

United States District Court
District of Connecticut
FILED
5/11/06
Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CONNECTICUT BAR ASSOCIATION,
NATIONAL ASSOCIATION OF CONSUMER
BANKRUPTCY ATTORNEYS,
CHARLES A. MAGLIERI,
EUGENE S. MELCHIONNE,
WAYNE A. SILVER, IRA B. CHARMOY, JEFFREY
M. SKLARZ, GERALD A. ROISMAN, BROWN &
WELSH, P.C., AND ANITA JOHNSON,
Plaintiffs,

CIVIL ACTION NO.

306CV00729

CFD

v.

UNITED STATES OF AMERICA,

ALBERTO M. GONZALES, in his official capacity
as Attorney General of the United States of America,

and

DIANA G. ADAMS, in her official capacity as acting
United States Trustee,

May 11, 2006

Defendants.

COMPLAINT

This case involves a constitutional challenge to provisions of the Bankruptcy Code enacted by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 that have

been construed by defendants to impose a series of burdensome restrictions on attorneys and their clients, in clear violation of their rights under the First and Fifth Amendments to the United States Constitution as well as Constitutional principles of Separation of Powers and Federalism. Plaintiffs respectfully request this Court to issue a declaratory judgment, and preliminary and permanent injunctive relief against the Defendants, their employees, agents, and successors in office. In support thereof, Plaintiffs state as follows:

INTRODUCTION

1. In 2005, Congress passed the Bankruptcy Abuse Prevention and Consumer Protection Act, the relevant provisions of which became effective October 17, 2005. Included in the legislation are provisions governing a newly minted legal category of entities known as “debt relief agencies.” 11 U.S.C. § 101(12A). The Defendants who are charged with the statute’s enforcement have taken the official position that attorneys are subject to the requirements imposed upon debt relief agencies, 11 U.S.C. §§526, 527 and 528. Under this construction of the statute, these provisions censor attorneys and restrict their ability to give their clients complete and competent counsel; they limit attorneys’ ability to describe the relative merits and consequences of various courses of action legally available to clients; they compel attorneys to provide false and misleading information to their clients; they restrict attorney advertising in a manner inconsistent with the First Amendment; they deter attorneys and clients from entering into attorney-client relationships when they otherwise

would have done so; and they infringe upon the traditional power of the States to regulate the practice of law. In all this, they also violate not only the rights of attorneys, but the rights of affected clients to receive constitutionally protected legal advice, to utilize the judicial system to Petition the Government for Redress of Grievances, and to the Equal Protection of the Laws, protected against federal government infringement by the Equal Protection Component of the Fifth Amendment's Due Process Clause. As interpreted by the Defendants, the statute injects the government directly into the heart of the attorney-client relationship in a way that would be both grave and unprecedented. Moreover, it would deprive the courts of the full and unimpeded advocacy of attorneys, violating principles of separation of powers and unconstitutionally impairing the ability of the judiciary properly to exercise the judicial function.

2. This is a civil action whereby Plaintiffs seek to have this Court declare unlawful and enjoin the Defendants from enforcing §§ 526, 527 and 528 against them, the members of the plaintiff organizations, and those similarly situated. These sections impose the restrictions described in violation of the First and Fifth Amendments to the United State Constitution. Accordingly, Plaintiffs seek a declaratory judgment that, to the extent they are applicable to attorneys, 11 U.S.C. §§ 526, 527, and 528 are unconstitutional, as well as preliminary and permanent injunctive relief enjoining the enforcement of these sections. Alternatively, Plaintiffs seek a declaratory judgment that the challenged sections of the Bankruptcy Code

are not applicable to attorneys, and preliminary and permanent injunctive relief enjoining the enforcement of these sections against them and those similarly situated.

JURISDICTION AND VENUE

3. This action arises under the United States Constitution, particularly the First and Fifth Amendments and principles of Separation of Powers and Federalism, and federal statutory law, particularly 11 U.S.C. §§ 101, 526, 527 and 528.
4. This Court has jurisdiction of this claim under, and by virtue of, 28 U.S.C. § 1331 and 5 U.S.C. § 702.
5. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the inherent equitable powers of this Court.
6. The Court has the authority to award costs and attorneys' fees under 28 U.S.C. § 2412.
7. Venue is proper under 28 U.S. C. § 1391(e).

PARTIES

8. Plaintiff Connecticut Bar Association (CBA) is a Connecticut domestic corporation and a non-profit organization pursuant to section 501(c)(6) of the Internal Revenue Code. The CBA is a state-wide association of more than 11,000 lawyers headquartered in New Britain, Connecticut. The purposes of the CBA are to promote the administration of justice,

advance the science of jurisprudence and to uphold the honor and dignity of the profession of the law. CBA files suit on behalf of its members, some of whom are directly affected by the challenged provisions, and those members' clients. The CBA has also suffered injury in fact on its own behalf because the defendants' actions have caused harm to the CBA's active pursuit of its purposes and organizational mission.

9. Plaintiff National Association of Consumer Bankruptcy Attorneys (NACBA) is a District of Columbia non-profit corporation with a membership of more than 3,400 consumer bankruptcy attorneys nationwide. Member attorneys and their law firms represent debtors in an estimated 600,000 bankruptcy cases filed each year. NACBA's purposes include education of the bankruptcy bar and the community at large on the uses and misuses of the consumer bankruptcy process. Additionally, NACBA advocates nationally on issues that cannot adequately be addressed by individual member attorneys. It is the only national association of attorneys organized for the specific purpose of protecting the rights of consumer bankruptcy debtors. NACBA files suit on behalf of its members, almost all of whom are directly affected by the challenged provisions, and those members' clients. NACBA has also suffered injury in fact on its own behalf because the defendants' actions have caused harm to NACBA's active pursuit of its purposes and organizational mission.
10. Plaintiff Charles A. Maglieri is an attorney and solo practitioner licensed to practice law by the State of Connecticut. He is a citizen of the State of Connecticut. Attorney Maglieri's

practice for the past 18 years has consisted of representing debtors in both consumer and commercial cases. Attorney Maglieri advises and counsels “assisted persons” for a fee on matters within the definition of “bankruptcy assistance” as it has been construed by the Defendants. 11 U.S.C. §§ 101(3), 101(4A). Based on the position of the Defendants, he would be considered a “debt relief agency.” 11 U.S.C. §101(12A).

11. Plaintiff Eugene S. Melchionne is an attorney and solo practitioner licensed to practice law by the State of Connecticut. He is a citizen of the State of Connecticut. Since 1990 a significant majority of his work has been and continues to be representing consumer debtors. Attorney Melchionne advises and counsels “assisted persons” for a fee on matters within the definition of “bankruptcy assistance” as it has been construed by the Defendants. Based on the position of the Defendants, he would be considered a “debt relief agency.”
12. Plaintiff Ira B. Charmoy is an attorney licensed to practice law in the State of Connecticut. He is a citizen of the State of Connecticut. He is an attorney with the law firm of Charmoy & Charmoy. The vast majority of his practice is related to the representation of consumer debtors. Attorney Charmoy advises and counsels “assisted persons” for a fee on matters within the definition of “bankruptcy assistance” as it has been construed by the Defendants. Based on the position of the Defendants, he would be considered a “debt relief agency.”
13. Plaintiff Jeffrey M. Sklarz is an attorney licensed to practice law in the State of Connecticut. He is a citizen of the State of Connecticut. He is an attorney with the law firm

of Zeisler & Zeisler, P.C. in Bridgeport, Connecticut and his practice is focused on the representation of individuals and businesses in complex commercial litigation, bankruptcy, tax litigation, pension and employee benefit litigation, employment litigation and construction litigation. Attorney Sklarz advises and counsels "assisted persons" for a fee on matters within the definition of "bankruptcy assistance" as it has been construed by the Defendants. Based on the position of the Defendants, he would be considered a "debt relief agency."

14. Plaintiff Wayne A. Silver is an attorney and solo practitioner licensed to practice law in the State of California. He is a citizen of the State of California. His practice includes representation of debtors and creditors in Chapter 7, 11 and 13, in complex adversary proceedings and in bankruptcy-related appellate work. As of October 17, 2005, Attorney Silver has stopped providing bankruptcy advice and counsel for a fee to any person he knows to be an "assisted person" or "prospective assisted person."

15. Plaintiff Brown & Welsh, P.C., is a professional corporation organized under the laws of the State of Connecticut. The practice of the firm focus on focuses on domestic and international business law, the Uniform Commercial Code, bankruptcy, commercial real estate leasing (including evictions), real estate conveyancing (including mortgage foreclosures), computer law, Qui Tam, arbitration, mediation, corporations and other business entities. The firm represents creditors, not consumer debtors, in bankruptcy

proceedings. However, as the Defendants' interpret the Act, the firm may be considered a "debt relief agency" under the new law because it provides "bankruptcy assistance" as it has been construed by the Defendants to clients that may be "assisted persons."

16. Plaintiff Gerald A. Roisman is an attorney licensed to practice law in the State of Connecticut and the managing partner of Roisman & McClure, P.C. Attorney Roisman's practice focuses primarily on family law matters. Though he does not represent debtors or creditors in bankruptcy cases, he is sometimes called upon to discuss the impact that a bankruptcy filed by either his own client or an opposing party may have on his client's legal rights and obligations. Under the Defendants' interpretation of the Act, he would be considered a "debt relief agency" because he provides "bankruptcy assistance" as it has been construed by the Defendants to clients that are "assisted persons."

17. Plaintiff Anita Johnson is an "assisted person" under section 101(3). She has sought legal counsel with respect to filing a bankruptcy petition. She does not have any special knowledge or education regarding credit management, financial planning, or bankruptcy. Plaintiff Johnson has been told by an attorney that there is action she may wish to take prior to filing for bankruptcy that would be lawful and in her best interests, but because of the challenged provisions, that attorney has refused to tell her what action that might be. Plaintiff Johnson's attorney also provided her with the disclosures required by section 527

at an initial consultation. The disclosures left Plaintiff Johnson and her husband confused and indecisive about what they should do.

18. Defendant Alberto M. Gonzales is the Attorney General of the United States of America. He is sued in his official capacity. In that official capacity he heads the United States Department of Justice, which is the agency of the United States government responsible for enforcing federal laws, including the statutes at issue in this case.

19. Defendant Diana G. Adams is the acting United States Trustee for Region 2. She is sued in her official capacity. In that official capacity she is the Regional United States Trustee who supervises the administration of bankruptcy cases in the federal judicial districts of New York, Connecticut and Vermont. She is one of the 21 Regional Trustees of the United States Trustee Program, a component of the United States Department of Justice, the agency of the United States government responsible for enforcing the statutes at issue in this case, and is appointed by the Attorney General of the United States.

20. The United States is also a defendant in this action.

STATUTORY FRAMEWORK

21. The Bankruptcy Abuse Protection and Consumer Bankruptcy Act of 2005 ("BAPCPA") was signed into law by the President on April 17, 2005. Sections 227, 228 and 229 of BAPCPA, codified at 11 U.S.C. §§ 526, 527, and 528 respectively, as well as related

definitions in 11 U.S.C. §§ 101 and 110 (collectively, the “challenged provisions”), were added to the Bankruptcy Code and became effective on October 17, 2005.

22. Sections 526, 527 and 528 impose new requirements upon “debt relief agencies” as defined in 11 U.S.C. § 101(12A).
23. A “debt relief agency” is defined to mean “any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration” or who is a “bankruptcy petition preparer” as defined by 11 U.S.C. § 110(a).
24. An “assisted person” is defined in 11 U.S.C. § 101(3) to mean “any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than \$150,000.”
25. The definition of “assisted person” is not limited to individuals who are seeking debt relief, who plan to file a petition for bankruptcy relief, or who are likely to file a petition for bankruptcy relief.
26. “Bankruptcy assistance” is defined in 11 U.S.C. § 101(4A) as “any goods or services sold or otherwise provided to an assisted person with the express or implied purposes of providing information, advice, counsel and document preparation, or filing, or attendance at a creditor’s meeting or appearing in a case or proceeding on behalf of another, or providing legal representation with respect to a case or proceeding under [title 11].”

27. "Bankruptcy assistance" is not limited to assistance or advice to debtors in bankruptcy or individuals contemplating filing for bankruptcy.
28. The defendants have taken the official position that attorneys fall within the definition of "debt relief agency" in the Act and that they must comply with the requirements set out in 11 U.S.C. §§526, 527, and 528.
29. They have described these provisions as "rules for professional conduct" that apply to attorneys despite statutory language that the relevant provisions shall not "be deemed to limit or curtail the authority or ability of a State or subdivision or instrumentality thereof to determine and enforce qualifications for the practice of law under the laws of that State; or of a Federal court to determine and enforce the qualifications for the practice of law before that court." 11 U.S.C. § 526(d)(2).
30. The defendants are enforcing provisions of the Act against attorneys and have stated their official intention to continue to do so.
31. The defendants' interpretation of a "debt relief agency" is so sweeping and overbroad that it includes attorneys such as Plaintiff Roisman, a family law attorney, and Plaintiff Brown & Welsh, P.C. even though it does not represent debtors in bankruptcy.
32. If attorneys are deemed to qualify as "debt relief agencies," they will be subject to a series of unduly burdensome restrictions on their ability to provide legal advice and counsel to

their clients, on their ability to practice their profession, and on their ability to advertise their services.

33. For example, section 526 provides that a “debt relief agency” shall not “advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under [title 11] or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under [title 11].” If lawyers are deemed to qualify as “debt relief agencies,” they will be bound by this prohibition. Their advice to their clients will be limited in the manner specified by section 526, even when their professional judgment and applicable ethical rules would dictate that they advise their clients otherwise.
34. Thus, section 526 would, for example, prohibit an attorney from advising a client “to incur more debt in contemplation of” bankruptcy, even though neither section 526 nor any other section of the Bankruptcy Code creates a blanket prohibition on debtors incurring debt prior to filing a petition for relief. Indeed, in many cases, it is appropriate and desirable for a client to incur more debt in contemplation of bankruptcy.
35. Next, section 527 mandates a “debt relief agency” to provide certain lengthy and detailed statements to assisted persons receiving bankruptcy assistance from that agency. These lengthy written statements contain incomplete and sometimes inaccurate explanations of the bankruptcy system. These statements also contain “advice,” for example that the debtor

need not be represented by a lawyer, which, must be provided even if such advice is not appropriate to the client's circumstances. Applying those mandates to an attorney would require them to provide information and counsel that would be false and misleading in many circumstances, to make statements they do not believe, and to provide legal advice that is contrary to their own judgment of what would be in the best interest of their clients. These statements are likely to be confusing and inappropriate for clients, and could result in their taking action that is harmful to them.

36. Section 528 requires a debt relief agency to "execute" a written contract with an assisted person receiving bankruptcy assistance within a specified time frame and to provide a copy of the fully executed and completed contract to the assisted person. In particular, if it is applicable to attorneys, Section 528(a)(1) requires that they shall "not later than 5 business days after the first date on which [the attorney] provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously the services [the attorney] will provide to such assisted person; and the fees or charges for such services, and the terms of payment." Section 528(a)(2) requires a debt relief agency to "provide the assisted person with a copy of the fully executed and completed contract." Compliance with this provision is exceedingly difficult, indeed, it may be impossible. These provisions constitute an unwarranted and burdensome interference with the attorney-

client relationship, impose liability on attorneys for a failure to act by assisted parties over which attorneys have no control, and will chill or prevent the provision of attorney advice or other services.

37. Section 528 compels debt relief agencies to include certain statements in their advertising. In any “advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt,” § 528(b)(2), and in “any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise),” under Defendants’ reading of the statute attorneys would be required to include the following misleading statement: “‘We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.’ or a substantially similar statement.” 11 U.S.C. § 528 (b)(2)(B), (a)(4). The required statements are not factually accurate and are misleading; if they are required of attorneys, they imply that attorneys are no different from myriad others who may provide bankruptcy assistance; and they would apply in many circumstances in which they are simply inapposite. They will confuse and deter potential clients.

STATEMENT OF FACTS

38. Defendants, who are responsible for enforcement of the challenged provisions, have taken and continue to take the official position that licensed attorneys are within the statutory definition of “debt relief agencies.” They have stated their intention to enforce the provisions of the Act against attorneys.
39. CBA members, NACBA members, the members of Plaintiff law firm Brown & Welsh, PC, and Plaintiffs Maglieri, Melchionne, Charmoy, Sklarz, and Silver (together the “Attorney Plaintiffs”) are already licensed by the states in which they practice, bound by canons of legal ethics, and subject to discipline by the courts in which they practice.
40. The Attorney Plaintiffs have a professional and ethical duty of confidentiality to their clients.
41. In any proceeding to enforce the provisions of the Act the Attorney Plaintiffs would be compromised in their ability to assert defenses against sanctions or other punishment because members would not be able to disclose the content of their advice or counsel unless their clients waive confidentiality.
42. The Attorney Plaintiffs have a professional and ethical duty to, among other things, provide complete and competent legal advice, assistance and counsel to their clients, including ensuring that their clients are aware of their legal rights, informing them of the legal consequences of possible courses of action, advising them to the best of their judgment

what lawful actions will be in their best interests, and advising them to the best of their judgment with respect to the exercise of their legal rights.

43. The Attorney Plaintiffs have a constitutional right to provide legal advice, assistance and counsel to their clients. Plaintiff Johnson and the clients of the Attorney Plaintiffs have a constitutional right to receive such advice.
44. As a result of the challenged provisions, the Attorney Plaintiffs are chilled and have been deterred from providing proper legal advice, assistance and counsel, and in practicing their profession. They have been chilled and have been prevented from engaging in constitutionally protected speech and activities. This has deprived courts of the full and unimpeded advocacy of attorneys and therefore has impaired the ability of the judiciary to exercise the judicial function and to render just and fair decisions.
45. To the extent it applies to attorneys, the challenged provisions are vague in that they do not state with sufficient definiteness the advice or assistance that will offend the statute. The restrictions contained in the provisions are subject to different interpretations. As such, the Attorney Plaintiffs cannot and do not reasonably know with sufficient definiteness what speech or conduct will offend the statute.
46. The challenged provisions have infringed upon the right of Plaintiff Johnson and clients of the Attorney Plaintiffs to receive complete and competent legal advice, including counsel with respect to lawful actions; it has interfered with their access to court; it has interfered

with their right to petition the Government for Redress of Grievances; and it has violated their right to Due Process.

47. The challenged provisions facially discriminates between classes of individuals with respect to fundamental rights including the right to free expression and the right of access to justice.
48. The challenged provisions specifically limit what legal advice can be given to, and how an attorney can treat, only the class of individuals, including Plaintiff Johnson and clients of the Attorney Plaintiffs who are contemplating bankruptcy, whose non-exempt assets are less than \$150,000. Otherwise similarly situated clients whose non-exempt assets are greater are not subject to the restrictions.
49. The challenged provisions unconstitutionally abridge the rights of Plaintiff Johnson and clients of the Attorney Plaintiffs to due process and equal protection of the laws.
50. The disclosures required by section 527 are misleading and contain false and misleading statements of fact
51. The disclosures required by section 527 require the Attorney Plaintiffs to utter false statements to clients and potential clients
52. The disclosures required by section 527 require the Attorney Plaintiffs to utter statements with which they disagree.
53. The disclosures required by section 527 require the Attorney Plaintiffs to utter statements that conflict with their ethical and professional duties.

54. The disclosure requirements of Section 527 confuse clients including Plaintiff Johnson and the clients of the Attorney Plaintiffs.
55. The requirements of section 528 compel the Attorney Plaintiffs to include misleading and factually inaccurate information in their advertising, and impose substantial costs upon them.
56. The Defendants' interpretation of the advertising provisions governing debt relief agencies fails to take into account any of the important differences between attorneys and non-attorneys providing bankruptcy services.
57. Under current law, only attorneys are permitted to give legal advice, file pleadings, or represent debtors in bankruptcy proceedings.
58. Only attorneys are required to be licensed in the state(s) in which they practice and are subject to rules of professional conduct.
59. Only those communications between the debtor and his or her attorney are protected by the attorney-client privilege.
60. Requiring both attorneys and non-attorney bankruptcy petition preparers to advertise themselves as "debt relief agencies" obscures these important distinctions and creates substantial confusion among the public.
61. Section 528 compels the expression of an idea with which the Attorney Plaintiffs disagree.

62. The challenged provisions have discouraged attorneys from representing “assisted persons” or “potential assisted persons” and have discouraged lawyers from volunteering their services for pro bono bankruptcy cases.
63. The challenged provisions have significantly increased fees and expenses of those clients who are able to find representation, including Plaintiff Johnson and clients of the Attorney Plaintiffs.
64. The requirements of the challenged provisions have made the provision of legal services by the Attorney Plaintiffs more costly, or have led them to stop serving an entire class of client. They are able to see fewer clients and must charge more. They have suffered financial loss as a consequence, as have their clients.
65. Compliance with the challenged provisions has imposed substantial costs on the Attorney Plaintiffs who comply with them, and on the Attorney Plaintiffs who have stopped providing legal services that do or might render them subject to the challenged provisions.
66. The requirements of the challenged provisions discourage general practitioners and bankruptcy professionals who have consumer and bankruptcy, debtor and creditor practices from advertising the availability of bankruptcy services, thus limiting consumer bankruptcy representation to fewer attorneys with narrower practices.
67. As a direct and proximate result of the statutes infringements on Plaintiffs’ right to speech, due process, and equal protection, Plaintiffs have in the past and will continue to suffer in

the future, direct and consequential damages, including but not limited to the loss of their ability to exercise their constitutional rights.

68. Prior to the enactment of the debt relief agency provisions the Attorney Plaintiffs acted in ways that would now violate the challenged provisions, including with respect to the provision of legal advice; the presentation of contracts to and entry into contracts with clients and potential clients; the provision of information to clients and potential clients; and advertising. They wish to act in those ways now and intend to do so as soon as they receive a declaration from this Court that such action would be lawful. But for the restrictions and requirements of the debt relief agency provisions they would do so. They are chilled and deterred by the threat of enforcement, and they have altered their behavior to comply with the law. In some instances, they fear that they are not in compliance with the law.

INJUNCTIVE RELIEF

69. Plaintiffs and the clients of the Attorney Plaintiffs have no adequate remedy at law and are already suffering irreparable harm as a result of the challenged provisions.

FIRST CLAIM FOR RELIEF: 11 U.S.C. §§ 526, 527 AND 528 DO NOT APPLY TO ATTORNEYS

70. Plaintiffs reallege and incorporate by reference each and every allegation contained in paragraphs 1 through 69 as if set forth fully herein.

71. As a matter of statutory interpretation, the provisions of 11 U.S.C. §§ 526, 527 and 528 do not apply to attorneys and may not lawfully be enforced against them.

SECOND CLAIM FOR RELIEF: 11 U.S.C. §§ 526, 527 AND 528 VIOLATE THE CONSTITUTION

72. Plaintiffs reallege and incorporate by reference each and every allegation contained in paragraphs 1 through 69 as if set forth fully herein.

73. If 11 U.S.C. §§ 526, 527 and 528 do apply to attorneys, those provisions of the United States Code, singly and together, violate the First and Fifth Amendments to the Constitution of the United States, as well as Constitutional principles of Separation of Powers and Federalism.

RELIEF REQUESTED

WHEREFORE Plaintiffs respectfully requests that this Court grant the following relief:

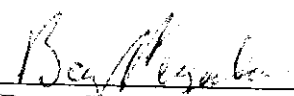
1. a judgment declaring that, as a matter of statutory construction, 11 U.S.C. §§ 526, 527 and 528 do not apply to attorneys;
2. alternatively, a judgment declaring that 11 U.S.C. §§526, 527 and 528, singly and together, violate the United States Constitution;
3. the entry of a preliminary and permanent injunction preventing Defendants and their agents, representatives, successors and those acting in concert with them to from

enforcing the challenged provisions against the individually named Plaintiffs, the members of the CBA, the members of NACBA, and all other similarly situated persons;

4. an award of costs and attorneys' fees; and
5. such further and other relief as this Court deems appropriate.

Respectfully submitted,

By: _____


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