



# The Best Form of Loan Modification May Not Be A Loan Modification At All!

by STEPHEN DOAN, ESQ.

**I**n California, consumer bankruptcies rose 25% in 2010 and were up 9% nationwide. There were 24,117 consumer bankruptcy filings here in the Santa Ana division of the Central District of California...and that was just in the first quarter of 2010! The majority of those were Chapter 7 filings to liquidate assets and eliminate unsecured debts.

What should be of great interest, especially here in South Orange County is the growth seen in Chapter 13 and consumer Chapter 11 bankruptcy filings. In both of these, the consumers typically are able to keep their homes, eliminate their junior mortgages (i.e. 2nd, 3rd, and 4th mortgages) entirely, and even reduce the amount owed on other secured debts. When an individual does not qualify for Chapter 13, they often consider a Chapter 11 bankruptcy. For example, if a debtor's secured debt exceeds \$1,081,000 and/or combined unsecured debt exceeds \$360,475, and the debtor wishes to keep delinquent assets, the only viable bankruptcy recourse would be to file for Chapter 11 bankruptcy protection.

Here is how it works: Years ago, when home values were at their height, home owners used the equity in their home(s) to borrow against. They took out second mortgages, third mortgages, and even fourth mortgages. Those

mortgages were secured by the equity in the home. But today, one in four California homeowners is upside down (where the liens against a property exceed the value of the property). In many cases, debtors can completely eliminate junior liens either in a Chapter 13 or Chapter 11 Bankruptcy!

For most individuals and families, eliminating their junior mortgages and creating an affordable three-to-five year repayment plan on their debt is better than anything possibly achieved through a loan modification. Consumers are able to get caught up on delinquent mortgage payments and eliminate their junior mortgages upon the completion of their Chapter 11 or 13 plan. Consumers then walk away from their plan, free of all unsecured debts and their second mortgages in some cases. It truly represents a fresh start.

The great news is that by using this plan, it is possible to stay in your home while paying only a percentage of your unsecured debt even though you may be making less than you did several years ago.

The only shame is that most people who qualify for this type of bankruptcy don't even know it exists!



*Stephen Doan is a partner in the San Clemente based Doan Law Firm, a father-and-five-son law practice founded on Judeo-Christian principles that strives to treat every client with unfailing honesty and compassion. Considered amount the best in the nation, Doan Law Firm is California's Largest Family of Attorneys and helps families every day improve their financial health. For more information, call 888-DOAN-LAW (888-362-6529) or visit [www.DoanLawFirm.com](http://www.DoanLawFirm.com)*