

## **National Consumer Bankruptcy Rights Center 2025 Year in Review**

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### **A Message from the Executive Director**

The National Consumer Bankruptcy Rights Center concluded 2025 with significant momentum. Over the past year, our appellate advocacy extended across seven federal circuits and before the United States Supreme Court, published more than two dozen substantive updates for the bankruptcy bar, and welcomed two distinguished attorneys to our Board of Directors.

Our mission remains clear: to shape bankruptcy jurisprudence in ways that protect consumer debtors and preserve the integrity of the fresh start. The cases we engaged with this year touched on fundamental questions—the scope of exemptions, the viability of Chapter 13 as a tool for saving homes, the enforceability of the discharge injunction, and the proper boundaries between bankruptcy courts and private arbitration.

None of this work would be possible without the support of debtors’ counsel nationwide, our dedicated board members, and the broader community of advocates who share our commitment to a fair and accessible bankruptcy system.

As we look toward 2026 with several major appellate matters already underway, I am confident that NCBRC will continue to serve as a leading voice for consumer debtors in the federal appellate courts.

**Jim Haller**  
Executive Director

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### **About NCBRC**

The National Consumer Bankruptcy Rights Center is a nonprofit appellate advocacy organization dedicated to protecting the rights of consumer debtors in bankruptcy. Through amicus curiae participation, moot courts, case monitoring, legal analysis, and public education, NCBRC works to ensure that bankruptcy law develops in ways that honor the promise of the fresh start and preserve meaningful access to debt relief for individuals and families.

NCBRC serves as a resource for debtor's counsel across the country, providing timely updates on significant appellate decisions and emerging legal issues. The organization maintains a national perspective, engaging with litigation in multiple circuits to promote consistency and fairness in the interpretation of the Bankruptcy Code.

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## **Governance and Leadership**

NCBRC strengthened its governance in 2025 by welcoming two accomplished attorneys to the Board of Directors.

**Eugene Melchionne** brings deep experience in consumer bankruptcy practice and advocacy. His addition to the board enhances NCBRC's connection to the day-to-day realities facing debtors and their counsel.

**Thomas Moers Mayer** contributes extensive appellate expertise and a distinguished career in complex litigation. His perspective strengthens the organization's capacity for strategic case selection and high-level legal analysis.

Together with the existing board and staff, these additions position NCBRC for continued growth and influence in the years ahead.

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## **2025 Advocacy Highlights**

### **Exemptions**

In 2025, NCBRC played a key role in *Warfield v. Nance*, a Ninth Circuit case addressing whether debtors may amend exemptions liberally. The court rejected claim-preclusion limits on amended exemptions, closely tracking arguments raised in the joint amicus brief filed by NCBRC and the National Association of Consumer Bankruptcy Attorneys. The amicus brief was authored by the Hon. Judge Meredith Jury (Ret.).

In the 10<sup>th</sup> Circuit case of *Cohen v Garcia-Morales*, NCBRC submitted an amicus brief supporting a debtor's exemption in a child tax credit. The court agreed and held that the entire amount of a child tax credit was protected by the exemption. NCBRC enlisted the help of law professor Michael D. Sousa from the University of Denver to draft the amicus brief.

In *Langston v Dallas*, NCBRC supported the debtor in the 5<sup>th</sup> Circuit. NCBRC submitted an amicus brief addressing the proper interpretation of Rule 2003(e) and the impact of trustee non-compliance on the exemption objection deadline. Although the court ultimately found

the issue had been waived by the debtor, the decision contains dicta that will be helpful in future cases.

NCBRC supported litigation modernizing state exemption laws, including successful appellate efforts in Michigan requiring presentment of enacted exemption legislation. NCBRC's participation was spearheaded by Board Member Matt Mason.

In *Humphrey v Christopher*, the Eighth Circuit side stepped the issue whether a debtor's defensive appellate rights are part of the bankruptcy estate and may be sold by the trustee. Instead, the court resolved the case on procedural grounds, holding that because the debtor failed to obtain a stay of the bankruptcy court's sale order, review of that order was statutorily moot under 11 U.S.C. § 363(m). NCBRC filed an amicus brief to preserve and exclude the defensive appellate rights from the estate.

### **Chapter 13 Confirmation and Modification**

Chapter 13 remains a critical tool for consumers seeking to save their homes and reorganize their debts. NCBRC tracked and participated in litigation involving retirement contributions, disposable income calculations, and the standards governing plan modification.

In *Bronitsky v Saldana*, the 9<sup>th</sup> Circuit ruled that chapter 13 debtors can continue to make voluntary retirement contributions during their repayment plan. NCBRC filed an amicus curiae brief in support of the debtor. At the certiorari stage, NCBRC worked closely with the debtor's counsel and the Stanford Law School Supreme Court Litigation Clinic to help craft the brief opposing the trustee's petition. That collaboration helped frame the case in a way that underscored its policy and doctrinal coherence, and ultimately contributed to the Court's decision to deny review.

In *Conte v. Hill*, the Eleventh Circuit affirmed bankruptcy court discretion to deny a trustee's motion to modify a confirmed plan based on post-confirmation personal injury proceeds. NCBRC submitted an amicus brief and provided debtors' counsel with guidance and a moot court to support their argument.

In *Mission Hen, LLC v. Lee*, the Ninth Circuit adopted a debtor-protective interpretation of the Bankruptcy Code's cramdown provisions, holding that short-term home mortgages maturing during the plan term may be modified. This decision affirms the tools available to Chapter 13 debtors facing balloon payments or other looming mortgage deadlines.

In *Romero v Corona Investments*, NCBRC joined Legal Aid Chicago in the 7<sup>th</sup> Circuit in an amicus brief supporting the debtor's argument that real estate tax purchaser claims should be paid at the *Till* interest rate rather than the exorbitant rate set by state law.

In *Duarte v Hillard*, the Ninth Circuit held that Hillard’s schedule and plan amendments did not constitute a timely Rule 3004 claim. The creditor had argued that the debtor’s amendments constituted an informal proof of claim which would allow its untimely proof of claim. NCBRC filed an amicus brief in support of the debtor.

In *Goddard v Burnett*, the Fourth Circuit is considering whether good faith or a reasonableness test should apply when an above median income debtor proposes to pay for multiple vehicles in a chapter 13 plan. NCBRC argued that the bankruptcy court does not have the discretion to allow secured claims post BAPCPA.

In *Cook v Gorman* in the Fourth Circuit, NCBRC filed an amicus brief to support a debtor’s right to appeal a confirmation order of a chapter 13 plan. The lower court held that the appeal was equitably moot.

### **Discharge Enforcement and Post-Discharge Protections**

In the 9<sup>th</sup> Circuit case of *Valdellon v Wells Fargo*, NCBRC filed an amicus brief to support the debtor. The brief, authored by D. Eitan Arom of KTS Law, highlights the long-standing historical basis for compensatory contempt remedies—including emotional-distress damages—and emphasizes the importance of meaningful enforcement of the Chapter 13 fresh start.

In *In re Cooper* NCBRC filed an amicus brief in the 9<sup>th</sup> Circuit in support of the debtor and provided advice and a moot court session to help prepare for oral argument. The court reversed the Bankruptcy Appellate Panel’s (BAP) decision that allowed the Social Security Administration (SSA) to recoup overpaid Social Security Disability Insurance (SSDI) benefits from a debtor who had received a bankruptcy discharge. The court’s decision strengthens the protections afforded to debtors under the Bankruptcy Code by ensuring that the SSA cannot automatically sidestep the discharge injunction through the doctrine of equitable recoupment.

NCBRC also participated in the 4<sup>th</sup> Circuit appeal of *Koontz v SN Servicing Corporation*, in which the court held that a mortgage servicer’s post-discharge collection efforts could still be subject to the Fair Debt Collection Practices Act (FDCPA), even where the debtor’s personal liability had been extinguished in bankruptcy.

### **Preserving Bankruptcy Court Authority**

In *In re Goebel*, NCBRC supported the debtor’s argument before the 2<sup>nd</sup> Circuit that the bankruptcy court has the authority to determine tax dischargeability and obtain a timely and final ruling on the scope of their discharge. NCBRC Board Member Tom Mayer

volunteered to represent the debtor. The amicus brief was prepared by Chad Husnick, David Foster, and Leah Davis Patrick of Kirkland & Ellis LLP.

Further, in *Goldman Sachs v Brown*, NCBRC filed an amicus brief arguing that compelling arbitration of stay violation cases would strip bankruptcy courts of their ability to address and sanction violations of their orders, a result that conflicts with the structure, purpose, and constitutional underpinnings of the Bankruptcy Code. The brief also notes that Congress expanded the automatic stay protections in 1984 by enacting § 362(h) (now § 362(k)) specifically to provide meaningful remedies for individual debtors—remedies that should remain within the purview of the court issuing the stay. Hon. Allan L. Gropper (ret.) drafted the brief on behalf of NCBRC and NACBA.

### **Policy-Oriented Litigation**

NCBRC supported litigation aimed at modernizing state exemption laws. In Michigan, successful appellate efforts resulted in a decision requiring presentment of enacted exemption legislation, advancing transparency and accountability in state lawmaking processes that directly affect debtors.

### **Supreme Court Engagement**

At year-end, NCBRC joined the National Association of Consumer Bankruptcy Attorneys and the National Consumer Law Center in filing an amicus brief in *Keathley*, a case presenting questions about judicial estoppel and debtor disclosure obligations. The brief urged the Supreme Court to resolve the issue narrowly and to avoid expanding disclosure requirements in ways that could trap honest debtors in procedural defaults.

### **Consumer Debtor's Counsel Support**

In addition to amicus briefs, NCBRC works closely with consumer bankruptcy counsel across the country to provide strategic guidance in appeals that shape the rights of individual debtors. NCBRC regularly consults with attorneys on pending circuit and Supreme Court matters, offering issue analysis, moot courts, and support and review of briefs to ensure that debtor-focused arguments are fully and effectively presented. Through this collaborative model, NCBRC serves as both a resource and a partner to consumer advocates, strengthening appellate outcomes and advancing uniform, pro-debtor interpretations of the Bankruptcy Code.

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### **By the Numbers**

NCBRC's 2025 activity reflects sustained engagement across the federal judiciary.

**28+** substantive case-law and advocacy updates published throughout the year.

**7** federal circuits in which NCBRC participated or actively monitored significant consumer bankruptcy litigation, including the Second, Fourth, Fifth, Seventh, Ninth, Tenth, and Eleventh Circuits.

**1** amicus brief filed before the United States Supreme Court.

**2** new members welcomed to the Board of Directors.

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### Areas of Focus

NCBRC's 2025 docket reflects consistent thematic priorities that guide the organization's case selection and advocacy.

**Protecting Exemptions and the Fresh Start.** Exemption law determines what property debtors may retain after bankruptcy. NCBRC works to ensure that exemption protections are interpreted broadly and that procedural rules do not unfairly limit debtors' ability to claim the exemptions to which they are entitled.

**Preserving Chapter 13 Feasibility.** Chapter 13 offers a path to reorganization for consumers with regular income. NCBRC advocates for interpretations of the Bankruptcy Code that preserve the viability of Chapter 13 plans, particularly in cases involving home mortgages and other secured debts.

**Reinforcing Bankruptcy Court Authority.** The bankruptcy system depends on courts with the power to enforce the automatic stay and discharge injunction. NCBRC resists efforts to divert enforcement actions into private arbitration or other forums that may be less protective of debtor rights.

**Resisting Privatization of Core Bankruptcy Remedies.** Arbitration clauses and other contractual devices should not be permitted to override the protections Congress built into the Bankruptcy Code. NCBRC opposes interpretations that would allow creditors to contract around fundamental bankruptcy protections.

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### Looking Ahead to 2026

NCBRC enters 2026 with several major appellate matters pending and a strong foundation for continued growth. Priorities for the coming year include refining amicus selection criteria to maximize impact and strengthening outreach to practitioners who handle bankruptcy appeals.



The organization remains committed to its core mission: ensuring that the bankruptcy system works for consumer debtors and that the promise of the fresh start remains meaningful in practice.

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### **Support NCBRC**

The National Consumer Bankruptcy Rights Center is a 501(c)(3) nonprofit organization. Our work is made possible by the support of attorneys, law firms, and individuals who share our commitment to protecting consumer debtors.

To learn more about NCBRC, access our case updates, [or make a contribution](#), please visit **[ncbrc.org](http://ncbrc.org)**.

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