

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re: :
: :
Application for Exemption from the Electronic : General Order M-392
Public Access Fees by Lois R. Lupica, :
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This matter is before the Court upon the application and request by Lois R Lupica (the “Applicant”) for exemption from the fees imposed by the Electronic Public Access Fee Schedule adopted by the Judicial Conference of the United States Courts.

The Court finds, based upon the attached letter and motion from the Applicant, both dated January 10, 2010, that the Applicant has demonstrated that an exemption is necessary in order to avoid unreasonable burdens and to promote public access to information.

Accordingly, the Applicant shall be exempt from the payment of fees for access via PACER to the electronic case files maintained in this Court, to the extent such use is incurred in connection with the project described in the attached letter. The Applicant shall not be exempt from the payment of fees incurred in connection with other uses of the PACER system in this Court.

Additionally, the following limitations apply:

1. This fee exemption applies only to the Applicant, and is valid only for the purposes stated above.
2. This fee exemption applies only to the electronic case files of this Court that are available through the PACER system;
3. By accepting this exemption, the Applicant agrees not to sell for profit any data obtained as a result of receiving this exemption.
4. This exemption is valid from January 15, 2010 through January 14, 2011.

This exemption may be revoked at the discretion of the Court at any time. A copy of this Order shall be sent to the PACER Service Center.

Dated: New York, New York
January 15, 2010

/s/ Stuart M. Bernstein
STUART M. BERNSTEIN
Chief United States Bankruptcy Judge

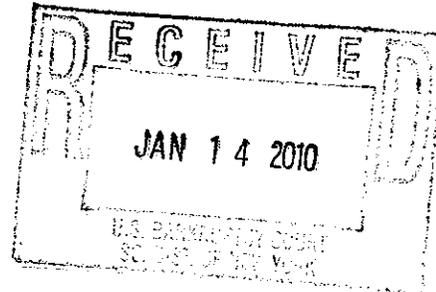


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January 7, 2010

Chief Judge Stuart Bernstein
Southern District of New York
One Bowling Green
New York, NY 72201



Re: Request for PACER Fee Exemption

Dear Chief Judge Bernstein:

I writing to request an exemption from payment of PACER per page fees. I am a member of the faculty of the University of Maine School of Law and I qualify under the PACER rules as an individual researcher associated with an academic institution.

I was recently awarded a grant by the American Bankruptcy Institute Endowment Fund to examine whether the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) has substantially increased the costs of accessing the bankruptcy system for consumer debtors and their creditors. Many experts and advocates have expressed concern that BAPCPA has significantly raised costs for consumer debtors and their creditors but to date, there has been a dearth of empirical evidence to support or refute this contention.

In connection with my study, I plan to examine bankruptcy case filings of consumer debtors from select districts to see whether or not the data reveals that BAPCPA made the costs of consumer bankruptcy substantially more expensive. Data will be collected with respect to distributions to creditor classes, trustee fees, debtor's counsel fees and other costs and expenses (such as filing fees), and will take into account local rules and orders of the sample districts. I have been working on a Pilot Study, the results of which were released in December. I plan to embark upon a full-scale national study on consumer bankruptcy expenses in early 2010, with a targeted completion date of winter 2011.

I agree not to sell for profit the data obtained or to transfer data obtained as the result of a fee exemption.

I am attaching for your convenience a copy of (I) a Motion for Exemption, (II) an Affidavit attesting to my eligibility for the exemption, and (III) two versions of proposed orders granting the exemption.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read 'Lois R. Lupica'.

Lois R. Lupica
Maine Law Foundation Professor of Law
University of Maine School of Law
Lead Researcher, The Costs of BAPCPA Study

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

MOTION FOR EXEMPTION FROM PAYMENT OF THE PACER USER FEE

Lois R. Lupica, holding the following PACER account login name 112801 (“Movant”), requests an exemption from payment of the Electronic Public Access Fee (“PACER User Fee”) which is prescribed by the Judicial Conference of the United States, as set forth in 28 U.S.C. § 1930. In support of the Motion for Exemption From Payment of the PACER User Fee, the Movant states as follows:

1. Movant is an individual researcher associated with an education institution.
2. Exemption from payment of the PACER User Fee is necessary in order to avoid unreasonable burdens and to promote public access to information. As specific grounds for exemption Movant states the following:

- a. Movant was awarded a grant by the American Bankruptcy Institute Endowment Fund to examine whether the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) has substantially increased the costs of accessing the bankruptcy system for consumer debtors and their creditors (the “Costs of BAPCPA Study”).

- b. As part of the Costs of BAPCPA Study, thousands of filings will be accessed and examined to collect data with respect to distributions to creditor classes, trustee fees, debtor’s counsel fees and other costs and expenses (such as filing fees). Without an exemption, the cost of accessing the bankruptcy files is prohibitive.

3. Movant agrees that all information, reports, documents and other data obtained using a fee exempt PACER account will not be sold for profit or otherwise exchanged for value.

4. Movant further agrees that all information, reports, documents and other data obtained using a fee-exempt PACER account will be used only in connection with her activities which

qualify for the exemption and not for activities which are unrelated to the exemption. Movant agrees to establish a separate fee-based PACER account for activities which are not exemption-related and will use the appropriate PACER account for those activities.

5. Movant acknowledges that exemption from payment of the PACER User Fee will be granted for a maximum term of 12 months.

6. Movant acknowledges that the exemption from payment of the PACER User Fee may be revoked at any time at the discretion of the Court.

7. Movant acknowledges that she may not knowingly permit or cause to permit the PACER User Fee exemption to be used by anyone other than her authorized agent. Furthermore, Movant acknowledges that any agent's use of the exemption shall be only in connection with exemption-related activities for which she was granted the exemption.

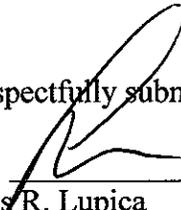
9. In support of the Motion, an affidavit is attached regarding the current status as an individual researcher associated with an education institution.

10. Movant declares, under penalty of perjury, that the foregoing statements and information are true and correct to the best of her knowledge, information and belief.

Based on the foregoing the Movant requests that the Court grant the Motion For Exemption From Payment of the PACER User Fee.

Dated: Portland, Maine
January 7, 2010

Respectfully submitted,

By: 

Lois R. Lupica
Maine Law Foundation Professor of Law
University of Maine School of Law
Lead Researcher, The Costs of BAPCPA Study
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lupica@usm.maine.edu

AFFIDAVIT

I, Lois R. Lupica, am an individual researcher and member of the faculty of University of Maine School of Law. I have been awarded a grant from the American Bankruptcy Institute Endowment Fund to conduct a study on the costs to consumers of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

I declare under penalty of perjury that the foregoing statements and information are true and correct to the best of my knowledge, information, and belief.

Signed: _____


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