

08-1119 MILAVETZ V. UNITED STATES

DECISION BELOW:541 F.3d 785

LOWER COURT CASE NUMBER: 07-2405

QUESTIONS PRESENTED:

The Petitioners brought this civil action based upon Respondent's overbreadth and vagueness of subjectivity in whether attorneys are debt relief agencies, and if so the provisions of Section 526(a)(4) and Section 528(a)(2), (b)(4) are unconstitutional. The district court concluded that attorneys are not debt relief agencies and that the challenged sections were unconstitutional as applied to attorneys. P.A. 74a-88a. The Petitioners petitioned this Court for review because the Eighth Circuit's ruling confirming that Section 526(a)(4) is unconstitutional and reversing that attorneys are debt relief agencies. Section 526(a)(2), (b)(4) is constitutional is inconsistent with decisions of other courts. A decision by this Honorable Court is necessary to protect the freedom of speech and due process rights of the attorney petitioners and other attorneys throughout the United States. Further, and most important a decision will protect Petitioners' John Doe, Mary Roe and the rights of other members of the public to receive constitutionally protected speech from attorneys regarding their rights and responsibilities. Three questions are presented:

1. Whether the appellate court's interpretation of attorneys as "debt relief agencies" is contrary to the plain meaning of 11 U.S.C. § 101(12A).
2. Whether 11 U.S.C. § 528, which as applied to attorneys, restrains commercial speech by requiring mandatory deceptive disclosures in their advertisements, violates the First Amendment free speech guarantee of the United States Constitution.
3. Whether 11 U.S.C. § 528 requiring deceptive disclosures in advertisements for consumers and attorneys, violates Fifth Amendment Due Process.

CERT. GRANTED 6/8/2009

CONSOLIDATED WITH 08-1225 FOR ONE HOUR ORAL ARGUMENT