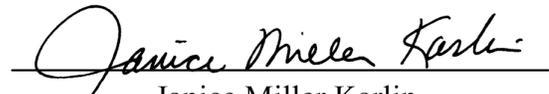


SO ORDERED.

SIGNED this 19th day of March, 2012.



  
Janice Miller Karlin  
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS

In re:

Gifford	)	Case No.	11-40589-7
Rolin	)		11-40950-7
Bonnette	)		11-40985-13
Westby	)		11-40986-7
Ross	)		11-40987-7
Jones Sr.	)		11-40996-7
Cook	)		11-41054-7
Soza	)		11-41012-7
Sequeira	)		11-41140-7
Asbury	)		11-41141-7
Schumock	)		11-41142-7
Baker	)		11-41394-7
Stagemeyer	)		11-41426-7
Chambers	)		11-41430-7
Freel	)		11-41446-7
Railsback	)		11-41546-7
Swagerty	)		11-41562-7
Moore	)		11-41606-7
Hilderbrand	)		11-41670-7
VanBecelaere	)		11-41672-7
Diehl	)		11-41705-7
Shank	)		11-41733-7
Schremmer	)		11-41734-7
Johnson Jr.	)		11-41749-7
Rodriguez	)		11-41862-7
Barnes	)		11-41902-7

<b>Roberts</b>	)	<b>11-41943-7</b>
<b>Wolford</b>	)	<b>11-42000-7</b>
<b>Wright Sr.</b>	)	<b>11-42052-7</b>
<b>Dover</b>	)	<b>11-42085-7</b>
<b>Downs</b>	)	<b>11-42086-7</b>
<b>Nichols III</b>	)	<b>12-40004-7</b>
	)	
<b>Debtors.</b>	)	

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**First Supplement to Intervening Case Management Order Governing Challenges to the Constitutionality of the Earned Income Credit Exemption**

This matter is before the Court on its own motion. In the above cases, the Trustee has filed an Objection to Exemption, raising the constitutionality of the Earned Income Tax Credit (“EIC”) exemption passed as Senate Bill No. 12 by the Kansas Legislature. The Court previously entered an Intervening Case Management Order (“Case Management Order”) to govern all proceedings in the above-names cases, and in future like cases, and now modifies and supplements that Case Management Order as follows. The purpose of this First Supplement to the Case Management Order is to both remind counsel of some deadlines that have expired, without full compliance in some cases, and to enlarge the information the Court needs in order to determine that the matter is, in fact, ripe for adjudication.<sup>1</sup>

**A. Notices of Constitutional Challenge and Intervention by the State of Kansas.**

Under the Case Management Order, within 14 days of service of the Trustee’s Notice of Constitutional Challenge, the Attorney General was required to file either an Agreed Order on intervention or a motion to intervene (in cases where intervention was

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<sup>1</sup> These matters are presently scheduled for a hearing on April 11, 2012 at 9:00 a.m.

opposed).<sup>2</sup> In the following three cases, this requirement has *not* been met:

Soza, Case No. 11-41012-7  
Dover, Case No. 11-42085-7  
Nichols III, Case No. 12-40004-7

The Court orders the Attorney General to remedy this failure **within 7 business days** of the entry of this Order.

**B. Debtors' 2011 Tax Returns and Refunds.**

The Case Management Order required Debtors to file their 2011 Federal and State tax returns by March 1, 2012, and to serve a copy of those returns on the Trustee and Attorney General by March 15, 2012.<sup>3</sup> By March 16, 2012, the Debtors were required to either: (1) file a Notice with the Court informing it that the Debtor is entitled to a refund stemming from the EIC; or (2) amend Schedule C to remove the claimed EIC exemption. The Case Management Order required the Trustee to withdraw his or her objection to exemption within 14 days of the amendment if Debtors file such an amended Schedule C.

The Court has received the notice Debtors were required to file by March 16 in only 6 cases.<sup>4</sup> **Debtors who have not filed either a Notice or an Amended**

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<sup>2</sup> The Case Management Order gives the parties 45 days from the entry of an Order on the Attorney General's intervention to file a brief informing the Court that the facts of their case require briefing separate from the briefing filed in *In re Gifford*, Case No. 11-40589-7. As a result, the Attorney General's intervention is an important trigger date for other time requirements in these cases.

<sup>3</sup> The parties should refer to the Case Management Order for instructions on the handling of any refund received.

<sup>4</sup> The Court has received a Notice in the following four cases: *Westby*, Case No. 11-40986-7, *Asbury*, Case No. 11-41141-7; *Hilderbrand*, Case No. 11-41670-7; and *Wolford*, Case No. 11-42000-7. The Court has received an Amended Schedule C in the following two cases: *Rolin*, Case No. 11-40950-7; and *VanBecelaere*, Case No. 11-41672-7.

**Schedule C must remedy this failure within 7 business days.** The Court requires additional information be provided in that Notice, as detailed below.

Trustees are reminded to withdraw their objections as moot within 14 days of the filing of an amended Schedule C. **In any case where the Debtor has filed an amended Schedule C totally removing the claimed exemption, and the Trustee has not yet withdrawn its objection to exemption as moot, the Trustee shall do so within 7 business days of the date of this Order, or within the originally allowed 14 days, whichever is earlier.**<sup>5</sup>

**C. Filing of Supplemental Information, Briefing in *In re Gifford*, Case No. 11-40589-7, and Placement Under Advisement of Other EIC Objections.**

In each case where a Debtor has already filed a Notice indicating that he or she is entitled to a refund stemming from the EIC, the Debtor shall file a supplemental Notice with the Court indicating:

1. the total federal refund received and the total federal EIC;
2. the total state refund received and the total state EIC;
3. the date the federal and state refunds were received;
4. the location of those refunds; and
5. whether any additional briefing (for which a deadline of April 2, 2012 has been set),<sup>6</sup> is actually desired, or whether the Debtor wishes to waive the filing of such brief.

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<sup>5</sup> In *Rolin*, Case No. 11-40950-7, the amended Schedule C was filed March 1, 2012, and the Trustee was, therefore, required by the Case Management Order to withdraw her objection to exemption by March 15, 2012.

<sup>6</sup> Under the Case Management Order, the parties in *In re Gifford*, Case No. 11-40589, were instructed to inform the Court of the need for supplemental briefs after receiving any refunds by the filing of a motion due by April 1, 2012. That date is a Sunday, and the effective date is April 2, 2012. The order further required that the brief to be filed, if allowed, be attached as an exhibit to that Motion.

**This supplemental Notice shall be filed within 5 business days of the entry of this Order.**

In the above-named cases where the Debtor files its original Notice to the Court that the Debtor is entitled to a refund stemming from the EIC subsequent to the entry of this Order, the Debtor shall include the information requested in the preceding paragraph.

The Court also needs to know if any Trustee or the Office of the Attorney General for the State of Kansas intends to file the motion for supplemental briefing, the deadline of which is April 2. Again, the purpose of the request that these parties in interest notify the Court of any intent to file, or to waive, the filing of such a motion, is so that if no such supplemental briefing is needed, the Court will not wait for that deadline to expire before placing one or all of these cases under advisement.

The above-named cases remain set for hearing on April 11, 2012, at 9:00 a.m., unless the Court orders otherwise. All dates from the Case Management Order not modified by this Order remain in place.

**D. Miscellaneous Orders.**

*1. Compliance with this Order*

Failure to comply with this Order may result in the exclusion of evidence, dismissal of a case, striking of pleadings, assessments of costs and attorney fees, or other appropriate action or sanction under the Federal Rules of Civil and Bankruptcy Procedure and/or 11 U.S.C. § 105(a).

2. *Modification of this Order*

This Order shall govern all further proceedings in the EIC exemption constitutional challenge cases filed in this Court, unless and except as modified by the Court *sua sponte* or for good cause shown.

3. *Service of this Order*

The Clerk shall forthwith docket this Order in each of the individual debtors' bankruptcy cases named above, which will result in service through the Court's electronic filing program to all counsel of record.

4. *Court Website*

The Clerk shall post this Order to the Court's website, [www.ksb.uscourts.gov](http://www.ksb.uscourts.gov), under the link "Judge Karlin Earned Income Credit Exemption Cases." Further, a copy of this Order shall be transmitted to the Bankruptcy List-serve and be made available in paper form at the counter of the Clerk's Office in Topeka upon request.

**IT IS SO ORDERED.**

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