Office of the Chapter 13 Trustee—Akron Office
Keith L. Rucinski—Trustee

Chapter 13 Quarterly Newsletter
June 2011

1. Annual Review of Cases Needing Motion to Paid to Date

The Chapter 13 office has begun its annual audit of cases which have met or exceeded the 60 month time duration for a Chapter 13 plan. Many of these cases could be eligible for a discharge if counsel were to file a motion to modify the plan to paid to date. This type of motion is not a hardship motion but can be used in the following situations:

A. There are no equity issues in the case and unsecured creditors have received as much as they would have received in a Chapter 7 liquidation.
B. All secured and priority claims have been paid.
C. The debtors have devoted all disposable income for the benefit of creditors for the applicable commitment period.

The Trustee has begun filing motions to dismiss these cases. Please give these motions your attention as these motions to dismiss will have a paragraph citing whether or not the plan is eligible for a motion to modify to paid to date. Furthermore, the Trustee has requested that the US Bankruptcy Court in Akron give these motions at least a 40 day notice time to allow counsel to review said motion and file their own motion to modify to paid to date.

To assist counsel in filing a motion to modify to paid to date, please find attached to this newsletter a sample motion and order.

2. More Than Half of Debtors Filing Chapter 13 in Akron are Earning a Discharge

The percentage of debtors earning a discharge for the 2011 fiscal year (October 2010-May 2011) is currently 51%. The number of debtors earning a discharge for the prior fiscal year, fiscal year 2010, was 47%.

Due to the hard work and professionalism of the entire bankruptcy community, the number of debtors earning their discharge in Akron continues to increase. Please note that nationally, the number of cases completing is only about 33%.

3. Financial Management Instructional Course – Monday September 12, 2011

Please take note that the Chapter 13 office will hold its next Financial Management Instructional Course on Monday, September 12, 2011 at the Akron Public Library in downtown Akron. The course will run from 5:30 to 8 PM. As you are aware, if debtors fail to take a Financial Management Course, they cannot receive a discharge in their Chapter 13 plan.

The Trustee has noticed an increase in the number of motions filed by the Chapter 13 office requesting that cases be closed without discharge due to the debtor's failure to take a Financial Management Instructional Course.

As of April 2011, there were over 1300 Chapter 13 cases filed in Akron in which debtors have failed to take a Financial Management Instructional Course. The Trustee continues to ask all counsel to review their cases to determine if the debtors have taken said program. Going forward, the best policy would be to either have the debtors sign up for the Chapter 13 class at the time of the 341 meeting or use alternative methods of your choosing so that the debtors complete said class within the first couple months of filing their Chapter 13 case.

Lastly, the Trustee is asking all counsel in reviewing their cases to determine if they have a Financial Management Instructional Course certificate in their file which has not been properly filed with the Court. In many cases, the Trustee notes that when the failure to take the course is brought to the debtor and counsel's attention that a certificate is filed which reflects that the class was taken some time ago but the certificate has not been filed with the US Bankruptcy Court.

4. Condominium Association Fees in Chapter 13 Plans

When reviewing claims filed by condominium associations, their treatment is generally based on two main factors. As an initial point of reference, all condominium association claims for dues and fees, whether assessed pre-petition or becoming due and payable post-petition, are considered to be pre-petition claims for the purpose of the Chapter 13 case. This is because the debtor has a pre-petition relationship with the condominium association (usually in the form of a lease agreement) and is aware of the pending dues and fees going forward should they choose to remain in the property during the bankruptcy case.

The first factor to review is whether the debtor is choosing to remain in the property or will be surrendering it. If the debtor is staying in the property, then any claims by the condominium association should be a secured claim. If the debtor is surrendering the property (as must be stated in their plan, under the special provisions paragraph), then any claims from the condominium association should be treated as an unsecured claim. The plan may also state that due to the debtor's surrender of the property, there will be no payment on the condominium association dues through the plan.

The second factor is whether or not the claim has been timely filed. Check whether the claim was filed prior to the claims bar date, or if the claim is filed after the

claims bar date but still seeking to be paid during the bankruptcy. If the claim is filed prior to the claims bar date, then the claim's classification shall be determined by the first factor laid out in the above analysis. For post-petition claims, if the condominium association seeks to have their claim paid through the Chapter 13 plan, a "motion to allow claim under 11 USC 1305" must be filed along with a corresponding agreed order stating the Trustee is authorized to pay on the claim. Post-petition claims may be paid as unsecured claims at 100% if the debtor is still living in the property. The debtor may also choose to do an agreed order to have the condominium association claim either paid outside of the bankruptcy and allowing the claim to be paid following the bankruptcy case.

5. Worksheet to Help Counsel Calculate Feasibility

Many Chapter 13 plans which are filed cannot be recommended for confirmation due to feasibility issues. For a plan to be feasible, the debtor's plan payments must be able to pay the debt as proposed in the plan in a maximum 60 month time period. Please note while under median income debtors are only required to perform in a 36 month applicable commitment period, most debtors have to extend the plan to the full 60 months in order to pay the secured and priority debt.

For several years, local attorneys used a feasibility worksheet which helped them put a plan together which was feasible and could be confirmed. These same counsel almost never had to file an amended plan for feasibility issues. For several years, the feasibility worksheet was attached to the plan when it was filed with the US Bankruptcy Court. A copy of the feasibility worksheet used by these counsel is attached to this newsletter in an excel format. A copy of this excel spreadsheet is also available on the downloads section of the Chapter 13 website at www.chapter13info.com.

This worksheet should help counsel be able to quickly calculate the feasibility before filing the proposed plan with the Court. If the debtor's payments do not equal the amount necessary to complete the plan in 60 months an adjustment in the unsecured dividend, plan payment or both needs to be made and the worksheet needs to be calculated a second time until the debtor's plan payments equal the amount to be paid into the Chapter 13 plan. Please note that this worksheet is being provided to assist counsel but IT DOES NOT NEED TO BE FILED WITH THE COURT.

6. Sample Templates

The Chapter 13 office often receives requests by counsel for sample motions and orders regarding various issues. To assist attorneys and their staff with drafting pleadings, the Chapter 13 office has complied the following templates as samples:

- **A.** Application for Additional Compensation, Debtor Authorization for Additional Compensation and Order Allowing Additional Compensation
- **B.** Motion and Order to Suspend Pays
- **C.** Motion and Order Avoiding Second Mortgage

D. Motion and Order Avoiding Judicial Lien
E. Motion and Notice to Modify Plan Subsequent to its Confirmation to add Pre-Petition Creditors and to Establish a Filing Deadline for Proofs of Claim
F. Motion and Notice for Authority to Purchase Vehicle/Incur Debt
G. Motion and Order for Turnover of Automobile Insurance Proceeds
H. Agreed Entry Granting Relief from Stay and Appointment of State Court Counsel

The above templates are the most requested examples from the Chapter 13 office. The attached templates have been drafted by reviewing various pleadings filed not only by the Chapter 13 office but by local attorneys. The templates have attempted to incorporate the best of the pleadings filed by various counsel. The Chapter 13 office does not guarantee that any court will accept the templates. Furthermore, the templates are strictly for a guide and counsel must modify the templates to fit the facts and situations of their own particular case or issue.

7. Where is the Debtor Getting the Money?

The Trustee has noticed an increase in agreed entries to resolve post-petition payment arrearages on automobiles and mortgages.

In the case of automobiles, some of these agreed entries submitted to the Chapter 13 office state that the debtor will cure the arrearage over the following 6 months by paying additional funds to the creditor outside the plan. These agreed entries do not state how the debtor will have the additional funds and there is no amended schedule I or J filed to show that the debtor has additional funds to be paid into the plan. Some counsel have attempted to simply say the debtor will be paying them from their wages. However, the debtor's wages are already part of the Chapter 13 plan and the debtor is required to put all excess income into the Chapter 13 plan for the benefit of creditors. The Trustee has not approved said orders as these types of orders are not stating a reasonable explanation on where the debtor is getting said funds. The Trustee suggests that post-petition automobile arrearages be placed inside the Chapter 13 plan with appropriate default provisions worked out between the parties.

In the case of post-petition mortgage arrearages, please note that the Court has a standing administrative order, Administrative Order 09-6 – Order Governing Procedures Regarding Second Chance Relief Orders Including Allowance of Creditor Attorney's Fees and Costs. A copy of this administrative order is attached to this newsletter for review. In essence, post-petition mortgage arrearages must be placed inside the Chapter 13 plan and paid over the duration of the Chapter 13 plan. The Trustee cannot approve agreed entries for mortgage arrearages requiring the debtor to pay said arrearage over a 6 month timeframe outside the plan, simply for the same reason that the Trustee is not signing the same issue regarding automobiles.

Making an agreed entry that the debtor cannot perform under is not to the benefit of either the debtor or creditor. Requiring post-petition arrearages to be resolved in a 6 month timeframe is an agreed entry set up to fail. The Trustee asks all parties to work together to place these arrearages into the Chapter 13 plan. In some cases, it may be necessary to modify the plan to increase plan payments to cover the post-petition arrearages on automobiles and mortgages.

8. **It is an Urban Legend that sending orders for review directly to the Trustee or Staff Attorney will expedite the processing of the order.**

When submitting orders directly to the Chapter 13 office please send them to the case person assigned to the case. A listing of staff members, their case assignments, and contact information is attached to this newsletter.

Chapter 13 staff members are responsible for reviewing the orders to verify proper service, notice time, adjusting claims pursuant to objections, and auditing cases to ensure the proposed order does not affect feasibility. The orders are then reviewed by the Trustee and Staff Attorney to ensure the orders are in compliance with the bankruptcy code, administrative orders, and local rules.

Submitting orders directly to the Trustee and Staff Attorney will slow down the processing of the order. The order may sit in e-mail for a day or two, then forwarded to a staff person for review (who may be prepping files for 341 meetings and not have time for a day or two to review the order). Counsel will find submitting order to the Trustee and Staff Attorney can add several days time to the review process.

Please note, the Chapter 13 office attempts to return orders within five business days. Due to summer vacations it may take a few days longer. If you have an order which is a "real" emergency please call the Chapter 13 office and every effort will be made to get the order back to you timely.

9. **Case Law**

Hancock v. McDermott, 2011 FED App. 0131P (6th Cir. Tenn. 2011)

Appellant, a debtor's attorney, files his final fee application after the case has converted to a Chapter 7. The US Trustee and the Chapter 7 Trustee object to the fee application. After a week long trial, the bankruptcy court denies all of Debtor's counsel fees for failure to disclose, abusive conduct in the case, excessive and incomplete billing and general disruptive behavior. Upon timely appealing to district court, appellant Debtor's counsel then filed multiple extensions citing delays and missed several deadlines which resulted in the district court issuing a show cause order as no brief had yet been filed six months after the appeal had been taken. Appellant did not respond to the show cause but instead

filed a brief that exceeded 100 pages, disregarding a 50 page limit. Appellees moved to have the appeal dismissed or to require appellant to comply with the briefing limits. District Court entered an order for appellant to file a brief under 50 pages and to file another motion for extension explaining why his brief was not timely filed. Appellant then filed two documents (i) a brief arguably 50 pages in length almost entirely single spaced and in small font which was in clear violation of the local filing requirements and (ii) an explanation for the delay that personal reasons existed that could only be discussed in chambers and that the district would not have the "extraordinary courage" required to find the bankruptcy court violated his constitutional rights so there was no point investing more hours into the district court because any ruling would be appealed and the Sixth Circuit reviews only the findings of the bankruptcy judge. The district court then entered an order pursuant to local rule summarily affirming the opinion of the bankruptcy court for appellant's failure to comply with Rules 8006, 8007 and 8009 of the Bankruptcy Rules.

The Sixth Circuit affirmed, holding that the district court's order was proper and agreed that summary affirmance without consideration of the merits was appropriate. Further the court reasoned that appellants cannot leapfrog the district court in bankruptcy appeals by blatantly ignoring the rules and procedures for appeals and that permitting parties to skip the intermediate appeal would undermine the bankruptcy appellate process.

Stern v. Marshall, 564 US ____ 10-179 (2011)

This case stemmed from the long-running dispute between Vickie Lynn Marshall, otherwise known as Anna Nicole Smith, and E. Pierce Marshall over the fortune of J. Howard Marshall II, a man believed to have been one of the richest people in Texas. Vickie married J. Howard, Pierce's father, approximately a year before his death. Shortly before J. Howard died, Vickie filed a suit against Pierce in Texas state court asserting that J. Howard meant to provide for Vickie through a trust, and Pierce tortiously interfered with that gift. The litigation worked its way through state and federal courts in Louisiana, Texas, and California, and two of those courts, a Texas state probate court and the Bankruptcy Court for the Central District of California, reached contrary decisions on its merits. The Court of Appeals subsequently held that the Texas state decision controlled after concluding that the Bankruptcy Court lacked the authority to enter final judgment on a counterclaim that Vickie brought against Pierce in her Chapter 11 bankruptcy proceeding.

At issue was whether the Bankruptcy Court Judge, who did not enjoy tenure and salary protections pursuant to Article III of the Constitution, had the statutory authority under 28 U.S.C. 157(b) to issue a final judgment on Vickie's counterclaims and, if so, whether conferring that authority on the Bankruptcy Court was constitutional.

The Supreme Court held that the Bankruptcy Court had the statutory authority to enter judgment on Vickie's counterclaim as a core proceeding under 11 USC Section 157(b)(2)(C). The Supreme Court held, however, that the Bankruptcy Court lacked the constitutional authority under Article III to enter final judgment on a state law

counterclaim that was not resolved in the process of ruling on a creditor's proof claim. Accordingly, the judgment of the Court of Appeals was affirmed.

SAVE THE DATE

Bench-Bar Retreat Friday, October 28, 2011

Motion and Order to Modify Plan to Paid to Date

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
Note: To use, Applicable Commitment Period must have expired. Best to review with Chapter 13 office before filing.	)	MOTION TO MODIFY PLAN TO PAID TO DATE

Now comes the Debtor(s), by and through undersigned counsel, and hereby moves this Court for an order pursuant to 11 USC § 1329, allowing this plan to be modified reducing the unsecured dividend from the current ____% to the amount paid to date. This modification will allow the Debtor(s) to complete the plan and be eligible for discharge for all debts. The Debtor(s) has devoted all projected disposable income into this plan throughout the applicable commitment period. The Debtor(s) states the following:

1. This Chapter 13 plan was filed February 14, 2011.
2. The total amount paid to date into the plan in _____.
3. The Debtor(s) is seeking to modify the unsecured dividend from the current _____% to the amount paid to date.
4. As of the date of this motion, all timely filed secured claims have been paid in full.
5. As of the date of this motion, all timely filed priority claims have been paid in full.

6. The Debtor(s) notes that the best interest test for creditors pursuant to 11 USC § 1325 have been met.

7. The Debtor(s) calculates equity in this case as follows:

Schedule A Real Property	$0.00
Schedule B Personal Property	$0.00
Schedule C Exemptions	$0.00
Schedule D Secured Debt	$0.00
Schedule E Priority Debt	$0.00
Amount Available to Unsecured Creditors	$0.00

8. The total amount of timely filed unsecured claims in this case is approximately _____.

9. The amount paid to unsecured creditors as of the date of this motion is _____.

10. This modification will allow the Debtor(s) to be eligible for a discharge of the Chapter 13 case.

11. Pursuant to 11 USC § 102, unless a party in interest requests a hearing regarding this motion to modify, the Court may grant this modification without further hearing or notice. A party wishing to be heard with regard to this motion must file a response to this motion within 21 days from the date in the below certificate of service. Any party wishing to be heard must file a response at:

US Bankruptcy Court
455 Federal Building
2 South Main St.
Akron, OH 44308

12. The following parties must be served with a copy of the request for hearing:

Debtor(s) Attorney	**Chapter 13 Trustee**
Attorney Name	**Keith L. Rucinski**
Street Address	**One Cascade Plaza, Suite 2020**
City, State, Zip	**Akron, OH 44308**

13. In the absence of any party in interest requesting to be heard on this motion, the Court may grant this motion without further hearing or notice.

Respectfully submitted,

_____
Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

CERTIFICATE OF SERVICE

I hereby certify on _____, 2011, a copy of the foregoing was sent to:

Debtor(s) Name
Address
City, State, Zip
(via Regular Mail)

All creditors listed on the matrix (via Regular Mail)

Attorney Name (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

US Trustee (via ECF)

_____

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	CASE NO:
DEBTOR(S) NAME	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	ORDER GRANTING DEBTOR(S)
	)	MOTION TO MODIFY PLAN TO
	)	PAID TO DATE

This matter is before the Court based on the Debtor(s) Motion to Modify Plan to Paid to Date Allowing Plan Completion which was filed on or about _____.

The Court takes note that no creditor or interested party, including the Chapter 13 Trustee, has objected to same despite having received notice thereof. After review, the Court hereby finds that the Debtor(s) is moving this Court for an order pursuant to 11 USC § 1329, allowing this plan to be modified reducing the unsecured dividend from

____% to the amount paid to date and further that this amount will allow the Debtor(s) to complete the plan and be eligible for a discharge in this Chapter 13 case.

Given that no party has objected to the Debtor(s) motion to modify, the Court hereby grants the Debtor(s) motion on a default basis. The Chapter 13 plan is hereby modified. The unsecured dividend is hereby reduced to the amount paid to date to allow completion of this Chapter 13 plan and to allow the Debtor(s) to be eligible for a discharge.

###

Submitted and Approved by:

_____	_____
Attorney Name Ohio Reg. No. Street Address City, State, Zip Phone: Fax: Email:	Keith L. Rucinski, Chapter 13 Trustee Ohio Reg. No 0063137 Joseph A. Ferrise, Staff Attorney Ohio Reg. No. 0084477 One Cascade Plaza, Suite 2020 Akron, OH 44308 Phone: 330.762.6335 Fax 330.762.7072 krucinski@ch13akron.com jferrise@ch13akron.com

cc: Debtor(s) Name
Address
City, State, Zip
(via Regular Mail)

All creditors listed on the matrix (via Regular Mail)

Attorney Name(via ECF)

Keith Rucinski, Chapter 13 Trustee (via ECF)

US Trustee (via ECF)

Financial Management Instructional Course-
Monday, September 12, 2011

Phone: (330) 762-6335
Fax: (330) 762-7072
Web: www.chapter13info.com

Office Of
The Chapter 13 Trustee
Keith L. Rucinski, Trustee

One Cascade Plaza
Suite 2020
Akron, Ohio 44308

June 22, 2011

Personal Financial Management Instructional Course

Pursuant to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, all people filing for bankruptcy after October 17, 2005, must take a Personal Financial Management Instructional Course in order to earn a discharge of their case. A discharge means a successful completion of the plan and creditors paid through the plan may not seek further payment from you. This course is in addition to the Credit Counseling Course that you took to file your Chapter 13 case. If you have already taken both courses you may disregard this notice.

The Chapter 13 Office in Akron, Ohio will be offering the Personal Financial Management Instruction Course on **Monday, September 12th 2011**, at the Akron-Summit County Public Library, 60 S. High Street, Akron, Ohio 44308. Pickup of course materials and seating for the class begins at 5:30 p.m. The course runs from 6:00 p.m. to 8:00 p.m. A parking deck is located next to the library and parking is free. **You must register for the course and may do so by calling 330-475-7500, or by email at edclass@ch13akron.com. PLEASE MAKE SURE TO LEAVE YOUR NAME AND CASE NUMBER WHEN CALLING TO MAKE YOUR RESERVATION. Space is limited so please make your reservation as soon as possible**. **The deadline to register for the class is September 9th, 2011.** A photo I.D. will be necessary in order to take the course. If you require an Sign Language interpreter send your request to edclass@ch13akron.com. The instructor will be Keith Rucinski. Mr. Rucinski is a CPA and Attorney and serves as Trustee for the Chapter 13 Office. For the past decade he has taught college courses and has been a frequent speaker at local and national seminars.

This free course will not be offered again, until Spring 2012 (Date to be announced at a later date)

This course is only being offered to individuals who have filed Chapter 13 with the U.S. Bankruptcy Court in Akron, Ohio. The course is being offered without regard to an individual's ability to pay. There is no cost to individuals for taking the course sponsored by the Chapter 13 Office.

You are not required to take this course through the Chapter 13 Office, but you must take a course which has been certified by the U.S. Department of Justice – U.S. Trustee Program. The other course providers may charge you a fee. The Chapter 13 Office in Akron does not pay or receive fees or other consideration for the referral of debtor students to or by the provider.

Upon completion of the course the Chapter 13 Office in Akron will provide participants a certificate of course completion. This certificate must be filed with the U.S. Bankruptcy Court in Akron, Ohio in order to earn a discharge in your case.

Main Library

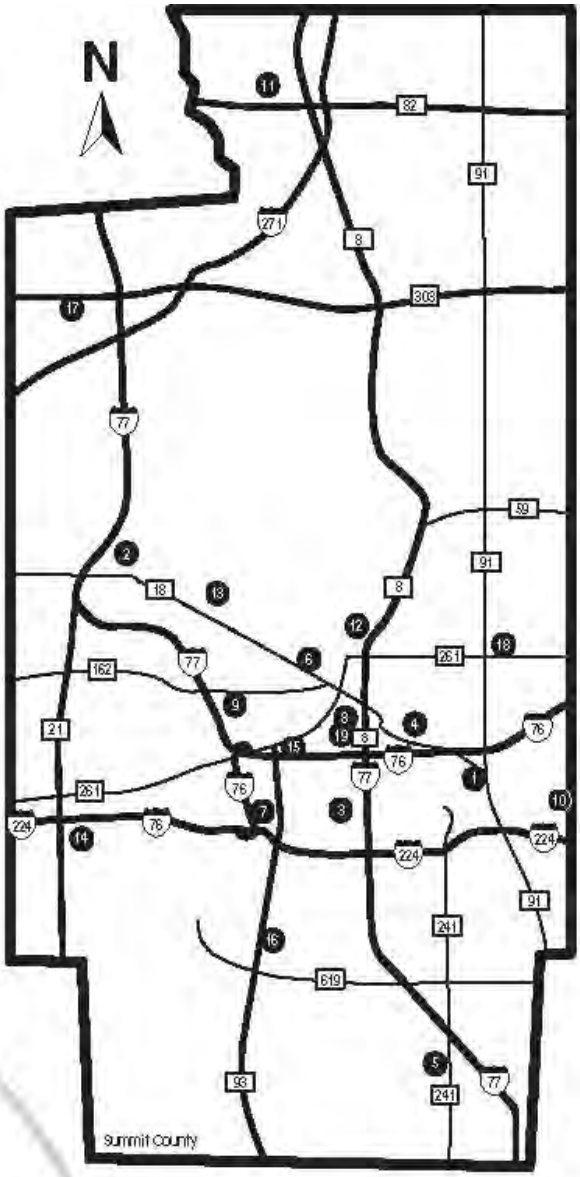
is located at 60 S. High Street
Akron, Ohio 44326
in downtown Akron, OH
330-643-9000.

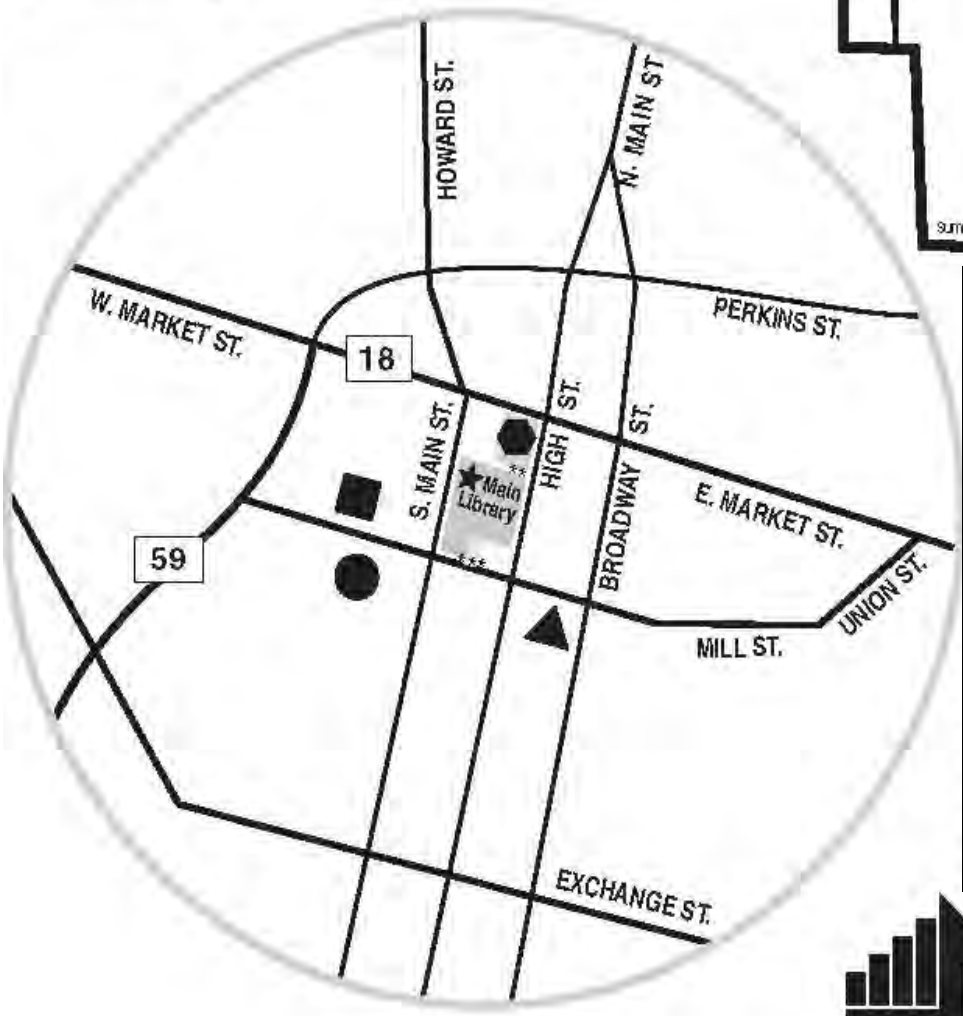
**Drive-through window accessible
from High Street between
Main Library and the High & Market parking deck
***LOADING DOCK entrance is on Mill Street

- **From Cleveland**: From Interstate I-77 South, take exit 21C to merge onto Innerbelt/Martin Luther King Jr Fwy E/OH-59 E toward Downtown Akron. Turn right at N. High St.
- **From Canton**: From I-77 North, take the OH-59 W exit toward Perkins St/M.L. King Jr Blvd & Fwy. Turn left at Perkins St and continue on Martin Luther King Jr Blvd. Turn left at N High St.

Convenient Parking for Main Library includes:

- ⬢ - **High & Market Deck** (across from the Akron Art Museum and connects to the library)
- ■ - Super Block Garage
- ● - Cascade Parking Garage
- ▲ - John S. Knight Center Parking





***** A PHOTO ID IS REQUIRED FOR ADMITTANCE TO THE SEMINAR**

***** IF YOU PARK IN THE LIBRARY PARKING DECK MAKE SURE TO BRING YOUR TICKET WITH YOU FOR VALIDATION!!!**

Akron-Summit County Public Library

Feasibility Worksheet

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE: _____

_____

CHAPTER 13
CASE NUMBER _____

FINANCIAL SUMMARY
OF CHAPTER 13 PLAN

I. PRIORITY CREDITORS - 100%	AMOUNT:	
1	$0.00	
2	$0.00	
3	$0.00	
4	$0.00	$0.00

II. SECURED CREDITORS - PAID DIRECTLY BY DEBTOR (S)		
1	$0.00	
2	$0.00	
3	$0.00	
4	$0.00	$0.00

III. SECURED CREDITORS - PAID BY CHAPTER 13 TRUSTEE

	SECURED AMOUNT	INTEREST AMOUNT	UNSECURED AMOUNT
1	$0.00	$0.00	$0.00
2	$0.00	$0.00	$0.00
3	$0.00	$0.00	$0.00
4	$0.00	$0.00	$0.00
5	$0.00	$0.00	$0.00
6	$0.00	$0.00	$0.00

SECURED PORTION + INTEREST TOTAL:	$0.00 @	100.00%	$0.00
UNSECURED PORTION TOTAL:	$0.00 @	0.00%	$0.00

IV. UNSECURED CREDITORS:	$0.00 @	0.00%	$0.00
V. SPECIAL CLASS OF CREDITORS:	$0.00 @	0.00%	$0.00

VI. ATTORNEY FEES: TOTAL: $0.00 PD DIRECT: $0.00 BALANCE THRU PLAN $0.00

SUBTOTAL: $0.00

VII. TRUSTEE'S FEES AND EXPENSES: 10.0% $0.00

TOTAL I.-VII. $0.00

VIII. PAYMENTS FROM DEBTOR (S):

DEBTOR: $0.00 PER MONTH FOR 5 YEARS $0.00
JT DEBTOR: $0.00 EVERY MONTH FOR 0 YEARS $0.00

TOTAL VIII: $0.00

THE TOTAL OF ITEM VIII MUST BE EQUAL TO OR GREATER THAN THE TOTAL OF ITEMS, I, III, IV,V,VI AND VII.
THIS REPORT MUST BE SUBMITTED TO THE TRUSTEE PRIOR TO THE FIRST MEETING OF CREDITORS

Application for Additional Compensation, Debtor Authorization for Additional Compensation and Order Allowing Additional Compensation

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	APPLICATION FOR ADDITIONAL
	)	COMPENSATION
	)	

Now comes **Attorney Name,** attorney for the above captioned Debtor(s), who prays for the entry of an order allowing him **$350** in additional compensation out of the Debtor(s) estate. The said attorney respectfully represents that he has performed services for the benefit of the estate not contemplated in the originally filed fee application, to wit: the said attorney has prepared and filed a motion to modify chapter 13 plan and has prepared and filed agreed order regarding same. The said attorney further represents that the said services have required the expenditure of approximately **three (s) hours** of the said attorney's time. Attached hereto as Exhibit A is an authorization for the said charge signed by the Debtor(s).

WHEREFORE, **Attorney Name,** attorney for the Debtor(s) hereby makes application for **$350** in additional attorney fees to be paid out of the Debtor(s) Chapter 13 estate by the Chapter 13 Trustee.

Respectfully submitted,

_____

Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

CERTIFICATE OF SERVICE

I hereby certify this **22nd day of December, 2010**, a copy of the foregoing Application for Additional Compensation was sent via electronic email and US mail, postage prepaid, as follows:

US Trustee (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

Debtor Names (via US mail)
Address
City, State, Zip

/s/ Attorney Name
Attorney for the Debtor(s)

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	DEBTOR(S) AUTHORIZATION
	)	FOR ADDITIONAL
	)	COMPENSATION

We, **Name of Debtor(s)** understand that our attorney **Attorney Name,** has or will receive **$3000** for representing us in our Chapter 13 plan. We further understand that our attorney has performed additional legal services on our behalf in this plan that were not initially contemplated by him or us.

We understand that the additional charge for said legal services, for which the Court approval is now being sought is **$**350 and we approve payment of the same. We have been informed that we have the right to oppose the payment of fees by appearing in Court on (date determined later). We have determined that there is no need to exercise this right.

Agreed to by:

_____
Debtor Name

_____
Joint Debtor Name (if applicable)

EXHIBIT A

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	CASE NO:
DEBTOR(S) NAME	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	ORDER ALLOWING ADDITIONAL
	)	COMPENSATION
	)	

This matter came before the Court upon application of **Attorney** Name attorney for the above captioned Debtor(s), who pray for the entry of an order allowing him additional compensation in the amount of **$350** out of the Debtor(s) estate. Upon representations set forth in the said motion, authorization by the Debtor(s) and approval by the Chapter 13 Trustee, the Court finds that the said application shall be granted.

WHEREFORE, it is **ORDERED, ADJUDGED** and **DECREED** that **Attorney** Name attorney for the above captioned Debtor(s) shall be paid additional compensation in the amount of **$**350 by the Chapter 13 Trustee out of the Debtor(s) estate.

IT IS SO ORDERED.

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Submitted and Approved by:

_____	_____
Attorney Name Ohio Reg. No. Street Address City, State, Zip Phone: Fax: Email:	Keith L. Rucinski, Chapter 13 Trustee Ohio Reg. No 0063137 Joseph A. Ferrise, Staff Attorney Ohio Reg. No. 0084477 One Cascade Plaza, Suite 2020 Akron, OH 44308 Phone: 330.762.6335 Fax 330.762.7072 krucinski@ch13akron.com jferrise@ch13akron.com

CERTIFICATE OF SERVICE

A copy of the foregoing Agreed Order was delivered via ECF electronic transmission and regular US mail, postage prepaid, as follows:

US Trustee (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

Attorney Name, Attorney for the Debtor(s) (via ECF)

Debtor(s) (via US Mail)
Street Address
City, State, Zip

Motion and Order to Suspend Pays

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	MOTION TO SUSPEND PAYS

Now comes the Debtor(s), by and through undersigned counsel, and hereby moves this Court for permission to suspend the Chapter 13 payments for the following number of days: **30 days**, to begin on the date that the Court approves an order to suspend the payments.

Insert Reason for Pay Suspension

This pay suspension will not reduce the amount that the Debtor(s) is obligated to pay creditors under the confirmed Chapter 13 plan.

During the pay suspension period, secured creditors which have filed and been allowed interest on their claims shall continue to receive said interest. During the pay suspension period, interest will continue to accrue on the secured claims which have requested interest.

The Chapter 13 Trustee shall be authorized to return funds received in this case during the pay suspension period directly to the Debtor(s). The Debtor(s) shall not be required to make a separate application for these funds.

WHEREFORE, the Debtor(s) respectfully requests a pay suspension in Chapter 13 payments as detailed herein

Respectfully submitted,

_____

Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

CERTIFICATE OF SERVICE

I hereby certify on _____, 2011, a copy of the foregoing was sent to:

Debtor(s) Name
Address
City, State, Zip
(via Regular Mail)

Attorney Name (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

US Trustee (via ECF)

_____

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	CASE NO:
DEBTOR(S) NAME	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	ORDER FOR PAY SUSPENSION
	)	

Pursuant to the motion filed with this Court and for good cause shown, the Debtor(s) is permitted a pay suspension for the following number of days: **30 days,** to begin on the date of this order.

This pay suspension will not reduce the amount the Debtor(s) is obligated to pay under the confirmed Chapter 13 plan.

Interest will continue to accrue on secured claims which have requested interest. The Chapter 13 Trustee is hereby authorized to return any funds received in this case

during the pay suspension directly to the Debtor(s). It is should not be necessary for the Debtor(s) to make a separate application for these funds.

###

Submitted and Approved by:

_____	_____
Attorney Name Ohio Reg. No. Street Address City, State, Zip Phone: Fax: Email:	Keith L. Rucinski, Chapter 13 Trustee Ohio Reg. No 0063137 Joseph A. Ferrise, Staff Attorney Ohio Reg. No. 0084477 One Cascade Plaza, Suite 2020 Akron, OH 44308 Phone: 330.762.6335 Fax 330.762.7072 krucinski@ch13akron.com jferrise@ch13akron.com

cc: Debtor(s) Name
Address
City, State, Zip
(via Regular Mail)

Attorney (via ECF)

Keith Rucinski, Chapter 13 Trustee (via ECF)

US Trustee (via ECF)

Motion and Order Avoiding Second Mortgage

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	MOTION TO VOID SECOND
	)	MORTGAGE

Now come Debtors, by and through counsel, and in support of this Motion to Void Second Mortgage of **Name**, to state to the Court as follows:

1. The Court has jurisdiction over this proceeding under 11 USC 506 and 11 USC 1322.
2. Debtors filed a petition under Chapter 13 of the Bankruptcy Code on July 29, 2010.
3. The Chapter 13 plan states that "this lien shall be stripped as having no secured value. Creditor shall be treated as wholly unsecured and be forever barred from asserting secured status. Creditor shall release its lien upon completion of the Plan". Creditor has not objected to its treatment as stated in Debtors' Plan.
4. At the time of the filing, two mortgages were recorded against the Debtors' real estate located at **Address** which they occupy as their homestead, specifically a first mortgage held by **Name** in the approximate amount of **Amount** and a second mortgage held by **Name** in the approximate amount of **Amount** (per Debtors' Schedule D).
5. The real estate has a value of **Amount**(see attached real estate valuation).

WHEREFORE, Debtors request that this Court void the second mortgage held by **Name** in its entirety in that said mortgage is wholly unsecured, and order **Name** to release its mortgage, and for such other relief as this Court deems just.

Respectfully submitted,

_____

Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

CERTIFICATE OF SERVICE

I hereby certify that o the foregoing was electronically transmitted on or about September 9, 2010 via the Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice List:

The US Trustee
Keith L. Rucinski, Chapter 13 Trustee

I further hereby certify that a copy of the foregoing was mailed on September 9, 2010 by regular US Mail (unless otherwise noted) to the following parties:

Name, Attn. Office or Director, Address per FDIC (via certified mail)

Name, Attn. Office or Director, Address per Proof of Claim (via certified mail)

Debtors, Address, City, State, Zip

_____

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

	)	
IN RE:	)	CHAPTER 13
	)	CASE NO:
DEBTOR(S) NAME	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	ORDER AVOIDING SECOND
	)	MORTGAGE

This matter came on for consideration upon Debtors' Motion for an Order Voiding the second mortgage of **Name**. After due consideration, this Court finds as follows:

1. That more than 21 days have elapsed since the filing of said Motion and that no answer, objection or other appearance to said Motion has been filed;

2. That Debtors' real estate located at **Address**, has a value of **Amount**;

3. That Debtors' real estate is encumbered by a first mortgage held by **Name** in the amount of **Amount**; and

4. That the lien held by **Name** is wholly unsecured in the approximate amount of **Amount**.

THEREFORE, Debtors' Motion is hereby GRANTED. **Name** shall properly release its lien within 90 days of the completion and Discharge of Debtor's bankruptcy. Should **Name** fail to release its lien within 90 days of the completion and Discharge of Debtors' bankruptcy, this Order shall be effective and shall operate as an instrument of conveyance which may be recorded at the office of the Auditor, Recorder, Clerk of Courts or other official department to effectuate the release of the mortgage lien held by **Name**. Further **Name** shall be barred from all right, title and interest in the subject real estate arising out of said lien.

IT IS SO ORDERED

###

Submitted by:

_____

Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

COPIES TO:

US Trustee, via ECF

Keith L. Rucinski, Chapter 13 Trustee, via ECF

Attorney Name, Counsel for Debtor(s), via ECF

Name, Attn. Office or Director, Address per FDIC (via regular mail)

Name, Attn. Office or Director, Address per Proof of Claim (via regular mail)

Debtors, Address, City, State, Zip (via regular mail)

Motion and Order Avoiding Judicial Lien

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	MOTION TO AVOID JUDICIAL
	)	LIEN

Debtor, by and through undersigned counsel, and in support of this Motion to Avoid Judicial Lien, states to the Court as follows:

1. The Court has jurisdiction over this proceeding under 28 USC 1334(b) and 11 USC 522(f).
2. Debtor filed a petition under Chapter 13 of the Bankruptcy Code on September 9, 2010.
3. At the time of the filing, one (1) judicial lien was recorded against Debtor's real estate which is occupied as the homestead, specifically:
    a. **Name**, lien number J2006-7567, recorded on December 15, 2006 in the amount of **Amount** (plus interest and costs), resulting from a judgment in case number (insert case number) in the Akron Municipal Court, Summit County, Ohio;
4. At the time the bankruptcy petition was filed, Debtor's homestead was valued at approximately **Amount** and was encumbered by a mortgage held by **Name** with an approximate balance of **Amount**. A copy of the county auditor's card is attached, as well as a copy of Schedule D of the petition.

5. Pursuant to ORC 2329.66(A)(1), Debtor is entitled to exempt **Amount** worth of equity in his homestead on Schedule C of his petition which was so claimed.
6. According to the formula set forth in 11 USC 522(f)(2)(A), the judicial lien held by the above named creditor impairs the homestead exemption to which Debtor is entitled under ORC 2329.66(A)(1) and as such is avoidable pursuant to 11 USC 522(f)(1)(A).
7. Avoiding the judicial lien held by the above creditor is necessary for Debtor's fresh start.

WHEREFORE, Debtor requests that this Court avoid the judicial lien held by **Name** in its entirety in that said lien impairs Debtor's homestead exemption, and grant such further relief as is just and equitable.

Respectfully submitted,

_____

Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically transmitted on or about February 14, 2011 via the Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice List:

US Trustee
Keith L. Rucinski, Chapter 13 Trustee

I further certify that a copy of the foregoing was mailed on February 14, 2011 by regular US Mail (unless otherwise noted) to the following parties:

Name, Attn: Officer or Director, Address per FDIC (via certified mail)

Name, Attn: Officer or Director, Address per Proof of Claim (via certified mail)

Name, c/o Name and Address, Creditor's Attorney

Debtor, Address, City, State, Zip

/s/ Attorney Name
Attorney Name, Attorney for Debtor

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	CASE NO:
DEBTOR(S) NAME	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	ORDER AVOIDING JUDICIAL LIEN
	)	

This matter came on for consideration upon Debtor's Motion to Avoid Judicial Lien. Debtor's counsel represents that all parties entitled to notice were served. No objections to this motion have been filed.

The Court therefore orders that the judicial lien filed for record as follows shall be released:

A. **Name**, lien number J2006-7567, recorded on December 15, 2006 in the amount of **Amount** (plus interest and costs), resulting from a judgment in case number (Insert Case Number) in the Akron Municipal Court, Summit County, Ohio.

The Summit County Court of Common Pleas is hereby ordered to release said lien upon presentation of this order.

###

Submitted and Approved by:

_____
Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

COPIES TO:

Attorney Name, Attorney for Debtor (via ECF)

Name, Attn: Officer or Director, Address per FDIC (via certified mail)

Name, Attn: Officer or Director, Address per Proof of Claim (via certified mail)

Name, c/o Name and Address, Creditor's Attorney (via regular mail)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

US Trustee (via ECF)

Debtor, Address, City, State, Zip (via regular mail)

Motion and Notice to Modify Plan Subsequent to its Confirmation to add Pre-Petition Creditors and to Establish a Filing Deadline for Proofs of Claim

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	DEBTORS' MOTION TO MODIFY
	)	PLAN SUBSEQUENT TO ITS
	)	CONFIRMATION TO ADD PRE-
	)	PETITION CREDITORS AND TO
	)	ESTABLISH A FILING DEADLINE FOR PROOFS OF CLAIM

Now come the above-captioned debtors, by and through the undersigned counsel, who pray for the entry of an order modifying their Chapter 13 plan so as to provide for the allowance and payment of the claims of those creditors indentified on the attached Exhibit "A". The debtors state that these prepetition creditors were inadvertently omitted by the debtors from their originally-filed schedules. The debtors pray that those claims identified as priority claims on the attached exhibit be fully paid inside the debtors' plan and that those identified as general unsecured claims be allowed and paid at the rate of **6%** as is provided for in the order confirming the plan for other general unsecured creditors. The debtors state that by their calculations this treatment of these claims may be provided for without requiring the debtors to increase their payments to the Chapter 13 Trustee or to extend the duration of the plan beyond its present **five (5) year duration**. The debtors state that each creditor identified on the attached exhibit has been provided with a blank proof of claim form and is advised that these proofs of claim must be filed with the Clerk of the Bankruptcy Court at room 455, US Courthouse, 2 S. Main St.,

Akron, Ohio 44308 or the Court may determine that the creditor's claim should not be allowed and paid and the claim may be discharged upon the debtors' completion of their plan. The debtors further pray that the Court establish a deadline for the filing of these proofs of claim, as 90 days from the date of the service of the present motion for those creditors identified on the attached exhibit as general unsecured claims and 180 days for those creditors whose claims are identified on the attached exhibit as priority claims.

WHEREFORE, the debtors pray for the entry of an order allowing the modification of the debtors' plan subsequent to its confirmation so as to provide for the treatment of creditors' claims as set forth above and to establish the above-referenced deadline for the filing of proofs of claim.

Respectfully submitted,

Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone
Fax
Email

CERTIFICATE OF SERVICE

I hereby certify on _____, 2010, a copy of the foregoing was sent to:

Debtor(s) Name
Address
City, State, Zip
(via Regular Mail)

All creditors listed on the matrix (via Regular Mail)

Attorney Name (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

_____

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	MARILYN SHEA-STONUM
	)	BANKRUPTCY JUDGE
	)	
	)	NOTICE OF DEBTORS' MOTION
	)	TO MODIFY PLAN

The debtors have filed papers with the Court to modify their Chapter 13 plan subsequent to its confirmation.

<u>Your rights may be affected.</u> You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the Court to grant the motion, or if you want the Court to consider your views on the motion, then on or before (21 days from filing date of motion), you or your attorney must file with the Court a written request for a hearing and a written answer explaining your position at the office of the Clerk of the Bankruptcy Court, room 455, US Courthouse, 2 S. Main St., Akron, Ohio 44308. If you mail your request to the Court for filing, you must mail it early enough so that the Court will receive it on or before the date stated above.

You must also mail a copy to:

Attorney Name, Street Address, City, State, Zip

Keith L. Rucinski, Chapter 13 Trustee, One Cascade Plaza, Suite 2020, Akron, OH 44608

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

DATE:January 14, 2011

Attorney Name (OHIO REG NO)
Street Address
City, State, Zip
Phone:
Fax:
Email:

Motion and Notice for Authority to Purchase Vehicle/Incur Debt

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	MOTION & NOTICE FOR
	)	AUTHORITY TO PURCHASE
	)	VEHICLE/INCUR DEBT

Now comes the Debtor(s), by and through undersigned counsel, and hereby moves this Court for approval to purchase a vehicle.

1. The Debtor(s) filed a petition under Chapter 13 of Title 11 of the United States Code ("Bankruptcy Code") on June 23. 2009.
2. The Court has jurisdiction over this matter pursuant to 28 USC Sections 157 and 1334. Venue is proper pursuant to 28 USC Sections 1408 and 1409. This is a core proceeding pursuant to 28 USC Section 157(b)(2).
3. The Debtor(s) seek authority to purchase a replacement vehicle with a monthly payment of approximately $400. The type of vehicle has not been determined. The Debtor(s) plan to purchase a vehicle through (Name of Auto Dealer) who will assist the Debtor(s) on securing financing on the vehicle. Debtor(s) lease with (Name of Lessor) has ended and Debtor(s) will no longer incur the lease expense listed on Schedule J. Additionally, without a vehicle Debtor(s) has been forced to rent a vehicle on a daily basis to transport to and from work. This vehicle is necessary to the maintenance and support of the Debtor(s) and for the success of Debtor(s) Chapter 13 plan. Further, Debtor(s) is paying **17%** to unsecured

creditors, are current on plan payments and the financing will not affect the Debtor(s) Chapter 13 plan.

WHEREFORE, Debtor(s) prays this Court for an order allowing him to finance a replacement vehicle pursuant to Title 11 USC § 102(1)(b)(i), unless a hearing is requested by a creditor or party in interest within twenty-one (21) days after notice hereof and for such other and further relief as the court deems just and proper herein.

Respectfully submitted,

_____

Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

NOTICE

Pursuant to LBR 9013-3 Notice is hereby given that any response or objection must be filed within TWENTY-ONE (21) days, or such other time as specified by applicable Federal Rule of Bankruptcy Procedure or statute or as the Court may order, from the date of service set forth on the certificate of service, if relief sough is opposed, and that the Court is authorized to grant the relief requested without further notice unless a timely objection is filed.

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE

Debtor(s) has filed paper with the Court to Purchase a Vehicle/Incur Debt.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. If you have on in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the Court to grant said Motion, or if you want the Court to consider your views on the Debtor(s) Chapter 13 plan then on or before **(21 days from filing date of motion)** you or your attorney must file with the Court a written request for a hearing and a written response explaining your position at :

US Bankruptcy Court
455 Federal Building
2 South Main Street
Akron, Ohio 44308

You must also mail a copy to:

Debtor(s) Attorney

Attorney Name
Attorney for Debtor(s)
Street Address
City, State, Zip

Chapter 13 Trustee

Keith L. Rucinski,
One Cascade Plaza, Suite 2020
Akron, Ohio 44308

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought and may enter an order granting that relief.

DATED: December 20, 2010

/s/ Attorney Name
Attorney Name (OHIO REG NO)
Attorney for Debtor(s)

CERTIFICATE OF SERVICE

I hereby certify on the 2nd day of July, 2010, a copy of the Motion for Authority to Purchase Vehicle/Incur Debt together with the Notice thereof, was sent via ECF electronic transmission and US mail, postage prepaid, as follows:

US Trustee (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

Debtor Name (via US mail)
Address
City, State, Zip

All creditors listed on the Court's mailing matrix and all claimants requesting service (via US mail)

/s/ Attorney Name
Attorney Name (Ohio Reg No)
Attorney for the Debtors

Motion and Order for Turnover of Automobile Insurance Proceeds

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	
DEBTOR(S) NAME	)	CASE NO: XX-XXXXX
	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	MOTION FOR TURNOVER OF
	)	AUTOMOBILE INSURANCE
	)	PROCEEDS

Now comes the Debtor(s), by and through undersigned counsel, and hereby moves this Court for turnover of automobile insurance proceeds. The Debtor(s) states the following:

1. At the time this Chapter 13 plan was filed, the Debtor(s) was in the process of purchasing a (type of automobile).
2. The automobile is listed on Petition Schedule B. The Debtor(s) is paying the automobile through the Chapter 13 plan.
3. On or about (date), the Debtor(s) automobile was involved in an accident and has been deemed a total loss.
4. The creditor holding a lien on the automobile is (name of creditor).
5. The automobile is insured by (name of insurance group).
6. The insurance company has indicated it will release funds if it is assured to receive a salvage title from the lien holder.
7. In order to facilitate the transfer of the title and insurance proceeds, the Debtor(s) is requesting:

a. That the amount of the insurance proceeds be paid into the Chapter 13 plan.

b. That the Chapter 13 Trustee process the remaining secured balance owed on the automobile through the Chapter 13 plan.

c. That upon receipt of funds from the Trustee, the lien holder releases the title to the insurance company.

d. The Chapter 13 Trustee should turnover the balance of said funds to the Debtor(s) so that the Debtor(s) may purchase a replacement vehicle.

Respectfully submitted,

_____

Attorney Name
Ohio Reg. No.
Street Address
City, State, Zip
Phone:
Fax:
Email:

CERTIFICATE OF SERVICE

I hereby certify on _____, 2011, a copy of the foregoing was sent to:

Debtor(s) Name
Address
City, State, Zip
(via Regular Mail)

Insurance Company
Street Address
City, State, Zip
(via Regular Mail)

Lien Holder
Street Address
City, State, Zip
(via Regular Mail)

Attorney Name (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

US Trustee (via ECF)

_____

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	)	CHAPTER 13
	)	CASE NO:
DEBTOR(S) NAME	)	
	)	
	)	BANKRUPTCY JUDGE
	)	
	)	ORDER FOR TURNOVER OF
	)	AUTOMOBILE INSURANCE
	)	PROCEEDS

This matter is before the Court based on the Debtor(s) Motion for Turnover of Automobile Insurance Proceeds which was filed on or about _____.

1. (Name of insurance company) shall turnover the insurance proceeds into the Chapter 13 plan.
2. The Chapter 13 Trustee shall process the remaining secured balance owed on the automobile.

3. Upon receipt of said insurance proceeds, the lien holder shall release the title to (name of insurance company).

4. The Chapter 13 Trustee shall turnover the balance of said funds to the Debtor(s) so that the Debtor(s) may purchase a replacement vehicle.

###

Submitted and Approved by:

Attorney Name Ohio Reg. No. Street Address City, State, Zip Phone: Fax: Email:	Keith L. Rucinski, Chapter 13 Trustee Ohio Reg. No 0063137 Joseph A. Ferrise, Staff Attorney Ohio Reg. No. 0084477 One Cascade Plaza, Suite 2020 Akron, OH 44308 Phone: 330.762.6335 Fax 330.762.7072 krucinski@ch13akron.com jferrise@ch13akron.com

cc: Debtor(s) Name
Address
City, State, Zip
(via Regular Mail)

Insurance Company
Street Address
City, State, Zip
(via Regular Mail)

Lien Holder
Street Address
City, State, Zip
(via Regular Mail)

Attorney (via ECF)

Keith Rucinski, Chapter 13 Trustee (via ECF)

US Trustee (via ECF)

Agreed Entry Granting Relief from Stay
and Appointment of State Court Counsel

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In Re:	)	
	)	CHAPTER 13
DEBTOR NAME	)	CASE NO: xx-xxxxx
	)	
DEBTOR(S)	)	BANKRUPTCY JUDGE
	)	
	)	AGREED ENTRY GRANTING RELIEF
	)	FROM STAY AND APPOINTMENT OF
	)	STATE COURT COUNSEL

Now comes Keith L. Rucinski, the Chapter 13 Trustee, the debtor, by and through undersigned counsel, and Attorney (name), the attorney representing the debtor in a personal injury action which occurred on or about September 10, 2006. The parties state the following:

1. This Chapter 13 case was filed on or about October 30, 2008.
2. The Statement of Financial Affairs, line 4, lists various lawsuits the debtor has against parties; however, no reference is made of said lawsuits on Petition Schedule B.
3. During the 341 Meeting of Creditors, the debtor informed the Trustee that he has pending litigation for a personal injury action which occurred on or about September 10, 2006.
4. The debtor has chosen Attorney (name), to represent him in the personal injury action which occurred or about September 10, 2006.
5. Attorney (name) agrees to represent the debtor in the personal injury action and to use best efforts to recover funds for the debtor and the Chapter 13

CHAPTER 13
Keith L Rucinski
Trustee
One Cascade Plaza
Suite 2020
Akron, Oh 44308
(330) 762-6335
Fax
(330) 762-7072
Email
krucinski@ch13akron.com

estate.

6. The parties agree that the debtor shall be allowed any personal injury exemption allowed under the Bankruptcy Code and the current Ohio revised exemption statutes.
7. Attorney (name) agrees to represent the debtor on a contingency basis based on the following formula:

(Gross Proceeds – Expenses) x 33 1/3

8. Attorney (name) agrees to hold any recovery of funds in escrow pending a distribution order approved by the US Bankruptcy Court.
9. The parties agree that the automatic stay pursuant to 11 USC Section 362 shall hereby be modified to allow the debtor to pursue state court negotiation and/or litigation to resolve the personal injury action which occurred on or about September 10, 2006.
10. The debtor understands and agrees that he, not the Chapter 13 estate, shall be responsible for all costs associated with respect to the personal injury action.
11. The debtor, through counsel, also agrees to amend Petition Schedule B to list the personal injury which occurred on or about September 10, 2006.
12. The parties agree that said personal injury action is property of the bankruptcy estate pursuant to 11 USC Section 541.

WHEREFORE, the agreed entry between the parties is well taken. The automatic stay pursuant to 11 USC Section 362 is hereby modified to allow the debtor to pursue state court negotiation and/or litigation with respect to the personal injury action which occurred on or about September 10, 2006. Furthermore, Attorney (name) agrees to represent the debtor and to use best efforts to recover funds on behalf of the debtor and the bankruptcy estate.

###

Submitted by:

Keith L. Rucinski, Chapter 13 Trustee
Ohio Reg. No. 0063137
One Cascade Plaza, Suite 2020
Akron, OH 44308
Tel 330.762.6335
Fax 330.762.7072
krucinski@ch13akron.com

Attorney Name, Esquire
Counsel for the debtor
Ohio Reg. No. _____
Address
City, Sate, Zip
Tel
Fax
Email

Attorney Name, Esquire
Personal Injury Counsel
Ohio Reg. No. _____
Address
City, State, Zip
Tel
Fax
Email

CHAPTER 13
Keith L Rucinski
Trustee
One Cascade Plaza
Suite 2020
Akron, Oh 44308
(330) 762-6335
Fax
(330) 762-7072
Email
krucinski@ch13akron.com

cc:

Debtor Name
Address
City, State, Zip
(via Regular Mail)

Personal Injury Attorney, Esquire
Address
City, State, Zip
(via Regular Mail)

Chapter 13 Attorney Name, Esquire (via ECF)

US Trustee (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

CHAPTER 13
Keith L Rucinski
Trustee
One Cascade Plaza
Suite 2020
Akron, Oh 44308
(330) 762-6335
Fax
(330) 762-7072
Email
krucinski@ch13akron.com

Administrative Order No 09-06

Order Governing Procedures Regarding Second Chance Relief Orders, Including Allowance of Creditor Attorney Fees and Costs

FILED
09 SEP 17 PM 1:45
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
AKRON

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:	)	
	)	Administrative Order No. 09-06
ORDER GOVERNING PROCEDURES	)	
REGARDING SECOND CHANCE RELIEF	)	JUDGE MARILYN SHEA-STONUM
ORDERS, INCLUDING	)	
ALLOWANCE OF CREDITOR ATTORNEY	)	
FEES AND COSTS	)	

This Administrative Order addresses (1) the allowance of attorney fees and costs incurred by holders of claims based on notes secured by mortgages on chapter 13 debtors' residences in provisional settlement of motions for relief from stay occasioned by post-petition payment delinquencies and (2) the role of the Chapter 13 Trustee in facilitating these provisional settlements. The orders documenting these provisional settlements have come to be known as "Second Chance Relief Orders."

This Administrative Order is intended to increase the probability of debtors retaining their residence in situations where the debtors have defaulted on mortgage payments post-petition. Further, the Administrative Order is intended to provide creditors a reasonable "no look" attorney fee and recovery of costs as detailed herein. In order to promote efficiency and predictability, the Court is establishing a "no look" creditor's attorney fee that will be allowed in agreed Second Chance Relief Orders, as follows:

1. Provided that the parties to the motion for relief from stay have agreed to payment of the fees and costs associated with the motion, a Second Chance Relief Order may include recovery of any attorney fees actually incurred, not to exceed $425.00 on a "no look" basis as a term of the Second Chance Relief Order.

2. The "no look" creditor's attorney fee will be allowed by the Court in the context of Second Chance Relief Orders without further documentation or itemization.

3. Creditors are also permitted to recover the filing fee for the relief from stay motion (currently, $150.00).

4. The creditor shall be responsible for filing a supplemental Proof of Claim to include the post-petition arrearage, allowed attorney fees and costs. The supplemental Proof of Claim shall provide a summary page which includes the amount of the arrearage and the amount of attorney fees and costs.

5. Upon the filing of the supplemental Proof of Claim, the Chapter 13 Trustee shall take all necessary administrative action to immediately commence the processing of payment for the supplemental Proof of Claim. Subject to available funds, the supplemental Proof of Claim shall be paid on a pro rata basis concurrent with other claims of secured creditors and prior to payment of unsecured creditors.

6. The amount of the "no look" fee does not constitute a cap. If the creditor seeks to recover more than the "no look" fee, the creditor may file a motion with the Court with time itemization for the fees being sought. The time itemization shall be recorded in one-tenths hourly allotments and shall be broken down by all work done by an attorney and non-attorney assistants.

7. Nothing in this Administrative Order shall prohibit the debtor, the Chapter 13 Trustee, the United States Trustee or other party in interest from filing an objection and seeking a hearing if they deem said objection appropriate when a creditor requests attorney fees and costs greater than the $425.00 "no look" fee provided under this Administrative Order.

8. If the creditor negotiates with the debtor for a lump sum payment to bring all or a portion of the post-petition arrearage current, then the Second Chance Relief Order must contain an explanation which discloses the source of the funds for the lump sum payment that the debtor is using to pay the post-petition arrearage.

9. To assist the Court with monitoring compliance with this order, the Chapter 13 Trustee shall be required to be a signatory on each Second Chance Relief Order submitted to the Court.

In consideration of the "no look" fee amount, the creditor attorneys representing mortgage companies agree to perform the following duties, as necessary, with regard to motions for relief from stay and Second Chance Relief Orders.

A. Reviewing all relevant material in connection with the motion for relief from stay, including the docket, the Proof of Claim filed, all relevant supporting loan documentation; including AOM and client payment history, ARM changes/escrow changes, copies of trustee ledgers, etc.;

B. Preparing the General Order 99-1Worksheet and any other documents necessary to establish the proper amount of the arrearage (i.e., pay history/ summary);

C. Preparing the motion for relief from stay itself;

D. Reviewing all support documents evidencing the arrearage;

E. Filing the motion for relief from stay;

F. Negotiating settlement terms with the debtor's attorney, preparing the proposed Second Chance Relief Order, procuring necessary signatures, and attending hearings (if necessary);

G. Submitting the signed, proposed Second Chance Relief Order to the Court and filing any necessary supplemental Proof of Claim; and

H. Communicating the settlement terms to creditor.

Marilyn Shea-Stonum

MARILYN SHEA-STONUM
U.S. Bankruptcy Judge

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Case Administrators by Case Numbers for Confirmed Cases

Case No. **	Staff Member	Extension	Email
00-15	Holly Byler	225	hbyler@ch13akron.com
16-32	Monica Jones	222	mjones@ch13akron.com
33-50	Aggie Royer	228	aroyer@ch13akron.com
51-68	Tammy Rowe	227	trowe@ch13akron.com
69-84	Christine Watt	224	cwatt@ch13akron.com
85-99	Jennifer Neunz	221	jneunz@ch13akron.com

** Last two numbers of case numbers.

Hancock v. McDermott, 2011 FED App. 0131P
(6th Cir. Tenn. 2011)

RECOMMENDED FOR FULL-TEXT PUBLICATION
Pursuant to Sixth Circuit Rule 206

File Name: 11a0131p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

WILLIAM HANCOCK,

Appellant,

v.

DANIEL M. MCDERMOTT; MICHAEL GIGANDET,

Appellees.

No. 09-6203

Appeal from the United States District Court
for the Middle District of Tennessee at Nashville.
No. 09-00094—Aleta Arthur Trauger, District Judge.

Argued: December 1, 2010

Decided and Filed: May 18, 2011

Before: BATCHELDER, Chief Judge; ROGERS and KETHLEDGE, Circuit Judges.

COUNSEL

ARGUED: William Caldwell Hancock, THE HANCOCK LAW FIRM, Nashville, Tennessee, for Appellant. Michael Gigandet, LAW OFFICE OF MICHAEL GIGANDET, Pleasant View, Tennessee, Beth Roberts Derrick, OFFICE OF THE UNITED STATES TRUSTEE, Nashville, Tennessee, for Appellees. **ON BRIEF:** William Caldwell Hancock, THE HANCOCK LAW FIRM, Nashville, Tennessee, for Appellant. Beth Roberts Derrick, Lloyd E. Mueller, OFFICE OF THE UNITED STATES TRUSTEE, Nashville, Tennessee, for Appellees.

ROGERS, J., delivered the opinion of the court, in which KETHLEDGE, J., joined. BATCHELDER, C. J. (p. 6), delivered a separate opinion concurring in the conclusion.

OPINION

ROGERS, Circuit Judge. Attorney Hancock appeals from the district court's summary affirmance of the bankruptcy court's denial of his application for fees connected with a Chapter 11 bankruptcy. Hancock's repeated failure to comply with the rules for bankruptcy appeals, however, warranted summary affirmance by the district court without reaching the merits of his appeal.

Hancock represented Barnhill's Buffet, Inc. in its Chapter 11 bankruptcy proceedings from December 2007 through April 2008, when the bankruptcy was converted to a Chapter 7 proceeding and a trustee was appointed. After Hancock submitted his final fee application to the bankruptcy court, the U.S. Trustee and the Chapter 7 trustee asserted five bases for objecting to the application. After a week-long trial, the bankruptcy court issued an order denying all of Hancock's fees based on his failure to comply with disclosure rules, abusive conduct toward others involved in the case, excessive or incomplete billing, and disruptive behavior. Hancock filed a notice of appeal with the district court on January 28, 2009.

Under Rule 8009 of the Federal Rules of Bankruptcy Procedure, an appellant is required to "serve and file a brief within 14 days after entry of the appeal on the docket." Pursuant to this rule, Hancock's original briefing deadline was February 13, 2009. However, the docket reveals that some delay in receiving transcripts from the bankruptcy court resulted in the district court's termination of that deadline. The court set a new briefing deadline for March 27, 2009, two months after Hancock filed his notice of appeal. On March 25, 2009, Hancock filed an emergency motion for an extension of time to file his brief, citing delays in the compilation and transmittal of the record on appeal. He was granted an extension until April 27, 2009.

Hancock did not comply with the April 27 deadline. On May 1, 2009, Hancock filed a second request for an extension of time, citing delays in the transcription of one

meeting of Barnhill's creditors. This motion claimed that Hancock would file his brief on May 5, 2009, regardless of the status of the delayed transcript. Hancock also requested permission to file a brief up to but not in excess of 50 pages in length. The court did not rule on Hancock's request until May 11, 2009, at which point Hancock had not filed his promised May 5, 2009 brief. Nonetheless, the district court granted Hancock's second motion for extension, although the district court did not specify a new filing deadline (presumably because Hancock's motion assured imminent filing). Hancock did not make any additional filing with the district court throughout May, June, and July of 2009.

On August 5, 2009, the district court issued Hancock an order to show cause by August 14, 2009 why the case should not be dismissed for failure to prosecute. Hancock did not respond to the show cause order and instead filed a brief on August 14, 2009 that exceeded 100 pages. This brief completely disregarded the 50-page limit for which Hancock had previously sought special permission and was in excess of the 50-page maximum permitted under the bankruptcy rules. Fed. R. Bankr. P. 8010.

On August 27, 2009, the trustees moved for the district court to dismiss Hancock's appeal or require him to comply with the briefing page limits set in the court's prior order. The district court did not dismiss at this date, roughly seven months after Hancock filed his notice of appeal. However, the court did order Hancock to file a brief under 50 pages by September 21, 2009, and to submit a third motion for extension of time explaining why his brief was not timely filed in May 2009. This order warned Hancock that his failure to comply in a timely and complete manner might result in the dismissal of his appeal.

Hancock next filed two documents with the court on September 22, 2009, one day after the court's deadline. Hancock filed a brief that, through the excessive use of roman numerals for introductory pages, was arguably 50 pages in length. However, the brief was printed in a small font and was almost entirely single-spaced, in clear violation of local filing requirements. M.D. Tenn. R. 7.03(a) (requiring all documents filed with the court to be double-spaced). As to the explanation for the delay, Hancock asserted that he had personal reasons that he could only discuss in chambers; that he had required

extensive time (from May 1 to August 14) to reduce his original brief from 220 to 158 pages; that he had been awaiting a Supreme Court decision in a case involving judicial recusal; that because Judge Trauger had previously permitted Bankruptcy Judge Lundin to make an unfair ruling against Hancock, Judge Trauger would feel compelled to defend that prior decision in this case, as Bankruptcy Judge Paine had "copycatted" Judge Lundin's earlier opinion; that Hancock realized he had no hope of a favorable resolution at the district court level because Judge Trauger would not have the "extraordinary courage" to find that Bankruptcy Judge Paine had violated Hancock's constitutional rights; and that there was no point in investing more hours into the district court brief because any ruling would be appealed and the Sixth Circuit reviews only the findings of the bankruptcy judge.

On September 23, 2009, the district court entered an order noting Hancock's "repeated failure" to comply with the filing requirements of Rule 8009 of the Federal Rules of Bankruptcy Procedure and stating that the course of events in the case fully justified "dismissal of this appeal with prejudice." Under Bankruptcy Rule 8001, a district court has discretion to dismiss a bankruptcy appeal where an appellant has failed to take a required step in the appeal. Fed. R. Bankr. P. 8001(a). The Middle District of Tennessee, however, has promulgated a local rule that provides: "Failure by an appellant to comply with the provisions of either Rule 8006, 8007 or 8009 of the Bankruptcy Rules, Title 11 of the United States Code Annotated, will result in summary affirmance of the opinion of the Bankruptcy Judge." M.D. Tenn. R. 81.01(a). The district court stated that instead of dismissing the appeal, it chose "to invoke Local Rule 81.01(a) to summarily affirm [the bankruptcy court's] Order, fully expecting [Hancock] to appeal further to the Sixth Circuit Court of Appeals, where he might receive a decision on the merits."

We understand the district court's order as making clear that this court could reach the merits of Hancock's appeal if we disagreed with the district court's conclusion that Hancock's repeated failure to comply with the appeal rules warranted summary affirmance. However, we fully agree that summary affirmance without consideration of the merits was appropriate in this case, because "a clear record of delay or contumacious

conduct by the plaintiff exists and a lesser sanction would not better serve the interests of justice." *Consolidation Coal Co. v. Gooding*, 703 F.2d 230, 233 (6th Cir. 1983) (internal quotations and citations omitted).

Hancock did not file any brief in the district court until nearly seven months after he filed his notice of appeal, and that brief completely disregarded the district court's filing requirements and the bankruptcy rules. Hancock also ignored the district court's first order to show cause, and then responded to its second order with a series of disrespectful remarks and other entirely unacceptable explanations for his delay. Further, the district court demonstrated considerable leniency throughout the proceedings, giving Hancock the opportunity to make a proper filing and show cause as late as September of 2009. *See id.* (affirming a dismissal with prejudice where petitioner had received "more than ample leeway in which to conform its actions to the Board's requirements"). The district court's summary affirmance was therefore not motivated by a failure of technical compliance, but rather by a pattern of flagrant noncompliance. Summary affirmance without consideration of the merits was fully warranted under such circumstances. *See Thomas v. Corr. Med. Ctr.*, No. 98-3492, 1999 WL 283894, at *1 (6th Cir. Apr. 27, 1999).

Appellants cannot leapfrog the district court in bankruptcy appeals by blatantly ignoring the rules and procedures for appeal from bankruptcy court to district court. Such an intermediate appeal is required by statute. District court (or Bankruptcy Appellate Panel) review serves the valuable purposes of refining issues and conserving judicial resources. Permitting parties to skip it would undermine the bankruptcy appellate process.[1] We therefore affirm the district court's summary affirmance.

[1]While this court has stated that it reviews the bankruptcy court judgment rather than the intermediate district court judgment in such appeals, *e.g.*, *McMillan v. LTV Steel, Inc.*, 555 F.3d 218, 225 (6th Cir. 2009), this means that any deference owed by us (such as clearly erroneous review of factual determinations) extends to the bankruptcy court rather than to the intermediate district court. Such statements do not mean that intermediate review is some kind of discretionary option that parties can disregard or skip over.

CONCURRING IN THE CONCLUSION

ALICE M. BATCHELDER, Chief Judge, concurring. I fully agree with the majority's conclusion that the appellant's flagrant noncompliance with the district court's rules gave the district court ample justification to dispose of the case without addressing the merits. I write separately to clarify an important distinction between a summary affirmance and a summary dismissal. On several occasions, the majority refers to the district court's "summary affirmance without consideration of the merits," or some variation thereof. However, the plain meaning of the term "summary affirmance" implies that the merits were considered and gives this court an opportunity to review the merits. Indeed, the district court anticipated that we would review the merits of the case. Because we have not reviewed the merits of the case, it would be more appropriate to acknowledge that we are, in fact, construing the district court's order as a dismissal rather than an affirmance, and that we are affirming the dismissal because it was justified by the appellant's noncompliance with the district court's rules.

Stern v. Marshall, US Supreme Court No 10-179,
Decided June 23, 2011

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

STERN, EXECUTOR OF THE ESTATE OF MARSHALL *v.* MARSHALL, EXECUTRIX OF THE ESTATE OF MARSHALL

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 10–179. Argued January 18, 2011—Decided June 23, 2011

Article III, §1, of the Constitution mandates that "[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish," and provides that the judges of those constitutional courts "shall hold their Offices during good Behaviour" and "receive for their Services[ ] a Compensation[ ] [that] shall not be diminished" during their tenure. The questions presented in this case are whether a bankruptcy court judge who did not enjoy such tenure and salary protections had the authority under 28 U. S. C. §157 and Article III to enter final judgment on a counterclaim filed by Vickie Lynn Marshall (whose estate is the petitioner) against Pierce Marshall (whose estate is the respondent) in Vickie's bankruptcy proceedings.

Vickie married J. Howard Marshall II, Pierce's father, approximately a year before his death. Shortly before J. Howard died, Vickie filed a suit against Pierce in Texas state court, asserting that J. Howard meant to provide for Vickie through a trust, and Pierce tortiously interfered with that gift. After J. Howard died, Vickie filed for bankruptcy in federal court. Pierce filed a proof of claim in that proceeding, asserting that he should be able to recover damages from Vickie's bankruptcy estate because Vickie had defamed him by inducing her lawyers to tell the press that he had engaged in fraud in controlling his father's assets. Vickie responded by filing a counterclaim for tortious interference with the gift she expected from J. Howard.

The Bankruptcy Court granted Vickie summary judgment on the defamation claim and eventually awarded her hundreds of millions of dollars in damages on her counterclaim. Pierce objected that the

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Bankruptcy Court lacked jurisdiction to enter a final judgment on that counterclaim because it was not a "core proceeding" as defined by 28 U. S. C. §157(b)(2)(C). As set forth in §157(a), Congress has divided bankruptcy proceedings into three categories: those that "aris[e] under title 11"; those that "aris[e] in" a Title 11 case; and those that are "related to a case under title 11." District courts may refer all such proceedings to the bankruptcy judges of their district, and bankruptcy courts may enter final judgments in "all core proceedings arising under title 11, or arising in a case under title 11." §§157(a), (b)(1). In non-core proceedings, by contrast, a bankruptcy judge may only "submit proposed findings of fact and conclusions of law to the district court." §157(c)(1). Section 157(b)(2) lists 16 categories of core proceedings, including "counterclaims by the estate against persons filing claims against the estate." §157(b)(2)(C).

The Bankruptcy Court concluded that Vickie's counterclaim was a core proceeding. The District Court reversed, reading this Court's precedent in *Northern Pipeline Constr. Co.* v. *Marathon Pipe Line Co.*, 458 U. S. 50, to "suggest[ ] that it would be unconstitutional to hold that any and all counterclaims are core." The court held that Vickie's counterclaim was not core because it was only somewhat related to Pierce's claim, and it accordingly treated the Bankruptcy Court's judgment as proposed, not final. Although the Texas state court had by that time conducted a jury trial on the merits of the parties' dispute and entered a judgment in Pierce's favor, the District Court went on to decide the matter itself, in Vickie's favor. The Court of Appeals ultimately reversed. It held that the Bankruptcy Court lacked authority to enter final judgment on Vickie's counterclaim because the claim was not "so closely related to [Pierce's] proof of claim that the resolution of the counterclaim is necessary to resolve the allowance or disallowance of the claim itself." Because that holding made the Texas probate court's judgment the earliest final judgment on matters relevant to the case, the Court of Appeals held that the District Court should have given the state judgment preclusive effect.

Held: Although the Bankruptcy Court had the statutory authority to enter judgment on Vickie's counterclaim, it lacked the constitutional authority to do so. Pp. 6–38.

1. Section 157(b) authorized the Bankruptcy Court to enter final judgment on Vickie's counterclaim. Pp. 8–16.

(a) The Bankruptcy Court had the statutory authority to enter final judgment on Vickie's counterclaim as a core proceeding under §157(b)(2)(C). Pierce argues that §157(b) authorizes bankruptcy courts to enter final judgments only in those proceedings that are both core and either arise in a Title 11 case or arise under Title 11 it-

self. But that reading necessarily assumes that there is a category of core proceedings that do not arise in a bankruptcy case or under bankruptcy law, and the structure of §157 makes clear that no such category exists. Pp. 8–11.

(b) In the alternative, Pierce argues that the Bankruptcy Court lacked jurisdiction to resolve Vickie's counterclaim because his defamation claim is a "personal injury tort" that the Bankruptcy Court lacked jurisdiction to hear under §157(b)(5). The Court agrees with Vickie that §157(b)(5) is not jurisdictional, and Pierce consented to the Bankruptcy Court's resolution of the defamation claim. The Court is not inclined to interpret statutes as creating a jurisdictional bar when they are not framed as such. See generally *Henderson* v. *Shinseki*, 562 U. S. ___; *Arbaugh* v. *Y & H Corp.*, 546 U. S. 500. Section 157(b)(5) does not have the hallmarks of a jurisdictional decree, and the statutory context belies Pierce's claim that it is jurisdictional. Pierce consented to the Bankruptcy Court's resolution of the defamation claim by repeatedly advising that court that he was happy to litigate his claim there. Pp. 12–16.

2. Although §157 allowed the Bankruptcy Court to enter final judgment on Vickie's counterclaim, Article III of the Constitution did not. Pp. 16–38.

(a) Article III is "an inseparable element of the constitutional system of checks and balances" that "both defines the power and protects the independence of the Judicial Branch." *Northern Pipeline*, 458 U. S., at 58 (plurality opinion). Article III protects liberty not only through its role in implementing the separation of powers, but also by specifying the defining characteristics of Article III judges to protect the integrity of judicial decisionmaking.

This is not the first time the Court has faced an Article III challenge to a bankruptcy court's resolution of a debtor's suit. In *Northern Pipeline,* the Court considered whether bankruptcy judges serving under the Bankruptcy Act of 1978—who also lacked the tenure and salary guarantees of Article III—could "constitutionally be vested with jurisdiction to decide [a] state-law contract claim" against an entity that was not otherwise part of the bankruptcy proceedings. *Id.,* at 53, 87, n. 40 (plurality opinion). The plurality in *Northern Pipeline* recognized that there was a category of cases involving "public rights" that Congress could constitutionally assign to "legislative" courts for resolution. A full majority of the Court, while not agreeing on the scope of that exception, concluded that the doctrine did not encompass adjudication of the state law claim at issue in that case, and rejected the debtor's argument that the Bankruptcy Court's exercise of jurisdiction was constitutional because the bankruptcy judge was acting merely as an adjunct of the district court or court of appeals.

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Id., at 69–72; see *id.,* at 90–91 (Rehnquist, J., concurring in judgment). After the decision in *Northern Pipeline*, Congress revised the statutes governing bankruptcy jurisdiction and bankruptcy judges. With respect to the "core" proceedings listed in §157(b)(2), however, the bankruptcy courts under the Bankruptcy Amendments and Federal Judgeship Act of 1984 exercise the same powers they wielded under the 1978 Act. The authority exercised by the newly constituted courts over a counterclaim such as Vickie's exceeds the bounds of Article III. Pp. 16–22.

(b) Vickie's counterclaim does not fall within the public rights exception, however defined. The Court has long recognized that, in general, Congress may not "withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty." *Murray's Lessee* v. *Hoboken Land & Improvement Co.*, 18 How. 272, 284. The Court has also recognized that "[a]t the same time there are matters, involving public rights, . . . which are susceptible of judicial determination, but which congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper." *Ibid.* Several previous decisions have contrasted cases within the reach of the public rights exception—those arising "between the Government and persons subject to its authority in connection with the performance of the constitutional functions of the executive or legislative departments"—and those that are instead matters "of private right, that is, of the liability of one individual to another under the law as defined." *Crowell* v. *Benson*, 285 U. S. 22, 50, 51.

Shortly after *Northern Pipeline*, the Court rejected the limitation of the public rights exception to actions involving the Government as a party. The Court has continued, however, to limit the exception to cases in which the claim at issue derives from a federal regulatory scheme, or in which resolution of the claim by an expert Government agency is deemed essential to a limited regulatory objective within the agency's authority. In other words, it is still the case that what makes a right "public" rather than private is that the right is integrally related to particular Federal Government action. See *United States* v. *Jicarilla Apache Nation*, 564 U. S. ___, ___–___ (slip op., at 10–11); *Thomas* v. *Union Carbide Agricultural Products Co.*, 473 U. S. 568, 584; *Commodity Futures Trading Commission* v. *Schor*, 478 U. S. 833, 844, 856.

In *Granfinanciera, S. A.* v. *Nordberg*, 492 U. S. 33, the most recent case considering the public rights exception, the Court rejected a bankruptcy trustee's argument that a fraudulent conveyance action filed on behalf of a bankruptcy estate against a noncreditor in a bankruptcy proceeding fell within the exception. Vickie's counter-

claim is similar. It is not a matter that can be pursued only by grace of the other branches, as in *Murray's Lessee*, 18 How., at 284; it does not flow from a federal statutory scheme, as in *Thomas*, 473 U. S., at 584–585; and it is not "completely dependent upon" adjudication of a claim created by federal law, as in *Schor*, 478 U. S., at 856. This case involves the most prototypical exercise of judicial power: the entry of a final, binding judgment *by a court* with broad substantive jurisdiction, on a common law cause of action, when the action neither derives from nor depends upon any agency regulatory regime. If such an exercise of judicial power may nonetheless be taken from the Article III Judiciary simply by deeming it part of some amorphous "public right," then Article III would be transformed from the guardian of individual liberty and separation of powers the Court has long recognized into mere wishful thinking. Pp. 22–29.

(c) The fact that Pierce filed a proof of claim in the bankruptcy proceedings did not give the Bankruptcy Court the authority to adjudicate Vickie's counterclaim. Initially, Pierce's defamation claim does not affect the nature of Vickie's tortious interference counterclaim as one at common law that simply attempts to augment the bankruptcy estate—the type of claim that, under *Northern Pipeline* and *Granfinanciera*, must be decided by an Article III court. The cases on which Vickie relies, *Katchen* v. *Landy*, 382 U. S. 323, and *Langenkamp* v. *Culp*, 498 U. S. 42 (*per curiam*), are inapposite. *Katchen* permitted a bankruptcy referee to exercise jurisdiction over a trustee's voidable preference claim against a creditor only where there was no question that the referee was required to decide whether there had been a voidable preference in determining whether and to what extent to allow the creditor's claim. The *Katchen* Court "intimate[d] no opinion concerning whether" the bankruptcy referee would have had "summary jurisdiction to adjudicate a demand by the [bankruptcy] trustee for affirmative relief, all of the substantial factual and legal bases for which ha[d] not been disposed of in passing on objections to the [creditor's proof of] claim." 382 U. S., at 333, n. 9. The *per curiam* opinion in *Langenkamp* is to the same effect. In this case, by contrast, the Bankruptcy Court—in order to resolve Vickie's counterclaim—was required to and did make several factual and legal determinations that were not "disposed of in passing on objections" to Pierce's proof of claim. In both *Katchen* and *Langenkamp*, moreover, the trustee bringing the preference action was asserting a right of recovery created by federal bankruptcy law. Vickie's claim is instead a state tort action that exists without regard to any bankruptcy proceeding. Pp. 29–34.

(d) The bankruptcy courts under the 1984 Act are not "adjuncts" of the district courts. The new bankruptcy courts, like the courts

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considered in *Northern Pipeline*, do not "ma[k]e only specialized, narrowly confined factual determinations regarding a particularized area of law" or engage in "statutorily channeled factfinding functions." 458 U. S., at 85 (plurality opinion). Whereas the adjunct agency in *Crowell* v. *Benson* "possessed only a limited power to issue compensation orders . . . [that] could be enforced only by order of the district court," *ibid.*, a bankruptcy court resolving a counterclaim under §157(b)(2)(C) has the power to enter "appropriate orders and judgments"—including final judgments—subject to review only if a party chooses to appeal, see §§157(b)(1), 158(a)–(b). Such a court is an adjunct of no one. Pp. 34–36.

(e) Finally, Vickie and her *amici* predict that restrictions on a bankruptcy court's ability to hear and finally resolve compulsory counterclaims will create significant delays and impose additional costs on the bankruptcy process. It goes without saying that "the fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution." *INS* v. *Chadha*, 462 U. S. 919, 944. In addition, the Court is not convinced that the practical consequences of such limitations are as significant as Vickie suggests. The framework Congress adopted in the 1984 Act already contemplates that certain state law matters in bankruptcy cases will be resolved by state courts and district courts, see §§157(c), 1334(c), and the Court does not think the removal of counterclaims such as Vickie's from core bankruptcy jurisdiction meaningfully changes the division of labor in the statute. Pp. 36–38.

600 F. 3d 1037, affirmed.

ROBERTS, C. J., delivered the opinion of the Court, in which SCALIA, KENNEDY, THOMAS, and ALITO, JJ., joined. SCALIA, J., filed a concurring opinion. BREYER, J., filed a dissenting opinion, in which GINSBURG, SOTOMAYOR, and KAGAN, JJ., joined.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 10–179

HOWARD K. STERN, EXECUTOR OF THE ESTATE OF VICKIE LYNN MARSHALL, PETITIONER *v.* ELAINE T. MARSHALL, EXECUTRIX OF THE ESTATE OF E. PIERCE MARSHALL

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 23, 2011]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

This "suit has, in course of time, become so complicated, that . . . no two . . . lawyers can talk about it for five minutes, without coming to a total disagreement as to all the premises. Innumerable children have been born into the cause: innumerable young people have married into it;" and, sadly, the original parties "have died out of it." A "long procession of [judges] has come in and gone out" during that time, and still the suit "drags its weary length before the Court."

Those words were not written about this case, see C. Dickens, Bleak House, in 1 Works of Charles Dickens 4–5 (1891), but they could have been. This is the second time we have had occasion to weigh in on this long-running dispute between Vickie Lynn Marshall and E. Pierce Marshall over the fortune of J. Howard Marshall II, a man believed to have been one of the richest people in Texas. The Marshalls' litigation has worked its way

through state and federal courts in Louisiana, Texas, and California, and two of those courts—a Texas state probate court and the Bankruptcy Court for the Central District of California—have reached contrary decisions on its merits. The Court of Appeals below held that the Texas state decision controlled, after concluding that the Bankruptcy Court lacked the authority to enter final judgment on a counterclaim that Vickie brought against Pierce in her bankruptcy proceeding.[1] To determine whether the Court of Appeals was correct in that regard, we must resolve two issues: (1) whether the Bankruptcy Court had the statutory authority under 28 U. S. C. §157(b) to issue a final judgment on Vickie's counterclaim; and (2) if so, whether conferring that authority on the Bankruptcy Court is constitutional.

Although the history of this litigation is complicated, its resolution ultimately turns on very basic principles. Article III, §1, of the Constitution commands that "[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." That Article further provides that the judges of those courts shall hold their offices during good behavior, without diminution of salary. *Ibid.* Those requirements of Article III were not honored here. The Bankruptcy Court in this case exercised the judicial power of the United States by entering final judgment on a common law tort claim, even though the judges of such courts enjoy neither tenure during good behavior nor salary protection. We conclude that, although the Bankruptcy Court had the statutory authority to enter judgment on Vickie's counterclaim, it lacked the constitutional authority to do so.

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[1] Because both Vickie and Pierce passed away during this litigation, the parties in this case are Vickie's estate and Pierce's estate. We continue to refer to them as "Vickie" and "Pierce."

I

Because we have already recounted the facts and procedural history of this case in detail, see *Marshall* v. *Marshall*, 547 U. S. 293, 300–305 (2006), we do not repeat them in full here. Of current relevance are two claims Vickie filed in an attempt to secure half of J. Howard's fortune. Known to the public as Anna Nicole Smith, Vickie was J. Howard's third wife and married him about a year before his death. *Id.,* at 300; see *In re Marshall*, 392 F. 3d 1118, 1122 (CA9 2004). Although J. Howard bestowed on Vickie many monetary and other gifts during their courtship and marriage, he did not include her in his will. 547 U. S., at 300. Before J. Howard passed away, Vickie filed suit in Texas state probate court, asserting that Pierce—J. Howard's younger son—fraudulently induced J. Howard to sign a living trust that did not include her, even though J. Howard meant to give her half his property. Pierce denied any fraudulent activity and defended the validity of J. Howard's trust and, eventually, his will. 392 F. 3d, at 1122–1123, 1125.

After J. Howard's death, Vickie filed a petition for bankruptcy in the Central District of California. Pierce filed a complaint in that bankruptcy proceeding, contending that Vickie had defamed him by inducing her lawyers to tell members of the press that he had engaged in fraud to gain control of his father's assets. 547 U. S., at 300–301; *In re Marshall*, 600 F. 3d 1037, 1043–1044 (CA9 2010). The complaint sought a declaration that Pierce's defamation claim was not dischargeable in the bankruptcy proceedings. *Ibid.*; see 11 U. S. C. §523(a). Pierce subsequently filed a proof of claim for the defamation action, meaning that he sought to recover damages for it from Vickie's bankruptcy estate. See §501(a). Vickie responded to Pierce's initial complaint by asserting truth as a defense to the alleged defamation and by filing a counterclaim for tortious interference with the gift she expected from J.

Howard. As she had in state court, Vickie alleged that Pierce had wrongfully prevented J. Howard from taking the legal steps necessary to provide her with half his property. 547 U. S., at 301.

On November 5, 1999, the Bankruptcy Court issued an order granting Vickie summary judgment on Pierce's claim for defamation. On September 27, 2000, after a bench trial, the Bankruptcy Court issued a judgment on Vickie's counterclaim in her favor. The court later awarded Vickie over $400 million in compensatory damages and $25 million in punitive damages. 600 F. 3d, at 1045; see 253 B. R. 550, 561–562 (Bkrtcy. Ct. CD Cal. 2000); 257 B. R. 35, 39–40 (Bkrtcy. Ct. CD Cal. 2000).

In post-trial proceedings, Pierce argued that the Bankruptcy Court lacked jurisdiction over Vickie's counterclaim. In particular, Pierce renewed a claim he had made earlier in the litigation, asserting that the Bankruptcy Court's authority over the counterclaim was limited because Vickie's counterclaim was not a "core proceeding" under 28 U. S. C. §157(b)(2)(C). See 257 B. R., at 39. As explained below, bankruptcy courts may hear and enter final judgments in "core proceedings" in a bankruptcy case. In non-core proceedings, the bankruptcy courts instead submit proposed findings of fact and conclusions of law to the district court, for that court's review and issuance of final judgment. The Bankruptcy Court in this case concluded that Vickie's counterclaim was "a core proceeding" under §157(b)(2)(C), and the court therefore had the "power to enter judgment" on the counterclaim under §157(b)(1). *Id.*, at 40.

The District Court disagreed. It recognized that "Vickie's counterclaim for tortious interference falls within the literal language" of the statute designating certain proceedings as "core," see §157(b)(2)(C), but understood this Court's precedent to "suggest[] that it would be unconstitutional to hold that any and all counterclaims are

core." 264 B. R. 609, 629–630 (CD Cal. 2001) (citing *Northern Pipeline Constr. Co.* v. *Marathon Pipe Line Co.*, 458 U. S. 50, 79, n. 31 (1982) (plurality opinion)). The District Court accordingly concluded that a "counterclaim should not be characterized as core" when it "is only somewhat related to the claim against which it is asserted, and when the unique characteristics and context of the counterclaim place it outside of the normal type of set-off or other counterclaims that customarily arise." 264 B. R., at 632.

Because the District Court concluded that Vickie's counterclaim was not core, the court determined that it was required to treat the Bankruptcy Court's judgment as "proposed[,] rather than final," and engage in an "independent review" of the record. *Id.,* at 633; see 28 U. S. C. §157(c)(1). Although the Texas state court had by that time conducted a jury trial on the merits of the parties' dispute and entered a judgment in Pierce's favor, the District Court declined to give that judgment preclusive effect and went on to decide the matter itself. 271 B. R. 858, 862–867 (CD Cal. 2001); see 275 B. R. 5, 56–58 (CD Cal. 2002). Like the Bankruptcy Court, the District Court found that Pierce had tortiously interfered with Vickie's expectancy of a gift from J. Howard. The District Court awarded Vickie compensatory and punitive damages, each in the amount of $44,292,767.33. *Id.,* at 58.

The Court of Appeals reversed the District Court on a different ground, 392 F. 3d, at 1137, and we—in the first visit of the case to this Court—reversed the Court of Appeals on that issue. 547 U. S., at 314–315. On remand from this Court, the Court of Appeals held that §157 mandated "a two-step approach" under which a bankruptcy judge may issue a final judgment in a proceeding only if the matter both "meets Congress' definition of a core proceeding *and* arises under or arises in title 11," the Bankruptcy Code. 600 F. 3d, at 1055. The court also

reasoned that allowing a bankruptcy judge to enter final judgments on all counterclaims raised in bankruptcy proceedings "would certainly run afoul" of this Court's decision in *Northern Pipeline*. 600 F. 3d, at 1057. With those concerns in mind, the court concluded that "a counterclaim under §157(b)(2)(C) is properly a 'core' proceeding 'arising in a case under' the [Bankruptcy] Code only if the counterclaim is so closely related to [a creditor's] proof of claim that the resolution of the counterclaim is necessary to resolve the allowance or disallowance of the claim itself." *Id.,* at 1058 (internal quotation marks omitted; second brackets added). The court ruled that Vickie's counterclaim did not meet that test. *Id.,* at 1059. That holding made "the Texas probate court's judgment . . . the earliest final judgment entered on matters relevant to this proceeding," and therefore the Court of Appeals concluded that the District Court should have "afford[ed] preclusive effect" to the Texas "court's determination of relevant legal and factual issues." *Id.,* at 1064–1065.[2]

We again granted certiorari. 561 U. S. __ (2010).

II

A

With certain exceptions not relevant here, the district courts of the United States have "original and exclusive jurisdiction of all cases under title 11." 28 U. S. C. §1334(a). Congress has divided bankruptcy proceedings into three categories: those that "aris[e] under title 11"; those that "aris[e] in" a Title 11 case; and those that are

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[2] One judge wrote a separate concurring opinion. He concluded that "Vickie's counterclaim . . . [wa]s not a core proceeding, so the Texas probate court judgment preceded the district court judgment and controls." 600 F. 3d, at 1065 (Kleinfeld, J.). The concurring judge also "offer[ed] additional grounds" that he believed required judgment in Pierce's favor. *Ibid.* Pierce presses only one of those additional grounds here; it is discussed below, in Part II–C.

"related to a case under title 11." §157(a). District courts may refer any or all such proceedings to the bankruptcy judges of their district, *ibid.*, which is how the Bankruptcy Court in this case came to preside over Vickie's bankruptcy proceedings. District courts also may withdraw a case or proceeding referred to the bankruptcy court "for cause shown." §157(d). Since Congress enacted the Bankruptcy Amendments and Federal Judgeship Act of 1984 (the 1984 Act), bankruptcy judges for each district have been appointed to 14-year terms by the courts of appeals for the circuits in which their district is located. §152(a)(1).

The manner in which a bankruptcy judge may act on a referred matter depends on the type of proceeding involved. Bankruptcy judges may hear and enter final judgments in "all core proceedings arising under title 11, or arising in a case under title 11." §157(b)(1). "Core proceedings include, but are not limited to" 16 different types of matters, including "counterclaims by [a debtor's] estate against persons filing claims against the estate." §157(b)(2)(C).[3] Parties may appeal final judgments of a

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[3] In full, §§157(b)(1)–(2) provides:

"(1) Bankruptcy judges may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

"(2) Core proceedings include, but are not limited to—

"(A) matters concerning the administration of the estate;

"(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, and estimation of claims or interests for the purposes of confirming a plan under chapter 11, 12, or 13 of title 11 but not the liquidation or estimation of contingent or unliquidated personal injury tort or wrongful death claims against the estate for purposes of distribution in a case under title 11;

"(C) counterclaims by the estate against persons filing claims against the estate;

"(D) orders in respect to obtaining credit;

bankruptcy court in core proceedings to the district court, which reviews them under traditional appellate standards. See §158(a); Fed. Rule Bkrtcy. Proc. 8013.

When a bankruptcy judge determines that a referred "proceeding . . . is not a core proceeding but . . . is otherwise related to a case under title 11," the judge may only "submit proposed findings of fact and conclusions of law to the district court." §157(c)(1). It is the district court that enters final judgment in such cases after reviewing *de novo* any matter to which a party objects. *Ibid.*

B

Vickie's counterclaim against Pierce for tortious interference is a "core proceeding" under the plain text of §157(b)(2)(C). That provision specifies that core proceedings include "counterclaims by the estate against persons filing claims against the estate." In past cases, we have suggested that a proceeding's "core" status alone authorizes a bankruptcy judge, as a statutory matter, to enter

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"(E) orders to turn over property of the estate;

"(F) proceedings to determine, avoid, or recover preferences;

"(G) motions to terminate, annul, or modify the automatic stay;

"(H) proceedings to determine, avoid, or recover fraudulent conveyances;

"(I) determinations as to the dischargeability of particular debts;

"(J) objections to discharges;

"(K) determinations of the validity, extent, or priority of liens;

"(L) confirmations of plans;

"(M) orders approving the use or lease of property, including the use of cash collateral;

"(N) orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate;

"(O) other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims; and

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11."

final judgment in the proceeding. See, *e.g., Granfinanciera, S. A.* v. *Nordberg*, 492 U. S. 33, 50 (1989) (explaining that Congress had designated certain actions as "'core proceedings,' which bankruptcy judges may adjudicate and in which they may issue final judgments, if a district court has referred the matter to them" (citations omitted)). We have not directly addressed the question, however, and Pierce argues that a bankruptcy judge may enter final judgment on a core proceeding only if that proceeding also "aris[es] in" a Title 11 case or "aris[es] under" Title 11 itself. Brief for Respondent 51 (internal quotation marks omitted).

Section 157(b)(1) authorizes bankruptcy courts to "hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11." As written, §157(b)(1) is ambiguous. The "arising under" and "arising in" phrases might, as Pierce suggests, be read as referring to a limited category of those core proceedings that are addressed in that section. On the other hand, the phrases might be read as simply describing what core proceedings are: matters arising under Title 11 or in a Title 11 case. In this case the structure and context of §157 contradict Pierce's interpretation of §157(b)(1).

As an initial matter, Pierce's reading of the statute necessarily assumes that there is a category of core proceedings that neither arise under Title 11 nor arise in a Title 11 case. The manner in which the statute delineates the bankruptcy courts' authority, however, makes plain that no such category exists. Section 157(b)(1) authorizes bankruptcy judges to enter final judgments in "core proceedings arising under title 11, or arising in a case under title 11." Section 157(c)(1) instructs bankruptcy judges to instead submit proposed findings in "a proceeding that is not a core proceeding but that is otherwise related to a case under title 11." Nowhere does §157 specify what

bankruptcy courts are to do with respect to the category of matters that Pierce posits—core proceedings that do *not* arise under Title 11 or in a Title 11 case. To the contrary, §157(b)(3) only instructs a bankruptcy judge to "determine, on the judge's own motion or on timely motion of a party, whether a proceeding is a core proceeding under this subsection or is a proceeding that is otherwise related to a case under title 11." Two options. The statute does not suggest that any other distinctions need be made.

Under our reading of the statute, core proceedings are those that arise in a bankruptcy case or under Title 11. The detailed list of core proceedings in §157(b)(2) provides courts with ready examples of such matters. Pierce's reading of §157, in contrast, supposes that some core proceedings will arise in a Title 11 case or under Title 11 and some will not. Under that reading, the statute provides no guidance on how to tell which are which.

We think it significant that Congress failed to provide any framework for identifying or adjudicating the asserted category of core but not "arising" proceedings, given the otherwise detailed provisions governing bankruptcy court authority. It is hard to believe that Congress would go to the trouble of cataloging 16 different types of proceedings that should receive "core" treatment, but then fail to specify how to determine whether those matters arise under Title 11 or in a bankruptcy case if—as Pierce asserts—the latter inquiry is determinative of the bankruptcy court's authority.

Pierce argues that we should treat core matters that arise neither under Title 11 nor in a Title 11 case as proceedings "related to" a Title 11 case. Brief for Respondent 60 (internal quotation marks omitted). We think that a contradiction in terms. It does not make sense to describe a "core" bankruptcy proceeding as merely "related to" the bankruptcy case; oxymoron is not a typical feature of congressional drafting. See *Northern Pipeline*, 458 U. S.,

at 71 (plurality opinion) (distinguishing "the restructuring of debtor-creditor relations, which is at the core of the federal bankruptcy power, . . . from the adjudication of state-created private rights"); Collier on Bankruptcy ¶3.02[2], p. 3–26, n. 5 (16th ed. 2010) ("The terms 'non-core' and 'related' are synonymous"); see also *id.,* at 3–26, ("The phraseology of section 157 leads to the conclusion that there is no such thing as a core matter that is 'related to' a case under title 11. Core proceedings are, at most, those that arise in title 11 cases or arise under title 11" (footnote omitted)). And, as already discussed, the statute simply does not provide for a proceeding that is simultaneously core and yet only related to the bankruptcy case. See §157(c)(1) (providing only for "a proceeding that is not a core proceeding but that is otherwise related to a case under title 11").

As we explain in Part III, we agree with Pierce that designating all counterclaims as "core" proceedings raises serious constitutional concerns. Pierce is also correct that we will, where possible, construe federal statutes so as "to avoid serious doubt of their constitutionality." *Commodity Futures Trading Comm'n* v. *Schor*, 478 U. S. 833, 841 (1986) (internal quotation marks omitted). But that "canon of construction does not give [us] the prerogative to ignore the legislative will in order to avoid constitutional adjudication." *Ibid.* In this case, we do not think the plain text of §157(b)(2)(C) leaves any room for the canon of avoidance. We would have to "rewrit[e]" the statute, not interpret it, to bypass the constitutional issue §157(b)(2)(C) presents. *Id.*, at 841 (internal quotation marks omitted). That we may not do. We agree with Vickie that §157(b)(2)(C) permits the bankruptcy court to enter a final judgment on her tortious interference counterclaim.

C

Pierce argues, as another alternative to reaching the constitutional question, that the Bankruptcy Court lacked jurisdiction to enter final judgment on his defamation claim. Section 157(b)(5) provides that "[t]he district court shall order that personal injury tort and wrongful death claims shall be tried in the district court in which the bankruptcy case is pending, or in the district court in the district in which the claim arose." Pierce asserts that his defamation claim is a "personal injury tort," that the Bankruptcy Court therefore had no jurisdiction over that claim, and that the court therefore necessarily lacked jurisdiction over Vickie's counterclaim as well. Brief for Respondent 65–66.

Vickie objects to Pierce's statutory analysis across the board. To begin, Vickie contends that §157(b)(5) does not address subject matter jurisdiction at all, but simply specifies the venue in which "personal injury tort and wrongful death claims" should be tried. See Reply Brief for Petitioner 16–17, 19; see also Tr. of Oral Arg. 23 (Deputy Solicitor General) (Section "157(b)(5) is in [the United States'] view not jurisdictional"). Given the limited scope of that provision, Vickie argues, a party may waive or forfeit any objections under §157(b)(5), in the same way that a party may waive or forfeit an objection to the bankruptcy court finally resolving a non-core claim. Reply Brief for Petitioner 17–20; see §157(c)(2) (authorizing the district court, "with the consent of all the parties to the proceeding," to refer a "related to" matter to the bankruptcy court for final judgment). Vickie asserts that in this case Pierce consented to the Bankruptcy Court's adjudication of his defamation claim, and forfeited any argument to the contrary, by failing to seek withdrawal of the claim until he had litigated it before the Bankruptcy Court for 27 months. *Id.,* at 20–23. On the merits, Vickie contends that the statutory phrase "personal injury tort

and wrongful death claims" does not include non-physical torts such as defamation. *Id.,* at 25–26.

We need not determine what constitutes a "personal injury tort" in this case because we agree with Vickie that §157(b)(5) is not jurisdictional, and that Pierce consented to the Bankruptcy Court's resolution of his defamation claim.[4] Because "[b]randing a rule as going to a court's subject-matter jurisdiction alters the normal operation of our adversarial system," *Henderson* v. *Shinseki*, 562 U. S. ___, ___–___ (2011) (slip op., at 4–5), we are not inclined to interpret statutes as creating a jurisdictional bar when they are not framed as such. See generally *Arbaugh* v. *Y & H Corp.*, 546 U. S. 500, 516 (2006) ("when Congress does not rank a statutory limitation on coverage as jurisdictional, courts should treat the restriction as nonjurisdictional in character").

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[4] Although Pierce suggests that consideration of "the 157(b)(5) issue" would facilitate an "easy" resolution of the case, Tr. of Oral Arg. 47–48, he is mistaken. Had Pierce preserved his argument under that provision, we would have been confronted with several questions on which there is little consensus or precedent. Those issues include: (1) the scope of the phrase "personal injury tort"—a question over which there is at least a three-way divide, see *In re Arnold*, 407 B. R. 849, 851–853 (Bkrtcy. Ct. MDNC 2009); (2) whether, as Vickie argued in the Court of Appeals, the requirement that a personal injury tort claim be "tried" in the district court nonetheless permits the bankruptcy court to resolve the claim short of trial, see Appellee's/Cross-Appellant's Supplemental Brief in No. 02–56002 etc. (CA9), p. 24; see also *In re Dow Corning Corp.*, 215 B. R. 346, 349–351 (Bkrtcy. Ct. ED Mich. 1997) (noting divide over whether, and on what grounds, a bankruptcy court may resolve a claim pretrial); and (3) even if Pierce's defamation claim could be considered only by the District Court, whether the Bankruptcy Court might retain jurisdiction over the counterclaim, cf. *Arbaugh* v. *Y & H Corp.*, 546 U. S. 500, 514 (2006) ("when a court grants a motion to dismiss for failure to state a federal claim, the court generally retains discretion to exercise supplemental jurisdiction, pursuant to 28 U. S. C. §1367, over pendent state-law claims"). We express no opinion on any of these issues and simply note that the §157(b)(5) question is not as straightforward as Pierce would have it.

Section 157(b)(5) does not have the hallmarks of a jurisdictional decree. To begin, the statutory text does not refer to either district court or bankruptcy court "jurisdiction," instead addressing only where personal injury tort claims "shall be tried."

The statutory context also belies Pierce's jurisdictional claim. Section 157 allocates the authority to enter final judgment between the bankruptcy court and the district court. See §§157(b)(1), (c)(1). That allocation does not implicate questions of subject matter jurisdiction. See §157(c)(2) (parties may consent to entry of final judgment by bankruptcy judge in non-core case). By the same token, §157(b)(5) simply specifies where a particular category of cases should be tried. Pierce does not explain why that statutory limitation may not be similarly waived.

We agree with Vickie that Pierce not only could but did consent to the Bankruptcy Court's resolution of his defamation claim. Before the Bankruptcy Court, Vickie objected to Pierce's proof of claim for defamation, arguing that Pierce's claim was unenforceable and that Pierce should not receive any amount for it. See 29 Court of Appeals Supplemental Excerpts of Record 6031, 6035 (hereinafter Supplemental Record). Vickie also noted that the Bankruptcy Court could defer ruling on her objection, given the litigation posture of Pierce's claim before the Bankruptcy Court. See *id.,* at 6031. Vickie's filing prompted Pierce to advise the Bankruptcy Court that "[a]ll parties are in agreement that the amount of the contingent Proof of Claim filed by [Pierce] shall be determined by the adversary proceedings" that had been commenced in the Bankruptcy Court. 31 Supplemental Record 6801. Pierce asserted that Vickie's objection should be overruled or, alternatively, that any ruling on the objection "should be continued until the resolution of the pending adversary proceeding litigation." *Ibid.* Pierce identifies no point in the record where he argued to the Bankruptcy Court that

it lacked the authority to adjudicate his proof of claim because the claim sought recompense for a personal injury tort.

Indeed, Pierce apparently did not object to any court that §157(b)(5) prohibited the Bankruptcy Court from resolving his defamation claim until over two years—and several adverse discovery rulings—after he filed that claim in June 1996. The first filing Pierce cites as raising that objection is his September 22, 1998 motion to the District Court to withdraw the reference of the case to the Bankruptcy Court. See Brief for Respondent 26–27. The District Court did initially withdraw the reference as requested, but it then returned the proceeding to the Bankruptcy Court, observing that Pierce "implicated the jurisdiction of that bankruptcy court. He chose to be a party to that litigation." App. 129. Although Pierce had objected in July 1996 to the Bankruptcy Court's exercise of jurisdiction over Vickie's counterclaim, he advised the court at that time that he was "happy to litigate [his] claim" there. 29 Supplemental Record 6101. Counsel stated that even though Pierce thought it was "probably cheaper for th[e] estate if [Pierce's claim] were sent back or joined back with the State Court litigation," Pierce "did choose" the Bankruptcy Court forum and "would be more than pleased to do it [t]here." *Id.,* at 6101–6102; see also App. to Pet. for Cert. 266, n. 17 (District Court referring to these statements).

Given Pierce's course of conduct before the Bankruptcy Court, we conclude that he consented to that court's resolution of his defamation claim (and forfeited any argument to the contrary). We have recognized "the value of waiver and forfeiture rules" in "complex" cases, *Exxon Shipping Co.* v. *Baker*, 554 U. S. 471, 487–488, n. 6 (2008), and this case is no exception. In such cases, as here, the consequences of "a litigant . . . 'sandbagging' the court—remaining silent about his objection and belatedly raising the error only if the case does not conclude in his favor,"

Puckett v. *United States*, 556 U. S. ___, ___ (2009) (slip op., at 5) (some internal quotation marks omitted)—can be particularly severe. If Pierce believed that the Bankruptcy Court lacked the authority to decide his claim for defamation, then he should have said so—and said so promptly. See *United States* v. *Olano*, 507 U. S. 725, 731 (1993) ("'No procedural principle is more familiar to this Court than that a constitutional right,' or a right of any other sort, 'may be forfeited . . . by the failure to make timely assertion of the right before a tribunal having jurisdiction to determine it'" (quoting *Yakus* v. *United States*, 321 U. S. 414, 444 (1944))). Instead, Pierce repeatedly stated to the Bankruptcy Court that he was happy to litigate there. We will not consider his claim to the contrary, now that he is sad.

III

Although we conclude that §157(b)(2)(C) permits the Bankruptcy Court to enter final judgment on Vickie's counterclaim, Article III of the Constitution does not.

A

Article III, §1, of the Constitution mandates that "[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." The same section provides that the judges of those constitutional courts "shall hold their Offices during good Behaviour" and "receive for their Services[] a Compensation[] [that] shall not be diminished" during their tenure.

As its text and our precedent confirm, Article III is "an inseparable element of the constitutional system of checks and balances" that "both defines the power and protects the independence of the Judicial Branch." *Northern Pipeline*, 458 U. S., at 58 (plurality opinion). Under "the basic concept of separation of powers . . . that flow[s] from the

scheme of a tripartite government" adopted in the Constitution, "the 'judicial Power of the United States' . . . can no more be shared" with another branch than "the Chief Executive, for example, can share with the Judiciary the veto power, or the Congress share with the Judiciary the power to override a Presidential veto." *United States* v. *Nixon*, 418 U. S. 683, 704 (1974) (quoting U. S. Const., Art. III, §1).

In establishing the system of divided power in the Constitution, the Framers considered it essential that "the judiciary remain[] truly distinct from both the legislature and the executive." The Federalist No. 78, p. 466 (C. Rossiter ed. 1961) (A. Hamilton). As Hamilton put it, quoting Montesquieu, "'there is no liberty if the power of judging be not separated from the legislative and executive powers.'" *Ibid.* (quoting 1 Montesquieu, Spirit of Laws 181).

We have recognized that the three branches are not hermetically sealed from one another, see *Nixon* v. *Administrator of General Services*, 433 U. S. 425, 443 (1977), but it remains true that Article III imposes some basic limitations that the other branches may not transgress. Those limitations serve two related purposes. "Separation-of-powers principles are intended, in part, to protect each branch of government from incursion by the others. Yet the dynamic between and among the branches is not the only object of the Constitution's concern. The structural principles secured by the separation of powers protect the individual as well." *Bond* v. *United States*, 564 U. S. ___, ___ (2011) (slip op., at 10).

Article III protects liberty not only through its role in implementing the separation of powers, but also by specifying the defining characteristics of Article III judges. The colonists had been subjected to judicial abuses at the hand of the Crown, and the Framers knew the main reasons why: because the King of Great Britain "made Judges

dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries." The Declaration of Independence ¶11. The Framers undertook in Article III to protect citizens subject to the judicial power of the new Federal Government from a repeat of those abuses. By appointing judges to serve without term limits, and restricting the ability of the other branches to remove judges or diminish their salaries, the Framers sought to ensure that each judicial decision would be rendered, not with an eye toward currying favor with Congress or the Executive, but rather with the "[c]lear heads . . . and honest hearts" deemed "essential to good judges." 1 Works of James Wilson 363 (J. Andrews ed. 1896).

Article III could neither serve its purpose in the system of checks and balances nor preserve the integrity of judicial decisionmaking if the other branches of the Federal Government could confer the Government's "judicial Power" on entities outside Article III. That is why we have long recognized that, in general, Congress may not "withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty." *Murray's Lessee* v. *Hoboken Land & Improvement Co.*, 18 How. 272, 284 (1856). When a suit is made of "the stuff of the traditional actions at common law tried by the courts at Westminster in 1789," *Northern Pipeline*, 458 U. S., at 90 (Rehnquist, J., concurring in judgment), and is brought within the bounds of federal jurisdiction, the responsibility for deciding that suit rests with Article III judges in Article III courts. The Constitution assigns that job—resolution of "the mundane as well as the glamorous, matters of common law and statute as well as constitutional law, issues of fact as well as issues of law"—to the Judiciary. *Id.,* at 86–87, n. 39 (plurality opinion).

B

This is not the first time we have faced an Article III challenge to a bankruptcy court's resolution of a debtor's suit. In *Northern Pipeline,* we considered whether bankruptcy judges serving under the Bankruptcy Act of 1978—appointed by the President and confirmed by the Senate, but lacking the tenure and salary guarantees of Article III—could "constitutionally be vested with jurisdiction to decide [a] state-law contract claim" against an entity that was not otherwise part of the bankruptcy proceedings. 458 U. S., at 53, 87, n. 40 (plurality opinion); see *id.,* at 89–92 (Rehnquist, J., concurring in judgment). The Court concluded that assignment of such state law claims for resolution by those judges "violates Art. III of the Constitution." *Id.,* at 52, 87 (plurality opinion); *id.,* at 91 (Rehnquist, J., concurring in judgment).

The plurality in *Northern Pipeline* recognized that there was a category of cases involving "public rights" that Congress could constitutionally assign to "legislative" courts for resolution. That opinion concluded that this "public rights" exception extended "only to matters arising between" individuals and the Government "in connection with the performance of the constitutional functions of the executive or legislative departments . . . that historically could have been determined exclusively by those" branches. *Id.,* at 67–68 (internal quotation marks omitted). A full majority of the Court, while not agreeing on the scope of the exception, concluded that the doctrine did not encompass adjudication of the state law claim at issue in that case. *Id.,* at 69–72; see *id.,* at 90–91 (Rehnquist, J., concurring in judgment) ("None of the [previous cases addressing Article III power] has gone so far as to sanction the type of adjudication to which Marathon will be subjected . . . . To whatever extent different powers granted under [the 1978] Act might be sustained under the 'public rights' doctrine of *Murray's Lessee* . . . and succeeding

cases, I am satisfied that the adjudication of Northern's lawsuit cannot be so sustained").[5]

A full majority of Justices in *Northern Pipeline* also rejected the debtor's argument that the bankruptcy court's exercise of jurisdiction was constitutional because the bankruptcy judge was acting merely as an adjunct of the district court or court of appeals. *Id.,* at 71–72, 81–86 (plurality opinion); *id.,* at 91 (Rehnquist, J., concurring in judgment) ("the bankruptcy court is not an 'adjunct' of either the district court or the court of appeals").

After our decision in *Northern Pipeline*, Congress revised the statutes governing bankruptcy jurisdiction and bankruptcy judges. In the 1984 Act, Congress provided that the judges of the new bankruptcy courts would be appointed by the courts of appeals for the circuits in which their districts are located. 28 U. S. C. §152(a). And, as we have explained, Congress permitted the newly constituted bankruptcy courts to enter final judgments only in "core" proceedings. See *supra,* at 7–8.

With respect to such "core" matters, however, the bankruptcy courts under the 1984 Act exercise the same powers they wielded under the Bankruptcy Act of 1978 (1978 Act), 92 Stat. 2549. As in *Northern Pipeline,* for example, the newly constituted bankruptcy courts are charged under §157(b)(2)(C) with resolving "[a]ll matters of fact and law in whatever domains of the law to which" a counterclaim may lead. 458 U. S., at 91 (Rehnquist, J., concurring in judgment); see, *e.g.,* 275 B. R., at 50–51 (noting that Vickie's counterclaim required the bankruptcy court to determine whether Texas recognized a cause of action for tortious interference with an *inter vivos* gift—something the Supreme Court of Texas had yet to do). As

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[5]The dissent is thus wrong in suggesting that less than a full Court agreed on the points pertinent to this case. *Post,* at 2 (opinion of BREYER, J.).

in *Northern Pipeline*, the new courts in core proceedings "issue final judgments, which are binding and enforceable even in the absence of an appeal." 458 U. S., at 85–86 (plurality opinion). And, as in *Northern Pipeline*, the district courts review the judgments of the bankruptcy courts in core proceedings only under the usual limited appellate standards. That requires marked deference to, among other things, the bankruptcy judges' findings of fact. See §158(a); Fed. Rule Bkrtcy. Proc. 8013 (findings of fact "shall not be set aside unless clearly erroneous").

C

Vickie and the dissent argue that the Bankruptcy Court's entry of final judgment on her state common law counterclaim was constitutional, despite the similarities between the bankruptcy courts under the 1978 Act and those exercising core jurisdiction under the 1984 Act. We disagree. It is clear that the Bankruptcy Court in this case exercised the "judicial Power of the United States" in purporting to resolve and enter final judgment on a state common law claim, just as the court did in *Northern Pipeline*. No "public right" exception excuses the failure to comply with Article III in doing so, any more than in *Northern Pipeline*. Vickie argues that this case is different because the defendant is a creditor in the bankruptcy. But the debtors' claims in the cases on which she relies were themselves federal claims under bankruptcy law, which would be completely resolved in the bankruptcy process of allowing or disallowing claims. Here Vickie's claim is a state law action independent of the federal bankruptcy law and not necessarily resolvable by a ruling on the creditor's proof of claim in bankruptcy. *Northern Pipeline* and our subsequent decision in *Granfinanciera,* 492 U. S. 33, rejected the application of the "public rights" exception in such cases.

Nor can the bankruptcy courts under the 1984 Act be

dismissed as mere adjuncts of Article III courts, any more than could the bankruptcy courts under the 1978 Act. The judicial powers the courts exercise in cases such as this remain the same, and a court exercising such broad powers is no mere adjunct of anyone.

1

Vickie's counterclaim cannot be deemed a matter of "public right" that can be decided outside the Judicial Branch. As explained above, in *Northern Pipeline* we rejected the argument that the public rights doctrine permitted a bankruptcy court to adjudicate a state law suit brought by a debtor against a company that had not filed a claim against the estate. See 458 U. S., at 69–72 (plurality opinion); *id.,* at 90–91 (Rehnquist, J., concurring in judgment). Although our discussion of the public rights exception since that time has not been entirely consistent, and the exception has been the subject of some debate, this case does not fall within any of the various formulations of the concept that appear in this Court's opinions.

We first recognized the category of public rights in *Murray's Lessee* v. *Hoboken Land & Improvement Co.*, 18 How. 272 (1856). That case involved the Treasury Department's sale of property belonging to a customs collector who had failed to transfer payments to the Federal Government that he had collected on its behalf. *Id.,* at 274, 275. The plaintiff, who claimed title to the same land through a different transfer, objected that the Treasury Department's calculation of the deficiency and sale of the property was void, because it was a judicial act that could not be assigned to the Executive under Article III. *Id.,* at 274–275, 282–283.

"To avoid misconstruction upon so grave a subject," the Court laid out the principles guiding its analysis. *Id.,* at 284. It confirmed that Congress cannot "withdraw from judicial cognizance any matter which, from its nature, is

the subject of a suit at the common law, or in equity, or admiralty." *Ibid.* The Court also recognized that "[a]t the same time there are matters, involving public rights, which may be presented in such form that the judicial power is capable of acting on them, and which are susceptible of judicial determination, but which congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper." *Ibid.*

As an example of such matters, the Court referred to "[e]quitable claims to land by the inhabitants of ceded territories" and cited cases in which land issues were conclusively resolved by Executive Branch officials. *Ibid.* (citing *Foley* v. *Harrison*, 15 How. 433 (1854); *Burgess* v. *Gray*, 16 How. 48 (1854)). In those cases "it depends upon the will of congress whether a remedy in the courts shall be allowed at all," so Congress could limit the extent to which a judicial forum was available. *Murray's Lessee*, 18 How., at 284. The challenge in *Murray's Lessee* to the Treasury Department's sale of the collector's land likewise fell within the "public rights" category of cases, because it could only be brought if the Federal Government chose to allow it by waiving sovereign immunity. *Id.,* at 283–284. The point of *Murray's Lessee* was simply that Congress may set the terms of adjudicating a suit when the suit could not otherwise proceed at all.

Subsequent decisions from this Court contrasted cases within the reach of the public rights exception—those arising "between the Government and persons subject to its authority in connection with the performance of the constitutional functions of the executive or legislative departments"—and those that were instead matters "of private right, that is, of the liability of one individual to another under the law as defined." *Crowell* v. *Benson*, 285 U. S. 22, 50, 51 (1932).[6] See *Atlas Roofing Co.* v. *Occupa-*

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[6] Although the Court in *Crowell* went on to decide that the facts of the

tional Safety and Health Review Comm'n, 430 U. S. 442, 458 (1977) (Exception extends to cases "where the Government is involved in its sovereign capacity under . . . [a] statute creating enforceable public rights," while "[w]holly private tort, contract, and property cases, as well as a vast range of other cases . . . are not at all implicated"); *Ex parte Bakelite Corp.*, 279 U. S. 438, 451–452 (1929). See also *Northern Pipeline*, *supra,* at 68 (plurality opinion) (citing *Ex parte Bakelite Corp.* for the proposition that the doctrine extended "only to matters that historically could have been determined exclusively by" the Executive and Legislative Branches).

Shortly after *Northern Pipeline*, the Court rejected the

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private dispute before it could be determined by a non-Article III tribunal in the first instance, subject to judicial review, the Court did so only after observing that the administrative adjudicator had only limited authority to make specialized, narrowly confined factual determinations regarding a particularized area of law and to issue orders that could be enforced only by action of the District Court. 285 U. S., at 38, 44–45, 54; see *Northern Pipeline Constr. Co.* v. *Marathon Pipe Line Co.*, 458 U. S. 50, 78 (1982) (plurality opinion). In other words, the agency in *Crowell* functioned as a true "adjunct" of the District Court. That is not the case here. See *infra*, at 34–36.

Although the dissent suggests that we understate the import of *Crowell* in this regard, the dissent itself recognizes—repeatedly—that *Crowell* by its terms addresses the determination of *facts* outside Article III. See *post*, at 4 (*Crowell* "upheld Congress' delegation of primary factfinding authority to the agency"); *post,* at 12 (quoting *Crowell*, 285 U. S., at 51, for the proposition that "'there is no requirement that, in order to maintain the essential attributes of the judicial power, all determinations of fact in constitutional courts shall be made by judges'"). *Crowell* may well have additional significance in the context of expert administrative agencies that oversee particular substantive federal regimes, but we have no occasion to and do not address those issues today. See *infra,* at 29. The United States apparently agrees that any broader significance of *Crowell* is not pertinent in this case, citing to *Crowell* in its brief only once, in the last footnote, again for the limited proposition discussed above. Brief for United States as *Amicus Curiae* 32, n. 5.

limitation of the public rights exception to actions involving the Government as a party. The Court has continued, however, to limit the exception to cases in which the claim at issue derives from a federal regulatory scheme, or in which resolution of the claim by an expert government agency is deemed essential to a limited regulatory objective within the agency's authority. In other words, it is still the case that what makes a right "public" rather than private is that the right is integrally related to particular federal government action. See *United States* v. *Jicarilla Apache Nation*, 564 U. S. ___, ___–___ (2011) (slip op., at 10–11) ("The distinction between 'public rights' against the Government and 'private rights' between private parties is well established," citing *Murray's Lessee* and *Crowell*).

Our decision in *Thomas* v. *Union Carbide Agricultural Products Co.*, for example, involved a data-sharing arrangement between companies under a federal statute providing that disputes about compensation between the companies would be decided by binding arbitration. 473 U. S. 568, 571–575 (1985). This Court held that the scheme did not violate Article III, explaining that "[a]ny right to compensation . . . results from [the statute] and does not depend on or replace a right to such compensation under state law." *Id.,* at 584.

Commodity Futures Trading Commission v. *Schor* concerned a statutory scheme that created a procedure for customers injured by a broker's violation of the federal commodities law to seek reparations from the broker before the Commodity Futures Trading Commission (CFTC). 478 U. S. 833, 836 (1986). A customer filed such a claim to recover a debit balance in his account, while the broker filed a lawsuit in Federal District Court to recover the same amount as lawfully due from the customer. The broker later submitted its claim to the CFTC, but after that agency ruled against the customer, the customer

argued that agency jurisdiction over the broker's counterclaim violated Article III. *Id.,* at 837–838. This Court disagreed, but only after observing that (1) the claim and the counterclaim concerned a "single dispute"—the same account balance; (2) the CFTC's assertion of authority involved only "a narrow class of common law claims" in a "'particularized area of law'"; (3) the area of law in question was governed by "a specific and limited federal regulatory scheme" as to which the agency had "obvious expertise"; (4) the parties had freely elected to resolve their differences before the CFTC; and (5) CFTC orders were "enforceable only by order of the district court." *Id.,* at 844, 852–855 (quoting *Northern Pipeline*, 458 U. S., at 85); see 478 U. S., at 843–844; 849–857. Most significantly, given that the customer's reparations claim before the agency and the broker's counterclaim were competing claims to the same amount, the Court repeatedly emphasized that it was "necessary" to allow the agency to exercise jurisdiction over the broker's claim, or else "the reparations procedure would have been confounded." *Id.,* at 856.

The most recent case in which we considered application of the public rights exception—and the only case in which we have considered that doctrine in the bankruptcy context since *Northern Pipeline*—is *Granfinanciera, S. A.* v. *Nordberg*, 492 U. S. 33 (1989). In *Granfinanciera* we rejected a bankruptcy trustee's argument that a fraudulent conveyance action filed on behalf of a bankruptcy estate against a noncreditor in a bankruptcy proceeding fell within the "public rights" exception. We explained that, "[i]f a statutory right is not closely intertwined with a federal regulatory program Congress has power to enact, and if that right neither belongs to nor exists against the Federal Government, then it must be adjudicated by an Article III court." *Id.,* at 54–55. We reasoned that fraudulent conveyance suits were "quintessentially suits at com-

mon law that more nearly resemble state law contract claims brought by a bankrupt corporation to augment the bankruptcy estate than they do creditors' hierarchically ordered claims to a pro rata share of the bankruptcy res." *Id.,* at 56. As a consequence, we concluded that fraudulent conveyance actions were "more accurately characterized as a private rather than a public right as we have used those terms in our Article III decisions." *Id.,* at 55.[7]

Vickie's counterclaim—like the fraudulent conveyance claim at issue in *Granfinanciera*—does not fall within any of the varied formulations of the public rights exception in this Court's cases. It is not a matter that can be pursued only by grace of the other branches, as in *Murray's Lessee*, 18 How., at 284, or one that "historically could have been determined exclusively by" those branches, *Northern Pipeline*, *supra,* at 68 (citing *Ex parte Bakelite Corp.*, 279 U. S., at 458). The claim is instead one under state common law between two private parties. It does not "depend[] on the will of congress," *Murray's Lessee*, *supra,* at 284; Congress has nothing to do with it.

In addition, Vickie's claimed right to relief does not flow from a federal statutory scheme, as in *Thomas*, 473 U. S., at 584–585, or *Atlas Roofing*, 430 U. S., at 458. It is not "completely dependent upon" adjudication of a claim created by federal law, as in *Schor*, 478 U. S., at 856. And in contrast to the objecting party in *Schor*, *id.,* at 855–856, Pierce did not truly consent to resolution of Vickie's claim in the bankruptcy court proceedings. He had nowhere else to go if he wished to recover from Vickie's estate. See

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[7] We noted that we did not mean to "suggest that the restructuring of debtor-creditor relations is in fact a public right." 492 U. S., at 56, n. 11. Our conclusion was that, "even if one accepts this thesis," Congress could not constitutionally assign resolution of the fraudulent conveyance action to a non-Article III court. *Ibid.* Because neither party asks us to reconsider the public rights framework for bankruptcy, we follow the same approach here.

Granfinanciera, *supra,* at 59, n. 14 (noting that "[p]arallel reasoning [to *Schor*] is unavailable in the context of bankruptcy proceedings, because creditors lack an alternative forum to the bankruptcy court in which to pursue their claims").[8]

Furthermore, the asserted authority to decide Vickie's claim is not limited to a "particularized area of the law," as in *Crowell*, *Thomas*, and *Schor*. *Northern Pipeline*, 458 U. S., at 85 (plurality opinion). We deal here not with an agency but with a court, with substantive jurisdiction reaching any area of the *corpus juris*. See *ibid.*; *id.,* at 91 (Rehnquist, J., concurring in judgment). This is not a situation in which Congress devised an "expert and inexpensive method for dealing with a class of questions of fact which are particularly suited to examination and determination by an administrative agency specially assigned to that task." *Crowell*, 285 U. S., at 46; see *Schor*, *supra,* at 855–856. The "experts" in the federal system at resolving common law counterclaims such as Vickie's are the Article III courts, and it is with those courts that her claim must stay.

The dissent reads our cases differently, and in particular contends that more recent cases view *Northern Pipeline* as "'establish[ing] only that Congress may not vest in a non-Article III court the power to adjudicate, render final judgment, and issue binding orders in a traditional contract action arising under state law, without consent of

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[8] Contrary to the claims of the dissent, see *post,* at 12–13, Pierce did not have another forum in which to pursue his claim to recover from Vickie's pre-bankruptcy assets, rather than take his chances with whatever funds might remain after the Title 11 proceedings. Creditors who possess claims that do not satisfy the requirements for nondischargeability under 11 U. S. C. §523 have no choice but to file their claims in bankruptcy proceedings if they want to pursue the claims at all. That is why, as we recognized in *Granfinanciera*, the notion of "consent" does not apply in bankruptcy proceedings as it might in other contexts.

the litigants, and subject only to ordinary appellate review.'" *Post,* at 6 (quoting *Thomas*, *supra*, at 584). Just so: Substitute "tort" for "contract," and that statement directly covers this case.

We recognize that there may be instances in which the distinction between public and private rights—at least as framed by some of our recent cases—fails to provide concrete guidance as to whether, for example, a particular agency can adjudicate legal issues under a substantive regulatory scheme. Given the extent to which this case is so markedly distinct from the agency cases discussing the public rights exception in the context of such a regime, however, we do not in this opinion express any view on how the doctrine might apply in that different context.

What is plain here is that this case involves the most prototypical exercise of judicial power: the entry of a final, binding judgment *by a court* with broad substantive jurisdiction, on a common law cause of action, when the action neither derives from nor depends upon any agency regulatory regime. If such an exercise of judicial power may nonetheless be taken from the Article III Judiciary simply by deeming it part of some amorphous "public right," then Article III would be transformed from the guardian of individual liberty and separation of powers we have long recognized into mere wishful thinking.

2

Vickie and the dissent next attempt to distinguish *Northern Pipeline* and *Granfinanciera* on the ground that Pierce, unlike the defendants in those cases, had filed a proof of claim in the bankruptcy proceedings. Given Pierce's participation in those proceedings, Vickie argues, the Bankruptcy Court had the authority to adjudicate her counterclaim under our decisions in *Katchen* v. *Landy*, 382 U. S. 323 (1966), and *Langenkamp* v. *Culp*, 498 U. S. 42 (1990) (*per curiam*).

We do not agree. As an initial matter, it is hard to see why Pierce's decision to file a claim should make any difference with respect to the characterization of Vickie's counterclaim. "'[P]roperty interests are created and defined by state law,' and '[u]nless some federal interest requires a different result, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding." *Travelers Casualty & Surety Co. of America* v. *Pacific Gas & Elec. Co.*, 549 U. S. 443, 451 (2007) (quoting *Butner* v. *United States*, 440 U. S. 48, 55 (1979)). Pierce's claim for defamation in no way affects the nature of Vickie's counterclaim for tortious interference as one at common law that simply attempts to augment the bankruptcy estate—the very type of claim that we held in *Northern Pipeline* and *Granfinanciera* must be decided by an Article III court.

Contrary to Vickie's contention, moreover, our decisions in *Katchen* and *Langenkamp* do not suggest a different result. *Katchen* permitted a bankruptcy referee acting under the Bankruptcy Acts of 1898 and 1938 (akin to a bankruptcy court today) to exercise what was known as "summary jurisdiction" over a voidable preference claim brought by the bankruptcy trustee against a creditor who had filed a proof of claim in the bankruptcy proceeding. See 382 U. S., at 325, 327–328. A voidable preference claim asserts that a debtor made a payment to a particular creditor in anticipation of bankruptcy, to in effect increase that creditor's proportionate share of the estate. The preferred creditor's claim in bankruptcy can be disallowed as a result of the preference, and the amounts paid to that creditor can be recovered by the trustee. See *id.,* at 330; see also 11 U. S. C. §§502(d), 547(b).

Although the creditor in *Katchen* objected that the preference issue should be resolved through a "plenary suit" in an Article III court, this Court concluded that summary adjudication in bankruptcy was appropriate,

because it was not possible for the referee to rule on the creditor's proof of claim without first resolving the voidable preference issue. 382 U. S., at 329–330, 332–333, and n. 9, 334. There was no question that the bankruptcy referee could decide whether there had been a voidable preference in determining whether and to what extent to allow the creditor's claim. Once the referee did that, "nothing remains for adjudication in a plenary suit"; such a suit "would be a meaningless gesture." *Id.,* at 334. The plenary proceeding the creditor sought could be brought into the bankruptcy court because "the same issue [arose] as part of the process of allowance and disallowance of claims." *Id.,* at 336.

It was in that sense that the Court stated that "he who invokes the aid of the bankruptcy court by offering a proof of claim and demanding its allowance must abide the consequences of that procedure." *Id.,* at 333, n. 9. In *Katchen* one of those consequences was resolution of the preference issue as part of the process of allowing or disallowing claims, and accordingly there was no basis for the creditor to insist that the issue be resolved in an Article III court. See *id.,* at 334. Indeed, the *Katchen* Court expressly noted that it "intimate[d] no opinion concerning whether" the bankruptcy referee would have had "summary jurisdiction to adjudicate a demand by the [bankruptcy] trustee for affirmative relief, all of the substantial factual and legal bases for which ha[d] not been disposed of in passing on objections to the [creditor's proof of] claim." *Id.,* at 333, n. 9.

Our *per curiam* opinion in *Langenkamp* is to the same effect. We explained there that a preferential transfer claim can be heard in bankruptcy when the allegedly favored creditor has filed a claim, because *then* "the ensuing preference action by the trustee become[s] integral to the restructuring of the debtor-creditor relationship." 498 U. S., at 44. If, in contrast, the creditor has not filed a

proof of claim, the trustee's preference action does *not* "become[] part of the claims-allowance process" subject to resolution by the bankruptcy court. *Ibid.*; see *id.,* at 45.

In ruling on Vickie's counterclaim, the Bankruptcy Court was required to and did make several factual and legal determinations that were not "disposed of in passing on objections" to Pierce's proof of claim for defamation, which the court had denied almost a year earlier. *Katchen*, *supra,* at 332, n. 9. There was some overlap between Vickie's counterclaim and Pierce's defamation claim that led the courts below to conclude that the counterclaim was compulsory, 600 F. 3d, at 1057, or at least in an "attenuated" sense related to Pierce's claim, 264 B. R., at 631. But there was never any reason to believe that the process of adjudicating Pierce's proof of claim would necessarily resolve Vickie's counterclaim. See *id.,* at 631, 632 (explaining that "the primary facts at issue on Pierce's claim were the relationship between Vickie and her attorneys and her knowledge or approval of their statements," and "the counterclaim raises issues of law entirely different from those raise[d] on the defamation claim"). The United States acknowledges the point. See Brief for United States as *Amicus Curiae,* p. (I) (question presented concerns authority of a bankruptcy court to enter final judgment on a compulsory counterclaim "when adjudication of the counterclaim requires resolution of issues that are not implicated by the claim against the estate"); *id.,* at 26.

The only overlap between the two claims in this case was the question whether Pierce had in fact tortiously taken control of his father's estate in the manner alleged by Vickie in her counterclaim and described in the allegedly defamatory statements. From the outset, it was clear that, even assuming the Bankruptcy Court would (as it did) rule in Vickie's favor on that question, the court could not enter judgment for Vickie unless the court additionally

ruled on the questions whether Texas recognized tortious interference with an expected gift as a valid cause of action, what the elements of that action were, and whether those elements were met in this case. 275 B. R., at 50–53. Assuming Texas accepted the elements adopted by other jurisdictions, that meant Vickie would need to prove, above and beyond Pierce's tortious interference, (1) the existence of an expectancy of a gift; (2) a reasonable certainty that the expectancy would have been realized but for the interference; and (3) damages. *Id.,* at 51; see 253 B. R., at 558–561. Also, because Vickie sought punitive damages in connection with her counterclaim, the Bankruptcy Court could not finally dispose of the case in Vickie's favor without determining whether to subject Pierce to the sort of "retribution," "punishment[,] and deterrence," *Exxon Shipping Co.*, 554 U. S., at 492, 504 (internal quotation marks omitted), those damages are designed to impose. There thus was never reason to believe that the process of ruling on Pierce's proof of claim would necessarily result in the resolution of Vickie's counterclaim.

In both *Katchen* and *Langenkamp*, moreover, the trustee bringing the preference action was asserting a right of recovery created by federal bankruptcy law. In *Langenkamp*, we noted that "the trustee instituted adversary proceedings under 11 U. S. C. §547(b) to recover, as avoidable preferences," payments respondents received from the debtor before the bankruptcy filings. 498 U. S., at 43; see, *e.g.,* §547(b)(1) ("the trustee may avoid any transfer of an interest of the debtor in property—(1) to or for the benefit of a creditor"). In *Katchen*, "[t]he Trustee . . . [asserted] that the payments made [to the creditor] were preferences inhibited by Section 60a of the Bankruptcy Act." Memorandum Opinion (Feb. 8, 1963), Tr. of Record in O. T. 1965, No. 28, p. 3; see 382 U. S., at 334 (considering impact of the claims allowance process on "action by the

trustee under §60 to recover the preference"); 11 U. S. C. §96(b) (1964 ed.) (§60(b) of the then-applicable Bankruptcy Act) ("preference may be avoided by the trustee if the creditor receiving it or to be benefited thereby . . . has, at the time when the transfer is made, reasonable cause to believe that the debtor is insolvent"). Vickie's claim, in contrast, is in no way derived from or dependent upon bankruptcy law; it is a state tort action that exists without regard to any bankruptcy proceeding.

In light of all the foregoing, we disagree with the dissent that there are no "relevant distinction[s]" between Pierce's claim in this case and the claim at issue in *Langenkamp*. *Post*, at 14. We see no reason to treat Vickie's counterclaim any differently from the fraudulent conveyance action in *Granfinanciera*. 492 U. S., at 56. *Granfinanciera*'s distinction between actions that seek "to augment the bankruptcy estate" and those that seek "a pro rata share of the bankruptcy res," *ibid.*, reaffirms that Congress may not bypass Article III simply because a proceeding may have *some* bearing on a bankruptcy case; the question is whether the action at issue stems from the bankruptcy itself or would necessarily be resolved in the claims allowance process. Vickie has failed to demonstrate that her counterclaim falls within one of the "limited circumstances" covered by the public rights exception, particularly given our conclusion that, "even with respect to matters that arguably fall within the scope of the 'public rights' doctrine, the presumption is in favor of Art. III courts." *Northern Pipeline,* 458 U. S., at 69, n. 23, 77, n. 29 (plurality opinion).

3

Vickie additionally argues that the Bankruptcy Court's final judgment was constitutional because bankruptcy courts under the 1984 Act are properly deemed "adjuncts" of the district courts. Brief for Petitioner 61–64. We

rejected a similar argument in *Northern Pipeline*, see 458 U. S., at 84–86 (plurality opinion); *id.,* at 91 (Rehnquist, J., concurring in judgment), and our reasoning there holds true today.

To begin, as explained above, it is still the bankruptcy court itself that exercises the essential attributes of judicial power over a matter such as Vickie's counterclaim. See *supra,* at 20. The new bankruptcy courts, like the old, do not "ma[k]e only specialized, narrowly confined factual determinations regarding a particularized area of law" or engage in "statutorily channeled factfinding functions." *Northern Pipeline*, 458 U. S., at 85 (plurality opinion). Instead, bankruptcy courts under the 1984 Act resolve "[a]ll matters of fact and law in whatever domains of the law to which" the parties' counterclaims might lead. *Id.,* at 91 (Rehnquist, J., concurring in judgment).

In addition, whereas the adjunct agency in *Crowell* v. *Benson* "possessed only a limited power to issue compensation orders . . . [that] could be enforced only by order of the district court," *Northern Pipeline, supra,* at 85, a bankruptcy court resolving a counterclaim under 28 U. S. C. §157(b)(2)(C) has the power to enter "appropriate orders and judgments"—including final judgments—subject to review only if a party chooses to appeal, see §§157(b)(1), 158(a)–(b). It is thus no less the case here than it was in *Northern Pipeline* that "[t]he authority—and the responsibility—to make an informed, final determination . . . remains with" the bankruptcy judge, not the district court. 458 U. S., at 81 (plurality opinion) (internal quotation marks omitted). Given that authority, a bankruptcy court can no more be deemed a mere "adjunct" of the district court than a district court can be deemed such an "adjunct" of the court of appeals. We certainly cannot accept the dissent's notion that judges who have the power to enter final, binding orders are the "functional[]" equivalent of "law clerks[] and the Judiciary's administrative

officials." *Post*, at 11. And even were we wrong in this regard, that would only confirm that such judges should not be in the business of entering final judgments in the first place.

It does not affect our analysis that, as Vickie notes, bankruptcy judges under the current Act are appointed by the Article III courts, rather than the President. See Brief for Petitioner 59. If—as we have concluded—the bankruptcy court itself exercises "the essential attributes of judicial power [that] are reserved to Article III courts," *Schor*, 478 U. S., at 851 (internal quotation marks omitted), it does not matter who appointed the bankruptcy judge or authorized the judge to render final judgments in such proceedings. The constitutional bar remains. See The Federalist No. 78, at 471 ("Periodical appointments, however regulated, or by whomsoever made, would, in some way or other, be fatal to [a judge's] necessary independence").

D

Finally, Vickie and her *amici* predict as a practical matter that restrictions on a bankruptcy court's ability to hear and finally resolve compulsory counterclaims will create significant delays and impose additional costs on the bankruptcy process. See, *e.g.,* Brief for Petitioner 34–36, 57–58; Brief for United States as *Amicus Curiae* 29–30. It goes without saying that "the fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution." *INS* v. *Chadha*, 462 U. S. 919, 944 (1983).

In addition, we are not convinced that the practical consequences of such limitations on the authority of bankruptcy courts to enter final judgments are as significant as Vickie and the dissent suggest. See *post*, at 16–17. The dissent asserts that it is important that counterclaims such as Vickie's be resolved "in a bankruptcy court," and

that, "to be effective, a single tribunal must have broad authority to restructure [debtor-creditor] relations." *Post*, at 14, 15 (emphasis deleted). But the framework Congress adopted in the 1984 Act already contemplates that certain state law matters in bankruptcy cases will be resolved by judges other than those of the bankruptcy courts. Section 1334(c)(2), for example, requires that bankruptcy courts abstain from hearing specified non-core, state law claims that "can be timely adjudicated[] in a State forum of appropriate jurisdiction." Section 1334(c)(1) similarly provides that bankruptcy courts may abstain from hearing any proceeding, including core matters, "in the interest of comity with State courts or respect for State law."

As described above, the current bankruptcy system also requires the district court to review *de novo* and enter final judgment on any matters that are "related to" the bankruptcy proceedings, §157(c)(1), and permits the district court to withdraw from the bankruptcy court any referred case, proceeding, or part thereof, §157(d). Pierce has not argued that the bankruptcy courts "are barred from 'hearing' all counterclaims" or proposing findings of fact and conclusions of law on those matters, but rather that it must be the district court that "finally decide[s]" them. Brief for Respondent 61. We do not think the removal of counterclaims such as Vickie's from core bankruptcy jurisdiction meaningfully changes the division of labor in the current statute; we agree with the United States that the question presented here is a "narrow" one. Brief for United States as *Amicus Curiae* 23.

If our decision today does not change all that much, then why the fuss? Is there really a threat to the separation of powers where Congress has conferred the judicial power outside Article III only over certain counterclaims in bankruptcy? The short but emphatic answer is yes. A statute may no more lawfully chip away at the authority of the Judicial Branch than it may eliminate it entirely.

"Slight encroachments create new boundaries from which legions of power can seek new territory to capture." *Reid* v. *Covert*, 354 U. S. 1, 39 (1957) (plurality opinion). Although "[i]t may be that it is the obnoxious thing in its mildest and least repulsive form," we cannot overlook the intrusion: "illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure." *Boyd* v. *United States*, 116 U. S. 616, 635 (1886). We cannot compromise the integrity of the system of separated powers and the role of the Judiciary in that system, even with respect to challenges that may seem innocuous at first blush.

* * *

Article III of the Constitution provides that the judicial power of the United States may be vested only in courts whose judges enjoy the protections set forth in that Article. We conclude today that Congress, in one isolated respect, exceeded that limitation in the Bankruptcy Act of 1984. The Bankruptcy Court below lacked the constitutional authority to enter a final judgment on a state law counterclaim that is not resolved in the process of ruling on a creditor's proof of claim. Accordingly, the judgment of the Court of Appeals is affirmed.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 10–179

HOWARD K. STERN, EXECUTOR OF THE ESTATE OF VICKIE LYNN MARSHALL, PETITIONER *v.* ELAINE T. MARSHALL, EXECUTRIX OF THE ESTATE OF E. PIERCE MARSHALL

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 23, 2011]

JUSTICE SCALIA, concurring.

I agree with the Court's interpretation of our Article III precedents, and I accordingly join its opinion. I adhere to my view, however, that—our contrary precedents notwithstanding—"a matter of public rights . . . must at a minimum arise between the government and others," *Granfinanciera, S. A.* v. *Nordberg*, 492 U. S. 33, 65 (1989) (SCALIA, J., concurring in part and concurring in judgment) (internal quotation marks omitted).

The sheer surfeit of factors that the Court was required to consider in this case should arouse the suspicion that something is seriously amiss with our jurisprudence in this area. I count at least seven different reasons given in the Court's opinion for concluding that an Article III judge was required to adjudicate this lawsuit: that it was one "under state common law" which was "not a matter that can be pursued only by grace of the other branches," *ante*, at 27; that it was "not 'completely dependent upon' adjudication of a claim created by federal law," *ibid.;* that "Pierce did not truly consent to resolution of Vickie's claim in the bankruptcy court proceedings," *ibid.;* that "the asserted authority to decide Vickie's claim is not limited to a 'particularized area of the law,'" *ante*, at 28; that "there was

never any reason to believe that the process of adjudicating Pierce's proof of claim would necessarily resolve Vickie's counterclaim," *ante*, at 32; that the trustee was not "asserting a right of recovery created by federal bankruptcy law," *ante*, at 33; and that the Bankruptcy Judge "ha[d] the power to enter 'appropriate orders and judgments'—including final judgments—subject to review only if a party chooses to appeal," *ante*, at 35.

Apart from their sheer numerosity, the more fundamental flaw in the many tests suggested by our jurisprudence is that they have nothing to do with the text or tradition of Article III. For example, Article III gives no indication that state-law claims have preferential entitlement to an Article III judge; nor does it make pertinent the extent to which the area of the law is "particularized." The multifactors relied upon today seem to have entered our jurisprudence almost randomly.

Leaving aside certain adjudications by federal administrative agencies, which are governed (for better or worse) by our landmark decision in *Crowell* v. *Benson*, 285 U. S. 22 (1932), in my view an Article III judge is required in *all* federal adjudications, unless there is a firmly established historical practice to the contrary. For that reason—and not because of some intuitive balancing of benefits and harms—I agree that Article III judges are not required in the context of territorial courts, courts-martial, or true "public rights" cases. See *Northern Pipeline Constr. Co.* v. *Marathon Pipe Line Co.*, 458 U. S. 50, 71 (1982) (plurality opinion). Perhaps historical practice permits non-Article III judges to process claims against the bankruptcy estate, see, *e.g.,* Plank, Why Bankruptcy Judges Need Not and Should Not Be Article III Judges, 72 Am. Bankr. L. J. 567, 607–609 (1998); the subject has not been briefed, and so I state no position on the matter. But Vickie points to no historical practice that authorizes a non-Article III judge to adjudicate a counterclaim of the sort at issue here.

SUPREME COURT OF THE UNITED STATES

No. 10–179

HOWARD K. STERN, EXECUTOR OF THE ESTATE OF VICKIE LYNN MARSHALL, PETITIONER *v.* ELAINE T. MARSHALL, EXECUTRIX OF THE ESTATE OF E. PIERCE MARSHALL

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 23, 2011]

JUSTICE BREYER, with whom JUSTICE GINSBURG, JUSTICE SOTOMAYOR, and JUSTICE KAGAN, join dissenting.

Pierce Marshall filed a claim in Federal Bankruptcy Court against the estate of Vickie Marshall. His claim asserted that Vickie Marshall had, through her lawyers, accused him of trying to prevent her from obtaining money that his father had wanted her to have; that her accusations violated state defamation law; and that she consequently owed Pierce Marshall damages. Vickie Marshall filed a compulsory counterclaim in which she asserted that Pierce Marshall had unlawfully interfered with her husband's efforts to grant her an *inter vivos* gift and that he consequently owed her damages.

The Bankruptcy Court adjudicated the claim and the counterclaim. In doing so, the court followed statutory procedures applicable to "core" bankruptcy proceedings. See 28 U. S. C. §157(b). And ultimately the Bankruptcy Court entered judgment in favor of Vickie Marshall. The question before us is whether the Bankruptcy Court possessed jurisdiction to adjudicate Vickie Marshall's counterclaim. I agree with the Court that the bankruptcy statute, §157(b)(2)(C), authorizes a bankruptcy court to adjudicate the counterclaim. But I do not agree with the

majority about the statute's constitutionality. I believe the statute is consistent with the Constitution's delegation of the "judicial Power of the United States" to the Judicial Branch of Government. Art. III, §1. Consequently, it is constitutional.

I

My disagreement with the majority's conclusion stems in part from my disagreement about the way in which it interprets, or at least emphasizes, certain precedents. In my view, the majority overstates the current relevance of statements this Court made in an 1856 case, *Murray's Lessee* v. *Hoboken Land & Improvement Co.*, 18 How. 272 (1856), and it overstates the importance of an analysis that did not command a Court majority in *Northern Pipeline Constr. Co.* v. *Marathon Pipe Line Co.*, 458 U. S. 50 (1982), and that was subsequently disavowed. At the same time, I fear the Court understates the importance of a watershed opinion widely thought to demonstrate the constitutional basis for the current authority of administrative agencies to adjudicate private disputes, namely, *Crowell* v. *Benson*, 285 U. S. 22 (1932). And it fails to follow the analysis that this Court more recently has held applicable to the evaluation of claims of a kind before us here, namely, claims that a congressional delegation of adjudicatory authority violates separation-of-powers principles derived from Article III. See *Thomas* v. *Union Carbide Agricultural Products Co.*, 473 U. S. 568 (1985); *Commodity Futures Trading Comm'n* v. *Schor*, 478 U. S. 833 (1986).

I shall describe these cases in some detail in order to explain why I believe we should put less weight than does the majority upon the statement in *Murray's Lessee* and the analysis followed by the *Northern Pipeline* plurality and instead should apply the approach this Court has applied in *Crowell*, *Thomas*, and *Schor*.

A

In *Murray's Lessee*, the Court held that the Constitution permitted an executive official, through summary, nonjudicial proceedings, to attach the assets of a customs collector whose account was deficient. The Court found evidence in common law of "summary method[s] for the recovery of debts due to the crown, and especially those due from receivers of the revenues," 18 How., at 277, and it analogized the Government's summary attachment process to the kind of self-help remedies available to private parties, *id.*, at 283. In the course of its opinion, the Court wrote:

> "[W]e do not consider congress can either withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty; nor, on the other hand, can it bring under the judicial power a matter which, from its nature, is not a subject for judicial determination. At the same time there are matters, involving public rights, which may be presented in such form that the judicial power is capable of acting on them, and which are susceptible of judicial determination, but which congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper." *Id.*, at 284.

The majority reads the first part of the statement's first sentence as authoritatively defining the boundaries of Article III. *Ante*, at 18. I would read the statement in a less absolute way. For one thing, the statement is in effect dictum. For another, it is the remainder of the statement, announcing a distinction between "public rights" and "private rights," that has had the more lasting impact. Later Courts have seized on that distinction when *upholding* non-Article III adjudication, not when striking it down. See *Ex parte Bakelite Corp.*, 279 U. S. 438, 451–452

(1929) (Court of Customs Appeals); *Williams* v. *United States*, 289 U. S. 553, 579–580 (1933) (Court of Claims). The one exception is *Northern Pipeline,* where the Court struck down the Bankruptcy Act of 1978. But in that case there was no majority. And a plurality, not a majority, read the statement roughly in the way the Court does today. See 458 U. S., at 67–70.

B

At the same time, I believe the majority places insufficient weight on *Crowell*, a seminal case that clarified the scope of the dictum in *Murray's Lessee*. In that case, the Court considered whether Congress could grant to an Article I administrative agency the power to adjudicate an employee's workers' compensation claim against his employer. The Court assumed that an Article III court would review the agency's decision *de novo* in respect to questions of law but it would conduct a less searching review (looking to see only if the agency's award was "supported by evidence in the record") in respect to questions of fact. *Crowell*, 285 U. S., at 48–50. The Court pointed out that the case involved a dispute between private persons (a matter of "private rights") and (with one exception not relevant here) it upheld Congress' delegation of primary factfinding authority to the agency.

Justice Brandeis, dissenting (from a here-irrelvant portion of the Court's holding), wrote that the adjudicatory scheme raised only a due process question: When does due process require decision by an Article III judge? He answered that question by finding constitutional the statute's delegation of adjudicatory authority to an agency. *Id.*, at 87.

Crowell has been hailed as "the greatest of the cases validating administrative adjudication." Bator, The Constitution as Architecture: Legislative and Administrative Courts Under Article III, 65 Ind. L. J. 233, 251 (1990).

Yet, in a footnote, the majority distinguishes *Crowell* as a case in which the Court upheld the delegation of adjudicatory authority to an administrative agency simply because the agency's power to make the "specialized, narrowly confined factual determinations" at issue arising in a "particularized area of law," made the agency a "true 'adjunct' of the District Court." *Ante*, at 23, n. 6. Were *Crowell*'s holding as narrow as the majority suggests, one could question the validity of Congress' delegation of authority to adjudicate disputes among private parties to other agencies such as the National Labor Relations Board, the Commodity Futures Trading Commission, the Surface Transportation Board, and the Department of Housing and Urban Development, thereby resurrecting important legal questions previously thought to have been decided. See 29 U. S. C. §160; 7 U. S. C. §18; 49 U. S. C. §10704; 42 U. S. C. §3612(b).

C

The majority, in my view, overemphasizes the precedential effect of the plurality opinion in *Northern Pipeline*. *Ante*, at 19–21. There, the Court held unconstitutional the jurisdictional provisions of the Bankruptcy Act of 1978 granting adjudicatory authority to bankruptcy judges who lack the protections of tenure and compensation that Article III provides. Four Members of the Court wrote that Congress could grant adjudicatory authority to a non-Article III judge only where (1) the judge sits on a "territorial cour[t]" (2) the judge conducts a "courts-martial," or (3) the case involves a "public right," namely, a "matter" that "at a minimum arise[s] 'between the government and others.'" 458 U. S., at 64–70 (plurality opinion) (quoting *Ex parte Bakelite Corp.*, *supra*, at 451). Two other Members of the Court, without accepting these limitations, agreed with the result because the case involved a breach-of-contract claim brought by the bankruptcy trustee on

behalf of the bankruptcy estate against a third party who was not part of the bankruptcy proceeding, and none of the Court's preceding cases (which, the two Members wrote, "do not admit of easy synthesis") had "gone so far as to sanction th[is] type of adjudication." 458 U. S., at 90–91 (Rehnquist, J. concurring in judgment).

Three years later, the Court held that *Northern Pipeline*

> "establishes only that Congress may not vest in a non-Article III court the power to adjudicate, render final judgment, and issue binding orders in a traditional contract action arising under state law, without consent of the litigants, and subject only to ordinary appellate review." *Thomas*, 473 U. S., at 584.

D

Rather than leaning so heavily on the approach taken by the plurality in *Northern Pipeline*, I would look to this Court's more recent Article III cases *Thomas* and *Schor*—cases that commanded a clear majority. In both cases the Court took a more pragmatic approach to the constitutional question. It sought to determine whether, in the particular instance, the challenged delegation of adjudicatory authority posed a genuine and serious threat that one branch of Government sought to aggrandize its own constitutionally delegated authority by encroaching upon a field of authority that the Constitution assigns exclusively to another branch.

1

In *Thomas*, the Court focused directly upon the nature of the Article III problem, illustrating how the Court should determine whether a delegation of adjudicatory authority to a non-Article III judge violates the Constitution. The statute in question required pesticide manufacturers to submit to binding arbitration claims for compensation owed for the use by one manufacturer of the data of

another to support its federal pesticide registration. After describing *Northern Pipeline*'s holding in the language I have set forth above, *supra*, at 6, the Court stated that "*practical attention to substance* rather than doctrinaire reliance on formal categories should inform application of Article III." *Thomas*, 473 U. S., at 587 (emphasis added). It indicated that Article III's requirements could not be "determined" by "the identity of the parties alone," *ibid.*, or by the "private rights"/"public rights" distinction, *id.*, at 585–586. And it upheld the arbitration provision of the statute.

The Court pointed out that the right in question was created by a federal statute, it "represent[s] a pragmatic solution to the difficult problem of spreading [certain] costs," and the statute "does not preclude review of the arbitration proceeding by an Article III court." *Id.*, at 589–592. The Court concluded:

> "Given the nature of the right at issue and the concerns motivating the Legislature, we do not think this system threatens the independent role of the Judiciary in our constitutional scheme." *Id.*, at 590.

2

Most recently, in *Schor*, the Court described in greater detail how this Court should analyze this kind of Article III question. The question at issue in *Schor* involved a delegation of authority to an agency to adjudicate a counterclaim. A customer brought before the Commodity Futures Trading Commission (CFTC) a claim for reparations against his commodity futures broker. The customer noted that his brokerage account showed that he owed the broker money, but he said that the broker's unlawful actions had produced that debit balance, and he sought damages. The broker brought a counterclaim seeking the money that the account showed the customer owed. This Court had to decide whether agency adjudication of such a

counterclaim is consistent with Article III.

In doing so, the Court expressly "declined to adopt formalistic and unbending rules." *Schor*, 478 U. S., at 851. Rather, it "weighed a number of factors, none of which has been deemed determinative, with an eye to the practical effect that the congressional action will have on the constitutionally assigned role of the federal judiciary." *Ibid.* Those relevant factors include (1) "the origins and importance of the right to be adjudicated"; (2) "the extent to which the non-Article III forum exercises the range of jurisdiction and powers normally vested only in Article III courts"; (3) the extent to which the delegation nonetheless reserves judicial power for exercise by Article III courts; (4) the presence or "absence of consent to an initial adjudication before a non-Article III tribunal"; and (5) "the concerns that drove Congress to depart from" adjudication in an Article III court. *Id.*, at 849, 851.

The Court added that where "private rights," rather than "public rights" are involved, the "danger of encroaching on the judicial powers" is greater. *Id.*, at 853–854 (internal quotation marks omitted). Thus, while non-Article III adjudication of "private rights" is not necessarily unconstitutional, the Court's constitutional "examination" of such a scheme must be more "searching." *Ibid.*

Applying this analysis, the Court upheld the agency's authority to adjudicate the counterclaim. The Court conceded that the adjudication might be of a kind traditionally decided by a court and that the rights at issue were "private," not "public." *Id.*, at 853. But, the Court said, the CFTC deals only with a "'particularized area of law'"; the decision to invoke the CFTC forum is "left entirely to the parties"; Article III courts can review the agency's findings of fact under "the same 'weight of the evidence' standard sustained in *Crowell*" and review its "legal determinations . . . *de novo*"; and the agency's "counterclaim jurisdiction" was necessary to make "workable" a

"reparations procedure," which constitutes an important part of a congressionally enacted "regulatory scheme." *Id.*, at 852–856. The Court concluded that for these and other reasons "the magnitude of any intrusion on the Judicial Branch can only be termed *de minimis*." *Id.*, at 856.

II

A

This case law, as applied in *Thomas* and *Schor*, requires us to determine pragmatically whether a congressional delegation of adjudicatory authority to a non-Article III judge violates the separation-of-powers principles inherent in Article III. That is to say, we must determine through an examination of certain relevant factors whether that delegation constitutes a significant encroachment by the Legislative or Executive Branches of Government upon the realm of authority that Article III reserves for exercise by the Judicial Branch of Government. Those factors include (1) the nature of the claim to be adjudicated; (2) the nature of the non-Article III tribunal; (3) the extent to which Article III courts exercise control over the proceeding; (4) the presence or absence of the parties' consent; and (5) the nature and importance of the legislative purpose served by the grant of adjudicatory authority to a tribunal with judges who lack Article III's tenure and compensation protections. The presence of "private rights" does not automatically determine the outcome of the question but requires a more "searching" examination of the relevant factors. *Schor*, *supra*, at 854.

Insofar as the majority would apply more formal standards, it simply disregards recent, controlling precedent. *Thomas*, *supra*, at 587 ("[P]ractical attention to substance rather than doctrinaire reliance on formal categories should inform application of Article III"); *Schor*, *supra*, at 851 ("[T]he Court has declined to adopt formalistic and unbending rules" for deciding Article III cases).

B

Applying *Schor*'s approach here, I conclude that the delegation of adjudicatory authority before us is constitutional. A grant of authority to a bankruptcy court to adjudicate compulsory counterclaims does not violate any constitutional separation-of-powers principle related to Article III.

First, I concede that *the nature of the claim to be adjudicated* argues against my conclusion. Vickie Marshall's counterclaim—a kind of tort suit—resembles "a suit at the common law." *Murray's Lessee*, 18 How., at 284. Although not determinative of the question, see *Schor*, 478 U. S., at 853, a delegation of authority to a non-Article III judge to adjudicate a claim of that kind poses a heightened risk of encroachment on the Federal Judiciary, *id.*, at 854.

At the same time the significance of this factor is mitigated here by the fact that bankruptcy courts often decide claims that similarly resemble various common-law actions. Suppose, for example, that ownership of 40 acres of land in the bankruptcy debtor's possession is disputed by a creditor. If that creditor brings a claim in the bankruptcy court, resolution of that dispute requires the bankruptcy court to apply the same state property law that would govern in a state court proceeding. This kind of dispute arises with regularity in bankruptcy proceedings.

Of course, in this instance the state-law question is embedded in a debtor's counterclaim, not a creditor's claim. But the counterclaim is "compulsory." It "arises out of the transaction or occurrence that is the subject matter of the opposing party's claim." Fed. Rule Civ. Proc. 13(a); Fed. Rule Bkrtcy. Proc. 7013. Thus, resolution of the counterclaim will often turn on facts identical to, or at least related to, those at issue in a creditor's claim that is undisputedly proper for the bankruptcy court to decide.

Second, *the nature of the non-Article III tribunal* argues in favor of constitutionality. That is because the tribunal

is made up of judges who enjoy considerable protection from improper political influence. Unlike the 1978 Act which provided for the appointment of bankruptcy judges by the President with the advice and consent of the Senate, 28 U. S. C. §152 (1976 ed., Supp. IV), current law provides that the federal courts of appeals appoint federal bankruptcy judges, §152(a)(1) (2006 ed.). Bankruptcy judges are removable by the circuit judicial counsel (made up of federal court of appeals and district court judges) and only for cause. §152(e). Their salaries are pegged to those of federal district court judges, §153(a), and the cost of their courthouses and other work-related expenses are paid by the Judiciary, §156. Thus, although Congress technically exercised its Article I power when it created bankruptcy courts, functionally, bankruptcy judges can be compared to magistrate judges, law clerks, and the Judiciary's administrative officials, whose lack of Article III tenure and compensation protections do not endanger the independence of the Judicial Branch.

Third, *the control exercised by Article III judges over bankruptcy proceedings* argues in favor of constitutionality. Article III judges control and supervise the bankruptcy court's determinations—at least to the same degree that Article III judges supervised the agency's determinations in *Crowell*, if not more so. Any party may appeal those determinations to the federal district court, where the federal judge will review all determinations of fact for clear error and will review all determinations of law *de novo*. Fed. Rule Bkrtcy. Proc. 8013; 10 Collier on Bankruptcy ¶8013.04 (16th ed. 2011). But for the here-irrelevant matter of what *Crowell* considered to be special "constitutional" facts, the standard of review for factual findings here ("clearly erroneous") is more stringent than the standard at issue in *Crowell* (whether the agency's factfinding was "supported by evidence in the record"). 285 U. S., at 48; see *Dickinson* v. *Zurko*, 527 U. S. 150,

152, 153 (1999) ("unsupported by substantial evidence" more deferential than "clearly erroneous" (internal quotation marks omitted)). And, as *Crowell* noted, "there is no requirement that, in order to maintain the essential attributes of the judicial power, all determinations of fact in constitutional courts shall be made by judges." 285 U. S., at 51.

Moreover, in one important respect Article III judges maintain greater control over the bankruptcy court proceedings at issue here than they did over the relevant proceedings in any of the previous cases in which this Court has upheld a delegation of adjudicatory power. The District Court here may "withdraw, in whole or in part, any case or proceeding referred [to the Bankruptcy Court] . . . on its own motion or on timely motion of any party, for cause shown." 28 U. S. C. §157(d); cf. *Northern Pipeline*, 458 U. S., at 80, n. 31 (plurality opinion) (contrasting pre-1978 law where "power to withdraw the case from the [bankruptcy] referee" gave district courts "control" over case with the unconstitutional 1978 statute, which provided no such district court authority).

Fourth, the fact that *the parties have consented* to Bankruptcy Court jurisdiction argues in favor of constitutionality, and strongly so. Pierce Marshall, the counterclaim defendant, is not a stranger to the litigation, forced to appear in Bankruptcy Court against his will. Cf. *id.*, at 91 (Rehnquist, J., concurring in judgment) (suit was litigated in Bankruptcy Court "over [the defendant's] objection"). Rather, he appeared voluntarily in Bankruptcy Court as one of Vickie Marshall's creditors, seeking a favorable resolution of his claim against Vickie Marshall to the detriment of her other creditors. He need not have filed a claim, perhaps not even at the cost of bringing it in the future, for he says his claim is "nondischargeable," in which case he could have litigated it in a state or federal court after distribution. See 11 U. S. C. §523(a)(6). Thus,

Pierce Marshall likely had "an alternative forum to the bankruptcy court in which to pursue [his] clai[m]." *Granfinanciera, S. A.* v. *Nordberg*, 492 U. S. 33, 59, n. 14 (1989).

The Court has held, in a highly analogous context, that this type of consent argues strongly in favor of using ordinary bankruptcy court proceedings. In *Granfinanciera,* the Court held that when a bankruptcy trustee seeks to void a transfer of assets from the debtor to an individual on the ground that the transfer to that individual constitutes an unlawful "preference," the question of whether the individual has a right to a jury trial "depends upon whether the creditor has submitted a claim against the estate." *Id.*, at 58. The following year, in *Langenkamp* v. *Culp*, 498 U. S. 42 (1990) *(per curiam)*, the Court emphasized that when the individual files a claim against the estate, that individual has

> "trigger[ed] the process of 'allowance and disallowance of claims,' thereby subjecting himself to the bankruptcy court's equitable power. If the creditor is met, in turn, with a preference action from the trustee, that action becomes part of the claims-allowance process which is triable only in equity. In other words, the creditor's claim and the ensuing preference action by the trustee become integral to the restructuring of the debtor-creditor relationship through the bankruptcy court's *equity jurisdiction*." *Id.*, at 44 (quoting *Granfinanciera*, 492 U. S., at 58; citations omitted).

As we have recognized, the jury trial question and the Article III question are highly analogous. See *id.,* at 52–53. And to that extent, *Granfinanciera*'s and *Langenkamp*'s basic reasoning and conclusion apply here: Even when private rights are at issue, non-Article III adjudication may be appropriate when both parties consent. Cf. *Northern Pipeline*, *supra*, at 80, n. 31 (plurality opinion)

(noting the importance of consent to bankruptcy jurisdiction). See also *Schor*, 478 U. S., at 849 ("[A]bsence of consent to an initial adjudication before a non-Article III tribunal was relied on [in *Northern Pipeline*] as a significant factor in determining that Article III forbade such adjudication"). The majority argues that Pierce Marshall "did not truly consent" to bankruptcy jurisdiction, *ante*, at 27–28, but filing a proof of claim was sufficient in *Langenkamp* and *Granfinanciera*, and there is no relevant distinction between the claims filed in those cases and the claim filed here.

Fifth, *the nature and importance of the legislative purpose served* by the grant of adjudicatory authority to bankruptcy tribunals argues strongly in favor of constitutionality. Congress' delegation of adjudicatory powers over counterclaims asserted against bankruptcy claimants constitutes an important means of securing a constitutionally authorized end. Article I, §8, of the Constitution explicitly grants Congress the "Power To . . . establish . . . uniform Laws on the subject of Bankruptcies throughout the United States." James Madison wrote in the Federalist Papers that the

> "power of establishing uniform laws of bankruptcy is so intimately connected with the regulation of commerce, and will prevent so many frauds where the parties or their property may lie or be removed into different States, that the expediency of it seems not likely to be drawn into question." The Federalist No. 42, p. 271 (C. Rossiter ed. 1961).

Congress established the first Bankruptcy Act in 1800. 2 Stat. 19. From the beginning, the "core" of federal bankruptcy proceedings has been "the restructuring of debtor-creditor relations." *Northern Pipeline*, *supra*, at 71 (plurality opinion). And, to be effective, a single tribunal must have broad authority to restructure those relations, "hav-

ing jurisdiction of the parties to controversies brought before them," "decid[ing] all matters in dispute," and "decree[ing] complete relief." *Katchen* v. *Landy*, 382 U. S. 323, 335 (1966) (internal quotation marks omitted).

The restructuring process requires a creditor to file a proof of claim in the bankruptcy court. 11 U. S. C. §501; Fed. Rule Bkrtcy. Proc. 3002(a). In doing so, the creditor "triggers the process of 'allowance and disallowance of claims,' thereby subjecting himself to the bankruptcy court's equitable power." *Langenkamp*, *supra*, at 44 (quoting *Granfinanciera*, *supra*, at 58). By filing a proof of claim, the creditor agrees to the bankruptcy court's resolution of that claim, and if the creditor wins, the creditor will receive a share of the distribution of the bankruptcy estate. When the bankruptcy estate has a related claim against that creditor, that counterclaim may offset the creditor's claim, or even yield additional damages that augment the estate and may be distributed to the other creditors.

The consequent importance to the total bankruptcy scheme of permitting the trustee in bankruptcy to assert counterclaims against claimants, *and resolving those counterclaims in a bankruptcy court*, is reflected in the fact that Congress included "counterclaims by the estate against persons filing claims against the estate" on its list of "[c]ore proceedings." 28 U. S. C. §157(b)(2)(C). And it explains the difference, reflected in this Court's opinions, between a claimant's and a nonclaimant's constitutional right to a jury trial. Compare *Granfinanciera*, *supra,* at 58–59 ("Because petitioners . . . have not filed claims against the estate" they retain "their Seventh Amendment right to a trial by jury"), with *Langenkamp*, *supra,* at 45 ("Respondents filed claims against the bankruptcy estate" and "[c]onsequently, they were not entitled to a jury trial").

Consequently a bankruptcy court's determination of

such matters has more than "some bearing on a bankruptcy case." *Ante*, at 34 (emphasis deleted). It plays a critical role in Congress' constitutionally based effort to create an efficient, effective federal bankruptcy system. At the least, that is what Congress concluded. We owe deference to that determination, which shows the absence of any legislative or executive motive, intent, purpose, or desire to encroach upon areas that Article III reserves to judges to whom it grants tenure and compensation protections.

Considering these factors together, I conclude that, as in *Schor*, "the magnitude of any intrusion on the Judicial Branch can only be termed *de minimis*." 478 U. S., at 856. I would similarly find the statute before us constitutional.

III

The majority predicts that as a "practical matter" today's decision "does not change all that much." *Ante*, at 36–37. But I doubt that is so. Consider a typical case: A tenant files for bankruptcy. The landlord files a claim for unpaid rent. The tenant asserts a counterclaim for damages suffered by the landlord's (1) failing to fulfill his obligations as lessor, and (2) improperly recovering possession of the premises by misrepresenting the facts in housing court. (These are close to the facts presented in *In re Beugen*, 81 B. R. 994 (Bkrtcy. Ct. ND Cal. 1988).) This state-law counterclaim does not "ste[m] from the bankruptcy itself," *ante*, at 34, it would not "necessarily be resolved in the claims allowance process," *ibid.*, and it would require the debtor to prove damages suffered by the lessor's failures, the extent to which the landlord's representations to the housing court were untrue, and damages suffered by improper recovery of possession of the premises, cf. *ante*, at 33-33. Thus, under the majority's holding, the federal district judge, not the bankruptcy judge, would have to hear and resolve the counterclaim.

Why is that a problem? Because these types of disputes arise in bankruptcy court with some frequency. See, *e.g.*, *In re CBI Holding Co.,* 529 F. 3d 432 (CA2 2008) (state-law claims and counterclaims); *In re Winstar Communications, Inc.*, 348 B. R. 234 (Bkrtcy. Ct. Del. 2005) (same); *In re Ascher*, 128 B. R. 639 (Bkrtcy. Ct. ND Ill. 1991) (same); *In re Sun West Distributors, Inc.*, 69 B. R. 861 (Bkrtcy. Ct. SD Cal. 1987) (same). Because the volume of bankruptcy cases is staggering, involving almost 1.6 million filings last year, compared to a federal district court docket of around 280,000 civil cases and 78,000 criminal cases. Administrative Office of the United States Courts, J. Duff, Judicial Business of the United States Courts: Annual Report of the Director 14 (2010). Because unlike the "related" non-core state law claims that bankruptcy courts must abstain from hearing, *see ante*, at 36, compulsory counterclaims involve the same factual disputes as the claims that may be finally adjudicated by the bankruptcy courts. Because under these circumstances, a constitutionally required game of jurisdictional ping-pong between courts would lead to inefficiency, increased cost, delay, and needless additional suffering among those faced with bankruptcy.

For these reasons, with respect, I dissent.