No. _____

In the Supreme Court of the United States

ALICE A. HOWELL,
PETITIONER

v.

NUCAR CONNECTION, INC., ET AL.,
RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR CERTIORARI

Alice A. Howell, pro se
and in forma pauperis,
(pursuant to Order of Nov. 2, 2015, case 15-6027, directing a clerk not to accept further petitions from my husband, Burl A. Howell, unless he pays the docketing fee of Rule 38(a) and submits petition in compliance with Rule 33.1. See Court's order[1]*)*
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[1] The order arose from an attempt to seek review of denial of summary judgment sought by husband for benefits ultimately granted by intervention of Honorable U.S. Senator Richard Burr.

QUESTION PRESENTED

Where the circuit court stated, "[w]e grant Appellants leave to proceed in forma pauperis and deny their other pending motions[,]" Petition Appendix (Pet. App.) A at page 2, after bankruptcy court stated, "[t]he court cannot justify waiving the Appeal Fee when the Debtors possess such significant equity in the fully exempt Property[,] Pet. App. C at page 7, further stating in footnote 7 that "[t]he Debtors' schedules and court record indicate that most, if not all, judgments are against only one of the Debtors and would not have attached to the tenants by the entireties Property[,]" where thereafter district court affirmed bankruptcy court by stating "[b]ut for the sake of finality, this Court adopts the bankruptcy court's own reasoned explanation as to its jurisdiction over the question[,]" Pet. App. B at page 4, and where "[t]he [bankruptcy] court has made no adjudication regarding attachment of judicial liens on the property, but it appears likely that this tenancy by the entirety asset is unencumbered, giving the Debtors a potential to borrow against their interest[,]" Pet. App. C at page 7: is finality lacking in the order appended as Pet. App. C denying *in forma pauperis* status such that it must be vacated given the bankruptcy court erred and district court affirmed the error instead of denying or granting the motion captioned for it rather than a court not defined by 28 U.S.C. § 451 to be one of the "courts of the United States" for determining status needed to bring a motion on appeal for finally adjudicating the issue of attachment of judicial liens on the property of Petitioner that was not adjudicated by bankruptcy or district courts for reasons stated by the bankruptcy court and therefore not adjudicated by one of the "courts of the United States" and not at all by an Article III court that is authorized by said statute to finally decide matters of the court's jurisdiction over attachment of liens on grounds relating to statute of limitations when "[t]he Debtors' complaints against NuCar relate to a levy of funds from the Debtors' bank account in 2005[]"? Paragraph 14 Case 17-01613-5-DMW Doc. 121 Filed 10/27/17 14:05:02 Page 5 of 6.

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OPINIONS BELOW

The unpublished *per curiam* opinion and judgment of Fourth Circuit Court of Appeals of the United States (Fourth Circuit) was filed on Sept. 6, 2018 (Petition Appendix (Pet. App.) A at pages 1-2). The Order of the United States District Court for Eastern District of North Carolina affirming denial of appeal and all appellate motions was filed on April 9, 2018 (Pet. App. C at pages 1-6). The Order of the United States Bankruptcy Court for the said district denying *in forma pauperis* and appointment of counsel was filed Nov. 22, 2017 (Pet. App. C at pages 1-11).

JURISDICTION

The judgment of the court of appeals was entered on Sept. 6, 2018. This petition for a writ of certiorari was submitted on Sept. 23, 2018 within 90 days of unpublished *per curiam* opinion denying relief to the Petitioner. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT OF THE CASE

For the sake of argument, background as set forth by Judge David M. Warren will suffice, Pet. App. C at pages 2-4, with the exception of clarifying that the judge entered three (3) orders (Bankruptcy (Bkr.) Docket Entry (DE)-112, 121 & 135) as a result of two hearings requested by Debtors on motion for sanctions against NuCar Connection, Inc. (NuCar), Ally Financial (Ally) and State of Delaware (Delaware): (1) lifting the automatic stay, that was done without notice or motion served by Ally on Debtors as required by Bankruptcy Rule 9014, Bkr. DE-112, and (2) denying sanctions, Bkr. DE-121, and (3) for *in forma pauperis* status and appointment of counsel, Bkr, DE-135. *See* District Court Docket Entry (DE)-18 at pages 16-34. Debtors paid the filing fee of $335.00 on 4/3/2017 for commencing a bankruptcy proceeding in Chapter 7 as reflected by receipt number 00059726 noted in the docket the same date. A statement of intention with respect to the vehicle was filed on 4/6/2017 surrendering the vehicle and not exempting it on Schedule C. *See* Bkr. DE-19. By an amended statement dated 5/3/2017 and filed May 5, 2017 the debtors elected to retain the vehicle and exempted it on Schedule C as is permitted under 11 U.S.C. §§ 521(b)(2) and 362(h)(1)(b). A motion for redemption was filed for Debtor at Bkr. DE-41 and Ally filed an objection to motion for redemption at Bkr. DE-54 to which was attached the purported contract and title to vehicle in husband's name only. *See id.* A reply to Ally's objection to motion for redemption was filed by Debtors at Bkr. DE-58 denying an enforceable contract due to breach of its material terms. *See id.* An instant message on Mr. Howell's iphone4™ indicated that the purported contract's signing was at the time of delivery and requested by Steven C. Waynick of T.M. Air, LLC, not of Kernersville Chrysler, D/J, LLC, Bkr. DE-54 (attachment of purported contract), who sought the husband's signature for delivery of the vehicle, *see* DE-18 at 90, and purported to contract with the husband but drove away with the all copies of the purported contract

that were admittedly "lost in the mail," DE-18 at 86, according to the instant message. *Id.* This constituted a breach of the material terms of the contract which was further confused by Ally's assertions giving rise to Petitioner's standing to object concerning allegations of shared liability for the debt. *See* Bkr. DE-58. Petitioner in no way at any time obligated herself by signing a contract for the purchase of the vehicle. *See* DE-18 at page 17, ¶3. A hearing on the motion to redeem was held 6/22/2017 and an order filed at Bkr. DE-64 was entered by the judge denying redemption, finding on page 3/¶7 of the order that, "Ally further suggests that if the Contract is indeed invalid as alleged by the Debtors, then the Debtors do not have an interest in the Vehicle that can be redeemed under 11 U.S.C. § 722." Redemption was denied because no property interest was created by a document merely purporting to be a contract, but before Ally could compel the vehicle by order of court (Bkr. DE-157) the case shows loss of jurisdiction caused by an Article I court denying *in forma pauperis* status for appeal. *In re Tevis*, No. 2:13-mc-0082 (E.D. Cal. Aug. 7, 2013). Although Petitioner was denied *in forma pauperis*, afterward the Fourth Circuit granted such leave. *See* Pet. App. A at page 2. No reason was given for granting *in forma pauperis* status so one does not know whether the decision conflicts or not with the reasons given by the bankruptcy court for denying such status. *See id.* In this view of the case, the bankruptcy court lacked authority to deny such status, not because it had the right to do so and made the wrong decision, but more likely because bankruptcy courts are Article I courts and not Article III courts, or "courts of the united states," 28 U.S.C. § 451, that are the only courts empowered to adjudicate *in forma pauperis* and appointment of counsel issues under Title 28. *See id.* In other words, the bankruptcy court usurped the jurisdiction of courts defined as "courts of the United States" when it denied *in forma pauperis* status under 28 U.S.C. § 1915(a), and lost jurisdiction as well by denying appointment of counsel under 28 U.S.C. § 1915(e), for a decision on any

motion after such denial which might have otherwise determined whether the bankruptcy court was correct when"[t]he court has made no adjudication regarding attachment of judicial liens on the property, but it appears likely that this tenancy by the entirety asset is unencumbered, giving the Debtors a potential to borrow against their interest." Pet. App. C at page 7. As an additional consequence of the resulting loss of jurisdiction, there was no jurisdiction to order a hearing on Ally's motion to compel, especially after all parties failed to object to exemptions which re-vests right to property or its value in such party. *See* Pet. App. C at page 7; *and* Pet. App. C at page 2.

Although Bradley D. Piner (Piner), attorney for NuCar in North Carolina, filed a record of joint judgment of 2004 against Petitioner for NuCar he also filed what was depicted as a final judgment, Bkr. DE-13, rendering Mr. Howell a nonparty to the judgment of 2004 that Piner sought to enforce in 2016. *See* Pet. App. C at n.7. The sworn affidavit Piner filed in 2016 in 16CVD1704 (Wayne County, NC), to commence the domestication of the Delaware judgment of 2004, clearly violating the applicable North Carolina statute of limitations, N.C.G.S. § 1-47 (2014) (10 years), showed Piner commenced the action against Petitioner for NuCar despite applicable limitations on time by affidavit which omitted information he was required by statute to report about the levy on bank accounts in Pennsylvania in May of 2005 against Petitioner, the filing of which places a statutory lien on the property owned by Petitioner. *See* N.C.G.S. § 1-289; *and* Pet App. C at n.7; *see also* DE-18 at pages 137-143. The judgment for Mr. Howell against NuCar that was entered by Court of Common Pleas of New Castle County Delaware, Judge Welch, on July 8, 2005 after the levy in Pennsylvania a month earlier. *See* Pet. App. C at page 7. The default judgment that was dismissed against Mr. Howell by Judge Welch in 2005, and which was found to be against only Mrs. Howell in 2017, Pet. App. C at page 3/¶5, was barred by the said statute of limitations, but creates a lien by the mere filing of an affidavit by attorney. N.C.G.S. § 1-289. So, its validity

or not does not seem to matter where attachment has occurred by state statute even though the action is required to stop and not reach conclusion on the filing of a petition in bankruptcy, 11 U.S.C. § 362(a), and is enjoined from ever starting again by injunction against creditor. *See* 11 U.S.C. § 524(a)(2). However, Piner's dishonesty in the filing of the affidavit to begin a case for NuCar that was thought to attach all of Debtors' property by statute, N.C.G.S. § 1-289, occurred by omitting in the affidavit that NuCar had already levied against all their bank accounts in Pennsylvania, where he was required to be honest by the law of North Carolina in commencing a case for enforcement of a foreign judgment. *See* N.C.G.S. § 1C-1703(a); *and* DE-18 at 44-45. It is true, that Petitioner waited a long time to move for sanctions for nonreturn of the money and might not ever have done so but for Piner's commencement of the action deceptively and untimely in North Carolina. *See* Bkr. DE-121 at 3/¶5. Without fear of sanction, Piner reached back to commence domestication for NuCar without honest affidavit when there was no enforceable judgment order against Petitioner and where Mr. Howell's dismissal from the action in Delaware against NuCar was the only judgment entered in the Delaware case that was "final." Bkr. DE-13. This is a rare opportunity where the case is so complicated that Petitioner needs assistance from counsel for lien removal and return of the money and damages for money taken from her by NuCar or $5,445.96. DE-18 at 140 (Schedule C at page 4 of 7). Where *res judicata* or *estoppel* applies to bankruptcy cases precluding Petitioner from seeking relief, bankruptcy court erred in not granting Petitioner's sanctions motion against Piner and NuCar who appeared at the hearing.

Fourth Circuit's statement in Pet. App. A at page 2 that Appellants are granted *in forma pauperis* status, is contrary to the order of bankruptcy court and affirmance of district court, Pet. App. C at page 7, thus, it reasonably follows that since Appellants' lack of funds is the reason they did not bring an adversarial proceeding against any creditors, Petitioner should be granted *in*

forma pauperis and appointment of counsel for return of property by motion on appeal, e.g., for return of the value compelled without authority by Ally; money from bank accounts levied in 2005 by NuCar on judgment of 2004 where husband did not owe the debt which was barred by statute limitations in North Carolina, but which Piner filed for Nucar in Wayne County in 2016; and restitution compelled by Delaware in 2001 by order of 1999 without notice of the change in the payee from the judgment entered in 1994 on a guilty plea to the estate of Kenneth Daniel Howell without signatures of the heirs that Deputy Attorney General, Stacy Bonvetti, said in a letter to the heirs would be cause for vacation of the order. *See* DE-18 at 94 (5:17-cv-00536-BO).

REASONS FOR GRANTING THE PETITION

Debtors filed a first notice of appeal 10/23/2017. DE-1 (5:17-cv-536-BO). The clerk of bankruptcy court transmitted an *amended* notice of appeal, DE-7, entry dated Nov. 27, 2017, which was signed by Debtors on Oct. 31, 2017, listing bankruptcy docket entries (Bkr. DE)-111, 112 and 121. A second (2d) amended notice of appeal was filed within Appendix of Appellants' Opening Brief on Appeal at DE-18, p. 111-112, listing Bkr. DE-112, 121 and 135. A notice to the clerk of district court dated Dec. 21, 2017 was filed Dec. 27, 2017 in DE-22 by Debtors who believed it was mistakenly not filed with bankruptcy court and the clerk of district court needed to transmit it to bankruptcy court in conformity with Rule 8002(a)(4). The District court stated in DE-42 at 3 that "the bankruptcy court issued two orders that are appealable to this Court under 28 U.S.C. § 158(a): [1] an order denying appellants' motion for sanctions, judgment on the pleadings and entry of default [Bkr. DE 121]; and [2] an order denying their request to waive the Appeal Fee and otherwise proceed without paying fees [Bkr. DE-135]." DE-42 at 3. The order of DE-42 does not however mention any appeal from bankruptcy court order Bkr. DE-112 appealed by the

amended notice of appeal in DE-7. *See* DE-42. This was error of omission prejudicing the Debtors in favor of bankruptcy court *sua sponte* lifting the automatic stay that should have been noticed to Debtors by a motion from Ally Financial (Ally) with a reasonable opportunity to respond as required. *See* Bankruptcy Rule 4001(a); 9014(a). This prejudicially allowed Ally relief from stay with no reasonable opportunity to respond as required during the Debtors' hearing on the motion for sanctions held Oct. 20, 2017. Bkr. DE-112 at 1. Ally had already defaulted by failing to object to exemptions because "[u]nless a party objects 'within 30 days after the meeting of creditors held under § 341(a) is concluded,' Fed. R. Bankr. P. 4003(b)(1), 'the property claimed as exempt . . . *is exempt*.' 11 U.S.C. § 522(l) (emphasis added); *see Taylor v. Freeland & Kronz*, 503 U.S. 638, 642 (1992). Exempted property is not property of the bankruptcy estate, and therefore it is not available to satisfy the debtor's obligations. *In re Bunker*, 312 F.3d at 151; *see also* 11 U.S.C. § 522(c) (absent special circumstances, exempted property 'is not liable during or after the case for any debt of the debtor that arose . . . before the commencement of the case'). Rather, '[i]t is widely accepted that property deemed exempt from a debtor's bankruptcy estate *revests in the debtor*.' *In re Smith*, 235 F.3d 472, 478 (9th Cir. 2000) (emphasis added); *see Owen v. Owen*, 500 U.S. 305, 308 (1991) (noting that an exempted interest in property is 'withdrawn from the estate (and hence from the creditors) for the benefit of the debtor')." *Bellinger v. Buckley*, Civil No. JKB-17-0068, 5-6 (D. Md. Aug. 29, 2017). To be sure, "no objections were filed timely." Bkr. DE-135 at 7. The bankruptcy court stated in Bkr. DE-135 at 2 that "[t]he deadline for filing objections to the Debtors' discharge or to the dischargeability of certain debts was September 19, 2017, and this date passed without any party in interest initiating an adversary proceeding to make such objection." *Id.* Further, "[t]here is no reason why property that has left the estate by virtue of being exempted by the operation 11 U.S.C. § 522(l) should be treated differently from property that has

left the estate by virtue of confirmation of [a] plan under 11 U.S.C. § 1141(b). Both are now the property of the debtor, form no part of the bankruptcy estate, and are *beyond the jurisdiction of the bankruptcy court*." *In re Bell*, 225 F.3d 203, 216 (2d Cir. 2000) (emphasis added). Standing of Petitioner to challenge the loss of jurisdiction arises from a statement of factual and procedural background in paragraph 2 on page 2 of Ally's informal response brief in No. 18-1420 that, "[b]y these motions, the Appellant asserted claims against Ally relating to its financing of the Appellants' 2015 Jeep Compass (the "Vehicle"), against NuCar Connection, Inc. ("NuCar") with respect to its efforts to collect on a judgment against one or both of the Appellants, and against the State of Delaware with respect to an order of restitution outstanding in Delaware against Mr. Howell." In view of the order issued by the Third Circuit *habeas corpus* appeal in No. 08-4053, *Howell v. State of Delaware*, from Civil No. 08-cv-00432 in District of Delaware, Delaware is absolutely precluded from claiming anything but Mr. Howell "is no longer subject to the terms of his probation, nor is his conduct subject to the supervision of probation authorities." DE-18 at 92 (5:17-cv-00536-BO). Given the holding in *Kelly v. Robinson*, 479 U.S. 36, 43-53 (1986), that "Section 523(a)(7) preserves from discharge in Chapter 7 any condition a state criminal court imposes as part of a criminal sentence[,]" Howell "is no longer subject to the terms of his probation, nor is his conduct subject to the supervision of probation authorities[,]" No. 18-1420, DE-9 at 5, so any restitution as a condition of probation he is no longer subject to and not objected to by Delaware is dischargeable. *See Kelly, id.* It appears that B.R.7001(6) requires "a proceeding to determine the dischargeability of a debt," and husband who was entitled to proceed on appeal *in forma pauperis* against the State of Delaware must bring it or waive an opportunity for objecting to liability for a debt shown to be contrary to Delaware Deputy Attorney General Stacy Bonvetti's letter in which she confided to administratrixes of the Estate that the restitution order

would be subject to vacation if properly challenged by counsel in bankruptcy court akin to procedure announced in Bkr. DE-121 at 5. Piner, who represented NuCar, was "at the hearing," Bkr. DE-121 at page 6, and filed a response to the motion for sanctions admitting by tacit acquiescence the amount ($5,445.96) levied from bank accounts by NuCar, DE-18 at 44-45, even though '[i]t is widely accepted that property deemed exempt from a debtor's bankruptcy estate *revests in the debtor*.' *In re Smith*, 235 F.3d 472, 478 (9th Cir. 2000) (emphasis added). Petitioner or Debtor 2 makes the case that NuCar should give back the money it levied since she can establish with the contract that Wilmington Trust stamped "PAID" on it meaning it was satisfied in accord with the terms thereof and that the default judgment that was used to commence the case in North Carolina was not legally valid after Debtor 1's dismissal. *See* Bkr. DE-13. As the bankruptcy court said, "[t]he Debtors' complaints against NuCar relate to a levy of funds from the Debtors' bank account in 2005. The Debtors contend that the notice of levy was not properly served and that through the levy and other pre-petition proceedings, NuCar's collection efforts are continuous and ongoing." Bkr. DE-121 at 5-6. Section 362 of the Bankruptcy Code is an 'automatic stay' provision. It provides in substance that the filing of a bankruptcy petition activates an automatic stay. That applies to the commencement or 'continuation' of most judicial actions or proceedings against the Petitioner to obtain possession of property of the estate. 11 U.S.C. § 362(a)(1), (3). Commencement in North Carolina in violation of the said statute of limitations constitutes action against the debtors within the purview of this law. N.C.G.S. § 1-234. Its attempt to encumber with a foreign judgment even though it has stopped or is barred comes within the statutory sweep and is banned unless the automatic stay is lifted, *see id.* § 362(d). Thus no person or entity has a choate power to foreclose on Debtors' property belonging to a bankrupt's estate so long as the automatic stay is in place. *See Sunshine Development, Inc. v. F.D.I.C.*, 33 F.3d 106, 113 (1st Cir. 1994).

NuCar has admitted to seizing bank accounts in 2005. DE-18 at 44. Records don't lie about a notice of seizure to a home where Debtors did not reside. DE-18 at 67. It is a willful violation of the automatic stay when creditor keeps money levied-on with no effort to return it and "creditor's 'good faith' belief that he is not violating the automatic stay provision is not determinative of willfulness...." *In re Landsdale Family Rests., Inc.*, 977 F.2d 826, 829 (3d Cir. 1992). NuCar has not returned the money levied on despite the judgment against NuCar in Delaware. Bkr. DE-13. Nor has it returned the money taken from bank accounts from Petitioner contrary to *dicta* by Justice Scallia in *Citizens Bank of Maryland v. Strumpf*, 516 U.S. 16, 21 (1995) (Respondent argued that the petitioner "took something from respondent, or exercised dominion over property that belonged to respondent," as did Petitioner against NuCar. "That view of things might be arguable if a bank account consisted of money belonging to the depositor and held by the bank[,]" as it was. This directly supports the theory of Petitioner that NuCar must return the money it seized from the bank accounts in Pennsylvania a month before the dismissal of the default judgment against Mr. Howell that was "final" in as much as it was what the dismissal was called by the Delaware Judge, Welch, who wrote the "final order," Bkr. DE-13, and a State judge in North Carolina did not have a chance to redetermine the issue on the affidavit of Piner which deceptively and dishonestly did not mention a previous seizure of that money (i.e., $5,445.96) that was taken by attorneys for NuCar. Either the seizure in 2005 demonstrated that the default judgment was final in 2004 and statute of limitations in North Carolina barred the 2016 action for domestication, or Mr. Howell's dismissal a month later invalidated the seizure in Pennsylvania altogether where there is no separate judgment in support of Piner's statement by affidavit that final judgment was not entered in Delaware until 2009 which he attempted to prove by unsupported inference without introducing a separate judgment to prove it on commencing the

domestication action. In this view, action by Piner for NuCar was barred by husband's judgment against NuCar as the bankruptcy court found, Bkr. DE-121 at page 3/¶5; DE-18 at page 20, ¶5; *see* DE-18 at page 30 n.7, but was brought again by NuCar through Piner in hopes of a different result after husband's dismissal, or constituted a retaliatory action by disgruntled lawyer[s] (Shachtman, Simon and Piner) for NuCar after being beaten by husband *pro se* who is a "Veteran 100% SC for paranoid schizophrenic" by judgment. *See* Judgment attached to DE-41 for Howell's Involuntary Commitment, Description of Findings at page 5). Bankruptcy law allows the trustee and the debtors to bring motions to compel third parties in possession of property of the estate to turn that property over. *See* 11 U.S.C. § 542; *see also* 11 U.S.C. §§ 541; 704(a)(1). The bankruptcy court cited no authority for requiring otherwise in the order. *See* Bkr. DE-121 at page 3/¶7. Lastly, the bankruptcy court "granted the Debtors a discharge pursuant to 11 U.S.C. § 727 on April 19, 2018. On April 20, 2018, the court entered a Final Decree, and the case was closed." No. 18-1420, see Order attached to DE-20 at 3/¶8. If, however, Petitioner is correct that resort to bankruptcy court for a stay was impracticable because a court found they have equity in their home that may allow them to bring an adversarial action with appeal if necessary, this ruling is overruled by the granting of *in forma pauperis* status to Petitioner, Pet. App. A at page 2, and reversal and remand after vacation of that order, Bkr. DE-135, should be required where the bankruptcy court that made the order was Article I court which can only questionably, until authoritatively settled by this Court, grant *in forma pauperis* as a "court of the united states" as defined by 28 U.S.C. § 451. *See* https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4718&context=ndlr by Angelo G. Labate - 2017, at 1823 and fn. 61. Given bankruptcy court made the order, Bkr. DE-135, district court's affirmance in DE-42 is, according to 9th, 10th and 11th circuit courts, "unconstitutional usurpation of Article III judicial power" satisfying Bankruptcy Rule 9024 for vacating an order.

Labate, at fn. 73. All orders relating to property of Debtors including Bkr. D.E.-112, 121, 135 which block *in forma pauperis* status by finding bad faith and suggesting that home equity may be used by tenants in the entirety individually to encumber it contrary to generally accepted holding on a tenancy by the entireties, that one tenant cannot encumber an entireties property, D.E. 42, are "void." *In re Grimes,* No. 15-06465-5-DMW, 2016 WL 3356288 *6 (Bankr. E.D.N.C. 2016) ("No judgment can be obtained, either by consent, default, or verdict, unless a financial obligation exists to support the judgment. Without a debt, which is voided by the bankruptcy discharge, the judgment does not exist. Without a judgment, no lien can be created."); *In re Tevis*, No. 2:13-mc-0082 (E.D. Cal. Aug. 7, 2013) (bankruptcy court, an Article I court, may not make decision on *in forma pauperis* status). Relief is due for said reasons. 11 U.S.C. § 350(b); *and Wendt v. Leonard*, 431 F.3d 410 (4th Cir. 2005) (no arguable basis for denial in view of statute of limitations.). In this unusual procedural posture, NuCar, Ally and Delaware thus waived any right they may have had to enforcement here, and the court lacked procedural and subject matter jurisdiction to grant the order for aid of enforcement that now must be vacated. F.R.B.P. 9024; *In re Ginn*, 179 B.R. 349, 351 (Bankr. S.D. Ga. 1995) ("This language clearly supports a finding that the time requirement of FRBP 4007(c) is jurisdictional in nature, and that I may not grant a late filed motion to extend or permit a late filed complaint."). *Taylor, supra,* is not subject to equitable exception and clearly precludes judicial inquiry after creditor's default. *See Taylor, supra,* at 642-643; F.R.B.P. 4003; *and* Committee Notes on Rules—2000 Amendment (the procedural rule has been "construed to deprive a bankruptcy court of jurisdiction"); *In re Laurain*, 113 F.3d 595 (6th Cir. 1997); *Matter of Stoulig*, 45 F.3d 957 (5th Cir. 1995); *In re Brayshaw*, 912 F.2d 1255 (10th Cir. 1990); *also*, *In re Ginn*, at 352 ("As FRBP 4004(b) and 4007(c) are virtually identical in their requirements (see footnotes 1

and 2, supra), a jurisdictional bar is implied with regard to FRBP 4007(c) under [In re] Coggin[, 30 F.3d 1443, 1450, 1451 (11th Cir. 1994)]. I find no reason to distinguish these two Rules consequently, I find that both raise a jurisdictional bar of timeliness[7]." And "[b]ecause the complaint was filed after the January 7, 1994 deadline [or here, not at all despite the extension to Sept. 19, 2017] for filing nondischargeability complaints, this court lacks subject matter jurisdiction to entertain a complaint and consequently it must be dismissed [were one to be filed]." Therefore, any creditor's complaint filed now would be properly dismissed for lack of subject matter jurisdiction.). Since the orders are void for lack of procedural or subject matter jurisdiction (1) where bankruptcy court is not a court of the United States, (2) property is exempt under *Taylor*, and (3) there is no underlying obligation for any debt raised, the district court misconstrued the motion that was not captioned for it in order (DE-49) as based on a rule 59 motion that has a 28 day window, and should have construed it as one that goes to the jurisdiction of the district court, which is timely, if made within a reasonable time, or within 1 year from date of judgment attacked.

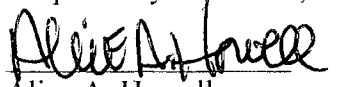
WHEREFORE, may this petition for further review on a threshold jurisdictional question now before this Court be granted. *See, e.g., Arbaugh* v. *Y & H Corp.*, 546 U.S. 500, 506 (2006); *Arizona v. California*, 530 U.S. 392, 412 (2000); *with* Schedule D (Filed 5/5/2017), part 1, page 2 ("16-cvd-1704 (Dist. Ct. Div. Wayne Co. NC) From DE 2002-08-521 time barred GS1-47") (If a court is on notice that another court has previously decided the issue presented in Schedule C, filed 5/5/2017, page 4 of 7, a court may dismiss the action *sua sponte* but is required to dismiss it where the affirmative defense has been raised. "This result is fully consistent with the polices underlying res judicata: it is not based solely on the defendant's interest in avoiding the burdens of twice defending a suit, but is also based on the avoidance of unnecessary judicial waste." *United States* v. *Sioux Nation*, 448 U.S. 371, 432 (1980); *and Allan v. McCurry*, 317 U.S. 287, 302 (1942)

("This Court, of course, is the final arbiter when the question is raised as to what is a permissible limitation on the full faith and credit clause." (citation omitted)). This oddly recurring question, why, litigants in the Fourth Circuit should be treated differently than those of the 9th, 10th, and 11th Circuits when they feel they are entitled to proceed *in forma pauperis* and need an Article III court that has the status required to authoritatively act pursuant to 28 U.S.C. § 1915 needs to be settled. Exemptions have "finality," *Taylor, supra, id.*, and bar the trustee and creditors who defaulted in filing objection to them from continuing to violate the property rights of Petitioner which are now doubly protected by Due Process and Equal Protection. U.S. Const., Amend. V. Concealing the State's records in this way by not giving due effect to them is tantamount to fraud when it misrepresents the status of the issues on federal appeal, is reasonably calculated to deceive a court, intended to deceive which is inferable from the circumstances, did in fact deceive the court and damaged Petitioner who must now file a petition for writ of *certiorari* to have the violation remedied by judgment of the United States Supreme Court because relief is not otherwise available to Petitioner. Because *ex parte* communications intended to obstruct justice is a crime, shouldn't a person who commits it be sanctioned for filing a claim beyond statute of limitations?

CONCLUSION

Petitioner respectfully prays a writ of *certiorari* be granted.

Respectfully submitted,



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Dated: 09/17/2018