original

No. 18-8465 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Paula Kunsman — PETITIONER
(Your Name)

vs.

Joel Wall — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for 11th Circuit, Atlanta, GA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Paula Kunsman
(Your Name)

20 SE 7 St.
(Address)

Pompano Beach FL 33060
(City, State, Zip Code)

954-573-3905
(Phone Number)

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IV. QUESTIONS PRESENTED:

Are Bankruptcy Judges in the Southern District dismissing too many pro se debtors' cases without cause? This is of importance to the public because courts should be open to all, not just the rich, who can afford an attorney.

Are other Bankruptcy Districts, other than Southern District, dismissing bankruptcy cases without cause and without giving debtor additional time to file an amended plan?

What legal causes can Bankruptcy Judge use to dismiss a bankruptcy case? Do Bankruptcy Judges dismiss Bankruptcy cases for **causes** listed in Bankruptcy Code 1307? Or do Judges dismiss bankruptcy cases without any legal basis?

Can a Bankruptcy Judge dismiss a Chapter 13 bankruptcy case at Confirmation hearing without cause, when the Order denying confirmation and dismissing case do not state and cause? If marital debt is dischargeable under Chapter 13 bankruptcy, how can Bankruptcy Judge dismiss Bankruptcy case without a hearing on the debt's dischargeability, when an Adversary Proceeding was filed to determine that?

Can a Bankruptcy Judge dismiss a Chapter 13 bankruptcy case without allowing debtor to convert it to a Chapter 7 bankruptcy?

Can Bankruptcy Judge strike a Proof of Claim, 2 days before Confirmation hearing, when that Proof of Claim has a Domestic Support Obligation to be paid in bankruptcy and Debtor filed Local Form 67 Stating that she was paying all Domestic Support Obligations in bankruptcy?

Does there exist a conflict between decision of different circuit/appellate courts on dismissing a bankruptcy case without cause?

Can a Bankruptcy Judge dismiss a Chapter 13 bankruptcy case without also denying a request for additional time to file an amended plan according to Bankruptcy Rule 1307(c)(5)?

Can Bankruptcy Judge dismiss case stating "for reasons argued and stated on the Record" and Judge never stated any reason in the transcript why he was dismissing case and would not take amended plan, Debtor had at hearing afte new Proof of Claim was filed w/DSO? or additional time to file plan?

Can Bankruptcy Judge dismiss case when Debtor filed an Adversary Proceeding to determine dischargeability of debt?

V. LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[x] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Chase Bank Card Services (JPM)- did not file Proof of Claim

Internal Revenue Service, priority creditor- filed Proof of Claim

J.H. Portfolio Debt Equities, LLC- did not file Proof of Claim

Langley, David-Attorney for Priority creditor Joel Wall, I filed Proof of DSO Proof of Claim for Ex-husband Joel Wall

Security Credit Services- did not file Proof of Claim

Unique National Collections- did not file Proof of Claim

Wall, Joel- Priority (DSO) and Unsecured creditor- Debtor filed Proof of DSO and Unsecured Claim for Ex-husband Joel Wall (but his attorney had it stricken on Jan 12, 2016). Debtor filed Proof of DSO and Unsecured Claim again.

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VIII. **INDEX OF APPENDICES**

Appendix A – Decision of United States Court of Appeals for 11th Circuit denying Appellant's SWORN Motion for Rehearing En Banc with quotes from transcript.(1 page) Jan 22, 2019

Appendix B – Appellant's SWORN Motion for Rehearing En Banc with quotes from transcript (18 pages).

Appendix C- Decision of United States Court of Appeals 11th Circuit Court order (8 pages) Nov 26, 2018

~~Appendix D - Appellant's District Motion to Reconsider Reinstating Bankruptcy case~~

Appendix E –Decision of United States District Court Judge Cooke's order dismissing Appeal 16-16063(3 pages) Jan 22, 2018.

Appendix F –TRANSCRIPT of Jan 14, 2016, last Confirmation hearing, proving that Judge Ray did not give any reason during the hearing for dismissing bankruptcy case. (23 pages)

Appendix G-Supplemental Motion to Vacate Dismissal based on Attached Exhibits and for following reasons. (3 pages) filed Feb 4, 2016.

Appendix H - Decision of United States Bankruptcy Court Judge Ray's order denying confirmation and dismissing bankruptcy case 15-18660, Debtor is asking this Court to review. (2 pages) Jan 15, 2016.

Appendix I-Debtor's Proof of Claim filed for Joel Wall, Ex-husband including Domestic Support Obligation (3 pages) filed Jan 15, 2016 at9:36am and previous Proof of Claim 3-2 (1 page) filed Nov 5, 2015.

Appendix J- Debtor's Certificate of Compliance and Request for Confirmation of Chapter 13 Plan-Local Form 67(1 page) filed July 8, 2015.

Appendix K – Adversary Proceeding filed by Debtor to Determine Dischargability of debts filed Jan 14, 2016 at 12:02pm, Order setting filing & Disclosure requirements for Pretrial and Trial, Summons & Notice of Pretrial/Trial in an Adversary Proceedings Doc 1-1, 2-1, and 3-1 (3 pages)

VIII. TABLE OF AUTHORITIES

VII. OPINIONS BELOW

IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

[x] For cases from federal courts:

The opinion of the United States court of appeals 11th Circuit appears at Appendix __ of petition and is

[ ] reported at https://law.justia.com/cases/federal/appellate-courts/ca11/18-10339/18-10339-2018-11-26.html; or,

[ ] has been designated for publication but is not yet reported; or, [X] is unpublished. media.ca11.uscourts.gov/opinions/unpub/files/201810339.pdf

The opinion of United States Southern District court appears at Appendix __ of petition and is

[ ] reported at ; or,

[ ] has been designated for publication but is not yet reported; or, [ ] is unpublished.

The opinion of Bankruptcy court appears at Appendix __ of petition and is

[ ] reported at; or,[ ] has been designated for publication but is not yet reported; or, [ ] is unpublished.

X. JURISDICTION

[x] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was November 26, 2018.

[ ] No petition for rehearing was timely filed in my case.

[x] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 20, 2019, and a copy of the order denying rehearing appears at Appendix B.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

Pro Se Debtor Paula Kunsman filed Chapter 13 bankruptcy case on May 12, 2015. Debtor filed Local Form 67 July 8, 2015 (Appendix J), stating DSO was paid in bankruptcy & Debtor's Schedule E shows DSO owed, filed& amended schedules in Oct 2015. At Confirmation hearing Jan14, 2016, Trustee didn't tell Judge Debtor was paying DSO in bankruptcy pursuant to Local Form 67 (Appendix J) During Confirmation Debtor told Judge she had filed amended Proof of Claim for DSO because she filed Local Form 67. Debtor's Proof of Claim filed for Joel Wall, Ex-husband including Domestic Support Obligation

(3 pages) filed Jan 15, 2016 at9:36am and previous Proof of Claim 3-2 (1 page) filed Nov 5, 2015. (Appendix I) Judge Ray denied Motion to Dismiss Bankruptcy(DE 81) at evidentiary hearing on Nov. 3 2015. Judge Ray ruled in Debtor's favor at one hr evidentiary hearing on Nov 3, 2015. There was not confirmation hearing in Nov or Dec 2015. At Jan 14, 2016 Confirmation hearing, David Langley gave Judge incorrect/incomplete information in an attempt to get bankruptcy case dismissed, but didn't state Voya account was an exempt asset, listed on Schedule C, enforced equitably divided in Debtor's name before Amendments to Final Judgement & could not be offset by a QDRO. Judge Ray didn't understand Exempt Voya Retirement account is an exempt asset & cannot be offset because Debtor could not present evidence/documents to him. Debtor filed Adversary Proceeding on Jan 14, 2016 at 12:02pm. Judge Ray could have scheduled an evidentiary hearing, use evidence,or waited for adversary proceedings pretrial conference, rather than dismissing case for Non Confirmable Plan. With other issues, court may require that evidence, in the form of testimony, documents, or affidavits be presented. Judge Ray should have scheduled an evidentiary hearing about Voya account, since there was evidence that needed to be presented by Debtor. Jan 14, 2016 at 12:02pm Debtor had filed adversary proceeding to determine dischargeability. Creditor Joel Wall didn't want to pay to proceed with

adversary proceeding, so Judge Ray dismissed debtor's bankruptcy. There was an Abuse of Discretion on part of Judge Ray in not having an evidentiary hearing with documents Debtor wanted &needed to present to Judge Ray instead of dismissing case without denying request for additional time to file another Chapter 13 plan. The Docket shows no evidence on which Judge Ray could have based his Dismissal. Debtor filed Motion stating that she "Requests an Evidentiary hearing to present these documents which she could not present at the Confirmation hearing on Jan 14, 2016".

Judge Cohen ordered that Appeal 16-60163 be reopened. Pro se Debtor filed Appeal Brief for Appeal 16-60163 on Dec. 2016. In Jan 2018 Judge Cooke dismissed Appeal (Appendix E) stating standard of review but not addressing issue that Judge Ray dismissed case immediately after he denied confirmation of Chap 13 plan. On Jan 31, 2018 Judge Cooke ordered that Pro se Debtor's Motion for Permission to Appeal in Forma Pauperis (ECF No. 39) is granted.

On Feb 5, 2018 Appellant filed with District court: Notice to Inform 11th Circuit court that appeal cannot take effect because District court Judge Cooke may rule on Appellant's Jan 22, 2018 pending motion to Vacate Dismissal of Appeal 16-60163 and Reinstate Bankruptcy case 15-18660 Appealed Bankruptcy Order: Jan 15, 2016 Judge Ray's Order Denying Confirmation and Dismissing Bankruptcy case (Appendix H).

XI. CONSTITUTIONAL AND STATUATORY PROVISIONS INVOLVED

"Confirmation hearing -(a) Except as provided in (b) & after notice, court shall hold a hearing on confirmation of plan. An objection to confirmation is predicated on failure of plan or procedures employed prior to confirmation to conform with requirements of chapter 13. Creditor's objection was not on failure of plan. Debtor should have had opportunity to amend Chapter 13 plan, pursuant to US Code §1323 Modification of plan before confirmation. (a) Debtor may modify plan at any time before confirmation, but may not modify plan so that plan as modified fails to meet requirements of section 1322 of this title. (b) After debtor files a modification, the plan as modified becomes the plan. Debtor's liquidation test is paid to priority creditors."

The following quotes are from transcript of Jan 14, 2016 Confirmation Hearing, prepared Dec 5, 2018. : Trustee Robin Weiner states on pg 4, lines 7-9 that **Debtor's 14th amended plan is confirmable**. On pg 5 lines 24-pg 7 line 15 Debtor states that deadline for Party in Interest to objection to confirmation has passed, according for Form B91. The deadline for any creditor or other party in interest to contest Court's findings shall file an objection no later than 21 days from entry of this order (Docket Entry 43-Form B91). **Debtor states that deadline to object to dischargeability has passed Sept 15, 2015.** Debtor states that no motions or objections were filed any time from my 102 page petition, which was filed on May 12, 2015 and asks Judge to enforce the deadlines. On pg 8 lines 4-12 Party in Interest states that he wants special order stating that confirming plan will not impact state court. He states Joel Wall (Ex-husband) is not creditor, who Ex-Wife owes $16593, $4076 of that is child care expenses Joel Wall (Ex-Husband is a Priority Creditor who Debtor owes in DSO of $4076. See Local Form 67 (Appendix J).

Judge Ray should not ordered on Jan 14, 2016 to strike Proof of Claim for Joel Wall at Jan 12, 2016 hearing because Debtor owed Joel Wall (Ex-husband) **Priority claim of $4076 child care expenses**. David Langley states Court had an evidentiary hearing and that Judge Ray asked him not to put

any findings of FACT on pg 8 lines 17-22. Party in Interest asks for custom order that pg17 confirmation will not impact divorce case pg 9 lines 2-16. On pg 9 line 25 –pg 10 lines 16 **Debtor explains that debt from property settlement in divorce proceedings is dischargeable under Chapter 13.** Her attorney at evidentiary hearing Nov 3, 2015. She stated she can't afford an attorney and asks court to appoint one for her. Judge Ray said no. On pg 11 lines 8-13 Debtor **states that Judge removed proof of claim, which happened on Tuesday (Jan 12, 2016) but Joel Wall is priority creditor, owed $4076.** On pg 11 lines 15-pg 12 line 9 Trustee confirms that Joel Wall is priority creditor & states that 14th amended plan is confirmable but for Schedule F. "**Scheduled D is priority, Mr. Wall is not objecting to, but he is objecting to Schedule F being amended as unsecured general.**" Trustee states that if Debtor is willing to amend Schedule F, we have confirmable plan. On pg 13 lines 25-pg14 line 3 Debtor states "**I have filed an amended Schedule F showing that Joel Wall is only owed $18,765.63.** Mr. Langley must not have copy of this. It was mailed Nov 7."

Docket Entry 119. David Langley states that Joel Wall belongs on Schedule E, not on F. Debtor explains that **some of debt is for child care expenses and some of it is a property settlement debt...dischargeable under Chapter 13 (pg 14 lines 9-18).** Party in Interest did not PROVIDE ANY EVIDENCE to Bankruptcy court. On pg 15 lines 5- Trustee Robin Weiner states "I recommend confirmation of 14th plan, subject to Schedule D,E, and F having been amended. "since Mr. Wall did not file proof of claim, I don't see why I can't recommend confirmation of 14th amended plan." David Langley states he is asking Court to confirm 14th amended plan as filed on pg 15 lines 24&25. Debtor explains that she filed that this is property settlement debt and this

debt is dischargeable in Chapter 13 and that she would like to refile proof of claim on pg 16 lines 7-12. Judge Ray states that he will deny confirmation and dismiss the case on pg 16 lines 13-15. **Debtor states that Trustee should file a proof of claim for priority debt.** Judge Ray states that Debtor has 2 choices, he can confirm the 14th amended plan or deny confirmation and dismiss the case on pg 16 lines 19-21. On pg 4, lines 4& 5 Trustee Robin Weiner who had been stating all along that the 14th Amended plan was confirmable, now checks it and states "**And now it is not confirmable**, there is are calculation errors.

Then on pg 18 lines 12&13 Judge Ray states "the 14th plan will be denied, confirmation, the case will be dismissed." On pg 18 lines 14-23 **Debtor PLEADS will Judge Ray that she could file an already prepared 15th amended plan and continue TO NEXT MONTH. She states that she needs to get time to get an attorney and does not want case dismissed.** "I have the 15th amended plan right here". Trustee asked if I filed it? Debtor states No, I was going to file it today. Trustee asks if she can review it and if it's added correctly confirm-submit an order confirming? Pg 19 line 2-16. Trustee Robin Weiner then states on pg 19 lines 18-21 "**I will not submit an order denying, your Honor.** That's going to be your decision. **So continue if it's not confirmable or if it hasn't been added correctly?**" Judge Ray states "it has to be filed". Which implies that he is not going to let Debtor file in open court 15th Amended plan that she brought with her. Trustee asks "**Can you (Judge Ray) file that (Debtor's 15th amended plan) right now?**" on pg 19 lines 22-23. **Judge Ray does not answer whether 15th amended plan can be filed in OPEN COURT.**

Debtor explains on pg 20 lines 9-13 that **property settlement debt is dischargeable in a Chapter 13 and that she has done everything properly and been very thorough.** On pg 20 lines 14-16 Judge Ray states "I will deny

confirmation of the 14th amended plan and DISMISS the CASE." Trustee Robin Weiner asks Judge Ray to draft its own dismissal order. On pg 21 lines 1-8 Debtor states "**I want to file Proof of claim, at least for the child support. Domestic Support Obligation, I'm required to pay in this bankruptcy $4076.21.** That is not getting paid in the bankruptcy if I don't file a proof of claim at least for the domestic.." Debtor explains that she needed to pay the Domestic Support Obligation of $4076 in the bankruptcy. Debtor had filed Local Form 67 which **STATES THAT DEBTOR AGREES TO PAY THE DOMESTIC SUPPORT OBLIGATION in Chapter 13 Bankruptcy**. Local Form 67 was still in effect in Chapter 13 bankruptcy case. Judge Ray states that he has already ruled... on the proof of claim. On pg 21 lines 19-21 Debtor states

"**I was under the impression that my case was not dismissable because I've done everything that was required of me.**" Judge Ray states "The plan is not confirmable." **IN THIS LINE OF TRANSCRIPT JUDGE RAY ADMITS THAT HE IS DISMISSING MY BANKRUPTCY CASE BECAUSE OF A NON CONFIRMABLE PLAN**. On pg 21 lines 23-4 Debtor asks "The 15th amended plan is not confirmable? Trustee states "It's not filed." **BUT EARLIER IN THE HEARING TRUSTEE ASKS JUDGE RAY TO FILE THE 15th AMENDED PLAN IN OPEN COURT AND JUDGE RAY DOES NOT ANSWER ABOUT FILING IT IN OPEN COURT.** When Judge Ray states "Confirmation is denied and case is dismissed", he is not following U.S. 11 Code 1307. The debtor had an amended plan and asked if she could file it in open court, but Judge Ray did not answer her. Judge Ray dismissed case without giving Debtor opportunity to file a request for additional time to file a new plan.

Property Settlement debt owed to Ex-husband Joel Wall is dischargeable in Chap 13 Bankruptcy. Property Settlement and Other (non-support debt) can be discharged in a completed Chapter 13 case. Debtor claimed Voya 457

Deferred Compensation Plan account awarded in Magistrate's Report Final Judgment on Schedule B &claimed as exempt property on Schedule C. Debtor filed Claim against Seizure of Exempt Property, listing all Retirements accounts, including Voya account. At August 2015 hearing Trustee Joanna told Judge Ray 2 **times that Voya Retirement account was an exempt asset.** Bankruptcy case 15-18660 should not have been dismissed because Debtor filed Adversary Proceeding on Jan 12, 2016 to determine dischargeability of debt owed to Joel Wall. Pre Trial Conference hearing on March 8, 2016, scheduled 2 days before Judge Ray dismissed bankruptcy case. Debtor lacked ability to pay for an attorney.

Appellant cites: In re *Okrepka, No. 13-21559, 2015 WL 1014906 (Bankr. D. Kan. Mar. 4, 2015)* Creditor/ex-husband's objection to confirmation of debtor/ex-wife's chapter 13 plan & debtor's objection to secured claim filed by ex-husband's claim. Underlying divorce decree provided for an "equalization payment" of $55,000 to be made by Ex-wife to Husband within earlier of 90 days of ex-wife's graduation from college or 12 months. Ex-wife filed her chapter 13 petition during state court proceedings resulting from her failure to make "equalization payment" which filing stayed those proceedings. Court held that "equalization payment" was a debt that arose in course of parties' divorce, & that it was part of a property division settlement that was dischargeable under 11 US Code 523(a)(15) &not a "domestic support obligation"that was non-dischargeable under 11 US Code 523(a)(5).

Appellant claimed her ½ of Voya account as exempt asset because it was put in her name on Mar 26, 2015. Appellant can discharge money owed in bankruptcy &cites this Bankruptcy case *12-1130 Laurel M. Isiscoff Southern District of Fl. Doc 37 3/4/13* is Order Denying Plaintiff's Motion for summary judgment &Granting Defendant's summary judgment. Appellant cites: *Patterson v. Shumate, 112 S. Ct. 2242, 1992.* (Courts determine divorce order impresses a constructive trust against Retirement asset or that asset belongs to nonfiling spouse as of time of entry of divorce order.)

The Court found that denial of plan confirmation, however, does not significantly change the status quo. The debtor remains free to propose another plan, trustee continues to collect funds from debtor in anticipation of a future distribution& automatic stay remains in place. "'Final' does not describe this state of affairs." In addition, Court examined statutory definition of "core proceedings" in bankruptcy context &found that it specifically includes plan confirmation, but does not mention denial of plan

confirmation. Court found that, while not dispositive, this indicates Congress agrees with **Blue Hills' conception of term "proceeding", for plan confirmation purposes, as encompassing the larger confirmation process &not ruling on each specific plan.**

Denial of confirmation with leave to amend, by contrast,changes little. The automatic stay persists. The parties' rights and obligations remain unsettled. The trustee continues to collect funds from debtor in anticipation of a different plan's eventual confirmation. The possibility of discharge lives on. "Final" does not describe this state of affairs. An order denying confirmation does rule out specific arrangement of relief embodied in a particular plan. But that alone does not make denial final.

Pro Se Debtor filed Notice of Appeal Jan 27, 2016 for Judge Ray's Jan 15, 2016 Order Denying Confirmation of 14th amended Plan and Dismissing Bankruptcy Case(Appendix H). Judge Ray did not hear pending motions Feb 11, 2016. He dismissed Appeal 16-60163 because Debtor had not filed designation within 14 days of Notice of Appeal. Appeal 16-60354 and 16-60355 were filed by Debtor Feb 2016. Judge Ray did not give Debtor proper Notice of Hearing May 19, 2016, Debtor tried to tell Judge Ray that only DE 217 & DE218 were scheduled to be heard on May 19, 2016. Debtor did not received adequate Notice of Hearing that DE 227 was to be heard on May 19, 2016 because Judge Ray ordered it on May 17. Judge Ray denied all pending motions without letting Debtor speak on May 19, 2016 causing Appeals to be in effect. These mistakes prove that Judge Ray is biased against pro se Debtor without allowing Debtor to have evidentiary hearing or adversary proceeding hearing. Bankruptcy court should have ruled on Debtor's Motion to Stay Bankruptcy case pending Appeal. This shows bias against Debtor would was simply asking that case be stayed so that appeal could proceed. Judge Ray was not consistent in his rulings.

In Sept 2016 I hired bankruptcy attorney to file Motion to Reopen Bankruptcy case. He reviewed court record and stated "I honestly believe that the Judge probably was biased when he dismissed your case because he just got fed up with you in his courtroom. He didn't want to see you again. I don't want to take a case that he is already sour about it. The # of filings in your case that he is tired of it."

No REASON/CAUSE FOR DISMISSING CASE IS LISTED in Judge Ray's dismissal order and if you read the transcript Judge Ray doesn't state a reason for dismissing case. In fact he states He will deny confirmation and

dismiss case 3 times even though more information is given by Debtor and Trustee. **Judge Ray doesn't state any reasons on transcript why he dismissed Debtor's bankruptcy case.** Since Trustee was instructed to prepare order, she vaguely states "for reasons argued and stated on the record". There was an abuse of bankruptcy *11 US Code 1307 (c)(5)* which states Bankruptcy case can only be dismissed for cause-both conditions have to be met "and" in *11 US CODE 1307(c)(5).* None of reasons listed in 11 code 1307 would be **grounds for dismissal** of Appellant's bankruptcy case 15-18660. Judge Ray abused/ did not follow *11 US BANKRUPTCY CODE 1307(c)(5)* and CASE LAW.

JUDGE RAY DID NOT FOLLOW *11 US CODE 1307(c)(5). 11 US Code 1307* states that Case must be dismissed for CAUSE. If the Judge denies plan **and** a request for a new plan, then BANKRUPTCY CASE CAN BE DISMISSED FOR CAUSE. *11 US CODE 1307* STATES THE CAUSES FOR WHICH A BANKRUPTCY CASE MAY BE DISMISSED. *11 US Code §1307* states in (c) Except as provided in subsection (f) of this section, on request of a party in interest or United States Trustee and after notice & a hearing, Court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including- (5) **denial of confirmation of a plan under section 1325 of this title & denial of a request made for additional time for filing another plan or a modification of a plan.** Debtor paid all filing fees & both counseling courses. Debtor paid $30 fee to amend schedules D,E or F 5 times because Trustee required Debtor to change Sch E, then change Sch F, in October Debtor added some creditors and change the writing under "OTHER PROVISIONS" numerous times.

Under *11 US Code (c)(5)* below both requirements must be met for the case to be dismissed for a non confirmable plan. Judge Ray dismissed case without giving Debtor a chance to request additional time for filing another plan or

allowing Debtor to file another plan to be confirmed. **Appellant has included cases in which Bankruptcy Judges dismissed bankruptcy case without** pg 22 **cause. My Bankruptcy case 15-18660 should be reinstated as other cases were reinstated based on following Case Law decisions**:

"Since court did not comply with §1307(c)(5) when it preempted the debtor's chance to try again and dismissed the case after the first denial of plan confirmation, it **applied an incorrect legal standard**, thereby **abused its discretion**. Bankruptcy Code contemplates in §1307(c)(5) that chapter 13 debtors be afforded more than one opportunity to confirm a chapter 13 plan before the case is dismissed or converted following denial of plan confirmation. As one of the elements of §1307(c)(5) "cause" was missing, mere denial of confirmation did not constitute the requisite cause. We REVERSE the order dismissing case and REMAND for further proceedings consistent with this decision." *case: 0606-100 Nelson NC-05-1293-KRyB Appeal U.S. Bankruptcy Court of Northern District of California 9th Circuit (Jaroslovsky) May 15, 2006. Appeal from U.S. Bankruptcy Court of Northern District of California, Honorable Alan Jaroslovsky, Bankruptcy Judge, Presiding. KLEIN, RYAN* and BRANDT, Bankruptcy Judges.* The debtor appeals the order dismissing her chapter 13 case. Ruling: **Debtor offered final opportunity to prepare viable plan or face dismissal.** Overview: The debtor filed a proposed chapter 13 plan under Fed. R. Bankr. P. 3015(b) Court: Eastern District of Pennsylvania (Fox). ISSUE: Whether the court correctly applied *11 U.S.Code § 1307(c)(5)* when it dismissed the case without affording the debtor an opportunity to revise her plan after it denied confirmation. Without affording an opportunity to modify the plan after denying confirmation, Court ruled that the case would be dismissed. STANDARD OF REVIEW: We review a decision to dismiss a chapter 13 case **for abuse of discretion.** *Ho v. Dowell (In re Ho), 274 B.R. 867, 871 (9th Cir. BAP 2002).* The application of an incorrect legal standard is one form of abuse of discretion. *Id.* Since court made no findings of fact, there is nothing to review for clear error. DISCUSSION: After reviewing Bankruptcy Code provision governing chapter 13 dismissals generally, we focus on 1st step of the statutory analysis, which requires a finding of "cause." RULING: Order dismissing debtor's chapter 13 case was reversed since debtor was not given opportunity to request additional time to amend plan. *11 Bankruptcy Code § 1307(c)* ("Conversion or dismissal") **permits Court either to dismiss or to convert a case to chapter 7, "whichever is in best interests of creditors & estate, for cause" based on a nonexclusive list of items of "cause."**

11 U.S.C. § 1307(c). Ho, 274 B.R. at 877; accord, Rollex Corp. v. Assoc'd Materials, Inc. (In re Superior Siding &Window, Inc.), 14 F.3d 240, 242 (4th Cir. 1994), cited by In re SGL Carbon Corp., 200 F.3d 154, 159 n.8 (3d Cir. 1999); In re Erkins, 253 B.R. 470, 477 n.5 (Bankr. D. Idaho 2000); Henson, 289 B.R. at 749-54; In re Shockley, 197 B.R. 677, 680 (Bankr. D. Mont. 1996); In re Staff Inv. Co., 146 B.R. 256, 260-61 (Bankr.E.D. Cal. 1993); 7 COLLIER ON BANKRUPTCY § 1112.04[6] (Alan N. Resnick & Henry J. Sommer, eds., 15th ed. rev. 2005)("COLLIER"); 8id. § 1307.4. The court did not approach the question of dismissal through the mandatory two-step analysis of determining "cause" and then weighing alternatives. The outcome of this appeal turns on the initial statutory requirement that there be a determination of "cause." Bankruptcy Code designates items of "**cause**" in a nonexclusive list at § 1307(c)(1)-(10).6 Since the triggering event was denial of plan confirmation, we search the list for an applicable "**cause**." The statutory "**cause**" that applies to denial of plan confirmation is § 1307(c)(5): "denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan." The conjunction "and" in § 1307(c)(5) means that there are **two essential elements that each must be satisfied in order to constitute "cause" to convert or dismiss a case following the denial of confirmation of a plan: (1) denial of confirmation; and (2) denial of a request for time to file a new or a modified plan.** As written, the requirements of *11 US Code § 1307(c)(5)* are cumulative and mandatory. Id. **In other words, both elements must exist in order to constitute "cause" to dismiss or convert a chapter 13 case under that authority.** In this instance, the first element under *11 US Code § 1307(c)(5)* is plainly satisfied because the court denied confirmation of the debtor's plan. The second element under *11 US Code § 1307(c)(5),* however, presents a problem because there was **no "denial of a request made for additional time for filing another plan or a modification of a plan." Although the debtor did not request additional time for filing another plan or modifying the plan, the court did not afford her an opportunity to make such a request after it denied plan confirmation.**

We are persuaded that the second element of 11 US Code § 1307(c)(5) requires, at a minimum, that the court must afford a debtor an opportunity to propose a new or modified plan following the denial of plan confirmation. 8 COLLIER ¶ 1307.04 (debtor should normally be given at least one opportunity to submit modified plan). **Because the court did not offer the debtor such an opportunity, the second element of § 1307(c)(5) was not satisfied. It follows that there was no "cause" to dismiss or convert the chapter 13 case under that authority.** The policy underlying the second element of § 1307(c)(5) relating to

a request for time to try again is that chapter 13 plan confirmation is an iterative process. **A debtor who wishes to submit to the rigors of living for a number of years in straightjacket of a plan that represents one's "best efforts" to pay creditors should, in principle, be permitted the latitude to correct perceived deficiencies in proposed plans.**

11 U.S.Code § 1307(c)(5) (emphasis supplied).Since this language parallels the chapter ll conversion and dismissal provision, decisions under Bankruptcy Code § 1112(b) inform the analysis of § 1307(c). Compare 11 U.S.Code § 1112(b). We conclude, first, that the court did not comply with the two step requirement of 11 U.S.Code § 1307(c) **to determine "cause" and then to weigh the alternatives of conversion or dismissal based on the "best interests of creditors and the estate," and, second, that § 1307(c)(5) "cause" based on denial of confirmation of a plan requires that the court allow the debtor an opportunity to revise the rejected plan. Hence, we REVERSE and REMAND.**

Appellant cites: *Smith, 180 B.R. 648, 651n. 12(D. Utah 1995)* "Since court did not comply with §1307(c)(5) when it preempted debtor's chance to try again and dismissed case after first denial of plan confirmation, it applied an incorrect legal standard, thereby **abused its discretion**. Bankruptcy Code contemplates in §1307(c)(5) that chapter 13 debtors be afforded more than one opportunity to confirm a chapter 13 plan before case is dismissed or converted following denial of plan confirmation. As one of elements of §1307(c)(5) "cause" was missing, mere denial of confirmation did not constitute the requisite cause. We REVERSE the order dismissing case and REMAND for further proceedings consistent with this decision."

Appellant sites: *Womble Carlyle Sandridge & Rice PLLC* "Although a debtor cannot appeal denial of her Chapter 13 plan of reorganization, she can still amend the plan prior to & even on date of confirmation, and if confirmation of her plan is denied, she almost always is given the opportunity to file a new plan." Appellant cites: *United States Court of Appeals, Third Circuit. IN RE: Ernest R. LILLEY, Jr., Debtor. Ernest R. Lilley, Jr., Appellant. 95-1782. July 31, 1996.* This case raises the question of what constitutes "cause" for purpose of dismissing a petition under Chapter 13 of Federal Bankruptcy Code. We conclude that tax fraud is not "cause" for dismissal of a Chapter 13 petition, &therefore that District court erred in reversing bankruptcy court.

Legislative history of section 706(a) confirms Congress did not intend for debtor's right to convert to be subject to judicial discretion. Because clear text

of section 706(a) provides that a debtor's right to convert is not subject to judicial override, the Court's inquiry need not proceed beyond this point. *Lamie, 540 U.S. at 534.* But even if there were some ambiguity in the text of section 706(a), statute's legislative history makes absolutely plain that Congress did not intend personal property with "adequate protection" during the period in which a Chapter 13 debtor is making payments under a plan) to condition debtor's right to convert on approval of Bankruptcy court. The relevant committee reports state: Subsection (a) of this section gives debtor one-time absolute right of conversion of a liquidation case to a reorganization or individual repayment plan case. If the case has already once been converted from chapter 11 or 13 to chapter 7, then debtor does not have that right. **The policy of the provision is that debtor should always be given opportunity to repay his debts.** *S. Rep. No. 95-989, at 94; see H.R. Rep. No. 95-595, at 380.* One would be hard-pressed to create a clearer statement of congressional intent to place conversion decision in hands of debtor, unrestrained by court.

That congressional committees described **debtor's conversion right as "absolute" & noted that he should "always" be given chance to repay his debts is compelling evidence Congress intended there to be no limitations on the debtor's right to convert beyond those present in the text of the statute itself.**

The court of appeals' attempts to explain away this clear legislative intent to create an "absolute" right of conversion under section 706(a) are unconvincing. Court of appeals reasoned that Congress's reference to an "absolute right of conversion" could not be taken literally because the provision itself limits conversion to instances where case has not been converted previously. Pet. App. 37. But Congress did not describe right merely as "absolute," but as "**one-time absolute" entitlement.** *S.Rep. No. 95-989, at 94.*

Nor is this argument strengthened by the existence of the caveat in section 706(d), limiting conversion to cases in which debtor is eligible to be a debtor under the new chapter. Senate Report also mentioned eligibility requirement of section 706(d), implying that when it called right in section 706(a) "absolute," Congress understood that statement to be subject to obvious qualification that debtor be eligible to proceed under new chapter. Congress was well aware of (a) **1 time-only limitation & (b) eligibility limitation, and nevertheless clearly stated that—subject to only those 2 limitations—the right**

to conversion was "absolute." By doing so, it rejected possibility that other unexpressed limitations on right to convert might be judicially imposed.

Court of appeals also sidestepped clear meaning of section 706(a)'s legislative history by misinterpreting the last sentence, which states, "The policy of provision is that **debtor should always be given opportunity to repay his debts**" *S. Rep. No. 95-989, at 94.* Court of appeals imported into this sentence view that section 706(a)'s conversion right applies only to "honest debtors." *Pet. App. 38.* A good-faith exception to "always" applicable "opportunity" would have been easy to note, &its absence is therefore telling. Nothing in legislative history—any more than in text itself—supports Court of appeals' judicially created limitation on the right to conversion. Legislative history is decisively to contrary.

Bankruptcy Reform Act of 1978 - A Primer by Robert E. Ginsberg states: The court must confirm the chapter 13 plan once all affected secured creditors approve it and the court is satisfied that it is both feasible and offers unsecured creditors no less than they would have gotten had the debtor chosen a chapter 7 liquidation. *11 US Code § 1325(a).* **The court can force plan on an unwilling secured creditor**, other than mortgagee on debtor's home, if satisfied that payments debtor proposes to make to that creditor have a present value at least equal to the amount of creditor's secured claim. *11 US Code § 1325(a)(5)(B).* The creditor must also retain its security. All debtor has to pay is **secured portion of the claim**. Balance owed is treated as any other unsecured claim under the plan. *HOUSE REPORT, supra note 4, at 124.* This could be particularly important in light of the power given the debtor to void nonpurchase money, nonpossessory security interests in exempt household goods. *11 U.S.C. app. § 5220(2)(Supp. II 1978). See Kaplan, Chapter 13 of the Bankruptcy Reform Act of 1978. An Attractive Alternative, 28 Depaul L. Rev. 1045 (1979). Compare 11 U.S.C. app. § 722 (Supp. 11 1978),* permitting a debtor to redeem certain personal collateral in liquidation cases by paying to secured creditor the value of collateral. Unsecured creditors get no vote at all in chapter 13. Instead, **court is to force debtor's plan on those creditors if satisfied that the plan is in their best interests.** *11 US Code § 1325(a)(4).* Because general unsecured creditors can generally expect nothing in a consumer liquidation case, This is particularly true in light of generous new federal exemption provision. *11 US Code § 522(d).*

A plan offering them anything, i.e., something more than nothing, is clearly in their best interests and should be approved. There is nothing in the law

specifically requiring the court to find that plan is debtor's best effort so long as it is proposed in good faith. *11 US Code § 1325(a)(3). 11 US Code § 727(a)(9)(B)(ii)* (payment of 70% of claims under a plan &debtor's best effort will allow granting of a discharge, even if a similar discharge was made within a six-year period).The absence of unsecured creditor vote should strongly encourage more chapter 13 composition plans. Under chapter 13, a composition plan only raises 6 year bar if debtor gets a discharge &then only if plan calls for the general unsecured creditors to get less than 70% of their claims. *11 U.S.C.app.§ 727(a)(9) (Supp. II 1978).* If debtor completes payments under the plan, Debtor receives a discharge. *11 US Code § 1328(a).*

Trustee, Robin Weiner should have paid Priority creditor IRS in Arrears with pre-confirmation funds pursuant to: In re *Hufford 11 U.S.C.§ 349,§ 349(b),Number: 1111-001, Sept 29th, 2011* Ruling: Funds held by chapter 13 trustee ordered distributed to creditors with undisputed claims upon dismissal. Overview: In court's order dismissing the debtor's case on the grounds that their plan was unfeasible, Court directed the **trustee to disburse any funds on hand to the creditors.** In re *Streett 11 U.S.C.§ 362,§ 362(c),Number: 0512-044 April 23rd, 2012 Court: Northern District of Ohio (Speer)* Ruling: Trustee ordered to distribute funds to tax authority from preconfirmation plan payments based on warrant issued after dismissal but prior to reinstatement. Overview: The debtor filed a chapter 13 case. The Department filed a proof of claim based on unpaid taxes assessed by it against the debtor. The debtor made pre-confirmation plan payments to chapter 13 Trustee. Court dismissed case. Court: District of New Mexico (Jacobvitz).

IX. STATEMENT OF CASE

Background: Bankruptcy petition 15-18660 was filed on May 12, 2015. Debtor has always filed amended plans with Trustee's recommendations, attended every hearing and made all payments on time for 7 months. At 1 hr evidentiary hearing on Nov 3, 2015 Debtor was sworn in,cross examined, exhibits presented. Judge Ray issued Order Denying denied Motion to Dismiss (DE 81) in Debtor's favor on Nov 4, 2015. Thus, the property settlement debt is dischargeable in Chapter 13 Bankruptcy. (*11 US Code 1328*). Proof of Claim (Appendix I) for amount owed to Former Husband Joel Wall included:

Domestic Support Obligation of $4076.21 & unsecured debt to Priority Creditor Joel Wall. On Jan 14, 2016 Judge granted Motion to Strike **Debtor's Proof of Claim for Joel Wall** (Appendix I) but Debtor had filed Local Form 67 July 8, 2015 (Appendix J) stating that Debtor was paying all DSO in bankruptcy. Debtor was paying priority creditors up to liquidation test & unsecured creditors. Debtor was paying Joel Wall 100% priority claim of $4076.21 in child expenses in the nature of support through 11th-13th &15th-17th Amended Chapter 13 plans pursuant to US Code 1328(b)(c)(2). Mediation Agreement states Mother is responsible to pay 45% of medical, extracurricular activities &uniforms. Debtor was paying $4076.21 Domestic Support Obligation in 10th-13th& 15th-17th Amended plans. Only 14th Amended plan, reviewed at Jan 14, 2016 Confirmation hearing, did not have DSO. On Jan 15, 2016, Judge Ray Denied Confirmation of Chapter 13 plan (filed day before instead of 13th, to be reviewed) &Dismissed bankruptcy case. Debtor had another amended plan with her and asked if she could file it, but Judge Ray did not answer. Judge did not deny that Debtor's request for additional time to file amended plan because no request was made. Debtor filed Motion to Vacate Dismissal of Bankruptcy /Recuse Judge/Remove Trustee within 10 days &Motion for Sanctions &Motion to Reinstate Bankruptcy case. Bankruptcy court transcript shows DEBTOR nor Trustee, Robin Weiner, did not make a request for an extension of time to file a new Chapter 13 plan near end of hearing. Trustee Robin Weiner did not make a request for Debtor to be able to file a new plan in open court, But Judge Ray doesn't answer that request. Judge Ray should not have dismissed bankruptcy case. JUDGE RAY cannot dismiss a bankruptcy case during a Confirmation hearing unless he also denies a request for extension of time to file a new plan. Bankruptcy Case 15-1866 should be reinstated & Debtor continue with

Chapter 13 payments through the DEBT repayment period. Debtor filed Appeal of Order Denying Confirmation and Dismissing Case on Jan 27, 2016. On Page 2 of At Feb 11, 2016 Order Denying Debtor's Motions, Judge Ray states "This court is divested of its control over those aspects involved in Appeal, which included the Motion to Reinstate & Motion to Vacate Dismissal that was subsequently filed by Debtor. Therefore, Court MUST deny these Motions based on this Court's lack of jurisdiction." Bankruptcy case 15-18660 was **not** stayed even though Debtor filed Motions to Stay/Motions to Leave to Appeal in Feb 2016. **Judge Ray**, was **mistaken,** causing 3 month DELAY, because Judge Ray had **jurisdiction to rule on those motions** and didn't rule on them until May 2016. Feb 17, 2016. Judge Ray Dismissed Appeal 16-60163 for not filing designation of items for the record. On Feb 19, 2016, Appellant filed Appeal 16-60354 Judge Bloom -appealing Judge Ray not hearing Motion to Reinstate Bankruptcy case on Feb 11, 2016. On Feb 19, 2016 Appellant filed Appeal 16-60355 appealing Judge Ray dismissing Appeal 16-60163 District court Judge Cohn. In Appeal 16-60354 District Judge Bloom stated that Bankruptcy court was to have further proceedings because All pending motions had to be ruled on before Appeal can take effect. Judge Ray **cancelled Mar 2016** hearing on Debtor's Motion to Stay pending appeal 16-60163. Judge Ray added motion day before May 2016 hearing and Debtor was not properly noticed (received in mail 6 days after hearing?). Judge Ray denied Motion to Vacate Dismissal of case May 19, 2016. Since Judge Ray did not rule on Motion to Stay or all pending filed by Debtor until May 2016, Appeals took effect when pending motions were disposed of. Appellant is not appealing recusal. Judge Ray dismissed case without also denying request for extension of time to file a new Chapter 13 plan.

Oct 19,2016 District Judge Cohn ordered to Vacate Dismissal of Appeal 16-60163, 5 month delay be reversed. Debtor requests Bankruptcy case be reinstated so she can pay missed payments from to end of commitment period. Appellate Judge Bloom &Judge Cohn both stated that Bankruptcy court was to have further proceedings because All pending motions must be ruled on before Appeal can take effect. Appeals take effect when pending motions are disposed of. Judge cannot dismiss a case for a non confirmable plan without ALSO DENYING A REQUEST FOR ADDITONAL TIME TO FILE A NEW PLAN.

Appellant filed with District court brief an amended proof of claim for priority creditor Joel Wall (Appendix I),schedules and 17th amended Chapter 13 plan. No written request was made to allow filing of a new Chapter 13 plan. Judge Ray dismissed this bankruptcy case without **following** *11 US CODE 1307(c)(5)* with No CAUSE/reason stated in Order Denying Confirmation & Dismissing Debtor's Bankruptcy case. Judge Ray can order denial of the plan but there can be no DISMISSING OF CASE unless there has also been a denial of request for additional time to file a new plan. Judge Ray cannot dismiss bankruptcy case WITHOUT CAUSE for a nonconfirmable plan, unless he also denies request to file a new plan (*11 US Code 1307*). Dismissal order vaguely states "for reasons argued & stated on the record". Judge Ray **doesn't state any reasons on transcript why he dismissed Debtor's bankruptcy case.**

District court's decision does not mention AN ABUSE OF BANKRUPTCY *11 US CODE 1307 (c)(5)* and CASE LAW on Dismissing a bankruptcy without meeting Both requirements of *11 US CODE 1307 (c)(5),* not on Judge Ray's legal analysis. This appeal should review an abuse of Bankruptcy *11 US Code 1307 (c)(5)* in dismissing a case without meeting both requirements. *11 US Bankruptcy Code 1307* was not followed by Judge Ray. The issue of law (*11 us code 1307*) is whether Judge Ray can deny plan & dismiss a case when Debtor had a new plan at the confirmation hearing but he would not take it. Appellant sites cases below because Judge Ray dismissed Bankruptcy case 15-18660 without affording debtor an opportunity to make such a request after he denied plan confirmation in Confirmation Hearing. Any plans filed by Debtor would not be considered by Trustee because Judge Ray stated case was dismissed during confirmation hearing Jan 14, 2016. Because this appeal is on Judge Ray's Order dismissing Bankruptcy case (Appendix H), *11 us code 1307* applies.

Circuit brief was filed May 8, 2018, almost 2 ½ years after Appeal 16-60163 was filed Jan 27, 2016. Appellant mistakenly stated in 11th Circuit brief that she did not make a request to file a new plan, but she had brought a new Chapter 13 plan with her (Appendix C). Judge Ray never answered whether she could file it in open court and continue confirmation til next month. 11US Code states Judge must also deny a request for additional time to file an amended plan. Judge never answered Trustee on whether Debtor could file 15th plan in open court and amend schedules. He didn't deny filing it is open court but later Trustee states "It is not filed", which indicates she does not know 11 US Code 1307(c)(5) that Judge must deny **request for additional time** to file a new plan (plan does not have to be filed at confirmation hearing).

XIII. REASONS FOR GRANTING PETITION FOR WRIT OF CERTIORARI

There exists a problem with Bankruptcy Judges dismissing debtor's bankruptcy without cause. Appellant is appealing Jan 15, 2016 order denying confirmation and dismissing bankruptcy case (Appendix H) which is in violation of U.S. Code 1307 (c)(5).

I want to make a difference to other pro se debtors. "Appellant watched many confirmation proceedings and many pro se debtor's cases were dismissed, some for not paying payments, but some are dismissed without cause. I have worked hard preparing Appellate briefs, which bankruptcy attorneys won't even attempt. Attorneys say it is TOO MUCH WORK, they don't want to follow all rules relating to briefs. I am trying to make a change in the way that Judges view pro se debtors, so they don't arbitrarily dismiss cases. Not all of us give up, just because Judge Ray dismissed case without giving any reason. I am trying to inspire other pro se debtors that it is possible to fight injustice, that they can learn issues just like attorneys had to. I want to win this appeal because I have worked too hard writing 3 District appellate

briefs, that took 1 ½ years. I believe that Bankruptcy and District judges rely heavily on their legal assistant to do most of the work. The legal assistant for Judge Cooke could not have read my appellate brief and not understood that Judge Ray had dismissed my case without cause in 11US Code 1307(c)(5).

I believe because I called and asked assistant when decision would be made, he purposely wrote to dismiss my appeal. That is wrong. This injustice needs to stop. Judges should not base their decisions on whether they like the attorney or not, but base their decisions on the LAW. I have seen so many biased rulings in state court and it is same in Federal court. Judge Ray and Trustee knows all these attorneys because he sees them every week, but he doesn't know or trust the pro se debtor who is new to him. He rules in favor of attorney who he has known for years. Trustee was telling the attorneys that any money left after payments, she was going to refund to them. She wanted to make sure they get paid all the fees for the little work they do, just showing up for confirmation hearing. Most pro se debtors are seeking real relief and their life and well being depends on getting their plan confirmed so they can make payments &"start" with clean slate. One couple, with 2 small children, said they lost their house because their attorney didn't let mortgage company know not to sell it. Then the attorney was trying to collect their fees from the couple. I feel sorry for pro se debtors who don't have access to court, thinking they have to hire an attorney. Bankruptcy attorneys are so eager to take new cases, they all answer on Nolo and other sites. Even attorneys I contacted, who said they couldn't help me, were answering requests I posted online. They want $3500 to filling out a few forms for your bankruptcy. I'm not saying I can be a bankruptcy attorney, but I have studied more case law and written more briefs than any of them. All attorneys are lazy, they want the easy cases, that don't require much work because they get paid the same amount as a case that requires a lot of work.

Attorneys look down on pro se debtors/litigants, as if we don't know anything, and are not capable of learning all the things Attorneys have learned. Most pro se debtors don't have the money to pay an attorney $3500 for a Chapter 13 bankruptcy. I even applied for aide from Dade county, given names of attorneys who might help me with bankruptcy case, but they all refused to take my case, because they want the $3500. Attorneys and court system look down on pro se debtors, acting as if we can't do anything that they do because they have such advanced training. Well for the amount of work that the attorney does, coming to hearing a few times to get plan confirmed, they don't earn the $3500 fee. One can read rules and google any bankruptcy issue, they don't understand. Pro se debtors can fill out forms correctly.

I have accounting background and filed every plan without math errors but Trustee would still state there was an error and never told me what the error was. I believe that I was supposed to use $10 as minimum payment to unsecured creditors for 36 months after meeting liquidation test. I'm sorry I have a bad view of court system, but when Judges/Magistrates make mistakes because they don't look at the evidence &unfairly order me to pay $16593 (in April 2011) and 4DCA doesn't reverse that, I get pretty upset with this LEGAL system of favoritism."

The Chapter 13 plan filed with District court appellate brief should be confirmable and **pays all DSO** as Debtor filed Local Form 67 stating she would pay it all in bankruptcy. Judge Ray dismissed bankruptcy 15-18660 without giving Debtor opportunity to file an amended plan to be considered by Trustee. Judge Ray didn't follow *11 US Code 1307(c) (5)* in dismissing Appellant's bankruptcy without ALSO giving Debtor a chance to file an amended plan after Confirmation hearing. Once Judge Ray DISMISSED my CASE, any plans filed won't be considered by Bankruptcy court. Judge Ray dismissed Chap 13 bankruptcy case without meeting both of the requirements of Bankruptcy *11 US Code 1307 (c)(5)* which states:

"*11 US Code §1307.* Conversion or dismissal states the reasons that a Chapter 13 bankruptcy can be dismissed. *11 US Code §1307* states in (c) Except as provided in subsection (f) of this section, on request of a party in interest or the United States Trustee and after notice and a hearing, Court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the **best interests of creditors and the estate, for cause,** including- (5) denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan; 11 US Code 1307 states that "on request of party in interest of US Trustee and after notice of hearing, court may dismiss case for cause." *11 US Code 1307 (c) (5)* states Bankruptcy case

can be dismissed for denial of chapter 13 plan AND denial of a request made for additional time for filing another plan or a modification of plan. Both denial of plan AND denial of request must be met before Bankruptcy case can be dismissed under *11 US Code 1307 (c)(5).*

If a debtor is not complying with bankruptcy requirements, a trustee or creditor can file a motion to dismiss or convert a bankruptcy case under Bankruptcy Code Sections 706, 707, 1112 or 1307, or the court can set an Order to Show Cause re Dismissal/Conversion.

DISMISSAL HAS SERIOUS CONSEQUENCES. If a bankruptcy case is dismissed at the **request of a trustee or creditor, or by the court** on its own motion, debtor may be prohibited from filing another bankruptcy case for 180 days [Bankruptcy Code Section 109(g)] or be required to file a motion to obtain permission to file another bankruptcy case (Bankruptcy Code Section 349).

In a recent decision, *Marrama v. Citizens Bank of Massachusetts1* May 15 2007, United States Supreme Court considered whether a debtor has an absolute right under Section 706(a) of the Bankruptcy Code to convert a case to Chapter 13. **Conclusion:** Supreme Court's ruling resolves a split among lower courts as to whether

the debtor's bad faith conduct prior to its proposed conversion results in the forfeiture of debtor's right to convert. Further, in its decision, Supreme Court upheld one of Basic equitable principles underlying bankruptcy law in **emphasizing that principal purpose of Bankruptcy Code is to grant a "fresh start" to "honest but unfortunate debtor."**

Judge Cooke didn't request transcript, nor was Debtor obligated to file transcript in the District Court Appeal 16-60163. Debtor was not told what method of recording **District Court Judge Cooke** Appeal 16-60163 **elected.** District court Judge Cooke did not require a written transcript, and Debtor was told by Clerk/transcript office, District Judge had **access to audio recording of Jan 14, 2016 Confirmation hearing** and **could listen to audio** recording to decide appeal. Debtor did not realize Debtor apologizes for being MISINFORMED by clerk's office and not ordering written transcript for 11th

Circuit Court. Debtor did not realize 11th Circuit court did not have access to audio recording of Jan 14, 2016 Confirmation hearing &she immediately **ordered transcript for 11th Circuit court send to 11th circuit by transcription company.** Debtor paid for TRANSCRIPT of Jan 14, 2016 Confirmation hearing, was filed by Transcription company, as no redaction was needed, & 11th Circuit court had copy for appeal 18-10339. Appellant filed a SWORN Motion for Rehearing En Banc (19 pages Appendix B). Appellant filed a motion to order transcript for 11th Circuit ($150 which Appellant can't afford), but should have filed Motion to Allow transcript to be part of Record on Appeal.

"The Court Reporter Statute, 28 U.S.C. § 753 (link is external) sets forth the **proceedings to be recorded** including: all proceedings in criminal cases had in open court; **all proceedings in other cases** had in open court unless the parties with the approval of the judge shall agree specifically to the contrary; and such other proceedings as a judge of the court may direct or as may be required by rule or order of court as may be requested by any party to the proceeding. By law, each session of court and every proceeding designated by rule or order of the court or by one of the judges **shall be recorded verbatim by shorthand, stenotype, stenomask, or electronic sound recording equipment. The method of recording may be elected by the district judge**."

In *Re Robert E. Harris, Appellant v. Albany County Office, Appellee,Mark Swimelar, Trustee, 464 F.3d 263 (2d Cir. 2006)* Debtor-appellant Robert E. Harris appeals from a judgment of United States District Court for Northern District of New York (Sharpe, J.), dated June 14, 2004, dismissing debtor's appeal from orders of Bankruptcy Court for the Northern District of New York (Littlefield, B.J.), dated July 21, 2003 and October 15, 2003, for failure to include in Designation of record on appeal the transcript of a June 23, 2003 bankruptcy hearing as required by Federal Rules of Bankruptcy Procedure 8001 ("Rule 8001")&8006 ("Rule 8006"). Harris also appeals District court's denial of his motion for reconsideration of the June 14, 2004 dismissal order. We hold that the district court abused its discretion under Rule 8001 when it dismissed debtor's case for failure to include June 23 transcript in designation of record without first giving debtor notice and opportunity to respond and **without determining whether a lesser sanction would have been appropriate.** The judgment of District court is VACATED, & case REMANDED for

proceedings not inconsistent with this opinion. We review a district court's dismissal of a bankruptcy appeal on **procedural grounds for abuse of discretion**. See *In re Lynch, 430 F.3d 600, 603 (2d Cir. 2005) (per curiam); see also In re Tampa Chain Co., 835 F.2d 54, 55 (2d Cir. 1987) (per curiam)* (holding that District court's "decision to dismiss will be affirmed unless it has abused its discretion"). A **district court abuses its discretion when it "applies legal standards incorrectly or relies upon clearly erroneous findings of fact, or proceed [s] on the basis of an erroneous view of the applicable law**."

Rule 8001, provides, inter alia, that " [a]n appellant's failure to take any step [including those outlined in Rule 8006] other than timely filing a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the district court or bankruptcy appellate panel deems appropriate, which may include dismissal of the appeal." Fed. R. Bankr.P. 8001(a).4 The rule makes clear that District court enjoys discretion to dismiss an appeal in all cases except where debtor does not file a timely notice of appeal, in which case court has no choice but to dismiss the case.

We recently addressed standard for Rule 8001 dismissals in *In re Lynch, 430 F.3d at 605.* In that case, District court dismissed an appeal as untimely because debtor had not filed the record &designation of issues on appeal pursuant to Rule 8006 in a timely manner, even after having received a valid extension. We noted that " [b]y its terms, [Rule 8001] does not set standards for when dismissal is appropriate" & that some circuits had established conditions to constrain a district court's discretion to dismiss a case for failure to abide by a procedural rule. Id. We nevertheless declined to adopt any definitive standard in Lynch because we found that petitioner's failure to file a timely record &designation on appeal was governed by the "excusable neglect" standard of Federal Rule of Bankruptcy Procedure 9006(b) (1) ("Rule 9006"), which governs enlargement of time for deadlines in bankruptcy proceedings.5 See id. We left open possibility "**that dismissal would be an unwarranted sanction for some errors, and hence, impermissible under Rule 8001(a)**." Id.; see also *In re Tampa Chain Co., 835 F.2d at 55* (holding that, in considering dismissal of an appeal, "**the court should exercise discretion to determine whether dismissal is appropriate in the circumstances**" presented by case.

Register.com, Inc. v. Verio, Inc., 356 F.3d 393, 398 (2d Cir. 2004) (internal quotation marks and citation omitted; alteration in original).3 Before reaching question of what standard District court should have applied in dismissing Harris's appeal, we must first address Harris's argument that he had not violated any procedural rule such that the district court could have sanctioned

him at all, let alone dismissed his appeal. In his reply brief, Harris asserts that District court erred in dismissing Appeal because **transcript from June 23 hearing was not necessary to appeal and contained only oral argument, not any testimony.** Bankruptcy Rule 8006 governs what documents are required to perfect an appeal. It states that in pertinent part, Appellant shall file with the clerk and serve on the appellee a designation of the items to be included in the record on appeal. The record on appeal shall include items so designated by parties, Notice of appeal, Judgment order appealed from, and any opinion, findings of fact, and conclusions of law of court. If record designated by any party includes a transcript of any proceeding or a part thereof, party shall, immediately after filing designation, deliver to the reporter and file with clerk a written request for the transcript and make satisfactory arrangements for payment of its cost.

Fed. R. Bankr.P. 8006. **While the Rule does not expressly mandate that the "record on appeal" include all transcripts of the proceedings below, its provisions make clear that those documents which include "findings of fact" or "conclusions of law of Court" are deemed part of Record, including any transcripts, for which Rule makes express cost provisions.** While Harris is correct that June 23 hearing contained oral argument, not testimony, by parties, it also contained Bankruptcy judge's findings of fact & evidence on which he made his conclusions, namely Harris's admissions that he was behind in filing his tax returns for 2001, that he had not paid his post-petition taxes and that he had access to funds from which he could pay those amounts. The order from Bankruptcy court dismissing case specifically mentioned June 23 hearing. Accordingly, **without a transcript of proceedings, District court did not have a complete record to review Bankruptcy court's findings.** Because Harris violated Rule 8006, we must now examine whether District court judge properly dismissed the appeal because of that violation.

While we have declined to determine what considerations should govern a district court's dismissal under Rule 8001, several of our sister courts have undertaken such an analysis. 4th Circuit has cabined district courts' discretion to dismiss appeals under Rule 8001. *In Resolution Trust Corp. v. SPR Corp. (In re SPR Corp.), 45 F.3d 70 (4th Cir. 1995),* a panel of 4th Circuit, which included Justice Powell (retired), held that for late, non-jurisdictional filings in bankruptcy court, **District court before dismissing an appeal under Rule 8001 must consider whether to:**

(1) make a finding of bad faith or negligence; (2) give the appellant notice or an opportunity to explain the delay; (3) consider whether the delay had any

possible prejudicial effect on the other parties; or (4) indicate that it considered the impact of the sanction and available alternatives.

Id. at 72. 9th Circuit has also held that in Rule 8006 context, a district court should consider a party's bad faith and availability of alternative sanctions except in the most egregious of **circumstances before dismissing the appeal under Rule 8001.** *In re Fitzsimmons, 920 F.2d 1468, 1474 (9th Cir. 1990).* Outside of the specific Rule 8001 context, other courts have likewise permitted bankruptcy appeals to continue despite a party's failure to file a complete &timely non-jurisdictional designation of record on appeal. *In re Comer, 716 F.2d 168, 177 (3d Cir. 1983)* (no error where " [t]he district court declined to dismiss appeal . . . [having found] no prejudice to debtors or bad faith on the part of the creditors"); *In re Winner Corp., 632 F.2d 658, 661 (6th Cir. 1980)* ("This power (to dismiss), however, should not be exercised generally unless omission arose from **negligence or indifference of appellant" or bad faith.**) (internal quotation marks omitted); cf. *In re Beverly Mfg. Corp., 778 F.2d 666, 667 (11th Cir. 1985)* (adopting, in case where untimely appellate briefs were filed pursuant to Bankruptcy Rule 8009, "the position of the Sixth Circuit, which has held that dismissal is proper only when bad faith, negligence or indifference has been shown").

5th Circuit, in contrast, has taken a more flexible approach. *In re CPDC Inc., 221 F.3d 693 (5th Cir. 2000),* Court considered whether **District court had abused its discretion in dismissing an appeal because the petitioner had failed to file a timely statement of issues.** The court did not adopt a definitive list of factors as it noted other circuits had done in reviewing dismissals under Rule 8001, but rather held that "in determining whether dismissal is an appropriate sanction, a district court should keep in mind that some infractions of rules of bankruptcy procedure are harmless and do not merit dismissal; and that primary goal of courts as enforcers of bankruptcy rules should be to ensure swift and efficient resolution of disputes pertaining to the distribution of bankruptcy estate." Id. at 699-700. Under this flexible rubric, Court found that in circumstances of case, District court had abused its discretion because there was no contention that appellees were prejudiced by the failure, District court had an adequate record upon which to decide merits of the appeal and there was no indication of bad faith. Id. at 700-01.

D.C. Circuit has also adopted a flexible rule similar to that of 5th Circuit. In *English-Speaking Union v. Johnson 353 F.3d 1013, 1021 (D.C. Cir. 2004),* the court explained that two competing concerns framed its discussion. On the one hand, Court noted the strong presumption in favor of deciding cases on merits

required that **dismissal should be used only as a last resort.** Id. "District courts need powerful tools to manage their dockets, prevent undue delay, and sanction those who abuse the system." Id. Because of these competing concerns, Court declined to set forth any specific factors that district courts should consider but held "District courts can achieve proper balance by considering **circumstances before them and explaining why it is in interest of justice to dismiss rather than to proceed to the merits.**" Id. at 1022.

We agree with flexible approach taken by 5th and D.C. Circuits and decline to adopt any fixed rules about what district courts must do in the Rule 8001 context. Although we recognize that factors listed by 4th Circuit and other courts should ordinarily be considered by a district court when contemplating a Rule 8001 dismissal, we believe that a court should exercise its discretion given the factual circumstances of a particular case. Nevertheless, **courts should endeavor to explain why it is in the interest of justice to all parties, including secured and unsecured creditors, to dismiss a bankruptcy appeal on procedural grounds rather than to continue to the merits of the appeal.** And because dismissal is a harsh sanction, moreover, we generally require a district court to consider whether a lesser sanction would be appropriate. *Cf. Selletti v. Carey, 173 F.3d 104, 111 (2d Cir. 1999)* (explaining that before a **District court dismisses an action for failure to comply with a court order it must consider, among other things, "a sanction less drastic than dismissal"**); *West v. Goodyear Tire & Rubber Co., 167 F.3d 776, 779 (2d Cir. 1999)* (dismissal for discovery abuse is a drastic remedy that should only be imposed in extreme circumstances and after consideration of lesser sanctions). Courts should also take into consideration whether counsel's behavior evinces bad faith or a pattern of negligence; whether any other parties were prejudiced by the errant litigant's conduct; and whether the litigant should be granted the opportunity to rectify the problem. Finally,[a]s part of this inquiry . . . district courts will generally need to provide notice of the potential dismissal and an opportunity for the errant litigant to explain its conduct. Based on that explanation, Court can then determine the appropriate sanction and articulate its reasons for selecting its chosen course of action. *English-Speaking Union, 353 F.3d at 1022.* The above considerations, we believe, achieve requisite balance between deciding cases on merits & allowing district courts to control their dockets and prevent delay and abuse of legal process.

Distrcit Judge Cooke in Appeal 16-60163 did not explain why she dismissed it, rather than proceed to the merits.

Applying above considerations to instant case, we note that District court did not give Harris notice of its plan to dismiss appeal and did not consider any sanction short of dismissal. To be sure, Harris's failure to **designate transcript made it difficult, if not impossible, for District court to determine whether Bankruptcy court had acted in error.** Although Harris is an attorney who practices bankruptcy law, he was proceeding pro se before District court. As is clear from Harris's argument in this Court, he did not believe transcript was necessary because it contained only argument, not testimony. In these circumstances, dismissing appeal without determining whether a lesser sanction would have been appropriate or giving Harris notice or an opportunity to **respond was an abuse of discretion.** Several other considerations support our holding here. First, we note that District court did not give Harris any opportunity to rectify the situation by obtaining June 23 transcript and placing it in Record before the court. In his motion for reconsideration, Harris indicated his willingness to do so. Furthermore, in very case upon which District court relied for its authority to dismiss Appeal, that court did not do so. In *Frostbaum*, debtor failed to include Record of hearing that served as the basis of ruling, but **District court obtained the transcripts** pursuant its powers under Bankruptcy Rule 8019, which permits District court to suspend requirements of certain bankruptcy rules in interest of expediting a case. *Frostbaum 277 B.R. at 473 n. 1; Fed. R. Bankr.P. 8019.* We do not mean this observation to require a District court to allow every errant litigant an opportunity to rectify situation or to force a court to remedy a problem sua sponte, but we think ability of a party or court to cure a defective record is a consideration District court should assess on remand on particular facts of this case.

Second, we are concerned with dismissal here because serious questions on the merits remain unresolved, particularly the § 548 determination that the bankruptcy court never ultimately reached. The County here appears to have reaped a rather large windfall — in excess of $300,000 — at the expense of other, unsecured creditors. Thus, in weighing the prejudice of dismissing this appeal, Court below should be mindful that there is a strong presumption of **not allowing a secured creditor to take more than its interest.** Cf. *In re French, 440 F.3d 145, 152 (4th Cir. 2006)* (noting that Bankruptcy Code's avoidance provisions, including 11 U.S.C. § 548, **protect a debtor's estate from depletion to prejudice of unsecured creditor**). From County's foreclosure and auction of Properties, it appears that County has received excess moneys that could have satisfied other creditors.

Third, Harris argues that much of delay below is attributable to County, not him. Our examination of record **reveals that case has suffered unquestionably long delays**, but this Court notes, for instance, that County appears not to have responded to Bankruptcy court's order regarding the Properties' valuation for resolution of § 548 claim. While we take no views on the matter, District court should assess, if it reaches the merits of the appeal on remand, relative fault of both parties with respect to delay when determining whether the bankruptcy court properly dismissed the case. Harris explains that his failure to pay his taxes is inextricably intertwined with the disputed title to the Properties. He has always maintained that the resolution of the § 548 fraudulent transfer issue would enable him to pay down the taxes he owes as well as other incurred debts. We do not express an opinion whether transfer issue should control, but we nevertheless note that Bankruptcy court never explained why resolution of transfer issue could not be done expeditiously — which would likely have ended the alleged delay on Harris's part in adopting or rejecting a reorganization plan, as well as put to rest any of Harris's arguments that his plan was only feasible upon resolution of that issue. On specific facts of this case, these considerations, we believe, should be weighed by District court in its review of Bankruptcy court's determination (and reexamined by Bankruptcy court if matter is remanded to it). CONCLUSION: Given our finding that **District court abused its discretion in dismissing debtor's appeal,** we do not need to reach Harris's other contentions. For foregoing reasons, judgment of District court is VACATED and REMANDED for proceedings not inconsistent with this opinion. While the court did not expressly invoke Rule 8001 as authorizing dismissal, the case to which Court cited to demonstrate its authority to dismiss for failure to include the relevant transcripts explicitly relied on Rule 8001. See *Frostbaum v. Ochs, 277 B.R. 470, 473 n. 1 (E.D.N.Y. 2002).*

In his main brief on appeal, Harris does not address District court's dismissal of his appeal and instead directs all of his arguments to the merits of the bankruptcy court's dismissal of his Chapter 13 petition under § 1307(c). Harris does address dismissal in his reply brief. In its own brief, County addresses only question of whether District court's dismissal was an abuse of discretion&no other issues. There is no unfairness to appellee in considering issue, which has been briefed fully by both parties. This issue, moreover, was only issue District court decided and is accordingly the only issue properly before this Court. *Hartford Courant Co. v. Pellegrino, 380 F.3d 83, 90 (2d Cir. 2004).* ("In general, we refrain from analyzing issues not decided below.").

Rule 8001 was amended effective October 17, 2005, but new provisions do not affect this case in any way. Rule 9006 "permits some filings or other acts to be accepted notwithstanding a missed deadline. It states that, on motion of party, Court may, for cause shown&in its discretion, **permit the act to be done where the failure to act was the result of excusable neglect.**'" *Lynch, 430 F.3d at 603 (quoting Fed. R. Bankr.P. 9006(b) (1)).* On its express terms, Rule deals with timeliness of a filing, not its content. While Rules 8001 and 9006 both may govern conduct required of debtor under Rule 8006, *Lynch 430 F.3d at 605,* it is clear that Court need only concern itself here with Rule 8001. Unlike situation in Lynch, Harris did file a timely record and designation. Because it was contents of filings that were at issue rather than timeliness of filings, Rule 9006, which concerns when a court should excuse a missed deadline, is not applicable. See id. 6 We recognize that some of the cases noted above (as well as later in this opinion) appear to conflict with our decision in Lynch in their determination that untimely filing of a designation or statement under Rule 8006 should be governed not by the "excusable neglect" standard of Rule 9006 but by the terms of Rule 8001.

Compare *Lynch, 430 F.3d at 605 with Resolution Trust Corp., 45 F.3d at 73* (analyzing failure to file timely statement of issues under Rule 8001); *In re Fitzsimmons, 920 F.2d at 1474* (same); *In re Comer, 716 F.2d at 177* (affirming district court's refusal to dismiss for failure to file timely designation of record &statement of issues under precursor to Rule 8006); *In re Winner, 632 F.2d at 661* (same). These cases, nevertheless, enumerate general standards for courts to use in determining when a dismissal under Rule 8001 is appropriate. While our specific holding in Lynch appears not to comport with great majority of our sister courts, we need not address the potential conflict because this case does not involve the failure to file a timely submission but **failure to file a specific component of what District court deemed Rule 8006 required.** Rule 9006 and Lynch's holding are therefore not at issue. We are mindful that District court in dicta indicated that record appeared to support Bankruptcy court's dismissal. Nonetheless, we remand the case so that the district court can give Harris opportunity to respond to Court's concerns about his delay &determine whether Harris should have an opportunity to cure or whether a lesser sanction is warranted.

XIV. CONCLUSION

As seen in previous cases there is some conflict between different District courts. Since District Judge Cooke did not acquire the few minute transcript of Confirmation hearing, or request Debtor Judge Ray did not have CAUSE or state CAUSE why he dismissed Bankruptcy case, but vaguely states "for reasons argued and stated on the record". Judge Ray doesn't state any reasons on the transcript why he dismissed Debtor's bankruptcy case.

11 US Code 1307 (c)(5) clearly states that there dismissal must be FOR CAUSE & that if confirmation is denied a request for additional time to file another plan **must also be denied**, which is an ABUSE of LAW by Judge Ray. **Appellant requests** Supreme Court immediately reinstate **Debtor's Bankruptcy case 15-18860,** dismissed at Confirmation Hearing on Jan 14, 2016,**without cause & Remand Judge Ray for dismissing case.** Appellant requests Supreme Court reverse Judge Ray's order dismissing case at Confirmation Hearing on Jan 14, 2016. Appellant requests Supreme Court reverse Jan 22, 2018 District order dismissing appeal of Judge Ray's Jan 15, 2016 Order denying confirmation &dismissing case (Appendix H) &order Judge Ray to reinstate my Bankruptcy case 15-18660.

11 US Code 1307 (c)(5) clearly states that there dismissal must be FOR CAUSE and that if confirmation is denied a request for additional time to file another plan MUST ALSO BE DENIED, which is an abuse of discretion by Judge Ray. Appellant requests Chapter 13 Bankruptcy case be reinstated.

17th plan reviewed & **confirmed (since Trustee has already reviewed it through attorney in Oct 2016) so Debtor can pay missed payments and complete plan without any delays.**, since Debtor can't file plan in closed case 15-18660.

Debtor filed Amended Proof of Claim with Domestic Support Obligation for Priority Creditor Joel Wall being paid in Chapter 13 bankruptcy (Appendix I). Appellant requests Supreme Court order Trustee Robin Weiner to review17th amended Chapter 13 plan (submitted with District Appellate Brief Dec 2016) to see if it is confirmable and a Confirmation Hearing be scheduled so Debtor can pay missed payments, complete plan without delays. Appellant REQUESTS Supreme court order Robin Weiner, Trustee to review amended proof of claim for priority Joel Wall (Appendix I) ,schedules and chapter 13 plan included with District Appellate brief. Debtor has experienced being treated unfairly in state court &seen it many times in Bankruptcy court. Debtor feels she must have an **attorney appointed** in order to get discharge of debt. Appellant requests Supreme Court order an attorney be appointed for remainder of case, since Judge Ray has made numerous mistakes &bias after dismissing case, delaying bankruptcy case from being Reinstated and Plan confirmed. The Petition for a Writ of Certiorari should be granted.

Respectfully submitted, Paula Kunsman Mar 9, 2019