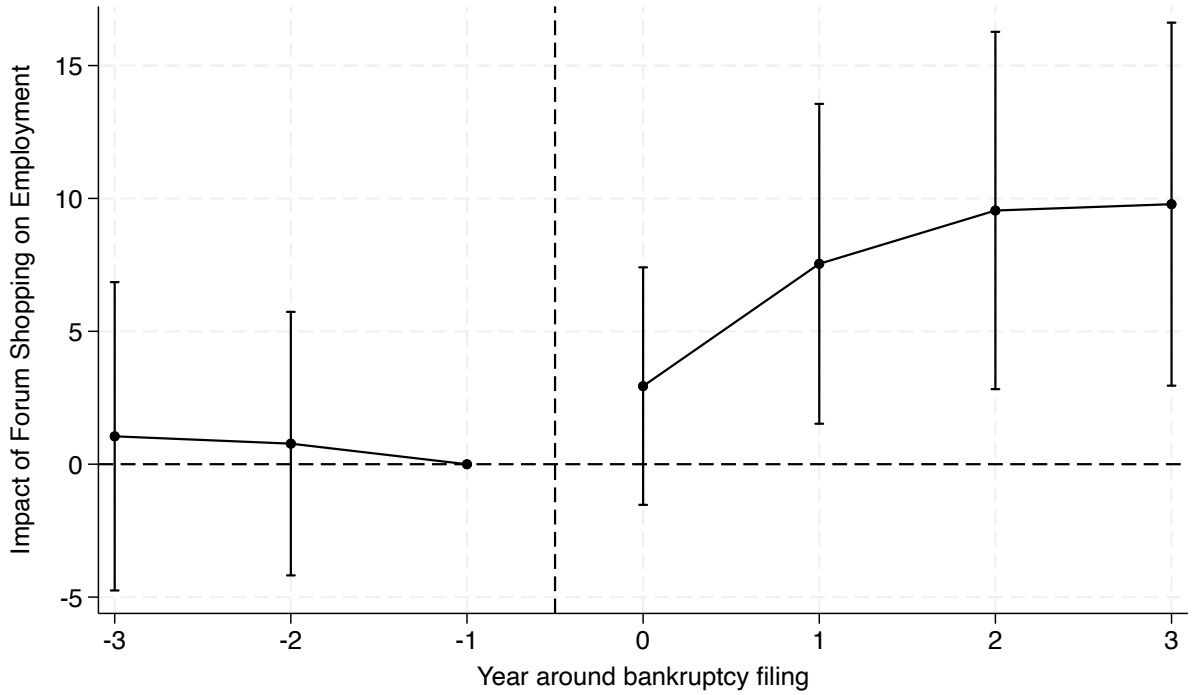
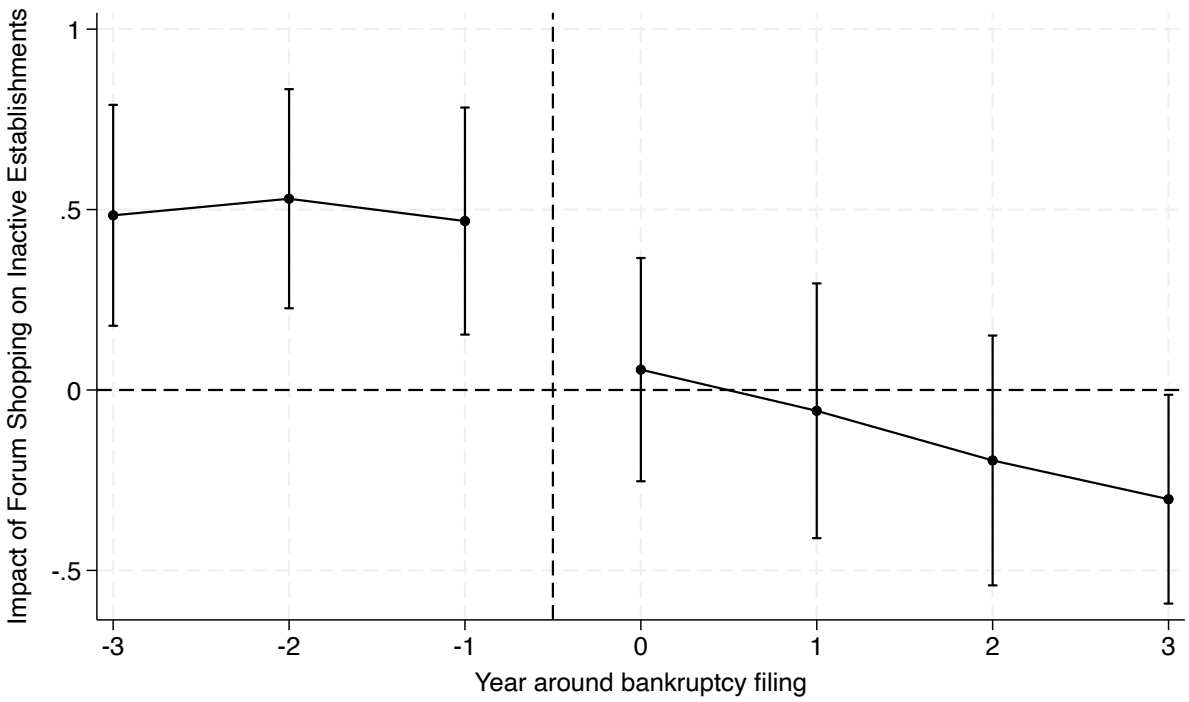


Figure 4: Placebo test: forum shopping does not prevent pre-bankruptcy closure

This figure displays estimates from 2SLS regressions in which the dependent variable is an indicator for establishment closure. We use our establishment-level Sample 3, in which each observation is an establishment of a firm filing for bankruptcy in year t. For each establishment e and each year $t-3, t-2, ..., t+3$, we calculate an indicator equal to one if the establishment is closed in that year. We regress each closure indicator on an indicator for filing for bankruptcy in Delaware. We instrument for this endogenous variable using the distance from the bankrupt firm's headquarters to the Delaware bankruptcy court (see Table 2). Each specification mirrors the specification described in Table 3. This figure plots each 2SLS estimate (on the y axis) corresponding to each year T' (on the x axis) in which closure is measured. Standard errors are clustered at the firm level, and confidence intervals are calculated with a 95% confidence level. This graph was estimated at a Federal Statistical Research Data Center under FSRDC Project Number 2910. (CBDRB-FY24-P2910-R11734). Estimates have been rounded to four significant digits according to the disclosure avoidance practices in place at the Census Bureau.



Internet Appendix

A Census merge

We match the bankruptcy data to the BR using the establishment's addresses (mailing and physical), the Employer Identification Number (EIN), and the establishment's name. After pre-processing the data, we define three matching scores using (1) the establishment's names, (2) the establishment's addresses, and (3) the EIN. Each matching score takes a value between zero and one, with higher values indicating more likely matches. All the matching scores are added with the same weight so that perfect matches have a score equal to three. We keep all matches with the highest score, then require a matching score above 1.5. The matching procedure is likely to match a bankruptcy filing to an establishment if the EINs are similar. However, we do not exclusively match on EIN for two reasons. First, we cannot conclusively rule out mistakes in the EINs collected in the bankruptcy data. Second, EINs can change over time. Overall, we are able to match 66% of the bankruptcy record to an establishment.

Once we match an establishment to a bankruptcy filing, we use the BR to identify the firm that owns the establishment. We collect all establishments in the BR associated with that firm and match those establishments to the bankruptcy filing. In other words, if a bankruptcy involves one of a firm's establishments, then we assume that all the establishments of this firm enter bankruptcy.

We drop the duplicates to avoid possible contamination in the comparison of firms that file to Delaware and those that do not. In particular, we drop subsequent bankruptcy filings if the firm refiles for bankruptcy within the next three years of the initial filings. Moreover,

to avoid having our control group contaminate our treated group, we drop establishments that are sold to a firm that files for bankruptcy in subsequent years.

We observe the LBD until 2021. As a result, we do not include the bankruptcy cases that were filed after 2018, so that we always have 3 years of establishment-level information after the bankruptcy. We do not include the relatively few bankruptcy cases that were filed before 1990. We want to observe employment outcomes three years before and after the bankruptcy filing year. As a result, we use the LBD from 1987 to 2021.

B Additional results

Figure IA.1: Histogram of total liabilities

This histogram shows the distribution of total liabilities, as reported at the time of filing, across bankruptcies. It plots the fraction of cases, on the y axis, in which the debtor indicated the total-liabilities bin shown on the x axis.

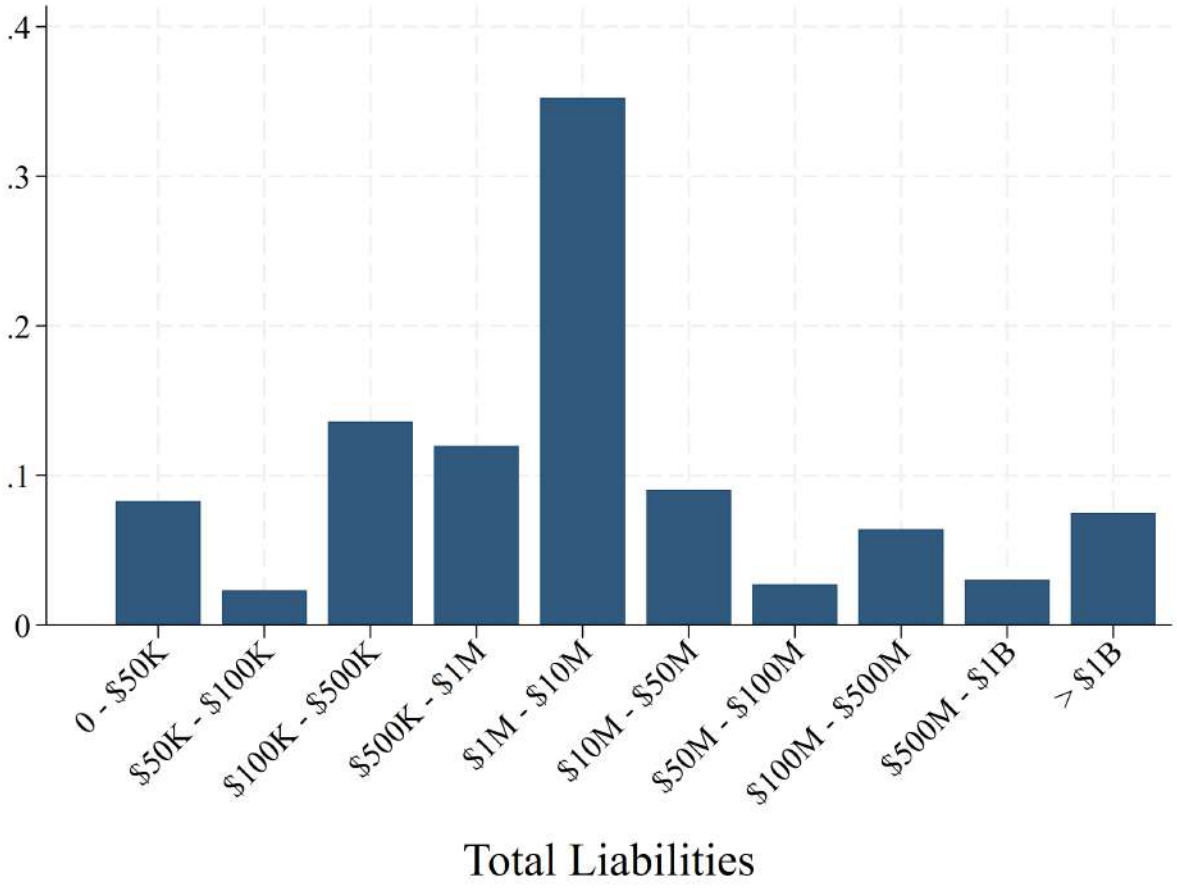


Figure IA.2: Histogram of total assets

This histogram shows the distribution of total assets, as reported at the time of filing, across bankruptcies. It plots the fraction of cases, on the y axis, in which the debtor indicated the total-assets bin shown on the x axis.

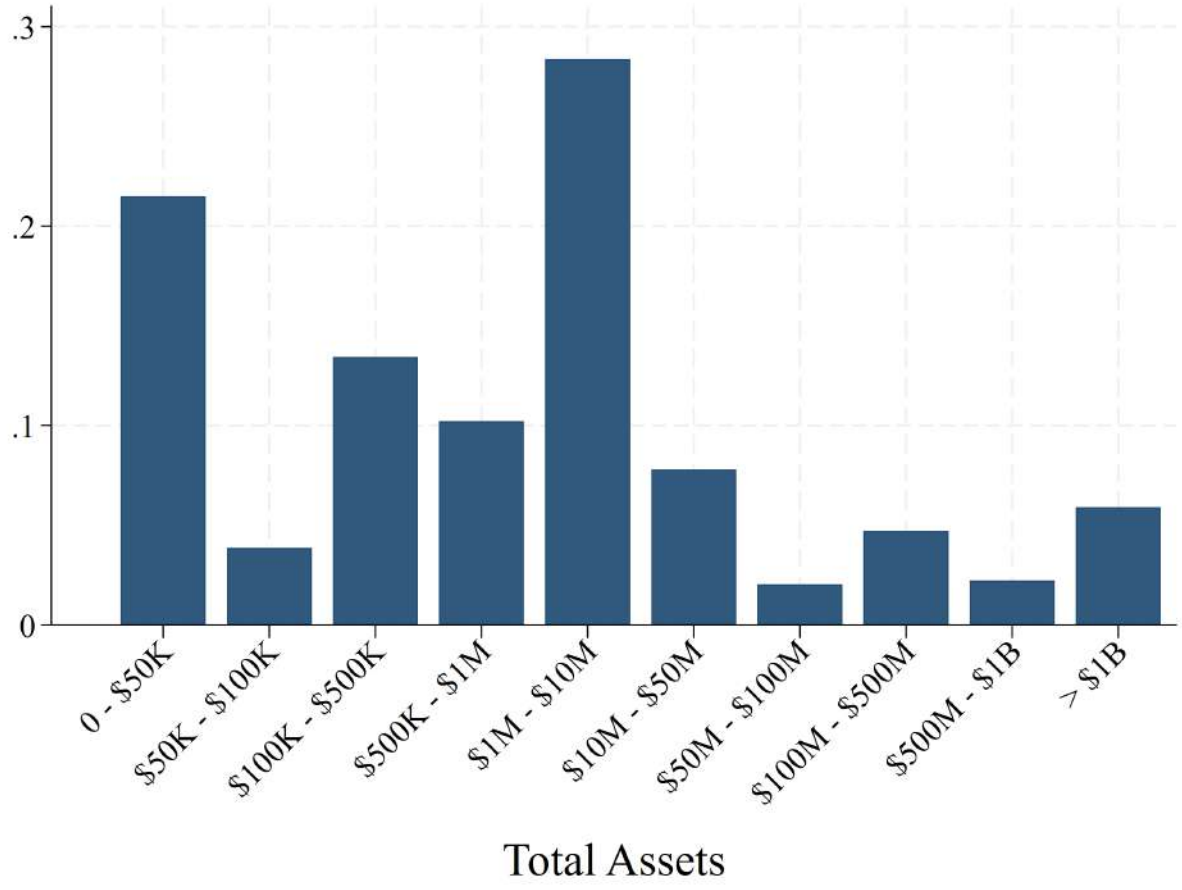


Figure IA.3: Histogram of number of creditors

This histogram shows the distribution of the number of creditors, as reported at the time of filing, across bankruptcies. It plots the fraction of cases, on the y axis, in which the debtor indicated the number-of-creditors bin shown on the x axis.