

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
05-CV-2626 (JMR/FLN)

Milavetz, Gallop & Milavetz P.A.,)
Robert J. Milavetz, Barbara N.)
Nevin, John Doe, and Mary Doe)
)
v.) ORDER
)
United States of America)

This matter came before the Court on February 26, 2007, on plaintiffs' motion for summary judgment. The Court had previously considered the merits of plaintiffs' claims in the face of defendant's motion to dismiss. The Court denied the United States' motion for dismissal in its Order, dated December 7, 2006 [Docket No. 32]. At that time, the Court found certain portions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") unconstitutional and/or inapplicable as applied to attorneys. The United States opposes plaintiffs' present motion for summary judgment.

Based on the files, records, and proceedings herein, and for the reasons set forth at the hearing and elucidated in the Court's December 7, 2006 Order, IT IS ORDERED that:

1. Plaintiffs' motion for summary judgment [Docket No. 37] is granted.

2. BAPCPA's Title 11 U.S.C. Sections 526(a)(4) and 528(a)(4) and (b)(2) are declared unconstitutional, as applied to attorneys in the District of Minnesota.

3. The Court finds that attorneys in the District of Minnesota are excluded from the term "debt relief agency," as defined in 11 U.S.C. § 101(12A); as such, Minnesota attorneys are relieved of any duties relating to BAPCPA-defined debt relief agencies imposed by that statute.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 19th, 2007

s/ James M. Rosenbaum
JAMES M. ROSENBAUM
United States Chief District Judge