

No. 20-1075

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**In The  
Supreme Court of the United States**

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JOHN ROBERT REICHARD  
and ERICKA RAE REICHARD,

*Petitioners,*

v.

RUSSELL BROWN, Chapter 13 Trustee,

*Respondent.*

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**On Petition For A Writ Of Certiorari  
To The United States Of Court Of Appeals  
For The Ninth Circuit**

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**BRIEF FOR RESPONDENT  
RUSSELL BROWN IN OPPOSITION**

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RUSSELL BROWN, ESQ.  
Chapter 13 Trustee  
*Counsel of Record*  
3838 North Central Avenue, Ste. 800  
Phoenix, Arizona 85012  
(602) 277-8996  
rflinn@ch13bk.com  
rbrown@ch13bk.com

## QUESTIONS PRESENTED

If the number of cases filed under Chapter 13 of Title 11 commenced in a particular region so warrants, the United States trustee for such region may appoint individuals to serve as standing trustees. 28 U.S.C. § 586(b); 11 U.S.C. § 1302(a). The Respondent has been a Chapter 13 standing trustee for more than 24 years and he was appointed to the Reichard case. Being the trustee appointed to the case, Respondent is a representative of the estate. 11 U.S.C. § 323(a).

A Chapter 13 trustee is required to investigate the financial affairs of the debtor. 11 U.S.C. §§ 704(a)(4), 1302(b)(1). A “Chapter 13 trustee is saddled with a wide range of powers and duties.” *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995). Some of these duties relate to information gathering, accountability, and investigation. *In re United Ins. Management, Inc.*, 14 F.3d 1380 (9th Cir. 1994). Included within a trustee’s statutory obligations is the duty to examine the debtor’s books and records. *Id.*

Reviewing a debtor’s income tax returns as part of a bankruptcy trustee’s investigation is common. Indeed, no later than seven days before the first date set for a meeting of creditors, a debtor is required to provide to the trustee a copy of the federal income tax for the most recent tax year. 11 U.S.C. § 521(e)(2)(A). Debtors are required to cooperate with the trustee as necessary to enable the trustee to perform the trustee’s duties under Title 11. 11 U.S.C. § 521(a)(3), Debtors are

**QUESTIONS PRESENTED – Continued**

required to surrender books and records to the trustee. 11 U.S.C. § 521(a)(4).

The Bankruptcy Abuse and Consumer Protection Act (BAPCPA) was enacted into law with a general effective date of October 17, 2005. Public Law 109-8, 119 Stat. 23. BAPCPA added a new provision, § 521(f), to the Bankruptcy Code which allows a party in interest to request that the debtor file with the court a copy of each federal income tax return for each year while the case is pending (subparagraph (f)(1)) and to file with the court each federal income tax return required but that had not been filed on the petition date but was filed, for the three-year period ending on the petition date (subparagraph (f)(2)).

On January 1, 2010, the Bankruptcy Court for the District of Arizona entered General Order 104, which adopted use of amended Local Rules of Bankruptcy Procedure and to require the use of Local Plan Form 13-2. *See* <http://www.azb.uscourts.gov/general-orders>. The Petitioners filed their petition for relief under Chapter 13 on November 2, 2016, and filed a plan in the required Local Plan Form 13-2. Pet. App. 63. Paragraph (H) of Local Plan Form 13-2 stated, “While the case is pending, the Debtor shall provide to the trustee a copy of any post-petition tax return within thirty days after filing the return with the tax agency.” Pet. App. 74. The bankruptcy court did not confirm that plan.

**QUESTIONS PRESENTED – Continued**

On November 15, 2017, the Bankruptcy Court for the District of Arizona implemented amended Local Rules of Bankruptcy Procedure that became effective on November 30, 2017. *See* <http://www.azb.uscourts.gov/general-orders>; Ariz. Bankruptcy Court General Order 17-1. L. R. Bankr. 2084-4 mandates the use of Local Form 2084-4 for a Chapter 13 plan, including any amended or modified plans. Local Form 2084-4 contains a paragraph (F) that states, “While the case is pending, the Debtor shall provide to the Trustee a copy of any post-petition tax return within 14 days after filing the return with the tax agency.” This paragraph is nearly identical to the paragraph of the prior plan form. The Petitioners filed an amended plan. Pet. App. 79. The Petitioners contested the mandate of Local Plan Form 2084-4 to provide their tax returns to the Respondent and asserted that the provision violates § 521(f)(1).

The questions presented are as follows:

- (1) Whether 11 U.S.C. § 521(f) applies when no party in interest has requested a debtor to file tax returns with the bankruptcy court.
- (2) Whether a bankruptcy court may promulgate a local rule and Chapter 13 plan form that requires a debtor to provide post-petition income tax returns to the trustee.

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## STATUTORY AND OTHER PROVISIONS INVOLVED

In addition to the statutory provisions cited by the Petitioners, the following provisions are also relevant: 28 U.S.C. § 2075, 11 U.S.C. §§ 521(a)(3), (a)(4), 704(a)(4), 1302, 1329(a)(1). Moreover, the following rule of bankruptcy procedure is relevant: Fed. R. Bankr. P. 9029(a).

In pertinent part, 28 U.S.C. § 2075 provides:

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motion, and the practice and procedure under Title 11.

Such rules shall not abridge, enlarge, or modify any substantive right.

In pertinent part, 11 U.S.C. § 521(a)(3) and (a)(4) provide:

The debtor shall—

\* \* \*

(3) If a trustee is serving in the case . . . cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title;

(4) If a trustee is serving in the case . . . surrender to the trustee all property of the estate and any recorded information, including books, documents, records and papers, related to property of the estate . . .

In pertinent part, 11 U.S.C. § 704(a)(4) provides:

The trustee shall—

(3) investigate the financial affairs of the debtor;

In pertinent part, 11 U.S.C. § 1302(b) provides:

The trustee shall—

Perform the duties specified in section . . .  
704(a)(4) . . .

Fed. R. Bankr. P. 9029(a)(1) provides:

Each district court acting by a majority of its district judges may make and amend rules governing practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction which are consistent with—but not duplicative of—Acts of Congress and these rules and which do not prohibit or limit the use of the Official Forms. Rule 83 F.R.Civ.P. governs the procedure for making local rules. A district court may authorize the bankruptcy judges of the district, subject to any limitation or condition it may prescribe and the requirements of 83 F.R.Civ.P. to make and amend rules of practice and procedure which are consistent with—but not duplicative of—Acts of Congress and these rules and which do not prohibit or limit the use of the Official Forms. Local rules shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States.



## INTRODUCTION

Respondent, Russell Brown (Chapter 13 bankruptcy trustee), respectfully submits that none of the Petitioners' arguments merit further review. The decisions by the Bankruptcy Court for the District of Arizona, the District Court for the District of Arizona, and the Ninth Circuit Court of Appeals correctly followed legal and equitable doctrines. Other than the lower court decisions in this case, there are no other published decisions on this issue from a bankruptcy court, Bankruptcy Appellate Panel, United States District Court, or United States Court of Appeals.



## STATEMENT OF THE CASE

### (1) Factual Background

On January 1, 2010, the Bankruptcy Court for the District of Arizona entered General Order 104. General Order 104, in turn, implemented Ariz. L. R. Bankr. 2084-4 which requires all Chapter 13 debtors to use Local Plan Form 13-2. Paragraph (H) of Local Plan Form 13-2 contained a sentence that stated, "While the case is pending, the Debtor shall provide to the trustee a copy of any post-petition tax return within 30 days after filing the return with the tax agency."

On November 2, 2016, the Debtors filed their Chapter 13 petition for relief. The Respondent was assigned as the Chapter 13 trustee for the case. The Petitioners filed their original Chapter 13 plan on November 13, 2016. Pet. App. 63. The plan contained a

Varying Provision that purported to alter paragraph (H) of Local Plan Form 13-2, in which the Varying Provision stated, “the debtor will file post-petition federal income tax returns pursuant to 11 U.S.C. § 521(f) with the Court.” Pet. App. 73. Eventually, the Petitioners submitted a proposed order confirming plan to the Respondent for his endorsement, which was rejected by the Respondent because the Petitioners included a provision that they would file their income tax returns with the Bankruptcy Court but not provide the returns directly to the Trustee<sup>1</sup>. After the parties filed supplemental briefing, the Bankruptcy Court denied confirmation of the plan in an order entered on July 5, 2018. The order denying confirmation of the original plan was not a final order<sup>2</sup>. *Bullard v. Blue Hills Bank*, 575 U.S. 496, 135 S.Ct. 1686, 191 L.Ed.2d 621 (2015).

From the time the Petitioners filed their Chapter 13 petition to when the Bankruptcy Court entered its order denying confirmation of the original plan, the Bankruptcy Court for the District of Arizona amended

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<sup>1</sup> The proposed order contained a reduction in the secured claim amount of a secured creditor, Harley Davidson, without notice to the creditor, to which the Respondent objected. The Respondent’s objection to that provision became moot later when the Petitioners filed their first amended plan that proposed payment of the lower secured claim amount. Since Harley Davidson failed to object to the first amended plan, the creditor was deemed to have accepted treatment of its secured claim. *See* 11 U.S.C. §1325(a)(5)(A). Apparently, the Petitioners have abandoned this issue on appeal as it is moot.

<sup>2</sup> Petitioners filed an appeal of the bankruptcy court’s order but the Ninth Circuit Bankruptcy Appellate Panel correctly dismissed the appeal on October 24, 2018.

its Local Rules of Bankruptcy Procedure. In accordance with Fed. R. Bankr. P. 3015(c), the Bankruptcy Court created a new Local Plan Form. *See* Ariz. L. R. Bankr. P. 2084-4(a). Ariz. L. R. Bankr. 2084-4(a) requires use of Local Plan Form 2084-4. Paragraph (F) of Local Plan Form 2084-4 states, “While the case is pending, the Debtor shall provide to the Trustee a copy of any post-petition tax return within 14 days after filing the return with the tax agency.” Paragraph (F) of Local Plan Form 2084-4 (Petitioners’ first amended plan) (Pet. App. 96) is nearly identical to Paragraph (H) of Local Plan Form 13-2 (Petitioners’ original Chapter 13 plan). Pet. App. 74. After entering its decision against the Petitioners, on March 12, 2019, the Bankruptcy Court entered an order confirming the first amended plan with the order requiring the Petitioners to provide to the Respondent their federal and state income tax returns for 2018-2020. Pet. App. 38.

## **(2) Procedural History**

Petitioners timely filed their Notice of Appeal on March 24, 2019, and elected to have their appeal heard by the United States District Court. The parties submitted briefs to the District Court but there was no oral argument. On March 12, 2020, the District Court entered its order affirming the order of the Bankruptcy Court. Pet. App. 6. Petitioners timely filed a notice of appeal to the Ninth Circuit Court of Appeals. The parties submitted briefs but, again, the Court conducted no oral argument. The Court of Appeals affirmed the decisions of the District Court and Bankruptcy Court

in an unpublished opinion filed on December 14, 2020.  
Pet. App. 1.



### **REASONS FOR DENYING THE PETITION**

**(1) The Respondent Did Not Request the Petitioners to File Their Tax Returns With the Court, thus Bankruptcy Code § 521(f) is Inapplicable to This Case.**

Review of a writ of certiorari is granted for compelling reasons, including, but not limited to, a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals. Sup. Ct. R. 10. A principal purpose for which the United States Supreme Court uses certiorari jurisdiction is to resolve conflicts among Circuit Courts of Appeals and state courts concerning the interpretation of specific provisions of federal law. *Braxton v. U.S.*, 500 U.S. 344, 111 S.Ct. 1854, 114 L.Ed.2d 385 (1991). Other than the unpublished decisions of the courts involved in this case, there is no decision on the issue from any Court of Appeals, District Court, Bankruptcy Appellate Panel, or Bankruptcy Court.

The Petitioners' argument hinges on 11 U.S.C. § 521(f) but that Bankruptcy Code section is inapplicable to the facts of this case. At no time has the Respondent made a request that the Petitioners file their income tax returns or transcripts with the Bankruptcy Court. There has been no "request of the court, the United States trustee, or a party in interest" for the

Petitioners to file the returns and, therefore, that section has no application to the facts of this case<sup>3</sup>.

**(2) A Bankruptcy Court May Adopt a Local Rule of Bankruptcy Procedure and a Local Plan Form Requiring Debtors to Provide Copies of Tax Returns Directly to a Chapter 13 Trustee.**

Federal Rule of Bankruptcy Procedure 9029 empowers bankruptcy courts to make and amend local rules. Rule 9029 provides as follows:

(a) Local Bankruptcy Rules.

(1) Each district court acting by a majority of its district judges may make and amend rules governing practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction which are consistent with—but not duplicative of—Acts of Congress and these rules and which do not prohibit or

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<sup>3</sup> As support for their positions, Petitioners' Petition for Writ of Certiorari cites to the Consumer Bankruptcy Reform Act of 2020, S.4991, 116th Congress (2019-2020). The bill was introduced in the United States Senate in the prior Congress and there were no hearings on the bill. The bill would have to be reintroduced in the new Congress. A bill submitted in a prior Congress that would radically alter the entire Bankruptcy Code should not be used as a valid method of statutory interpretation. For this reason, this Response will not address the Petitioners' arguments. The Supreme Court should not the use previously proposed Consumer Bankruptcy Reform Act of 2020 as a valid method of statutory construction for a statute [§ 521(f)] enacted in 2005.



limit the use of the Official Forms. Rule 83 F.R.Civ.P. governs the procedure for making local rules. A district court may authorize the bankruptcy judges of the district, subject to any limitation or condition it may prescribe and the requirements of 83 F.R.Civ.P. to make and amend rules of practice and procedure which are consistent with—but not duplicative of—Acts of Congress and these rules and which do not prohibit or limit the use of the Official Forms. Local rules shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

(2) A local rule imposing a requirement of form shall not be enforced in a manner that causes a party to lose rights because of a nonwillful failure to comply with the requirement.

In December 2017, the U.S. Supreme Court, in accordance with 28 U.S.C. § 2075, amended Fed. R. Bankr. P. 3015. Pursuant to Fed. R. Bankr. P. 3015(c), as amended, the new Official Form 113 (the “National Plan Form”) must be used in all Chapter 13 cases, except to the extent a Local Form that complies with Fed. R. Bankr. P. 3015.1 has been implemented at the district level. Instead of using Official Form 113, like many jurisdictions, the Bankruptcy Court for the District of Arizona chose to adopt a Local Plan Form, which is compliant with Fed. R. Bankr. P. 3015.1. On December 17, 2017, the Bankruptcy Court for the District of Arizona entered General Order No. 17-1 that

adopted amendments to its local rules of bankruptcy procedure. See <http://www.azb.uscourts.gov/general-orders>. The proposed Rules had been published with notice and an opportunity for public comment before adoption. Among other amendments, the Bankruptcy Court implemented L. R. Bankr. 2084-4 mandating the use of a Local Plan Form 2084-4 for the Chapter 13 plan<sup>4</sup>. Paragraph (F) of Local Plan Form 2084-4, in relevant part, states:

*Tax Returns.* While the case is pending, the Debtor shall provide to the Trustee a copy of any post-petition tax return within 14 days after filing the return with the tax agency.

Pet. App. 79.

The Petitioners contend that this provision of Local Plan Form 2084-4 violates § 521(f) and that § 521(f) provides the exclusive method whereby a Chapter 13 trustee may procure the tax returns of a debtor. There is nothing in the statute itself or the legislative history of the Bankruptcy Abuse and Consumer Protection Act that supports the Petitioners' argument and the Petitioners cite none. A Chapter 13 trustee is *required* to investigate the financial affairs of a debtor. 11 U.S.C. §§ 704(a)(4); 1302(b)(1) (emphasis added). Moreover, a debtor is *required* to cooperate with the trustee as necessary to enable the trustee to

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<sup>4</sup> Because the Petitioners filed an amended (modified) Chapter 13 plan on August 5, 2018, they were required to use Local Plan Form 2084-4, instead of the outdated Local Form 13-2 they had used for their original plan.

perform the trustee's duties under Title 11. 11 U.S.C. § 521(a)(3) (emphasis added). A debtor must produce to the bankruptcy trustee for the meeting of creditors identification that establishes the debtor's identity, and evidence of the debtor's social security number. Fed. R. Bankr. P. 4002(b). Also, a debtor *must* surrender to the trustee books, documents, records and papers related to the estate. 11 U.S.C. § 524(a)(4).

Section 541 of the Bankruptcy Code defines what is property of the estate. Under Chapter 13, what property is "property of the estate" is expanded from § 541 in that it includes all property defined under § 541 and property that the debtor acquires after the commencement of the case and includes post-filing earnings of the debtor. 11 U.S.C. § 1306(a). The duty of a Chapter 13 trustee to investigate the affairs of a debtor does not end at confirmation of a Chapter 13 plan. The Chapter 13 trustee must represent the many competing interests in a bankruptcy estate. *In re Escarcega*, 573 B.R. 219 (B.A.P. 9th Cir. 2017). "[W]hile debtors want to pay the least amount possible, creditors wish for the highest amount of plan payments." *Id.* at 233. "The trustee's role spans the many competing interests in Chapter 13 cases, the Chapter 13 Trustee works with everyone and for no one." *Id.* (citing Keith M. Lundin and William H. Brown, Chapter 13 Bankruptcy, 4th Edition, Section 58.1, [www.ch13online.com](http://www.ch13online.com)).

A debtor has the duty under BAPCPA to devote all of his or her income to repaying creditors. *Ransom v. FIA Card Serv., N.A.*, 562 U.S. 61, 131 S.Ct. 716, 178 L.Ed.2d 603 (2011) ("Congress designed the means test

to measure debtors' disposable income and, in that way, 'to ensure that [they] repay creditors the maximum they can afford.' H.R. Rep., at 2. This purpose is best achieved by interpreting the means test, consistent with the statutory text, to reflect a debtor's ability to afford repayment."). *Id.* at 71. Indeed, 11 U.S.C. § 1329(a) allows a trustee to file a modified plan to increase the amount of payment on claims. *See In re Kagenveama*, 541 F.3d 868 (9th Cir. 2008) (overruled on other grounds by *In re Flores*, 735 F.3d 855 (9th Cir. 2013)). An important purpose of § 1329's modification process is to ensure that unsecured creditors have a mechanism for seeking increased payments if a debtor's financial circumstances improve unexpectedly. *See In re Fridley*, 380 B.R. 538 (B.A.P. 9th Cir. 2007). Courts have routinely ruled that a trustee is allowed to seek plan modification when a debtor experiences an increase in income. *See In re Shay*, 553 B.R. 412 (Bankr. W.D. Wash. 2016); *In re Than*, 215 B.R. 430 (B.A.P. 9th Cir. 1997), *In re Powers*, 202 B.R. 618 (B.A.P. 9th Cir. 1996). The Seventh Circuit Court of Appeals held that pursuant to 11 U.S.C. § 1329(b), a bankruptcy court, in its discretion, may approve a trustee's motion to modify the plan when a debtor's post-confirmation increase in income allows a debtor to pay more to her unsecured creditors. *Germeraad v. Powers*, 826 F.3d 962 (7th Cir. 2016). Such plan modification can come after the trustee reviews the debtors' tax returns. *In re Midgley*, 413 B.R. 820 (Bankr. Or. 2009), *In re Pautin*, 521 B.R. 754 (Bankr. W.D. Tex. 2014). Thus, a Chapter 13 trustee has a valid purpose when requesting the debtors' tax returns filed after confirmation of a plan

and § 521(f) is not the exclusive means for a trustee to obtain a debtor's tax returns. *See In re Romeo*, 2018 WL 1463850 (B.A.P. 9th Cir. 2018).

As noted in *In re Garner*, 246 B.R. 617, 624 (B.A.P. 9th Cir. 2000), a three-part test exists for determining the validity of a local rule: "(1) whether it is consistent with Acts of Congress and the Federal Rules of Bankruptcy Procedure; (2) whether it is more than merely duplicative of such statutes and rules; and (3) whether it prohibits or limits the use of Official Forms." Additionally, there is a rule of construction which states that mere requirements of form in local rules are not to be enforced in a manner that would deprive a party of rights because of a nonwillful failure to comply. Fed. R. Bankr. P. 9029(a)(2).

It is important to bear in mind, however, that an appellate court owes considerable deference to a lower court's interpretation and application of its "own local rules adopted to promote efficiency." *Matter of Adams*, 734 F.2d 1094, 1102 (5th Cir. 1984). The test of whether a rule exceeds the congressional mandate embodied in the enabling act is "whether a rule really regulates procedure, –the judicial process for enforcing rights and duties recognized by substantive law and for justly administering remedy and redress for disregard or infraction of them." *Id.* at 1101, citing *Sibbach v. Wilson & Co., Inc.*, 312 U.S. 1, 14, 61 S.Ct. 422, 426, 85 L.Ed. 479 (1941). As noted by the Bankruptcy Court's decision, courts have an interest in managing their dockets in an efficient and fair manner to all litigants. Pet. App. 35, 36; *CMAX, Inc. v. Hall*, 300 F.2d 265 (9th Cir. 1962).

As noted by the United States District Court’s memorandum decision in this case, thousands of Chapter 13 cases get filed with a plan term of three to five years. Pet. App. 19. Requiring a trustee to file motions in each of the assigned cases for three to five years would cause a massive influx of additional motions and put a strain on the court’s docket. Moreover, requiring such scheme would increase the costs of administering the cases, which cost gets passed onto debtors. In fact, as the Bankruptcy Court astutely stated, “it appears that the Debtors['] intent in objecting to this local plan provision is to purposely increase the cost to the Trustee of obtaining an important source of financial information.”<sup>5</sup> Pet. App. 36.

Petitioners’ Writ, starting on page nine, asserts a conflict between the Ninth Circuit Court of Appeals decision in this case and the Fifth Circuit Court of Appeals decision of *In re Diaz*, 972 F.3d 713 (5th Cir. 2020). In *Diaz*, the issue was wholly different from the issue in this case. The plan form in *Diaz* required debtors to turnover to the Chapter 13 trustee income tax refunds in excess of \$2,000.00 as “disposable income.”

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<sup>5</sup> In the Arizona case of *In re Romeo*, discussed *infra*, the Chapter 13 debtors filed their federal income tax return with the Court and the Chapter 13 trustee filed a motion with the Court to view the return. The Romeos contested the trustee’s motion, arguing that the trustee’s statutory duty to review the returns was insufficient to override the debtors’ privacy concerns. The bankruptcy court held the trustee could view the return. On appeal, the Bankruptcy Appellate Panel upheld the bankruptcy court’s decision. The Romeos, unsurprisingly, were represented by Petitioners’ counsel.

The Fifth Circuit found the plan provision “abridges Debtor’s substantive right to use the amount of her tax refund in excess of \$2,000 in accordance with § 1325(b)(2)” and the guidance provided by the Supreme Court in *Hamilton v. Lanning*, 560 U.S. 505, 130 S.Ct. 2464, 177 L.Ed.2d 23 (2010). Indeed, the Ninth Circuit Court of Appeals had decided an issue similar to that in *Diaz*. In the case of *In re Anderson*, 21 F.3d 355 (9th Cir. 1994), the Chapter 13 trustee required debtors to sign a “best efforts certification” pledging to pay all actual disposable income to the trustee for distribution to creditors. The Ninth Circuit held that debtors did not have to allow a Chapter 13 trustee to modify plan payments unilaterally without using the statutory mechanism of 11 U.S.C. § 1329. Soon after the *Anderson* decision, counsel for the Petitioners raised the nearly identical issue with the Bankruptcy Court for the District of Arizona. The Bankruptcy Court held that Chapter 13 debtors could not be required, as prerequisite to confirmation of plan, to agree to pay over to trustee any future tax refunds received during life of plan, without regard to whether such refunds had been projected. *In re Kuehn*, 177 B.R. 671 (Bankr. Ariz. 1995).

The difference between the decisions in *Anderson*, *Diaz*, and *Kuehn*, and the facts of this case is that neither the Chapter 13 trustees nor the plan form were *requiring* debtors to pay additional funds to the trustee without regard to the statutory scheme provided by Chapter 13 for plan modification. See 11 U.S.C. §§ 1325(b), 1329(a). In the present case, the plan form

requires only that the debtors provide their income tax returns to the Chapter 13 trustee. There is no alteration of the plan payments, automatic or otherwise, from a confirmed plan due to additional income or tax refunds, as was the issue in *Anderson*, *Diaz*, or *Kuehn*. After a review of the Petitioners' tax returns, if he found an increase in the Petitioners' income, the Respondent would have to use the plan modification process in 11 U.S.C. § 1329(a). Therefore, contrary to the Petitioners' assertion, the Fifth Circuit's decision in *Diaz* has no conflict with the Ninth Circuit decision in this case.

In practice, a Chapter 13 trustee is much more likely to use the returns in ways that debtors see as beneficial. Frequently, debtors and their counsel, contact the trustee's office to approve post-confirmation requests to incur debt for a new vehicle or home loan. Pursuant to Ariz. L. R. Bankr. 2084-25(c), if a debtor wishes to incur a new vehicle or home loan post-confirmation, the debtor may request written permission from the trustee in lieu of obtaining a court order. In order to determine whether a debtor can afford the new vehicle or home payment, the trustee would review the debtor's most recent tax return, pay stubs, the proposed purchase/financing agreement, and an amended Schedule I and J. There are many reasons why a Chapter 13 trustee would need the tax returns after the Court confirms a plan.

Ariz. L. R. Bankr. 2084-4 and Local Plan Form do not conflict with 11 U.S.C. § 521(f). As the Bankruptcy Court stated in its decision:



Chapter 13 was intended to provide individual debtors with a streamlined process for reorganizing their debts. *In re Vega-Lara*, 2018 WL 2422427, at \*5 (Bankr. W.D. Tex. 2018)<sup>6</sup> (quoting *In re Solitro*, 382 B.R. 150, 152 (Bankr. D. Mass. 2008)). Uniform plans, like the Local Plan Form, allow Chapter 13 trustees, creditors' attorneys, and debtors' attorneys to more quickly, efficiently, and inexpensively review and prepare plans. *See id.* (quoting *In re Solitro*, 382 B.R. 150, 152 (Bankr. Mass. 2008)).

Pet. App. 35.

The promulgation of L. R. Bankr. 2084-4 and Local Plan Form 2084-4 by the Bankruptcy Court was a valid exercise of its authority to streamline the Chapter 13 cases filed in the District of Arizona and they do not conflict with 11 U.S.C. § 521(f).

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## CONCLUSION

For the foregoing reasons, review by the Court is unnecessary. Section 521(f) of the Bankruptcy Code was not invoked by the Respondent and L. R. Bankr. 2084-4 is a valid exercise of the Bankruptcy Court's authority to conduct its business and control its

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<sup>6</sup> Vacated on other grounds and remanded by *Matter of Diaz*, 972 F.3d 713 (5th Cir. 2020).

docket. Respectfully, the Respondent asserts that the Court should deny the Petition for Writ of Certiorari.

Respectfully submitted,

RUSSELL BROWN, ESQ.

Chapter 13 Trustee

*Counsel of Record*

3838 North Central Avenue, Ste. 800

Phoenix, Arizona 85012

(602) 277-8996

rflinn@ch13bk.com

rbrown@ch13bk.com