

Keith D. Karnes, OSB # 03352
kkarnes@olsendaines.com
Douglas R. Ricks, OSB # 04402
dricks@olsendaines.com
Olsen, Olsen & Daines
1599 State St.
P.O. Box 12829
Salem, OR 97309-0829
Telephone (503) 362-9393
Fax (503) 362-1375

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ERIC W. OLSEN,
KEVIN D. SWARTZ
JASON C. MCBRIDE

Case No. 05-6365-HO

Plaintiffs,

v.

MOTION FOR SUMMARY
JUDGMENT

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

ILENE LASHINSKY, in her official
capacity as United States Trustee

Defendant.

Pursuant to LR 7.1 the parties have conferred and were unable to resolve this matter without filing this motion.

Pursuant to LR 7.2 the question presented is should the Court enter summary judgment and enjoin Defendants from enforcing 11 U.S.C. § 526(a)(4).

Pursuant to Fed. R. Civ. Pro. 56 Plaintiffs move the Court for summary judgment regarding the unconstitutionality of 11 U.S.C. § 526(a)(4). Plaintiffs rely on their declarations in support of this motion, their responses to Defendants' motion to dismiss and Defendants' motion to reconsider. Plaintiffs further rely on this Court's Order denying in part Defendants' motion to dismiss, and similar orders entered in the following cases: *Hersch v United States*, 05-2330 (N.Tex. July 26, 2006); *Zelotes v. Martini*, 05-1591 (D. Conn. November 7, 2006); *Milavetz, Gallop & Milavetz P.A., v. United States of America*, 05-02626-JMR-FLN (D. Min. December 7, 2006).

Dated December 27, 2006.

Olsen, Olsen & Daines

/s/ Keith D. Karnes

Keith D. Karnes OSB # 03352

Douglas R. Ricks OSB # 04402