UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

In re:

ATTORNEYS AT LAW AND
DEBT RELIEF AGENCIES

District Court Case No. 4:05-cv-00206-WTM

Docketed in Bankruptcy Court as
Miscellaneous Proceeding No. 05-00400

_____ _____/

FELICIA S. TURNER,
UNITED STATES TRUSTEE,

Appellant.

_____ ____/

REPLY BRIEF OF UNITED STATES TRUSTEE

B. AMON JAMES, ESQUIRE
Assistant United States Trustee
United States Department of Justice
Office of the United States Trustee
225 West Oglethorpe Avenue, Suite 302
Savannah, GA 31401
(912) 652-4112

Of Counsel

Roberta A. DeAngelis
Acting General Counsel

P. Matthew Sutko
Office of the General Counsel

Executive Office for United States Trustees
Department of Justice
20 Massachusetts, Ave. N.W., Suite 8100
Washington, D.C. 20530
(202) 307-1399

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

CONSTITUTIONAL PROVISIONS

FEDERAL STATUTES

FEDERAL RULES

GEORGIA BAR RULES

MISCELLANEOUS

I. NOTWITHSTANDING THE INTERVENORS' CHARACTERIZATION OF THE ORDER ON APPEAL AS A "GENERAL ORDER," THIS COURT SHOULD VACATE THE ORDER BECAUSE IT VIOLATES THE UNITED STATES CONSTITUTION'S CASE OR CONTROVERSY REQUIREMENT.

In her opening brief, the United States Trustee demonstrated that this Court should vacate the Order on appeal because the Bankruptcy Court entered it in the absence of a case or controversy under Article III of the United States Constitution. Leiden & Leiden, P.C., filed a brief opposing the United States Trustee's position on December 2, 2005. Another group of attorneys (the "Intervenors") did the same on January 5, 2006. Both Leiden & Leiden and the Intervenors (collectively, the "Appellees") assert in their briefs that their interests are affected by the Order. The Appellees fail to rebut the government's argument that the court below could not enter a substantive order interpreting federal cases in the absence of a "case or controversy." Consequently, this Court should vacate the Order.[1/]

A. THE ORDER IS NOT A GENERAL ORDER THAT IS IMMUNE FROM CONSTITUTIONAL ATTACK DUE TO THE ABSENCE OF A CASE OR CONTROVERSY.

The Intervenors argue that Judge Lamar Davis could issue the Order without a "case or controversy" because it is a "general order" issued pursuant to the Bankruptcy Court's statutory and inherent authority to regulate attorneys. Because the Order does not have any of the

---

[1/] Attorneys in at least three other federal districts have moved bankruptcy courts to follow Judge Davis' lead and issue a similar order. Each court has denied such relief. *See In re McCartney*, 2006 WL 75306, 2006 Bankr. LEXIS 36 (Bankr. M.D. Ga. Jan. 12, 2005) (denying motion based on absence of a case or controversy). The United States Trustee attaches two unpublished decisions in an appendix to this brief for this Court's convenience should the Court desire to consider them.

incidents of a general order and would violate various provisions of law if it were such an order, the United States Trustee does not believe that Judge Davis intended the Order to be a general order, and this Court should not consider it as such. Even if the Order is a general order, however, it nonetheless violates Article III's requirement of a case or controversy because it is not procedural in nature.

Rules and general orders that govern practice and procedure before the federal courts are issued pursuant to federal statutes and, ultimately, Article III of the United States Constitution:

> Article III of the Constitution . . . empowers Congress to establish a system of federal district and appellate courts and, impliedly, to establish procedural Rules governing litigation in these courts. In the Rules Enabling Act, Congress authorized [the Supreme Court] to prescribe uniform rules to govern the 'practice and procedure' of the federal district courts and courts of appeals.

Burlington Northern Railroad Co. v. Woods, 480 U.S. 1, 5 n.3 (1987). Because each bankruptcy court is a unit of the district court, 28 U.S.C. § 151, the bankruptcy courts' authority to issue generally applicable rules is therefore also derived from Article III of the United States Constitution, federal statutes, and federal rules that govern the establishment of rules of practice and procedure. *See* 28 U.S.C. §§ 2071-2075 (providing authority and procedures to be followed in prescribing rules); Fed. R. Civ. P. 83 (outlining authority and procedures to be followed by district court in prescribing local rules); Fed. R. Bankr. P. 9029 (bankruptcy court's equivalent of Rule 83); Local Bankr. R. 9029-1(providing authority to local bankruptcy court).

The Intervenors characterize the Order as a "general order" issued under Fed. R. Bankr. P. 9029 and Local Bankr. R. 9029-1. Brief of Intervenors, at 11. Those rules state:

> Rule 9029. Local Bankruptcy Rules; Procedure When There is No Controlling Law
>
> (a) Local Bankruptcy Rules
>
> (1) . . . A district court may authorize the bankruptcy judges of the district, subject to any limitation or condition it may prescribe and the requirements of 83 F.R.Civ.P., to make and amend rules of practice and procedure which are consistent with – but not duplicative of – Acts of Congress and these rules . . . Local rules shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States.
>
> . . . .
>
> (b) Procedure When There is No Controlling Law. A judge may regulate practice in any manner consistent with federal law, these rules, Official Forms, and local rules of the district. No sanction or other disadvantage may be imposed for noncompliance with any requirement not in federal law, federal rules, Official Forms, or the local rules of the district unless the alleged violator has been furnished in the particular case with actual notice of the requirement.

Fed. R. Bankr. P. 9029. Local Bankr. R. 9029-1 states as follows:

> Pursuant to Bankruptcy Rule 9029, the Bankruptcy Court may by *General Order* regulate its practice in any manner not inconsistent with these Rules or the District Court Local Rules."

(Emphasis added).

The Order on appeal is not a general order under Local Bankr. R. 9029-1 for several reasons. First, Judge Davis did not caption the Order as a "general order." Unlike other general orders issued by the United States Bankruptcy Court for the Southern District of Georgia, this Order is not denominated and numbered as such (for example, "General Order 2005-1").

Second, the Order on appeal has not been placed with the general orders on the Bankruptcy Court's website, but instead, it has been placed on the website under the heading of *BAPCPA Decisions of the Southern District of Georgia* (included in the attached Appendix is a copy of the website page listing the various general orders and a copy of the website page listing the various BAPCPA decisions).[2/] Third, the Order has been published as a decision of the Bankruptcy Court, at 322 B.R. 66 (Bankr. S.D. Ga. 2005). Fourth, the Bankruptcy Court expressly based its authority, *inter alia*, on 11 U.S.C. § 526, which authorizes a court to enjoin a violation of the debt relief agency provisions of the BAPCPA[3/] *sua sponte*. *See* Order at 2, n.1. In other words, the Bankruptcy Court based its authority to issue the Order on the statute being construed and not upon its authority to issue general orders. Fifth, and most importantly, the Order is clearly a ruling on an issue of substantive law, and thereby purports to decide an issue that is an improper subject for a general order.

The non-procedural nature of the Order is clear from its first paragraph, where the Court states the issue upon which it is ruling:

[2/] The Bankruptcy Court's website at http://www.gas.uscourts.gov/usbc/lbr/GenOrders.htm currently lists eight general orders issued in 2005, addressing procedures in that court. They are numbered General Order 2005-1 through General Order 2005-8. The Order on appeal is not among them. The Order on appeal likewise does not appear among the general orders listed at www.gasb.uscourts.gov . Instead, the Order appears on the Bankruptcy Court's website at http://www.gas.uscourts.gov/usbc/bapcpa.html under the heading of *BAPCPA Decisions of the Southern District of Georgia.*

[3/] Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

> The issue before the Court is whether amendments to the Bankruptcy Code, which become effective today, regulating Debt Relief Agencies apply to attorneys licensed to practice law who are members of the Bar of this Court.

Order at 1. The remainder of the Order consists of statutory construction, focusing on the language of the statutes, their legislative history, and the published commentary on the statutes. The Order concludes with the Bankruptcy Court's holding. The Order thus is not procedural in nature.

Federal rules and standing orders are not proper vehicles for a federal court's determination of substantive law. *See Burlington Northern Railroad Co. v. Woods*, 480 U.S. 1, 5 (1987) (stating that rules that are "procedural" satisfy constitutional standard); *Adams v. Bonner*, 734 F.2d 1094, 1102 (5th Cir. 1984) ("[T]he test is whether the rule will operate to abridge, enlarge, or modify the rules of decision by which the court will adjudicate the parties' rights.").

It is axiomatic that a federal court may resolve legal questions only in the context of an Article III "case" or "controversy." *See McConnell v. Fed. Election Comm'n,* 540 U.S. 93, 225 (2003). Absent a live controversy between adverse parties, the court's legal interpretation amounts to an advisory opinion, which is impermissible under Article III. *See United States National Bank of Oregon v. Independent Insurance Agents of America, Inc.*, 508 U.S. 439, 446 (1993); *Dixie Electric Co-op. v. Citizens of State of Alabama*, 789 F.2d 852, 857 (11th Cir. 1986) ("Federal courts may not render advisory opinions on abstract or hypothetical propositions of law.").[4]

---

[4]"[I]t is well settled that the jurisdiction of the bankruptcy courts to hear cases related to bankruptcy is limited initially by statute and eventually by Article III." *In re Lemco Gypsum, Inc.*,

The Appellees' reliance upon the "inherent authority" of the Bankruptcy Court ignores limitations on the Bankruptcy Court's authority. The bankruptcy courts are a creation of Congress, and there is "no general grant of legislative authority to regulate the practice of law." *Rodgers v. United States Steel Corp.*, 508 F.2d 152, 163 (3d. Cir. 1975)), *certiorari denied*, 423 U.S. 832 (1975) (citation omitted). Courts may, once created, have certain inherent authorities, including the inherent authority to sanction inappropriate conduct in the context of a particular case. *See, e.g.*, *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) (sanctioning party for bad faith litigation); *Matter of Egwim*, 291 B.R. 559, 581 (Bankr. N.D. Ga. 2003) (addressing sanctions of counsel for conduct in case). However, all the cases cited by the Appellees for the "inherent authority" of the Court arise, not surprisingly, within the context of a particular case or controversy.

The fact that members of the bar now seek to present arguments to this Court in this appeal, as affected parties, demonstrates the wisdom of the historic requirement that a "case or controversy" exist *before* a court determines an issue of substantive law. Local rules and general orders cannot impair substantive rights of any persons, whether attorneys or debtors. Sections 2072 and 2075 of title 28 specifically provide that federal rules cannot "abridge, enlarge or

---

910 F.2d 784, 787 (11th Cir. 1990). Although a bankruptcy court is not itself an Article III court, *see Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 60-61 (1982), a bankruptcy court may exercise a judicial function only as a "unit of the district court." *See* 11 U.S.C. § 151 ("In each judicial district, the bankruptcy judges . . . shall constitute a unit of the district court to be known as the bankruptcy court for that district."); *In re Goerg*, 930 F.2d 1563, 1565 (11th Cir. 1991) ("original jurisdiction over bankruptcy cases is vested in Article III courts and [] bankruptcy courts obtain jurisdiction only at the discretion of the district court"). Accordingly, bankruptcy courts are bound by the jurisdictional limitations of Article III.

modify any substantive right . . . ." Indeed, such rules may not even be duplicative of such substantive law. Fed. R. Bankr. P. 9029(a)(1).

Local rules and general orders which infringe on substantive rights, or which affect procedural rights under duly-prescribed federal rules of procedure, are simply invalid. *See Miner v. Atlass*, 363 U.S. 641 (1960) (invalidating local rule as contrary to federal admiralty rules); *Brown v. Crawford County, GA*, 960 F.2d 1002, 1008-09 (11th Cir. 1992) (invalidating local summary judgment rule of Middle District of Georgia because it violates the parties' procedural and substantive rights under Fed. R. Civ. P. 56); *In re Standing Order With Reasons Regarding Objections to Discharge Under 11 U.S.C. § 727 and Purported Settlement of Actions*, 272 B.R. 917, 923 (W.D. La. 2001) (invalidating rule that impairs creditors' substantive rights under 11 U.S.C. §§ 727 and 523, where bankruptcy court also lacked delegated authority to prescribe local rule); *In re Steinacher*, 283 B.R. 768, 773-74 (Bankr. 9th Cir. 2002) (invalidating a local rule that impairs debtors' substantive rights under 11 U.S.C. § 1322(b)); *cf. Northland Ins. Co. v. Shell Oil Co.*, 930 F.Supp. 1069, 1074, 1076 (D.N.J. 1996) (describing procedure for prescribing local rules, and upholding local rule as consistent with the Federal Rules of Civil Procedure).

The Order on appeal is especially problematic because it is not even a local rule promulgated by a majority of the bankruptcy judges acting under authority delegated by the District Court. General orders issued under Fed. R. Bankr. P. 9029 do not satisfy the procedural requirements of Rule 9029(a) that local rules be issued by the entire court , acting by a majority of the judges, "after giving appropriate public notice and an opportunity for comment . . . ." *See* Fed. R. Bankr. P. 9029(a) (applying notice and comment requirements of Fed. R. Civ. P. 83 to all

local bankruptcy rules). In sharp contrast to local rules, a single judge may issue general orders under Rule 9029(b), but such general orders cannot be the basis for "disadvantage" to a person violating the order "unless the alleged violator has been furnished in the particular case with actual notice of the requirement." By its terms, the Order on appeal addresses, and determines, the rights and obligations of attorneys under the debt relief agency statutes and, importantly, the rights of their debtor clients as well. The court below issued this Order with no official notice or opportunity for comment whatsoever.

In sum, (i) Judge Davis did not denominate the Order a general order; (ii) the Order does not serve the purpose of a general order; and (iii) the Order addresses matters that do not fall within the permissible scope of a general order. Finally, even if the Bankruptcy Court intended it to be a general order, the Order on appeal determines issues under substantive law, and therefore could not have been entered absent a case or controversy. Consequently, this Court should vacate the Order.

B. THERE IS NO MOOTNESS ISSUE PRESENTED BY THIS APPEAL, AND THUS THE ALLEGED "EXCEPTION" TO THE REQUIREMENT OF A CASE OR CONTROVERSY DOES NOT APPLY.

The Intervenors attempt to argue a limited "exception" to the case or controversy requirement at page 14, footnote 3, of their brief filed January 5, 2006. They assert that the Court should affirm the Order because attorney actions that may fall subject to the debt relief agency statutes are "capable of repetition but would otherwise evade review."

This argument fails for several reasons. First and foremost, each decision to which the Intervenors cite pertains to an actual case commenced by actual plaintiffs. *See Bourgeois v.*

Peters, 387 F.3d 1303, 1307 (11th Cir. 2004) (plaintiffs sought injunctive relief); *Irish Lesbian & Gay Org. v. Giuliani*, 143 F.3d 638, 645 (2d. Cir. 1998) (plaintiffs sought injunctive relief).

Second, the court below did not invoke that exception and did not enter its order under it. Third, the "capable of repetition" standard is an exception to the *mootness doctrine*. A federal court cannot entertain a matter "unless an actual dispute continues to exist between the parties." *Bourgeois*, 387 F.3d at 1307-08. "Past injury . . . does not in itself show a present case or controversy regarding injunctive relief, if unaccompanied by current adverse effects." *Id.* at 1308 (quoting *Lynch v. Baxley*, 744 F.2d 1452, 1456 (11th Cir. 1984)). If there are no longer adverse effects from a past injury, then the court may nonetheless entertain an otherwise moot case if it arises from a situation that is "capable of repetition, yet evading review." *Id.*; *Alabama Disabilities Advocacy Program v. J.S. Tarwater Devel.*, 97 F.3d 492, 496 n.1 (11th Cir. 1996).

> In order to satisfy the mootness exception, there are three requirements:
>
> (1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again..

Bourgeois, 387 F.3d at 1308 (quoting *Weinstein v. Bradford*, 423 U.S. 147, 149 (1975) (per curiam)). "As a final requirement, if there exists some alternative vehicle through which a particular policy may effectively be subject to a complete round of judicial review, then the courts will not generally employ this exception to the mootness doctrine." *Id.*

These requirements are not met in the present circumstances. The Order did not address any particular, concrete instance of an attorney's conduct. There was no challenged action of an attorney, whether by a debtor or the United States Trustee. No attorney sought judicial relief.

There was never a case or controversy to become moot. There is no record that can support the mootness argument, because the Bankruptcy Court issued the Order on the very morning that the applicable statutes came into effect, before a case or controversy could even arise. Indeed, it is the Order itself which eliminates the opportunity for judicial review of attorney actions under the debt relief agency provisions.

C. THE ABSENCE OF A CASE OR CONTROVERSY IN THE BANKRUPTCY COURT DOES NOT PRECLUDE THE UNITED STATES TRUSTEE'S STANDING TO APPEAL THE ORDER.

Leiden & Leiden argue that the United States Trustee lacks standing to appeal the Order because of the lack of a case or controversy. Brief of Leiden & Leiden at pp. 3- 4. This Court, however, has jurisdiction to vacate the Order based on the absence of a case or controversy. *Bender v. Williamsport Area School District*, 475 U.S. 534, 541 (1986) (vacating lower court's decision where there was a lack of jurisdiction in that court). The United States Trustee, in turn, has standing to raise that issue based on her role as an officer of the Executive Branch.

The Supreme Court has held that a public interest may "give a sufficient stake in the outcome of a bankruptcy case to confer appellate standing." *Morganstern v. Revco D.S., Inc. (In re Revco D.S., Inc.)*, 898 F.2d 498 (6th Cir. 1990) (citing *SEC v. U.S. Realty & Imp. Co.*, 310 U.S. 434, 460 (1940) and *Data Processing Serv. v. Camp*, 397 U.S. 150, 153 (1970)). The United States Trustee's role in behalf of such a public interest is specifically delineated in the statute at issue. *See* 11 U.S.C. §§ 526(c)(5) (United States Trustee may seek judicial relief for violations of the statute). The Order on appeal impairs the United States Trustee's performance of that role, and consequently the United States Trustee's interest in pursuing the appeal lies "within the

zone of interests to be protected or regulated by the statute . . . in question." *Revco D.S., Inc.*, 898 F.2d at 499 (quoting *Data Processing Serv. v. Camp*, 397 U.S. 150, 153 (1970)). The contention that the United States Trustee lacks standing is also contrary to the broad grants of authority set forth in 11 U.S.C. § 307 and 28 U.S.C. § 586. *See* Brief of United States Trustee as Appellant, at 1. All courts of appeals that have addressed the issue agree that a United States Trustee has standing to appeal bankruptcy court decisions. *United States Trustee v. Columbia Gas Sys. Inc. (In re Columbia Gas Sys. Inc.)*, 33 F.3d 294, 295-299 (3d Cir. 1994) (holding U.S. Trustee has broad standing, including ability to challenge investment guidelines for chapter 11 debtor); *United States Trustee v. Price Waterhouse*, 19 F.3d 138, 141 (3d Cir. 1994) (finding United States Trustee has standing to appeal appointment of professionals in chapter 11 case); *In re Clark*, 927 F.2d 793, 795-96 (4th Cir. 1991) (finding standing to appeal denial of motion to dismiss); *In re Plaza de Diego Shopping Ctr., Inc.*, 911 F.2d 820, 824 (1st Cir. 1990) (standing to appeal appointment of trustee); *Morganstern v. Revco D.S., Inc. (In re Revco D.S., Inc.)*, 898 F.2d at 498 (standing to appeal decision refusing to appoint examiner). *See also United States Trustee v. Fishback (In re Glados, Inc.)*, 83 F.3d 1360, 1361 n.1 (11th Cir. 1996) (noting United States Trustee has standing under § 307 to raise issues concerning calculation of compensation and statutory construction under § 726); *St. Angelo v. Victoria Farms, Inc.*, 38 F.3d 1525, 1535 (9th Cir. 1994), *modified*, 46 F.3d 969 (1995) (holding United States Trustee had standing to bring appeal involving constitutional and statutory issues).

II. BOTH THE PLAIN LANGUAGE OF THE STATUTE AND ITS LEGISLATIVE HISTORY LEAD INESCAPABLY TO THE CONCLUSION THAT CONGRESS INTENDED TO SUBJECT BANKRUPTCY ATTORNEYS REPRESENTING CONSUMER DEBTORS TO THE "DEBT RELIEF AGENCY" REQUIREMENTS OF THE BAPCPA.

A. THE DICTIONARY DEFINITION OF "AGENCY" HAS NO BEARING ON THE MEANING OF THE TERM "DEBT RELIEF AGENCY" AS USED IN THE BAPCPA.

The Intervenors argue that the plain and ordinary meaning of "debt relief agency" excludes attorneys because "[n]one of the [dictionary] definitions of 'agency' reasonably would be understood by a consumer to suggest a lawyer or law firm." Brief of Intervenors, at 17. However, the dictionary definition of a statutory term does not govern its interpretation where the statute itself defines the term. *See FDIC v. Meyer*, 510 U.S. 471, 476, 114 S.Ct. 996 (1994); *Smith v. United States*, 508 U.S. 223, 228, 113 S.Ct. 2050, 2054 (1993). Subject to certain exclusions not applicable here, 11 U.S.C. § 101(12A) defines the term "debt relief agency" to mean, *inter alia*, "any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration … " Section 101(4A), in turn, defines "bankruptcy assistance" to include "providing legal representation with respect to a case under this title." Under these circumstances, it is the plain and ordinary meaning of "legal representation" that determines whether the term "debt relief agency" encompasses lawyers, rather than the plain and ordinary meaning of "agency." The United States Trustee submits that it is not reasonably open to dispute that bankruptcy attorneys are "person[s]" in the business of "providing legal representation with respect to" bankruptcy cases.

B. NOTWITHSTANDING A SENATOR'S PERSONAL BELIEFS ON THE ISSUE, THE LEGISLATIVE HISTORY OF THE BAPCPA ESTABLISHES BEYOND QUESTION THAT CONGRESS INTENDED THE TERM "DEBT RELIEF AGENCY" TO ENCOMPASS BANKRUPTCY ATTORNEYS.

On March 10, 2005, shortly before the Senate passed the BAPCPA in the form of S. 256, Sen. Feingold withdrew several amendments that he had proposed, including Amendment No. 93,[5/] which sought to exclude lawyers from the definition of "debt relief agency." In so doing, he stated:

> Mr. President, I appreciate the fact that we have had some opportunity to make a few modest modifications at the end of this process. Obviously, I hoped for more, but I do thank [several named Senators], who are working on a number of changes and accepting a couple of amendments so we can move this process through. The result will be that the next five votes on my amendments will not be necessary, if this agreement is made. So I hope that causes the unanimous consent agreement to go through.

151 Cong.Rec. S2462-3 (March 10, 2005).

The Intervenors argue that this record does not indicate that Sen. Feingold withdrew the amendment due to lack of support but is "at least equally as consistent with an interpretation that the amendment was withdrawn because Senator Feingold decided on further reflection that it was redundant and unnecessary." Brief of Intervenors, at 21. Clearly, however, Senator Feingold introduced the amendment because he concluded, like the American Bar Association, the Federal Bar Association, and the United States Trustee in this case, that the debt relief agency provisions

---

[5/] Amendment 93 is sometimes referred to as the "ABA Amendment" because it was, in Sen. Feingold's words, "strongly supported by the American Bar Association." 151 Cong.Rec. S2316 (March 9, 2005). Sen. Feingold also stated for the record that the amendment had the strong support of the Federal Bar Association. *Id.*

of the bill did apply to attorneys,[6] and he did not want them to so apply. Given his accompanying comments, the United States Trustee submits that it is highly unlikely that the Senator withdrew the amendment because he decided on further reflection that it was redundant and unnecessary.

Whatever Senator Feingold's thoughts may have been, however, the official House Judiciary Committee report on the bill makes it clear that Congress did intend for the debt relief agency provisions to apply to attorneys. "'[I]t is the official committee reports that provide the authoritative expression of legislative intent ...'" *In re Walton*, 866 F.2d 981, 983 (8th Cir.1989), quoting *Zolg v. Kelly (In re Kelly*), 841 F.2d 908, 912 n. 3 (9th Cir.1988). Under the heading, "Highlights of Bankruptcy Reforms," the House Judiciary Committee report on the BAPCPA provides, as follows:

> *Consumer Debtor Bankruptcy Protections*. The bill's consumer protections include provisions strengthening professionalism standards for attorneys and others who assist consumer debtors with their bankruptcy cases. S. 256 mandates that certain services and specified notices be given to consumers by professionals and others who provide bankruptcy assistance. To ensure compliance with these provisions, the bill institutes various enforcement mechanisms.[7]

---

[6] See note 1, supra.

[7] This language from the House Judiciary Committee report also conflicts with the Intervenors' contention, on page 3 of their brief, that Congress did not intend the debt relief agency provisions to be consumer protection provisions but instead designed them to reduce the number of bankruptcy filings "by making it especially difficult for poorer debtors to get competent assistance to file a bankruptcy petition." The Court will note that this contention by the Intervenors also conflicts with their position that Congress did not intend for the debt relief agency provisions to apply to attorneys.

H.R. Rep. No. 109-31(I), at 17 (April 8, 2005), reprinted in 2005 U.S.C.C.A.N. 88, 103.

Congress' use of the term "professionals" in this paragraph is as revealing as its use of the term "attorneys." "Professional" is used as a term of art in the Bankruptcy Code to include attorneys, not to exclude them, and Congress is presumed to draft legislation with an understanding of existing law. *See., e.g.*, 11 U.S.C. § 327(a) (trustee may employ "attorneys . . . or other professional persons."); 11 U.S.C. § 327(b) ("attorneys . . . or other professional persons"); 11 U.S.C. § 328 (use of professional person in this section includes attorneys employed under § 327(a)); 11 U.S.C. § 330(a) (same). Consequently, the legislative history of the BAPCPA does establish that Congress intended the statutory definition of debt relief agency to encompass attorneys.

III. THE DEBT RELIEF AGENCY PROVISIONS OF THE BAPCPA DO NOT CONFLICT WITH THE GEORGIA RULES OF PROFESSIONAL CONDUCT. EVEN IF THERE WERE SUCH A CONFLICT, THE FEDERAL STATUTE WOULD GOVERN.

The United States Trustee disagrees with the Intervenors' contention that an attorney cannot refer to him or herself as a debt relief agency without violating Rule 7.5(e) of the Georgia Rules of Professional Conduct. Rule 7.5(e) permits an attorney in private practice to use a trade name provided:

> (1) the trade name includes the name of at least one of the lawyers practicing under said name ...; and
>
> (2) the trade name does not imply a connection with a government entity, with a public or charitable legal services organization or [with] any other organization, association or institution or entity, unless there is, in fact, a connection.

The term "debt relief agency" as used in the BAPCPA neither refers to nor implies a connection with any existing organization, association or institution or entity. Rather, it is a generic term defined, subject to certain enumerated exclusions not applicable here, 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 under section 110 . . . . " 11 U.S.C. § 101(12A). Consequently, a Georgia attorney providing bankruptcy assistance to an "assisted person" would not violate Rule 7.5(e) by identifying him or herself as a debt relief agency.

The United States Trustee likewise disagrees with Leiden & Leiden's contention that the requirement of 11 U.S.C. § 527(d) that debt relief agencies retain for two years copies of the notices required by § 527(a) conflicts with the requirement of Rule 1.6 of the Georgia Rules of Professional Conduct that lawyers "maintain in confidence all information gained in the professional relationship with a client ... " A statutorily required notice to a client does not equate to "information gained in the professional relationship with a client."

If a conflict does exist between the state rule and the federal statute, however, then under the Supremacy Clause of the United States Constitution the federal statute must control.[8] The Supremacy Clause requires courts to follow federal, not state, law when Congress enacts a

---

[8] The Supremacy Clause of the United States Constitution mandates that "the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U. S. Const. art. VI, § 2. Thus, under the Supremacy Clause, federal legislation can preempt state or local laws. *See M'Culloch v. Maryland*, 17 U. S. (4 Wheat.) 316, 327 (1819).

federal statute within the realm of its constitutional authority. *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25, 30 (1996). As the Supreme Court recently reiterated in *Crosby v. Nat'l Foreign Trade Counsel*, 530 U.S. 363, 372-73 (2000), inconsistent state laws must yield to congressional enactments when one of two tests is met, regardless of whether Congress has inserted a clause in legislation explicitly preempting state law. First, where Congress intends federal law to occupy a given field, it preempts state law in that area. *Crosby*, 530 U.S. at 372-73 (citations omitted). Second, even if Congress has not entirely displaced state regulation over the matter in question, federal law still preempts state law to the extent that state law actually conflicts with federal law. *Id.* This occurs when it is impossible to comply with both state and federal law, or when the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress. *Id. Accord Edgar v. MITE Corp.*, 457 U.S. 624, 631, 102 S.Ct. 2629, 2635 (1982); *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 516, 112 S.Ct. 2608, 2717 (1992).

The debt relief agency provisions clearly satisfy the second test because the Bankruptcy Code supersedes state law when there is a conflict and because state law cannot stand as an obstacle to the administration of bankruptcy cases as mandated by the Bankruptcy Code. Sections 526 through 528 are part of a comprehensive and pervasive statutory scheme to address the rights and obligations of debtors, creditors, and other persons involved in bankruptcy matters. *See, e.g., Sherwood Partners, Inc. v. Lycos, Inc.*, 394 F.3d 1198, 1201 (9th Cir. 2005) ("Bankruptcy law [preempts inconsistent state law] because it occupies a full title of the United States Code. It provides a comprehensive system of rights, obligations and procedures, as well as a complex

administrative machinery that includes a special system of federal courts and United States Trustees."). Bankruptcy is particularly federal because the Bankruptcy Clause of the Constitution, U. S. Const. art. I, § 8, cl. 4, grants Congress the power [t]o establish . . . uniform Laws on the subject of Bankruptcies throughout the United States." Congress has exercised that power by enacting the Bankruptcy Code, 11 U.S.C. § 101, *et seq*. Attorneys are not excluded from the reach of federal bankruptcy laws. *See, e.g.,* 11 U.S.C. § 327 (giving courts rather than debtors and trustees control over selection of counsel to represent estate); 11 U.S.C. § 328 (allowing courts to approve or disapprove conditions of employment of counsel on behalf of estate); 11 U.S.C. § 329 (allowing courts to evaluate the quality of services of debtors' attorneys even where services were provided pre-bankruptcy); 11 U.S.C. § 330 (allowing courts rather than clients to determine whether, and how much, attorneys may receive for work performed in representation of bankruptcy estate); 11 U.S.C. § 503(b)(2) (deeming certain attorneys fees eligible for payment as administrative expenses); and 11 U.S.C. § 507 (dictating the payment priority attorneys have vis-à-vis assets of the estate). Thus, sections 526 through 528 preempt Georgia law to the extent, if any, that Georgia law conflicts with them. Indeed, section 526(d)(1) expressly provides that these sections will supersede state law to the extent that they are inconsistent.[9]

---

[9] Section 526(d) provides as follows:

> (d) No provision of this section, section 527, or section 528 shall –
> (1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

The United States Trustee submits, however, that the debt relief agency provisions of the BAPCPA do not conflict with regulations of the Georgia Bar governing the admission of attorneys to the practice of law, either in state court or federal court, and do not govern attorneys' relationships with their clients in general. Rather, the new statutes at issue in this appeal require specified disclosures by attorneys, and others, who give bankruptcy advice to debtors. But even if there were a conflict in regard to such matters as the disclosures required under these statutes, then Congress clearly crafted the legislation in such a way as to serve a bankruptcy purpose. Consequently, this Court must give the legislation supremacy.

Finally, no "conflict" issue was properly raised before the Bankruptcy Court. The Bankruptcy Court did not enter the Order in response to a challenge to Congress' authority to enact the debt relief agency provisions. Judge Davis did not determine that Congress lacked the authority to apply the debt relief agency provisions of the BAPCPA to attorneys, but instead determined *sua sponte* that Congress did not intend to do so. If the Intervenors determine that they wish to challenge Congress' authority to enact the provisions at issue in this appeal, they must do so in a proceeding that satisfies the "case or controversy" requirement of Article III of the United States Constitution.

---

(2) be deemed to limit or curtail the authority or ability –
(A) 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
(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.

CONCLUSION

For the foregoing reasons, the United States Trustee respectfully renews her request that this Court either vacate or, in the alternative, reverse the Order from which this appeal is taken.

Respectfully submitted,

B. AMON JAMES, ESQUIRE
Assistant United States Trustee
United States Department of Justice
Office of the United States Trustee
225 West Oglethorpe Avenue, Suite 302
Savannah, GA 31401
(912) 652-4112
Of Counsel:

Roberta A. DeAngelis
Acting General Counsel
P. Matthew Sutko
Office of the General Counsel

Executive Office for United States Trustees
Department of Justice
20 Massachusetts, Ave. N.W., Suite 8100
Washington, D.C. 20530
(202) 307-1399

APPENDIX

George R. Hodges
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

In Re:	Case No. 05-40804
	Chapter 13
HARVEY R. BEAVER, and	
DONNA O. BEAVER,	
Debtor(s).	

ORDER DENYING MOTION FOR DECLARATION THAT THE DEBT RELIEF AGENCY PROVISIONS OF THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005 ARE INVALID AS APPLIED TO DULY ADMITTED MEMBERS OF THE BAR PRACTICING BEFORE THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA

This matter is before the court on the debtors' *MOTION FOR DECLARATION THAT THE DEBT RELIEF AGENCY PROVISIONS OF THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005 ARE INVALID AS APPLIED TO DULY ADMITTED MEMBERS OF THE BAR PRACTICING BEFORE THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA*. The court has serious doubts about the merits of the Motion, but is convinced that

there is no present justiciable controversy created by the Motion. Consequently, the Motion should be denied.

If is therefore **ORDERED** that debtors' *MOTION FOR DECLARATION THAT THE DEBT RELIEF AGENCY PROVISIONS OF THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005 ARE INVALID AS APPLIED TO DULY ADMITTED MEMBERS OF THE BAR PRACTICING BEFORE THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA* is denied.

This Order has been signed electronically. The Judge's signature and Court's seal appear at the top of the Order.

United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA

IN RE:

APPLICATION FOR GENERAL ORDER DETERMINING THAT CERTAIN PROVISIONS OF THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER ACT OF 2005 ARE INAPPLICABLE TO ATTORNEYS.

Miscellaneous No. 9

ORDER

There being no case or controversy before this court, the court denies the Application for General Order Determining that Certain Provisions of the Bankruptcy Abuse Prevention and Consumer Act of 2005 are Inapplicable to Attorney, submitted by H. David Hanes, attorney at law.

IT IS SO ORDERED this 1st day of December, 2005.

T.M. Weaver
Chief Bankruptcy Judge

Richard L. Bohanon
United States Bankruptcy Judge

Niles C. Jackson
United States Bankruptcy Judge

H:\OPINIONS\2005\application -- deny.wpd

WEBSITE PAGES OF THE
UNITED STATES BANKRUPTCY COUR T
FOR THE SOUTHERN DISTRICT OF GEORGIA AT
http://www.gas.uscourts.gov/usbc/lbr/GenOrders.htm
LISTING GENERAL ORDERS ISSUED IN 2005

GENERAL ORDERS for BANKRUPTCY COURT
for the SOUTHERN DISTRICT of GEORGIA

view Local Bankruptcy Rules

SELECT A GENERAL ORDER TO VIEW... Go

GENERAL ORDER NUMBER 2005-8*(posted Jan. 23, 2006)*

Salary Orders - Revised Procedure
Debtor's must now complete an initial wage withholding order and submit with the chapter 13 plan. To shorten the time between the filing of a chapter 13 plan and the commencement of payments by wage withholding, the Court will now process the initial wage withholding order. General Order 2005-8 requires a completed Order to Commence Withholding (with the employer's mailing address) to be submitted with the chapter 13 plan. The clerk's office will transmit the order to the debtor's employer directly. Subsequent modifications to withholding orders will still be processed by the chapter 13 trustee offices. For direct pay in chapter 13 cases, a motion to do so must be submitted WITH the chapter 13 petition. General Order 2005-8 is posted on the web site as is a fillable pdf order form which may be filed electronically or printed and filed, if filing by paper.

(click here to view PDF)

Back to Top

GENERAL ORDER NUMBER 2005-7*(posted Nov. 4, 2005)*

Order Adopting Case Management/Electronic Case Filing System (CM/ECF) and Local Bankruptcy Court ECF Rules

(click here to view PDF)

Back to Top

GENERAL ORDER NUMBER 2005-6 *(posted Oct. 28, 2005)*

Compensation awarded by the Court to counsel representing Chapter 13 debtors.

(click here to view PDF)

Back to Top

GENERAL ORDER NUMBER 2005-5 *(posted Oct. 14, 2005)*

Order Regarding Lease and Adequate Protection Payments

(click here to view PDF)

Back to Top

GENERAL ORDER NUMBER 2005-3*(posted Oct. 13, 2005)*

This existing order vacates certain existing General Orders, and adopts a new Chapter 13 Plan and Motion, and a new Modification to Chapter 13 Plan. These new standard Plan and Modification forms are required to be used in all Chapter 13 cases filed on or after October 17, 2005.

(click here to view PDF)

Fillable and Printable Chapter 13 Plan and Motion

Back to Top

GENERAL ORDER NUMBER 2005-2*(posted Oct. 13, 2005)*

This order adopts and publishes the Interim Bankruptcy Rules approved by the Rules Committee of the Judicial Conference of the United States, effective October 17, 2005.

(click here to view PDF)

Click here to view Revised Interim Rules

Click here to view New and Revised Official Forms (as of 10/11/05)

Click here to view Revised Director's Procedural Forms Implementing the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

▲Back to Top

GENERAL ORDER NUMBER 2005-4*(posted Aug. 25, 2005)*

This order revises the Clerk's Office procedures for the filing of creditor mailing matrixes, effective August 29, 2005.

(click here to view PDF)

▲Back to Top

AMENDED GENERAL ORDER NUMBER 2005-1 *(posted Apr. 25, 2005)*

This order amends General Order 2005-1 establishing negative notice procedures for certain pleadings.

(click here to view PDF)

▲Back to Top

GENERAL ORDER NUMBER 2005-1
[Negative Notice Procedures]

Pursuant to direction of the Court, the Clerk issued a notice of procedural changes January 16, 2001, amended effective January 10, 2005, establishing negative notice procedures with the following types of pleadings:

Motion for Relief from Co-Debtor Stay (Chapters 12 and 13)
Objection to Claim (Chapters 7, 12 and 13)
Motion to Redeem Property (Chapters 7, 12 and 13)
Motion to Avoid Lien (Chapters 7, 12 and 13)
Modification of Plan After Confirmation (Chapters 12 and 13)
Motion to Approve Compromise or Settlement (Chapter 7)

IT IS HEREBY ORDERED that any party seeking relief of the nature set forth above file the applicable pleading and adhere to the service and notice procedures set forth on the Court's website, www.gas.uscourts.gov under "Local Rules and General Orders," as those procedures now appear or may hereafter be modified. Click here for Negative Notice Procedures

IT IS FURTHER ORDERED that upon the expiration of the deadline for any objection to the relief sought in such pleading, the Clerk is directed to forward the proposed order granting the relief requested to the presiding Judge in the case who may, without further notice or hearing to any party, enter said order. If an objection is timely filed, the matter will be set for a hearing before the Court pursuant to a notice issued by the Clerk and returned to the moving party for service in accordance with the Bankruptcy Code and Rules.

This 23rd day of March, 2005.

▲Back to Top

GENERAL ORDER NUMBER 2003-1

Federal Rule of Bankruptcy Procedure 9014(e) effective December 1, 2002 requires the court to "provide procedures that enable parties to ascertain at a reasonable time before any scheduled hearing whether the hearing will be an evidentiary hearing at which witnesses may testify." In order to meet that requirement, it is hereby ORDERED that unless the notice of hearing provides to the contrary, all hearings before the court are evidentiary hearings at which witnesses may testify.

Entered at Savannah, Georgia
this 7th day of February, 2003.

▲Back to Top

GENERAL ORDER NUMBER 2002-1

To fulfill the requirements of 11 U.S.C. §330(a), the Court periodically reviews the reasonableness of compensation awarded by the Court to counsel representing Chapter 13 debtors. Having conducted such periodic review it is therefore ORDERED that:

(1) General Order 1998-1 filed December 29, 1998 is vacated.

(2) Effective in all cases filed after September 30, 2002, a claim for attorney's fees for services rendered and expenses advanced to a Chapter 13 debtor will be deemed automatically approved by the Court, in the absence of an objection, so long as said claim does not exceed the sum of $1,500.00. The $1,500.00 fee contemplates appearance by counsel of record for the debtor at the Section 341 meeting and all hearings. Said fee shall be payable as follows: Up to the first $500.00 by payments from the Trustee as soon as practicable following confirmation. The balance of $1,000.00, or less if applicable, in payments from the Trustee following the initial disbursement at a rate not to exceed $100.00 per month. Debtors' counsel are directed to file written statements pursuant to Bankruptcy Rule 2016(b) disclosing the fee arrangement with their clients. Debtors' attorney may, of course, agree to represent debtors for a lesser

amount and are required by the Code of Professional Responsibility to do so in appropriate cases when the amount and nature of the debts or other relevant factors result in the expenditure of substantially less attorney's time. In the event debtors' attorney subsequently determines that an award of $1,500.00 does not adequately compensate the attorney for legal services rendered, the attorney may petition for reasonable attorney's fees disclosing all time expended in such representation from the beginning of the case under the standards set in 11 U.S.C. §330 and Norman v. Housing Authority of the City of Montgomery, 836 F.2d 1292 (11th Cir. 1988).

▲Back to Top

GENERAL ORDER 2001-1 [Contested Matters].

Vacated per General Order 2005-3.

▲Back to Top

GENERAL ORDER 1997-3 [Chapter 13 Trustee's Report].

In all Chapter 13 cases confirmed after October 1, 1997, the Chapter 13 Trustee shall file with the Court and serve upon all creditors filing claims as soon as practical following confirmation the Trustee's report of all claims filed in the case and the Trustee's treatment of such claims under the plan as confirmed.

SO ORDERED AND DATED AT AUGUSTA, GEORGIA

THIS 29th DAY OF AUGUST, 1997.

▲Back to Top

GENERAL ORDER 1997-2 [Chapter 13 Proposed Plan Agreements].

In all Chapter 13 cases where confirmation hearings are held after June 1, 1997, all changes to the proposed plan made at confirmation shall be noted on a "Trustee's Motion to Confirm Plan as Amended" form which is attached hereto, or as such form may be modified by the Court, and shall be filed in the case.

SO ORDERED AND DATED AT AUGUSTA, GEORGIA

THIS 30th DAY OF MAY, 1997.

Back to Top

GENERAL ORDER 1997-1. [Chapter 13 Proofs of Claim].

Vacated per General Order 2005-3.

Back to Top

GENERAL ORDER 1996-2. [Chapter 13 Plan and Modification].

Vacated per General Order 2005-3.

Back to Top

GENERAL ORDER 1995-5. [Leaves of Absence].

This general order establishes procedures for requests for leave of absence by attorneys and the granting of such requests by this Court. The Court recognizes the necessity for leaves of absence for personal and professional reasons. Every reasonable effort will be made to accommodate such requests.

Accordingly, all leave requests will be submitted in accordance with this general order and granted subject to the following restrictions:

(1) All leave requests will be by letter addressed to "Judges United States Bankruptcy Court" and delivered to the Clerk of this Court. The leave request shall specify the inclusive dates covered and shall include a list of all cases involving counsel wherein a hearing, section 341 meeting, Rule 2004 examination or other discovery examination has been scheduled during the leave period and the name of the Judge handling the matter. If the matter scheduled is a contested matter the name, address and telephone number of opposing counsel must also be disclosed. It is permissible to recruit substitute counsel to appear, provided substitute counsel is aware of the circumstances of the case and can adequately represent the client's interest at such hearing. If substitute counsel has been recruited, the request for leave shall note the name, address and telephone number of substituted counsel for each matter. Based upon the disclosure of pending matters, the Clerk will refer the leave request to the appropriate Judge. In the event that counsel seeking leave has no matters pending, the Clerk is authorized to grant the leave request.

(2) In the event substitute counsel is not available, counsel IS ORDERED to file a motion

for continuance in each scheduled hearing and attach a copy of the motion as an exhibit to the leave request. The hearing on any such motion must be scheduled before the beginning of the leave period, with adequate notice of the hearing to the trustee and other parties in interest as directed by the Court.

(3) If a notice scheduling a hearing during a period in which leave has been granted is issued, the Court will be responsible for advising opposing counsel and/or the trustee and rescheduling the hearing.

(4) In the event an emergency or urgent matter requires that a hearing be conducted during the period of the leave of absence, the Court retains discretion to schedule a hearing despite the leave of absence. Accordingly, all requests for leave must be accompanied by a designation of another member of the bar of this Court who has agreed to be available to respond to such an emergency.

(5) All responses from the Court granting leave shall state the following: Your request for leave of absence for the period beginning [date] and ending [date] is granted subject to and in accordance with the provisions of General Order Number 1995?5 of this Court. Leaves of absence granted by any Judge or the Clerk of this Court are effective in all matters pending in this Court.

Back to Top

GENERAL ORDER 1995-3. [Payment in Installments].

In every Chapter 13 case filed in this District in which the debtor requests permission to pay filing fees in installments,

IT IS ORDERED that the filing fee required by 28 U.S.C. Section 1930 shall be paid by the Chapter 13 Trustee to the Clerk, United States Bankruptcy Court, out of the first monies paid by the debtor. The final installment shall be payable not later than 120 days after the filing of the petition.

Back to Top

GENERAL ORDER 1995-2. [Hearings on Confirmation].

Vacated per General Order 2005-3.

Back to Top

GENERAL ORDER 12 (1994). [Filing of Petitions].

Vacated per General Order 2005-3.

Back to Top

WEBSITE PAGE OF THE
UNITED STATES BANKRUPTCY COUR T
FOR THE SOUTHERN DISTRICT OF GEORGIA AT
http://www.gas.uscourts.gov/usbc/bapcpa.html
LISTING "BAPCPA DECISIONS"

page last updated: January 6, 2006

United States Bankruptcy Court
Southern District of Georgia

BAPCPA Decisions of the Southern District of Georgia

DESCRIPTION	CASE NAME	JUDGE	DATE
Order on Debtor's Motion for Preliminary Injunction and Restraining Order - Discusses burden of proof required to make a clear and convincing showing to obtain the imposition of a stay under section 362(c)(3) and (4).	Robinson	LWD	filed 12/29/2005
Order on Motion for Extension of Automatic Stay - retroactivity issue in refiled cases.	Butler	LWD	filed 11/15/2005
Order - By motion filed October 28, 2005 Barbara T. Clay the purported debtor in this Chapter 13 case seeks an extension to obtain credit counseling and budget analysis pursuant to 11 U.S.C. §109 (h) (3). The motion is denied.	Clay	JSD	filed 11/9/2005
Order on Amended Emergency Motion for Extension of Automatic Stay - Discusses minimum Notice and Hearing requirements for Motions to Extend Automatic Stay and *ex parte* actions to Impose Stay.	Butler	LWD	filed 10/31/2005
Debt Relief Agency Order - The issue before the Court is whether amendments to the Bankruptcy code, which become effective today, regulating Debt Relief Agencies apply to attorneys licensed to practice law who are members of the Bar of this Court.	n/a	LWD	filed 10/17/2005

Back to Bankruptcy Court Homepage

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REPLY BRIEF OF UNITED STATES TRUSTEE was this day deposited in the U.S. Mail, properly addressed and with correct first-class postage prepaid to the following:

Christian J. Steinmetz, III, Esq.
Clark, Clark & Steinmetz
P.O. Box 8151
Savannah, GA 31412-8151

Kate Dodson Strain, Esq.
Hunter, Maclean, Exley & Dunn, PC
P.O. Box 9848
Savannah, GA 31412-0048

Frank J. Perch, III, Esq.
Hunter, Maclean, Exley & Dunn, PC
P.O. Box 9848
Savannah, GA 31412-0048

Mark Bulovic, Esq.
McCallar & Associates
P.O. Box 9026
Savannah, GA 31412-9026

Terry P. Leiden, Esq.
Leiden & Leiden
330 Telfair Street
Augusta, GA 30901

This 3rd day of February, 2006.

B. AMON JAMES
Assistant United States Trustee