No. 22-60050

IN THE UNITED STATES COURT OFAPPEALS
FOR THE NINTH CIRCUIT

IN RE: MONTE L. MASINGALE;
ROSANA D. MASINGALE,
Debtors.

JOHN D. MUNDING, CHAPTER 7 TRUSTEE;
STATE OF WASHINGTON,
Appellants,
v.
ROSANA D. MASINGALE,
Appellee.

On Appeal from the United States
Bankruptcy Appellate Panel for the Ninth Circuit

No. 22-1016

The Honorable Robert J. Faris, Julia W.
Brand, and William J. Lafferty III

NORTHWEST CONSUMER LAW CENTER'S MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF APPELLEE

Christina L. Henry
Henry & DeGraaff, P.S.
119 1st Ave S, Ste 500
Seattle, WA 98104
(206) 330-0595
Email: chenry@hdm-legal.com
Attorney for Northwest Consumer Law Center

Movant, the Northwest Consumer Law Center (NWCLC) hereby seeks leave to file a brief as *amicus curiae* in support of the Appellee pursuant to Rule 29(a) of the Federal Rules of Appellate Procedure. NWCLC has requested the consent of all parties in this matter. All parties have consented except for Appellant John D. Munding, Chapter 7 Trustee. NWCLC is a nonprofit and the only organization in Washington that focuses solely on consumer legal issues. While based in Seattle, NWCLC has represented and counseled consumers throughout Washington State. Since opening its doors in 2013, NWCLC has represented hundreds of low and moderate income Washington debtors in Chapter 7 and Chapter 13 cases. NWCLC also hosts a Pro Se. Among other things, NWCLC has both litigated cases on behalf of consumers and written Amicus briefs in the Washington State Court of Appeals, the Washington State Supreme Court and the Ninth Circuit Court of Appeals in support of important consumer issues.

NWCLC has also led the push for changes to the state statute to increase and update the homestead exemption (RCW 6.13.010, 6.13.030, 6.13.060, 6.13.070, 6.13.080, and 61.24.100) and personal property *exemptions* (RCW 16.15.010, 6.15.010, 51.32.040, 6.27.100, and 6.27.140). The new homestead exemption includes specific provisions to assist consumers who are faced with foreclosure and file bankruptcy. The changes raised the amount of the homestead exemption, added

specific bankruptcy provisions, and changed the language in the statute to align with the legislative intent to keep people in their homes. In bankruptcy, in recent years, the Chapter 7 bankruptcy trustees sold many homes in bankruptcy court and this statute was aimed at addressing post-appreciation and address the effects of *Wilson* v. *Rigby*, 909 F.3d 306, 309 (9th Cir. 2018).

WHEREFORE, the movant respectfully requests that this motion be granted, and for such other relief the court deems just and proper.

Respectfully Dated July 18, 2023.

s/ Christina L. Henry
Christina L. Henry
Henry & DeGraaff, P.S.
119 1st Ave S, Ste 500
Seattle, WA 98104
(206) 330-0595
Email: chenry@hdm-legal.com
Attorney for Northwest Consumer Law Center

No. 22-60050

IN THE UNITED STATES COURT OFAPPEALS
FOR THE NINTH CIRCUIT

IN RE: MONTE L. MASINGALE;
ROSANA D. MASINGALE,
Debtors.

JOHN D. MUNDING, CHAPTER 7 TRUSTEE;
STATE OF WASHINGTON,
Appellants,
v.
ROSANA D. MASINGALE,
Appellee.

On Appeal from the United States
Bankruptcy Appellate Panel for the Ninth Circuit

No. 22-1016

The Honorable Robert J. Faris, Julia W.
Brand, and William J. Lafferty III

NORTHWEST CONSUMER LAW CENTER'S AMICUS CURIAE BRIEF IN SUPPORT OF APPELLEE

Christina L. Henry
Henry & DeGraaff, P.S.
119 1st Ave S, Ste 500
Seattle, WA 98104
(206) 330-0595
Email: chenry@hdm-legal.com
Attorney for Northwest Consumer Law Center

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

FEDERAL STATUTES

RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Munding et al v. Masingale, No. 22-60050.

Pursuant to Fed. R. App. P. 26.1, Amicus Curiae, the Northwest Consumer Law Center, makes the following disclosure:

1) Is party/amicus a subsidiary or affiliate of a publicly owned corporation? If yes, list below the identity of the parent corporation or affiliate and the relationship between it and the named party. **NO**

2) Is there a publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome? If yes, list below the identity of the corporation and the nature of the financial interest. **NO**

This day of July 18, 2023.

s/ Christina L. Henry
Christina L. Henry
Attorney for Amicus Curiae

IDENTITY AND INTEREST of AMICUS

Northwest Consumer Law Center ("NWCLC") is a nonprofit law firm serving low and moderate income consumers in the State of Washington. NWCLC is the only organization in Washington that focuses solely on consumer legal issues. While based in Seattle, NWCLC has represented and counseled consumers throughout Washington State. Since opening its doors in 2013, NWCLC has represented hundreds of low and moderate income Washington debtors in Chapter 7 and Chapter 13 cases. NWCLC also hosts a Pro Se Bankruptcy Clinic to support low income debtors filing bankruptcy without an attorney and prepares educational materials on the bankruptcy process for Washington debtors. As such, NWCLC and its clients have an interest in the fair development of the Bankruptcy Code and protecting the rights of debtors. All parties have consented except for Appellant John D. Munding, Chapter 7 Trustee have consented to the filing of this amicus brief by the Northwest Consumer Law Center.

INTRODUCTION

This case involves the exemption of a residential real property by a debtor in Chapter 11 bankruptcy proceedings that eventually converted to Chapter 7. The

effect of exempting property from the estate is to withdraw that property from the estate and administration by the bankruptcy trustee.

Appellees participated in Monte L. Masingale and Rosana D. Masingale's Chapter 11 bankruptcy case and had notice of their claim of "100% of FMV [fair market value]" pursuant to federal exemptions in their homestead. No party in the bankruptcy filed a timely objection to the exemption in the Chapter 11 case, and it was too late to do so more than a year after conversion from Chapter 11 to Chapter 7. The Masingales' bankruptcy case commenced on September 15, 2015, but a mere ten months later, debtor Monte L. Masingale passed away. Despite his death, Rosana D. Masingale confirmed a Chapter 11 Plan one month later on August 23, 2017. However, just over a year later, she determined she could not complete the plan. Unfortunately, the business proved unprofitable without her husband's help. She converted her bankruptcy case from Chapter 11 to Chapter 7, thirteen months after confirmation.

Finally, three years and seven months after conversion, the Chapter 7 Trustee finally sold the Masingales' house in 2021. The Ninth Circuit B.A.P. reversed the Bankruptcy Court and found that the filed 100% FMV exemption withdrew the home from the bankruptcy estate and re-vested it in the Masingales. The Ninth

Circuit B.A.P. found that the Chapter 7 trustee was bound by the 100% FMV exemption and could not distribute proceeds from the sale due to the exemption. This is the only holding they could find, because absent some exceptions, exempted property "is not liable during or after the case for any debt of the debtor that arose * * * before the commencement of the case." 11 U.S.C. 522(c). For these reasons, the Ninth Circuit B.A.P's decision should be affirmed.

SUMMARY OF ARGUMENT

This Court should affirm the Bankruptcy Appellate Panels opinion. Following statutory interpretation, the bankruptcy rules and U.S. Supreme Court precedent, interests in property that are over the statutory exemption at 100% FMV leave the estate and revest in the debtor. To find otherwise disregards the clear directions from the U.S. Supreme Court and several other circuit court decisions as to how a debtor can exempt a whole asset. Claiming this type of exemption is ethical and is a valid exemption that is not sanctionable conduct. Lastly, this Court should not make any ruling that would encourage Chapter 7 Trustees to engage in real estate speculation when the fresh start for consumer debtors is in conflict.

ARGUMENT

I. THE NINTH CIRCUIT B.A.P. CORRECTLY FOUND THAT THE DEBTOR'S CLAIM OF 100% FMV FOR AN EXEMPT PROPERTY INTEREST WITHDREW THE DEBTOR'S INTEREST FROM THE ESTATE.

The issue before the Court is whether claiming a 100% FMV interest in an asset is valid, is a simple application of statutes, rules, and United States Supreme Court precedent to an undisputed set of facts. Despite the Appellants' wishes to the contrary, this is case of statutory interpretation. It is not a case of contract interpretation or lack of disclosure. This Court should reject arguments made by the State of Washington and Munding, just as the Ninth Circuit Bankruptcy Appellate Panel below rejected them.

The State of Washington claims that an objection to the exemption was not warranted. *See* State's Op. Br. at 40. The State is wrong. Where an exemption *See*ks a 100% interest in the fair market value ("FMV") of a home, absent an objection, the property would still have left the estate. Good practice should be to allocate the amount of exemption being applied to the asset. However, this is not required. Claiming 100% of fair market value is sufficient to put the trustee and creditors on notice of the need to object.

Appellants attempt to confuse this Court with arguments about contract law, the alleged despicable conduct of the late Mr. Masingale. Whether Mr. Masingale committed nondischargeable conduct is not germane to the debtor's claim of an interest in 100% FMV in property. *See Law v. Siegel*, 571 U.S. 415 (2014) (finding that courts do not have discretion to grant or withhold exemptions based on whatever considerations they deem appropriate if it contravenes the Bankruptcy Code).

There is no basis in law to allow a Chapter 7 Trustee to claw back a 100% interest in exempt property when a Chapter 11 case is converted one year after confirmation of a Plan. Fed. R. Bankr. P. 1019(2)(B)(i). Exemptions claim "interests in property" or "aggregate interests in property" not the valuation of an asset. Fair market value includes the combined whole of the property interests vested in the debtor including right to possession, equity of redemption, the legal right to make mortgage payments to make future equity in the property. *In re Ricks*, 40 B.R. 507, at 508 (Bankr. D. Col. 1984). *See* 11 U.S.C. §§ 522(b)(3)(B) and (d); *See also Schwab* v. *Reilly*, 560 U.S. 770, 782–83, 130 (2010) (Subsection 522(b) "does not define the 'property claimed as exempt' by reference to the estimated market value...." (emphasis omitted). An allowed exemption in property is an

interest the value of which has a statutory limit for a particular type of asset and the debtor's schedule of exempt property accurately describes the asset and the "value of [the] claimed exemption" accurately. *Schwab*, 560 U.S. at 774.

As with any case involving application of a statute, the place to begin is the language of the statute. Section 522(l) provides that the exemption becomes effective if no party in interest timely object:

> "The debtor shall file a list of property that the debtor claims is exempt under subsection b of this section…. Unless a party in interest object, the property claims as exempt on such list is exempt."

Fed. R. Bankr. P. 4003(b). The rule requires that the objection be made within 30 days after conclusion of the § 341 hearing, or, in the event of a conversion, within one year of the date of conversion.

Section 522 defines property that is included and excluded from the estate, as exemptions from the estate apply "[n]otwithstanding section 541 of this title." 11 U.S.C. § 522(b)(1). Under the so-called "snapshot" rule, the Masingales' bankruptcy exemptions are fixed at the time of the filing of their bankruptcy petition. *White v. Stump*, 266 U.S. 310, 313 (1924). The debtors make a list of property claimed as exempt, and then a trustee or creditor then has 30 days after the first creditors' meeting is held to file objections to the debtor's claimed exemptions.

11 U.S.C. § 522(l); Fed. R. Bankr. P. 4003(b). Where there is no objection by the Chapter 7 Trustee or any other party in interest, the asset passes out of the estate upon the expiration of the time to object to claims." *Taylor*, *Taylor*, 503 U.S. at 643; 11 U.S.C. § 522(l) and 11 U.S.C. § 522(d)(1).

In *Schwab*, the Supreme Court for the first time addressed the manner of claiming exemptions in property and determined that neither the Debtor's valuation nor the Debtors exemption claim determined the estate's interest in an asset. The debtors' valuation of assets is irrelevant. The trustee is not bound by the scheduled value the debtor places on the schedules. *Schwab*, 560 U.S. at 800. Rather, the trustee's interest is determined by the excess of the actual value of the debtor's interest over the amount of the claimed exemption. Thus, the Masingales here are allowed to claim an exemption in the value of their home as an "aggregate interest" as referenced in 11 U.S.C. 522(d).[1]

---

[11] Use of the term aggregate was not relevant in *Schwab* because at the time of the filing, the actual value of the debtor's interest in the property claimed exempt exceeded both the amount actually claimed exempt and the maximum allowable value of the interest claimed exempt, but the term is important to resolution of issues when the exemption claim equals the value of the entire actual aggregate interest. The aggregate interest passes out of the estate never to be administered, if it does not exceed the allowed value, but, that portion of the debtor's aggregate interest at filing in excess of the allowed exemption does not leave the estate.

In *Schwab*, the Court held that an interest in property having a value equal to the properly claimed exemption passed out of the estate and the interest represented by the remaining value remained in the estate for administration by the trustee. *Schwab*, 560 U.S. at 776. That is a proper result if there is actually an excess value above a mortgage, but what happens if there is no value in excess of the debtor's valid exemption claim? Answering that question requires analysis of the reasoning behind *Schwab*.

In *Schwab*, the Court differentiated between value of property and the value of the claimed exemption. The Court determined that there was no requirement that the trustee object to value even though there was a requirement that the trustee object to the exemption if the debtors claimed something to which they were not entitled. *Schwab*, 560 U.S. at 791. The manner in which the exemptions were claimed did not preclude an objection to determine the value of the property and hence whether any value inured to the estate. *See Schwab*, 560 U.S. at 788, fn. 15:

> Because the Code provisions we rely upon to resolve this case do not obligate trustees to object under Rule 4003(b) to a debtor's estimate of the market value of an asset in which the debtor claims an exempt interest, our analysis does not depend on whether the schedule of "property claimed as exempt" (currently Schedule C) calls for such an estimate or not.

The ruling teaches that the part of a debtor's aggregate interest actually claimed exempt passes out of the estate, and the remainder of the debtor's aggregate interest remains for the trustee to administer. That is the appropriate result when the value of the aggregate interest in the asset in question exceeds the allowable exemption. This prevents the debtor from deceiving the trustee on value in the hope that the trustee will not discover the valuation issue in time.

This case presents a different exemption issue but is still within the *Schwab* framework. The Masingales claimed their home as fully exempt by taking an interest in 100% FMV under 11 U.S.C. 522(d)(1). As *Schwab* discussed, if a debtor intends to exempt the whole asset rather than merely an interest in the asset when the exemption has a statutory limit, the disclosure must be blatant to put the trustee and other parties to the case on notice. 560 U.S. 770, 773 (2010); *See*, e.g., *Barroso–Herrans*, 524 F.3d 341, 345 (1st Cir. 2008) (exemptions listing the value as "unknown," "to be determined," or "%" are " 'red flags to trustees and creditors.'").

Exempting a 100% interest in an asset as opposed to 100% of the value of an asset, does not violate any provision of 11 U.S.C. § 522. *See* also *Schwab*, 560 U.S. at 794, n.21 (contemplating a scenario where a debtor "claimed as exempt a 'full' or

'100%' interest" in an asset); in accord, *In re Ayobami*, 879 F.3d 152, 154 (5th Cir. 2018). While it is still true that § 522(d) limits the value that may be exempted, it does not limit interest that may be exempted. *Id.* Where, as here, all the parties agree that the home only had $37,706 in equity,[2] at the filing of the bankruptcy case it was within the statutory dollar cap of § 522(d)(1) and thus not a facially invalid exemption. *See Taylor*, 503 U.S. 638, 112 S.Ct. 1644 (1992); 522(l). Facially within the dollar limits of the exemption allowed under § 522(d), the property would still have left the estate. Then, because no party to the case objected to the exemption within 30 days after the first meeting of creditors, the entire property passed out of the estate pursuant to 11 U.S.C. § 522 (l), regardless of whether the property actually had value in excess of the claimed exemption.

Thus, if the unobjected to or resolved objection to net interest in the property after a mortgage is less than or equal to the maximum statutory limit of the exemption, the entire home is exempt and leaves the estate. Fed. R. Bankr. P. 4003; *Owen v. Owen*, 500 U.S. 305, 308 (1991). Although the Chapter 7 Trustee retains bare legal title until the asset is abandoned, in most cases, exempted property "is not

---

[2] Under 11 U.S.C. 522(d)(1) the statutory limit at the time of filing was $45,950.

liable during or after the case for any debt of the debtor that arose * * * before the commencement of the case." 11 U.S.C. § 522(c); *Owen*, 500 U.S. at 308-309.

The Masingale creditors, including the Appellee, the State of Washington, were parties in the Chapter 11 case and on notice that the debtors claimed a full exemption in the home and thus, were on notice that if they did not object, a claim of 100% FMV meant that the whole asset—whatever it might later turn out to be—would be exempt. *See Hyman v. Plotkin* (*In re Hyman*), 967 F.2d 1316, 1319-20, n.6 (9th Cir.1992) ("Because the time to object is relatively short, ... it is important that trustees ... be able to determine precisely whether a listed asset is validly exempt simply by reading a debtor's schedules. Given that the debtor controls the schedules, we construe any ambiguity therein against him.").

Shortly after deciding *Taylor*, supra, the U.S. Supreme Court had an opportunity to consider the application. In *Owen*, the court found that an exemption claiming an interest in an asset is withdrawn from the estate pursuant to § 522(l). *Owen*, 500 U.S. at 308. In *Taylor*, the question concerned a trustee's obligation to object to the debtor's entry of a "value claimed exempt" by claiming a value ($ unknown) for the exemption. The *Taylor* decision is clear that when a debtor intentionally seeks an unlimited exemption in property, then, absent a timely

objection, that property is exempt in its entirety, even if its actual value exceeds statutory limits, and it is no longer property of the estate. *Taylor*, 503 U.S. at 643. An interested party must object to a claimed exemption if the amount the debtor lists as the "value claimed exempt" is not within statutory limits. *Id.* In *Taylor*, the amount was beyond the statutory limits because it was for proceeds of a lawsuit and lost wages, both of which were not readily determinable and thus a listing of "unknown" was facially invalid.

Here, in contrast, the exemption of 100% FMV, even without any allocation for an amount equal to or below the statutory limit allowed under 11. U.S.C. § 522(d)(1), is not facially invalid and does not require an objection. *Taylor*, 503 U.S. at 643. The debtor's aggregate interest was equal to or less than the amount of the claimed and allowable exemption. *Schwab* requires that the interest be measured by the value. The result is that there was no value and therefore no interest for the estate after the aggregate or entire interest was withdrawn from the estate under 522(l). Thus, there was nothing left in the estate for the trustee to administer.

In this case, the Masingales claimed their home as fully exempt under 11 U.S.C. § 522(d)(1). Title to the Masingales' home also transferred to the bankruptcy estate upon the filing of the petition. *See* 11 U.S.C § 541(a)(1) ("all legal or

equitable interest of the debtor in property as of the commencement of the case" is property of the bankruptcy estate). This transfer includes any post-petition appreciation of the value of a debtor's home. 11 U.S.C § 541(a)(6)(all "[p]roceeds, product, offspring, rents, or profits" inure to the bankruptcy estate.); *Wilson* v. *Rigby*, 909 F.3d 306, 309 (9th Cir. 2018). Relying on §§ 541(a)(1) and (a)(6) this is a sensible result since the estate has "all legal or equitable interest" in the debtor's property, the bankruptcy estate benefits from any post-petition appreciation of that property. However, when a debtor has already established an entitlement to an exemption on the petition filing date, post-petition events cannot change the exemption claimed. *See* 11 U.S.C. § 522(l) ("Unless a party in interest objects, the property claimed as exempt on [the debtor's list of exempt property] is exempt.").

It may be true that subsequent value can accrue after the filing of the case, but under § 522(c), once a debtor has properly claimed an unopposed exemption or overridden an opposition to the exemption, the exempted property "is not liable during or after the case for any debt of the debtor that arose * * * before the commencement of the case," excluding it from all post-petition changes. 11 U.S.C. § 522(c). Despite the Ninth Circuit precedent for post-petition appreciation inuring to the bankruptcy estate, there is nothing in the language of § 522(c) to view the

statute as a transitory exemption that would be subject to change for any events beyond the statutory objection provisions. Any other conclusion would undermine the basic principle that an exemption is determined when a bankruptcy is filed and thus aligns with the fresh start policy of the Bankruptcy Code. *In re Cunningham*, 513 F.3d 318, 324 (1st Cir. 2008).

II. THERE IS NOTHING UNETHICAL ABOUT CLAIMING EXEMPTIONS THE U.S. SUPREME COURT HAS ALREADY SANCTIONED

In *Schwab*, Justice Thomas laid out the formula to claim the entire asset. Where, as here, it is important to the debtor to exempt the full market value of the asset or the asset itself, our decision will encourage the debtor to declare the value of her claimed exemption in a manner that makes the scope of the exemption clear, for example, by listing the exempt value as "full fair market value (FMV)" or "100% of FMV." *Schwab*, 560 U.S. at 792–93 (2010). This approach is in accordance with long established 9th Circuit Law. In *In re Smith*, 235 F.3d 472 (9th Cir. 2000) this court said:

> It is widely accepted that property deemed exempt from a debtor's bankruptcy estate revests in the debtor. *See* 11 U.S.C. § 522(l); *See* also *In re Brown*, 178 B.R. 722, 726-27 (Bankr. E.D. Tell. 1995) (citing cases to that effect), *Owen*, 500 U.S. 305, 308 (1991) (when property becomes exempt, it is

> "withdrawn from the estate (and hence from the creditors) for the benefit of the debtor"); *In re Bell*, 225 F.3d at 215-216 (collecting cases).

Smith cited with approval *In re Bell*, 225 F.3d 203 (2nd Cir 2000) wherein the court held at 215 – 216 that property of the debtor acquired by the debtor post-petition is not property of the estate but is property of the debtor. Such after-acquired property includes property that exits the estate and revests in the debtor through the exemption process. *Bell*, 225 F.3d at 215-216. As already noted, the Code provides that "[u]nless a party in interest objects [to the debtor's claim], the property claimed as exempt ...is exempt." 11 U.S.C. § 522(l) (emphasis added).

It is well-settled law that the effect of this self-executing exemption is to remove property from the estate and to vest it in the debtor. *See eg.Owen*, 500 U.S. at 308 (1991) (when property becomes exempt, it is "withdrawn from the estate (and hence from the creditors) for the benefit of the debtor"); *Redfield v. Peat, Marwick, Mitchell & Co. (In re Robertson)*, 105 B.R. 440, 446 (Bankr.N.D.Ill.1989) ("The effect of the automatic allowance of a claim of exemption due to expiration of the 30-day period is, under well-settled case law, to revest the property in the Debtor and end its status as property of the estate") (internal quotation marks and citation omitted); accord In re Halbert, 146 B.R. at

188-89 (collecting cases); *In re Brown*, 178 B.R. at 726-27 (collecting cases); *see also Turner v. Ermiger* (*In re Turner*), 724 F.2d 338, 341 (2d Cir.1983) (Friendly, J.) (where a debtor has already "reclaimed" exempted property from the estate, a dispute over such property is not sufficiently "related to" the bankruptcy case to sustain federal jurisdiction under the identical predecessor to 28 U.S.C. § 1334(b)); *Cf.*11 U.S.C. § 1123(c) (in Chapter 11, if the debtor does not propose a reorganization plan and the court approves a plan proposed by a creditor, such plan may not provide for the "use, sale, or lease" of exempted property unless the debtor consents). Quite simply, property that is exempted belongs to the debtor.

This is also the holding of the 6th Cir. BAP in *In re Anderson*, 377 B.R. 865 (6th Cir BAP 2007). *Anderson* dealt property claimed under the federal exemptions.

> Failure to timely object will leave the trustee without recourse if the court later determines that the debtor intended to exempt the property in full, even if such a ruling results in an exemption greater than the statutory limits. *Mullis v. Ag Georgia Farm Credit, ACA (In re Jones)*, 357 B.R. 888, 897 (Bankr.M.D.Ga. 2005).

Thus, *Taylor* affirmed a Third Circuit case, the Second, Third, Eighth, Eleventh. and the Supreme Court have all ruled that under the Bankruptcy Code,

property is withdrawn from administration by the Trustee upon the expiration of the time to object to exemptions.

III. ALLOWING THE TRUSTEE TO PLAY REAL ESTATE SPECULATOR WITH THE DEBTOR'S PROPERTY IS BAD PUBLIC POLICY

When the rules were promulgated, the drafters opted for a short time period for an objection to exemptions. Clearly it is the intent of the code and the rules that the issue of exemptions be resolved early on in a case. As the Department of Justice said, delays are bad for the system. Delays while the debtor does not know what is happening to their house present additional problems that do not support the fresh start policy of bankruptcy. *Infra.*

CONCLUSION

For the foregoing reasons, NWCLC respectfully requests that the Court accept their accompanying *amicus* brief supporting Appellee and affirm the ruling of the Ninth Circuit B.A.P.

DATED this 18th day of July 2023.

Respectfully submitted,

s/ Christina L. Henry
Christina L. Henry
Henry & DeGraaff, P.S.
119 1st Ave S, Ste 500
Seattle, WA 98104
(206) 330-0595
Email: chenry@hdm-legal.com
Attorney for Northwest Consumer Law Center

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 8. Certificate of Compliance for Briefs

9th Cir. Case Number(s) 22-60050

I am the attorney or self-represented party.

This brief contains 3608 words, including zero (0) words manually counted in any visual images, and excluding the items exempted by FRAP 32(f). The brief's type size and typeface comply with FRAP 32(a)(5) and (6).

I certify that this brief *(select only one)*:

[ ] complies with the word limit of Cir. R. 32-1.

[ ] is a cross-appeal brief and complies with the word limit of Cir. R. 28.1-1.

[X] is an amicus brief and complies with the word limit of FRAP 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).

[ ] is for a death penalty case and complies with the word limit of Cir. R. 32-4.

[ ] complies with the longer length limit permitted by Cir. R. 32-2(b) because *(select only one)*:

[ ] it is a joint brief submitted by separately represented parties.

[ ] a party or parties are filing a single brief in response to multiple briefs.

[ ] a party or parties are filing a single brief in response to a longer joint brief.

[ ] complies with the length limit designated by court order dated_____.

[ ] is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature */s/ Christina L. Henry* Dated July 18, 2023

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on July 18, 2023. All participants that are registered as CM/ECF users will receive service via appellate CM/ECF system.

s/ Christina L. Henry
Christina L. Henry
Attorney for Amici Curiae