25-103

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

IN RE: LAURA CHARLENE GOEBEL,

Debtor,

v.

LAURA CHARLENE GOEBEL, DEBTOR,

Plaintiff-Appellee,

v.

UNITED STATES OF AMERICA DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE,

Defendant-Appellant.

v.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

BRIEF OF THE NATIONAL CONSUMER BANKRUPTCY RIGHTS CENTER AND THE NATIONAL ASSOCIATION OF CONSUMER BANKRUPTCY ATTORNEYS AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF-APPELLEE

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CORPORATE DISCLOSURE STATEMENT

In accordance with Federal Rule of Appellate Procedure 26.1, the National Consumer Bankruptcy Rights Center and the National Association of Consumer Bankruptcy Attorneys each certify that they are non-profit membership organizations with no parent companies and no publicly traded stock.

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I. INTRODUCTION

A. Interest of *Amici Curiae*[1]

The National Consumer Bankruptcy Rights Center (NCBRC) and the National Association of Consumer Bankruptcy Attorneys (NACBA) are non-profit organizations dedicated to protecting the integrity of the bankruptcy system and preserving the rights of consumer bankruptcy debtors. They provide assistance to consumer debtors and their counsel in cases likely to impact consumer bankruptcy law. Among other things, NCBRC and NACBA submit *amici curiae* briefs when resolution of a particular case may affect consumer debtors throughout the country. NCBRC and NACBA also strive to influence the national conversation on bankruptcy laws and debtors' rights by increasing public awareness of and media attention to the important issues involved in bankruptcy proceedings.

NCBRC and NACBA have filed *amici curiae* briefs in various courts seeking to protect the rights of consumer bankruptcy debtors. *See*, *e.g.*,

[1] All parties have consented to the filing of this brief. No party's counsel authored this brief in whole or in part. No party, party's counsel, or person other than *amici curiae*, their members, or their counsel provided money for the brief's preparation or submission.

Soussis v. Macco, 136 F.4th 415 (2d Cir. 2025); *In re Wylie*, 119 F.4th 1043 (6th Cir. 2024); *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin*, 599 U.S. 382 (2023); *Anderson v. Credit One Bank, N.A. (In re Anderson)*, 884 F.3d 382 (2d Cir. 2018); *Isaacs v. DBI-ASG Coinvestor Fund, III, LLC*, 895 F.3d 904 (6th Cir. 2018); *Hardesty v. Haber*, 2017 U.S. App. LEXIS 21888 (6th Cir. Oct. 30, 2017).

The resolution of the question presented in this case is of substantial importance to NCBRC and NACBA. The Bankruptcy Court correctly held it has jurisdiction to determine the scope of a debtor's discharge under 11 U.S.C. § 523(a)(1)—whether the complaint is brought before or after the discharge has been granted and without regard to whether the creditor, the Internal Revenue Service (IRS), has formally begun proceedings against the debtor with respect to the debt which is the subject of the debtor's complaint. The Bankruptcy Court's *in rem* jurisdiction and Rule 4007(a)–(b), which allow debtors to bring such a complaint at any time, require this conclusion. Further, the Bankruptcy Court was correct in determining that the Declaratory Judgment Act (DJA) does not prevent a debtor from obtaining a determination of the scope of the discharge in a 11 U.S.C. § 523(a) proceeding.

Adoption of the IRS's position in this case would disrupt decades of procedure governing dischargeability proceedings and empower the IRS (and potentially other creditors) to wait indefinitely to pursue a debtor—a result fundamentally inconsistent with the "fresh start" that is a cornerstone of bankruptcy policy. NCBRC and NACBA file this brief to show why the Bankruptcy Court's decision was correct and to address the potential far-reaching impact if the Bankruptcy Court is not affirmed.

B. Summary of Argument

The Bankruptcy Court's decision should be affirmed. The Constitution expressly grants Congress authority to establish "uniform Laws on the subject of Bankruptcies throughout the United States." U.S. Const. Art. I, § 8. Congress has empowered courts to estimate, allow, and discharge contingent claims in bankruptcy cases. These powers are central to bankruptcy courts' equitable jurisdiction and essential for determining the future obligations of the debtor.

The Bankruptcy Code defines a "claim" as any "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed,

undisputed, legal, equitable, secured or unsecured." 11 U.S.C. § 101(5). It defines a "debt" as a "liability on a claim." 11 U.S.C. § 101(12).

A chapter 7 discharge eliminates liability on all such claims that arose before the order for relief, "whether or not a proof of claim based on such debt or liability is filed." 11 U.S.C. § 727(b). A claim arises "whenever, in the absence of bankruptcy, a particular claimant has the right to reach the debtor's assets." *United States v. LTV Corp. (In re Chateaugay Corp.)*, 944 F.2d 997, 1003 (2d Cir. 1991). Nothing prevents a debtor from seeking to determine the scope of their discharge prior to the discharge being granted. The government's position that such a case is not justiciable is wrong, would upend decades of dischargeability litigation and proceedings, and would fundamentally mean that debtors with tax-related claims are left "in limbo," not truly knowing whether they have emerged from bankruptcy having discharged all the historic claims against them, with all the uncertainties that could entail.[2]

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[2] Discharge is the "central purpose" of the Bankruptcy Code. *See, e.g.*, *In re Anderson*, 884 F.3d at 389 ("We have previously described the 'fresh start' procured by discharge as the 'central purpose of the bankruptcy code' as shaped by Congress, permitting debtors to obtain a 'fresh start in life and a clear field unburdened by the existence of

Furthermore, a determination of whether a tax debt is dischargeable under § 523(a) of the Bankruptcy Code does not fall within the DJA's exception for matters "with respect to Federal taxes." 28 U.S.C. § 2201(a). Courts have consistently held that dischargeability actions under the Bankruptcy Code, particularly those involving tax debts, are distinct from efforts to interfere with tax collection and are therefore not barred by the DJA. *See Bostwick v. United States*, 521 F.2d 741 (8th Cir. 1975); *McKenzie v. United States*, 536 F.2d 726 (7th Cir. 1976); *Harker v. GYPC, Inc. (In re GYPC, Inc.),* 639 B.R. 739, 745 (Bankr. S.D. Ohio 2022); *Sprout v. Internal Revenue Serv.*, 2020 WL 2527376, *10–11 (Bankr. S.D. Ohio May 15, 2020).

Moreover, Congress expressly authorized bankruptcy courts to "hear and determine" issues arising under §§ 505 and 523 with respect to governmental units, including the IRS. 11 U.S.C. § 106(a)(2). As courts have emphasized, the DJA and 28 U.S.C. § 2283 (Anti-Injunction Act), which provides that "[a] court of the United States may not grant

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old debts.'") (internal citations omitted). Uncertainty of the scope of discharge could implicate multiple aspects of a debtor's future—including important life events such as marriage and mortgage applications.

an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments," are intended to protect assessment and tax collection, not to bar core bankruptcy functions such as defining the scope of a debtor's discharge. *See Laino v. United States*, 633 F.2d 626, 633 (2d Cir. 1980) (noting the purpose of the Anti-Injunction Act is to permit the United States to assess and collect taxes). Consequently, the Bankruptcy Court was correct in determining that the DJA does not preclude it from hearing a § 523(a) argument prior to a general discharge.

II. ARGUMENT

A. The Bankruptcy Court Had Jurisdiction to Determine Whether a Debtor's Debt is Excepted from Discharge Prior to the Debtor's Receipt of a Discharge

Congress has constitutional authority to establish "uniform Laws in the subject of Bankruptcies throughout the United States." U.S. Const. Art. I § 8. The Supreme Court has repeatedly found Article I constitutional authority to *include* bankruptcy courts' ability to make determinations that are integral to the restructuring of the debtor-creditor relationship, including decisions about dischargeability. *Stern v. Marshall*, 564 U.S. 462, 497 (2011); *see also In re Fisher Island*

Invs., Inc., 778 F.3d 1172, 1191 (11th Cir. 2015); *Ortiz v. Aurora Health Care, Inc.*, 665 F.3d 906, 914 (7th Cir. 2011) ("Non–Article III judges may hear cases … when the claim becomes 'integral to the restructuring of the debtor-creditor relationship.'" (citation omitted)). Moreover, the Bankruptcy Court's *in rem* jurisdiction removes any ripeness concerns.

The IRS seeks to circumscribe the Bankruptcy Court's clear authority to determine matters core to the creditor-debtor relationship by asserting that, because the IRS had not yet asserted that its claim was non-dischargeable, the question of dischargeability was not ripe. That is an extraordinary assertion, and it notably would *not* be limited to government creditors. The IRS's position, if adopted, would apply to *any* dischargeability determination, and potentially many other kinds of determinations, including claim priority and characterization issues (*e.g.*, whether a particular claim is a "priority claim," an "administrative claim," or a "secured claim" subject to setoff or recoupment), and even things as basic as the determination of the *amount* of a claim.

At first blush, the IRS's position here may seem narrow—merely that the IRS (and not the debtor) should control where litigation over the tax debt should play out. In this case, the underlying tax issue has been

"teed up" for litigation in both the Bankruptcy Court (where the debtor sought a determination of dischargeability) and the District Court (where the IRS later filed a complaint for money judgment on the same taxes). But the IRS's ripeness argument is not limited to situations where the IRS has filed suit elsewhere, and the breadth of its argument has already made itself felt elsewhere in other cases.[3] It is critical that this Court put these purported ripeness concerns to bed lest this case become viewed as more broadly curtailing the Bankruptcy Court's ability to adjudicate issues central to the debtor-creditor relationship and, fundamentally, the Bankruptcy Court's ability to administer a process that leads to the "fresh start" that is the *sine qua non* of bankruptcy.

1. *In Rem* Jurisdiction Prevents Any Alleged Jurisdictional Defect

In rem jurisdiction "is the court's power to adjudicate rights over property." *United States v. Obaid*, 971 F.3d 1095, 1098 (9th Cir. 2020) (citation omitted). The discharge of a debt by a bankruptcy court is "an *in rem* proceeding." *Id.* at 1102; *Tenn. Student Assistance Corp. v. Hood*,

[3] *See, e.g.*, Order Granting United States' Motion to Stay Case, *Abrahamsen v. U.S.*, Adv. Pro. No. 25-01015 (Bankr. E.D.N.Y. July 16, 2025) [Docket No. 9].

541 U.S. 440, 447 (2004). There is no dispute that this is an action *in rem*.

"Congress has placed exclusive jurisdiction over property of bankruptcy estates in United States District Courts" and "authorized district courts to refer this *in rem* jurisdiction … to United States Bankruptcy Courts." *In re Comstock Fin. Servs., Inc.*, 111 B.R. 849, 855 (Bankr. C.D. Cal. 1990). In 1984, Congress reshaped the jurisdictional relationship between the district courts and the bankruptcy courts in the Bankruptcy Amendments and Federal Judgeship Act of 1984 by making the bankruptcy courts delegated adjuncts of the district courts. *See In re Millenium Seacarriers, Inc.*, 419 F.3d 83, 100 (2d Cir. 2005) (citing *Luan Inv. S.E., v. Franklin* 145 Corp. (*In re Petrie Retail, Inc.*), 304 F.3d 223, 228–29 (2d Cir. 2002)). Congress enacted 28 U.S.C. § 157(a), which authorized district courts to refer "any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11," to bankruptcy judges. Pub. L. No. 98–353, title I, § 104(a), July 10, 1984, 98 Stat. 340. And Congress enacted 11 U.S.C. § 1334(b), which provided that "[n]otwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not

exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11." *Id.* at § 101(a).

Congress made clear in enacting 11 U.S.C. § 1334(b) that its intent was "to grant comprehensive jurisdiction to the bankruptcy courts so that they might deal efficiently and expeditiously with all matters connected with the bankruptcy estate." *In re Millenium*, 419 F.3d at 100 (quoting *Celotex Corp. v. Edwards*, 514 U.S. 300, 308 (1995)). Such matters include ensuring that property of the estate is properly accounted for. To that end, debtors have the right to determine the maximum extent of liability against them by any creditor, including the IRS, and may seek clarity regarding the same by way of determinations of dischargeability. This right is considered property of the estate, and the bankruptcy court has jurisdiction over it. *See Gorka v. Joseph*, 326 B.R. 294, 299 (Bankr. D. Del. 2005) ("[L]itigation rights are property of the estate.").

Additionally, "this statutory scheme of jurisdiction" features 28 U.S.C. § 157(b), "which provides that bankruptcy judges may hear, determine and enter final orders with regard to all proceedings that are at the core of the bankruptcy system." *Id.* Congress determined that if a proceeding is "core," then the bankruptcy court has comprehensive

power to hear and determine *all* cases and enter appropriate orders and judgments. *In re Petrie Retail*, 304 F.3d at 228; 28 U.S.C. §§ 157(b)(1), 158. And Congress has established that the determination as to the dischargeability of a particular debt is specifically a "core proceeding." 28 U.S.C. § 157(b)(2)(I).

Certain federal tax debts are dischargeable; this contention, central to Ms. Goebel's argument, lies directly "at the core of the federal bankruptcy power" to restructure "debtor-creditor relations." *Bankruptcy Svcs. Inc. v Ernest & Young*, 529 F.3d 432, 460 (2d Cir. 2008). Indeed, "Congress realized that the bankruptcy court's jurisdictional reach was essential to the efficient administration of bankruptcy proceedings and intended that the 'core' jurisdiction would be construed as broadly as possible." *S.G. Phillips Const., Inc. v City of Burlington*, 45 F.3d 702, 705 (2d Cir. 1995); *see also Landrie v. Internal Revenue Serv. (In re Landrie)*, 303 B.R. 140, 142 (Bankr. N.D. Ohio 2003) ("[A] determination as to the dischargeability of a particular debt is a core proceeding. Thus, this matter [concerning dischargeability of certain tax debts] is a core proceeding."); *Rooks v. St. Matthews' Univ. Inc.*, 642 B.R. 68, 72 (Bankr. N.D. Fla. 2022) (holding that the bankruptcy court had

jurisdiction to determine whether student loan debt was dischargeable pursuant to an exception to discharge under § 523(a)).

In the instant case, the District Court has acted under 28 U.S.C. § 157(a) and referred *all bankruptcy proceedings and those related to such cases* to bankruptcy judges. *See* United States Bankruptcy Court Eastern District Of New York Administrative Order #264 Judge Weinstein's Referral Order Of August 28, 1986 (ordering that all cases under Title 11 and any or all proceedings arising under Title 11, or arising in or related to a case under Title 11, "are hereby referred to the Bankruptcy Judges for this District").

Because the determination as to the dischargeability of a particular debt is a core proceeding concerning property of the estate, and all bankruptcy cases have been referred to the bankruptcy courts, the bankruptcy court had clear authority and did not err by deciding not to dismiss. Importantly, the bankruptcy court's jurisdiction here was "premised on the *res*, not on the persona," alleviating concerns about ripeness. *Hood*, 541 U.S. at 450. The case is not, as the IRS claims, "dependent on contingent future events that may not occur as anticipated or may not occur at all." (Brief at 12). Rather, the property—the *res*—is

federal tax debt from years past, and any related fraud or evasion that the IRS could allege would *already* have occurred when those tax debts were accrued and the allegedly fraudulent tax returns submitted.

[Further, the estate properly held all defenses relating to the allegedly fraudulent tax returns. 11 U.S.C. § 558. And determining the full extent of any tax claims (including the weight of any defenses thereto) is a critical function of the bankruptcy court in evaluating the relative priorities of claims and the debtor-creditor relationships before it—the crippling of which "would seriously jeopardize" core "underlying purpose[s] of the Bankruptcy Code." *See In re Lehman Bros. Holdings*, 663 F. App'x 65, 67 (2d Cir. 2016) (citation omitted).]

Inasmuch as the IRS is concerned that tax returns are fraudulent, a debtor's request for a determination of dischargeability would not impair the IRS's ability to seek to assess the relevant taxes—the dischargeability proceeding itself allows the IRS to develop and present its case that the debt is excepted from discharge. (Here, any alleged fraud occurred years ago, and the IRS has had ample time to examine Ms. Goebel's returns—the latest year at issue is 2018.) Adjudicating dischargeability of the tax debt in the bankruptcy proceeding thus serves

both the IRS's legitimate interests in protecting the fisc and the central tenet of the Bankruptcy Code: the fresh start.

A critical feature of bankruptcy proceedings is "the ultimate discharge that gives the debtor a 'fresh start' by releasing him, her, or it from further liability for old debts." *Cent. Virginia Cmty. Coll. v. Katz*, 546 U.S. 356, 364 (2006). "Congress made it a central purpose of the bankruptcy code to give debtors a fresh start in life and a clear field for future effort unburdened by the existence of old debts," but the IRS's arguments seriously jeopardize Ms. Goebel's ability to pursue this benefit granted by Congress. *Schneiderman v. Bogdanovich*, 292 F.3d 104, 107 (2d Cir. 2002).

The IRS would instead have its threat of assessment and collection loom for years over debtors like Ms. Goebel, based on its contention that the dispute over the dischargeability of tax debt is not ripe even though (1) the existence of the tax debt has already been ascertained and (2) any alleged fraud or evasion that would preclude dischargeability would already have taken place. No contingent future events could change the facts or property at stake. The ripeness doctrine's "major purpose 'is to prevent the courts, through avoidance of premature adjudication, from

entangling themselves in abstract disagreements.'" *Nat'l Org. for Marriage, Inc. v. Walsh*, 714 F.3d 682, 687 (2d Cir. 2013) (internal citations omitted). Here, the dispute already "has crystallized." *Bronx Household of Faith v. Bd. of Educ. of City of New York*, 492 F.3d 89, 119 (2d Cir. 2007).

Moreover, the IRS dismissively contends that Ms. Goebel seeks a premature comfort order. The relief that Ms. Goebel seeks, however, is entirely different: to secure a meaningful discharge.

2. In Any Event, the Bankruptcy Court Did Not Lack Authority to Act Under Article III

The IRS argues that because there allegedly was no live case or controversy between Ms. Goebel and the IRS at the time Ms. Goebel filed her complaint, the bankruptcy court lacked authority to act under Article III. The IRS points to a slew of unpublished bankruptcy decisions to suggest that dischargeability actions are not ripe, and thus not justiciable, without "present or imminent collection activity." *See, e.g., Hinton v. United States*, 2011 WL 1838724 (N.D. Ill. May 12, 2011); *Mlinceck v. United States*, 350 B.R. 764 (Bankr. N.D. Ohio 2006).

The IRS is incorrect. The Bankruptcy Court could adjudicate this case because the question of whether Ms. Goebel's claim is dischargeable

is ripe due to the nature of the bankruptcy process—its core function of *adjudicating and resolving claims against a debtor, and facilitating distributions, in a single forum*—necessarily means that *any* determination regarding a claim against a debtor is ripe.[4] Courts have held, for example, that even entirely unmanifested contingent tort claims against debtors can be barred by the bankruptcy process, subject to limitations imposed by due process considerations—a far more attenuated set of facts than dischargeability of a claim based on circumstances that have already occurred, and one that is of a fundamentally similar bottom line effect. *See, e.g.*, *In re Energy Future*

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[4] While here, Article III's "case or controversy" requirement is satisfied, circuits have split on whether bankruptcy jurisdiction is limited by traditional Article III requirements. *See Kiviti v. Bhatt*, 80 F.4th 520, 533 (4th Cir. 2023) ("Once a case is validly referred to the bankruptcy court . . . Article III constraints, such as mootness, do not apply to them as a matter of constitutional law."); *In re Technicool Sys., Inc.*, 896 F.3d 382, 385 (5th Cir. 2018) (similar); *Pettine v. Direct Biologics, LLC*, 655 B.R. 196, 209-10 (B.A.P. 10th Cir. 2023) ("Because Article III limits district court jurisdiction to adjudicating cases and controversies, and the derivative nature of bankruptcy court jurisdiction means that it cannot extend beyond the jurisdiction of the district court, bankruptcy court jurisdiction is also so limited to adjudicating cases and controversies."); *In re Glob. Indus. Techs.*, Inc., 645 F.3d 201, 210 (3d Cir. 2011) (similar); *In re Rosenfeld*, 698 F. App'x 300, 303 (6th Cir. 2017) (similar); *In re Farmland Indus.*, Inc., 639 F.3d 402, 405 (8th Cir. 2011) (similar). *But see In re Thompson*, 666 B.R. 1, 9 (Bankr. E.D.N.Y. 2024) (citation omitted).

Holdings Corp., 949 F.3d 806 (3d Cir. 2020); *In re Energy Future Holdings Corp.*, 522 B.R. 520 (Bankr. D. Del. 2015); 11 U.S.C. § 524(g). When Ms. Goebel filed her complaint, she faced a situation which "pose[d] a direct threat to [her] fresh start in bankruptcy," because requiring her "to wait until the IRS [] made an assessment before [s]he c[ould] have h[er] tax liability determined might harm h[er] severely and unnecessarily." *Kilen v. United States*, 129 B.R. 538, 549 (Bankr. N.D. Ill. 1991). Ms. Goebel received notices from the IRS in the years leading up to the filing; this case is not one "without any indication that the IRS intended to collect [the debtor's] tax debts," and a lengthy delay to act on this intention would prevent Ms. Goebel from achieving a fresh start. *Internal Revenue Serv. v. Wallace*, 2023 WL 7360835, at *7 (C.D. Ill. Nov. 7, 2023).

"[I]n a dischargeability proceeding such as this, the 'case or controversy' requirement," if applicable, "will be met as long as there exists a 'debt' to discharge." *In re Landrie*, 303 B.R. at 142. Congress defined a "debt" as a "liability on a claim" and a "claim" as any "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed,

undisputed, legal, equitable, secured or unsecured." 11 U.S.C. § 101(12); § 101(5).

Legislative history confirms Congress intended "claim" to include all obligations of the debtor to give the debtor the broadest possible relief. *See Johnson v. Home State Bank*, 501 U.S. 78 (1991); *Pa. Dept. of Public Welfare v. Davenport*, 495 U.S. 552 (1990); *In re Amfesco Indus., Inc.*, 81 B.R. 777 (Bankr. E.D.N.Y. 1988); H.R. Rep. No. 95–595, p. 309, U.S. Code Cong. & Admin. News 1978, p. 6266; S. Rep. No. 95–989, p. 22, U.S. Code Cong. & Admin. News 1978, p. 5808.

Case law supports a broad reading of "claim." The Supreme Court held that a criminal restitution order on behalf of the Penn. Dept. of Public Welfare was a "claim" within the meaning of the Bankruptcy Code. *See Davenport*, 495 U.S. at 552. The Court noted that the modifying language in § 101(5) "reflects Congress' broad rather than restrictive view of the class of obligations that qualify as a 'claim' giving rise to a 'debt'." *Id.* at 558.

A discharge under § 727(a) eliminates liability on all *claims* arising before the discharge. A claim is considered to arise "whenever, in the absence of bankruptcy, a particular claimant has the right to reach the

debtor's assets." *In re Chateaugay Corp.*, 944 F.2d at 1003. Thus, if the debtor has engaged in conduct that gives the IRS the right to reach their assets, then the IRS's claim has *already* arisen against the debtor.

In this context, there clearly was an actual controversy as to whether the IRS held a non-dischargeable claim against Ms. Goebel or whether her liability to the IRS for tax years 2008–2018 would be fully discharged. It is undisputed that the IRS's tax debt arose entirely from Ms. Goebel's prepetition conduct—specifically, her income from 2008 to 2018. The IRS's right to reach Ms. Goebel's assets arose when she earned that income. *See In re White*, 168 B.R. 825, 831 (Bankr. D. Conn. 1994) ("Just as a creditor need not hold a judgment in order to be entitled to assert a claim in bankruptcy, so the Service need not have made an assessment in order to assert that it has a 'claim,' i.e. a 'right to payment.'"); *see also Fed. Deposit Ins. Corp. v. United States,* 654 F. Supp. 794, 806 (N.D. Ga. 1986) ("[R]egardless of when federal taxes are actually assessed, the taxes are considered as due and owing, and constitute a liability as of the date the tax return for the particular period is required to be filed.").

Thus, the IRS had a claim against Ms. Goebel for her 2008–2018

taxes. The IRS asserted as much through notices it mailed Ms. Goebel, and the only barrier to Ms. Goebel's complete discharge of the IRS's claim was adjudication by the court of the merits of any IRS assertions regarding non-dischargeability.

Section 523 of the Bankruptcy Code provides that "[a] discharge under section 727 … does not discharge an individual debtor from any debt … for a tax … with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax." 11 U.S.C. § 523(a)(1)(C). By seeking a determination on the scope of her discharge—and that this exception did not apply—Ms. Goebel requested a ruling that, upon entry of her discharge order, her obligations to the IRS stemming from her 2008–2018 tax returns would be completely extinguished. And all the facts necessary for the bankruptcy court to make this determination had already occurred; none were contingent on future events. Whether Ms. Goebel had filed fraudulent returns or evaded taxes was a fact question that could be resolved based on existing evidence that the IRS would have the opportunity to develop and introduce. Without this determination of dischargeability, Ms. Goebel would face uncertainty on account of facts that had already occurred,

undermining Congress's intended "fresh start" for individual debtors.

Determinations as to the allowance, estimation, or dischargeability of contingent claims have been the historical, standard practice under the Bankruptcy Code as intended by Congress. *See In re Chateaugay Corp.*, 944 F.2d at 1003 ("[A]ll legal obligations of the debtor, no matter how remote or contingent, will be able to be dealt with in the bankruptcy case."); *see also Duff & Phelps, LLC v. Vitro S.A.B. de C.V.*, 18 F. Supp. 3d 375, 384 (S.D.N.Y. 2014) ("U.S. Bankruptcy Courts and trustees, of course, routinely recognize and discharge the contingent liabilities of bankrupt debtors."). Such determinations are crucial for understanding the future relationship between the holders of contingent claims and the debtor. For instance, a debtor must understand if, and to what extent, they might continue to owe a debt to a creditor following the discharge of their bankruptcy case. This clarity is integral to the bankruptcy process, which centers on restructuring the debtor-creditor relationship and giving the debtor a "fresh start."

Lastly, as indicated above, had the IRS believed that Ms. Goebel's returns were the product of fraud or evasion, it could have developed and introduced evidence for that argument in the Bankruptcy Court (as it has

done in myriad other cases). It did not. Instead, it sought to (1) dismiss the debtor's claim in Bankruptcy Court by asserting that only a creditor can cause a case to become ripe and (2) commence its own action in its preferred venue—the District Court. Congress did not grant the IRS authority to move a bankruptcy case to its preferred forum simply because it would prefer not to litigate an issue in bankruptcy court.

3. The IRS's Position on Ripeness Would Upend Decades of Procedure for Dischargeability Proceedings

The IRS's position—that a debtor's case seeking a determination on the dischargeability of a debt cannot be ripe until both (1) the discharge is granted, *and* (2) the creditor has initiated post-bankruptcy collection proceedings or taken a position on dischargeability of a debt—would upend decades of procedure for dischargeability proceedings.

The IRS cites *Trump v. New York*, 592 U.S. 125, 131, 134 (2020), in support of its argument that ripeness exists only when "a Chapter 7 discharge has entered *and* a taxing authority [the creditor] has either started post-bankruptcy collection activity or else has at least taken a concrete, contrary position on dischargeability confirming that it intends to collect the tax debt post-bankruptcy." (Brief at 17.) How *Trump*

created these two conditions for ripeness, however, is unclear. *Trump* states only that ripeness requires that the case not depend on "contingent future events that may not occur as anticipated, or indeed may not occur at all." *Trump*, 592 U.S. at 131 (citing *Texas v. United States*, 523 U.S. 296, 300 (1998)). As described above, no facts necessary for the bankruptcy court to reach its conclusion had yet to occur or were contingent on future events.

Moreover, courts routinely find the existence of "a justiciable case or controversy, for purposes of determining the dischargeability of taxes even before a discharge has been entered." *See Dunn v. State of California, Franchise Tax Board (In re Dunn)*, 2008 WL 4346454, at *3 (Bankr. E.D. Cal. Sept. 15, 2008) (collecting cases); *see also Luke v. Internal Revenue Serv.*, 142 B.R. 160, 161 (Bankr. W.D. Mich. 1992) ("The Court rejects the argument that the IRS is entitled to summary judgment based upon ripeness. Although this Court cannot waive the other requirements necessary to determine whether the Debtor is ultimately entitled to a discharge under chapter 11, the Court certainly may determine the dischargeability of the debts in question prior to confirmation. The applicable rule, Fed. R. Bankr. P. 4007, explicitly

allows the filing of such complaints at any time, so long as the claim is not brought pursuant to § 523(c).”). Even more tellingly, section 523(c) expressly requires certain exceptions to discharge be addressed *prior* to discharge.

And dischargeability proceedings (including those for tax debts)—whether brought by debtor or creditor—are *frequently* initiated during the bankruptcy case before a discharge is entered. *See, e.g.*, *In re Dunn*, 2008 WL 4346454, at *1 (“On February 7, 2008, [the debtor] filed a petition for relief under chapter 7 of the Bankruptcy Code. *On May 13, 2008, the debtor received a bankruptcy discharge. On March 19, 2008, the debtor initiated this adversary proceeding*, in which he seeks a determination that his state income taxes for the tax years 2000 through 2003 are dischargeable.”) (emphasis added); *In re Landrie*, 303 B.R. at 141–42 (“On November 27, 2001, the Plaintiff filed a petition in this Court for relief ... *The instant adversary case was then commenced on March 25, 2002*, to determine the dischargeability of federal income tax liabilities assessed against the Plaintiff for the tax years 1992, 1993, and 1994. At the present time … the Government shows no outstanding tax liabilities for these particular years. *On April 10, 2002, the Plaintiff was*

granted a discharge in bankruptcy.") (emphasis added); *In re Rossman*, 487 B.R. 18, 21–22 (Bankr. D. Mass. 2012) ("The Debtor filed a voluntary Chapter 7 petition on August 5, 2010. ... *On December 14, 2010, the Chapter 7 Trustee filed a Report of No Distribution. Prior to that date, the Debtor commenced the adversary proceeding which is now before the Court. The Court entered a discharge order on January 11, 2011* with respect to all dischargeable debts.") (emphasis added). Any suggestion that a dischargeability proceeding cannot be ripe for filing a complaint until after a discharge has been entered is simply inconsistent with decades of tax-debt dischargeability decisions.

Further, the IRS's position that a dischargeability determination cannot be ripe until after *the creditor* has initiated post-bankruptcy collection proceedings or taken a position on dischargeability could result in taking *any* determination of dischargeability out of the debtor's hands of the debtor and leaving it solely in the creditors' hands—since only creditors can decide when to take a position on dischargeability of debt owed to them or initiate post-bankruptcy collection proceedings. This construct would severely impair the "fresh start," as many creditors such as the IRS would be in sole control of when a determination of

dischargeability on a specific debt could commence. This would create opportunities for creditor gamesmanship and leave debtors with the sword of Damocles hanging over their heads waiting for the IRS (or other creditors) to decide when to make their move—an outcome directly in conflict with the intent and purpose of Congress and the Bankruptcy Code. *See Bostwick*, 521 F.2d at 746 ("We think that Congress intended that the bankrupt have the opportunity for a full and final determination of the dischargeability of his tax debts in order that he might avoid having a sword of Damocles hanging over his head."); *In re Major Dynamics, Inc.*, 14 B.R. 969, 970 (Bankr. S.D. Cal. 1981) ("[T]he Court has jurisdiction to enjoin the IRS from the assessment and collection of taxes despite the anti-injunction statute if such activity interferes with the orderly administration of the estate or the rehabilitation of the debtor.").

Moreover, the IRS asserts that whether a debt is dischargeable is "often" litigated in courts other than the bankruptcy court. (Brief at 5). In the same paragraph the IRS highlights the fact-intensive nature of proceedings under 11 U.S.C. § 523(a)(1)(C). (*Id.*) The IRS then cites *Tudisco v. United States*, 183 F.3d 133, 136-37 (2d Cir. 1999) (which

initially litigated the fact-intensive 11 U.S.C. § 523(a)(1)(C) proceeding in the bankruptcy court), which itself cites a collection of cases in various circuits (all of which initially litigated the fact-intensive 11 U.S.C. § 523(a)(1)(C) proceeding in the bankruptcy courts). Taking the IRS's position to its logical conclusion would merely encourage or require the IRS and other creditors to litigate dischargeability proceedings in district courts, which not only is against the intent of Congress and statutory law, but also which would overwhelm district courts with fact-intensive bankruptcy proceedings in all types of contexts.

B. The Declaratory Judgment Act Set Forth in 28 U.S.C. § 2201(a) Does Not Preclude the Bankruptcy Court's Jurisdiction over a Determination of Dischargeability

A determination of dischargeability confirming that no exception applies to an individual debtor's imminent Chapter 7 discharge does not fall within the federal tax exception to the DJA for two reasons.

First, while the DJA generally authorizes federal courts to issue declaratory judgments, it includes an exception for actions "with respect to Federal taxes." 28 U.S.C. § 2201(a). But a determination under § 523(a) of the Bankruptcy Code regarding whether a tax debt is dischargeable is not a declaratory judgment "with respect to Federal

taxes" within the meaning of the DJA.

Courts have instead consistently recognized that such determinations fall squarely within the jurisdiction of bankruptcy courts. The DJA is designed to prevent judicial interference with the ordinary assessment and collection of taxes, not to bar bankruptcy courts from adjudicating dischargeability or related issues. *In re GYPC, Inc.*, 639 B.R. at 745 ("[T]he intent of the DJA and the Anti-Injunction Act is to ensure courts do not interfere with the ordinary collection of federal taxes."). The purpose of these acts is not to insulate the government from any determination regarding tax liability, but to prevent preemptive challenges that would obstruct tax administration. *Leckie Smokeless Coal Co.*, 99 F.3d 573, 583–84 (4th Cir. 1996). In *Poehlmann v. Tiaa-Cref Indiv. Inst. Svcs. LLC*, 2006 WL 1605422, at *2 (Bankr. N.D. Ind. Mar. 28, 2006), the court stated that the DJA does not permit a ruling declaring that stopping 401(k) loan repayments *would not* be a taxable event to the debtors (even though the stoppage *would* be a taxable event if the court did not so rule). That is the kind of case the DJA is meant to exclude, not good faith dischargeability actions brought under the Bankruptcy Code.

Ultimately, the relief sought in a § 523(a)(1) action involves the scope of the discharge and the definition of the debtor-creditor relationship, issues Congress explicitly authorized bankruptcy courts to resolve. Importantly, the "controversy," as envisioned by Congress and the founders when authorizing uniform bankruptcy laws, is the final resolution of the debtor-creditor relationship—including any contingent claim (consistent with the bankruptcy court's *in rem* jurisdiction).

Section 106(a)(1) and (2) make clear that courts may "hear and determine any issue arising with respect to the application of" Bankruptcy Code provisions, including §§ 505 and 523, to governmental units like the IRS. 11 U.S.C. § 106(a). Thus, a bankruptcy court's determination of whether the IRS's claim is discharged is not only permitted but expressly contemplated by statute.

Second, 28 U.S.C. § 2201(a), while excluding declaratory judgments "with respect to Federal taxes," contains a significant qualification. It does not apply to proceedings that arise under 11 U.S.C. § 505(a) to determine "the amount or legality of any tax, any fine or penalty relating to a tax, or any addition to tax," regardless of whether the tax has been previously assessed, paid, or adjudicated. While it is true that this is a

proceeding to determine whether a particular amount of tax is dischargeable, rather than a proceeding to determine the amount of tax itself, it would be odd to conclude that the Bankruptcy Court can make a determination with respect to the amount of tax that a creditor owes, but not whether the tax has been discharged (or whether it is subject to a bar date, or its level of priority, or any number of other issues that a Bankruptcy Court may need to determine with respect to the way a tax claim should be resolved in the context of a bankruptcy proceeding).

Additionally, the DJA's exception "with respect to Federal taxes" has nothing to do with the bankruptcy court's *in rem* jurisdiction over dischargeability proceedings.

Even if the court concluded that the tax exception to the DJA generally does apply to a dischargeability determination (which it does not) because the specific carveout for § 505 in the DJA means that tax determinations not made pursuant to § 505 *are* prohibited, that is not the end of the analysis. It is not entirely clear that a determination regarding dischargeability—a question about whether the debtor will ever be liable for any amount of the tax on a go-forward basis—is so unrelated to a determination of the "amount or legality of any tax" that it is outside of

the scope of § 505. The same can be said for determinations regarding the priority that a tax claim is entitled to, or whether a tax claim is barred by a bar date order, or whether the liens securing a tax claim are subject to potential avoidance, or whether a tax claim is subject to rights of setoff or recoupment—the list goes on. As such, all of these determinations are arguably within the scope of the § 505 exception. And the flip side is also true: if the IRS is right, and the tax exception to the DJA prevents bankruptcy courts from making a determination as fundamental as dischargeability, that calls into question whether the DJA also prevents all of these other *critical* determinations regarding the treatment of tax claims. Such an outcome would be plainly at odds with § 106(a)(2) and Congress's clear directive that matters regarding claims against the debtor be able to be resolved in the single forum of the bankruptcy court.

III. CONCLUSION

The Bankruptcy Court's decision should be affirmed. Accepting the IRS's position that a debtor cannot seek confirmation of the scope of its discharge under § 523(a) until after (1) a general discharge is granted and (2) the creditor has taken a position on the debt would create chaos in the litigation of dischargeability of claims—and most importantly,

prevent a debtor from obtaining a true "fresh start." The DJA cannot, and does not, override this fundamental tenet of Congress' mandate that bankruptcy courts are the proper forum to litigate bankruptcy issues.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitations of Federal Rule of Appellate Procedure 29(a)(5). This brief contains 6,929 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word 365 MSO in 14-point Century Schoolbook font.

Date: July 22, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2025, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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