No. 09-907

IN THE

Supreme Court of the United States

JASON M. RANSOM,

Petitioner,

v.

MBNA, AMERICA BANK, N.A.,

Respondent.

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

BRIEF OF *AMICUS CURIAE* G. ERIC BRUNSTAD, JR. IN SUPPORT OF RESPONDENT

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INTEREST OF THE *AMICUS CURIAE*[1]

The undersigned *amicus curiae* teaches courses at the Yale Law School on bankruptcy law, domestic and international business reorganizations, commercial transactions, secured transactions, federal courts, and argument and reason. He began teaching at Yale in 1990 and has also taught at the Harvard Law School. In addition to his teaching, the undersigned is a contributing author to COLLIER ON BANKRUPTCY, responsible for writing several chapters of the Treatise. He is also a partner at the law firm of Dechert LLP; a prior Chair of the ABA Business Bankruptcy Committee; a former member of the Judicial Conference Advisory Committee on the Federal Bankruptcy Rules; and a Fellow of the American College of Bankruptcy.

The undersigned has briefed and argued numerous bankruptcy matters before the Court, including *Schwab v. Reilly*, 130 S. Ct. 2652 (2010); *Milavetz, Gallop & Milavetz, P.A. v. United States*, 130 S. Ct. 1324 (2010); *Florida*

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[1] No counsel for any party has authored this brief in whole or in part, and no party or counsel for a party has made a monetary contribution to the preparation or submission of this brief. *See* Sup. Ct. R. 37.6. All parties have been timely notified of the undersigned's intent to file this brief; both petitioner and respondent have consented to the filing of this brief. Copies of petitioner's and respondent's consents are filed herewith.

Dep't of Revenue v. Piccadilly Cafeterias, Inc., 128 S. Ct. 2326 (2008); *Travelers Cas. & Sur. Co. v. Pacific Gas & Elec. Co.*, 549 U.S. 443 (2007); *Marrama v. Citizens Bank*, 549 U.S. 365 (2007); *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004); and *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1 (2000). He has otherwise participated as counsel for one of the parties in numerous other bankruptcy matters before the Court, including *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010); *Central Va. Cmty. College v. Katz*, 546 U.S. 356 (2006); *Rousey v. Jacoway*, 544 U.S. 320 (2005); *Kontrick v. Ryan*, 540 U.S. 443 (2004); *Lamie v. United States Trustee*, 540 U.S. 526 (2004); *FCC v. NextWave Personal Commc'ns Inc.*, 537 U.S. 293 (2003); and *Connecticut Nat'l Bank v. Germain*, 503 U.S. 249 (1992). In addition, he has prepared and filed with the Court several amicus briefs in bankruptcy cases, including *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367 (2010); *Howard Delivery Serv., Inc. v. Zurich Am. Ins. Co.*, 547 U.S. 651 (2006); *Tennessee Student Assistance Corp. v. Hood*, 541 U.S. 440 (2004); *Archer v. Warner*, 538 U.S. 314 (2003); and *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124 (1995).

The undersigned is deeply interested in the subject of bankruptcy law and has written, taught, and lectured on the subject of bankruptcy plans and the proper qualifications for

confirmation of bankruptcy plans. The purpose of this brief is to address matters that bear on the Court's determination of an important question of bankruptcy law that has divided the lower courts: in determining how much income a debtor in bankruptcy must devote toward the payment of claims under the debtor's chapter 13 plan, may the debtor deduct as an expense from his "projected disposable income" the "ownership cost" of a vehicle that has been fully paid off and for which the debtor is not actually making any ownership cost (loan or lease) payments during the plan period?

A purpose behind chapter 13 is to provide relief for the financially overburdened debtor in the form of an opportunity to retain assets and restructure debts while, at the same time, providing creditors with payments that reflect the debtor's realistic ability to pay. In this case, in calculating how much the debtor must devote toward the payment of the claims of his creditors, he seeks to deduct an expense he does not actually have. Not only is this at war with the text of the governing statutory scheme, it is also contrary to the purpose of chapter 13 and Congress' intent in amending the Bankruptcy Code in 2005. The undersigned presents this brief to address these important matters.

STATEMENT

On July 5, 2006, petitioner Jason Ransom ("Ransom") filed for chapter 13 bankruptcy relief. Joint Appendix ("JA") 1. One of the assets Ransom listed on his bankruptcy schedules was a two-year-old 2004 Toyota Camry that had no liens or encumbrances against it. JA-38. Ransom's liabilities included $82,542.93 in general unsecured claims. JA-41. Respondent MBNA America Bank ("MBNA") holds an unsecured claim of $32,896.73. JA-41.

Ransom's Statement of Current Monthly Income ("Form B22C") listed a current monthly income of $4,248.56 and deductions totaling $4,038.01. JA-53. Ransom included a deduction of $471 for vehicle ownership expenses in his Form B22C. JA-49. Based on these figures, Ransom calculated he had $210.55 in monthly disposable income. JA-53.

The Bankruptcy Code requires each chapter 13 debtor to propose a debt repayment plan. 11 U.S.C. § 1321.[2] The plan must provide that the debtor will dedicate future earnings or other income as necessary for the payment of claims as set forth in the plan. 11 U.S.C. § 1322(a)(1). Al-

[2] References to the Bankruptcy Code are to the current provisions of the Code, which are identical in relevant part to those provisions in effect at the time of Ransom's bankruptcy filing in 2006.

though creditors are not entitled to vote on a chapter 13 plan, any creditor may insist that the debtor either propose to pay the creditor's claim in full, or, if the debtor cannot pay claims in full, at least dedicate all of the debtor's "disposable income" to the payment of claims for not less than three years. 11 U.S.C. § 1325(b)(1). The term "disposable income" is defined to mean the amount of the debtor's income that is not reasonably necessary for the debtor's maintenance and support. 11 U.S.C. § 1325(b)(2)(A).

Ransom's chapter 13 plan (the "Plan") proposed to pay $500 per month for 60 months, with the ultimate repayment of only 25% of the general unsecured claims. JA-55. However, the figures provided on Ransom's Form B22C indicated that without the vehicle ownership expense allowance, Ransom's monthly disposable income was $681.55. JA-53. Accordingly, on August 25, 2006, the trustee filed an objection to plan confirmation and recommended denial of confirmation on the basis that Ransom improperly sought a deduction on Form B22C for a vehicle he owned free and clear. JA-59-60. On September 5, 2006, MBNA and Chase Manhattan Bank USA, N.A. ("Chase") (another creditor of Ransom) filed a joint objection to Ransom's chapter 13 plan, also on the grounds that Ransom was not devoting all of his projected disposable income to the plan pursuant to 11 U.S.C. § 1325(b)(1). JA-61-72.

The bankruptcy court ruled in favor of the trustee, MBNA, and Chase, and held that Ransom could not deduct a vehicle ownership cost unless he was currently making loan or lease payments on the vehicle. Pet. App. 46. On appeal, the bankruptcy appellate panel of the Ninth Circuit affirmed the decision of the bankruptcy court. Pet. App. 16. On appeal from the bankruptcy appellate panel, the Ninth Circuit likewise affirmed, explaining that the statutory language "does not allow a debtor to deduct an 'ownership cost' (as distinct from an 'operating cost') that the debtor does not have." Pet. App. 11. This appeal followed.

SUMMARY OF ARGUMENT

The decision below denying confirmation of Ransom's chapter 13 plan without prejudice should be affirmed because Ransom is not entitled to claim a deduction for vehicle ownership expenses inasmuch as he does not actually have these expenses. Allowing him to deduct this cost would contravene not only the text of the governing statutory scheme, but also its history and purpose. If in the future Ransom needs to purchase a car on credit while he is still making payments under his plan, he may request that the bankruptcy court modify his plan to accommodate this expenditure and reduce the amounts to be paid to unsecured creditors accordingly. 11 U.S.C. § 1329(a).

ARGUMENT

As noted, section 1325 of the Bankruptcy Code provides that if a trustee or unsecured creditor objects to confirmation of a debtor's chapter 13 plan (as happened here), the bankruptcy court may not confirm the plan unless either (1) the plan provides for the full payment of unsecured claims, or (2) the plan provides that the debtor will devote all of his or her "projected disposable income" to the payment of claims. 11 U.S.C. § 1325(b)(1). Although the Code does not define the phrase "projected disposable income," it does define "disposable income" to mean the debtor's "current monthly income" less "amounts reasonably necessary to be expended" for the debtor's maintenance and support, as well as for certain other items. 11 U.S.C. § 1325(b)(2)(A)(i), (ii). As this Court has explained, in determining what properly constitutes "amounts reasonably necessary to be expended" for the debtor's maintenance and support, the "full amount needed" is permitted for debtors whose income falls below the median for his or her State. *Hamilton v. Lanning*, 130 S. Ct. 2464, 2470 (2010). In contrast, in the case of a debtor with above-median income (which is the circumstance here), the debtor's expenses are capped, as set forth in section 1325(b)(3), which cross-references section 707(b)(2). In relevant part, section 707(b)(2)-(A)(ii)(I) permits an above-median debtor to deduct from his or her monthly income "the debtor's applicable monthly expense amounts

specified under the National Standards and Local Standards [promulgated by the Internal Revenue Service for determining how much unpaid tax debt a taxpayer can afford to pay], and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses [also promulgated by the IRS]." 11 U.S.C. § 707(b)(2)(A)(ii)(I).

Ransom contends that he may deduct $471 from his monthly income for vehicle ownership expenses because this is what the IRS standards allow. The statute, however, permits him to deduct only "applicable" monthly expense amounts set forth in the standards. As respondent explains and as elaborated below, "applicable" does not mean expenses that Ransom does not actually have. Resp't Br. 26-30. As respondent notes, the vehicle ownership expense category would become "applicable" if it were necessary for Ransom to acquire a car on credit while making payments under his plan, and he could modify his plan accordingly if such were the case. *Id.* at 21. But such is not the case currently, and permitting Ransom to deduct an expense he does not actually have would contravene not only the text of the governing statutory scheme, but also its history and purpose.

A. Ransom's Argument Is Inconsistent with the History and Purpose of the Governing Statutory Scheme.

As is pertinent here, the Bankruptcy Code embraces two fundamental (and sometimes competing) purposes: to provide for "maximum and equitable distribution for creditors and ensur[e] a 'fresh start' for individual debtors." *BFP v. Resolution Trust Corp.*, 511 U.S. 531, 563 (1994); *see also Stellwagen v. Clum*, 245 U.S. 605, 617 (1918). Congress has often struggled to balance these goals, particularly in the context of fashioning and modifying chapter 13 relief. The most recent body of substantial amendments to the Bankruptcy Code enacted in 2005 ("BAPCPA"), adjusted the balance significantly in favor of requiring greater distributions to creditors. More specifically, "[t]he heart of [BAPCPA's] consumer bankruptcy reforms consist[ed] of the implementation of an income/expense screening mechanism…which [was] intended to ensure that debtors repay creditors the maximum they can afford." S. Rep. No. 31, 109th Cong. 2 (2005). This screening mechanism is itself an overlay on a statutory system with a long history. Collectively, this history supports the conclusion that only actual expenses should be deducted from a debtor's "disposable income."

The "disposable income" test as a means for gauging a debtor's required plan contributions was first introduced as part of the Bankruptcy Amendments and Federal Judgeship Act

of 1984 (the "1984 Amendments"). Act of July 10, 1984, Pub. L. No. 98-353, § 317, 98 Stat. 356. Prior to that time, there was no specific statutory requirement that a debtor pay a specified amount to his or her unsecured creditors. Mindy L. Silver, *The Disposable Income Test: An Attempt Toward Uniformity*, 4 BANKR. DEV. J. 221, 222-23 (1987). Prior to the 1984 Amendments, all that section 1325(a) required (in relevant part) was that the debtor had to propose his or her chapter 13 plan in good faith. Act of Nov. 6, 1978, Pub. L. No. 95-598, § 101, 92 Stat. 2649. Many courts used this good faith standard to require that debtors provide at least some minimum level of debt repayment for unsecured claims. Silver, *supra*, at 223-24. Without clear statutory guidance, however, judicial approaches varied.

Creditor groups criticized this and other aspects of the consumer debt relief provisions of the Bankruptcy Code and exerted pressure for reform. Jean Braucher, *A Fresh Start for Personal Bankruptcy Reform: The Need for Simplification and a Single Portal*, 55 AM. U. L. REV. 1295, 1302 (2006). In response, the National Bankruptcy Conference ("NBC") – an assembly of bankruptcy professionals and academics – first proposed the "disposable income test" in an effort to "dispel most of the criticism" and "avoid large scale dismantlement of the important consumer insolvency reforms realized after a decade

of congressional consideration." *Oversight Hearings on Personal Bankruptcy Before the Subcommittee on Monopolies and Commercial Law of the House Committee on the Judiciary*, 97th Cong., 1st and 2d Sess. 212 (1981-82) [*BAFJA Hearings*]. As enacted, this test defined a debtor's "disposable income" relatively loosely as "'income which is received by the debtor and which is not reasonably necessary to be expended' for the 'maintenance or support of the debtor,' for qualifying charitable contributions, or for business expenditures." *Lanning*, 130 S. Ct. at 2469 (quoting 11 U.S.C. § 1325(b)(2)).[3] The NBC explained that, when determining the amount of disposable income to allocate to plan payments, the amount the debtor could reasonably afford should be "both the *floor* and *ceiling*" for chapter 13 plan purposes – both the minimum and maximum amount the debtor could and should be required to pay. *BAFJA Hearings* at 212-13 (emphasis in original).

Following the enactment of the "disposable income" test as part of the 1984 Amendments,

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[3] The disposable income test "was adopted by Congress almost verbatim from a proposal made by the National Bankruptcy Conference at hearings before the House Judiciary Committee." 8 COLLIER ON BANKRUPTCY ¶ 1325.08[1] (15th ed. rev. 2007). The "most significant legislative history available in interpreting that provision" is essentially contained in the 1981-82 hearings leading to the enactment of that section. *Id.*; *see also BAFJA Hearings* at 181-223.

courts wrestled with the proper determination of how much income was "reasonably necessary" for the maintenance or support of the debtor or a dependent of the debtor, and creditors ultimately pushed for additional legislation to refine the standard in a way that would generate greater recoveries on their claims. Braucher, *supra*, at 1302. Largely to address the concerns of the credit industry, Congress enacted BAPCPA with the express purpose of "ensur[ing] that debtors repay creditors the maximum they can afford." S. Rep. No. 31, 109th Cong. 2 (2005).

To effectuate that purpose, Congress directed more closely how "disposable income" would be calculated. *See Lanning*, 130 S. Ct. at 2469. As noted, the current statutory provisions state that "disposable income" is to be determined by deducting from the debtor's current monthly income "amounts reasonably necessary to be expended" for, *inter alia*, the maintenance and support of the debtor and his or her family. 11 U.S.C. § 1325(b)(2)(A)(i), (ii). The phrase "amounts reasonably necessary to be expended" was likewise newly defined. *Lanning*, 130 S. Ct. at 2470. For debtors with income in excess of the state median, certain specified expenses are allowed with reference to the Internal Revenue Service standards as guidelines to determine whether they are reasonably necessary. *See* 11 U.S.C. §§ 707(b)(2), 1325(b)(3)(A). According to section 103 of BAPCPA, the Secretary of the

Treasury was given "the authority to alter the Internal Revenue Service standards established *to set guidelines for repayment plans* as needed to accommodate their use under section 707(b) of title 11, United States Code." Act of Apr. 20, 2005, Pub. L. No. 109-8, § 103(a), 119 Stat. 35 (emphasis added).

Although BAPCPA added additional detail to the disposable income test, it did not depart from the fundamental statutory directive already in place that amounts claimed as expenses must be "amounts reasonably necessary to be expended" for, *inter alia*, the maintenance and support of the debtor and his or her family. 11 U.S.C. § 1325(b)(2)(A)(i), (ii). In other words, Congress sought only to refine how the disposable income standard would be applied, not adopt an entirely new standard. Both prior to and after 2005, section 1325(b) used and continues to use the phrase "reasonably necessary to be expended," and expenses that a debtor does not actually have simply cannot be "necessary to be expended," let alone "reasonably" so.

Further, in refining the disposable income test, the amounts listed in the IRS standards were intended to be guidelines. *See, e.g.,* 145 Cong. Rec. H2664 (daily ed. May 5, 1999) (statement of Rep. Menendez) (discussing the "allowable living expenses *based on* IRS guidelines") (emphasis added); 145 Cong. Rec. H2721 (daily

ed. May 5, 1999) (statement of Rep. Royce) (explaining that a precursor bill "impose[d] clear objective standards to give debtors, creditors, judges and trustees *guidance* in applying a means test used to determine who has the ability to repay some of their debt.") (emphasis added); 145 Cong. Rec. H2723 (daily ed. May 5, 1999) (statement of Rep. Gekas) ("the IRS standards provide the starting point and from there we have a better system at hand."). Hence the use of the term "applicable" in section 707(b)(2)(A)(ii)(I). Again, expenses that a debtor does not have cannot be "applicable" consistent with the relevant history.

B. The Legislative History Does Not Demonstrate that Ransom Is Entitled to a Deduction.

Amicus Curiae National Association of Consumer Bankruptcy Attorneys ("NACBA") contends that BAPCPA's legislative history demonstrates that Ransom is entitled to the deduction he seeks. NACBA cites to statements that refer to the IRS standards as "inflexible" and do not take account of "the debtor's actual expenses," S. Rep. No. 31, 109th Cong. 552 (2005), contending that these foreclose consideration of Ransom's actual circumstances. Analysis of these statements, however, indicates that they were directed at situations where a debtor has expenses *greater* than the amount permitted by the IRS standards, not *lower* than them. *See,*

e.g., 145 Cong. Rec. H2719 (daily ed. May 5, 1999) (statement of Rep. Conyers) ("where the IRS does allow specific expense items, the permitted amounts are often inhumanely inadequate."); 145 Cong. Rec. H2720 (daily ed. May 5, 1999) (statement of Rep. Gekas) (discussing possibility of debtor seeking Rolls Royce as reasonable and necessary).

As currently formulated, the relevant point of the disposable income test is to make sure that debtors with above-median income do not deduct from their monthly income expenses that are "unreasonably" large, with the IRS standards serving as a benchmark guideline for determining "reasonableness." Like any cap, the guidelines embody a certain degree of inflexibility. That "inflexibility," however, does not mean that the guidelines sanction expenses a debtor does not actually have.

NACBA contends that Respondent's position would unfairly penalize a debtor who did not incur debt to acquire a vehicle, and favor a debtor who did. Nat'l Ass'n. of Consumer Bankr. Attorneys Amicus Br., *Ransom v. MBNA America Bank, N.A.*, No. 09-907, 2010 WL 2662747, at *25 (U.S. June 28, 2010) [*NACBA Amicus*]. Congress, however, was aware of this consequence as it was raised repeatedly during the legislative process. *See, e.g.,* S. Rep. No. 31, 109th Cong. 557 (2005) (dissenting views); 145 Cong. Rec.

H2719 (daily ed. May 5, 1999) (statement of Rep. Conyers). Congress nevertheless enacted the legislation that it did. Further, Congress' reference to the Internal Revenue Manual suggests that Congress was not entirely unsolicitous of debtors who own their cars "free and clear." Under the Internal Revenue Manual, if the car is over six years old or has 75,000 or more miles on it, the debtor is entitled to an extra $200 per month operating expense. IRS, Internal Revenue Manual § 5.8.5.5.2 ("Treatment of Non-Business Transportation Expenses"), http://www.irs.gov/irm/part5/irm_05-008-005.html (last visited Aug. 13, 2010).

NACBA further cites to an early version of BAPCPA, which calculated "projected monthly net income" on the basis of expense allowances "as determined under the Internal Revenue Service financial analysis [handbook in the Internal Revenue Manual] for expenses in effect as of the date" the debtor files for bankruptcy. *NACBA Amicus* at *21. From this, NACBA infers a congressional intent that bankruptcy courts would "not be bound by the IRS commentary contained in the [Internal Revenue Manual explaining the standards]," but rather that courts should look only to the IRS standards tables for the relevant expense items a debtor may deduct from his or her monthly income. *Id.* (citing H.R. Rep. No. 540, 105th Cong. (1998) and H.R. 3150, 105th Cong. (1998)). This is perhaps most relevant be-

cause the Financial Analysis Handbook in the Internal Revenue Manual indicates that only actual expenses are to be included under the standards. Resp't Br. App. 16a, § 5.15.1.7 ¶ 4.B; IRS, *Internal Revenue Manual* § 5.15.1.7 ¶ 4.B (2005); IRS, *Internal Revenue Manual* § 5.15.1.7 ¶ 4.B (2010), http://www.irs.gov/irm/part5/irm _05-015-001.html (last visited Aug. 13, 2010). While it is true that Congress altered the language of the statute by dropping specific reference to the IRS's Financial Analysis Handbook in the Internal Revenue Manual, the legislative history is clear that Congress did not thereby intend to prohibit reliance on this resource in applying the standards.

Even though the explicit "financial analysis" language was dropped from the statutory text during the course of the legislative process, subsequent legislative reports issued in connection with various iterations of BAPCPA (including the final report that ultimately accompanied the statute itself) explicitly reference the Financial Analysis Handbook's relevance in determining the debtor's expense allowances:

> In addition to other specified expenses, the debtor's monthly expenses—exclusive of any payments for debts (unless otherwise permitted)—must be the applicable monthly amounts set forth in the Internal Revenue Service Financial Analysis

> Handbook as Necessary Expenses under the National and Local Standards categories and the debtor's actual monthly expenditures for items categorized as Other Necessary Expenses.

H.R. Rep. No. 3, 107th Cong. 9 (2001) (footnotes omitted); H.R. Rep. No. 40, 108th Cong. 129 (2003) (footnotes omitted); S. Rep. No. 31, 109th Cong. 13-14 (2005) (footnotes omitted). Indeed, Congress even went so far in the 2003 and 2005 reports to insert a footnote after "Internal Revenue Service Financial Analysis Handbook" clarifying the reference to mean the "INTERNAL REVENUE SERVICE, INTERNAL REVENUE MANUAL–Financial Analysis Handbook ch. 5.15.1." H.R. Rep. No. 40, 108th Cong. 129, n.52 (2003); S. Rep. No. 31, 109th Cong. 13, n.62 (2005). Given these references in the legislative history, the most plausible interpretation of Congress' deletion of a specific reference to IRS's Financial Analysis Handbook from the statutory text was that the sponsors thought it was unnecessary – as a matter of course, the IRS's Internal Revenue Manual would be relevant in interpreting the IRS's standards.

C. The Ninth Circuit's Analysis Is Correct.

Petitioner contends that the Ninth Circuit's opinion takes the position that the methods of the Internal Revenue Manual can be ap-

plied to determine the availability of the vehicle ownership expense deduction. Pet'r Br. 7. The Ninth Circuit, however, relied on its view of a plain reading of the text of the statute to arrive at its conclusion. Pet. App. 11 ("As did our BAP, we decide this issue *not on the IRS's manual*, but instead on the 'statutory language, plainly read,' which we believe does not allow a debtor to deduct an 'ownership cost' (as distinct from an 'operating cost') that the debtor does not have.") (citation omitted) (emphasis added). The Ninth Circuit's analysis is correct.

As noted, section 707(b)(2)(A)(ii)(I) provides, in pertinent part, that "[t]he debtor's monthly expenses shall be the debtor's *applicable* monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides…." 11 U.S.C. § 707(b)(2)(A)(ii)(I) (emphasis added). As the Ninth Circuit discussed, the adjective "applicable" modifies the phrase "monthly expense amounts." Pet. App. 12. The phrase "specified under the National Standards and Local Standards" modifies the phrase "monthly expense amounts" as well. The word "applicable" and the phrase "specified under the National Standards and Local Standards" cannot mean the same thing, because that would write the word "appli-

cable" out of the statute. Courts should disfavor interpretations of statutes that render statutory language superfluous. *Kawaauhau v. Geiger*, 523 U.S. 57, 62 (1998).

The word "applicable" is not defined in the statute; accordingly, it is appropriate to turn to the term's ordinary, common meaning. *Lanning*, 130 S. Ct. at 2471. As the Ninth Circuit noted, "applicable" means "capable of or suitable for being applied." Pet. App. 12 (quoting MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 60 (11th ed. 2005)), or "appropriate," AMERICAN HERITAGE DICTIONARY 63 (1976); *see also* WEBSTER'S NINTH COLLEGIATE DICTIONARY 97 (1988) (listing "relevant" as a synonym). In context, the word "applicable" most plausibly means those monthly expense amounts that are both specified under the National Standards and Local Standards and that are appropriate or relevant, and expenses that a debtor does not have do not qualify.

In contrast, Ransom's strained analysis reaches beyond the clause at issue ("the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards") to the next clause ("and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses…for the area in which the debtor resides…."), which is separate and distinct, as signaled by the comma between them. Ransom contrasts the word "appli-

cable" appearing in the first clause with the word "actual" appearing in the second, arguing that the use of the two different words is significant and requires an interpretation of "applicable" stripped of any reference to Ransom's actual circumstances. There is no reason, however, to adopt such an unnatural gloss on the term "applicable." Rather than conjure meaning from the distinct use of the two words "applicable" and "actual" to achieve an unnatural reading of the word "applicable," it is preferable to adopt the more natural reading of the term. That is all the more so where, as here, the natural reading is supported fully by the history and purpose of the governing legislative scheme, whereas Ransom's interpretation is not.

D. A Debtor Who Needs to Purchase a Car on Credit During the Plan Repayment Period May Modify the Plan to Account for the Expense.

Finally, as Respondent notes, a debtor who owns a car free and clear at the time of confirmation of his or her plan, but later needs to purchase a car on credit while making plan payments, is not without a remedy: he or she may seek to modify the plan to account for the new expense and reduce the amount to be paid to unsecured creditors accordingly. 11 U.S.C. § 1329(a). In this case, that need is not even in prospect. At the time of filing, Ransom's car was merely two years old and he cannot properly

claim a blanket monthly allowance for an ownership expense he does not have.

CONCLUSION

For the foregoing reasons and the reasons contained in Respondent's brief, the decision of the court below should be affirmed.

Respectfully submitted,

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