

No tuition refund for Staten Island couple: Judge rules parents benefit from kids' parochial school education

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Chief U.S. Bankruptcy Judge Carla E. Craig has dismissed a lawsuit in which a bankruptcy trustee alleged a Staten Island couple didn't get their money's worth by sending their children to Our Lady of Mount Carmel School in West Brighton and Brooklyn's Xaverian High School.

STATEN ISLAND, N.Y. -- A higher authority has determined that a Staten Island couple got their money's worth when they opted to send their children to parochial school.

A lawsuit filed by a bankruptcy trustee on behalf of the couple was looking for a tuition refund of more than

\$46,000.

The children were enrolled at Our Lady of Mount Carmel School in West Brighton and Xaverian High School in Brooklyn.

Chief U.S. Bankruptcy Judge Carla E. Craig dismissed the lawsuit using "common sense."

"The trustee's claims are based on a fundamentally flawed legal theory that is, moreover, at odds with common sense," wrote Judge Craig. "The education provided by the [schools] to these minor children constitutes both a direct and indirect benefit to their parents, who, with their children, must be considered a single economic unit for purposes of this analysis."

Trustee Robert L. Geltzer filed the lawsuit earlier this year in Brooklyn federal bankruptcy court contending Olaniyi Akanmu and Omolayo Suara didn't receive fair value in return for sending their two children to the schools.

Geltzer sought to recover the combined \$46,562 in tuition payments made by the West Brighton couple, who filed for bankruptcy in March 2011. P

The trustee tried to reclaim the tuition money under a federal law designed to prevent a debtor -- such as the parents -- from depleting resources available to their creditors through "gratuitous transfers" of the debtor's property, said court papers.

Those documents said the couple's younger child attended Mt. Carmel from 2005 to 2011, and the older child was a student there during the 2005-06 school year. The parents paid Mt. Carmel \$24,746 collectively in tuition.

The older child attended Xaverian from 2006 through 2010, and his parents shelled out \$21,816 in tuition, said court documents.

In the complaint, filed in March of this year, Geltzer contended the couple was "rendered insolvent" by virtue of paying their children's tuition and left with "unreasonably little capital as a result."

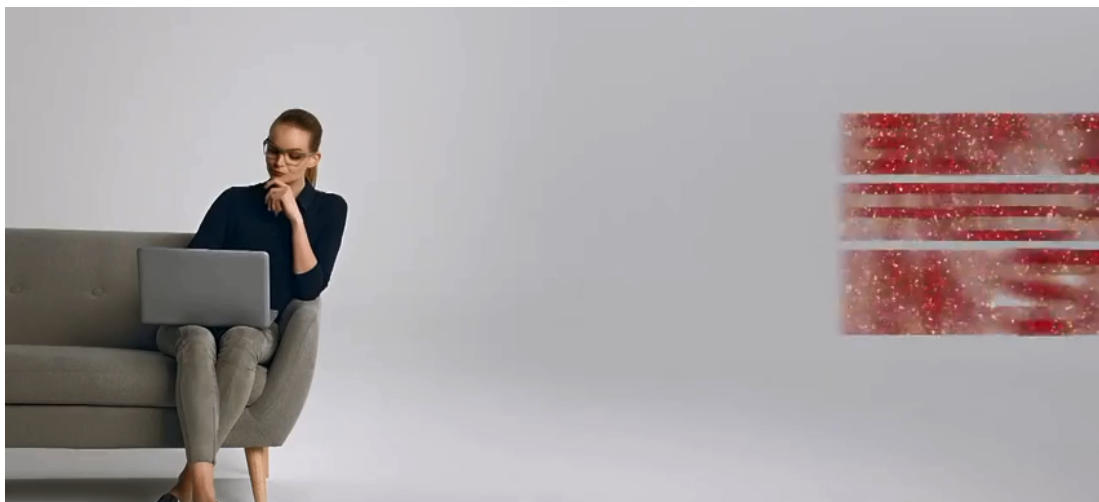
The trustee maintained the parents didn't receive reasonable equivalent value for their tuition payments because they weren't the "direct beneficiaries" and because the private schooling of their children was "not reasonably necessary."

Geltzer further contended that state law doesn't require parents to provide their children parochial or private school education. They could have satisfied their obligation to educate them by sending them to public school for free, he maintained.

Judge Craig said those argument didn't pass muster.

"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," she wrote.

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To subject that decision to such scrutiny would also let the trustee second-guess other choices the parents made before filing the lawsuit to provide food, shelter, clothing or other goods or services to their children, said the judge.

Geltzer did not return a telephone call seeking comment.

His lawyer, Daniel Gershburg, declined comment.

Attorney Benjamin D. Feder, who represented Mount Carmel, hailed the ruling, saying the trustee sought to set a potentially dangerous precedent.

"It was a decision that called for a very broad and strong statement by the judge," said Feder, special counsel to the Manhattan firm, Kelley Drye & Warren. "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."

"I think the judge made a great decision and we're very happy about it," said attorney Fred Stevens of the Manhattan firm Klestadt & Winters, which represented Xaverian.

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