IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 17-3663

In re SHELLY CONSETTA MOORE,
Debtor.

CITY OF CHICAGO,
Appellant,
v.
SHELLY CONSETTA MOORE,
Appellee.

No. 17-3664

In re FLORENCE MAE HERNANDEZ,
Debtor.

CITY OF CHICAGO,
Appellant,
v.
FLORENCE MAE HERNANDEZ,
Appellee.

BRIEF and ARGUMENT of AMICI CURIAE NCBRC, NACBA, and LAF

IN SUPPORT OF EACH DEBTOR-APPELLEE AND IN FAVOR OF AFFIRMANCE.

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CIRCUIT RULE 26.1
DISCLOSURE STATEMENT

(1) The full name of every party that the attorney represents in the case (if the party is a corporation, you must provide the corporate disclosure information required by Fed. R. App. P. 26.1 by completing item #3):
N/A (amicus for Debtors-Appellees)

(2) The names of all law firms whose partner or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:
LAF

(3) If the party or amicus is a corporation:
i) Identify all its parent corporations, if any; and
N/A

ii) list any publicly held company that owns 10% or more of the party's or amicus's stock:
N/A

Attorney's Signature: /s/ David S. Yen Date: May 21, 2018

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STATEMENT OF IDENTITY AND INTEREST OF AMICI CURIAE

LAF is a not-for-profit organization that provides free legal representation and counsel in civil cases to disadvantaged people and communities throughout Cook County. Each year LAF's advocates represent thousands of clients who are living in poverty, or otherwise vulnerable, in a wide range of civil legal matters. LAF's areas of practice include bankruptcy and consumer law, as well as family, employment, housing, and public benefits.

Because LAF lacks sufficient resources to serve every person who qualifies for legal assistance, LAF employs a strict set of priorities guidelines to screen cases. LAF's guidelines for representing individual debtors in Chapter 13 bankruptcies require, among other things, that LAF consider the bankruptcy advisable, feasible, and necessary to permit the debtor to retain property to meet the debtor's basic needs – such as a car used to maintain employment, access to health care, or education; or a subsidized lease to secure scant affordable housing for the debtor's family.

Also out of the recognition that the need for LAF's services far outweighs availability, LAF operates a number of "help desks," staffed mainly by volunteer attorneys, to assist pro se litigants. Among other such desks, LAF manages the "Bankruptcy Assistance Desk" in the Dirksen Federal Courthouse, which provides advice, information and assistance to pro se debtors and creditors in bankruptcy matters.

NCBRC is a nonprofit organization dedicated to preserving the bankruptcy rights of consumer debtors and protecting the bankruptcy system's integrity. The Bankruptcy Code grants financially distressed debtors rights that are critical to the bankruptcy system's operation. Yet consumer debtors with limited financial resources and minimal exposure to that system often are ill-equipped to protect their rights in the appellate process. NCBRC files amicus curiae briefs in systemically-important cases to ensure that courts have a full understanding of the applicable bankruptcy law, the case, and its implications for consumer debtors.

NACBA is also a nonprofit organization of approximately 3,000 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.

LAF, NCBRC, and NACBA do not seek to repeat or elaborate upon the arguments the debtors make in their response brief. Instead, amici assert that the breadth of their experience with bankruptcy and consumer issues, and particularly LAF's experience assisting unrepresented debtors in the Northern District of Illinois, will help this Court reach the correct result. In addition to providing the particular perspectives described above, LAF, NCBRC, and NACBA can provide this Court a clearer understanding of the realities of bankruptcy practice that underlie the legal issue, and the challenges faced in the Northern District in particular, where more debtors file Chapter 13 bankruptcies than any other district.

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Ordering that the debtors' property remain in the estate pending completion of their Chapter 13 plans, and the Northern District's adoption of a form order containing that provision, not only comports with the language of the Bankruptcy Code, it supports the Code's underlying policies, and it permits bankruptcy judges to perform their duties efficiently in the context of a heavily overburdened court system.

No counsel for a party authored this brief in whole or in part, and no person or entity other than LAF, NCBRC, or NACBA, their members, and their counsel made any monetary contribution toward the preparation or submission of this brief.

CONSENT

This brief is filed with the consent of the parties.

SUMMARY OF ARGUMENT

The City of Chicago argues that a bankruptcy court's order confirming a Chapter 13 Plan must provide that all property of the estate shall vest in the debtor upon confirmation of the Plan, unless the debtor makes a showing that retaining it in the estate is "necessary for the plan" (City Br. 13), a requirement found nowhere in the Code. The plain language of § 1327(b) establishes that the bankruptcy court has discretion to order the debtors' property to remain in the estate, or to confirm a plan that so provides, which the City does not deny. 11 U.S.C. § 1327(b). To establish an abuse of this discretion, the City has to show the court "acted contrary to the law or reached an unreasonable result." *In re Sokolik*, 635 F.3d 261, 269 (7th Cir. 2011). There is nothing unlawful or unreasonable about the bankruptcy court's order deferring vesting, either in the context of these consolidated appeals, or generally.

First, amici point out that the City's approach undermines the Code's plain provisions for debtor choice in vesting and flexibility in executing that choice. The Code provides that debtors have the option of including a provision in their plans to delay vesting of some or all of the property of the estate, without any particular showing. Absent some reason to overrule the debtor's choice, a confirmation order should accept that choice. Amici also provide historical context for the adoption of the form order entered in these consolidated appeals, to show that the order reflects a longstanding, considered and reasonable judgment regarding efficient use of bankruptcy court resources. That form order does not dictate any particular result

with respect to vesting – it remains primarily the debtor's option, as the Code provides.

Second, amici defend the reasonableness of the orders. Myriad reasons support deferring vesting to debtors until completion of their plans, which may be appropriate and efficient not only for debtors, but for other parties as well. Thus many Chapter 13 trustees, as well as secured and unsecured creditors, prefer delayed vesting. While the City may prefer full vesting at confirmation, it does not have the right to impose that preference to override the legitimate interests of the debtor, Chapter 13 trustee, or other creditors, or to impede the more efficient operation of the bankruptcy court.

Finally, amici point out that the City's position reflects invalid generalizations about Chapter 13 debtors, who are stereotyped as recidivist scofflaws but are far more often low-wage workers struggling to maintain sufficient income to provide basic necessities. Even if the Northern District's longstanding and reasonable approach to delaying vesting may have the effect of slowing the City's aggressive collection tactics and permitting the court to ensure those tactics are warranted, that effect comports with sound bankruptcy policy.

ARGUMENT

I. The Bankruptcy Code gives debtors the option of delayed vesting, and promotes a flexible approach to vesting, which the City's position undermines.

The City prefers revesting property in the debtor pending completion of the plan, because the City's aggressive ticketing and collection policies are presumably

cheaper to enforce in that situation. But the Code does not empower possible future creditors like the City to dictate the timing of revesting. The Code squarely provides the debtor with the option of vesting property in the estate, and provides the court with flexibility to permit such vesting, as it did in these cases.

A. The City's position infringes upon Debtors' the right to propose their own plans.

The Code provides that when a case is filed under Chapter 13, only the debtor can propose the initial plan. 11 U.S.C. § 1321. The Code also gives debtors the option of including a provision in their plans to vest some or all of the property of the estate in another entity. *Id.*, § 1322(b)(9) (plan may "provide for the vesting of property of the estate, on confirmation of the plan or at a later time, in the debtor or in any other entity"). The City's position, that a possible future creditor may dictate the vesting option, squarely undermines these plain provisions, and must be rejected.

B. Bankruptcy courts exercise discretion based on individual circumstances, regardless of form plans or orders, as the court did in this case.

The orders at issue in this case are based on a form order used in the Northern District of Illinois, which the City suggests "reverses th[e] presumption" that a debtor's property revests in the debtor at confirmation, and "presumes that, under 1327(b), the court may *always* mandate that all property remain in the estate post-confirmation." (City Br. 25.) First, as the Debtors rightly argue, no such "presumption" is found in the Code. (Debtor Br. 10-13.) The Code provides that where no choice is made, vesting in the debtor occurs at confirmation. This is a

default rule, not a presumption. 11 U.S.C. § 1327(b). Amici will not further elaborate on this argument, which is based on the statute's plain meaning, other than to point out that while the use of form orders promotes efficiency, the mere promulgation of such forms does not "always mandate" any particular result with respect to vesting. The existence and frequent use of form orders and model plans has not precluded debtors from proposing non-standard provisions needed to deal with particular circumstances. Indeed, this Court recently decided that when a debtor proposed a plan that included a provision tailored to her individual circumstances, the trustee could not require that her customary plan provision be included instead. *Marshall v. Blake* (*In re Blake*), 885 F.3d 1065 (7th Cir. 2018).

According to the Administrative Office of the U.S. Courts, the Northern District of Illinois had (by far) the highest number of Chapter 13 filings during the 12-month period ending September 30, 2017. *See* U.S. Courts, Caseload Statistics Data Tables, Report F-5A,

http://www.uscourts.gov/sites/default/files/data_tables/bf_f5a_0930.2017.pdf.

Standardized form orders and streamlined procedures help bankruptcy courts like the Northern District to cope with this volume. Recently, after long consideration by the Advisory Committee on Bankruptcy Rules, and comments from judges, lawyers, and the public, the Bankruptcy Rules were amended to *require* that plans follow a uniform format, while preserving the debtor's right to include such additional provisions as the debtor deems necessary or appropriate. *See* Fed. R. Bankr. P. 3015(c), effective December 1, 2017. The Rules also now provide that districts must

meet certain conditions for local forms, one of which is that the local forms provide a final paragraph for nonstandard provisions. *See* Fed. R. Bankr. P. 3015.1(e).

In the Northern District of Illinois, delaying vesting until the end of the case – discharge – was the norm even before it adopted the standard form order the City challenges in this case. In the past, delayed vesting resulted both from the debtor's preference, as stated in the plan, or that of the trustees or court, when the debtor did not specify. While the form orders entered in this case provide for vesting in the estate, the Northern District's preface to its provision of Local Bankruptcy Forms emphasizes their flexibility, saying they are "designed to promote consistency and clarity for the participants in bankruptcy proceedings. They are recommended for use . . . . The use of these forms is encouraged with such alterations as may be appropriate to suit the circumstances." U.S. Bankr. Court, N.D. Ill., All Local Bankruptcy Forms, https://www.ilnb.uscourts.gov/forms/all-forms. The City's claim that the court's form order contains a "mandate" for every debtor therefore must be rejected – debtors have the first option regarding the timing of vesting, as the Code requires, and the provision may be altered as appropriate under the circumstances.

The Debtors in this case filed their cases before December 1, 2017, so they used the local model plan then in effect for the Northern District of Illinois.[1] While,

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[1] Current form 113 requires Chapter 13 debtors to check a box to state whether property of the estate will vest in the debtor upon

- ◘ plan confirmation
- ◘ entry of discharge
- ◘ other _________________.

Official Form 113, Part 7: Vesting of Property of the Estate.

unlike the current model plan, that model plan did not require that debtors state a preference about when property of the estate vested in the debtor, the court was well aware that the debtors had chosen that option. (*See* Short Appx. 5-6 (court noting, "the debtor can say what they want to be the property of the estate and not").) As the court properly found, the City provided no basis not to honor that choice.

II. Myriad bankruptcy-related reasons generally support the reasonable option of keeping property vested in the estate.

As stated above, the Code plainly permits Debtors to choose the option of deferring vesting, and the orders at issue ratified the Debtors' choice. As the Debtors correctly argue, there is no language in the Code that supports the City's contention that delayed vesting is allowed only if there is an explicit finding that retaining property in the estate is "necessary to the plan" or reflects a "valid bankruptcy purpose." (Debtor Br. 5, 12.)

To argue that the Code contains some hidden prohibition against delayed vesting, the City focuses narrowly on whether property may permissibly be shielded from collection efforts by post-petition creditors by delaying vesting. Even considering the issue in this narrow way, the City's argument fails, because it cannot account for the Code's plain language. The weakness of the City's contention is even clearer, moreover, when other aspects of delayed vesting are considered.

There are many good reasons for keeping Chapter 13 debtors' property in the estate pending completion of their plans. Generally, under the Code, "the stay of an act against property of the estate . . . continues until such property is no longer

property of the estate." 11 U.S.C. § 362(c)(1). The court must grant relief from the stay to any party in interest who can show cause, including the lack of adequate protection of that party's interest. *Id.*, § 362(d).

In other words, because the Debtors' cars remain property of the estate, if the Debtors accrue so much post-confirmation debt to the City that the City has a lawful basis to seize their cars while their cases remain pending, the City may simply file a motion, and the court will lift the stay unless the debtor cures the default or shows that the property is necessary for successful completion of the plan and that the City is adequately protected. Debtors in this situation not only have the benefit of ensuring no erroneous seizure is effected (and a little more time to cure any default), they sometimes are able to obtain leave to modify the plan to pay the post-petition debt along with the pre-petition debt, thereby adequately protecting the creditor, to avoid a loss that would have caused the entire bankruptcy to fail. Ample reasons support continuing that additional layer of protection provided by the automatic stay during the course of the plan, despite the burden on potential post-confirmation creditors like the City. The court's orders in these cases reflect that reasoned balance.

First, Chapter 13 debtors tend to be low-wage workers, and frequently need their cars (often the only property they have that could be subject to seizure) to generate income to fund their plans. *See* Aditi Singh, Driven Into Debt: The Importance of Reforming Wealth-Based Driver's License Suspension, ("Driven Into Debt") (May 2018), http://www.chicagoappleseed.org/driven-into-debt/. Poor workers

in the Chicago area are nearly four times more likely to commute by car than by public transportation. Wendell Cox, Cars: Principal Mobility for Workers in Poverty (Dec. 2017), http://www.newgeography.com/content/005832-cars-principal-mobility-workers-poverty. "It is easy to understand why workers who have earnings below the poverty level predominantly use automobiles. It is simply that so few jobs can be reached in the modern metropolitan area in a reasonable period of time by means of transit." *Id.* Not only do low-income debtors need their cars to get to work, other current creditors (and the trustee) share that interest. Similarly, all the creditors (and the trustee) have an interest in debtors having access to their cars for emergencies, for children's school, and to meet basic needs – because if a debtor is too sick to work or cannot coordinate family and work obligations without a car, the plan loses funding, to the detriment of the whole estate. In fact, other property may also play a pivotal role in protecting the debtor's ability to fund her plan, and therefore merits the protection of the automatic stay throughout the plan. Leases of subsidized housing, for example, may provide the only decent housing the debtor can afford – and losing it gives rise to obvious challenges to completion of the plan.

Debtors often have less flexibility to deal with post-petition events that disturb their budgets after plan confirmation than they did before filing bankruptcy, and they therefore need additional protection to meet the intense challenge of completing their plans. Chapter 13 debtors often have "'extremely tight' budgets that make it difficult for them to meet current expenses while maintaining

plan payments.[2] *See Blake*, 885 F.3d at 1080. Debtors in bankruptcy simply have less discretionary income, and risk falling behind in expenses like rent, utilities, and parking tickets. Debtors' understanding of the importance of making plan payments may lead them to prioritize those payments over other obligations that they would have paid if they were not in a Chapter 13 plan. The additional protection of the automatic stay serves the overall goal that the Chapter 13 debtor complete her plan while managing competing expenses.

For Chapter 13 debtors who own homes, keeping the property in the estate provides other efficiencies, both to the debtor and to the estate generally. In such cases, controversies over the proper application of post-petition mortgage payments have become so frequent that the Bankruptcy Rules were amended to add Rule 3002.1, which creates a framework to resolve such disputes. *See* Fed. R. Bankr. P. 3002.1. Where the property vests in the debtor, however, that property lacks the protection of the automatic stay and the bankruptcy court has no jurisdiction. *See Telfair v. First Union Mortg. Corp.*, 216 F.3d 1333 (11th Cir. 2000) (debtor's plan provision keeping post-petition mortgage payments outside of the plan, and therefore out of the estate, meant the payments were not protected by the automatic stay, so that the debtor's challenge to the application of mortgage payments failed). Confirmation orders that delay vesting until plan completion thus enable debtors

[2] Trustees often encourage debtors to enroll in programs that deduct plan payments directly from their paychecks, claiming such orders correlate with successful completion. But because wage orders don't adjust automatically when income goes down, debtors have less flexibility and are prone to post-petition defaults on their other ongoing expenses, even if they are trying hard to avoid them.

and trustees to challenge questionable mortgage creditor actions in the most appropriate forum, the bankruptcy court.

These considerations apply with even greater force to *pro se* debtors, who tend to be too poor to afford to retain a private attorney. For them, delayed vesting is even more important, given all the reasons discussed above. For example, if the property did not vest in the estate, it would be even harder to deal with the City if it unilaterally booted or towed their cars during a pending plan. While in the minority, *pro se* Chapter 13 debtors still constitute a large number – ten percent of all filers in the Northern District of Illinois. *See In re LaGrone*, 525 B.R. 419, 427 (Bankr. N.D. Ill. 2015).

Orders that unambiguously delay vesting of all property of the estate also have the advantages of clarity and certainty. There are (at least) four views on the effect of a confirmation order that tracks § 1327(b): (1) the estate ceases to exist, and even property acquired post-petition vests in the debtor – the "estate termination" approach; (2) the estate continues to exist but contains only property necessary for performance of the plan – the "estate transformation approach; (3) all estate property that exists when the plan is confirmed vests in the debtor, but the estate is "refilled" with property acquired after confirmation, regardless of whether it is necessary to perform the plan; and (4) vesting of property in the debtor does not remove that property from the bankruptcy estate – the "estate preservation" approach. *See In re Krick*, 373 B.R. 593, 600 (Bankr. N.D. Ind. 2007), *citing* Lundin, *Chapter 13 Bankruptcy*, v.3, § 230.1 (3rd ed. 2006).

The form order at issue in this case removes all doubt that the bankruptcy estate is preserved – that the fourth approach is being implemented. By contrast, an order that merely tracks § 1327(b) does not rule out either of the first three approaches described above. Similarly, an order that provides, generally, that the estate continues as to property necessary for performance of the plan, can be unclear in actual operation. *See Matter of Heath*, 115 F.3d 521, 522-23 (7th Cir. 1997) (providing income and other assets "remain estate property to the extent necessary to fulfill the plan," giving rise to dispute about whether certain income was "necessary" or not). If a single debtor with dependents owns a mini-van and a hatchback and usually drives the hatchback to work, is only the hatchback necessary? If so, what if the hatchback becomes inoperable – does the minivan then become necessary, and how is anyone to know? It is entirely reasonable for the bankruptcy judges in a particular district to decide, based on their collective experience with thousands of Chapter 13 cases, that efficiency requires a confirmation order that makes it clear that all property is retained in the bankruptcy estate until there is a reason to remove it, rather than attempting to predict exactly what may be necessary when circumstances change. Certainly, having a clear rule is better for the court system and debtors, especially *pro se* debtors. Delayed vesting is simple, and that clarity alone can justify generally encouraging delayed vesting.

Finally, Chapter 13 trustees and other creditors also have legitimate interests in the debtor's property remaining in the estate. These include preserving

the authority of the Chapter 13 trustee or debtor to litigate claims, including avoidance claims arising only under the Code; solidifying the ability of providers of post-petition goods and services to have administrative expense claims; forcing debtors to disclose post-petition causes of action; enabling the trustee or creditors to seek modification of the plan based on non-exempt assets acquired post-confirmation; and preventing debtors from transferring assets to the detriment of creditors. *See* Lundin, *Chapter 13 Bankruptcy*, v.3, at § 230.1 (3rd ed. 2006). If the Chapter 13 trustee generally agrees with the debtor that delayed vesting is preferable, then an order so providing is not unreasonable, much less an abuse of discretion, especially given the uniquely high volume of Chapter 13 petitions filed in the Northern District of Illinois.

It bears noting that in contrast to the Debtors, the other creditors and the Chapter 13 Trustee, the City's interest in the timing of vesting in these cases is attenuated. The City correctly identifies itself as a "pre-petition creditor," and described its interest as follows: "Chapter 13 debtors frequently cause or allow their vehicles to be used in violation of City vehicle laws after confirmation but before the completion of their five-year repayment plans." (City Br. 7.) But it identifies no direct adverse effect on its pre-petition debt resulting from the orders at issue. The City's objection to the form order is based solely on speculation that debtors will, in the future, break City parking or traffic laws, be ticketed, fail to pay, thus incurring new post-confirmation debt, and then repeat this cycle. Only then would the City

face what it claims is an undue burden on its ability to impound the Debtors' cars.[3] The City complains that in a hypothetical future it "could have" enforced its laws against these Debtors' cars had the Order not provided for revesting estate property in the estate. (City Br. 7.) The City claims that this possibility is enough to overturn settled Chapter 13 practice, and permits it to force this change in any case where a debtor does or might own a car that has entered City limits or could do so.

In these cases, the City seeks to privilege its goal – to save money enforcing its aggressive ticketing policy, which it may or may not have occasion to do – above the Debtors' right to choose the timing of revesting of their property, and above the interest of all the parties in the success of the Debtors' plans, without any basis in the Code. The bankruptcy court appropriately denied the City's objections.

III. The City's effort to bend the bankruptcy system would compound the inequitable results of its enforcement policy.

A fundamental pillar of the bankruptcy system is providing for a fresh start for honest but unfortunate debtors. *Local Loan Co. v. Hunt*, 292 U.S. 234, 244 (1934). Congress has rejected the concept that one can be too poor to seek bankruptcy relief. The 2005 amendments to the Code adopted a provision for waivers of the filing fee in Chapter 7 cases. 28 U.S.C. § 1930(f)(1). Chapter 13 debtors may pay the filing fee in installments. Fed. R. Bankr. P. 1006(b).

[3] Neither Debtor resided in Cook County when their petitions were filed – a fact that illustrates the far reach of the City's presumption that any debtor may eventually owe driving-related debts to the City and should therefore be denied the benefit of the automatic stay while the plan is pending.

Continuation of the automatic stay while the debtor completes her Chapter 13 is essential to the success of Chapter 13 plans.

The court should not be blind to the real challenges bankruptcy debtors face. The City's very interest in this case assumes that debtors, by virtue of their status as such, must be expected to break City laws and incur fees and fines over the course of their plans – an unfair and speculative proposition. But to the extent some debtors do repeatedly find themselves in spiraling debt to the City, it bears noting that the kind of debt at issue has been increasingly recognized as a result not of contumacious disregard for lawful conduct, but a product of poverty and race. *See* Melissa Sanchez and Sandhya Kambhampati, How Chicago Ticket Debt Sends Black Motorists Into Bankruptcy, ProPublica Illinois (Feb. 2018), https://features.propublica.org/driven-into-debt/chicago-ticket-debt-bankruptcy/; Singh, Driven Into Debt, http://www.chicagoappleseed.org/driven-into-debt/.

As researchers have noted, just a few vehicle-related debts may quickly grow to exorbitant proportions. For example, take the annual fee for a City of Chicago vehicle sticker, which for a car is $87.82.[4] The fee for renewing 30 days late is $60.[5] The ticket for lacking a current sticker is $200, and there is no "grace period" – motorists may receive such tickets even if the sticker expired the day before.[6] Ticket

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[4] *See* Chicago City Clerk, http://www.chicityclerk.com/city-stickers-parking/about-city-stickers.
[5] *See id.*
[6] *See id.*; City of Chicago, https://www.cityofchicago.org/city/en/depts/fin/supp_info/revenue/general_parking_ticketinformation/violations.html.

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amounts double after 25 days, amounting to a 100% penalty accruing in less than one month, a rate that would be considered usurious in a consumer context.[7] As many have observed, "[l]ow income people are punished with penalties that others can pay to avoid." Singh, Driven Into Debt. Low-income residents are at greater risk of incurring unaffordable ticket debt because affordable private parking is scarce, street parking is notoriously expensive,[8] and ticketing practices are unequal.[9] While the bankruptcy system cannot completely erase these disparities, neither should it contort itself so that the City can continue to subject debtors to the enforcement policy that led to them.

IV. The Code provides focused, proportional, and individualized measures to address repeated bankruptcy filings; blunderbuss repudiation of delayed vesting is unnecessary and disserves the bankruptcy system.

The City has made an overbroad objection to all confirmation orders that delay vesting in the debtor, based on its narrow interests as a potential future creditor, and based on its view of debtors as abusive to the system. First, to the extent some debtors file repeated bankruptcy petitions in a misguided effort to

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[7] *Id.*, https://www.cityofchicago.org/city/en/depts/ah/supp_info/faq/vehicle_faqs.html.
[8] Street parking charges are higher in Chicago than almost any other city. *See* Shelby Bremer, Chicago Drivers Pay More for On-Street Parking Than Other Cities: Study (Jul. 2017), https://www.nbcchicago.com/news/local/chicago-drivers-pay-more-for-parking-study-434092643.html
[9] The City has been found to ticket cars in non-white areas disproportionately. *See* Elliott Ramos, Greta Johnson, When It Snows, Chicago Police Ticket Minority Communities More (Feb. 2018) ("Drivers and property owners in just a few South Side neighborhoods get hit with a disproportionate number of winter-related tickets."), https://www.wbez.org/shows/wbez-news/when-it-snows-chicago-police-ticket-minority-communities-more/aaf5175b-aff1-418b-aef5-31706f4ff677.

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thwart collection of fines, this does not constitute a reason to jettison the concept of delayed vesting in its entirety. Bankruptcy judges have a plethora of other tools to address such abuse. First, had the City been able to point to post-petition tickets or fines that the Debtors in these cases had incurred, the court may well have sustained its objection. (*See* Appx. 6 (debtor's attorney noting, "There's no allegation that [the debtor] has gone and ran up ten thousand more dollars in tickets or anything like that."). Second, courts can encourage debtors to provide some kind of assurance against continued violations in their plans, such as expedited relief from the automatic stay upon proof of future violations. Third, the Code contains several provisions to curb abusive repetitive filings. Before the 2005 amendments to the Code, § 109(g) disqualified two types of would be repeat filers. In 2005, Congress enacted further safeguards by restricting the scope of the automatic stay in cases filed within a year of the dismissal of a prior case. *See* 11 U.S.C. § 362(c)(3) (limited stay unless extended) and § 362(c)(4) (no stay unless and until the court imposes the stay). Under either subsection, the automatic stay cannot be extended or imposed unless the debtor overcomes a presumption that the new case was not filed in good faith. *Id.*

Second, delayed vesting can also guard against bankruptcy abuse. In addition to a debtor's reasons for preferring delayed vesting, the Chapter 13 trustee or one or more creditors may need delayed vesting for estate property other than the vehicle to protect against unauthorized or even fraudulent transfers by the debtor. *See Krick,* 373 B.R. at 606-08. An order removing only the debtor's vehicle from the

estate, while preserving the estate as to all other property, may accommodate all parties' legitimate concerns, when appropriate.

The City has adopted a blatantly regressive policy that seeks to generate revenue from those who can least afford to provide it. Bankruptcy hardly provides a perfect solution – it is itself expensive and can even make matters worse, as the authors of the ProPublica Illinois study acknowledged. By challenging the Northern District's reasonable and sensible form order, however, the City pushes to make Chapter 13 bankruptcy still more challenging for struggling debtors and for the system as a whole, without basis in law or sound policy. This effort must be rejected.

CONCLUSION

For all the above reasons, the Amici pray that this Court affirm the decision of the bankruptcy court in these cases.

Respectfully submitted,

Dated May 21, 2018

/s/ David S. Yen

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RULE 32(A)(7) CERTIFICATION

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B) because this brief contains 6293 words.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that on May 21, 2018, I electronically filed the foregoing with the Clerk of the Court for the U.S Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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