NO. 18-532

IN THE

Supreme Court of the United States

SIXTY-01 ASSOCIATION OF APARTMENT OWNERS,

Petitioner,

v.

PENNY D. GOUDELOCK,

Respondent.

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

AMICUS CURIAE BRIEF OF COMMUNITY ASSOCIATIONS INSTITUTE IN SUPPORT OF PETITIONER

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BATEMAN & SLADE, INC. BOSTON, MASSACHUSETTS

QUESTION PRESENTED

Whether post-petition community association assessments constitute dischargeable debts under Chapter 13 of the U.S. Bankruptcy Code (11 U.S.C. § 1328(a)).

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IDENTITY AND INTEREST OF *AMICUS CURIAE*

Pursuant to Rule 37 of the Rules of the Supreme Court of the United States, Community Associations Institute (CAI), respectfully submits this brief as *amicus curiae* in support of Petitioner Sixty-01 Association of Apartment Owners (Petitioner).[1]

CAI is an international organization dedicated to providing information, education, resources, and advocacy for community association leaders, members, and professionals with the intent of promoting successful communities through effective, responsible governance and management. CAI's more than 40,000 members include homeowners, board members, association managers, community management firms, and other professionals who provide services to community associations. CAI is the largest organization of its kind, serving more than 70 million homeowners who live in more than 346,000 community associations. This number constitutes over twenty-one (21%) percent of the population of the United States.

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[1] Pursuant to this Court's Rule 37.2(a), all parties have consented to the filing of this brief. Letters evidencing such consent are filed herewith.

Pursuant to Rule 37.6, CAI affirms that no counsel for any party authored this brief, in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than CAI, its members, or its counsel made a monetary contribution to its preparation or submission.

The case under consideration by the Court is one of substantial import to the body of law regarding the ability of community associations to collect assessments against Chapter 13 debtors who maintain a title interest in property that benefits from the maintenance and governance of community property. In keeping with CAI's long-standing interest in promoting the understanding of the operation of community associations, and the impact of the law upon the industry, CAI submits this *amicus curiae* brief for the Court's consideration.

SIGNIFICANCE TO COMMUNITY ASSOCIATION INDUSTRY

Community associations (such as condominiums, cooperatives, and homeowners' associations) are a form of real estate ownership in which there exist dual interests: individual owners are entitled to exclusive ownership and/or possession of their unit and cede management and control of the community property to an association. Community associations are created and governed by recorded instruments, such as declarations, which set forth the "rules of the game" with which homeowners are required to adhere. In exchange for the maintenance of the community property, declarations typically provide that individual owners are responsible for the payment of community association assessments. Such assessments, which are shared by the homeowners, cover the costs of the maintenance and management of the association's community property, which may include, by way of example, insurance, utilities, landscaping, trash collection,

cleaning services, security, and contribution to a reserve fund. The collection of assessments is fundamental to the community association regime and the health and well-being of its occupants and the public at large. Assessments ensure sufficient funds are available to allow the association to maintain the property in a safe and code-compliant condition, to provide basic and essential services, and to insure the property for the benefit of owners, occupants, and invitees.

The rationale employed by the U.S. Court of Appeals, Ninth Circuit, in *Goudelock v. Sixty-01 Association of Apartment Owners*, 895 F.3d 633 (2018) (*Goudelock*), has far-reaching implications for community associations throughout the United States as it threatens the lifeblood of community associations – the continued ability to levy and collect assessments and dues for the maintenance and preservation of the community property. The Ninth Circuit's decision in *Goudelock*, which holds that post-petition assessments and dues may be discharged as debts in a Chapter 13 bankruptcy, substantially frustrates this regime, as it forever discharges a unit owner's obligation to pay assessments that arise, often on a monthly or quarterly basis, out of the individual's ongoing property interest. In accord with the Ninth Circuit's decision in *Goudelock*, an individual could retain ownership of its unit in a community association but be relieved in perpetuity of any obligation to contribute its share of community association assessments for services from which its unit benefits.

As discussed in greater detail below, the *Goudelock* decision is the most recent of many conflicting decisions issued by the federal courts throughout the country concerning whether community association assessments should be treated as pre-petition debts, subject to discharge, or post-petition debts, which remain the obligation of the debtor after the bankruptcy action. The law is unsettled, with those on both sides of the issue contending that the plain and unambiguous language of the U.S. Bankruptcy Code supports their position, and the courts employing differing analysis to often reach different conclusions. The lack of clarity as to whether collection of community association assessments may be pursued by community associations subsequent to the filing of a bankruptcy petition pursuant to Chapter 13 is detrimental to all players in the community association industry, including homeowners who retain title ownership of their unit after filing for bankruptcy pursuant to 11 U.S.C. § 1328(a), community associations that are comprised of volunteer homeowners, property managers, legal counsel advising whether such assessments are recoverable, and lenders. A decision from this Court will resolve a split amongst the federal circuits and provide essential guidance to those operating in the industry.

The lack of clarity as to whether post-petition community association assessments are discharged in a Chapter 13 bankruptcy creates vulnerability for practitioners in the community association industry, as collection practices to recover unpaid assessments are subject to the Fair Debt Collection Practices Act,

15 U.S.C. § 1692, *et seq.* (FDCPA). The acute need for a determination as to whether such assessments are discharged is demonstrated by the claims advanced by a debtor in *Heffner v. Elmore, Throop & Young, P.C.*, No. PJM 11-3369, 2012 WL 2138097 (D. Md. 2012) (*Heffner*), who alleged that a homeowners' association and its law firm had violated the FDCPA and the state consumer protection act for attempting to collect community association assessments made after the debtor had filed his petition for bankruptcy pursuant to 11 U.S.C. § 1328(a). *Heffner*, 2012 WL 2138097, at *2; *cf. In re Ramirez*, 547 B.R. 449 (Bankr. S.D. Fla. 2016) (Chapter 13 debtors brought adversary proceeding to recover sanctions for condominium association's alleged violation of injunction in attempting to collect post-petition condominium assessments); *In re Montalvo*, 546 B.R. 880 (Bankr. M.D. Fla. 2016) (Chapter 13 debtor moved for award of sanctions against condominium association attempting to collect post-petition assessments).

While the *Heffner* Court concluded that, pursuant to its application of Fourth Circuit precedent, the association and its counsel could lawfully pursue recovery of the post-petition debts and, thus, had not violated the FDCPA, the decision has subsequently been called into doubt by *In re Wiley*, 581 B.R. 441 (Bankr. D. Md. 2012).[2] The present state of the law is such that community

[2] The fact that, even within the same district, courts are analyzing relevant law and reaching different conclusions demonstrates the need for the U.S. Supreme Court to finally resolve whether post-petition assessments are dischargeable under § 1328(a).

associations, and the practitioners advising them, are forced to balance the association's ongoing need to maintain and operate the community property against the possibility that they may themselves be subject to suit for violations under the FDCPA (or, alternatively and/or in addition thereto, subject to an action for sanctions) in the event a reviewing court determines that such assessments were discharged pursuant to § 1328(a).[3] A decision from this Court will provide essential direction to those in the community association industry as to whether they may lawfully pursue collection of post-petition community association assessments.[4]

In addition, by discharging post-petition community association assessments in perpetuity, the *Goudelock* Court (and other federal courts reaching the same conclusion) have treated community associations distinct from other post-petition service providers, such as utility companies. For example, it is well-settled that, under the

[3] While there are conflicting decisions within some districts, certain other districts have not yet considered the issue. Thus, there is no guidance as to how such districts will treat post-petition community association assessments. In light of the conflicting law throughout the federal courts, a community association and its counsel must proceed at their own risk to collect assessments to which they may be lawfully entitled.

[4] Given the lack of clarity in the law, individual homeowners are presently burdened with instituting an action for alleged violations of FDCPA when they believe that post-petition debts have been improperly pursued. Thus, even if the Court were to conclude that such assessments were not subject to collection following a discharge pursuant to § 1328(a), such decision would provide necessary guidance to those in the industry as to the conduct that is acceptable post-petition.

Bankruptcy Code, "[p]ost-petition creditors providing a Chapter 13 debtor with goods or services are permitted to invoice debts as they come due." *Jones v. Bos. Gas Co. d/b/a Keyspan Energy Delivery New England (In re Jones)*, 369 B.R. 745, (B.A.P. 1st Cir. 2007) (holding utility did not run afoul of automatic stay provisions in Chapter 13 case by terminating service based on debtor's failure to pay for post-petition service). Despite the fact that post-petition community association assessments may themselves include costs incurred for provision of utilities (associations may pay utilities "up front" and pass these costs onto individual homeowners through monthly assessments) and other costs attendant to the ongoing maintenance of the community property, pursuant to *Goudelock*, a community association would not be entitled to assess such fees against a unit, the owner of which has obtained a discharge under § 1328(a). The distinction between community associations, on the one hand, and other similarly situated post-petition service providers, on the other, is simply not justified under the Bankruptcy Code.

Further, the *Goudelock* decision, and the reasoning employed therein, is contrary to settled principles of equity and has an extensive impact upon the community association regime. In many ways, the community association form of ownership is premised upon equitable considerations: all homeowners give up certain rights in the community property and agree to undertake certain obligations with respect to same (including, but not limited to, payment of community association assessments and

conduct in accordance with rules and regulations).[5] The *Goudelock* decision turns this regime of collective contribution on its head, as it discharges certain homeowners from having to contribute to the costs incurred for preservation of the community property in perpetuity (notwithstanding the fact that their property interest still benefits from same) and saddles the increased contributions upon all other homeowners in the association. Such system could threaten the vitality of the association as numerous homeowners may obtain discharges pursuant to § 1328(a), burdening other homeowners in the community with increased community association assessments that are disproportionate to unit value, which may, in turn, devalue the non-debtors' property values. Likewise, in a small community association (such as a two-unit condominium), the discharge of only one debtor's obligation to pay post-petition community association assessments may financially cripple the other owner(s) in the community. Bankruptcy law is not intended to grant debtors a "free pass," but the reasoning employed by the Ninth Circuit in *Goudelock* does just that, to the detriment of all other homeowners in a community association. *See Clark v. Rameker*, 573 U.S. 122, 134 S. Ct. 2242, 2248 (2014).

As the foregoing demonstrates, the treatment of post-petition community association assessments in a Chapter 13 case is of critical concern to

[5] The *Goudelock* decision also raises the question of whether a discharge pursuant to § 1328(a) contemplates, not only traditional community association assessments and dues, but also costs and attorneys' fees incurred in the enforcement of the community association's governing documents.

community associations throughout the country and the millions of homeowners who reside therein. The community association industry represents a substantial segment of society, with more than one-fifth (1/5) of Americans residing in such communities. The *Goudelock* decision has substantial impacts upon the well-being of such communities, which depend upon assessments and dues to function. A decision from this Court will resolve the lack of clarity in the decisional law and provide essential direction as to how those impacted may treat post-petition assessments after a Chapter 13 bankruptcy.

SUMMARY OF ARGUMENT

The Ninth Circuit's decision in *Goudelock* is the most recent in a multitude of cases in which the courts have been required to determine whether post-petition community association assessments are dischargeable debts in bankruptcy actions brought pursuant to § 1328(a). While the Ninth Circuit is the first U.S. Court of Appeals to issue a decision specific to Chapter 13 bankruptcies, there is a well-recognized split in authority amongst the federal district and bankruptcy courts. The Court should grant certiorari to finally resolve whether community association fees assessed subsequent to the filing of an action pursuant to § 1328(a) are subject to discharge. In answering such question, the Court should hold that post-petition community association assessments are not dischargeable pursuant to § 1328(a) as they do not constitute "claims" within the meaning of the U.S. Bankruptcy

Code. Moreover, the obligation to pay community association assessments is often identified to be a covenant running with the land, attendant to a debtor's continued possession of title in its unit. So long as title remains in the debtor, he or she has an obligation to pay post-petition assessments. A determination to such effect is in accord with well-settled principles of bankruptcy law, which is not intended to grant the debtor a "free pass" in perpetuity.

ARGUMENT

I. THE COURT SHOULD GRANT THE WRIT OF CERTIORARI AS THERE IS A SPLIT AMONGST FEDERAL COURTS AS TO WHETHER COMMUNITY ASSOCIATION ASSESSMENTS SHOULD BE TREATED AS POST-PETITION DEBTS.

This Court should grant the petition to resolve the long-standing and differing treatment of post-petition community association assessments in bankruptcy actions. Although, as recognized by the *Goudelock* Court, no U.S. Circuit Court of Appeals has previously addressed the ability to obtain a discharge of community association assessments that become due subsequent to the filing of a petition pursuant to Chapter 13 of the U.S. Bankruptcy Code, numerous federal courts have considered the ability to discharge post-petition community association assessments in bankruptcy. In so doing, the courts have employed conflicting analysis and reached incompatible conclusions. *Montalvo*, 546 B.R. at 885 (noting that courts "are split on whether

post-petition assessments are dischargeable in bankruptcy"); *In re Coonfield*, 517 B.R. 239, 242 (Bankr. E.D. Wash. 2014) ("In cases such as this one, where [C]hapter 13 debtors have surrendered all interests in a condominium but still hold bare legal title, courts are split on whether ongoing assessments are dischargeable under 11 U.S.C. § 1328(a)."). Indeed, the state of the law is unsettled to such an extent that one commentator has opined that "courts have exploited the statute's ambiguities opportunistically, forming opinions that seem on their own to be reasonable interpretations, while in fact ***there is no single principle guiding the various opinions***." Jeffrey S. Adams, *Rewriting 11 U.S.C. § 523(a)(16): The Problems of Delayed Foreclosure and Judicial Activism*, 30 Emory Bankr. Dev. J. 347, 364 (2014) (emphasis added). While courts have employed different approaches, the decisions generally result in two competing conclusions, with some courts treating community association assessments as dischargeable as pre-petition claims, and others treating such assessments as post-petition claims and, thus, not subject to discharge.

Akin to *Goudelock*, the first set of cases views the obligation to pay community association assessments as contractual in nature and thus extinguished in bankruptcy. Pursuant to this view, community association assessments that are assessed post-petition are dischargeable. *See, e.g.*, *In re Rosteck*, 899 F.2d 694, 697 (7th Cir. 1990) (Chapter 7 action); *In re Coonfield*, 517 B.R. at 243-45 (holding that condominium assessments, whether pre- or post-petition, were in nature of "pre-petition debt" and subject to discharge pursuant to Chapter

13); *In re Wiley*, 581 B.R. 441 (Bankr. D. Md. 2012) (debtor's obligation to pay post-petition condominium assessments would not continue following entry of discharge order in Chapter 13 action); *In re Colon*, 465 B.R. 657 (Bankr. D. Utah 2011) (holding that post-petition assessments were dischargeable in Chapter 13 action); *In re Wasp*, 137 B.R. 71, 73 (Bankr. M.D. Fla. 1992); *Hodge v. Burke Townhouse Homeowners Ass'n (In re Hodge)*, No. 90-10275-AT, 1992 WL 613691 (Bankr. E.D. Va. 1992); *In re Miller*, 125 B.R. 441, 443 (Bankr. W.D. Pa. 1991); *Cohen v. North Park Parkside Cmty. Ass'n (In re Cohen)*, 122 B.R. 755, 758 (Bankr. S.D. Cal. 1991); *In re Turner*, 101 B.R. 751, 754-55 (Bankr. D. Utah 1989) (superseded by statute as stated in *In re Colon*); *In re Elias*, 98 B.R. 332, 337 (N.D. Ill. 1989); *In re Montoya*, 95 B.R. 511, 514 (Bankr. S.D. Ohio 1988); *Behrens v. Woodhaven Ass'n (In re Behrens)*, 87 B.R. 971, 975 (Bankr. N.D. Ill. 1988).

In the second set of cases, federal courts throughout the country have alternatively concluded that a debtor has an ongoing obligation to pay post-petition community association assessments as they become due. These courts view the obligation as arising when the dues are assessed, rather than upon the owner's acceptance of the deed to his unit, and often recognize that the obligation to pay such assessments runs with the land as incident to continued ownership of the unit and the continued services rendered by the community association. *See, e.g.*, *River Place E. Hous. Corp. v. Rosenfeld (In re Rosenfeld)*, 23 F.3d 833 (4th Cir. 1994) (Chapter 7 action); *Batali v. Mira Owners Ass'n (In re Batali)*, BAP No. WW-14-1557-KiJu, 2015 WL 7758330

(B.A.P. 9th Cir. 2015) (abrogated by *Goudelock*, but affirming decision of bankruptcy court holding that post-petition condominium association dues were not discharged under § 1328(a)); *Foster v. Double R Ranch Ass'n (In re Foster)*, 435 B.R. 650 (B.A.P. 9th Cir. 2010) (abrogated by *Goudelock*, but holding that under state law, requirement to pay homeowners' association dues was covenant running with the land); *In re Montalvo*, 546 B.R. at 887 (holding that Chapter 13 debtor remains liable for post-petition assessments); *Otter Creek Homeowners' Ass'n v. Davenport (In re Davenport)*, 534 B.R. 1 (Bankr. E.D. Ark. 2015) (holding that post-petition homeowners' association fees and assessments were not dischargeable in Chapter 13 action); *Heffner*, 2012 WL 2138097, at *6 (determining that assessments and fees that accrued pursuant to homeowners' declaration subsequent to bankruptcy filing under Chapter 13 were not discharged in bankruptcy); *Maple Forest Condo. Ass'n a/k/a Red Maple Lane Ass'n v. Spencer (In re Spencer)*, 457 B.R. 601 (E.D. Mich. 2011) (holding that, in Chapter 13 action, debtor's obligation for condominium assessments on unit that he continued to own post-petition, even after announcing intent to surrender unit, was obligation that ran with the land and could not be discharged as personal pre-petition obligation of debtor); *Liberty Cmty. Mgmt., Inc. v. Hall (In re Hall)*, 454 B.R. 230 (2011) (holding that, in Chapter 13 action, debtor's post-petition condominium association assessments were not "claims" within meaning of the Bankruptcy Code, but rather arose after commencement of action); *In re Raymond*, 129 B.R. 354, 364 (Bankr. S.D.N.Y. 1991); *Hill v. Winward Hills Condo. Ass'n (In re Hill)*, 100 B.R.

907, 909 (Bankr. N.D. Ohio 1989); *In re Harvey*, 88 B.R. 860, 862 (Bankr. N.D. Ill. 1988); *Rink v. Timbers Homeowners Ass'n I, Inc. (In re Rink)*, 87 B.R. 653, 654 (Bankr. D. Colo. 1987); *Horton v. Beaumont Place Homeowners Ass'n, Inc. (In re Horton)*, 87 B.R. 650, 652 (Bankr. D. Colo. 1987).[6]

A decision from this Court will finally resolve whether, under the existing language of the U.S. Bankruptcy Code, post-petition community association assessments are discharged in a bankruptcy action pursuant to § 1328(a).

II. THIS COURT SHOULD RULE THAT POST-PETITION COMMUNITY ASSOCIATION ASSESSMENTS ARE NOT DISCHARGE-ABLE IN BANKRUPTCY ACTIONS PURSUANT TO § 1328(a).

Granting the Petitioner's writ of certiorari will enable this Court to resolve the split amongst the federal courts concerning the treatment of post-

[6] It would be remiss to fail to note that, in 1994 (and as amended in 2005), Congress amended the U.S. Bankruptcy Code to enact 11 U.S.C. § 523(a)(16), which excepts from discharge in certain bankruptcy cases any "fee or assessment" that becomes due after an order of relief, so long as the debtor has a "legal, equitable, or possessory ownership interest" in the property. However, § 523(a)(16) is inapplicable to Chapter 13 discharges. *See* § 523(a)(16); *In Montalvo*, 546 B.R. at 886, and cases cited therein. Thus, the disparate treatment of post-petition community association assessments in Chapter 13 actions remains relevant. *In Montalvo*, 546 B.R. at 886. Indeed, *In re Rosenfeld* and its progeny continue to be cited as good law subsequent to Congress's adoption of § 523(a)(16). *Heffner*, 2012 WL 2138097, at *5, and cases cited therein.

petition community association assessments and allow the Court to fully consider the Ninth Circuit's decision in *Goudelock*. The *Goudelock* Court improperly categorized the post-petition community association assessments that are the subject of this action as a "claim" subject to discharge under § 1328(a) of the Bankruptcy Code.

Pursuant to § 1328(a) of the Bankruptcy Code, debts that arise after the filing of a petition are generally not dischargeable. § 1328(a). "Whether a claim arises before or after the commencement of a debtor's bankruptcy case is a question of federal bankruptcy law." *Georgetown Steel Co. v. Capital City Ins. Co. (In re Georgetown Steel Co., LLC)*, 318 B.R. 313, 327 (Bankr. D.S.C. 2004), citing *Butler v. NationsBank, N.A.*, 58 F.3d 1022, 1029 (4th Cir. 1995); *Grady v. A.H. Robins Co.*, 839 F.2d 198, 203 (4th Cir. 1988). The ultimate inquiry before the Court, then, is whether assessments made pursuant to a community association declaration after the filing of a bankruptcy petition pursuant to § 1328(a) should be considered "pre-petition" (subject to discharge) or "post-petition" (immune from discharge).

As an initial matter, post-petition assessments do not constitute "claims" within the meaning of the Bankruptcy Code. Pursuant to 11 U.S.C. § 101(5), a "claim" is the "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured." § 101(5). Such "right to payment" means "nothing more nor less than an

enforceable obligation." *Johnson v. Home State Bank*, 501 U.S. 78, 83 (1991), citing *Pa. Dep't of Pub. Welfare v. Davenport*, 495 U.S. 552, 559 (1990). Post-petition community association assessments cannot constitute claims within the meaning of the Bankruptcy Code because there is no "enforceable obligation" with regard to subsequent community association assessments at the time that the petitioner files his or her action. As described by the Court in *In re Hall*:

> [A]t filing, the Debtor is not obligated to pay any post-petition assessments, and [the association] would not have the right to enforce payment. For instance, [the association] would not be able to assess a lien or sue for the unpaid post-petition assessments because the assessments do not even exist. The critical factor is that nothing in [a d]eclaration obligates the Debtor to pay assessments before they are due or for a fixed period of time. If the Debtor sells her condominium, the obligation would pass on to the next owner, as [a d]eclaration provides.

In re Hall, 454 B.R. at 234. Stated differently, community association assessments constitute household debt attendant to an individual's ongoing ownership of a unit, rather than consumer debt. The assessments are determined on an annual basis pursuant to a budget and often assessed monthly. Title ownership of a unit is a pre-qualification to being liable for the monthly community association

assessments and, therefore, cannot arise pre-petition because the obligation to pay does not arise until a monthly assessment is rendered.[7]

Moreover, in jurisdictions in which post-petition assessments arise pursuant to a declaration that is deemed to be a covenant running with the land, there is further support for the conclusion that such assessments are not dischargeable.[8] In such jurisdictions, such as Washington in the instant *Goudelock* matter, "the obligation to pay assessments is a function of owning the land with which the covenant runs." *In re Rosenfeld*, 23 F.3d at 837. The liability to make payments is "not 'rooted in the pre-bankruptcy past', but rather [is] rooted in the estate in property itself." *Beeter v. Tri-City Prop. Mgmt. Servs., Inc. (In re Beeter)*, 173 B.R. 108, 122 (Bankr. W.D. Tex. 1994). As long as a unit owner maintains his or her "legal, equitable or possessory interest in the property," the homeowner has a

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[7] Such assessments are distinguishable from a traditional consumer debt (such as a car loan payable over time in installments), in which there is a defined amount due and owing.

[8] CAI acknowledges that whether a declaration "runs with the land" is a matter of state law, to be determined by analysis of applicable statutes governing community associations in the underlying jurisdiction. *See Butner v. United States*, 440 U.S. 48, 54 n.9, 55 (1979) ("Property interests are created and defined by state law. Unless some federal interest requires a different result, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding.").

continuing obligation to pay community association assessments.[9]

Post-petition community association assessments of the type at issue in the *Goudelock* matter arise after the filing of the bankruptcy petition – the homeowner had no obligation to pay the fee prior to the assessment of same, and the Petitioner had no right to collect prior thereto. Accordingly, this Court should rule that post-petition community association assessments arise after the filing of a bankruptcy petition pursuant to § 1328(a) and are not dischargeable under a Chapter 13 plan.

[9] In *Goudelock*, the unit owner had agreed to surrender her condominium unit but retained title ownership thereof for a period. The *Goudelock* decision relative to the ability to discharge post-petition assessments applies equally to those surrendering their unit and those retaining ownership of their unit in perpetuity.

CONCLUSION

For the reasons set forth herein, the petition for a writ of certiorari should be granted.

Respectfully submitted on behalf of,

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