

In the
Supreme Court of the United States

DUSTIN JADE WELLS,

Petitioner,

v.

KATHLEEN MCCALLISTER,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

MOTION FOR LEAVE TO FILE
BRIEF OF AMICUS CURIAE
CENTRAL DISTRICT CONSUMER
BANKRUPTCY ATTORNEYS ASSOCIATION
IN SUPPORT OF PETITIONER

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**MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF**

Under Supreme Court Rule 37.2(b), the Central District Consumer Bankruptcy Attorneys Association (“CDCBAA”) respectfully moves for an Order from the Court granting it leave to file the accompanying brief as amicus curiae in support of the Petitioner. The consent of counsel for Petitioner, Dustin Wells, has been obtained via electronic mail, but the consent of counsel for Respondent Kathleen McAllister was withheld via electronic mail dated June 14, 2022.

The CDCBAA is a non-profit organization in the Central District of California that works to educate the bankruptcy bar and the community at large on the uses and misuses of the consumer bankruptcy process. The organization consists of approximately 220 members and does this largely through eight programs held each year which are free to CDCBAA members.

In the amicus brief filed concurrently with this Motion, the CDCBAA brings to the Court’s attention the effect of the ruling in this case on those who file a bankruptcy petition expecting to keep the allowed homestead exemption in the event they lose their home in the bankruptcy process. The ruling by the Ninth Circuit puts the debtor in a position to lose his or her allowed homestead exemption, a perverse result in the words of the Ninth Circuit here.

[O]ur ruling in *In re Jacobson* has the perverse result that debtors in those jurisdictions have only a contingent homestead exemption such that, practically, they have fewer rights during bankruptcy than debtors in other jurisdic-

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tions. We see no justification in federal law, state law, or logic for that result.

McCallister v. Wells (In re Wells), No. 20-35984, slip op. at 3 (9th Cir. Dec. 3, 2021).

The Ninth Circuit Panel was bound here by the prior ruling in *Wolfe v. Jacobson (In re Jacobson)*, 676 F.3d 1193 (9th Cir. 2012). In short, the court had no choice. Under *Jacobson*, the homestead exemption must be 100% reinvested in a new home – by a person who has just filed bankruptcy – or the homestead is lost.

The goal of the CDCBAA in this brief is to give the Court some insight into realities of consumer bankruptcy filers who, if the case at hand and *Jacobson* stand, will not only lose their home but lose the homestead exemption in its entirety since it is essentially impossible to buy a new home with the proceeds within the short period proscribed.

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