

2. Venue is proper under 28 U.S.C. §1391(e) because this is a civil action in which a defendant is an officer of the United States, and it is brought in the judicial district in which the plaintiff resides.

PARTIES

3. Defendant Alberto Gonzales is the Attorney General of the United States and in that official capacity, heads the United States Department of Justice which is the agency of the United States government responsible for enforcing statutes at issue in this case.

4. Greg Abbott is the Attorney General for the State of Texas, and in that capacity, heads the agency of the State of Texas responsible for enforcing the statutes at issue in this case.

5. Plaintiff counsels clients for a fee in regard to eligibility for and filing for protection under federal bankruptcy law; the acquisition and disposition of property; and other legal rights and responsibilities of concern to clients facing financial difficulties. Plaintiff has a professional and ethical duty to provide complete and competent legal advice to her clients, to assist members of the public to secure and protect their rights and benefits, and to seek any lawful objective through legally permissible means. Plaintiff has a constitutional right to provide the legal advice, assistance and counsel to her clients concerning lawful activities without the threat of civil punishment.

6. Certain newly enacted provisions of the Bankruptcy Code (specifically, 11 U.S.C. §§ 527 and 528) unconstitutionally impair the right of Plaintiff to provide legal advice, assistance and counsel to her clients and chills and punishes speech that is fundamental to the attorney-client relationship and to free communication in American

society. In addition, these provisions unconstitutionally infringe upon the rights of clients of Plaintiff to receive complete and competent legal advice, assistance and counseling as to lawful actions, rights, and benefits. In view of the threat of civil punishment, Plaintiff is forced to provide advice, assist and counsel with caution, clearly avoiding or giving wide berth to the areas which might result in the imposition of civil penalties, thereby depriving her clients of legitimate and legal advice that would best serve her clients' interests.

7. By imposing civil penalties on Plaintiff, the statutes place Plaintiff at odds with her obligations to dispense unvarnished legal advice to her clients regarding all of their legally permissible options. Accordingly they deprive Plaintiff of her rights under the First Amendment and deny her clients their right to due process.

8. The statutes further require Plaintiff to make materially misleading, and in some cases, false statements to clients regarding their legal options or the consequences thereof. In this regard, the statutes violate the Plaintiff's First Amendment rights and her clients' rights under the Fifth Amendment to receive factually correct, truthful advice of counsel in a civil matter.

FIRST CLAIM FOR RELIEF

9. Plaintiff repeats and realleges paragraphs 1-8 as though fully restated.

10. 11 U.S.C. § 527 violates the First Amendment, on its face and as applied, because it prohibits, under threat of civil penalty, Constitutionally protected speech.

SECOND CLAIM FOR RELIEF

11. Plaintiff repeats and realleges paragraphs 1-8 as though fully restated.

12. 11 U.S.C. § 527 violates the Fifth Amendment because it impinges on the fundamental right to counsel in a civil matter.

THIRD CLAIM FOR RELIEF

13. Plaintiff repeats and realleges paragraphs 1-8 as though fully restated.

14. 11 U.S.C. § 528 violates the First Amendment because it impinges on the fundamental right to counsel in a civil matter.

FOURTH CLAIM FOR RELIEF

15. Plaintiff repeats and realleges paragraphs 1-8 as though fully restated.

16. 11 U.S.C. § 528 violates the Fifth Amendment because it compels Plaintiff to make false and/or misleading statements to her clients.

WHEREFORE, Plaintiff respectfully requests a judgment:

(1) Declaring that 11 U.S.C. § 527 violates the First and Fifth Amendments to the Constitution of the United States;

(2) Declaring that 11 U.S.C. § 528 violates the First and Fifth Amendments to the Constitution of the United States;

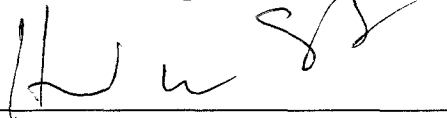
(3) Temporarily and permanently enjoining defendants, their agents, servants, employees, agencies, and all persons in active concert or participation with the defendants or with any one of the foregoing, from enforcing 11 U.S.C. §§ 527 and 528; and

(4) Awarding Plaintiff such other and further relief as the Court deems just and proper.

Dated: November 28, 2005.

Respectfully submitted,

Howard Marc Spector, P.C.

A handwritten signature in black ink, appearing to read "HMS", is written over a horizontal line.

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COUNSEL FOR PLAINTIFF

#225370
3-05-CV-2330N

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Susan B. Hersh

DEFENDANTS

United States of America, by and through Alberto Gonzales in his capacity as Attorney General of the United States, and State of Texas, by and through Greg Abbott in his capacity as Attorney General

(b) County of Residence of First Listed Plaintiff Dallas
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Dallas
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Howard Marc Spector
Howard Marc Spector, PC
12770 Coit Road, Suite 1100
Dallas, Texas 75251
(214)365-5377 (214)237-3380 (fax)

Attorneys (If Known)

RECEIVED
NOV 28 2005
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Annuity <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 U.S.C §§ 1331, 2201 et seq.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ unknown CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____
DATE 11/28/05 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY
RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____