

Special Counsel Benjamin D. Feder and Kelley Drye Gain Media Recognition for Victory in Pro Bono Bankruptcy Case

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In a December 13 article entitled "No tuition refund for Staten Island couple: Judge rules parents benefit from kids' parochial school education," the *Staten Island Advance* reported on Chief U.S. Bankruptcy Judge Carla E. Craig's dismissal of a lawsuit based on "common sense."

The article recognizes the successful outcome on a motion to dismiss filed by Kelley Drye special counsel **Benjamin D. Feder**, who was joined by associates **Damon W. Suden** and **Levi M. Downing** in serving as pro bono counsel for a Staten Island parochial school, Our Lady of Mount Carmel School.

Regarding the bankruptcy case of a Staten Island couple, the article reports that "[t]rustee Robert L. Geltzer filed the lawsuit...contending [the couple] didn't receive fair value in return for sending their two children [to parochial school]." Mr. Gelzer sought to recover \$46,562 in tuition payments, claiming that "the parents didn't receive reasonable equivalent value for their tuition payments because they weren't the 'direct beneficiaries' and because the private schooling of their children was 'not reasonably necessary.'"

Judge Craig is reported as saying that Mr. Gelzer's argument "didn't pass muster," and the article cites from her opinion: "The fact that the debtors chose to educate their children in parochial school rather than public school, arguably exceeding the 'minimum standard of care,' does not change the fact that, by doing so, they satisfied their legal obligation to educate their children, thereby receiving reasonably equivalent value and fair consideration."

Reporting that Mr. Feder "[hailed] the ruling, saying the trustee sought to set a potentially dangerous precedent," the article quotes him as follows: "It was a decision that called for a very broad and strong statement by the judge.... If you can accept the premise [the trustee] was putting forward, there would really be no end to it. Anytime a parent paid for medical care or bought food, you could extrapolate that argument as far as an aggressive trustee could take it."