

From the Top: Recent U.S. Supreme Court Ruling

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The U.S. Supreme Court's October 2010 Term (which extends from October 2010 to October 2011, although the Court hears argument only until June or July) officially got underway on October 4, three days after Elena Kagan was formally sworn in as the Court's 112th Justice and one of three female Justices sitting on the Court.

Only two bankruptcy-related cases were included on the Court's docket for this Term. On January 11, 2011, the Court ruled in *Ransom v. FIA Card Services, N.A.*, 131 S. Ct. 716 (2011), that a chapter 13 debtor, in calculating his or her "projected disposable income" during the chapter 13 plan period, cannot deduct automobile "ownership costs" specified in charts produced by the Internal Revenue Service (the "IRS"), even though the debtor's vehicle is completely paid for. The circuits were split 3-1 on this issue, which arises from ambiguities introduced into the relevant provisions of the Bankruptcy Code in 2005.

Writing for an 8-1 majority, Justice Kagan (in her first opinion) explained that, on the basis of the "text, context, and purpose" of the 2005 amendments, the IRS expense amount for transportation "ownership costs" is not "applicable" to a debtor who will not incur any such costs during his bankruptcy plan. The "ownership costs" category covers only loan and lease payments, Kagan noted, and because the debtor in this case owned his car free from any debt or obligation,

she concluded that the debtor may not claim the allowance. Justice Antonin Scalia dissented from the majority opinion.

The Supreme Court's ruling in *Ransom* has already been applied retroactively to bar the vehicle-ownership deduction on vehicles owned free and clear in unconfirmed plans filed prior to the ruling. See *In re Willems*, 442 B.R. 918 (Bankr. E.D. 2011). In *Willems*, the bankruptcy court rejected the debtors' argument that the ruling should not be applied retroactively, explaining that the "general rule" is that when the Supreme Court applies a rule of federal law to the parties before it, that rule is the controlling interpretation of federal law and must be given retroactive effect in all cases "still open on direct review."

The other bankruptcy case on the Court's docket this Term is *Stern v. Marshall (In re Marshall)*, 600 F.3d 1037 (9th Cir.), cert. granted, 2010 WL 3053869 (Sept. 28, 2010). In that case, the Court will consider, among other things, whether Congress's intent in enacting 28 U.S.C. § 157(b)(2)(C) was contravened by a ruling of the Ninth Circuit Court of Appeals that Congress cannot constitutionally authorize non-Article III bankruptcy judges to enter final judgments on all compulsory counterclaims to proofs of claim. The Ninth Circuit's decision created a circuit split on the issue. The Court heard oral argument in the case on January 18, 2011.