

No. 26-2285

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

IN RE: RODRIGO AGUIRRE,
Debtor.

MARIO MONTES MORA,
Appellant,

v.

RODRIGO AGUIRRE
Appellee.

On Appeal from the United States Bankruptcy Appellate Panel
for the Ninth Circuit Court of Appeals

No. 25-1135

Hon. Jennifer E. Niemann, Hon. William J. Lafferty, III, &
Hon. Julia W. Brand

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

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Mora v Aguirre, No. 26-2285

Pursuant to Fed. R. App. P. 26.1, Amici Curiae, the National Consumer Bankruptcy Rights Center and the National Association of Consumer Bankruptcy Attorneys, makes the following disclosure:

1) Is party/amicus a subsidiary or affiliate of a publicly owned corporation? If yes, list below the identity of the parent corporation or affiliate and the relationship between it and the named party. NO

2) Is there a publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome? If yes, list below the identity of the corporation and the nature of the financial interest. NO

This day of 23rd September, 2026.

/s/ James J. Haller

James J. Haller

Attorney for Amici Curiae

RULE 29(a)(2) STATEMENT

Counsel for *Amici* has contemporaneously filed a motion seeking leave of this Court to file this brief in support of the Appellee. Movants endeavored to obtain the consent of all parties to the filing of the brief before moving the Court for permission to file the proposed brief. Appellee consents to the filing of this brief. Appellant does not consent.

This day of 23rd September, 2026.

/s/ James J. Haller

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INTEREST OF AMICI CURIAE

Incorporated in 1992, the National Association of Consumer Bankruptcy Attorneys (“NACBA”) is a non-profit organization of more than 1,500 consumer bankruptcy attorneys nationwide. NACBA advocates nationally on issues that cannot adequately be addressed by individual member attorneys. It is the only national association of attorneys organized for the specific purpose of protecting the rights of consumer bankruptcy debtors.

The National Consumer Bankruptcy Rights Center (“NCBRC”) is a non-profit organization dedicated to protecting the integrity of the bankruptcy system and preserving the rights of consumer bankruptcy debtors. To those ends, it provides assistance to consumer debtors and their counsel in cases likely to impact consumer bankruptcy law importantly. Among other things, it submits amicus curiae briefs when in its view resolution of a particular case may affect consumer debtors throughout the country, so that the larger legal effects of courts’ decisions will not depend solely on the parties directly involved in the case.

NCBRC and NACBA have filed amicus curiae briefs in numerous cases seeking to protect the rights of consumer bankruptcy debtors. understanding of the applicable bankruptcy law, the case, and its implications for consumer debtors. *See, e.g., Keathley v. Buddy Ayers Constr., Inc.*, 146 S. Ct. 1532, 1537 n.1 (2026)(citing

NCBRC amicus brief); *Evans v. McCallister (In re Evans)*, 69 F.4th 1101 (9th Cir. 2023)(adopting reasoning in NCBRC amicus brief).

NCBRC, NACBA and NACBA's members have a vital interest in the outcome of this case to ensure the fair and just application of bankruptcy laws. A ruling in the case at bar will affect the administration of many consumer cases in this Circuit. Appellant's position threatens not only California's substantive homestead exemption, but also a bankruptcy debtor's right to freely amend his bankruptcy schedules, including the homestead exemption, any time before the bankruptcy case is closed.

It is imperative to affirm the Bankruptcy Appellate Panel to protect consumer debtors and uphold the integrity of bankruptcy proceedings. Affirmance is not only a matter of following the relevant statutes; it is also vital to safeguarding the fundamental rights of consumer debtors across the Ninth Circuit.

Amici believe that, in their roles as a national advocates for consumer debtors, they bring a unique perspective to this case that will be helpful to the court in deciding this matter.

I. INTRODUCTION

Both the United States Supreme Court and the Ninth Circuit recognize that the Bankruptcy Code¹ is constructed to preserve a debtor's ability to meet their

¹ 11 U.S.C. §101, et seq.

basic needs and ensure that they have a fresh start.² This appeal concerns a cornerstone of a California debtor’s fresh start -- the homestead exemption -- which is the statutory protection of a debtor’s family home mandated by the California Constitution³ that helps ensure that financially-distressed debtors and their families are not rendered homeless.

California bankruptcy debtors have two sets of exemptions to choose from, one of which requires a particular election when only one spouse files a bankruptcy case, or when spouses file separate bankruptcy cases.⁴ Appellant MARIO MONTES MORA (“Appellant”), a creditor in debtor RODRIGO AGUIRRE’s (“Debtor” or “Aguirre”) Chapter 7 bankruptcy case, contends that once that election is made by a bankruptcy debtor, it cannot be changed without first obtaining relief under Federal Rule of Civil Procedure (“FRCP”) 60(b).⁵

Amicus submits this brief because Appellant’s position threatens not only California’s substantive homestead exemption, but also a bankruptcy debtor’s right to freely amend his bankruptcy schedules, including the homestead exemption, any

² *Clark v. Rameker*, 573 U.S. 122, 130 (2014) (quoting *Rousey v. Jacoway*, 544 U.S. 320, 325 (2005)). See also, *Warfield v. Nance (In re Nance)*, 156 F.4th 961, 968-69 (9th Cir. 2025).

³ Article XX, Sec. 1.5

⁴ See *In re Aguirre*, 2025 Bankr. LEXIS 3416, at *6 (Bankr. S.D. Cal. July 21, 2025), the bankruptcy court decision in this appeal.

⁵ Appellant’s Opening Brief, pp. 12 – 15.

time before the bankruptcy case is closed.⁶ Amicus therefore respectfully asks the Court either to simply affirm the lower court or to provide clear guidance preserving both California's homestead policy and the debtor's unequivocal right to amend his bankruptcy schedules without the additional burden of seeking relief under FRCP 60(b).

II. SUMMARY OF ARGUMENT

This case presents a narrow issue.⁷ There is a conflict between a bankruptcy debtor's right to freely amend his bankruptcy Schedule "C" homestead exemption and requiring FRCP 60(b) relief as a precondition to that amendment in cases where the debtor and a non-filing spouse have executed the CCP § 703.140(a)(2) spousal exemption waiver. That conflict should be resolved to permit amendment without FRCP 60(b) relief, which will also advance the important public policies that protect a debtor's homestead and right to a fresh start in bankruptcy.

FRCP (60) by its terms only applies to a "final judgment, order, or proceeding." It therefore does not apply to a bankruptcy debtor's decision to amend his bankruptcy exemptions on Schedule "C" and switch from the Special Bankruptcy Exemptions to the Regular Bankruptcy Exemptions. Nor does it apply

⁶ Federal Rule of Bankruptcy Procedure ("FRBP") 1009(a).

⁷ Amicus does not address the question of equitable estoppel, and urges affirmance on the ground the Bankruptcy Court did not abuse its discretion in finding Aguirre's amended exemptions were not barred by equitable estoppel.

to the CCP § 703.140(a)(2) spousal exemption waiver, which is impliedly revoked when the bankruptcy debtor makes the switch to the Regular Exemptions. The fact that the disputed spousal exemption waiver is simply inapplicable in this case further negates the imposition of any procedural obstacles to Aguirre’s correction of the bankruptcy exemption claims.

Although FRCP 60(b) may supply the procedural vehicle if a final order must be vacated or modified, it does not determine the antecedent substantive question whether a revocation of a spousal waiver under CCP § 703.140(a)(2) was valid and effective by amending Schedule “C.”

III. STATUTORY FRAMEWORK

A. The California Homestead Exemption In Bankruptcy Court

Bankruptcy balances two main purposes: to provide a fresh start for the debtor and to facilitate the fair and orderly repayment of creditors to the extent possible. *Kokoszka v. Belford*, 417 U.S. 642, 645 (1974). To achieve these twin objectives, the Bankruptcy Code employs a mechanism by which all the debtor’s non-exempt assets in a chapter 7 case may be liquidated by a bankruptcy trustee. *See* 11 U.S.C. §704(a)(1). The bankruptcy trustee distributes the liquidation proceeds from those non-exempt assets to creditors in accordance with an elaborate system that dictates the order in which claims are paid and in what amount. *See, e.g.*, 11 U.S.C. §§506, 507.

California law has long expressed the policy of protecting debtors' homestead rights. This Court in *Kendall v. Pladson (In re Pladson)*, 35 F.3d 462, 465 (9th Cir. 1994) protected the debtor's homestead exemption claim which the district court had denied:

"The district court failed to give proper effect to the broad language of Section 703.140(a), the basic grant, and the district court failed as well to observe the well-established principle articulated by the California appellate courts that California homestead exemption statutes should be broadly and liberally construed. *Webb v. Trippet*, 235 Cal.App.3d 647, 650, 286 Cal.Rptr. 742 (1991)."

This Court also noted that:

"Moreover, in response to the district court's decision, the California Legislature passed the following emergency legislation denouncing the decision below and amending the Code of Civil Procedure." *Id.*, at 464.

The effect of an exemption is that the debtor's interest in the property is "withdrawn from the estate (and hence from the creditors) for the benefit of the debtor." *Owen v. Owen*, 500 U.S. 305, 308, 111 S. Ct. 1833, 114 L. Ed. 2d 350 (1991); accord *Smith v. Kennedy (In re Smith)*, 235 F.3d 472, 478 (9th Cir. 2000).

Bankruptcy Code § 522(l) provides the mechanism for claiming an exemption. To claim an exemption, a bankruptcy debtor must first list the property

on Official Form 106C (also known as “Schedule “C”),⁸ and then file Schedule “C” pursuant to the schedules and statements required by Fed. R. Bankr. P. 1007.⁹

If no party in interest objects within the prescribed deadlines, the property claimed as exempt on the debtor's list is deemed exempt. No bankruptcy court action is required, and no separate order is issued.¹⁰

California opted out of the federal exemption scheme and only permits its debtors to claim the exemptions allowable under state law. CCP § 703.130. Consequently, while the federal bankruptcy court decides disputes regarding state exemptions, the validity of the claimed state exemption is controlled by California law. *Phillips v. Gilman (In re Gilman)*, 887 F.3d 956, 964 (9th Cir. 2018), *Bhangoo v. Engs Commer. Fin. Co. (In re Bhangoo)*, 634 B.R. 80, 85 (9th Cir. BAP 2021)

Under California law, debtors may elect either the set of special exemptions CCP § 703.140(b) available only to debtors in bankruptcy ("Special Bankruptcy Exemptions"), or the set of regular exemptions under sections CCP §§ 704.010 - 704.995 available to judgment debtors generally outside of bankruptcy ("Regular

⁸ *Martinson v. Michael (In re Michael)*, 185 B.R. 830 (Bankr. D. Mont. 1995); *Mwangi v. Wells Fargo Bank, N.A. (In re Mwangi)*, 432 B.R. 812 (9th Cir. BAP 2010). See also FRBP 4003.

⁹ *Perry v. Chase Auto Fin. (In re Perry)*, 540 B.R. 710, 723 (Bankr. C.D. Cal. 2015); and see FRBP 4003(a).

¹⁰ Bankruptcy Code § 522(l). *Taylor v. Freeland & Kronz*, 503 U. S. 638, 643-644, (1992); *Preblich v. Battley*, 181 F.3d 1048 (9th Cir. 1999).

Exemptions"). But they may not elect both. CCP § 703.140(a)(1)-(3); *Farrar v. McKown (In re McKown)*, 203 F.3d 1188, 1189 (9th Cir. 2000).

CCP § 703.110 explicitly limits a married couple to a single set of exemptions. Under subdivision (a), if an exemption is limited to a maximum dollar amount, two spouses together are entitled to only one exemption of that maximum dollar amount, regardless of whether one or both are judgment debtors, and regardless of whether the property is separate property or community property.

CCP § 703.140(a)(2) requires spouses filing joint bankruptcy petitions to mutually elect to utilize either the Special Bankruptcy Exemptions or the Regular Bankruptcy Exemptions. Joint debtors cannot "mix and match" or "stack" the two distinct schemes. This election is also required when married individuals file separate bankruptcy cases (or as in this case, when only one spouse files for bankruptcy), and the filing spouse chooses the Special Bankruptcy Exemptions. The debtor and the non-filing spouse must make the CCP § 703.140(a)(2) election to use Special Bankruptcy Exemptions by effectively waiving in writing the right to claim the Regular Exemptions during the pending bankruptcy case.¹¹

¹¹ *Mora v. Aguirre (In re Aguirre)*, 2026 Bankr. LEXIS 807, at *10 (9th Cir. BAP 2026), and see *In re Geisenheimer*, 530 B.R. 747, 750 (Bankr. E.D. Cal. 2015) (discussing the spousal waiver). See also, N.D. Cal. B.L.R. 4003-1.

As correctly noted by the Bankruptcy Court decision that is the subject of this appeal (*In re Aguirre*, No. 23-03639-CL7, 2025 Bankr. LEXIS 3416, at *6 (Bankr. S.D. Cal. July 21, 2025)), the Regular Exemptions are characterized by a generous homestead exemption but by more limited exemptions for other assets. In contrast, the Special Bankruptcy Exemptions apply only to debtors who file for bankruptcy under the Bankruptcy Code, and provide a small homestead exemption but offer a handsome wildcard exemption that may be used to protect any asset.

B. FRCP 60(b)

FRCP 60(b) applies in bankruptcy cases pursuant to Fed. R. Bankr. P. 9024 (with certain exceptions not relevant to this appeal), and permits a court, on motion and just terms, to relieve a party or its legal representative from a final judgment, order, or proceeding. Relief under FRCP 60(b) may be granted for any of six enumerated reasons, the first of which is mistake, inadvertence, surprise, or excusable neglect¹² and (according to Appellant), relevant to this appeal with respect to relief from the CCP § 703.140(a)(2) spousal waiver required when claiming the Special Bankruptcy Exemptions.¹³

IV. AGUIRRE'S CLAIMED HOMESTEAD EXEMPTIONS

¹² FRCP 60(b)(1).

¹³ Aguirre's Opening Appellate Brief, pp. 12 - 15.

The following facts are excerpted from the Bankruptcy Appellate Panel's decision in this matter, *Mora v. Aguirre (In re Aguirre)*, 2026 Bankr. LEXIS 807, at 2 - 5 (9th Cir. BAP 2026):

Aguirre filed an individual chapter 7 bankruptcy case on November 21, 2023. On Schedule A/B, he listed a one-third interest in a residential duplex known as the Ensenada Property. On Schedule "C," he utilized the state's "Regular Exemptions" scheme under CCP § 704.010 et seq. He claimed a \$228,816.72 homestead exemption for the Ensenada Property under CCP § 704.730. This left essentially no non-exempt equity for the estate.

At a § 341(a) meeting, Trustee and Appellant's attorney told Aguirre that he could not claim a homestead exemption under CCP § 704.730 because he was not residing at the Ensenada Property on the petition date. To comply with the Trustee, Aguirre's former attorney had Aguirre and Jacqueline sign and file a spousal waiver waiving the right to utilize the regular exemptions scheme. Aguirre also filed a first amended Schedule "C" utilizing California's "Special Bankruptcy Exemptions" scheme under CCP § 703.140(b), which included the less favorable homestead exemption for the Ensenada Property. This left roughly \$197,478 in non-exempt equity for the estate. Accordingly, the Trustee moved to sell Aguirre's home and pay net proceeds to creditors like Appellant, despite the fact that Aguirre had been entitled to fully exempt his interest in the property.

About 15 months after filing the spousal waiver and the first amended Schedule “C”, Aguirre, with new counsel, filed second amended Schedules A/B and “C”. He now claimed a 50% interest in the Ensenada Property and switched back to the "Regular Exemptions" under CCP § 704.010 et seq., which included a \$699,420 homestead exemption for the Ensenada Property under CCP § 704.730. This again left no non-exempt equity for the estate; hence, no distributions would be made to Appellant.

Appellant objected to Aguirre’s second amended Schedule “C.” The Bankruptcy Court overruled the objection, and the Ninth Circuit Bankruptcy Appellate Panel affirmed. This appeal followed.

V. ARGUMENT

1. A Bankruptcy Debtor Can Freely Amend His Schedule “C” Exemptions At Any Time Before the Bankruptcy Case Is Closed

A debtor may amend a voluntary petition, list, schedule, or statement as a matter of course at any time before the case is closed. Fed. R. Bankr. P. 1009(a); *In re Lua*, 692 F. App'x 851, 852 (9th Cir. 2017).¹⁴

And in this Circuit, *Warfield v. Nance (In re Nance)*, 156 F.4th 961, 969 (2025) not only affirms that principle, but reinforces it by holding claim preclusion

¹⁴ See also *Martinson v. Michael (In re Michael)*, 163 F.3d 526, 529 (9th Cir. 1998) ("No court approval is required for an amendment, which is liberally allowed."), abrogated on other grounds by *Law v. Siegel*, 134 S. Ct. 1188, (2014).

does not categorically bar an amended exemption claim merely because the bankruptcy court previously rejected different exemptions.

2. The California Legislature Enacted CCP § 703.140 to Prevent Exemption Stacking, Which Is Not Implicated When A Bankruptcy Debtor Claims the Regular Exemptions

Under California and federal bankruptcy law, the concept of "exemption stacking" refers to the practice where joint debtors in a bankruptcy proceeding attempt to combine, double, or aggregate individual federal and state exemptions to protect a larger amount of property. In the Ninth Circuit and California, the permissibility of this practice has evolved from early case law allowing the stacking of separate federal and state exemptions,¹⁵ to strict legislative limitations that now restrict joint debtors to a single set of exemptions.¹⁶

In *In re Baldwin*, 70 B.R. 612, 615 (9th Cir. BAP 1987) the Ninth Circuit Bankruptcy Appellate Panel explained the California Legislatures purpose behind the election required under CCP § 703.140:

“A comprehensive study of the legislative history of the California exemption statute, Cal. Civ. Proc. Code § 703.140 as well as its companion statute, Cal. Civ. Proc. Code § 703.130, reveals that the legislature's **sole expressed purpose** was to prevent the stacking of federal and state exemptions.” {emphasis added}

¹⁵ *Emmerich v. Lampi*, 19 B.R. 666 (9th Cir. BAP 1982)

¹⁶ *In re Baldwin*, 70 B.R. 612, 615 (9th Cir. BAP 1987); CCP § 703.110.

When Aguirre amended his bankruptcy schedules the second time and switched from the Special Bankruptcy Exemptions back to the Regular Bankruptcy Exemptions there was no danger of stacking, because if his non-debtor spouse were to file for bankruptcy during the pendency of the Aguirre's bankruptcy case, she would now be precluded from using the Special Bankruptcy Exemptions. That is because the mutual foundation of the spousal waiver was extinguished, and the spouses were no longer acting under a unified election of the Special Bankruptcy Exemptions. Amending the bankruptcy schedules revoked the CCP § 703.140(a)(2) spousal waiver; nothing more should be required.

3. There is a Conflict Between the Bankruptcy Code's Liberal Policy of Allowing Amendments to the Bankruptcy Schedules, and Requiring FRCP 60(b) Relief As a Predicate Where the CCP § 703.140(a)(2) Spousal Waiver Has Been Made

There appears to be only one other bankruptcy case that discusses this precise issue. *In re Gomez*, 530 B.R. 751, 753 (Bankr. E.D. Cal. 2015) ("*Gomez*") held that where a Chapter 7 debtor and his non-filing spouse filed the spousal waiver under CCP § 703.140(a)(2), relinquishing their right to use the Regular Exemption scheme and binding them to the Special Bankruptcy Exemptions, the waiver bound the debtor and the non-filing spouse absent relief under FRCP 60(b)(1) on a showing of mistake, inadvertence, surprise, or excusable neglect.

Gomez found the CCP § 703.140(a)(2) waiver was substantive rather than procedural, and not an “inappropriate attempt to regulate procedure in bankruptcy.”

Gomez went on to find:

“[A]ny conflict between Federal Rule of Bankruptcy Procedure 1009(a) and the spousal waiver provision under section 703.140(a)(2) of the California Code of Civil Procedure is apparent and not actual. Thus, no preemption problem exists and California's exemption law controls the outcome of the question whether Amado can amend his schedule of exemptions to claim the regular exemptions after he and Maria waived the right to claim such exemptions under section 703.140(a)(2).

There is no actual conflict, moreover, between the bankruptcy policy allowing liberal amendment to the schedule of exemptions and the binding effect of a spousal waiver executed in accordance with a California statute. *Gomez*, Id., at 756.

Amicus respectfully disagrees, because imposing FRCP 60(b) relief as a precondition to amending bankruptcy schedules claiming a homestead exemption is a significant burden on a bankruptcy debtor that directly contravenes at least two important public policies.

First, there is a strong public policy toward adopting “a liberal construction of the law and facts to promote the beneficial purposes of the homestead legislation to benefit the debtor.” *Amin v. Khazindar*, 112 Cal.App.4th 582, 588, 5 Cal.Rptr.3d 224 (2003), cited with approval in *Anderson v. Nolan (In re Nolan)*, 2022 U.S. App. LEXIS 3091, at *4 (9th Cir. 2022); and this Court in *In re Pladson* and its cite of *Webb v. Trippet*, both as noted above.

Next, it must be remembered that exemptions in bankruptcy cases are part and parcel of the fundamental bankruptcy concept of a fresh start. *Schwab v. Reilly*, 560 U. S. 770, 791 (2010). The Ninth Circuit recognizes the significance of exemptions and, consequently, adheres to a strong policy of interpreting exemptions liberally in favor of debtors. *Wilson v. Rigby*, 909 F.3d 306, 327 (9th Cir. 2018)

There are numerous procedural safeguards already in place if a bankruptcy debtor amends his bankruptcy schedules inappropriately. Amendment does not itself establish entitlement to the exemption or erase a prior final order. Those are separate questions that are brought to bear if a party in interest objects. *Warfield v. Nance (In re Nance)*, 156 F.4th 961, 969 (2025).

When a debtor claims an exemption created under state law, the scope of the exemption is determined under state law, which “may provide that certain types of debtor misconduct warrant denial of the exemption” *Law v. Siegel*, 571 U.S. 415, 416 (2014); *Gray v. Warfield (In re Gray)*, 523 B.R. 170, 175 (9th Cir. BAP 2014). But that determination is predicated on a party in interest raising a timely objection.¹⁷ Once that deadline passes the exemption is generally allowed and

¹⁷ Fed. R. Bankr. P. 4003(b), with limited exceptions, gives the trustee and creditors 30 days from the initial creditors' meeting to object.

nothing further is required of the debtor. *Taylor v. Freeland & Kronz*, 503 U. S. 638, 643-644 (1992).

4. FRCP 60(b) Does Not Apply to Documents That Are Not Judgments, Orders or Proceedings

The problem with the *Gomez* analysis becomes evident when there is no objection to a bankruptcy debtor's amendment from the Special Bankruptcy Exemptions to the Regular Bankruptcy Exemptions, because as discussed in *In re Gonzalez*, 2024 Bankr. LEXIS 1113, at *11-12 (Bankr. C.D. Cal. 2024), FRCP 60(b) does not apply:

The court first observes that not all of the orders and documents for which Debtor seeks relief from finality of judgment under Federal Rule of Civil Procedure 60 are final orders or judgments. Federal Rule of Civil Procedure 60(b) specifically provides in relevant part that "the court may relieve a party or its legal representative from a final judgment, order or proceeding" for the reasons listed in Rule 60(b). Rule 60(b) does not apply to judgments, orders or proceedings that are not final or to documents that are not judgments, orders, or proceedings.

Docket Nos. 84, 393 and 504 are Debtor's amended bankruptcy schedules, which were filed either by his former bankruptcy attorney on Debtor's behalf or by Debtor himself as a self-represented litigation. These documents are not orders, judgments or proceedings of the court, let alone, final judgments, orders or proceedings of the court, and therefore, they are outside the purview of Federal Rule of Civil Procedure 60(b), which provides in relevant part that "the court may relieve a party or its legal representative from a final judgment, order or proceeding" for the reasons listed in Rule 60(b). Accordingly, the court will deny Debtor's motion as to these documents since Rule 60(b) does not apply to them.

This dichotomy exposes the flaw in the *Gomez* analysis, because there is no need to seek FRCP 60(b) relief as a pre-condition to amending Schedule “C” and switching from the Special Bankruptcy Exemptions to the Regular Bankruptcy Exemptions. Rather, Fed. R. Bankr. P. 1009 permits the debtor to freely amend a claim of exemptions at any time before the case is closed. *Warfield v. Nance*, *supra*. The need for FRCP 60(b) relief *may* arise *after* an objection to the amended claimed exemption results in entry of a final order denying the claimed amended exemption, but not before.

VI. CONCLUSION

The Bankruptcy Court did not err in overruling Appellant’s objection to the Debtor’s amended claims of exemption, and this Court should affirm. In doing so, amicus respectfully requests this Court to make clear that a bankruptcy debtor maintains a general right to amend his bankruptcy schedules before the bankruptcy case is closed, and any opposition to the substance or statutory compliance of the amended exemptions must be raised through the standard objection procedures of Fed. R. Bankr. P. 4003 rather than Rule 60(b). That framework preserves California’s homestead policy without converting it into an exception to the right to freely amend exemptions provided by the Federal Rules of Bankruptcy Procedure.

Respectfully submitted this 23d Day of September, 2026,

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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

FORM 8. CERTIFICATE OF COMPLIANCE FOR BRIEFS

9th Cir. Case Number(s) 26-2285

I am the attorney or self-represented party.

This brief contains 3,556 words, including zero (0) words manually counted in any visual images, and excluding the items exempted by FRAP 32(f). The brief's type size and typeface comply with FRAP 32(a)(5) and (6).

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Signature /s/ James J. Haller

Date **September 23, 2026**

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I hereby certify that I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on September 23, 2026. All participants that are registered as CM/ECF users will receive service via appellate CM/ECF system.

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s/ James J. Haller
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STATEMENT UNDER FED. R. APP. P. 29(a)(4)(E)

No party's counsel authored this amicus curiae brief in whole or in part; no party or party's counsel contributed money that was intended to fund preparing or submitting this brief; and no person, other than the amici curiae, its members, or its counsel, contributed money that was intended to fund preparing or submitting this brief.

s/ James J. Haller

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