Attachment 81

Pleadings filed by Walton and Robinson in *In re Mobley*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re
JATUNE MOBLEY **Cause No 14-44207-399**
Debtor
and
All Cases on List Attached to Trustees Motion

RESPONDENT WALTON'S REPLY MEMORANDUM TO TRUSTEE'S MOTION FOR DIRECTION AND WALTON'S COUNTER-MOTION TO TRANSFER ISSUE TO COURT EN BANC

Table of Contents

Table of Authorities

Cases

Statutes

Rules

Memorandum of Law

I Introduction

A single judge of the US Bankruptcy Court for the Eastern District of Missouri, in clear excess of all jurisdiction under E.D. Mo. Bank L.R. 2090, promulgated by the Bankruptcy Court, en banc, has entered a Judgment and Order that does not simply apply to a single case pending before said Bankruptcy Judge, but instead extends beyond the reach of his own courtroom to the court en banc, and has placed his colleagues, including the Presiding Judge over the case at bar, in the Eastern District of Missouri Bankruptcy Court in the awkward position of having to honor and enforce a clearly unlawful and void Judgment and Order suspending members of the bar from practicing in the Bankruptcy Court for a year. The Bankruptcy Court adopts local rules, en banc, surely to avoid such a predicament -- to provide consistency, uniformity, and guidance for each member of the court so that the court may operate with the best collegial harmony possible. Moreover, said local rules are designed to assure due process and equal justice under the law for the attorney's, debtors and parties in interest doing business in the US Bankruptcy Court. For the reasons set forth below this Court should transfer this issue to the court en banc, and the court en banc should enter a stay of enforcement of said Judgment and Order of Suspension, as well as the administrative Order prohibiting said attorneys from employing the CM/ECF system, pending the outcome of this issue on Appeal.

II Facts

A single Judge of the Bankruptcy Court entered a final Judgment (Bk Doc #199) and Order as amended (Bk Doc #201), in Case No. 11-46399-705 that, inter alia, (a) suspended James C. Robinson and Elbert A Walton Jr's right to practice law in the U.S. Bankruptcy Court, (b) their right to file documents employing the court's CM/ECF system, (c) their right to file

documents in the court's drop box, (d) their right to employ agents, representatives, and employees to deliver documents to the Bankruptcy Court, and (e) mandated that any documents filed by Robinson and Walton in the Bankruptcy Court be personally delivered by Robinson and Walton.

Robinson and Walton filed a Notice of Appeal of said Judgment and Order to the US District Court (Bk Doc #202) and filed a Motion for a Stay of said Judgment and Order with the Bankruptcy Court. (Bk Doc #205) The Debtor filed a response in opposition to said Motion for Stay. (Bk Doc #212 & 213) Said Motion for Stay is Pending before the Bankruptcy Judge presiding over said case.

The Standing Chapter 13 Trustee has filed a Motion for Order to Temporarily Hold Disbursement of Attorney's Fees due, owed and payable to Robinson and Walton, pending another single judge of the Bankruptcy Court entering an Order giving Directions to the Trustee as to monthly payment of flat attorney's fees, elected, due, owed and payable to Robinson and Walton. Walton presents this Memorandum in opposition to the Trustee's Motion to Temporarily Hold Disbursement of Attorney's Fees due, owed and payable to Robinson and Walton. Walton does not represent Robinson on this issue but must necessarily include Robinson in this opposition as their positions are factually and legally the same, and thus any decision on this issue should be equally applicable to both Robinson and Walton and not inconsistent.

III Points, Authorities and Argument

A Flat Fee Has Been Earned

Walton and Robinson elected the flat fee option and certainly have earned any fees payable under said option up through June 30, 2014. Moreover, the flat fee is designed to

obviate the necessity to keep time records related to fees earned. Once a case is confirmed, if a client pays timely and fully under their confirmed plan, generally, the only service that remains to be rendered is the filing of a domestic support certification preliminary to discharge. Thus, the court could only rule that a portion of said fee was not earned at the time the necessity to provide a service arose and counsel was unable to provide said service due to said suspension. That eventuality may not occur until well over a year has passed and said suspension has terminated.

B Standard for Granting Stay

Absent a showing of good cause, F. R. Bank. P. 8005 requires that a motion to stay a bankruptcy court order, pending the appeal of that order, be initially filed in the bankruptcy court. Said Rule also grants the District Court concurrent jurisdiction to grant the stay.

In the case at bar, the Bankruptcy Court en banc as well as the judge presiding over a specific case has the jurisdiction to determine whether or not it will collaterally enforce a judgment entered by another court, and thus may determine to stay enforcement of said judgment or even deny enforcement of that judgment on the grounds that it is void. *Elliot v. Piersol,* 1 Pet. 328, 340, 26 U.S. 328, 340 (1828), *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999)

When considering a motion to stay a final order, the court determines: (1) whether the movant is likely to succeed on the merits of the appeal; (2) whether the movant will suffer irreparable injury if the stay is not granted; (3) whether other interested parties would suffer substantial harm if the stay is granted; and (4) whether the issuance of the stay will not harm the public interest. *In re Havens Steel Co.,* 2005 WL 562733, at *6 (W.D. Mo. Jan. 12, 2005); *In the Matter of Mansion House Ctr. S. Redev. Co.,* 5 B.R. 826, 832 (E.D. Mo. 1980).

C Probability of Success on Appeal

1 Judgment (Doc #199) and Amended Memorandum and Order (Doc #201)

The bankruptcy court erred in entering Judgment (Doc #199) and its Amended Memorandum and Order (Doc #201) against Robinson, Critique and Walton, because (a) It was entered in violation of the fifth amendment to the US constitution requirement that Appellants be afforded due process of law, (b) It was entered in excess of the statutory and rule authority or jurisdiction of the bankruptcy court, (c) It was unsupported by competent and substantial evidence upon the whole record, (d) It is unauthorized by law and rule, (e) It was entered upon unlawful procedure and without a fair and impartial hearing or trial, (f) It is arbitrary, capricious and unreasonable, (g) It involves an abuse of discretion, (h) there was no substantial evidence to support it, (i) it was against the weight of the evidence, (j) it erroneously declares the law, (k) it erroneously applies the law, (l) shall delay, diminish or even defeat a valid claim of Robinson and Walton as well as of their clients, (m) is without any rational administrative basis, (n) shall cause unnecessary delay and needless increase in the cost of litigation, (o) the court was disqualified from hearing the matter and should have recused himself, (p) the Debtor had failed to state a claim upon which relief may be granted, (q) the debtor was with unclean hands, (r) the court was without jurisdiction over the person of Critique Services, LLC, (s) the court was without jurisdiction over the subject matter, (t) the Memorandum and Order was entered untimely, in conflict and inconsistent with the Judgment entered therein, and (u) the court denied Robinson and Critique their choice of counsel under the Sixth Amendment of the US Constitution.

2 The Court Was Without Jurisdiction Over the Subject Matter

The underlying contested matter was initiated by the Court when, in excess of its jurisdiction, the court, sua sponte, removed an Amended Adversary Complaint from an Adversary Case No. 12-04341, (Adv. Doc #12), (see docket entry 4/5/2013) and re-filed it in the underlying Chapter 7 case; and then entered an Order in said underlying Chapter 7 case deeming said Amended Adversary Complaint to be a Motion to Disgorge attorney's fees paid to Appellant James C. Robinson when he represented Debtor in the underlying Chapter 7 bankruptcy case. (Bk Doc #29) Thus the court was without jurisdiction over the subject matter. Moreover, Critique Services, LLC was not named as a party to the contested matter and not served process and therefore the court was without personal jurisdiction over Critique Services, LLC. This defect warrants reversal on appeal and a grant of stay.

The U.S. Supreme Court stated that if a court is

"without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828)

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties. See *Milliken v. Meyer*, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940) A void judgment includes a judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999)

3 The Court Was Disqualified From Presiding Over the Subject Matter and Person of Robinson, Critique and Walton Under 28 USC §§ 455 and 144.

Prior to being appointed a US Bankruptcy Court Judge, Judge Rendlen prosecuted Critique Services LLC, and two individual associated with Critique, Ross Briggs and Beverly Holmes Diltz, for alleged misconduct in two separate case; and therefore should have recused himself from presiding over the contested matter in which the Judgment and Order of suspension of Walton and Robinson was entered. He also took on the role of an advocate for debtor instead of a neutral judicial officer from the sua sponte removal of the Amended Adversary Complaint from the Adversary case and refilling it, sua sponte, in the associated Bankruptcy case, through sua sponte notices of intent to sanction, and up to the final Judgment and Order entered in the case. Moreover, the court erred in denying Robinson's Motion for Recusal on said grounds under 28 USC § 455.

In addition, the Bankruptcy Court engaged in personal attacks against Walton and Robinson, and initiated ex-parte communications with the Chapter 7 trustee assigned to the case

and extra judicially demanded that Robinson terminate Walton as his legal counsel and never employ Walton again, triggering an action against Judge Rendlen personally for tortious interference with a contract and business expectancies. Said ex-parte communications and extra judicial actions disqualified the Judge from presiding over the court's, sua sponte, notices of intent to sanction Walton and Robinson and he erred in denying Walton's motions for recusal on said grounds under 28 USC § 455 and 28 USC § 144. *US v. Microsoft Corp.*, 56 F. 3d 1448 (DC Circ, 1995) (Citing: *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 865, 108 S.Ct. 2194, 2205, 100 L.Ed.2d 855 (1988). *Liteky v. United States*, ___ U.S. ___, ___ _ ___, 114 S.Ct. 1147, 1156-57, 127 L.Ed.2d 474 (1994).) Moreover, Judge Rendlen personally denied the Motion for recusal under 28 USC § 144 even though the statute mandates that the motion be decided by another judge. This defect warrants reversal on appeal and a grant of stay.

When considering a claim under §455(a), [a Court] must consider "whether a reasonable and objective person, knowing all of the facts, would harbor doubts concerning the judge's impartiality." *In re Chevron U.S.A., Inc.*, 121 F.3d 163, 165 (5th Cir. 1997) (internal quotation marks omitted) (emphasis added). This is because the goal of this provision is to "avoid even the appearance of partiality." *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 860, 100 L.Ed. 2d 855, 108 S. Ct. 2194 (1988) (internal quotation marks omitted). Thus, recusal may be required even though the judge is not actually partial. *In re Cont'l Airlines Corp.*, 901 F.2d 1259, 1262 (5th Cir. 1990). "Under §455(a), we consider whether the judge's impartiality might reasonably be questioned by the average person on the street who knew all the relevant facts of a case." *In re KPERS*, 85 F.3d at 1358.

4 A Single Bankruptcy Judge Has No Jurisdiction to Suspend an Attorney from Practicing in Bankruptcy Court.

The local rules of the U.S. Bankruptcy Court clearly do not confer jurisdictional authority upon a single bankruptcy judge to suspend an attorney from practicing before the bankruptcy court. The relevant parts of the Rules are as follows (emphasis mine):

US District Court – Local Rules

Rule 83 - 12.02. Attorney Discipline.

A member of the bar of this Court and any attorney appearing in any action in this Court, for good cause shown and after having been given an opportunity to be heard, ***may be disbarred or otherwise disciplined, as provided in this Court's Rules of Disciplinary Enforcement.*** *In addition, a judge may impose sanctions pursuant to the Court's inherent authority, Fed.R.Civ.P. 11, 16 or 37, or any other applicable authority, and may initiate civil or criminal contempt proceedings against an attorney appearing in an action in this Court. The Rules of Professional Conduct adopted by this Court are the Rules of Professional Conduct adopted by the Supreme Court of Missouri, as amended from time to time by that Court, except as may otherwise be provided by this Court's Rules of Disciplinary Enforcement.* ***E.D. Mo. L. R. 83-12.02***

Rules of Disciplinary Enforcement

Rule V -- Disciplinary Proceedings.

A. ***When misconduct or allegations of misconduct which, if substantiated, would warrant discipline of an attorney*** *admitted to practice before this court shall come to the attention of a Judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules,* ***the judge may refer the matter to counsel appointed under Rule X for investigation and prosecution of a formal disciplinary proceeding*** *or the formulation of such other recommendation as may be appropriate.*

B. Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney for any valid reason, counsel shall file with the court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise, setting forth the basis for the decision.

C. To initiate formal disciplinary proceedings under these Rules, ***counsel shall seek an order of this court upon a showing of probable cause requiring the respondent-***

attorney to show cause within 30 days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined. *Except as otherwise provided in these Rules, the proceedings and all filings in this court in every disciplinary case shall be matters of public record, unless a judge orders otherwise.*

D. Upon the respondent-attorney's answer to the order to show cause, if a material issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, this court may set the matter for hearing before one or more judges of this court. If the disciplinary proceeding is predicated upon the complaint of a judge of this court, ***the hearing shall be conducted before a panel of three other[1] judges of this court appointed by the Chief Judge****, or, if there are less than three judges eligible to serve or the Chief Judge is the complainant, by the Chief Judge of the Court of Appeals for this circuit, or his designee.* ***E.D. Mo. L. Disp. Enf. R. V***

Bankruptcy Court – Local Rules

L.R. 2090 - Attorney Admission.

A. ***General Admission to Practice before the Bankruptcy Court****. The bar of this Court shall consist of any attorney in good standing to practice before the United States District Court for the Eastern District of Missouri.* ***The requirements for attorney admission, standards concerning attorney discipline****, law clerks, and law student practice* ***outlined in Rules 12.01-12.05 of the Local Rules of the United States District Court for the Eastern District of Missouri are adopted for this Court****. Attorneys are required to read and remain familiar with:*

1. these Local Rules and the Procedures Manual;

2. Local Rules of the United States District Court for the Eastern District of Missouri and the accompanying Rules of Disciplinary Enforcement; *** E.D. Mo. Bank L.R. 2090

"[A] district court's inherent power to discipline attorneys who practice before it does not absolve the court from its obligation to follow the rules it created to implement its exercise of such power." *United States Dep't of Justice v. Mandanici,* 152 F.3d 741, 745 n. 12 (8th Cir.1998). Clearly under said local rules, Judge Rendlen was obligated to file a complaint with

[1] It is thus to be noted that the complaining judge is disqualified from serving on the panel; therefore, clearly Judge Rendlen was without jurisdiction to suspend Walton and Robinson

the District Court's Disciplinary Counsel[2] who would then conduct an investigation and determine whether or not charges should be presented to a three judge panel of the District Court which panel then would determine whether or not suspension was warranted. Judge Rendlen failed to do so, but instead, in excess of his jurisdiction under said local rules, unilaterally suspended Robinson and Walton from practicing before the Bankruptcy Court. Said suspension was in excess of the jurisdiction of the court and therefore must be reversed on appeal. Thus the Court should issue a stay of execution thereof pending appeal.

5 The Court Erred in Ordering Disgorgement of $495.00 in Attorney's Fees in that it was in excess of the fees paid by the Debtor to Robinson and Debtor Was Without Clean Hands and Perpetuated a Fraud Upon the Court

The doctrines of *in pari delicto and unclean hands* prohibits a plaintiff from maintaining an action when, "in order to establish his cause of action, he must rely, in whole or in part, on an illegal or immoral act or transaction to which he is a party." *Dobbs v. Dobbs Tire & Auto Centers, Inc.*, 969 SW 2d 894, 897 (Mo App 1998). Thus, "anyone who engages who engages in a fraudulent scheme forfeits all rights to protection, either at law or equity." *Kansas City Operating Corp v. Durwood*, 278 F2d 354, 357 (8th Cir 1960). One who seeks relief from the court must approach the court with clean hands. *Earle R Hansen Assoc. V. Farmers Coop. Creamery Co.*, 403 F. 2d 65 (8th Cir. 1968) The well-recognized doctrine of unclean hands prevents a Party from obtaining relief if the Party has been "guilty of any inequitable or wrongful conduct with respect to the transaction or subject matter sued on." *WorldCom, Inc. v. Boyne,* 68 Fed. Appx. 447, 451) One who seeks relief from the court must approach the court with clean

---

[2] In fact, Judge Rendlen has so filed such a complaint with the District Court; thus, Judge Rendlen is fully aware that he had no jurisdiction to suspend Walton and Robinson but must follow the procedures set forth in the local rules.

hands. *Earle R Hansen Assoc. V. Farmers Coop. Creamery Co.*, 403 F. 2d 65 (8th Cir. 1968) The well-recognized doctrine of unclean hands prevents a Party from obtaining relief if the Party has been "guilty of any inequitable or wrongful conduct with respect to the transaction or subject matter sued on." *WorldCom, Inc. v. Boyne*, 68 Fed. Appx. 447, 451) The heart of the unclean hands doctrine is that a party should not request a court to grant them relief when they have failed to act in good faith or fairly and particularly where they have purposely, knowingly and intentionally perjured themselves.

Specifically, in the case in question, Debtor has filed a sworn affidavit with this Court wherein Debtor has admitted that: (1) her petition, schedules, statement of affairs and related bankruptcy documents were full of or replete with numerous or multiple false, fraudulent, perjurous inaccuracies, only two of which she alleged were made at the suggestion of her counsel's staff; (2) that she falsely attested and signed said bankruptcy documents falsely affirming under oath that she had in fact read the bankruptcy documents prior to signing them and that they were true and correct to the best of her personal knowledge, information and belief; (3) she signed and consented to the filing of her bankruptcy documents knowing that her statements regarding her address and dependents in the bankruptcy documents were intentionally false and fraudulent and perjurous; (4) she attended a meeting of creditors - outside the presence and influence of her legal counsel - and willfully, intentionally and maliciously repeated her false, fraudulent, perjurous statements and misrepresentations, under oath and penalty of perjury, to the Chapter 7 Trustee, even after being warned by the Trustee that such perjury was criminal and may subject her to criminal prosecution.

Despite the foregoing flagrant, intentional and malicious illegal and immoral acts, the Bankruptcy Court denied Robinson's Motion for Judgment for Robinson based on the unclean

hands of the debtor. (Bk Doc #70 & 71) Instead, the Court Ordered fee disgorgement on the grounds that someone in Robinson's office allegedly advised Debtor to give an address in St. Louis County rather than St Charles County and to list her nieces and nephews, to whom she provided support, as dependents, though they did not reside with her. Her address was immaterial in that both St Charles and St Louis Counties are in the Eastern Division of the Eastern District of Missouri; and one can claim a dependent even if the dependent does not reside with you so long as you contribute the greater share of their support than any other person. Thus, the address was not material and the dependent claim had factual support, and thus the court had no factual nor legal basis upon which to sanction Robinson even if Robinson's employees did suggest that the debtor use a St Louis County address and include her nieces and nephews as dependents in her bankruptcy documents. However, the Court was with clear, convincing and substantial evidence that Debtor had, sua sponte, perpetrated a fraud upon the court. Thus the District Court will likely reverse the Judgment and Order on Appeal and therefore should grant a stay.

6 **The Court Was Without Jurisdiction to Issue Monetary Sanctions and Award Attorney's Fees for Failure to Comply with a Discovery Order under F. R. Civ. P. 37 nor Under F. R. Bank. P. 9011 in that the Debtor Had Withdrawn Her Motion to Compel Discovery, the Case Was Settled, No Trial Was to Be Had, And Debtor Sought No Sanctions or Award of Attorney's Fees**

The Bankruptcy Court, sua sponte, issued a Notice of *Intent*[3] to Sanction Robinson and Walton for alleged failure to comply with discovery under F. R. Civ. P. 37 (Bk Doc #134 & 136) and Ordered the Debtor's counsel to provide evidence of attorney's fees incurred by Debtor (Bk Doc #139). In response thereto, the Debtor filed a Withdrawal of her Motion to Compel

[3] Not an Order to Show Cause nor did he set same for a hearing

Discovery, and notified the court that she had no need for discovery, had settled the case, could not accept discovery under the terms of the settlement, and discovery was no longer a matter of controversy. (Bk Doc #146) The court in an abuse of discretion, clearly erroneous ruling of law, and in excess of its jurisdiction, asserted that Debtor had no right to withdraw her motion to compel discovery and had to accept discovery notwithstanding the fact that the case had been settled and there was no need for discovery in order to prepare for trial. (Bk Doc #148) Moreover, in its Judgment and Order the court indicated that it was entering said Judgment for monetary sanctions and Attorney's fees under F. R. Bank. P. 9011. Rule 9011 clearly states that it is not applicable to discovery, may not be entered after settlement of the case, and may not be entered against a represented party. The Case was settled and a Motion was filed with the court to approve the settlement on April 10, 2014. (See Bk Doc #144) On April 21, 2014, the Bankruptcy Court, sua sponte, issued a Notice of *Intent* to Sanction Walton and Robinson (Bk Doc #165) under Fed. R. Bank. P. 9011. Clearly the court exceeded its jurisdiction under Rule 9011. Moreover, the court failed to issue an Order to Show Cause, failed to hold a hearing, and failed to describe the specific conduct that appears to violate Rule 9011. Thus, the District Court must reverse the Bankruptcy Court on appeal and thus the Court en banc should issue a Stay of enforcement of the Judgment and Order of the Bankruptcy Court.

D Appellants Will Suffer Irreparable Harm If A Stay is Not Granted

Robinson has an extensive Bankruptcy practice, averaging some 2,500 bankruptcy clients per year, with some 650 cases and 160 hearings currently pending in the US. Bankruptcy court. (varies from day to day) Walton also practices Bankruptcy law, filing approximately 50 cases per year, and has approximately three Chapter 7 cases awaiting discharge, approximately five Chapter 13 cases seeking confirmation of Chapter 13 plans, and approximately twenty confirmed cases in which client's are making chapter 13 plan payments and seeking discharge, as well as an

Adversary Case pending in Bankruptcy Court. (Also varies as time passes) Robinson and Walton are scheduled to make appearances in representation of said clients in prosecution of their cases as well as in defense of motions for relief and/or objections raised by trustees, creditors or other parties in interest and to file documentation with the Bankruptcy Court to enable said clients to overcome said objections and motions and to obtain discharges. (See pacer record of Robinson and Walton) Robinson and Walton have clients who have paid them for representation and who must be represented in said cases pending in the Bankruptcy Court and who are subjected to having their cases dismissed or subjected to other adverse consequences based on the court's Order immediately suspending Robinson and Walton from practicing before the Bankruptcy Court and suspending their right to file documents using the CM/ECF system. Robinson and Walton will suffer irreparable injury absent a stay; and there is no adequate remedy at law, in that the suspension of their right and privilege to practice in the Bankruptcy Court will result in loss of hundreds of thousands of dollars of legal fees, as well as cause damage to Robinson and Walton's good will[4] with their clients and future clients, and any claim brought against the bankruptcy judge for loss of such fees upon a reversal of his Order of suspension on appeal, may be dismissed on the grounds that the bankruptcy judge enjoys absolute judicial immunity[5] even though said Order of suspension was issued maliciously, to retaliate against Walton for filing a damage claim against Judge Rendlen, is reversed on appeal and Appellants have suffered hundreds of thousands of dollars in damages from lost legal fees.

---

[4] Said goodwill has already been damaged in that the Chapter 13 Trustee sent a copy of the subject Motion to Walton's clients. Moreover, Judge Rendlen had the Clerk of the Court post a notice of the suspension on the court's website which further disparages Walton and Robinson.

[5] There is an exception to judicial immunity where one can show that the judge acted without jurisdiction which may be the case at bar; however, the claim of judicial immunity is valid where the court acted in excess of jurisdiction, which also may be the case at bar, and thus Walton is without adequate remedy at law.

E Appellants Client's Will Suffer Irreparable Harm If A Stay is Not Granted

More importantly and critically, Robinson and Walton's clients will suffer irreparable harm and injury and will have no adequate remedy at law as well in that they will lose the fees paid to Robinson and Walton for representation, have to expend additional attorney's fees to seek substitute counsel, which they may be unable to timely accomplish or even afford to do so, and in the interim said clients will have no legal counsel to expeditiously and competently represent them and to protect their legal rights and interests and to assure that appearances of counsel occur at hearings or meetings and that documents are filed competently and timely with the court. The use of the CM/ECF system is not just to benefit the attorney's employing the system, but to benefit the court and its staff as well as the litigants, debtors and parties in interest utilizing the CM/ECF system. What happens if a client appears at the last minute to stop a foreclosure or to file some other document timely? Those clients or debtors are subject to loss of their homes or loss of their legal rights due to Robinson and Walton being unable to utilize the CM/ECF system as well as the after hours drop box. Moreover, what happens to a client's case, if Walton or Robinson are unable to personally deliver a document to court due to being tied up in trial or for some other reason that prevents them from personally traveling to court? The CM/ECF system and the drop box overcomes that administrative problem, and assures the maximum amount of time possible in timely filing a document with the court. The CM/ECF system and the drop box and the employment of delivery services and staff to deliver documents to court were not instituted for Robinson and Walton's personal benefit, but to assure justice for all. Judge Rendlen's Judgment and Order benefits no one and is likely to cause harm to debtors.

F Stay Will Not Cause Substantial Harm to Other Interested Parties

A stay will not cause substantial harm to other interested parties, and moreover, there will be no harm from any delay in the final disposition of the contested matter after disposition of the

appeal, in that the amount in controversy was only $495.00 and Ross Briggs who had initially represented the debtor had refunded debtor the attorney's fees paid by debtor prior to the court entering said judgment for disgorgement of attorney's fees. Moreover, neither Robinson nor Walton have engaged in any actions or neglect of their duties to their clients, parties, trustees or the court's that warrants suspension of their privileges and right to practice law in the US Bankruptcy Court.

G A Stay Will Not Harm the Public Interest

A stay will not harm the public interest in that in that neither Robinson nor Walton have engaged in any actions or neglect of their duties to their clients, parties, trustees or the court's that warrants suspension of their privileges and right to practice law in the US Bankruptcy Court, and certainly the complaint of one single client out of some 2,500 per year that are handled by Robinson and none of the clients of Walton should not warrant the suspension of Robinson and Walton's right and privilege to practice in the US Bankruptcy Court for the Eastern District of Missouri.

IV Conclusion

In the interest of fairness and justice and to avoid irreparable harm to the Appellants and their clients, Elbert A Walton Jr, moves this Honorable Court for a stay of said Judgment (Bk Doc #199) and Amended Order (Bk Doc #201) pending final disposition of the appeal of said Judgment and Order or in the alternative that the Court transfer this issue and subject matter to the court en banc for issuance of a stay pending the outcome of Walton's appeal.

METRO LAW FIRM, LLC.

By: Elbert A. Walton, Jr.

Elbert A. Walton, Jr.
U.S. District Ct Bar Mo Bar #24547
Attorney for Walton
2320 Chambers Rd.
St. Louis, MO 63136
Telephone: (314) 388-3400
Fax: (314) 388-1325
E-mail address: elbertwalton@elbertwaltonlaw.com

CERTIFICATE OF SERVICE: By signature above I hereby certify that I personally filed the foregoing with the Clerk of the United States Bankruptcy Court, Eastern District of Missouri by delivering it to the Deputy Clerk at the Counter and that a copy will be served by the CM/ECF system upon those parties indicated by the CM/ECF system,

By: Elbert A. Walton, Jr.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re
JATUNE MOBLEY **Cause No 14-44207-399**
Debtor
and
All Cases on List Attached to Trustees
Motion

ELBERT WALTON'S OBJECTION TO TRUSTEE'S MOTION FOR ORDER TO TEMPORARILY HOLD DISBURSEMENT OF ATTORNEYS FEES

Comes Now Elbert A. Walton, Jr, Attorney At Law, and, in opposition to the aforesaid motion of the Trustee, states:

1. Pursuant to Local Rules 2016-3 and 3015-2 provide for payment of attorney's fees to debtor's counsel in the amount of $4,000, less prepaid amounts, through the plan payments of the debtor. Rule 2016-3(c) presumptively provides for payment of up to $1,100 for legal services rendered by debtor's counsel up to confirmation; the balance of the attorney's fees are to pay for legal services rendered after confirmation.

2. The Trustee has filed a motion that pertain to Chapter 13 bankruptcies cases in which undersigned has entered as debtor's counsel; Orders of Confirmation have been entered in several of said cases.

3. Each of the Orders of Confirmation has ordered payment to undersigned for legal services rendered on behalf of debtor.

4. The undersigned has represented for various lengths of time ranging from several months to nearly five years.

5. The effect of the motion is to vacate the aforesaid Orders of Confirmation as they order payment to undersigned. In so moving, Trustee has not provided the 21 days notice to all parties in interest as required by Local Rule 3015-5.

6. The motion of the Trustee should be denied due to this lack of adequate notice.

7. Further, due to the entry of the aforesaid Orders of Confirmation, undersigned possesses a protectable legal interest in the receipt of payment for services performed.

8. As movant, it is the burden of the Trustee to adduce evidence in each and every one of the confirmed cases that the value of the legal services already rendered by the undersigned is less than the amount to be paid undersigned through the offices of the Trustee.

9. Anything less would deny undersigned due process of law.

10. Undersigned respectfully demands that the Trustee adduce such proof.

11. The motion of the Trustee, if granted, would give effect to an unlawful and void Order entered in Case Number 11-46399 suspending the undersigned's right to practice law in the US Bankruptcy Court for the Eastern District of Missouri.

12. This Order is presently on appeal before the United States District for the Eastern District of Missouri.

13. Accordingly, due to the pendency of said appeal, and the fact that said Order of suspension is null and void, this Court has no jurisdiction to grant the motion of the Trustee.

14. The duty of this court is to maintain the staus quo ante the issuance of said void Judgment and Order suspending Walton as the parties await further guidance form the District Court.

15. The motion of the trustee is requesting a dramatic change of the status quo ante that the Bankruptcy Court in Case No. 11-46399 had no jurisdiction to enter.

16. Finally, the Order entered in Case Number 11-46399 purports to impose criminal contempt powers without constitutional authority and circumvented the disciplinary protection that should have but were never afforded the undersigned pursuant Rule V of the District court.

17. Accordingly, the Order suspending Walton that was entered in case Number 11-46399-705 was an unconstitutional act and should not be enforced by this Court or the Bankruptcy Court en banc, but rather should be stayed pending appeal of said Order of suspension.

WHEREFORE, the undersigned objects to the Motion of the Trustee and requests that said motion be denied and the court stay enforcement of said judgment of suspension or in the alternative transfer same to the court en banc.

METRO LAW FIRM, LLC.

By: Elbert A. Walton, Jr.

Elbert A. Walton, Jr.
U.S. District Ct Bar Mo Bar #24547
Attorney for Walton pro se
2320 Chambers Rd.
St. Louis, MO 63136
Telephone: (314) 388-3400, Fax: (314) 388-1325
E-mail address: elbertwalton@elbertwaltonlaw.com

CERTIFICATE OF SERVICE: By signature above I hereby certify that I personally filed the foregoing with the Clerk of the United States Bankruptcy Court, Eastern District of Missouri over the counter and that a copy will be served by the CM/ECF system upon

those parties indicated by the CM/ECF system, and a copy was also emailed to David Gunn attorney for debtor steward in Case No 11-46399-705 at his email address: dgunn@tbcwam.com, this June 23, 2014.

By: Albert A. Webb, Jr.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re
JATUNE MOBLEY **Cause No 14-44207-399**
Debtor
and
All Cases on List Attached to Trustees Motion

RESPONDENT WALTON'S REPLY MEMORANDUM IN OPPOSITION TO TRUSTEE'S MOTION FOR ORDER TO TEMPORARILY HOLD DISBURSEMENT OF ATTORNEY'S FEES AND WALTON'S COUNTER-MOTION TO TRANSFER ISSUE TO COURT EN BANC

Table of Contents

Table of Authorities

Cases

Statutes

Rules

Memorandum of Law

I Introduction

A single judge of the US Bankruptcy Court for the Eastern District of Missouri, in clear excess of all jurisdiction under E.D. Mo. Bank L.R. 2090, promulgated by the Bankruptcy Court, en banc, has entered a Judgment and Order that does not simply apply to a single case pending before said Bankruptcy Judge, but instead extends beyond the reach of his own courtroom to the court en banc, and has placed his colleagues, including the Presiding Judge, in the Eastern District of Missouri Bankruptcy Court in the awkward position of having to honor and enforce a clearly unlawful and void Judgment and Order suspending members of the bar from practicing in the Bankruptcy Court for a year. The Bankruptcy Court adopts local rules, en banc, surely to avoid such a predicament -- to provide consistency, uniformity, and guidance for each member of the court so that the court may operate with the best collegial harmony possible. Moreover, said local rules are designed to assure due process and equal justice under the law for the attorney's, debtors and parties in interest doing business in the US Bankruptcy Court. For the reasons set forth below this Court should transfer this issue to the court en banc, and the court en banc should enter a stay of enforcement of said Judgment and Order of Suspension, as well as the administrative Order prohibiting said attorneys from employing the CM/ECF system, pending the outcome of this issue on Appeal.

II Facts

A single Judge of the Bankruptcy Court entered a final Judgment (Bk Doc #199) and Order as amended (Bk Doc #201), in Case No. 11-46399-705 that, inter alia, (a) suspended James C. Robinson and Elbert A Walton Jr's right to practice law in the U.S. Bankruptcy Court, (b) their right to file documents employing the court's CM/ECF system, (c) their right to file

documents in the court's drop box, (d) their right to employ agents, representatives, and employees to deliver documents to the Bankruptcy Court, and (e) mandated that any documents filed by Robinson and Walton in the Bankruptcy Court be personally delivered by Robinson and Walton.

Robinson and Walton filed a Notice of Appeal of said Judgment and Order to the US District Court (Bk Doc #202) and filed a Motion for a Stay of said Judgment and Order with the Bankruptcy Court. (Bk Doc #205) The Debtor filed a response in opposition to said Motion for Stay. (Bk Doc #212 & 213) Said Motion for Stay is Pending before the Bankruptcy Judge presiding over said case.

The Standing Chapter 13 Trustee has filed a Motion for Order to Temporarily Hold Disbursement of Attorney's Fees due, owed and payable to Robinson and Walton, pending another single judge of the Bankruptcy Court entering an Order giving Directions to the Trustee as to monthly payment of flat attorney's fees, elected, due, owed and payable to Robinson and Walton. Walton presents this Memorandum in opposition to the Trustee's Motion to Temporarily Hold Disbursement of Attorney's Fees due, owed and payable to Robinson and Walton. Walton does not represent Robinson on this issue but must necessarily include Robinson in this opposition as their positions are factually and legally the same, and thus any decision on this issue should be equally applicable to both Robinson and Walton and not inconsistent.

III Points, Authorities and Argument

A Flat Fee Has Been Earned

Walton and Robinson elected the flat fee option and certainly have earned any fees payable under said option up through June 30, 2014. Moreover, the flat fee is designed to

obviate the necessity to keep time records related to fees earned. Once a case is confirmed, if a client pays timely and fully under their confirmed plan, generally, the only service that remains to be rendered is the filing of a domestic support certification preliminary to discharge. Thus, the court could only rule that a portion of said fee was not earned at the time the necessity to provide a service arose and counsel was unable to provide said service due to said suspension. That eventuality may not occur until well over a year has passed and said suspension has terminated.

B Standard for Granting Stay

Absent a showing of good cause, F. R. Bank. P. 8005 requires that a motion to stay a bankruptcy court order, pending the appeal of that order, be initially filed in the bankruptcy court. Said Rule also grants the District Court concurrent jurisdiction to grant the stay. When considering a motion to stay a final order, the court determines: (1) whether the movant is likely to succeed on the merits of the appeal; (2) whether the movant will suffer irreparable injury if the stay is not granted; (3) whether other interested parties would suffer substantial harm if the stay is granted; and (4) whether the issuance of the stay will not harm the public interest. *In re Havens Steel Co.,* 2005 WL 562733, at *6 (W.D. Mo. Jan. 12, 2005); *In the Matter of Mansion House Ctr. S. Redev. Co.,* 5 B.R. 826, 832 (E.D. Mo. 1980).

C Probability of Success on Appeal

1 Judgment (Doc #199) and Amended Memorandum and Order (Doc #201)

The bankruptcy court erred in entering Judgment (Doc #199) and its Amended Memorandum and Order (Doc #201) against Robinson, Critique and Walton, because (a) It was entered in violation of the fifth amendment to the US constitution requirement that Appellants be afforded due process of law, (b) It was entered in excess of the statutory and rule authority or jurisdiction of the bankruptcy court, (c) It was unsupported by competent and substantial

evidence upon the whole record, (d) It is unauthorized by law and rule, (e) It was entered upon unlawful procedure and without a fair and impartial hearing or trial, (f) It is arbitrary, capricious and unreasonable, (g) It involves an abuse of discretion, (h) there was no substantial evidence to support it, (i) it was against the weight of the evidence, (j) it erroneously declares the law, (k) it erroneously applies the law, (l) shall delay, diminish or even defeat a valid claim of Robinson and Walton as well as of their clients, (m) is without any rational administrative basis, (n) shall cause unnecessary delay and needless increase in the cost of litigation, (o) the court was disqualified from hearing the matter and should have recused himself, (p) the Debtor had failed to state a claim upon which relief may be granted, (q) the debtor was with unclean hands, (r) the court was without jurisdiction over the person of Critique Services, LLC, and (s) the court was without jurisdiction over the subject matter, (t) the Memorandum and Order was entered untimely, in conflict and inconsistent with the Judgment entered therein, and (u) the court denied Robinson and Critique their choice of counsel under the Sixth Amendment of the US Constitution.

2 The Court Was Without Jurisdiction Over the Subject Matter

The underlying contested matter was initiated by the Court when, in excess of its jurisdiction, the court, sua sponte, removed an Amended Adversary Complaint from an Adversary Case No. 12-04341, (Adv. Doc #12), (see docket entry 4/5/2013) and re-filed it in the underlying Chapter 7 case; and then entered an Order in said underlying Chapter 7 case deeming said Amended Adversary Complaint to be a Motion to Disgorge attorney's fees paid to Appellant James C. Robinson when he represented Debtor in the underlying Chapter 7 bankruptcy case. (Bk Doc #29) Thus the court was without jurisdiction over the subject matter. Moreover, Critique Services, LLC was not named as a party to the contested matter and not served process

and therefore the court was without personal jurisdiction over Critique Services, LLC. This defect warrants reversal on appeal and a grant of stay.

The U.S. Supreme Court stated that if a court is

> *"without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." Elliot v. Piersol,* 1 Pet. 328, 340, 26 U.S. 328, 340 (1828)

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties. See *Milliken v. Meyer*, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940) A void judgment includes a judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999)

3 The Court Was Disqualified From Presiding Over the Subject Matter and Person of Robinson, Critique and Walton Under 28 USC §§ 455 and 144.

Prior to being appointed a US Bankruptcy Court Judge, Judge Rendlen prosecuted Critique Services LLC, and two individual associated with Critique, Ross Briggs and Beverly Holmes Diltz, for alleged misconduct in two separate case; and therefore should have recused himself from presiding over the contested matter in which the Judgment and Order of suspension of Walton and Robinson was entered. He also took on the role of an advocate for debtor instead of a neutral judicial officer from the sua sponte removal of the Amended Adversary Complaint from the Adversary case and refilling it in the associated Bankruptcy case, through sua sponte notices of intent to sanction, and up to the final Judgment and Order entered

in the case. Moreover, the court erred in denying Robinson's Motion for Recusal on said grounds under 28 USC § 455.

In addition, the Bankruptcy Court engaged in personal attacks against Walton and Robinson, and initiated ex-parte communications with the Chapter 7 trustee assigned to the case and extra judicially demanded that Robinson terminate Walton as his legal counsel and never employ Walton again, triggering an action against Judge Rendlen personally for tortious interference with a contract and business expectancies. Said ex-parte communications and extra judicial actions disqualified the Judge from presiding over the court's, sua sponte, notices of intent to sanction Walton and Robinson and he erred in denying Walton's motions for recusal on said grounds under 28 USC § 455 and 28 USC § 144. *US v. Microsoft Corp.*, 56 F. 3d 1448 (DC Circ, 1995) (Citing: *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 865, 108 S.Ct. 2194, 2205, 100 L.Ed.2d 855 (1988). *Liteky v. United States*, ___ U.S. ___, ___ _ ___, 114 S.Ct. 1147, 1156-57, 127 L.Ed.2d 474 (1994).) Moreover, Judge Rendlen personally denied the Motion for recusal under 28 USC § 144 even though the statute mandates that the motion be decided by another judge. This defect warrants reversal on appeal and a grant of stay.

When considering a claim under §455(a), [a Court] must consider "whether a reasonable and objective person, knowing all of the facts, would harbor doubts concerning the judge's impartiality." *In re Chevron U.S.A., Inc.*, 121 F.3d 163, 165 (5th Cir. 1997) (internal quotation marks omitted) (emphasis added). This is because the goal of this provision is to "avoid even the appearance of partiality." *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 860, 100 L.Ed. 2d 855, 108 S. Ct. 2194 (1988) (internal quotation marks omitted). Thus, recusal may be required even though the judge is not actually partial. *In re Cont'l Airlines Corp.*, 901 F.2d 1259, 1262 (5th Cir. 1990). "Under §455(a), we consider whether the judge's impartiality might

reasonably be questioned by the average person on the street who knew all the relevant facts of a case." *In re KPERS*, 85 F.3d at 1358.

4 A Single Bankruptcy Judge Has No Jurisdiction to Suspend an Attorney from Practicing in Bankruptcy Court.

The local rules of the U.S. Bankruptcy Court clearly do not confer jurisdictional authority upon a single bankruptcy judge to suspend an attorney from practicing before the bankruptcy court. The relevant parts of the Rules are as follows (emphasis mine):

US District Court – Local Rules

Rule 83 - 12.02. Attorney Discipline.

A member of the bar of this Court and any attorney appearing in any action in this Court, for good cause shown and after having been given an opportunity to be heard, ***may be disbarred or otherwise disciplined, as provided in this Court's Rules of Disciplinary Enforcement.*** *In addition, a judge may impose sanctions pursuant to the Court's inherent authority, Fed.R.Civ.P. 11, 16 or 37, or any other applicable authority, and may initiate civil or criminal contempt proceedings against an attorney appearing in an action in this Court. The Rules of Professional Conduct adopted by this Court are the Rules of Professional Conduct adopted by the Supreme Court of Missouri, as amended from time to time by that Court, except as may otherwise be provided by this Court's Rules of Disciplinary Enforcement.* ***E.D. Mo. L. R. 83-12.02***

Rules of Disciplinary Enforcement

Rule V -- Disciplinary Proceedings.

A. ***When misconduct or allegations of misconduct which, if substantiated, would warrant discipline of an attorney*** *admitted to practice before this court shall come to the attention of a Judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules,* ***the judge may refer the matter to counsel appointed under Rule X for investigation and prosecution of a formal disciplinary proceeding*** *or the formulation of such other recommendation as may be appropriate.*

B. Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney for any valid reason,

counsel shall file with the court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise, setting forth the basis for the decision.

C. To initiate formal disciplinary proceedings under these Rules, ***counsel shall seek an order of this court upon a showing of probable cause requiring the respondent-attorney to show cause within 30 days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined****. Except as otherwise provided in these Rules, the proceedings and all filings in this court in every disciplinary case shall be matters of public record, unless a judge orders otherwise.*

D. Upon the respondent-attorney's answer to the order to show cause, if a material issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, this court may set the matter for hearing before one or more judges of this court. If the disciplinary proceeding is predicated upon the complaint of a judge of this court, ***the hearing shall be conducted before a panel of three other[1] judges of this court appointed by the Chief Judge****, or, if there are less than three judges eligible to serve or the Chief Judge is the complainant, by the Chief Judge of the Court of Appeals for this circuit, or his designee.* ***E.D. Mo. L. Disp. Enf. R. V***

Bankruptcy Court – Local Rules

L.R. 2090 - Attorney Admission.

A. ***General Admission to Practice before the Bankruptcy Court****. The bar of this Court shall consist of any attorney in good standing to practice before the United States District Court for the Eastern District of Missouri.* ***The requirements for attorney admission, standards concerning attorney discipline****, law clerks, and law student practice* ***outlined in Rules 12.01-12.05 of the Local Rules of the United States District Court for the Eastern District of Missouri are adopted for this Court****. Attorneys are required to read and remain familiar with:*

1. these Local Rules and the Procedures Manual;

2. Local Rules of the United States District Court for the Eastern District of Missouri and the accompanying Rules of Disciplinary Enforcement; *** E.D. Mo. Bank L.R. 2090

---

[1] It is thus to be noted that the complaining judge is disqualified from serving on the panel; therefore, clearly Judge Rendlen was without jurisdiction to suspend Walton and Robinson

"[A] district court's inherent power to discipline attorneys who practice before it does not absolve the court from its obligation to follow the rules it created to implement its exercise of such power." *United States Dep't of Justice v. Mandanici,* 152 F.3d 741, 745 n. 12 (8th Cir.1998). Clearly under said local rules, Judge Rendlen was obligated to file a complaint with the District Court's Disciplinary Counsel who would then conduct an investigation and determine whether or not charges should be presented to a three judge panel of the District Court which panel then would determine whether or not suspension was warranted. Judge Rendlen failed to do so, but instead, in excess of his jurisdiction under said local rules, unilaterally suspended Robinson and Walton from practicing before the Bankruptcy Court. Said suspension was in excess of the jurisdiction of the court and therefore must be reversed on appeal. Thus the Court should issue a stay of execution thereof pending appeal.

5 The Court Erred in Ordering Disgorgement of $495.00 in Attorney's Fees in that it was in excess of the fees paid by the Debtor to Robinson and Debtor Was Without Clean Hands and Perpetuated a Fraud Upon the Court

The doctrines of *in pari delicto and unclean hands* prohibits a plaintiff from maintaining an action when, "in order to establish his cause of action, he must rely, in whole or in part, on an illegal or immoral act or transaction to which he is a party." *Dobbs v. Dobbs Tire & Auto Centers, Inc.*, 969 SW 2d 894, 897 (Mo App 1998). Thus, "anyone who engages who engages in a fraudulent scheme forfeits all rights to protection, either at law or equity." *Kansas City Operating Corp v. Durwood*, 278 F2d 354, 357 (8th Cir 1960). One who seeks relief from the court must approach the court with clean hands. *Earle R Hansen Assoc. V. Farmers Coop. Creamery Co.*, 403 F. 2d 65 (8th Cir. 1968) The well-recognized doctrine of unclean hands prevents a Party from obtaining relief if the Party has been "guilty of any inequitable or wrongful conduct with respect to the transaction or subject matter sued on." *WorldCom, Inc. v. Boyne,* 68

Fed. Appx. 447, 451) One who seeks relief from the court must approach the court with clean hands. *Earle R Hansen Assoc. V. Farmers Coop. Creamery Co.*, 403 F. 2d 65 (8th Cir. 1968) The well-recognized doctrine of unclean hands prevents a Party from obtaining relief if the Party has been "guilty of any inequitable or wrongful conduct with respect to the transaction or subject matter sued on." *WorldCom, Inc. v. Boyne*, 68 Fed. Appx. 447, 451) The heart of the unclean hands doctrine is that a party should not request a court to grant them relief when they have failed to act in good faith or fairly and particularly where they have purposely, knowingly and intentionally perjured themselves.

Specifically, in the present case, Debtor has filed a sworn affidavit with this Court wherein Debtor has admitted that: (1) her petition, schedules, statement of affairs and related bankruptcy documents were full of or replete with numerous or multiple false, fraudulent, perjurous inaccuracies, only two of which she alleged were made at the suggestion of her counsel's staff; (2) that she falsely attested and signed said bankruptcy documents falsely affirming under oath that she had in fact read the bankruptcy documents prior to signing them and that they were true and correct to the best of her personal knowledge, information and belief; (3) she signed and consented to the filing of her bankruptcy documents knowing that her statements regarding her address and dependents in the bankruptcy documents were intentionally false and fraudulent and perjurous; (4) she attended a meeting of creditors - outside the presence and influence of her legal counsel - and willfully, intentionally and maliciously repeated her false, fraudulent, perjurous statements and misrepresentations, under oath and penalty of perjury, to the Chapter 7 Trustee, even after being warned by the Trustee that such perjury was criminal and may subject her to criminal prosecution.

Despite the foregoing flagrant, intentional and malicious illegal and immoral acts, the Bankruptcy Court denied Robinson's Motion for Judgment for Robinson based on the unclean hands of the debtor. (Bk Doc #70 & 71) Instead, the Court Ordered fee disgorgement on the grounds that someone in Robinson's office allegedly advised Debtor to give an address in St. Louis County rather than St Charles County and to list her nieces and nephews, that she provided support, as dependents, though they did not reside with her. Her address was immaterial in that both St Charles and St Louis Counties are in the Eastern Division of the Eastern District of Missouri; and one can claim a dependent even if the dependent does not reside with you so long as you contribute the greater share of their support than any other person. Thus, the address was not material and the dependent claim had factual support; however, the Court was with clear, convincing and substantial evidence that Debtor had, sua sponte, perpetrated a fraud upon the court. Thus the District Court will likely reverse the Judgment and Order on Appeal and therefore should grant a stay.

6 **The Court Was Without Jurisdiction to Issue Monetary Sanctions and Award Attorney's Fees for Failure to Comply with a Discovery Order under F. R. Civ. P. 37 nor Under F. R. Civ. P. 11 in that the Debtor Had Withdrawn Her Motion to Compel Discovery, the Case Was Settled, No Trial Was to Be Had, And Debtor Sought No Sanctions or Award of Attorney's Fees**

The Bankruptcy Court, sua sponte, issued a Notice of *Intent* to Sanction Robinson and Walton for alleged failure to comply with discovery under F. R. Civ. P. 37 (Bk Doc #134 & 136) and Ordered the Debtor's counsel to provide evidence of attorney's fees incurred by Debtor (Bk Doc #139). In response thereto, the Debtor filed a Withdrawal of her Motion to Compel Discovery, and notified the court that she had no need for discovery, had settled the case, could not accept discovery under the terms of the settlement, and discovery was no longer a matter of controversy. (Bk Doc #146) The court in an abuse of discretion, clearly erroneous ruling of law,

and in excess of its jurisdiction, asserted that Debtor had no right to withdraw her motion to compel discovery and had to accept discovery notwithstanding the fact that the case had been settled and there was no need for discovery in order to prepare for trial. (Bk Doc #148) Moreover, in its Judgment and Order the court indicated that it was entering said Judgment for monetary sanctions and Attorney's fees under F. R. Bank. P. 9011. Rule 9011 clearly states that it is not applicable to Discovery, may not be entered after settlement of the case, and may not be entered against a represented party. The Case was settled and a Motion was filed with the court to approve the settlement on April 10, 2014. (See Bk Doc #144) On April 21, 2014, the Bankruptcy Court, sua sponte, issued a Notice of *Intent* to Sanction Walton and Robinson (Bk Doc #165) under Fed. R. Bank. P. 9011. Clearly the court exceeded its jurisdiction under Rule 9011. Moreover, the court failed to issue an Order to Show Cause, failed to hold a hearing, and failed to describe the specific conduct that appears to violate Rule 9011. Thus, the District Court must reverse the Bankruptcy Court on appeal and thus the Court en banc should issue a Stay of enforcement of the Judgment and Order of the Bankruptcy Court.

D Appellants Will Suffer Irreparable Harm If A Stay is Not Granted

Robinson has an extensive Bankruptcy practice, averaging some 2,500 bankruptcy clients per year, with some 650 cases and 160 hearings currently pending in the US. Bankruptcy court. (varies from day to day) Walton also practices Bankruptcy law, filing approximately 50 cases per year, and has approximately three Chapter 7 cases awaiting discharge, approximately five Chapter 13 cases seeking confirmation of Chapter 13 plans, and approximately twenty confirmed cases in which client's are making chapter 13 plan payments and seeking discharge, as well as an Adversary Case pending in Bankruptcy Court. (Also varies as time passes) Robinson and Walton are scheduled to make appearances in representation of said clients in prosecution of their cases as well as in defense of motions for relief and/or objections raised by trustees,

creditors or other parties in interest and to file documentation with the Bankruptcy Court to enable said clients to overcome said objections and motions and to obtain discharges. (See pacer record of Robinson and Walton) Robinson and Walton have clients who have paid them for representation and who must be represented in said cases pending in the Bankruptcy Court and who are subjected to having their cases dismissed or subjected to other adverse consequences based on the court's Order immediately suspending Robinson and Walton from practicing before the Bankruptcy Court and suspending their right to file documents using the CM/ECF system. Robinson and Walton will suffer irreparable injury absent a stay; and there is no adequate remedy at law, in that the suspension of their right and privilege to practice in the Bankruptcy Court will result in loss of hundreds of thousands of dollars of legal fees, as well as cause damage to Robinson and Walton's good will[2] with their clients and future clients, and no claim may be brought against the bankruptcy judge for loss of such fees upon a reversal of his Order of suspension on appeal in that the bankruptcy judge enjoys absolute judicial immunity even though said Order of suspension is reversed on appeal and Appellants have suffered hundreds of thousands of dollars in damages from lost legal fees.

E Appellants Client's Will Suffer Irreparable Harm If A Stay is Not Granted

More importantly and critically, Robinson and Walton's clients will suffer irreparable harm and injury and will have no adequate remedy at law as well in that they will lose the fees paid to Robinson and Walton for representation, have to expend additional attorney's fees to seek substitute counsel, which they may be unable to timely accomplish or even afford to do so, and in the interim said clients will have no legal counsel to expeditiously and competently

---

[2] Said goodwill has already been damaged in that the Chapter 13 Trustee sent a copy of the subject Motion to Walton's client's

represent them and to protect their legal rights and interests and to assure that appearances of counsel occur at hearings or meetings and that documents are filed competently and timely with the court based on the sudden, unexpected, and unanticipated suspension of Robinson and Walton's right to practice in the Bankruptcy Court. The use of the CM/ECF system is not just to benefit the attorney's employing the system, but to benefit the court and its staff as well as the litigants, debtors and parties in interest utilizing the CM/ECF system. What happens if a client appears at the last minute to stop a foreclosure or to file some other document timely? Those clients or debtors are subject to loss of their homes or loss of their legal rights due to Robinson and Walton being unable to utilize the CM/ECF system as well as the after hours drop box. Moreover, what happens to a client's case, if Walton or Robinson are unable to personally deliver a document to court due to being tied up in trial or for some other reason that prevents them from personally traveling to court? The CM/ECF system and the drop box overcomes that administrative problem, and assures the maximum amount of time possible in timely filing a document with the court. The CM/ECF system and the drop box and the employment of delivery services and staff to deliver documents to court were not instituted for Robinson and Walton's personal benefit, but to assure justice for all. Judge Rendlen's Judgment and Order benefits no one and is likely to cause harm to debtors.

F Stay Will Not Cause Substantial Harm to Other Interested Parties

A stay will not cause substantial harm to other interested parties, and moreover, there will be no harm from any delay in the final disposition of the contested matter after disposition of the appeal, in that the amount in controversy was only $495.00 and Ross Briggs who had initially represented the debtor had refunded debtor the attorney's fees paid by debtor prior to the court entering said judgment for disgorgement of attorney's fees. Moreover, neither Robinson nor Walton have engaged in any actions or neglect of their duties to their clients, parties, trustees or

the court's that warrants suspension of their privileges and right to practice law in the US Bankruptcy Court.

G A Stay Will Not Harm the Public Interest

A stay will not harm the public interest in that in that neither Robinson nor Walton have engaged in any actions or neglect of their duties to their clients, parties, trustees or the court's that warrants suspension of their privileges and right to practice law in the US Bankruptcy Court, and certainly the complaint of one single client out of some 2,500 per year that are handled by Robinson and none of the clients of Walton should not warrant the suspension of Robinson and Walton's right and privilege to practice in the US Bankruptcy Court for the Eastern District of Missouri.

IV Conclusion

In the interest of fairness and justice and to avoid irreparable harm to the Appellants and their clients, Elbert A Walton Jr, moves this Honorable Court for a stay of said Judgment (Bk Doc #199) and Amended Order (Bk Doc #201) pending final disposition of the appeal of said Judgment and Order or in the alternative that the Court transfer this issue and subject matter to the court en banc for issuance of a stay pending the outcome of Walton's appeal.

METRO LAW FIRM, LLC.

By: 

Elbert A. Walton, Jr.
U.S. District Ct Bar Mo Bar #24547
Attorney for Walton
2320 Chambers Rd.
St. Louis, MO 63136
Telephone: (314) 388-3400
Fax: (314) 388-1325
E-mail address: elbertwalton@elbertwaltonlaw.com

CERTIFICATE OF SERVICE: By signature above I hereby certify that I personally filed the foregoing with the Clerk of the United States Bankruptcy Court, Eastern District of Missouri by delivering it to the Deputy Clerk at the Counter and that a copy will be served by the CM/ECF system upon those parties indicated by the CM/ECF system,

By:

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In:		
JATUANE MOBLEY	)	
Debtor(s)	)	Case No.: 14-44207-39
and	)	Chapter 13
All Cases on List Attached	)	
To Trustees Motion	)	
	)	
	)	
	)	

JAMES ROBINSON'S RESPONSE TO OBJECTION TO TRUSTEE'S MOTION FOR ORDER TO TEMPORARILY HOLD DISBURSEMENT OF ATTORNEYS FEES

Comes Now James C. Robinson, Attorney At Law, and, in opposition to the aforesaid motion of the Trustee, states:

1. Pursuant to Local Rules 2016-3 and 3015-2 provide for payment of attorney's fees to debtor's counsel in the amount of $4,000, less prepaid amounts, through the plan payments of the debtor. Rule 2016-3(c) presumptively provides for payment of up to $1,100 for legal services rendered by debtor's counsel up to confirmation; the balance of the attorney's fees are to pay for legal services rendered after confirmation.

2. The Trustee has filed a motion that pertain to approximately 174 Chapter 13 bankruptcies cases in which undersigned has entered as debtor's counsel; Orders of Confirmation have been entered in approximately 145 of the foregoing cases. Each of the foregoing Orders of Confirmation has ordered payment to undersigned for legal services rendered on behalf of debtor. Undersigned has represented for various lengths of time ranging from several months to nearly five years.

3. The effect of the motion is to vacate the aforesaid Orders of Confirmation as they order payment to undersigned. In so moving, Trustee has not provided the 21 days notice to all parties in interest as required by Local Rule 3015-5. The motion of the Trustee should be denied due to this lack of adequate notice.

4. Further, due to the entry of the aforesaid Orders of Confirmation, undersigned possesses a protectable legal interest in the receipt of payment for services performed. As movant, it is the burden of the Trustee to adduce evidence in each and every the foregoing 145 confirmed cases that the value of the legal services already rendered by undersigned is less than the amount to be paid undersigned through the offices of the Trustee. Anything less would deny undersigned due process of law. Undersigned respectfully demands that the Trustee adduce such proof.

5. The motion of the Trustee, if granted, would give effect to the Order entered in Case Number 11-46399. This Order is presently on appeal before the United States District for the Eastern District of Missouri. In ***Griggs v. Provident Consumer Discount***, the 459 US 56, 58 (1982) the United Supreme Court held that the filing of a notice of appeal "is an event of jurisdictional significance-it confers jurisdiction in the court of appeals and divests the district court over those aspects involved in the appeal." Accordingly, due to the pendency of said appeal, this Court has no jurisdiction to grant the motion of the Trustee. Pursuant to ***Griggs***, the duty of this court is to maintain the staus quo as the parties await further guidance form the District Court. The motion of the trustee is requesting a dramatic change of the status quo that this Court has no power to grant.

6. Finally, the Order entered in Case Number 11-46399 purports to impose criminal contempt powers without constitutional authority and circumvented the disciplinary protection that should have but were never afforded undersigned pursuant Rule V of the District court. Accordingly, the Order entered in case Number 11-46399-705 was an unconstitutional act and should not be further enforced by this Court

James C. Robinson
30969 State # 63594Fed #
Attorney for Robinson
3919 Washington Blvd.
St. Louis Mo. 63108
Tel: (314)533-4357
Fax (314)533-4356
Email Address: jcr4critique@yahoo.com

CERTIFICATE OF SERVICE:

By my signature above it is certified that a copy of the above was served by ECF system and/or by First Class Mail, this upon the Chapter 13 Trustee.

By: _____

Attachment 82

Example of Briggs's Rule 2016 Statement in a case where the debtor had paid Robinson for representation

United States Bankruptcy Court
Eastern District of Missouri

In re **Tamika Ecole Henry** Debtor(s)

Case No.

Chapter **7**

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR(S)

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept	$	**0.00**
Prior to the filing of this statement I have received	$	**0.00**
Balance Due	$	**0.00**

2. $ **0.00** of the filing fee has been paid.

3. The source of the compensation paid to me was:

   ■ Debtor ☐ Other (specify):

4. The source of compensation to be paid to me is:

   ■ Debtor ☐ Other (specify):

5. ☐ I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

   ■ I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation is attached. **Ross H. Briggs has elected to donate his legal services without charge. Debtor has paid James C. Robinson for legal. James Robinson, Ross Briggs, and Debtor has agreed to joint representation . All court appearance will be made by Briggs.**

6. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

   a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
   b. Preparation and filing of any petition, schedules, statement of affairs and plan which may be required;
   c. Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;
   d. [Other provisions as needed]

7. By agreement with the debtor(s), the above-disclosed fee does not include the following service:
   Representation of the debtors in any dischargeability actions, judicial lien avoidances, redemption, any motions and relief from stay actions or any other adversary proceeding and/or motions. Also exclude preparation, negotiation and filing of reaffirmation agreements.

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

Dated: **June 17, 2014**

/s/ Ross Briggs
Ross Briggs
Ross Briggs Attorney At Law
4144 Lindell Blvd. #202
Saint Louis, MO 63108
314-652-8922 Fax: 314-652-8202
r-briggs@sbcglobal.net

Attachment 83

Motion for Protective Order, filed in *In re Galbreath*

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In:	
Dorothy Galbreath	)
Debtor(s)	) Case No.: 14-44814-659
	) Chapter 13
	)
	)
	)Hearing Date and Time: 7/7/14 at 10:00 am
	) 7 north
	)

MOTION FOR PROTECTIVE ORDER AND NOTICE OF HEARING

Comes Now Debtor by and through counsel, Ross H. Briggs, and moves this Court for its Order of Protection. In support of this motion, undersigned states based upon his personal knowledge and information related by Attorney James C. Robinson:

1. Prior to June 11, 2014, Debtor had retained Attorney James C. Robinson to file a Chapter 13 bankruptcy. Debtor had met with Mr. Robinson, and had reviewed and signed her schedules, statement of affairs, plan and related documents.
2. On June 11, 2014, Attorney Robinson was prepared to file Debtor's Chapter 13 bankruptcy. However, on June 10, 2014, an Order (hereinafter: Order) was entered in In Re Latoya Steward, Case No. 11-46399 which prohibited Attorney Robinson from filing a bankruptcy or appearing in Bankruptcy Court.
3. On June 11, 2014, Debtor's vehicle was repossessed.
4. Thereafter, Attorney Robinson contacted undersigned, related the above information, and requested assistance to respond to the exigent circumstances of Debtor.
5. Thereafter, Debtor, Attorney Robinson and undersigned agreed in writing that Debtor would retain Attorney Robinson and undersigned as co-counsel, that Attorney Robinson and undersigned would assume joint responsibility for the representation of Debtor inasmuch said attorneys operated separate law offices, that undersigned would make all appearances and sign all pleadings on behalf of Debtor. Undersigned also agree and conditioned his representation upon the fact that all of his legal services would be donated and no fee would be accepted for the representation of Debtor.
6. On June 13, undersigned filed a Chapter 13 bankruptcy on behalf of Debtor.
7. Prior to the filing of this motion, undersigned disclosed the substance of the above agreement with Paul Randolph, Assistant United States Trustee. Mr. Randolph encouraged undersigned to disclose the above referenced agreement with the Court and seek further guidance from the Court.
8. After considerable reflection, undersigned has concluded that the above agreement, and the filing of Debtor's Chapter 13, does not violate the Order, the

Local Rules of this Court, the United States Bankruptcy Code, or any other applicable law or ethical provision.

WHEREFORE, Debtor prays that this Court enter its Order declaring that the above referenced agreement, and undersigned's filing of Debtor's Chapter 13, did not violate the Order, the Local Rules of this Court, the United States Bankruptcy Code or any other applicable law or ethical provision.

NOTICE OF HEARING

Please take notice that Debtor's Motion For Protective Order will be called for hearing on 7/7/14 at 10:00 a.m. at the United States Bankruptcy Court, 111 S. 10th Street, St Louis MO 63102, Courtroom 7 North.

/s/Ross Briggs #2709 #31633
Ross Briggs
Attorney At Law
4144 Lindell Ste 202
St Louis MO 63108
314-652-8922
r-briggs@sbcglobal.net

CERTIFICATE OF SERVICE:

By my signature above it is certified that a copy of the above was served by ECF system and/or by First Class Mail, this 16th day of June, 2014 upon the Chapter 13 Trustee.:

/s/ Ross H. Briggs

Attachment 84

Order, entered in *In re Galbreath*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In Re:	)	
	)	
DOROTHY JEAN GALBREATH,	)	Case No. 14-44814-659
	)	Chapter 13
	)	
Debtor.	)	

O R D E R

The matter before the Court is the Debtor's Motion for Protective Order and Notice of Hearing filed on June 16, 2014. A hearing was held on the matter on July 7, 2014, at which Ross H. Briggs appeared in person, Paul Randolph, Assistant United States Trustee appeared and John V. LaBarge, Jr., Standing Chapter 13 Trustee appeared. Based upon a consideration of the record as whole, including the statements of Mr. Briggs made on the record at the hearing, therefore,

IT IS ORDERED THAT James C. Robinson shall be terminated as attorney for Debtor in this case and Ross H. Briggs shall be added as attorney for Debtor in this case; and

IT IS FURTHER ORDERED THAT within **seven (7) days** of the date of this Order Mr. Briggs shall file an amended Disclosure of Compensation of Attorney for Debtor(s) in this case deleting all references to joint representation of Debtor with Mr. Robinson and attaching a copy of the agreement between Mr. Briggs and Debtor regarding Mr. Briggs' representation of Debtor in this case; and

IT IS FURTHER ORDERED THAT no additional attorneys' fees will be paid in this case to any attorney; and

IT IS FURTHER ORDERED THAT within **fourteen (14) days** of the date of this Order Mr. Briggs shall file an Amended Chapter 13 Plan that removes payment of any attorneys' fees; and

IT IS FURTHER ORDERED THAT within **fourteen (14) days** of the date of this Order Mr. Briggs shall file an Amended Attorney Fee Election Form; and

IT IS FURTHER ORDERED THAT Mr. Briggs is the attorney for Debtor and Mr. Briggs is to advise Debtor, Mr. Briggs is to answer any questions Debtor may have about this case, Mr. Briggs is to prepare and file any pleadings for Debtor that are required to be filed and Mr. Briggs is required to make all court appearances for Debtor, all without charge as indicated on Mr. Briggs' Disclosure of Compensation of Attorney for Debtor(s).

Kathy A. Surratt-States

KATHY A. SURRATT-STATES
Chief United States Bankruptcy Judge

DATED: July 10, 2014
St. Louis, Missouri

Copies to:

All Creditors and Parties in Interest.

Attachment 85

Order, entered in *In re Henry, et al.*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re: **Tamika Ecole Henry,** **Debtor.**	§	**Case No. 14-44922-705** **[Docket No. 1]**
In re: **Tana Coleman,** **Debtor.**	§	**Case No. 14-44980-705** **[Docket No. 1]**
In re: **Shatoya Edwards,** **Debtor.**	§	**Case No. 14-44985-705** **[Docket No. 1]**
In re: **Danielle Brown,** **Debtor.**	§	**Case No. 14-44986-705** **[Docket No. 1]**
In re: **Debra Lasley,** **Debtor.**	§	**Case No. 14-44987-705** **[Docket No. 1]**
In re: **Marquita Mixon,** **Debtor.**	§	**Case No. 14-44992-705** **[Docket No. 1]**
In re: **Kathy Williams,** **Debtor.**	§	**Case No. 14-44993-705** **[Docket No. 1]**

In re:	§	**Case No. 14-44994-705**
Shavonda Crawford,	§	**[Docket No. 1]**
Debtor.	§	
In re:	§	**Case No. 14-45020-705**
Sharee Jones-Gunn,	§	**[Docket No. 1]**
Debtor.	§	
In re:	§	**Case No. 14-45026-705**
Nicholas Barnes,	§	**[Docket No. 1]**
Debtor.	§	
In re:	§	**Case No. 14-44818-705**
Everette Nicole Reed,	§	**[Docket No. 1]**
Debtor.	§	
In re:	§	**Case No. 14-44820-705**
Betty Jean Smith,	§	**[Docket No. 1]**
Debtor.	§	
In re:	§	**Case No. 14-44822-705**
Jessica Marie Wilson,	§	**[Docket No. 1]**
Debtor.	§	
In re:	§	**Case No. 14-44855-705**
Lucinda Netterville,	§	**[Docket No. 1]**
Debtor.	§	

In re:	§	**Case No. 14-44857-705**
Sol Nathan Byrd,	§	**[Docket No. 1]**
Debtor.	§	
	§	**Case No. 14-44858-705**
In re:	§	
David Jerome Allen and Cassandra Allen,	§	**[Docket No. 1]**
Debtors.	§	
	§	**Case No. 14-44909-705**
In re:	§	
Pauline Brady,	§	**[Docket No. 1]**
Debtor.	§	
	§	**Case No. 14-44919-705**
In re:	§	
Jalisa L. Hunter,	§	**[Docket No. 1]**
Debtor.	§	

ORDER (1) STRIKING THE RULE 2016 STATEMENT FILED BY MR. ROSS BRIGGS AS TO ITS REPRESENTATION THAT MR. BRIGGS AND THE SUSPENDED MR. JAMES ROBINSON WILL PROVIDE "JOINT REPRESENTATION," (2) DETERMINING THAT MR. BRIGGS IS THE SOLE COUNSEL OF RECORD FOR THE DEBTOR AND WILL DONATE HIS SERVICES TO THE DEBTOR, AND (3) DIRECTING THAT MR. BRIGGS FILE A CORRECTED RULE 2016 STATEMENT AND AN AFFIDAVIT

On June 11, 2014, in the matter of *In re Steward* (Case No. 11-46399-705), the Court entered a Memorandum Opinion and Order (the "Memorandum Opinion") [Case No. 11-46399 Docket No. 201], imposing sanctions upon Mr. James Robinson, a bankruptcy attorney who has a high-volume debtor representation practice in this District. The sanctions included a one-year suspension of Mr. Robinson (and Mr. Elbert Walton, Mr. Robinson's attorney) from the privilege of practicing before this Court in the representation of any person other than himself. The Court directed that, "effective immediately, Mr.

Robinson . . . be suspended from the privilege to practice before the U.S. Bankruptcy Court for the Eastern District of Missouri for one year (365 days) from the date of the entry of this Memorandum Opinion."

Before his suspension, Mr. Robinson accepted payment from each of the Debtors in the above-captioned cases for legal services that he would provide, as reflected in each Debtor's Statement of Financial Affairs. However, no Debtor's petition for relief was filed prior to Mr. Robinson's suspension. Following Mr. Robinson's suspension, Mr. Ross Briggs[1] filed a petition for relief for each of the Debtors. In the Disclosure of Attorney Compensation statement (each, a "Rule 2016 Statement") filed in each case, Mr. Briggs represents that "James Robinson, Ross Briggs, and the Debtor has [sic] agreed to joint representation."

Numerous problems are presented by these Rule 2016 Statements.

Mr. Briggs's assertion of "joint representation" with Mr. Robinson is ineffective. Mr. Briggs's representation that he will provide "joint representation" with Mr. Robinson is ineffective as a mechanism for making Mr. Robinson an attorney practicing before this Court. Mr. Briggs is the only attorney of record. He is the only attorney signatory to the pleadings. He is the only attorney who filed a Rule 2016 statement. By contrast, Mr. Robinson signed no document on behalf of any Debtor, filed no Notice of Appearance, and filed no Rule 2016 Statement. Mr. Briggs's assertion of "joint representation" does not create a backdoor through which Mr. Robinson can practice before this Court on behalf of any Debtor despite his suspension. In addition, Mr. Robinson's suspension cannot be "contracted around" by agreement of the parties or by an assertion of "joint representation" made by Mr. Briggs. Mr. Robinson was not free to agree to practice by joint representation any Debtor in a case before this Court, and Mr.

[1] Although Mr. Briggs and Mr. Robinson currently do not practice law in partnership, they have worked together before this Court on many occasions. In addition, Mr. Briggs is a co-defendant—along with Mr. Robinson, Mr. Robinson's "firm" (Critique Services L.L.C) and others associated with Critique Services LLC—in an adversary proceeding pending in *In re Steward*.

Briggs's assertion of "joint representation" does not make such asserted "joint representation" either proper or effective.

Mr. Briggs's representation that he will make all courtroom appearances is a non-starter. At Question 5 in each Rule 2016 Statement, Mr. Briggs represents that "[a]ll court appearance [sic] will be made by Mr. Briggs." By making this representation, Mr. Briggs suggests that, as long as Mr. Robinson does not appear in the courtroom, Mr. Robinson may otherwise practice before the Court in joint representation of the Debtor. Mr. Briggs either misunderstands or misrepresents what is meant by Mr. Robinson's suspension. The Court will make this as clear as possible: "*practicing before the Court" is not confined to courtroom appearances or legal filings*, *and it is not determined by whether a face appears inside the well or a name is affixed to a signature block*. "Practicing before the Court" includes any and all rendering of legal services in any matter before this Court. If a case is pending before this Court, Mr. Robinson may not render any type of legal services to anyone in connection to that case, inside or outside the courthouse. Mr. Robinson is suspended from (for example, but not exclusively): agreeing to represent clients in any matter before this Court; advising clients in any matter before this Court; filing electronically documents in a case before this Court through the use of another attorney's CM-ECF log-in information (which is impermissible under any circumstances and, if determined to have occurred, would result in the suspension of the other attorney's CM-ECF log-in information, if the other attorney knew or should have known that Mr. Robinson was using his log-in information); appearing on behalf of another person at a § 341 meeting; providing legal advice or assistance to other counsel in the representation of a client in a case before the Court; and preparing any document that may be filed before this Court on behalf of another person (including "ghost writing" documents for another attorney to sign).

The Court is not saying anything new here. The fact that Mr. Robinson cannot practice in any capacity in any case before this Court is clear from the language of the Memorandum Opinion. The Memorandum Opinion leaves no room for the contention that Mr. Robinson can practice before this Court on a

"joint representation" basis with a non-suspended attorney. In the Memorandum Opinion, the Court specified that:

> [d]uring his suspension from practice, neither Mr. Walton nor Mr. Robinson may file a pleading or document of any sort on behalf of anyone other than himself, or represent any person, other than himself, before this Court in any capacity. Mr. Walton and Mr. Robinson each is barred from practicing or appearing before this Court on behalf of another person, whether it be by: special appearance or regular appearance; for representation of a paying client or a pro bono client; for representation of a family member or an unrelated person; or in a Main Case or an Adversary Proceeding. Mr. Robinson may not represent the artificial legal entity of Critique Services L.L.C., regardless of his insistence that it is his d/b/a.

"Practicing" and "appearing" are disjunctive. They may be distinct acts. A lawyer may "practice" before the Court without "appearing" in the courtroom—and Mr. Robinson is suspended from doing either. The Memorandum Opinion did not limit the scope of the suspension to the act of appearing in the courtroom. While the Court noted that certain acts were specifically included in the scope of the suspension, those examples did not limit the scope of the suspension.[2] The fact that the Court did not list "joint representation" along with the examples of

[2] The Court suspected that Mr. Robinson and Mr. Walton would attempt bad faith efforts to avoid their suspension. Their abuse of process, contempt and gross lack of respect for the Court demonstrated in *In re Steward* certainly justified the Court's mistrust. And, just a few months ago, Mr. Robinson chose to ignore the clear terms of his previous suspension from the use of the Court's exterior drop box, incurring for himself $3,000.00 in sanctions. Because of these previous demonstrations of a willingness to disregard Court orders and Court authority, the Court spelled out in the Memorandum Opinion examples of ways in which Mr. Robinson and Mr. Walton could not practice or appear before the Court. The Court did not, however, attempt to prognosticate all the ways in which Mr. Robinson and Mr. Walton could violate their suspensions, then specify that each such act was prohibited. The Court simply lacks that type of creativity regarding bad faith. And, even if the Court could design such a list, it was disinclined to add so many more pages to the Memorandum Opinion. To any degree, the Court's suspicions were proved true, beginning the day after the entry of the Memorandum Opinion, when Mr. Walton and Mr. Robinson began violating their suspensions, as shown on the post-suspension docket in *In re Steward*.

impermissible forms of representation does not mean that "joint representation" is somehow a permissible form of practicing before the Court.

Another way to understand what is meant by "practicing before the Court" is to consider the scope of Bankruptcy Code § 329. Section 329 provides that any compensation received by a debtor's attorney for "services rendered or to be rendered in contemplation of or in connection with a case"[3] must be disclosed to the Court and may be ordered disgorged if excessive. "Services rendered or to be rendered" is not limited to those services provided in the courtroom. Practicing before this Court is not just about the act of showing up for courtroom face-time. It encompasses any and all legal services rendered, or contemplated to be rendered, in connection with a case before the Court.

The Fee Sharing Agreement. Each Rule 2016 Statement is vague and inconsistent on the issue of whether Mr. Briggs will be paid for his representation of the Debtor through a fee sharing agreement with Mr. Robinson. On one hand, at Question 1, Mr. Briggs represents that he agreed to accept, and that he has accepted, $0 in compensation for his services rendered to the Debtor. However, at Questions 3 and 4, Mr. Briggs represents that "the source of the compensation paid" to him is the Debtor, and that "the source of compensation to be paid" to him is the Debtor—representations that cannot be reconciled with his representations at Question 1. Then, at Question 5, Mr. Briggs marked the box indicating that he "agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm." However, he failed to attach a copy of the fee-sharing agreement and a list of names of people sharing in the compensation, as Question 5 specifically requires. Then, in the first sentence of his text-added response to Question 5, Mr. Briggs states that he "elected to donate his legal services"—offering no

[3] Section 329(a) provides that "[a]n attorney representing a debtor in a case . . . shall file with the court a statement of the compensation paid or agreed to be paid . . . for *services rendered or to be rendered in contemplation of or in connection with a case by such attorney* . . ." (emphasis added). Section 329(b) provides that "[i]f such compensation exceeds the reasonable value of any such services, the court may cancel such agreement, or order the return of any such payment, to the extent excessive . . ."

explanation for how he intends to share fees for *donated* services. And this is followed by the two sentences in which Mr. Briggs represents that: "Debtor has paid James C. Robinson for legal. [sic] James Robinson, Ross Briggs, and Debtor has [sic] agreed to joint representation."

The most sense the Court can make from these representations is that Mr. Briggs has a fee-sharing agreement with Mr. Robinson pursuant to which Mr. Robinson would share with Mr. Briggs the fees already paid to him by the Debtor. However, any portion of the fees paid to Mr. Robinson which were not earned *by Mr. Robinson* must be returned. Mr. Robinson's unearned fees are not subject to being retained by Mr. Robinson, then shared with Mr. Briggs, just because Mr. Briggs picked up the slack after Mr. Robinson's suspension. Fee-sharing may not be used so that Mr. Robinson can retain (and share) fees that he did not earn.

Additionally, such a fee-sharing agreement would run counter to Mr. Briggs's assertion of donative intent. If Mr. Briggs has a fee-sharing relationship with Mr. Robison regarding the fees the Debtor paid to Mr. Robinson, Mr. Briggs's services would not be donated. Mr. Briggs would be paid for his services through funds that the Debtor paid to Mr. Robinson.

The Court also notes that such a fee-sharing agreement may violate Rule 4-1.5(e) of the Professional Rules of Conduct of Missouri Supreme Court (each, a "Rule of Professional Conduct"). Under that Rule, a fee sharing agreement between lawyers not at the same firm may be made only if "the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation." However, Mr. Robinson can provide no services and can assume no joint responsibility for the representation. In addition, this Rule requires that the "client agrees to the association and the agreement is confirmed in writing." As far as the Court knows, no written fee-sharing agreement exists—it was not provided, as required at Question 5 of the Rule 2016 Statement. The Court has little basis for finding that the Debtor knowingly and upon full information agreed to the fee-sharing between Mr. Briggs and the suspended Mr. Robinson.

Mr. Briggs Did Not Represent Whether the Debtors Were Advised that Mr. Robinson Has Been Suspended. There is no representation that the Debtors were advised that Mr. Robinson has been suspended. The Court is concerned that the Debtors have not been advised of the real reason that Mr. Briggs is involved in their representation. If the Debtors were not advised that Mr. Robinson has been suspended, any post-suspension "agreement" between the Debtor, Mr. Robinson and Mr. Briggs would not have been a fully informed decision by the Debtor. Rule of Professional Conduct 4-1.4(b) requires that an attorney "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

The "and/or" Representation in the Services Exclusion Term. At Question 7, Mr. Briggs represents that excluded from the scope of his representation is "[r]epresentation of the debtors [sic] in any dischargeability actions, judicial lien avoidances, redemption, and motions and relief from stay actions or any other adversary proceeding and/or motions." This language appears to have been cribbed from the Rule 2016 disclosure statement filed by Mr. Robinson in *In re Steward*. As the Court discussed in footnote 57 of the Memorandum Opinion in *In re Steward*, this "and/or motions" representation appears to be in violation of Rule of Professional Conduct 4-1.5(b).[4]

---

[4] Footnote 57 of the Memorandum Opinion provides that:

> According to the Disclosure of Compensation of Attorney for Debtor(s) statement, excluded from the scope of representation of the Debtor were "any dischargeability actions, judicial lien avoidances, redemption, relief from stay actions or any other adversary proceeding *and/or* motions." (emphasis added.) This "and/or" gibberish, coupled with the unspecified "[Other provisions as needed]," takes the practice of "services unbundling" to a new low. First, a carve-out of representation cannot be on an "and/or" basis. The service either is, or is not, carved out. Second, the "and/or" permits the scope of representation to be left up to the whim of Mr. Robinson. This is inconsistent with an attorney's obligation to make clear to his client the scope of the representation. *See* Mo. Prof. R. 4-1.5(b). Third, the carving out of representations on all "motions" (apparently, even for motions related to or challenging papers prepared by Mr. Robinson) is

For the reasons set forth above, the Court **ORDERS** that the Rule 2016 Statement filed in each of the above-captioned cases be **STRICKEN** as to the representation that Mr. Briggs and Mr. Robinson will provide "joint representation" of the Debtor, and as to the "and/or motions" language. However, the representations that Mr. Briggs is each Debtor's counsel of record and that Mr. Briggs will donate his services to each Debtor remains effective. Accordingly, the Court determines that Mr. Briggs is each Debtor's sole counsel of record and that Mr. Robinson is not an attorney of record on a "joint representation" basis or otherwise.

Further, the Court **ORDERS** that Mr. Briggs file in each of the above-captioned cases a corrected Rule 2016 Statement by **4:00 P.M. on July 3, 2014**, reflecting the fact that he is providing his services for free and on a solo representation basis, and properly remediating the meaningless "and/or motions" language. In addition, the Court **ORDERS** that, also by that date and time, Mr. Briggs file in each of the above-captioned cases an affidavit attesting that he has advised the Debtor that:

(a) Mr. Robinson has been suspended for one year from practicing before this Court;

(b) due to his suspension, Mr. Robinson will not be an attorney of record and Mr. Briggs's representation will not be in the form of "joint representation" with Mr. Robinson;

(c) in the course of rendering services to the Debtor, Mr. Briggs will not utilize any services of Critique Services L.L.C. (the artificial entity that Mr. Robinson represented in *In re Steward* to be his d/b/a and is the "firm" with which Mr. Robinson is associated);

(d) Mr. Briggs's services will be rendered entirely free of charge;

> inconsistent with Mr. Robinson's obligation to provide competent representation. . . . An attorney cannot contract for client abandonment when competent representation is required.

(e) Mr. Briggs will not be entitled to share in any of the fees that the Debtor paid to Mr. Robinson or Critique Services L.L.C.; and

(f) the Debtor has been provided with a legible and complete hard copy of this Order.

The failure to file such a corrected Rule 2016 Statement and affidavit may result in an order directing Mr. Briggs to show cause as to why he should not be sanctioned for refusing to be forthright with the Court and the Debtors about his representation in these matters.

In addition, the Court **ORDERS** that before the Case is closed, Mr. Briggs file an affidavit attesting to the amount of fees returned by Mr. Robinson to each Debtor. Such affidavit shall be accompanied by a receipt of returned fees, signed by the receiving Debtor and reflecting the date upon which the fees were received by the Debtor. Nothing herein shall limit or prevent the Court from ordering Mr. Robinson to show cause as to why any portion of the fees that were paid to him by any Debtor were not returned to such Debtor if unearned.

A copy of this Order will be placed on the docket in *In re Steward*.

DATED: June 25, 2014
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

Copy Mailed To:

James Clifton Robinson
Critique Services
3919 Washington Blvd.
St. Louis, MO 63108

E. Rebecca Case
7733 Forsyth Blvd.
Suite 500
Saint Louis, MO 63105

Office of U.S. Trustee
111 South Tenth Street
Suite 6353
St. Louis, MO 63102

Ross H. Briggs
Post Office Box 58628
St. Louis, MO 63158

Attachment 86

Complaint, filed in *In re Williams, et al*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re: Williams, Terry L. & Averil M., Debtors. Nancy J. Gargula, United States Trustee, Movant, vs. James C. Robinson, Esq., and Critique Services, LLC., and Beverly Holmes Diltz, Respondents.	)	Case No. 14-44204-659 Chapter 7 Case Hon. Kathy A. Surratt-States Chief U.S. Bankruptcy Judge **Hearing Date:** **Time:** **Courtroom**

UNITED STATES TRUSTEE'S MOTION FOR DISGORGEMENT OF FEES AND FOR ORDER TO SHOW CAUSE

COMES NOW, the United States Trustee for the Eastern District of Missouri, Nancy J. Gargula, by her undersigned counsel, and in support of her Motion states as follows:

Parties, Jurisdiction, Venue and Standing

1. Nancy J. Gargula is the United States Trustee for the Eastern District of Missouri whose office is located at the Thomas Eagleton Courthouse, 111 South 10th St., Ste. 6.353, St. Louis, Missouri 63102.

2. James C. Robinson is an individual residing at 4940 Terry Avenue, St. Louis, Missouri 63115.

3. Beverly Holmes Diltz is a non-attorney who has operated a business that provides legal services through contracted employees or agents. This business has been known by the names CS, L.L.C., Critique Legal Services, L.L.C., and Critique Services, L.L.C., ("Critique").1

4. This Court has jurisdiction over these proceedings pursuant to 28 U.S.C. § 1334(b) and 11 U.S.C. § 105(a). These are core proceedings pursuant to 11 U.S.C. § 157(b)(2)(A). Venue is proper pursuant to 28 U.S.C. § 1409(a).

5. The United States Trustee has standing to seek disgorgement of fees and sanctions in this matter as a party in interest pursuant to 11 U.S.C. §§ 105(a) and 329(b), as well as Rule 2017 of the Federal Rules of Bankruptcy Procedure.

Factual Background

6. Mr. Robinson has practiced bankruptcy law in the U.S. Bankruptcy Court, Eastern District of Missouri, under the name of Critique Services, L.L.C., from an office located at 3919 Washington Avenue, St. Louis, Missouri 63108, during all times pertinent to this Motion.

7. At all times pertinent to this Motion, Beverly Holmes Diltz, as the owner of Critique, has operated a bankruptcy support business from the same address.

8. On June 10, 2014, Mr. Robinson was suspended for one year from practicing before the

1 The records of the Missouri Secretary of State show registration and articles of organization for Critique Legal Services, L.L.C. filed by Beverly Holmes on August 9, 2002. The purpose of the business was listed as "attorney representation." The records show articles of termination for that entity on April 4, 2003, stating, "This business never began, nonexistent." The records also reflect registration and articles of organization for Critique Services, L.L.C. filed by Beverly Homles on August 9, 2002. The purpose of this entity was listed as "Bankruptcy Petition Preparation Service." This entity appears not to have been terminated, although the records show no annual reports having been filed. In addition, the records reflect a fictitious name filing on October 8, 2014 for "Critique Services" by Dean Meriwether. All of these entities list the address at 3919 Washington Avenue, St. Louis, Missouri.

Bankruptcy Court by a Memorandum Opinion and Order (the "Suspension Order") entered on that date by the Bankruptcy Court in the Chapter 7 case of *Steward, LaToya L.*, No 11-46499-705.[2]

9. On August 8, 2005, the U.S. Trustee filed a complaint against Ms. Diltz, Critique, and Critique employee or agent, Renee Mayweather (the "Defendants"). As a result of that action, the Defendants and U.S. Trustee entered into a Settlement Agreement and Court Order (the "2007 Settlement"), which was approved by the Bankruptcy Court on July 31, 2007, and filed in the Chapter 7 bankruptcy case of *In re David Hardge*, 05-43244-659.[3]
10. Under the 2007 Settlement, the Defendants agreed that any attorney practicing law under the Critique name would be engaged by a written contract or license. The Defendants also agreed to adhere to each of the following:
    a. Before any non-attorney meets with a prospective client, an attorney must meet with the prospective bankruptcy client to discuss the prospective client's financial and personal history and determine the client's suitability for filing a bankruptcy case under a particular chapter of the U.S. Bankruptcy Code;
    b. Preserve all notes and records each attorney-prospective client/client meeting as well as memorialize the date of each meeting;
    c. Have each prospective client/client sign and date an attorney meeting form for each attorney-prospective client/client meeting, a copy of which shall be given to the prospective client/client, and the documents shall be retained by the attorney or

2 The June 10, 2014, Suspension Order has been appealed to the U.S. District Court for the Eastern District of Missouri; however, it has not been stayed.

3 Settlement and Court Order is filed simultaneously herewith and incorporated herein as U.S. Trustee's Exhibit A.

law business with any applicable attorney-client privilege continuing in effect;

d. Not permit a prospective client/client to sign a bankruptcy petition created for the purpose of filing the document with any U.S. Bankruptcy Court unless and until the prospective client/client has personally reviewed with the attorney the accuracy of that document;

e. Keep all original bankruptcy documents containing a prospective client's/client's signature in accordance with the Bankruptcy Court's Rules and Orders;

f. Preserve and maintain all records of all communications with a bankruptcy client, which records must state the date and substance of the communication and be made available to the U.S. Trustee upon request and the written waiver by the client of any attorney-client privilege; and

g. Agrees to file a bankruptcy petition for each client no later than fourteen days after the client signs the petition, unless the delay in filing after the fourteen day period is for the benefit of the client. But in no case shall the attorney or law business file a bankruptcy petition more than 30 days after the client has signed the petition.

11. On August 10, 2007, Mr. Robinson and Critique, by Ms. Diltz, entered into contract whereby Critique agreed to provide Mr. Robinson the use of Critique's intellectual property, including a license to use "d/b/a Critique Services" and certain personal property.4

12. Mr. Robinson agreed to pay Critique monthly rent and a minimum monthly amount for Critique's billed services provided by Mr. Robinson. Mr. Robinson also expressly agreed to abide by the terms of the 2007 Settlement Agreement.

4 Contract between Respondent and Critique filed simultaneously herewith and incorporated herein as U.S. Trustee's Exhibit B.

13. On May 22, 2014, Terry and Averil Williams ("Debtors"), filed a Chapter 7 petition, Schedules, Statement of Financial Affairs ("SOFA"), and other required documents with the Bankruptcy Court. Mr. Robinson was listed and signed the petition as counsel.
14. Paragraph 9 of Debtor's SOFA states that Mr. Robinson received $349.00 from Debtors on December 7, 2013, as the attorney's fees for the Chapter 7 case.
15. Debtors appeared for their 11 U.S.C. § 341 meeting of creditors on July 25, 2014, before Chapter 7 Panel Trustee Mary E. Lopinot. Alphonso Taborn appeared as counsel for Debtors at the meeting of creditors.
16. At the § 341 meeting, Debtors testified under oath that they first visited Critique's offices on December 7, 2013. At this initial meeting at Critique, they met only with a non-attorney staff member. According to the Debtors, the non-attorney staff member described Chapter 7 and Chapter 13 bankruptcy cases to them and provided them a packet of forms to complete and return to Critique. Upon information and belief, at this time they agreed to file a Chapter 7 bankruptcy case and entered into a contract employing Mr. Robinson for bankruptcy services. Debtors stated they gave the fee of $349.00 to another office worker in Mr. Robinson's office.
17. On February 14, 2014, Debtors returned to Critique with their completed forms.
18. Debtors did not meet with Mr. Robinson or any other attorney associated with Mr. Robinson on December 7, 2013, or February 14, 2014.
19. Debtors next testified that he returned to Critique on May 19, 2014. During this visit, they met with Mr. Robinson for the first time and Mr. Robinson reviewed with Debtors the Chapter 7 bankruptcy documents drafted from the Debtors' completed packet of forms. Both Mr. Robinson and Debtors signed the prepared bankruptcy documents on that date.

Disgorgement under § 329

20. The client intake process follow by Respondents in this case, which funneled Debtors through the bankruptcy case determination-and-document-preparation stages with no contact with or advice from an attorney until the signing of the petition, schedules, and SOFA, is a violation of the terms of the 2007 Settlement.

21. Furthermore, this practice is a violation of Missouri statutes regulating the unauthorized practice of law.

22. Respondents, by allowing non-attorney staff members to meet with prospective clients to discuss a potential bankruptcy filing, to review financial and personal information with those clients, and then to generate bankruptcy documents from that information, have caused staff members to engage in the unauthorized practice of law as defined by Missouri statute § 484.010.1, which states:

> "1. The "practice of law" is hereby defined to be and is the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court of record,…"

Mo. Rev. Stat. § 484.010.1

23. In addition, § 484.020.1 requires that "No person shall engage in either the practice of law or law business unless that person…shall have been duly licensed therefor and while his license therefor is in full force and effect,…" Mo. Rev. Stat. § 484.020.1

24. The Missouri Supreme Court has ruled that the preparation by a non-attorney of non-standard or specialized documents which requires the exercise of judgment is prohibited under §484.010(1) as the unauthorized practice of law. That Court also specifically prohibited non-attorneys from drafting legal documents, selecting the form of

the document, or from giving legal advice about the effect of the document. *In re First Escrow, Inc.*, 840 S.W.2d 839, 848-849 (Mo. banc 1992).

25. The United States Trustee notes that from January 1 through May 30, 2014, Mr. Robinson filed 306 new Chapter 7 cases and 13 new Chapter 13 cases in this District. Concurrently with this Motion, the United States Trustee has filed similar motions in three other cases. The pattern and practice evidenced in these four cases raises an inference that the practice described by Debtor is Respondents' routine process for handling intake of prospective clients. Accordingly, the violations may be more widespread than these four cases.

26. Respondents' violation of the 2007 Settlement Agreement and Missouri law warrants disgorgement under 11 U.S.C. § 329(b) and Rule 2017 of the Federal Rules of Bankruptcy Procedure.

27. Section 329 of the Bankruptcy Code states, in part:

> "(a) Any attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made one year before the date of the petition…"
>
> "(b) If such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to extent excessive, to – ...(2) the entity that made the payment."

28. Rule 2017 states, in part:

> "(a) Payment or Transfer to Attorney Before Order for Relief. On motion by any party in interest or on the court's own initiative, the court after notice and a hearing may determine whether any payment of money or any transfer of property by the debtor, made directly or indirectly and in contemplation of the filing of a petition under the Code by or against the debtor or before entry of the order for relief in an involuntary case, to an attorney for services rendered or to be rendered is excessive."

29. Disgorgement of all fees is an appropriate remedy under § 329 and Rule 2017 in light of Respondents' past history, their failure to comply with the 2007 Settlement, and their violation of the Missouri statutes regulating the unauthorized practice of law. *See Walton v. LaBarge (In re Clark)*, 223 F.3d 859, 863-865 (8th Cir. 2000) (affirming the lower court's disgorgement of debtor counsel's fees based, in part, on the admission of debtor's counsel that he did not meet with his client until the client's 341 meeting, having allowed his non-attorney employee to advise the client when the client sought bankruptcy advice as well as to prepare, sign and file the client's bankruptcy documents).

WHEREFORE, the United States Trustee respectfully requests the Court's order pursuant to 11 U.S.C. § 329(b) and Fed. R. Bankr. P. 2017(a) requiring Respondents to disgorge to Debtor all fees he paid to Respondents based on their failure comply with the 2007 Settlement and by allowing or failing to prevent non-attorney staff from engaging in the unauthorized practice of law. Furthermore, the Movant requests that the Court enter an Order directing the Respondent Beverly Holmes Diltz and Critique to appear and show cause why they should not be found in violation of 2007 Settlement, and enter an Order directing Respondent Mr. Robinson to show cause why he should not be found to have facilitated or suborned the violation of the 2007 Settlement, and grant such further relief as the Court deems appropriate.

Respectfully submitted,

NANCY J. GARGULA
UNITED STATES TRUSTEE

PAUL A. RANDOLPH
ASSISTANT UNITED STATES TRUSTEE

/s/ Paul A. Randolph
PAUL A. RANDOLPH,
E.D.Mo #506384, AZ # 011952
Assistant United States Trustee
111 S. 10th Street, Suite 6.353
St. Louis, MO 63102
PH: (314) 539-2984
FAX: (314) 539-2990
Email: paul.a.randolph@usdoj.gov

Certficate of Service

The undersigned certifies that a true copy of the aforesaid document has been served on upon all parties receiving electronic service by means of the Court's CM/ECF system as well as upon the parties set out below by mailing a copy, first class postage prepaid, on November 19, 2014:

/s/ Paul A. Randolph
Paul A. Randolph

Terry L. & Averil M. Williams
7150 Vernon Ave.
St. Louis, MO 63130

James C. Robinson, Esq.
4940 Terry Ave.
St. Louis, MO 63115

James C. Robinson, Esq.
3919 Washington Ave.
St. Louis, MO 63108

Ross H. Briggs, Esq.
P.O. Box 58628
St. Louis, MO 63158

Mary E. Lopinot, Esq.
Chapter 7 Panel Trustee
PO Box 16025
St. Louis, MO 63105

Laurence D. Mass, Esq.
230 S. Bemiston
Suite 1200
St. Louis, MO 63105

Attachment 87

Memorandum and Judgment, issued by the District Court

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LATOYA STEWARD, Debtor, JAMES C. ROBINSON, CRITIQUE SERVICES LLC, and ELBERT A. WALTON, JR., Appellants, v. LATOYA STEWARD, Appellee.	)	Case No. 4:14 CV 1094 RWS Bankruptcy Case No. 11-46399-705

MEMORANDUM

Appellants in this matter were sanctioned by the bankruptcy court[1] in the underlying bankruptcy case. Appellants have filed an appeal in this Court seeking to overturn the bankruptcy court's judgment and sanctions. After a review of the briefs and the record in this matter I find that the bankruptcy court had the authority and sound reasons for imposing its judgment and sanctions against Appellants. As a result, I will affirm the bankruptcy court's judgment and order.

Background

The events underlying this appeal are clearly and extensively recorded in the bankruptcy court's Amended Memorandum Opinion and Order dated June 11, 2014. An abbreviated version of events which is taken from that order and from the record before the bankruptcy court submitted in this appeal reveals the following:

Appellant James C. Robinson is a longtime practitioner in the United States Bankruptcy Court for the Eastern District of Missouri. Robinson has an affiliation with Appellant Critique Services L.L.C. (Critique). Robinson / Critique's bankruptcy practice is based on the low-cost / high volume representation of individuals before the bankruptcy court. Robinson has represented in bankruptcy court documents that he does business as / practices law as Critique. However, it is unclear from the record before the bankruptcy court whether Critique is a legal or fictional entity. It is also unclear who owns or has an ownership interest in Critique, what services Critique provides to Robinson's clients, and what other attorneys, if any, are employed by Critique. In the proceedings in this case, the bankruptcy court relied on Robinson's representations that Critique was the d/b/a of Robinson. The issue of the legal nature and identity of Critique was important in

[1] United States Bankruptcy Judge Charles E. Rendlen, III.

the bankruptcy court proceedings because Critique employees helped Appellee / Debtor LaToya Steward prepare her bankruptcy filings and received fees from Steward. The bankruptcy court stated in its sanctions order at issue that the monetary sanctions he imposed on Robinson and Critique are imposed jointly and severally upon these parties in the event that they are not the same entity as has been represented by Robinson.

Appellee Steward is the debtor in the underlying bankruptcy case. In 2010, she engaged Robinson to represent her in filing for bankruptcy relief under Chapter 7 of the United States Bankruptcy Code. To initiate her bankruptcy case, Steward made several visits to Critique's office and met with Critique staff members to pay fees and complete paperwork. The bankruptcy court found in its Amended Memorandum and Opinion and Order, dated June 11, 2015, that Critique staff members solicited Steward to include false information in her petition papers (a false address and fictional dependents). Robinson was made aware of at least some of these false representations but failed to correct them. Steward's petition was filed with the bankruptcy court on June 17, 2011. Steward signed her petition papers at the pages tabbed by Critique for signature. However, she did not read her petition papers and did not discover the false statements in her papers until she reviewed her papers with new counsel in 2013.

The bankruptcy court found that Robinson and Critique were highly unprofessional in their representation of Steward *in addition to* soliciting and including false information in her petition papers: (1) Robinson and Critique failed to communicate with Steward; (2) they improperly maintained her file; and (3) they abandoned Steward in her efforts to rescind a reaffirmation agreement that she had entered with Ford Motor Credit.

As a direct result of not rescinding the reaffirmation agreement, Steward surrendered her vehicle and remained obligated on the debt to Ford Motor Credit.

On December 4, 2012, Steward filed a pro se complaint against Ford Motor Credit in an adversary proceeding in her bankruptcy case. She claimed her debt should be discharged based on Robinson and Critique's failure to represent her in her effort to rescind the reaffirmation agreement. Robinson received an electronic notice of this action. Ford Motor Credit moved to dismiss arguing that the professional negligence of Robinson and Critique could not be the grounds for Steward's debt to Ford Motor Credit to be discharged. At the hearing of the motion, Steward made an oral motion to substitute Robinson and Critique for Ford Motor Credit. The bankruptcy court ultimately entered an order granting the motion to dismiss, denying Steward's motion to substitute parties, but granting Steward fourteen days to file whatever pleadings she deemed appropriate against

Robinson and Critique.

Steward filed an amended complaint in the adversary proceeding against Robinson and Critique seeking a refund of the attorney fees she paid to them and other damages for their failure to represent her. The bankruptcy court, liberally construing Steward's pro se filing, determined that this request was one for a disgorgement of fees which is a claim that should be made in the main bankruptcy case pursuant to 11 U.S.C. § 329(b) and not in an adversary proceedings. Accordingly, the amended complaint was re-docketed as a motion to disgorge fees in the main bankruptcy case.

It is the actions of Appellants in the disgorgement of fees litigation which gave rise to the sanctions imposed on them and the basis of this appeal.

On April 8, 2013, the bankruptcy court provided Robinson and Critique with notice of a hearing of Steward's motion to disgorge set on May 8, 2013. Pursuant to Local Bankruptcy Rule (L.B.R.) 9013-13, Robinson and Critique were required to file a response to the motion within seven days. They failed to do so. On May 7, 2013, one day before the hearing, Appellant Elbert Walton entered his appearance on behalf of "James Robinson d/b/a Critique Services, L.L.C." On the same day Walton filed an untimely response to the motion to disgorge and mailed a copy to Steward, which meant that she would not receive a copy of the response

before the hearing.

The May 8, 2013 hearing was continued to May 15, 2013 because Steward was late for the hearing. Steward, Robinson, and Walton appeared at the May 15, 2015 hearing. The hearing was continued again because Steward had just received Robinson and Critique's response to her motion and it became apparent that the parties had not attempted to communicate in advance of the hearing as is required by L.B.R. 2093(B) and the parties had not prepared a joint stipulation of uncontested facts. The hearing was continued to June 26, 2013.

On June 17, 2013, counsel entered an appearance for Steward. Counsel also filed a motion to convert the June 26, 2013 hearing into a status conference. That motion was granted and the status conference was ultimately continued to August 14, 2013.

On June 26, 2013, Steward served interrogatories and requests for production on Robinson d/b/a Critique. The discovery sought, among other information, to clarify and identify the relationship between Robinson and Critique.

On July 10, 2013, Steward recanted her prior statements made in her bankruptcy documents which were compiled and submitted by Robinson and Critique. She filed amended documents with the bankruptcy court which included a summary of the factual corrections.

On July 20, 2013, Appellants filed a motion to quash Steward's discovery requests. The motion wrongly asserted that discovery was not permitted in a contested bankruptcy matter. The bankruptcy court denied the motion on July 31, 2013 as frivolous and vexatious.

Appellants' responses to the discovery requests were due no later than July 26, 2013. Appellants did not file any responses, objections, or request a protective order. On August 14, 2013, Walton appeared before the bankruptcy court for Robinson and Critique at the discovery status conference. He stated that the responses to the discovery were complete and would be provided the next day. Walton indicated that everything would be produced with the exception of some personal financial information. Another status conference was set on September 4, 2013.

Appellants did not provide discovery responses until the evening of September 3, 2013 which did not allow Steward's counsel to review the responses before the hearing set on September 4, 2013. As a result, the status conference was continued to September 11, 2013 to allow counsel to review the responses.

At the September 11, 2013, it became apparent that the discovery responses were grossly insufficient. Walton's representation at the August 14, 2013 hearing that the responses were complete had been misleading. For the most part, the

responses were refusals to respond based on untimely, non-specific objections. Those objections were asserted based on scope, vagueness, relevancy, work product or harassment. Walton's demeanor at the September 11th hearing was combative, argumentative, and disrespectful to both the bankruptcy court and to Steward. He blamed Robinson for not providing him with discovery, he accused Steward of perjury, and he declined to produce anything further subject to his discovery objections absent a motion to compel filed by Steward. This last position was baseless because Appellants had already waived their right to object to the discovery by failing to file objections in a timely fashion as required by the Federal Rules of Civil Procedure.[2]

The bankruptcy court patiently handled Walton's disrespectful manner and continued the matter to September 18, 2013 to allow Steward to file a motion to compel. On September 16, 2013, Steward filed her motion to compel and moved to expedite the hearing of the motion to be held on September 18, 2013 at the status conference. Appellants consented to the motion to expedite and filed a response to the motion to compel on the morning of the September 18th hearing.

The September 18th hearing mirrored the bad conduct evidenced at the

[2] Appellants needed to file their objections to Steward's discovery requests by July 26, 2013 (thirty days after request made). The objections were not filed until September 3, 2013, well after the deadline to file objections. See Fed.R.Civ. P. 33 and 34. As a result, Appellants waived any objections to Stewart's discovery requests.

September 11th hearing. Walton was disrespectful to the bankruptcy court, attempted to disparage Steward, asserted legally frivolous positions, and revealed that he, Robinson, and Critique improperly withheld discovery and forced Steward to file a motion to compel to obtain the discovery which had been withheld in bad faith. The bankruptcy court ruled that Appellants had waived any objections to discovery. The court granted the motion to compel and ordered Appellants to provide all the information sought in discovery within seven days. The court allowed Appellants to file any financial information under seal.

In addition, the bankruptcy court ordered Robinson and Critique to pay Steward's counsel $1,710.00 in attorney's fees related to the prosecution of the motion to compel. The bankruptcy court also imposed a sanction of $1,000.00 a day for each day Robinson and Critique fail to fully comply with discovery after the seven day deadline. Finally, the bankruptcy court's order addressed Walton. The court noted Walton's unprofessional and disrespectful demeanor in the courtroom in his last several appearances and notified Walton that if he exhibited similar behavior in the future, Walton would be personally fined $100.00 for each act of disrespectful behavior. The bankruptcy court ended the order with the statement, "In the future, Mr. Walton should bring to this Court either a professional, respectable demeanor or his checkbook." [App. Vol. II at 333]

Instead of producing discovery, Appellants assailed the bankruptcy court with a slew of motions over the next several days. They included:

- a motion to recuse;
- a motion for judgment on the pleadings;
- a motion to set aside the order compelling discovery;
- a motion to dismiss;
- and an amended motion to dismiss.

In the motion to recuse Walton referred several times to Critique as Robinson's d/b/a and as the law firm through which Robinson does business. The bankruptcy court denied all of these motions because they were without merit. A status conference was set on October 1, 2013.

At the October 1, 2013 status conference, it was revealed that no further discovery had been provided since the order to compel has been granted. Moreover, Walton stated for the first time that Robinson and Critique would not comply with the court's orders, but instead, would seek leave to appeal and would file a petition for a writ of mandamus. On October 2, 2013, the bankruptcy court entered an order, in a second attempt to obtain compliance with the court's previous order, which sanctioned Robinson and Critique $1,000.00 per day for each day of noncompliance going forward thereafter, and gave notice that, after thirty days, the

bankruptcy court may impose further sanctions. The order also provided that the sanctions would not accrue on any day that there was a pending request for leave to file an appeal or a pending appeal.

Appellants filed a notice of appeal on October 2, 2013 and filed a motion with the Bankruptcy Appellate Panel (B.A.P.) for leave to file three interlocutory appeals. Appellants also filed a motion to stay in the bankruptcy court. The motion to stay was denied on October 4, 2013. On October 8, 2013, the B.A.P. denied the motion for leave to file interlocutory appeals. On October 9, 2013, the $1,000.00 per day sanctions began to accrue.

On November 1, 2013, Appellants filed a motion for a writ of mandamus in the United States District Court for the Eastern District of Missouri which was denied on December 10, 2013.

Between October 9, 2013 and November 12, 2013, Robinson and Critique refused to comply with the court order compelling discovery. By then, $35,000.00 of sanctions had accrued. On November 13, 2013, the bankruptcy court, realizing that its order compelling discovery was being ignored, entered a second order imposing sanctions which stopped the accrual of further monetary sanctions, made a finding of contempt pursuant to Fed. R. Civ. P. 37(b)(2)(A)(vii), and entered an order making the sanctions, which had already accrued, final and payable. This

sanctions order was not imposed to induce the production of discovery, it was imposed as a sanction for Robinson and Critique's willful refusal to comply with the bankruptcy court's previous order compelling discovery. However, the sanctions could still be avoided if Robinson and Critique complied with the order to compel and produced the requested discovery.

On November 27, 2013, Appellants filed a notice of appeal seeking to appeal the second order of sanctions in the United States District Court for the Eastern District of Missouri. Appellants asserted that the second order of sanctions was a final order for criminal sanctions. However, the order was an interim order and of a civil nature because Appellants could purge themselves of contempt by producing the ordered discovery. In order to clarify the availability of purgation for Appellants, the bankruptcy court filed a notice to Appellants, on December 2, 2013, regarding the sanctions imposed. The notice stated that if the Appellants decided to properly participate in discovery the court would deem that sanctions were no longer necessary. However, it was clear that if the discovery sanctions were enforced, they were payable to the bankruptcy court for Appellants' disregard of the court's orders. These sanctions could not be avoided by the parties reaching a settlement in the case.

On January 23, 2014, in another attempt to allow Appellants to avoid the

sanctions already imposed in the case, the bankruptcy court asked the Chapter 7 Trustee to communicate to the Appellants that the sanctions could be satisfied by an alternate, nonmonetary method. The alternate proposal required Robinson and Critique to provide, under seal, information about the ownership and structure of Critique (to clarify once and for all how Robinson and Critique are related); file a letter of apology for their contempt; admit they made, through their attorney, false representations in the bankruptcy proceedings; agree to attend continuing legal education; and agree not to be represented again by, or serve as co-counsel with, Walton before the bankruptcy court (to ensure that the improper actions taken in the matter would not repeated in the future). This proposal was an alternative to Robinson and Critique's option of paying the $35,000.00 sanction and having Walton continue to represent them.

In January 2014, Appellants attempted to settle the disgorgement action with Steward as well as a second adversary complaint which had been filed in the case. On March 22, 2014, Steward filed a notice in the bankruptcy case that the settlement efforts had collapsed. Thereafter, the bankruptcy court proceeded on the disgorgement action and the related sanctions issues involved in the case.

On April 3, 2014, the bankruptcy court entered two notices regarding sanctions. The first informed Robinson and Critique that the court was considering

further and final sanctions for their failure to comply with court ordered discovery. These additional sanctions included, striking their pleadings, rendering a default judgment against them, and entering any other sanction and relief authorized by law. The second notice was directed to Walton informing him that the court was considering imposing sanctions against Walton. Sanctions may be imposed against an attorney who represents a party who refuses to cooperate with discovery and participates in his client's contemptuous or vexations behavior. Walton was notified that he could be sanctioned for his actions including, vexatiously increasing the costs of litigation by interfering with discovery; making false representations to the court; filing frivolous motions for the purpose of avoiding discovery; asserting untimely and waived objections to discovery; and making false allegations against the presiding bankruptcy judge. A response to both notices was due by April 11, 2014.

On April 7, 2013, the bankruptcy judge entered an order directing Steward's counsel to file an affidavit attesting to his attorney's fees, costs, and expenses.[3] The order stated this information was going to be considered in the imposition of additional sanctions against Robinson, Critique, and Walton.

On April 10, 2013, Walton filed a motion to withdraw as counsel. On the

[3] Although Steward's counsel was representing her pro bono, the bankruptcy court determined that counsel should

same day Robinson filed a notice of dismissal purporting to dismiss Walton as his counsel. Both the motion and notice were denied by the bankruptcy court which saw the motions as hollow attempts by Walton to avoid sanctions.

Also, on April 10, 2013, Steward filed a motion to compromise controversy, a notice to the court regarding discovery, and a proposed settlement under seal.

On April 11, 2013, Robinson filed a response to the notice of sanctions which did not substantively address the issues raised in the court's notice. Walton did not file a response to the notice of sanctions directed to him. Instead he filed a second motion to recuse the bankruptcy judge from the case. The bankruptcy judge denied this motion on April 14, 2014.

Also on April 11, 2014, the bankruptcy court ordered Steward to accept discovery should Appellants attempt to provide the discovery in an eleventh hour effort to avoid sanctions.

Walton also filed a motion to substitute attorney on April 11, 2014, asserting that he had a conflict with Robinson and Critique. Because he failed to provide any facts in support of this motion, the bankruptcy judge denied it without prejudice to allow it to be refiled with a supporting factual basis. Walton did not renew this motion and continued to file papers on behalf of Robinson and Critique.

---

compute what his usual fees would have been regarding the discovery dispute to craft a reasonable sanction.

On April 14, 2014, Walton filed a civil suit in the Circuit Court of the City of St. Louis against the bankruptcy judge in his personal capacity, alleging claims related to the bankruptcy court's offer of an alternate method to satisfy the sanctions imposed in the disgorgement proceedings. This case was removed to the United States District Court for the Eastern District of Missouri. The district court dismissed the case based on judicial immunity on September 12, 2014.

On April 21, 2014, the bankruptcy judge entered another notice to Robinson, Critique, and Walton providing notice that the court intended to impose sanctions against them for making false statements about the judge's service in government employment as the United States Trustee for Region 13. The court gave them until April 28, 2014 to file joint or separate responses.

On April 23, 2014, Appellants filed a third motion to recuse the bankruptcy judge which the bankruptcy court denied the same day.

On April 28, 2104, both Watson and Robinson filed a response to the notice of sanctions dated April 21, 2014. Neither response offered any cause why sanctions should not be imposed nor did they request a hearing on whether sanctions should be issued.

Also on April 28, 2014, the bankruptcy court denied Steward's motion to compromise controversy without prejudice, subject to refiling by or jointly with the

Chapter 7 Trustee.

Finally, on June 10, 2014, the bankruptcy judge entered the judgment imposing sanctions and on June 11, 2013, he entered the amended memorandum opinion and order in support of the judgment which is the basis of this appeal. The order noted that it was being entered because the imposition of escalating sanctions had proved to be ineffective.

The bankruptcy judge found Robinson and Critique in contempt and that their "contempt was facilitated and promoted by Mr. Walton through his strategy of untimeliness, obfuscation, vexatious litigation, misleading representations, false statements, abuse of process and frivolous legal positions." The order made final and immediately payable, the $30,000.00[4] sanction for Robinson and Critique's refusal to comply with the bankruptcy court's order compelling discovery. In addition, the court struck Robinson and Critique's claims and defenses in the disgorgement action.

The bankruptcy court's order imposed sanctions against Walton for his actions in the case. The court made Walton jointly and severally liable for the $30,000.00 in sanctions imposed upon Robinson and Critique. The order stated that Walton had endorsed, facilitated, and actively promoted Robinson and

[4] This amount had originally been $35,000.00 but was reduced by the bankruptcy court.

Critique's refusal to meet their discovery obligations. The order stated that "Mr. Walton's actions have been just as disgraceful, abusive and worthy of sanctions as have been those of his clients."

The bankruptcy court's order also ruled in favor of Steward's disgorgement claim, in part. The court awarded her a refund of the $495.00 in fees she paid to Robinson and Critique. However, the court denied any relief related to damages incurred by Steward in her dispute with Ford Motor Credit. The court's order stated that Steward's claims against Robinson and Critique related to their failure to render legal services to Steward to rescind the reaffirmation agreement was beyond the scope of a disgorgement action. That claim needed to be brought as a malpractice action.

The bankruptcy court's order also imposed a sanction against Robinson, Critique, and Walton, jointly and severally, in the amount of $19,720.00 for attorney's fees Steward's counsel incurred litigating the discovery dispute at issue in this matter.[5]

In addition, the bankruptcy court sanctioned Robinson, Critique, and Walton under Federal Rules of Bankruptcy Procedure Rule 9011 for making false statements at hearings and in pleadings, including but not limited to, false

[5] Only $1,710.00 of the fees were to be made directly to Steward's counsel. The remaining $18,010.00 in fees were

statements regarding the status of discovery responses and the intent to produce discovery, and false statements made about the bankruptcy judge's previous employment as the United States Trustee in various pleadings. Instead of imposing monetary sanctions, the bankruptcy court's order stated that the Rule 9011 sanctions would be combined with sanctions under the court's inherent power and under the local rules and directives of the bankruptcy and district courts to suspend Robinson and Walton from practicing law before the United States Bankruptcy Court for the Eastern District of Missouri.

Robinson's suspension was imposed for one year and his privileges will not be reinstated after one year unless: (i) Robinson provides specific information required by the order regarding his relationship with Critique and the nature of Critique's bankruptcy business; (ii) the monetary sanctions imposed in the order are satisfied; (iii) Robinson provides evidence he is in good standing in all other courts in which he has been admitted to practice; and (iv) the facts otherwise establish reinstatement is proper.

Walton's suspension was also imposed for one year and his privileges will not be reinstated after one year unless: (i) the monetary sanctions imposed against Walton in the order are satisfied; (ii) he provides evidence he is in good standing in

---

to be remitted to a local legal services charity of Steward's counsel's choice.

all other courts in which he has been admitted to practice; and (iii) the facts otherwise establish reinstatement is proper.

Finally, the bankruptcy court ordered that the actions of Robinson, Critique, and Walton be referred to the United States District Court for the Eastern District of Missouri for any disciplinary investigation that may be proper; to the Office of the United States Trustee as a report of suspected bankruptcy fraud or abuse; and to the Office of Chief Disciplinary Counsel of the Missouri Supreme Court for violations of the rules of professional conduct.

Appellants filed the present appeal in this Court seeking to overturn the bankruptcy court's judgment. Appellee Steward opposes the appeal and argues that the bankruptcy court's judgment should be affirmed.

Jurisdiction and Legal Standard

This court has jurisdiction over this appeal pursuant to 28 U.S.C. § 158(a)(1). Appellants filed a timely notice of appeal.

"When a bankruptcy court's judgment is appealed to the district court, the district court acts as an appellate court and reviews the bankruptcy court's legal determinations de novo and findings of fact for clear error." Fix v. First State Bank of Roscoe, 559 F.3d 803, 808 (8th Cir. 2009) (internal quotation and citation omitted). Issues committed to the bankruptcy court's discretion are reviewed for an

abuse of that discretion. In re Zahn, 526 F.3d 1140, 1142 (8th Cir. 2008). An abuse of discretion occurs when the bankruptcy court fails to apply the proper legal standard or bases its order on findings of fact that are clearly erroneous. Id.

Discussion

Appellants raise a host of grounds for relief on appeal. The bankruptcy court's amended memorandum opinion and order thoroughly addressed many of these grounds which Appellants raised previously in the bankruptcy court. I find each of the grounds for relief raised by Appellants to be without merit.

Appellants claims are:

The Debtor did not have standing to bring her disgorgement claim because it belonged to the Chapter 7 Trustee

A review of the record reveals that Steward did have standing to bring he claim for disgorgement. A debtor's bankruptcy estate is comprised of all her legal and equitable interests in property as of the commencement of the bankruptcy case. 11 U.S.C. § 541(a)(1). The injuries that form Steward's complaint occurred both before and after her bankruptcy case commenced on June 17, 2011. The Chapter 7 Trustee abandoned any interest in Steward's bankruptcy estate, first on July 26, 2011, before the motion to disgorge was filed. The Trustee again abandoned any interest in the estate on July 26, 2013, after the motion to disgorge was filed. To

the extent any part of the disgorgement claim was part of Steward's estate before she filed for bankruptcy, that aspect of the claim was abandoned by the Trustee . As a result Steward had standing to pursue her claim.

Judge Rendlen should have recused himself because he had been an adversary against Critique Services, L.L.C. before becoming a judge

Ten years before being appointed to the bankruptcy bench, the bankruptcy judge had been the United States Trustee for Region 13. He served in that capacity for three years. He supervised assistant United States Trustees in their duties. He was the named plaintiff in actions brought by his office. While he was the Trustee, his office investigated and filed two lawsuits against Critique Services L.L.C. and certain of its employees (but not against Robinson). Both cases settled. The bankruptcy judge did not personally conduct an investigation, draft pleadings, or otherwise direct the prosecution of Critique in those cases.

Appellants argue that the bankruptcy judge should have recused himself under 28 U.S.C. § 455(a).[6] That statute directs that a judge "shall disqualify himself in ay proceeding in which his impartiality might reasonably be questioned." Appellants assert that the judge's former position as the United States Trustee and

[6] Appellants also halfheartedly assert that the judge should have recused himself under 28 U.S.C. § 144. However, that statute only applies to district court judges and Appellants have failed to file a sufficient affidavit as required by that rule.

the lawsuits filed against Critique while he was Trustee supports a claim that the judge's impartiality toward Critique might reasonably be questioned by an objective, neutral observer. However, nothing in the record supports such a finding. There is no evidence that any facts or issues that were raised in those proceedings were relevant or related to Steward's motion to disgorge. Nor is there any evidence that the bankruptcy judge was personally involved the investigation or prosecution of those lawsuits

Appellants also allege that the bankruptcy judge engaged in personalized attacks against Walton and Robinson. The record does not support this accusation. To the extent that the judge expressed his exasperation or impatience with Robinson and Walton's actions and demeanor, such expressions do not establish judicial bias. Liteky v. United States, 510 U.S. 540, 555-556 (1994)(a judge's display of impatience, dissatisfaction, annoyance, and even anger based on proceedings in a case do amount to bias or impartiality). There is nothing in the record which would give a reasonable person a reasonable basis for questioning the judge's impartiality. As a result, the bankruptcy judge properly denied Appellants' motion to recuse.

Debtor acknowledged that the attorney's fees she paid were disgorged resulting in the bankruptcy court losing jurisdiction over the subject matter

Appellants claim for the **first time** on appeal that Steward's disgorgement claim became moot when a payment of $199.00 was made to her counsel by a third party. A ground for relief raised on appeal that was not raised in the trial court cannot be considered on appeal as a basis for reversal. Gregory by Gregory v. Honeywell, Inc., 835 F.2d 181, 184 (8th Cir. 1987) ("It is old and well-settled law that issues not raised in the trial court cannot be considered by this court as a basis for reversal.")(internal quotes and citation omitted). Because this ground for appeal was not raised in the bankruptcy court, it fails here.

Even if I did consider this ground for relief, it is without merit. In a declaration dated November 12, 2013, an attorney also associated with Critique, Ross Briggs, remitted $199.00 to Steward's counsel. Briggs indicated that the $199.00 was the fee that Steward paid for her bankruptcy filing. But Briggs never represented Steward. In addition, the record established in the bankruptcy court that Steward paid a fee of $495.00. Nothing in the record indicated the $199.00 was from Robinson or Critique. Nor did Steward accept this money as a settlement of her claim. As a result, the payment of this fee to Steward's counsel did not deprive the bankruptcy court of subject matter jurisdiction over the case.

No sanctions should have been entered against Critique Services, L.L.C. because no discovery was directed toward it

Appellants assert for the first time on appeal that Robinson and Critique are two separate entities.[7] Appellants failed to raise this issue to the bankruptcy court and did not offer or introduce any evidence in that court to show they are two separate entities. As this issue was not raised in the bankruptcy court, it cannot be raised for the first time here. See Honeywell, Inc., 835 F.2d at 184.

Moreover, the bankruptcy court made a finding that Robinson and Critique are the same entity. Through multiple pleadings Robinson asserts that Critique was his d/b/a and that Critique was Robinson's law firm. Watson entered his appearance and represented both Robinson and Critique. Discovery was directed to both Robinson and Critique and they never asserted a claim or made a response that they were two different entities. That was part of the trouble with discovery, Robinson and Critique refused to provide discovery regarding their relationship.

As a result, I find that discovery was directed to Critique Services, L.L.C. in the bankruptcy court.

[7] Appellants have submitted Articles of Incorporation for Critique Services L.L.C. for consideration in this appeal. However, this document was not provided in the proceedings before the bankruptcy court and will not be considered for the first time in this Court on appeal.

The bankruptcy court should have dismissed Critique Services, L.L.C. before any order was entered against it because of Plaintiff's failure to serve it

This claim is also raised for the first time on appeal and will be denied for that reason. Honeywell, Inc., 835 F.2d at 184. Moreover, Robinson held himself out to the bankruptcy court as Critique. Walton and Robinson made numerous representation in the bankruptcy court that Robinson was doing business and Critique and that Critique was his law firm and Critique's staff was his staff. It a minimum, Appellants waived the bankruptcy court's personal jurisdiction over Critique through their false representations and their conduct in litigation. Yeldell v. Tutt, 913 F.2d 533, 539 (8th Cir. 1990)(defendant can waived a defense of lack of personal jurisdiction through conduct before the court).

The bankruptcy court should have dismissed the motion to disgorge because of the Debtor's bad conduct of admittedly lying under oath

Appellants assert that Stewart's motion to disgorge should have been dismissed by the bankruptcy court under the doctrine of unclean hands. Appellants assert that Stewart admitted she submitted her initial bankruptcy papers with false information about her address and about dependents. Based on these false representations, Appellants argue her disgorgement case should have been dismissed.

The doctrine of unclean hands is not based on absolutes. It requires consideration of all the facts and circumstances of a particular case so that its application promotes justice. Nelson v. Emmert, 105 S.W.3d 563, 568 (Mo. Ct. App. 2003). The doctrine cannot be asserted by a party who also has unclean hands. Rose v. Houser, 206 S.W.2d 571, 577 (Mo. Ct. App. 1947)(the pot cannot call the kettle black). Based on the bankruptcy court's ruling, all the facts alleged by Steward in her disgorgement proceeding are deemed to be true. Steward asserted that it was Robinson and Critique who induced her to make false representations regarding her address and dependent status. Appellants cannot be rewarded for their own actions in inducing such false information through the doctrine of unclean hands. Moreover, Steward corrected any incorrect information in her initial bankruptcy papers. As a result, the bankruptcy judge did not err in refusing to dismiss Steward's disgorgement claims based on the doctrine of unclean hands.

The bankruptcy court had no authority to sanction Appellants for discovery failures once the parties settled their differences

This ground for relief was also not raised in the bankruptcy court and fails for that reason. Honeywell, Inc., 835 F.2d at 184. It also fails because there was no settlement of the disgorgement claim. The claim was not settled because the

proposed settlement agreement was specifically conditioned upon the bankruptcy court's approval of the settlement. The bankruptcy court rejected the settlement without prejudice subject to the review and approval of the settlement by the Chapter 7 Trustee.

The bankruptcy court was without authority to change Debtor's amended complaint in the adversary proceeding into a motion to disgorge attorney's fees in Debtor's Chapter 7 case

The bankruptcy court properly viewed the pro se amended complaint Steward filed in her adversary proceeding as more appropriately deemed to be a disgorgement proceeding. The court had subject matter jurisdiction over that proceeding. Walton v. LaBarge (In re Clark), 223 F.3d 859, 863 (8th Cir. 2000) ("The bankruptcy court has the broad power and discretion to award or deny attorney fees, and, indeed, a duty to examine them for reasonableness."). The court also had the power to cause improperly docketed pleadings re-docketed correctly. Winston v. Friedline, 2009 WL 3747225, 2 (W.D. Pa. November 5, 2009) (re-docketing a pro se complaint as a motion for sanctions "in fairness" to the nature of the document). As a result, the bankruptcy court did not err by re-docketing Steward's amended adversary proceeding complaint as a motion to disgorge in contested proceeding in the main bankruptcy case.

The sanctions and penalties entered by the bankruptcy court were for criminal contempt for which it had no authority and were not pursuant to a motion, notice and hearing as required by bankruptcy rules

The bankruptcy court did not err by imposing monetary sanctions against Appellants. The bankruptcy court clearly states and explains in its order that the monetary sanctions it imposed were civil in nature.

The attorney's fees sanction of $19,720.00 was imposed against Appellants pursuant to Fed. R. Civ. P. 37(b)(2)(C)[8] and 11 U.S.C § 105(a).[9] Although Steward's counsel was providing pro bono representation, the bankruptcy court had counsel submit an affidavit of counsel's usual fees counsel would have charged based on Appellants' failure to comply with discovery. The bankruptcy court had the power to order the disobedient party, Appellants, to pay the reasonable attorney's fees incurred by Appellants' failure to comply with the courts discovery orders. To not allow such a sanction because Steward's counsel was providing pro bono representation would amount to a windfall for Appellants. It is permissive, fair, and just for Appellants to bear the expense of the burden of time, effort, and expense Steward's counsel spent in response to Appellants' bad acts.

[8] Rule 37(b)(2)(C) provides for sanctions in the form of attorney's fees and expenses.

[9] Section 105(a) states, "The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination

Similarly, the $30,000.00 in sanctions the court imposed for Appellants obstinate refusal to comply with the court's discovery orders were authorized by Rule 37(b)(2)(A) and 11 U.S.C. § 105(a). Moreover, Appellants were given numerous opportunities to purge themselves of the bankruptcy court's sanctions. In addition, Appellants were provided with multiple notices that the imposition of sanctions was being considered by the bankruptcy court and they were given ample opportunities to file responses and request hearings before the sanctions were imposed.

As a result, the bankruptcy judge did not err by imposing monetary sanctions against Appellants.

Under local rule of court, a single judge does not have the authority to suspend an attorney from practice before it

Appellants contend that the bankruptcy court does not have the authority to unilaterally suspend an attorney from practice before the bankruptcy court. The Appellants argument turns on their interpretation of the Local Rules of the United States Court for the Eastern District of Missouri (E.D.Mo. L.R.) and the District Court's Rules of Disciplinary Enforcement.

Local Bankruptcy Rule 2094-C provides that "[n]othing in this Rule shall

---

necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process."

preclude the Court from initiating its own attorney disciplinary proceedings regardless of whether an attorney has been disciplined by another court," and L.B.R. 2090-A provides that the bankruptcy court adopts "[t]he requirements for … attorney discipline … outlined in the Rules 12.01-12.05" of the E.D.Mo. L.R.

E.D.Mo. L.R. 12.02 provides that:

> [a] member of the bar of this Court and any attorney appearing in any action in this Court, for good cause shown and after having been given an opportunity to be heard, may be disbarred or otherwise disciplined, as provided in this Court's Rules of Disciplinary Enforcement. In addition, *a judge may impose sanctions pursuant to the Court's inherent authority*, Fed.R.Civ.P. 11, 16 or 37, or any other applicable authority, and may initiate civil or criminal contempt proceedings against an attorney appearing in an action in this Court.

(emphasis added).

The Eastern District's Court's Rules of Disciplinary Enforcement (E.D.Mo. R.D.E.) contain two relevant provisions. The first is Rule IV-A which provides:

> [f]or misconduct defined in these Rules, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this court may be disbarred, suspended from practice before this court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

This rule allows a judge to disbar an attorney from practicing before the bar (in this case the bankruptcy court) for misconduct, for good cause, after notice and an opportunity to be heard.

In imposing the suspension of Robinson and Walton in this case, the bankruptcy court relied on its inherent authority under Supreme Court precedent, E.D.Mo. L.R. 12.02, and E.D.Mo. R.D.E. Rule IV-A. The bankruptcy court's order and the court's record thoroughly detail Robinson's and Walton's misconduct and violations of the rules of professional ethics. The bankruptcy judge provided good cause for the suspension sanction and provided ample notice and opportunities to be heard to Robinson and Walton.

Appellants argue that their license to practice can only be suspended by following the procedures stated in second relevant provision of the E.D.Mo. R.D.E., Rule V. That Rule provides,

> [w]hen misconduct or allegations of misconduct which, if substantiated, would warrant discipline of an attorney admitted to practice before this court shall come to the attention of a Judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules, the judge may refer the matter to counsel appointed under Rule X for investigation and prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

Under Rule V appointed counsel may initiate a formal disciplinary proceeding and a hearing is conducted before a panel of three judges.

The bankruptcy court had the authority and, in this case, a justifiable basis, to suspend Robinson's and Walton's privilege to practice before the bankruptcy court

for one year. The bankruptcy court did not need to refer the matter to appointed counsel for "investigation and prosecution of a formal disciplinary proceeding" because the misconduct at issue was directed at and witnessed by the bankruptcy court. The authority to impose a suspension derives from the bankruptcy court's inherent power. Law v. Siegel, 134 S. Ct. 1188, 1194 (2014) (the bankruptcy court possesses inherent power to sanction abusive litigation practices); Chambers v. NASCO, Inc., 501 U.S. 32, 43-44 (1991) ("a federal court has the power to control admission to its bar and to discipline attorneys who appear before it.") "Because of their very potency, inherent powers must be exercised with restraint and discretion." Id. at 44. But that restraint and discretion does not bar severe sanctions where they are warranted. The bankruptcy court had the authority to impose its suspension without initiating a "formal disciplinary proceeding" under E.D.Mo. R.D.E. Rule V.

As a result, the bankruptcy court's decision to impose a one year suspension of Robinson's ad Walton's privilege to practice before the bankruptcy court is affirmed.

Conclusion

It is clear from the record that Robinson, Critique, and Walton's obstinate behavior before the bankruptcy court was based, at least in part, on their effort to

shield any discovery of how Critique Services L.L.C. is organized and how it does business. Critique, if it is a separate entity from Robinson, may impermissibly be practicing law and /or impermissibly sharing attorney fees with Robinson and other attorneys. It also appears, based on Steward's experience, that Robinson and Critique are violating legal ethical rules in their representation of clients in bankruptcy matters. However, the resolution of these issues is not the subject of this appeal.

It is also clear from the record that Robinson and Walton acted in an unprofessional, dismissive, and sanctionable demeanor toward the bankruptcy court throughout the litigation of this matter in that court.

Based upon the foregoing, the bankruptcy court's Judgment and Amended Memorandum Opinion and Order imposing sanctions on Appellants is affirmed.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 31st day of March, 2015.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LATOYA STEWARD, Debtor, JAMES C. ROBINSON, CRITIQUE SERVICES L.L.C, and ELBERT A. WALTON, JR., Appellants, v. LATOYA STEWARD, Appellee.	)	Case No. 4:14 CV 1094 RWS Bankruptcy Case No. 11-46399-705

JUDGMENT

For the reasons set forth in the Memorandum filed this date,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Judgment and the Amended Memorandum Opinion and Order issued by United States Bankruptcy Judge Charles E. Rendlen, III, entered on June 10, 2014 and June 11, 2014 respectively, are **AFFIRMED**.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 31st day of March, 2015.

Attachment 88

Pay, Post, or Show Cause Order, entered in *In re Steward*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 11-46399-705**
	§	
LaToya L. Steward,	**§**	**Chapter 7**
	§	
Debtor.	**§**	

ORDER DIRECTING JAMES ROBINSON, CRITIQUE SERVICES, L.L.C., AND ELBERT WALTON TO: (I) PAY THE SANCTIONS; (II) POST THE SUPERSEDEAS BOND; OR (III) SHOW CAUSE AS TO WHY THEY ARE NOT OBLIGATED TO PAY OR POST, OR WHY FURTHER SANCTIONS SHOULD NOT BE ORDERED

For the reason set forth herein, the Court **DIRECTS** that James Robinson, Critique Services L.L.C., and Elbert Walton (the "Respondents"): (i) pay, in full, the sanctions imposed in this matter; (ii) post the supersedeas bond securing the amount of those sanctions; or (iii) show cause as to why they are not obligated to pay or post, or showing cause as to why further sanctions should not be ordered.

I. FACTS

On April 5, 2013, the Debtor in this Case filed a Motion to Disgorge against Robinson, her former attorney, and his "firm," Critique Services L.L.C., thereby commencing a contested matter. In the fourteen months that followed, Robinson, Critique Services L.L.C., and their counsel, Elbert Walton, unlawfully refused to make discovery in the contested matter. After escalating sanctions and near-countless notices warning of additional, final sanctions, on June 10, 2014, the Court entered an Order of Judgment (the "Judgment"), in which it imposed $49,720.00 in monetary sanctions upon the Respondents to sanction their contempt, false statements, and an assortment of other acts of bad faith and abuse of process. The Respondents appealed the Judgment to the U.S. District Court for the Eastern District of Missouri (the "District Court").

After initiating the appeal, the Respondents did not motion for a supersedeas bond. Instead, they motioned only for a discretionary stay of the effectiveness of the Judgment. That request was denied. As a result, the Judgment has been final and effective in full since June 25, 2014 (the fifteenth

day after its entry). And because the Respondents failed to pay the sanctions, post a bond, or obtain a discretionary stay of the effectiveness of the Judgment, they have been in violation of the Judgment since June 25, 2014.

On March 31, 2015, the District Court affirmed the Judgment. On April 14, 2015, Critique Services L.L.C. filed a Notice of Appeal to the U.S. Court of Appeals for the Eighth Circuit. The other Respondents not yet filed such a notice of further appeal, although the deadline for doing so has not yet expired.

II. LAW

Federal Rule of Bankruptcy Procedure ("FRBP") 7062 provides: "[Federal Rule of Civil Procedure] 62 applies in adversary proceedings." In turn, Federal Rule of Civil Procedure ("FRCP") 62(d) provides: "[i]f an appeal is taken, the appellant may obtain a stay by supersedeas bond . . ." However, the instant matter is not an adversary proceeding; it is a contested matter. As such, FRBP does not, on its own, make FRCP 62 applicable here.

Moreover, FRBP 9014(c)— the rule that designates those rules that are automatically applicable in contested matters—was amended in 1999 to delete FRBP 7062 from the list of rules that are automatically applicable in contested matters. *See* Committee Notes on Rules—1999 Amendments. However, the Committee Notes make clear that the deletion of FRBP 7062 did not strip the Bankruptcy Court of power to order a supersedeas bond. To the contrary, as the Committee Notes explain: "Although [FRBP] 7062 will not apply automatically in contested matters, the amended rule permits the court, in its discretion, to order that [FRBP] 7062 apply in a particular matter, and [FRBP] 8005 gives the court discretion to issue a stay or any other appropriate order during the pendency of an appeal on such terms as will protect the rights of all parties in interest."

III. DIRECTIVE THAT FRBP 7062 BE APPLICABLE

By making FRBP 7062 applicable in this contested matter, the Court can offer the Respondents an additional option for compliance. If FRBP 7062 is made applicable and a bond is set, the Respondents can choose to post the bond rather than to pay the sanctions out-of-pocket during the appeal. Accordingly,

pursuant to FRCP 9014, the Court **ORDERS** that FRBP 7062 be made applicable in this contested matter.

IV. DETERMINATION OF THE BOND AMOUNT

The Court **ORDERS** that a supersedeas bond be set in the amount of $52,206.00. This amount consists of: (i) $49,720.00, to secure the sanctions; and (ii) $2,486.00 (an additional five percent), to secure interest.

V. DIRECTIVE THAT THE RESPONDENTS PERFORM

The Court would be disingenuous to pretend surprise by the Respondents' lack of respect for a final and effective federal court order. The Respondents' bad faith actions before this Court have been consistently disgraceful and unrepentantly contemptuous. However, predictability is not acceptability, and the continuing violation of the Judgment is unacceptable.

Accordingly, the Court offers the Respondents three options for establishing that additional sanctions are not required to garner the performance of their obligations:

(1) pay the sanctions, in full, as directed in the Judgment;

(2) post a supersedeas bond in the amount of $52,206.00; or

(3) show cause as to why they are not obligated to pay or post, or why further sanctions should not be ordered.

As the Respondents have had ten months in which to perform pursuant to the Judgment, the Court **ORDERS** that the Respondents respond within seven (7) days of entry of this Order. The Court gives **NOTICE** that, if the Respondents fail to timely and adequately respond, the Court may find the Respondents to be in contempt of, or in willful noncompliance with, a final and effective federal court order, and may impose additional sanctions. Such sanctions may be monetary, non-monetary, or both, based upon the Court's determination of what may be effective to produce the Respondents' performance. The sanctions may be imposed against each of the Respondents individually, as well as against an appropriate officer of Critique Services L.L.C., to the degree that such sanctions are necessary to garner Critique Services L.L.C.'s compliance.

Compliance with this Order will not affect the suspensions of Robinson and Walton, which also were ordered in the Judgment.

A copy of this Order will be forwarded to the Missouri Supreme Court's Office of Chief Disciplinary Counsel and to the District Court, to supplement the disciplinary referrals already made last June to those authorities.

DATED: April 15, 2015
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

Copy Mailed To:

James Clifton Robinson
3919 Washington Blvd.
St. Louis, MO 63108

Elbert A. Walton, Jr.
Metro Law Firm, LLC
2320 Chambers Road
St. Louis, MO 63136

Ross H. Briggs
Post Office Box 58628
St. Louis, MO 63158

Laurence D. Mass
230 S Bemiston Ave
Suite 1200
Clayton, MO 63105

Office of US Trustee
111 S Tenth St, Ste 6.353
St. Louis, MO 63102

Robert J. Blackwell
Blackwell and Associates (trustee)
P.O. Box 310
O'Fallon, MO 63366-0310

David A. Sosne
Summers Compton Wells LLC
8909 Ladue Rd.
St. Louis, MO 63124

Tom K. O'Loughlin
O'Loughlin, O'Loughlin et al.
1736 N. Kingshighway
Cape Girardeau, MO 63701

Kristin J Conwell
Conwell Law Firm LLC
PO Box 56550
St. Louis, MO 63156

Seth A Albin
Albin Law
7710 Carondelet Avenue
Suite 405
St. Louis, MO 63105

E. Rebecca Case
7733 Forsyth Blvd.
Suite 500
Saint Louis, MO 63105

Attachment 89

Letter to Trustee Case, entered in *In re Steward*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
THOMAS F. EAGLETON UNITED STATES COURTHOUSE
111 SOUTH TENTH STREET - SEVENTH FLOOR SOUTH
ST. LOUIS, MISSOURI 63102

CHARLES E. RENDLEN, III
UNITED STATES BANKRUPTCY JUDGE

Voice (314) 244-4511
Fax (314) 244-4515

VIA OVERNIGHT DELIVERY

Ms. E. Rebecca Case
Chapter 7 Trustee
Stone, Leyton & Gersham P.C.
7733 Forsyth Blvd., Ste. 500
St. Louis, MO 63105

Ms. Janice R. Valdez
Counsel for the Chapter 7 Trustee
Stone, Leyton & Gersham P.C.
7733 Forsyth Blvd., Ste. 500
St. Louis, MO 63105

Mr. James C. Robinson
Contemnor
Critique Services
3919 Washington Blvd.
St. Louis, MO 63108

Mr. Elbert Walton
Contemnor
Metro Law Firm, L.L.C.
2320 Chambers Rd.
St. Louis, MO 63136

Mr. David Gunn
Counsel for the Debtor
2025 S. Brentwood Blvd., Ste. 206
St. Louis, MO 63144

Mr. Laurence Mass
Counsel for Contemnor Critique Services L.L.C.
230 S. Bemiston, Ste. 1200
St. Louis, MO 63105

VIA CM-ECF COURT ELECTRONIC NOTIFICATION UPON DOCKETING

Ms. E. Rebecca Case
Ms. Janice R. Valdez
Mr. Laurence Mass
Mr. James C. Robinson
Mr. Elbert Walton
Mr. David Gunn

April 20, 2015

Re: *In re Latoya Steward* (Case No. 11-46399)

Dear Ms. Case:

Thank you for your telephone call of April 16, 2015 to my law clerk. In that call, you advised that Mr. Laurence Mass, counsel for Critique Services L.L.C. (one of three Respondents/Contemnors/Appellees (the "Respondents") in the above-referenced matter of *In re Latoya Steward* (the "Case")), contacted you to inquire whether you would be willing to serve as a conduit or contact between the Court and Critique Services L.L.C. regarding the sanctions for which his client, its affiliated attorney, James Robinson, and their former counsel, Elbert Walton, were made jointly and severally liable pursuant to the June 10, 2014 order (the "Judgment") entered in the Case. You acted as generously as your circumstances would permit, contacting Chambers to advise of

Critique Services L.L.C.'s interest in communicating with the Court regarding possible alternate terms for satisfaction of the sanctions.

As you recall, in January 2014, the Court reached out to you, to ask you to convey to the Respondents an alternate, non-monetary method by which the substantial sanctions that had been accrued at that point could be satisfied. Mr. Robinson and (or d/b/a) Critique Services L.L.C. never bothered to directly respond to the Court, formally or informally. Mr. Walton responded by frivolously suing me in my personal capacity in state court, then baselessly demanding my recusal from this Case. As such, the Court has little reason to trust that Critique Services L.L.C. now is proceeding in good faith, and therefore cannot extend the courtesy of informal communication.[1] Accordingly, the Court's response will be in the form of this docketed letter.

As the parties are aware, the history of this Case following the entry of the Judgment is as follows: The Judgment became final and effective fourteen days after its entry. The Respondents appealed the Judgment to the U.S. District Court. However, while appealing, they did not obtain a stay of effectiveness of the Judgment, pay the sanctions, or post a supersedeas bond. As such, for the duration of the appeal to the U.S. District Court, the Respondents were in violation of the final and effective Judgment. On March 31, 2015, the Judgment was affirmed. On April 14, 2015, Critique Services L.L.C. filed a Notice of Appeal to the U.S. Court of Appeals for the Eighth Circuit. Because further appeal likely will take many months, the Court cannot continue to ignore the Respondents' ongoing refusal to pay the sanctions or post a bond. Accordingly, on April 15, 2015, the Court issued an Order Directing James Robinson, Critique Services L.L.C., and Elbert Walton to: (I) Pay the Sanctions; (II) Post the Supersedeas Bond; or (III) Show Cause as to They Are Not Obligated to Pay or Post, or Why Further Sanctions Should Not Be Ordered" (the "Pay, Post or Show Cause Order"), directing the Respondents to respond by April 22, 2015. Shortly thereafter, Mr. Mass contacted you, and you thereafter contacted my Chambers.

Mr. Mass cannot be faulted for his efforts at zealous advocacy. However, if he hopes to negotiate or mediate with the Court regarding the sanctions, the Court cannot accommodate him. Negotiation and mediation are resolution methods utilized by parties to a dispute seeking to avoid the risks attendant with litigation. The Court, however, is not a party to the sanctions and is not in an arm's length relationship with the Respondents. Moreover, there is no dispute to be resolved between the Court and the Respondents. And, unlike a party, the Court has no interest in avoiding appeal. If the appellate court were to determine that this Court did not err in the Judgment, then justice has been served. If the appellate court were to determine that the Court erred in the Judgment, then the error would be corrected and justice would be served. Either way, the only interest of the Court—that justice be served—would be realized. For these reasons, negotiation and mediation are not available to any of the Respondents.

What the Court can do, however, is to provide the Respondents with an alternate method of satisfying the sanctions. To be clear: it cannot do so by amending or vacating the terms of the Judgment, as the Court has long-since lost jurisdiction of the Judgment. But, if the Respondents perform pursuant to the below-described alternate method of

[1] This is not a reflection on Mr. Mass. Mr. Mass was not counsel of record to Critique Services L.L.C. at the time of the described acts.

satisfaction, the Court can enter an order pursuant to Federal Rule of Civil Procedure ("Rule") 60(b)(5), directing that the Respondents be relieved from the Judgment based on that satisfaction. As such, the Judgment would stand, but the Respondents would be relieved of any further obligation under it. It should be noted, however, that this alternate method of satisfying the sanctions is an "everybody or nobody" option, requiring performance by all persons.

The Court would accept, as full satisfaction of the sanctions warranting an order of relief from the Judgment under Rule 60(b)(5), the following performance:

(i) Agreement by the Respondents to entry of a consent order that directs payment be made by the Respondents, in full and immediately available funds, within seven (7) days of entry of such order, of:

a. the $18,010.00 in attorneys' fees ordered in the Judgment to be paid to the legal charity selected by the Debtor's counsel, on the specific payment terms set forth in the Judgment;

b. the $1,710.00 in attorney's fees ordered in the Judgment to be paid to the Debtor's counsel; and

c. the $495.00 ordered in the Judgment to be paid to the Debtor.

(ii) Agreement by Mr. Robinson and Mr. Walton to the entry of a consent order that directs that each immediately resign his admission to practice before this Court and that each forever be enjoined from (A) practicing before this Court in representation of any other person, and (B) participating in any and all activities of any and every nature (including, but not limited to, practicing law, owning a business, managing a business, consulting with or for a business or person, renting to a business or person, licensing to a business or person, providing bankruptcy petition preparation services, being employed by a business or person, employing a business or person, serving as a paralegal or support staff, providing referral services, and providing support services) that have anything to do with, or may in any way affect, bankruptcy cases filed, or anticipated to be filed, in this District, ***with the terms of such prohibition to be construed in the broadest sense possible.***[2]

(iii) Agreement by Critique Services L.L.C. and Beverly Diltz, both in her personal capacity and in whatever capacity she has in relationship with Critique Services L.L.C.,[3] to the entry of a consent order that directs that each forever

[2] Such permanent injunction would not operate to bar either Mr. Robinson and Mr. Walton from filing and prosecuting a case on his own behalf, representing his interests in a case as a creditor or party in interest, responding to a subpoena or summons issued in a case in this Court, serving as a witness if called, or otherwise participating in a case before this Court when compelling by law to do so.

[3] After the entry of the Judgment—for the first time on appeal and then later in the matters of *In re Reed, et al.* (Lead Case No. 14-44818) and *In re Williams, et al.* (Lead Case No. Case No. 14-44204)—Critique Services L.L.C. represented that Ms. Diltz is its sole owner and organizer. Given this, and given the long history of Ms. Diltz and her

> be enjoined from participating in any and all activities of any and every nature (including, but not limited to, practicing law, owning a business, managing a business, consulting with or for a business or person, renting to a business or person, licensing to a business or person, providing bankruptcy petition preparation services, being employed by a business or person, employing a business or person, serving as a paralegal or support staff, providing referral services, and providing support services) that have anything to do with, or may in any way affect, bankruptcy cases filed, or anticipated to be filed, in this District, ***with the terms of such prohibition to be construed in the broadest sense possible.***[4]

It is possible that this alternate method of satisfaction will not be any more palatable to the Respondents than the terms set forth in the Judgment. However, if the Respondents wish to avoid further appeal, or wish to avoid being found in further contempt, or wish to avoid posting the bond, then they need to recognize that such avoidance will not come at a discounted price. The Court will not accept any form of sanctions satisfaction that holds the Respondents less accountable than would the sanctions terms imposed in the Judgment. The Respondents' conduct in this matter has been contemptuous, abusive, dishonest, deceitful, and disgraceful. The Respondents cannot be trusted to lawfully provide services to debtors in cases filed in this District or to participate in good faith in matters before this Court. To this day, Mr. Robinson and Critique Services L.L.C. have yet to make the court-ordered discovery about their business (a business that affects thousands of bankruptcy cases filed in this District). The Respondents are not in a position to hope that they can satisfy the sanctions with less accountability.

The Court has directed the Respondents to respond to the Pay, Post or Show Cause Order by April 22, 2015. Accordingly, the Court expects a response by that date to the issue of whether the Respondents will perform pursuant to the alternate method described herein. If they do not respond, it will be assumed that they do not plan to perform under this alternate method. This alternate method of satisfying the sanctions in no way cuts off the Respondents' ability to pay the sanctions ordered in the Judgment, post the bond set in the Pay, Post or Show Cause Order, or otherwise respond to the Pay, Post or Show Cause Order.

Performance pursuant to this alternate method of satisfaction would not dispose of the separate matters of *In re Reed, et al.*, *In re Williams, et al.*, the pending disciplinary proceedings before the U.S. District Court against Messrs. Robinson and Walton, any disciplinary investigation to be conducted by the Missouri State Court's Office of Chief Disciplinary Counsel, or any investigation by any office of the Executive Branch related to Critique Services L.L.C. and its affiliated persons.

---

businesses being sued by the United States Trustee for unlawful business practices, Ms. Diltz's agreement to this alternate method of satisfaction is necessary.

[4] Such permanent injunction would not operate to bar either Critique Services L.L.C. or Ms. Diltz from filing and prosecuting a case on its or her own behalf, representing its or her interests in a case as a creditor or party in interest, responding to a subpoena or summons issued in a case in this Court, serving as a witness when called, or otherwise participating in a case before this Court when compelling by law to do so.

And again, thank you, Ms. Case, for your efforts in this matter.

Sincerely,

The Honorable Charles E. Rendlen, III

Attachment 90

Body Attachment Order and Bench Warrant, entered *in In re Steward*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 11-46399-705**
	§	
LaToya L. Steward,	**§**	**Chapter 7**
	§	
Debtor.	**§**	

BENCH WARRANT
FOR THE ATTACHMENT OF THE BODIES OF AND THE ARREST OF
JAMES C. ROBINSON AND ELBERT WALTON, JR.

For the reasons set forth herein, the Court **ISSUES** this Bench Warrant and **ORDERS** the attachment of the bodies of and the arrest of **JAMES C. ROBINSON** and **ELBERT WALTON, JR.**

I. FACTUAL BACKGROUND

On June 10, 2014, the Court entered a Judgment that, among other things, imposed $49,720.00 in sanctions upon James Robinson, his "firm" Critique Services L.L.C., and their then-counsel, Elbert Walton Jr. (collectively, the "Respondents") for contempt, abuse, false statements, and other violations committed during the course of the litigation of the Debtor's Motion to Disgorge the attorney's fees paid to Robinson and Critique Services L.L.C. The Judgment became final and effective fourteen days after its entry. The Respondents appealed the Judgment to the U.S. District Court. However, they failed to obtain a discretionary stay of the effectiveness of the Judgment pending appeal, pay the sanctions, or post a bond. Accordingly, they proceeded through the appeal while in violation of the final and effective Judgment. On March 31, 2015, the U.S. District Court affirmed the Judgment. On April 14, 2015, Critique Services L.L.C. filed a Notice of Appeal to the U.S. Court of Appeals for the Eighth Circuit.

The Court can no longer ignore the ongoing violation of the Judgment and will not risk the possibility of non-payment of the sanctions. Accordingly, on April 15, 2015, the Court entered an Order to (I) Pay the Sanctions; (II) Post the Supersedeas Bond; or (III) Show Cause as to Why They Are Not Obligated to Pay or Post, or Why Further Sanctions Should Not Be Ordered" (the "Pay, Post or Show Cause Order"). The Court gave notice that it is considering the

imposition of additional sanctions upon the Respondents for their failure to pay the sanctions, post the bond, or show cause as to why they should not be compelled to do either. The Court stated that it is considering monetary and non-monetary sanctions. The Court gave the Respondents until April 22, 2015 to respond[1] by paying the sanctions, posting a supersedeas bond of $52,206.00,[2] or showing cause as to why they should not be required to do either or why sanctions for their non-performance should not be imposed.

II. THE RESPONSES TO THE PAY, POST OR SHOW CAUSE ORDER

Demonstrating their usual unmitigated arrogance and complete lack of respect for the Court or themselves as attorneys, Robinson and Walton did not respond to the Pay, Post or Show Cause Order.

On April 22, 2015, Critique Services L.L.C., through its new counsel, Laurence Mass,[3] filed a response [Docket No. 280], in which it represented that it was attempting to obtain the bond and requested an extension of time to obtain the bond.[4] On April 23, 2015, Critique Services L.L.C. filed a Motion for Authority

---

[1] The Court did not sua sponte set the Pay, Post, or Show Cause Order for hearing, and no party requested a hearing.

[2] The bond secures only the satisfaction of the sanctions. It does not secure the payment of the $495.00 judgment rendered in favor of the Debtor. The Debtor has not requested that a bond be set on this small amount.

[3] After the entry of the Judgment, Critique Services L.L.C. replaced Walton for Mass as its counsel in this matter as well as in the appeal of this matter. Robinson and Walton represent themselves.

[4] The sanctions were imposed jointly and severally upon Critique Services L.L.C., Robinson, and Walton. Prior to the entry of the Judgment, Robinson represented that he "does business as" Critique Services L.L.C. During the course of the litigation of the Motion to Disgorge, the Court sought clarification of this alleged relationship between a natural person and an artificial entity, but none was offered. Accordingly, in the Judgment, the Court imposed the sanctions upon Robinson d/b/a Critique Services L.L.C. or upon Robinson and Critique Services—in whatever capacity they happen to actually be related. Since the entry of the Judgment, Critique Services L.L.C. has changed its tune and alleges that it is distinct from Robinson. To any degree, given the inconsistent representations made in this Case post-Judgment regarding the relationship between Robinson and Critique Services L.L.C., the Court will not treat Critique

to Post Cash Bond [Docket No. 282]. On April 24, 2015, the Court entered an order [Docket No. 283] directing that Critique Services L.L.C. be given a ten more days—until May 4, 2015—to post the bond. The Court also entered an order [Docket No. 284] granting the Motion for Authority to Post Cash Bond, but made clear: any bond would secure not only Critique Services L.L.C.'s obligation, but the obligations of all Respondents who appealed (as of April 24, 2015, the deadline for filing an appeal had not expired; Robinson and Walton still had time to appeal, despite not having done so yet, at that point). The sanctions were imposed jointly and severally; the bond must be of the same nature—although the Court does not care who funds the bond or how the appealing Respondents might divvy up the cost of the bond amongst themselves.

III. DETERMINATION OF WHETHER IT IS PROPER TO IMPOSE ADDITIONAL SANCTIONS

A. Critique Services L.L.C.

The Court **HOLDS** that it is proper to delay the determination of whether to impose additional sanctions against Critique Services L.L.C. until after the ten-day period extension period. If the bond is not posted by then, the Court will revisit the issue of whether it is proper to impose additional sanctions against it and/or against its alleged owner, Beverly Diltz.[5]

B. Robinson and Walton

As noted above, neither Robinson nor Walton has filed a response to the Pay, Post or Show Cause Order. Neither has paid the sanctions or posted the bond. Neither has argued that he is not required to pay the sanctions or post the bond. Neither has suggested that there is any cause for not further sanctioning him. Neither made a representation that he is attempting to procure a bond. Neither alleged financial incapability. Perhaps Robinson's and Walton's failure to

---

Services L.L.C.'s efforts to procure a bond as a representation of Robinson's efforts to do the same.

[5] Following the entry of the Judgment, for the first time, Critique Services L.L.C. alleges that Diltz is its sole owner.

respond was a misguided attempt to piggyback off Critique Services L.L.C's representation that it is attempting to post the bond. However, the fact that one of the Respondents appears to be attempting to post the entire amount of the bond does not relieve the other Respondents from their co-existing obligation to do the same. Critique Services L.L.C.'s efforts to do not provide the other Respondents with derivative "cover" for their failure to pay or post.

On April 28, 2015, Robinson and Walton filed their joint Notice of Appeal to the U.S. Court of Appeals for the Eighth Circuit. No bond was posted in conjunction with filing their Notice of Appeal, and neither Robinson nor Walton have suggested that he intends to post the bond.

Accordingly, the Court **FINDS** that Robinson and Walton failed pay, post or show cause as to why additional sanctions should not be imposed, and **HOLDS** that it is proper to impose additional sanctions to garner their compliance with their obligation to post the bond as they further appeal.

IV. THE FUTILITY OF MONETARY SANCTIONS AND LESS COERCIVE NON-MONETARY SANCTIONS

The imposition of additional monetary sanctions would be fruitless. The record in this Case clearly establishes that monetary sanctions do not garner the Respondents' compliance with court orders. Similarly, the record in this Case establishes that the imposition of light-weight non-monetary sanctions would be useless. Over the course of this Case, the Court has: revoked Robinson's CM-EFC privileges; revoked Robinson's privilege of using the exteriorly located drop box for filing; suspended Robinson and Walton from the privilege of practicing before the Court; referred the Judgment to the U.S. District Court for disciplinary investigation; referred the Judgment to the U.S. Trustee for suspected bankruptcy fraud; held the Respondents in contempt; and imposed sanctions against Robinson for discovery violations, including striking the answer and directing that the well-pleaded allegations by the Debtor be determined to be fact. None of these non-monetary sanctions garnered the Respondents' compliance with their discovery obligations. The Court will not further indulge Robinson and

Walton by imposing additional monetary sanctions or softball non-monetary sanctions that will just be ignored and do nothing to garner their compliance.

V. THE COURT'S AUTHORITY TO ORDER ATTACHMENT AND ARREST

It is well-established law that the Bankruptcy Court has the power to impose sanctions for civil contempt to enforce compliance with its orders. Here, the Court has provided the Respondents with notice and specificity of its intent to impose monetary and/or non-monetary sanctions for refusing to pay the sanctions or post the bond, and provided the Respondents with an opportunity to respond. It also is well-established law that the Bankruptcy Court has the power to sanction by incarceration to obtain compliance when a party is in civil contempt of an order. Incarceration of a civil contemnor does not convert the matter into a criminal contempt proceeding. *In re Spanish River Plaza Realty Co., Ltd*., 155 B.R. 249, 254 (Bankr. S.D. Fla. 1993). And it is well-established law that incarceration is a civil sanction and not a criminal punishment when release is conditioned upon the contemnor's performance with his obligation. *Shillitani v. United States*, 384 U.S. 364, 369 (1966) (in a case where incarceration was ordered of a witness who refused to testify, the U.S. Supreme Court reasoned that, "[w]hile any imprisonment, of course, has punitive and deterrent effects, it must be viewed as remedial if the court conditions release upon the contemnor's willingness to testify."). Persons incarcerated as a result of civil contempt "carry the keys of their prison in their own pockets." *In re Nevitt*, 117 F. 448, 461 (8th Cir. 1902); *see In re Hans Juerfen Falck*, 513 B.R. 617, 619 (Bankr. S.D. Fla. Jul. 25, 2014). As the Court will set forth below, the terms of Robinson's and Walton's incarceration will place the keys to their release in their own pockets.

While "[c]oercion [by incarceration] is appropriate only when the person being coerced has the ability to pay," *In re Hans Juerfen Falck*, 513 B.R. at 619, neither Robinson and Walton have alleged that they are unable to post the bond. Robinson and Walton remain free to make a financial incapacity argument. However—given their past history in this matter of making baseless factual allegations, asserting false and misleading statements, and refusing to make disclosures about Robinson's business—Walton and Robinson should

understand that proving financial inability will require evidence (of assets, liabilities, recent tax returns, wages or other income, and other relevant material). Vaguely insisting on financial incapability will not suffice.

VI. DIRECTIVE TO THE U.S. MARSHALS TO ATTACH THE BODIES OF AND ARREST JAMES C. ROBINSON AND ELBERT WALTON, JR.

Because monetary sanctions and lesser non-monetary sanctions would not garner compliance, and because the Respondents have failed to comply with the Pay, Post or Show Cause Order, the Court **ORDERS** that the attachment of the bodies of and the arrest of **JAMES C. ROBINSON** and **ELBERT WALTON, JR.** Each is to be held in custody for the lesser of (i) thirty (30) days, or (ii) until (a) the $52,206.00 bond is posted, or (b) other cause is shown making his release from incarceration proper.

VII. TERMS OF RELEASE

If the bond is posted before the thirty (30) days has expired, upon notification of such posting, the Court will promptly enter an order directing Robinson's and Walton's release. If the bond is not posted within thirty days of incarceration, the Court will hold a hearing promptly thereafter and direct that the bodies of Robinson and Walton be produced to the Court for such hearing. At that hearing, the Court will determine the appropriate next step.

VIII. DIRECTIVE TO FILE A NOTICE OF POSTING OF BOND

The Court **ORDERS** that, upon the posting of the bond, the Respondents (i) file a Notice of Posting of the Bond, and (ii) telephone the Court's law clerk to advise of the Notice of the Posting of the Bond. Upon confirmation of the posting the bond, the Court will enter a Notice of Receipt of Bond.

IX. STAY OF EFFECTIVENESS THROUGH MAY 4, 2015

The Court has given Critique Services L.L.C. until May 4, 2015, to post the bond. Accordingly, the Court **ORDERS** that the effectiveness of this Bench Warrant be **STAYED** through May 4, 2015, in anticipation of the posting of the bond, which would secure the performance of all three Respondents. However, this stay in no way relieves Robinson and Walton of their separate obligations to post the bond, and in no way suggests that they are acting in good faith.

X. CONCLUSION

The Court is disappointed and irritated, although not surprised, that the seemingly never-ending contemptuous attitude of Robinson and Walton has now resulted in the need for the utilization of the valuable time, resources, and expertise of the U.S. Marshals. The Court is confident that the U.S. Marshals have many matters to address involving dangerous persons and urgent circumstances, and do not need the inconvenience of having to chase down bad-actor attorneys who believe that contempt is an acceptable form of professional practice. However, the Court will state this in unequivocal terms: ***if the bond is not posted by May 4, 2015, this Bench Warrant will become effective on May 5, 2015, and will be delivered to the U.S. Marshals for execution.***

DATED: April 29, 2015
St. Louis, Missouri 63102
erk

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

Attachment 91

Copy of cashier's check used by Diltz to post bond; Critique Services L.L.C.'s Notice of Posting of Bond; Order Striking in Part Critique Services L.L.C.'s Notice of Posting of Bond; Court's Notice of Posting of Bond and Release of Bench Warrant; each entered in *In re Steward*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 11-46399-705**
	§	
LaToya L. Steward,	**§**	**Chapter 7**
	§	
Debtor.	**§**	**[Related to Docket No. 292]**

ORDER STRIKING IN PART
THE NOTICE FILED BY CRITIQUE SERVICES L.L.C.

On May 1, 2015, the Respondents posted the $52,206.00 supersedeas bond that has been ordered to be posted by the Respondent**s** to secure the $49,720.00 in sanctions imposed jointly and severally upon the Respondent**s** pursuant to the June 11, 2014 Judgment entered in this matter. It is the Court's understanding that the bond was funded in total by only one of the Respondents-Critique Services L.L.C. In the Notice of Posting of Cash Bond [Docket No. 292] filed by Critique Services L.L.C., Critique Services L.L.C. states "[a]lthough Critique Services, L.L.C. takes exception to the Court's ruling [in its April 24, 2015 Order Granting the Motion to Authorize the Posting of Cash Bond] that even if Critique Services, L.L.C. is successful on appeal, if Walton and Robinson are not, the bond is forfeited, Critique Services, L.L.C. will not pursue this issue at this time." This appears to be an improper backdoor challenge to the terms of the Order Granting the Motion for Authority to Post Cash Bond.

The Court was extremely clear in the Order Granting the Motion to Authorize the Posting of Cash Bond: a term of the posting of the bond is that the bond secure the joint and several liability of the Respondent**s**, regardless of who happens to fund the bond. While the Respondents were free to decide amongst themselves how they would fund the bond on their jointly and severally imposed sanctions, the Court would not permit their funding decision to place the Court at risk of being under-bonded, should the funding Respondent succeed on appeal while the non-funding Respondents fail.

Critique Services L.L.C. did not seek reconsideration of the Order Granting the Motion to Authorize the Posting of Cash Bond. It did not appeal the

Order Granting the Motion to Authorize the Posting of Cash Bond. Instead, it complied with the Order Granting the Motion for Authority to Post Cash Bond by rendering the bond proceeds to the Clerk of Court, then filing a Notice of Posting of the Bond, representing that the bond had been posted. Critique Services L.L.C. cannot simultaneously represent that it posted the bond, while also carving out a key term of the very bond it claims to have posted. The bond terms and the Order Granting the Motion for Authority to Post Cash Bond are not subject to the unilateral modification of Critique Services L.L.C. by declaration of the taking of an exception.

The Court **HOLDS** that by (i) rendering the cash proceeds of the bond and (ii) filing a Notice of Posting of Cash Bond, Critique Services L.L.C. has represented that it is complying with and agreeing to all the terms of the posting of bond as set forth in the Order Granting the Motion to Authorize the Posting of Cash Bond. Critique Services L.L.C. has preserved no issue related to whose obligations the bond secures. The bond secures the obligations of all Respondents. Accordingly, the Court **ORDERS** that the Notice of Posting of Cash Bond be **STRICKEN IN PART** as to the ineffective last paragraph.

DATED: May 1, 2015
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

COPY MAILED TO:

Ross H. Briggs
Post Office Box 58628
St. Louis, MO 63158

James Clifton Robinson
Critique Services
3919 Washington Blvd.
St. Louis, MO 63108

Laurence D. Mass
230 S Bemiston Ave
Suite 1200
Clayton, MO 63105

Office of US Trustee
111 S Tenth St, Ste 6.353
St. Louis, MO 63102

Robert J. Blackwell
Blackwell and Associates (trustee)
P.O. Box 310
O'Fallon, MO 63366-0310

David A. Sosne
Summers Compton Wells LLC
8909 Ladue Rd.
St. Louis, MO 63124

Tom K. O'Loughlin
O'Loughlin, O'Loughlin et al.
1736 N. Kingshighway
Cape Girardeau, MO 63701

Kristin J Conwell
Conwell Law Firm LLC
PO Box 56550
St. Louis, MO 63156

Seth A Albin
Albin Law
7710 Carondelet Avenue
Suite 405
St. Louis, MO 63105

E. Rebecca Case
7733 Forsyth Blvd.
Suite 500
Saint Louis, MO 63105

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:	§	
	§	**Case No 11-46399-705**
LATOYA STEWARD	§	
	§	**Chapter 7**
Debtor	§	

NOTICE OF POSTING A CASH BOND

Comes now Critique Services, LLC and informs the Court that it alone has posted a cash bond in the amount of FIFTY-TWO THOUSAND TWO HUNDRED SIX dollars ($52,206.00).

Although Critique Services, LLC takes exception to the Court's ruling that even if Critique Services, LLC is successful on appeal, if Walton and Robinson are not, the bond is forfeited, Critique Services, LLC will not pursue this issue at this time.

Respectfully submitted,
Attorney for Critique Services, LLC

/s/ Laurence D. Mass

Laurence D. Mass #30977MO
230 South Bemiston, Suite 1200
St. Louis, Missouri 63105
Phn: (314) 862-3333, Ext. 20
Fax: (314) 862-0605
Email: laurencedmass@att.net

CERTIFICATE OF SERVICE

By signature above I hereby certify that I electronically filed the foregoing with the Clerk of the United States Bankruptcy Court, Eastern District of Missouri by using the CM/ECF system, and that a copy will be served by the CM/ECF system upon those parties indicated by the CM/ECF system.

By: /s/ Laurence D. Mass

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 11-46399-705**
	§	
LaToya L. Steward,	**§**	**Chapter 7**
	§	
Debtor.	**§**	

NOTICE OF POSTING OF BOND
AND
ORDER THAT (i) THE BENCH WARRANT NOT BE MADE EFFECTIVE, AND (ii) A COPY OF THIS NOTICE AND ORDER BE FORWARDED TO THE MISSOURI SUPREME COURT'S OFFICE OF CHIEF DISCIPLINARY COUNSEL, TO SUPPLEMENT THE DISCIPLINARY REFERRAL ALREADY MADE AGAINST ELBERT WALTON JR.

For the reasons set forth herein, the Court **GIVES NOTICE** of the posting of the $52,206.00 bond securing the satisfaction of the sanctions described herein, and **ORDERS** that (i) the Bench Warrant not be made effective, and (ii) a copy of this Notice and Order be forwarded to the Missouri Supreme Court's Office of Chief Disciplinary Counsel (the "OCDC"), to supplement the disciplinary referral already made against Elbert Walton Jr.

I. FACTUAL BACKGROUND

On June 10, 2014, the Court entered a Judgment that, among other things, imposed $49,720.00 in sanctions upon James Robinson, his "firm" Critique Services L.L.C., and their then-counsel, Elbert Walton Jr. (collectively, the "Respondents") for contempt, abuse, false statements, and other violations committed during the course of the litigation of the Debtor's Motion to Disgorge the attorney's fees paid to Robinson and Critique Services L.L.C. The Judgment became final and effective fourteen days after its entry. The Respondents appealed the Judgment to the U.S. District Court. However, they failed to obtain a discretionary stay of the effectiveness of the Judgment pending appeal, pay the sanctions, or post a bond. Accordingly, they proceeded through the appeal while in violation of the final and effective Judgment. On March 31, 2015, the U.S. District Court affirmed the Judgment. On April 14, 2015, Critique Services L.L.C. filed a Notice of Appeal to the U.S. Court of Appeals for the Eighth Circuit.

The Court could no longer ignore the ongoing violation of the Judgment or risk the possibility of non-payment of the sanctions. Accordingly, on April 15, 2015, the Court entered an Order to (I) Pay the Sanctions; (II) Post the Supersedeas Bond; or (III) Show Cause as to Why They Are Not Obligated to Pay or Post, or Why Further Sanctions Should Not Be Ordered" (the "Pay, Post or Show Cause Order"). The Court gave notice that it is considering the imposition of additional sanctions upon the Respondents for their failure to pay the sanctions, post the bond, or show cause as to why they should not be compelled to do either. The Court stated that it is considering monetary and non-monetary sanctions. The Court gave the Respondents until April 22, 2015 to respond by paying the sanctions, posting a supersedeas bond of $52,206.00,[1] or showing cause as to why they should not be required to do either or why sanctions for their non-performance should not be imposed.

On April 22, 2015, Critique Services L.L.C., through its new counsel, Laurence Mass, filed a response [Docket No. 280], in which it represented that it was attempting to obtain the bond and requested an extension of time to obtain the bond. On April 23, 2015, Critique Services L.L.C. filed a Motion for Authority to Post Cash Bond [Docket No. 282]. On April 24, 2015, the Court entered an order [Docket No. 283] directing that Critique Services L.L.C. be given ten more days—until May 4, 2015—to post the bond. The Court also entered an order [Docket No. 284] granting the Motion for Authority to Post Cash Bond, but made clear: any bond would secure not only Critique Services L.L.C.'s obligation, but the obligations of all Respondents who appealed (as of April 24, 2015, the deadline for filing an appeal had not expired; Robinson and Walton still had time to appeal, despite not having done so yet, at that point). As the sanctions were imposed jointly and severally, the bond must be of the same nature—although the Court does not care who funds the bond or how the appealing Respondents

[1] The bond secures only the satisfaction of the sanctions. It does not secure the payment of the $495.00 judgment rendered in favor of the Debtor. The Debtor has not requested that a bond be set on this small amount.

might divvy up the cost of the bond amongst themselves to secure their jointly and severally owed sanctions.

Walton and Robinson failed to timely respond to the Pay, Post or Show Cause Order by April 22, 2015, or at any point untimely thereafter. On April 28, 2015, they filed a joint Notice of Appeal with the U.S. Court of Appeals for the Eighth Circuit.

On April 29, 2015, the Court entered a Bench Warrant [Docket No. 289][2] directing the attachment of the bodies of and the arrest of Walton and Robinson for the purpose of garnering their compliance with their obligation to post a bond or show cause as to why they do not have to post a bond or otherwise should not be incarcerated. The Court stayed the effectiveness of the Bench Warrant until May 4, 2015—given that, if Critique Services L.L.C. posted the bond on the jointly and severally owed sanctions, there would be no need to garner Walton's and Robinson's performance.

II. POSTING OF THE BOND

On May 1, 2015, an all-cash bond of $52,206.00 was posted. The cashier's check provided to fund the bond reads that the "Remitter" is "Beverly Holmes-Diltz." (Diltz is the alleged owner of Critique Services L.L.C.) The cashier's check is currently held in a locked safe in a secure vault in the Office of the Clerk of Court for the U.S. Bankruptcy Court.

As set forth in the Pay, Post or Show Cause Order and the Order Granting the Motion for Authority to Post Cash Bond, the bond secures the obligation of the Respondent**s**.[3] As such, if the Judgment is affirmed such that any of the

[2] A copy of the Bench Warrant is attached hereto as **Attachment A.**

[3] After rendering the bond proceeds, Critique Services L.L.C. filed a "Notice of Posting of Cash Bond" [Docket No. 292]. In the second paragraph of the Notice, Critique Services L.L.C. declares that it "takes exception" with the term that the bond must be posted to secure the performance of all three Respondents on whom the jointly and severally imposed sanctions. However, Critique Services L.L.C. proclaiming that it "takes exception" with the terms of the bond, while simultaneously representing that it posted that very bond, is not effective to challenge any term of the Order Granting the Motion for Authority to Post Cash Bond. If Critique Services L.L.C. wanted to challenge the Order Granting the

Respondents remain obligated to pay the sanctions—even if Critique Services L.L.C. is determined not to be so obligated—the bond proceeds will be used to satisfy such obligation. Critique Services L.L.C. will be entitled to the return of the bond proceeds only to the degree that they are not used to satisfy the obligation of any of the Respondents.

III. THE BENCH WARRANT NOT TO BE MADE EFFECTIVE

Because the bond now has been posted securing the sanctions that were jointly and severally imposed against the three Respondents, there is no need to incarcerate Walton or Robinson in order to garner posting of the bond. Accordingly, the Court **ORDERS** that the Bench Warrant not be made effective.

IV. WALTON'S FALSE STATEMENT REGARDING THE BENCH WARRANT

On April 30, 2015, Walton filed in the U.S. District Court a document captioned an "Emergency Motion to Stay Judgment and Order of the Bankruptcy Court Pending Disposition of Appeal" (the "Motion to Stay").[4] Pursuant to the procedure of the Clerk's Office for this Court, a copy of the Motion to Stay also was docketed in this Case.[5] In the Motion to Stay, Walton makes the demonstrably false statement that, in the Bench Warrant, the Court ordered that Walton "pay the monetary judgment entered by the Bankruptcy court that is the subject of the appeal to the U.S. Court of Appeals" and that such payment "will

---

Motion for Authority to Post Cash Bond, it was free to seek reconsideration or appeal. It did not. Instead, Critique Services L.L.C. complied with the Pay, Post or Show Cause Order and the Order Granting the Motion for Authority to Post Cash Bond, rendered the bond proceeds, and represented that it posted the bond. The Notice's thrown-in language regarding the taking of an "exception" does not operate to challenge the terms of the bond or to preserve any issue that Critique Services L.L.C. may have had with the terms of the bond. Accordingly, the Court entered an Order Striking in Part the Notice of Posting of Cash Bond.

[4] Walton filed the Motion to Stay in the now-closed appeal of *Robinson, et al. v. Steward* (USDC Case No. 14-CV-1094).

[5] A copy of the Motion to Stay is attached hereto as **Attachment B.**

moot the Appellant's appeal."[6] The Court ordered no such thing. By the plain language of the Bench Warrant, the Court determined that "because the Respondents have failed to comply with the Pay, Post or Show Cause Order," they will be "held in custody for the lesser of (i) thirty (30) days, or (ii) until (a) *the $52,206.00 bond is posted*, or (b) *other cause is shown making his release from incarceration proper*" (emphasis added). Payment of the sanctions is not a term for avoiding incarceration. Since the Bench Warrant was issued after Walton filed his Notice of Appeal to the U.S. Court of Appeals to the Eighth Circuit, the Court very specifically did not make payment of the sanctions (the imposition of which is now subject to further appeal) a term for release from incarceration. And, of course, the posting of the bond would not "moot" any appeal by satisfying the sanctions. Posting the bond is not the same as paying the sanctions.

It is possible that Walton does not intellectually appreciate the difference between paying a sanction and posting a bond. However, given his long history of lying in this Case, it seems far more likely that Walton simply once again chose dishonesty as litigation strategy and deliberately misrepresented the contents of the Bench Warrant to the U.S. District Court. Because this appears to be yet-another example of Walton making a false statement in a federal pleading, the Court will forward a copy of this Notice and Order to the OCDC to supplement the disciplinary referral the Court already made to the OCDC related to Walton's behavior in this Case.

DATED: May 1, 2015
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

[6] In the Motion to Stay, Walton also alleges—for the first time—that he is financially incapable of performing. He made no such representation to this Court and provided to this Court no evidence of such financial limitation.

ATTACHMENT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 11-46399-705**
	§	
LaToya L. Steward,	**§**	**Chapter 7**
	§	
Debtor.	**§**	

BENCH WARRANT
FOR THE ATTACHMENT OF THE BODIES OF AND THE ARREST OF
JAMES C. ROBINSON AND ELBERT WALTON, JR.

For the reasons set forth herein, the Court **ISSUES** this Bench Warrant and **ORDERS** the attachment of the bodies of and the arrest of **JAMES C. ROBINSON** and **ELBERT WALTON, JR.**

I. FACTUAL BACKGROUND

On June 10, 2014, the Court entered a Judgment that, among other things, imposed $49,720.00 in sanctions upon James Robinson, his "firm" Critique Services L.L.C., and their then-counsel, Elbert Walton Jr. (collectively, the "Respondents") for contempt, abuse, false statements, and other violations committed during the course of the litigation of the Debtor's Motion to Disgorge the attorney's fees paid to Robinson and Critique Services L.L.C. The Judgment became final and effective fourteen days after its entry. The Respondents appealed the Judgment to the U.S. District Court. However, they failed to obtain a discretionary stay of the effectiveness of the Judgment pending appeal, pay the sanctions, or post a bond. Accordingly, they proceeded through the appeal while in violation of the final and effective Judgment. On March 31, 2015, the U.S. District Court affirmed the Judgment. On April 14, 2015, Critique Services L.L.C. filed a Notice of Appeal to the U.S. Court of Appeals for the Eighth Circuit.

The Court can no longer ignore the ongoing violation of the Judgment and will not risk the possibility of non-payment of the sanctions. Accordingly, on April 15, 2015, the Court entered an Order to (I) Pay the Sanctions; (II) Post the Supersedeas Bond; or (III) Show Cause as to Why They Are Not Obligated to Pay or Post, or Why Further Sanctions Should Not Be Ordered" (the "Pay, Post or Show Cause Order"). The Court gave notice that it is considering the

imposition of additional sanctions upon the Respondents for their failure to pay the sanctions, post the bond, or show cause as to why they should not be compelled to do either. The Court stated that it is considering monetary and non-monetary sanctions. The Court gave the Respondents until April 22, 2015 to respond[1] by paying the sanctions, posting a supersedeas bond of $52,206.00,[2] or showing cause as to why they should not be required to do either or why sanctions for their non-performance should not be imposed.

II. THE RESPONSES TO THE PAY, POST OR SHOW CAUSE ORDER

Demonstrating their usual unmitigated arrogance and complete lack of respect for the Court or themselves as attorneys, Robinson and Walton did not respond to the Pay, Post or Show Cause Order.

On April 22, 2015, Critique Services L.L.C., through its new counsel, Laurence Mass,[3] filed a response [Docket No. 280], in which it represented that it was attempting to obtain the bond and requested an extension of time to obtain the bond.[4] On April 23, 2015, Critique Services L.L.C. filed a Motion for Authority

---

[1] The Court did not sua sponte set the Pay, Post, or Show Cause Order for hearing, and no party requested a hearing.

[2] The bond secures only the satisfaction of the sanctions. It does not secure the payment of the $495.00 judgment rendered in favor of the Debtor. The Debtor has not requested that a bond be set on this small amount.

[3] After the entry of the Judgment, Critique Services L.L.C. replaced Walton for Mass as its counsel in this matter as well as in the appeal of this matter. Robinson and Walton represent themselves.

[4] The sanctions were imposed jointly and severally upon Critique Services L.L.C., Robinson, and Walton. Prior to the entry of the Judgment, Robinson represented that he "does business as" Critique Services L.L.C. During the course of the litigation of the Motion to Disgorge, the Court sought clarification of this alleged relationship between a natural person and an artificial entity, but none was offered. Accordingly, in the Judgment, the Court imposed the sanctions upon Robinson d/b/a Critique Services L.L.C. or upon Robinson and Critique Services—in whatever capacity they happen to actually be related. Since the entry of the Judgment, Critique Services L.L.C. has changed its tune and alleges that it is distinct from Robinson. To any degree, given the inconsistent representations made in this Case post-Judgment regarding the relationship between Robinson and Critique Services L.L.C., the Court will not treat Critique

to Post Cash Bond [Docket No. 282]. On April 24, 2015, the Court entered an order [Docket No. 283] directing that Critique Services L.L.C. be given a ten more days—until May 4, 2015—to post the bond. The Court also entered an order [Docket No. 284] granting the Motion for Authority to Post Cash Bond, but made clear: any bond would secure not only Critique Services L.L.C.'s obligation, but the obligations of all Respondents who appealed (as of April 24, 2015, the deadline for filing an appeal had not expired; Robinson and Walton still had time to appeal, despite not having done so yet, at that point). The sanctions were imposed jointly and severally; the bond must be of the same nature—although the Court does not care who funds the bond or how the appealing Respondents might divvy up the cost of the bond amongst themselves.

III. DETERMINATION OF WHETHER IT IS PROPER TO IMPOSE ADDITIONAL SANCTIONS

A. Critique Services L.L.C.

The Court **HOLDS** that it is proper to delay the determination of whether to impose additional sanctions against Critique Services L.L.C. until after the ten-day period extension period. If the bond is not posted by then, the Court will revisit the issue of whether it is proper to impose additional sanctions against it and/or against its alleged owner, Beverly Diltz.[5]

B. Robinson and Walton

As noted above, neither Robinson nor Walton has filed a response to the Pay, Post or Show Cause Order. Neither has paid the sanctions or posted the bond. Neither has argued that he is not required to pay the sanctions or post the bond. Neither has suggested that there is any cause for not further sanctioning him. Neither made a representation that he is attempting to procure a bond. Neither alleged financial incapability. Perhaps Robinson's and Walton's failure to

---

Services L.L.C.'s efforts to procure a bond as a representation of Robinson's efforts to do the same.

[5] Following the entry of the Judgment, for the first time, Critique Services L.L.C. alleges that Diltz is its sole owner.

respond was a misguided attempt to piggyback off Critique Services L.L.C's representation that it is attempting to post the bond. However, the fact that one of the Respondents appears to be attempting to post the entire amount of the bond does not relieve the other Respondents from their co-existing obligation to do the same. Critique Services L.L.C.'s efforts to do not provide the other Respondents with derivative "cover" for their failure to pay or post.

On April 28, 2015, Robinson and Walton filed their joint Notice of Appeal to the U.S. Court of Appeals for the Eighth Circuit. No bond was posted in conjunction with filing their Notice of Appeal, and neither Robinson nor Walton have suggested that he intends to post the bond.

Accordingly, the Court **FINDS** that Robinson and Walton failed pay, post or show cause as to why additional sanctions should not be imposed, and **HOLDS** that it is proper to impose additional sanctions to garner their compliance with their obligation to post the bond as they further appeal.

IV. THE FUTILITY OF MONETARY SANCTIONS AND LESS COERCIVE NON-MONETARY SANCTIONS

The imposition of additional monetary sanctions would be fruitless. The record in this Case clearly establishes that monetary sanctions do not garner the Respondents' compliance with court orders. Similarly, the record in this Case establishes that the imposition of light-weight non-monetary sanctions would be useless. Over the course of this Case, the Court has: revoked Robinson's CM-EFC privileges; revoked Robinson's privilege of using the exteriorly located drop box for filing; suspended Robinson and Walton from the privilege of practicing before the Court; referred the Judgment to the U.S. District Court for disciplinary investigation; referred the Judgment to the U.S. Trustee for suspected bankruptcy fraud; held the Respondents in contempt; and imposed sanctions against Robinson for discovery violations, including striking the answer and directing that the well-pleaded allegations by the Debtor be determined to be fact. None of these non-monetary sanctions garnered the Respondents' compliance with their discovery obligations. The Court will not further indulge Robinson and

Walton by imposing additional monetary sanctions or softball non-monetary sanctions that will just be ignored and do nothing to garner their compliance.

V. THE COURT'S AUTHORITY TO ORDER ATTACHMENT AND ARREST

It is well-established law that the Bankruptcy Court has the power to impose sanctions for civil contempt to enforce compliance with its orders. Here, the Court has provided the Respondents with notice and specificity of its intent to impose monetary and/or non-monetary sanctions for refusing to pay the sanctions or post the bond, and provided the Respondents with an opportunity to respond. It also is well-established law that the Bankruptcy Court has the power to sanction by incarceration to obtain compliance when a party is in civil contempt of an order. Incarceration of a civil contemnor does not convert the matter into a criminal contempt proceeding. *In re Spanish River Plaza Realty Co., Ltd*., 155 B.R. 249, 254 (Bankr. S.D. Fla. 1993). And it is well-established law that incarceration is a civil sanction and not a criminal punishment when release is conditioned upon the contemnor's performance with his obligation. *Shillitani v. United States*, 384 U.S. 364, 369 (1966) (in a case where incarceration was ordered of a witness who refused to testify, the U.S. Supreme Court reasoned that, "[w]hile any imprisonment, of course, has punitive and deterrent effects, it must be viewed as remedial if the court conditions release upon the contemnor's willingness to testify."). Persons incarcerated as a result of civil contempt "carry the keys of their prison in their own pockets." *In re Nevitt*, 117 F. 448, 461 (8th Cir. 1902); *see In re Hans Juerfen Falck*, 513 B.R. 617, 619 (Bankr. S.D. Fla. Jul. 25, 2014). As the Court will set forth below, the terms of Robinson's and Walton's incarceration will place the keys to their release in their own pockets.

While "[c]oercion [by incarceration] is appropriate only when the person being coerced has the ability to pay," *In re Hans Juerfen Falck*, 513 B.R. at 619, neither Robinson and Walton have alleged that they are unable to post the bond. Robinson and Walton remain free to make a financial incapacity argument. However—given their past history in this matter of making baseless factual allegations, asserting false and misleading statements, and refusing to make disclosures about Robinson's business—Walton and Robinson should

understand that proving financial inability will require evidence (of assets, liabilities, recent tax returns, wages or other income, and other relevant material). Vaguely insisting on financial incapability will not suffice.

VI. DIRECTIVE TO THE U.S. MARSHALS TO ATTACH THE BODIES OF AND ARREST JAMES C. ROBINSON AND ELBERT WALTON, JR.

Because monetary sanctions and lesser non-monetary sanctions would not garner compliance, and because the Respondents have failed to comply with the Pay, Post or Show Cause Order, the Court **ORDERS** that the attachment of the bodies of and the arrest of **JAMES C. ROBINSON** and **ELBERT WALTON, JR.** Each is to be held in custody for the lesser of (i) thirty (30) days, or (ii) until (a) the $52,206.00 bond is posted, or (b) other cause is shown making his release from incarceration proper.

VII. TERMS OF RELEASE

If the bond is posted before the thirty (30) days has expired, upon notification of such posting, the Court will promptly enter an order directing Robinson's and Walton's release. If the bond is not posted within thirty days of incarceration, the Court will hold a hearing promptly thereafter and direct that the bodies of Robinson and Walton be produced to the Court for such hearing. At that hearing, the Court will determine the appropriate next step.

VIII. DIRECTIVE TO FILE A NOTICE OF POSTING OF BOND

The Court **ORDERS** that, upon the posting of the bond, the Respondents (i) file a Notice of Posting of the Bond, and (ii) telephone the Court's law clerk to advise of the Notice of the Posting of the Bond. Upon confirmation of the posting the bond, the Court will enter a Notice of Receipt of Bond.

IX. STAY OF EFFECTIVENESS THROUGH MAY 4, 2015

The Court has given Critique Services L.L.C. until May 4, 2015, to post the bond. Accordingly, the Court **ORDERS** that the effectiveness of this Bench Warrant be **STAYED** through May 4, 2015, in anticipation of the posting of the bond, which would secure the performance of all three Respondents. However, this stay in no way relieves Robinson and Walton of their separate obligations to post the bond, and in no way suggests that they are acting in good faith.

X. CONCLUSION

The Court is disappointed and irritated, although not surprised, that the seemingly never-ending contemptuous attitude of Robinson and Walton has now resulted in the need for the utilization of the valuable time, resources, and expertise of the U.S. Marshals. The Court is confident that the U.S. Marshals have many matters to address involving dangerous persons and urgent circumstances, and do not need the inconvenience of having to chase down bad-actor attorneys who believe that contempt is an acceptable form of professional practice. However, the Court will state this in unequivocal terms: ***if the bond is not posted by May 4, 2015, this Bench Warrant will become effective on May 5, 2015, and will be delivered to the U.S. Marshals for execution.***

DATED: April 29, 2015
St. Louis, Missouri 63102
erk

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

ATTACHMENT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re
LATOYA STEWARD **District Case No.: 4-14-CV-1094 RWS**
Debtor

JAMES ROBINSON
CRITIQUE SERVICES, LLC
ELBERT A WALTON JR
Appellants

Vs. **Bankruptcy Case No 11-46399-705**

LATOYA STEWARD
Appellee

APPELLANT WALTON'S EMERGENCY MOTION TO STAY JUDGMENT AND ORDER OF THE BANKRUPTCY COURT PENDING DISPOSITION OF APPEAL

Comes now Appellant Elbert A. Walton, Jr. and states:

1. This Honorable District Court had before it an appeal of a final Judgment and Order of the Bankruptcy Court, including interlocutory Orders that were merged into said final Judgment and Order.

2. This Honorable District Court affirmed the final judgment and order of the bankruptcy court on March 31, 2015, and denied the Appellant's application for a stay of enforcement of the bankruptcy court judgment pending appeal.

3. The Appellants have now filed an appeal of the judgment and order of the Bankruptcy Court and the Judgment of the District Court affirming said Judgment and Order of the Bankruptcy Court to the U.S. Court of Appeals for the Eighth Circuit.

4. Subsequent to the filing of said appeal, the Bankruptcy Court issued an order for a warrant and commitment against the Appellant's James Robinson and Elbert Walton mandating that they be incarcerated until they pay the monetary judgment entered by the Bankruptcy court that is the subject of the appeal to the US Court of Appeals.

5. Any payment of said judgment will moot the Appellant's appeal and moreover the Appellant's are without adequate funds to pay said judgment.

6. The Appellant asserts that:

a. Appellants are likely to succeed on the merits of their Appeal to the U.S. Court of Appeals. (See Appellants' Brief)

b. The Appellants will suffer irreparable harm if the stay is not granted.

c. No other interested parties will suffer substantial harm if the stay is granted.

d. A stay will not harm the public interest.

7. The Appellant asserts that the District Court has jurisdiction in the first instance to grant a stay pending disposition of the appeal by the U.S. Court of Appeals.

8. Appellant adopts Document 44-1 heretofore submitted to this Honorable Court as a Memorandum in Support of this Application for Stay.

WHEREFORE, in the interest of fairness and justice and to avoid irreparable harm to the Appellants, Appellant Elbert A Walton Jr, moves this Honorable District Court for a stay of said Bankruptcy Court Judgment (Doc #199) and Amended Order (Bk Doc #201) pending final disposition of the appeal of said Judgment and Order by the U.S. Court of Appeals.

METRO LAW FIRM, LLC.

By: 

Elbert A. Walton, Jr.
U.S. District Ct Bar Mo Bar #24547
Attorney for Appellant Walton, pro se
2320 Chambers Rd.
St. Louis, MO 63136
Telephone: (314) 388-3400
Fax: (314) 388-1325
E-mail address: elbertwalton@elbertwaltonlaw.com

Certificate of Service: By signature below, I hereby certify that I electronically filed the foregoing with the Clerk of the United States District Court, Eastern District of Missouri by using the CM/ECF system, and that a copy will be served by the CM/ECF system upon the Appellees and Co-Appellants and other interested parties as indicated by the CM/ECF system,

By: 

Bank of America

Cashier's Check

No. 1102805881

Notice to Purchaser - In the event that this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Void After 90 Days

30-1/1140
NTX

Date 05/01/15 12:48:21 PM

LINDELL
0007 0001804 0116

Pay BANK OF AMERICA FIVE TWO TWO ZERO SIX CTSCTS ***$52,206.00

To The Order Of CLERK OF THE U.S. BANKRUPTCY COURT
APPEAL'S BOND

Remitter (Purchased By): BEVERLY HOLMES-DILTZ

Bank of America, N.A.
SAN ANTONIO, TX

AUTHORIZED SIGNATURE

⑈1102805881⑈ ⑆114000019⑆ 00164100480 3⑈

THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

018560903

ENDORSE CHECK HERE

PAY TO THE ORDER OF
BANK OF AMERICA
FOR DEPOSIT ONLY
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
375221610 7

DO NOT WRITE/SIGN/STAMP/BELOW THIS LINE
DEPOSITORY BANK ENDORSEMENT

00-53-3668 11-2010

Attachment 92

Amended Order Continuing Suspensions, entered in *In re Steward*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 11-46399-705**
	§	
LaToya L. Steward,	**§**	**Chapter 7**
	§	
Debtor.	**§**	**[Related to Doc. No. 300]**

***AMENDED* ORDER CONTINUING THE SUSPENSIONS OF ATTORNEYS JAMES C. ROBINSON AND ELBERT A. WALTON, JR.**

On June 15, 2015, the Court entered an Order Continuing the Suspensions of Attorneys James C. Robinson and Elbert A. Walton, Jr. [Doc. No. 300]. On June 17, 2015, the U.S. Court of Appeals for the Eighth Circuit entered a judgment in a separate matter, In re Young, *2015 WL 3756720 (8th Cir. Jun. 17, 2015), affirming the bankruptcy court's suspension of an attorney pursuant to the applicable local rule and Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 9011(c). In* In re Young*, the Eighth Circuit observed that Bankruptcy Rule 9011(c) sanctions may be of a "nonmonetary nature," and concluded that, "[t]hus, the bankruptcy court had the power to suspend [the appellant-attorney] from the practice of law." Id. at *9. This Court now amends its June 15, 2015 Order to determine that the continuation of the suspensions of Walton and Robinson (i) is consistent with the power of the Court to suspend attorneys as articulated in* In re Young*, (ii) is supported by the facts of the Case and by the acts and circumstances of Walton and Robinson as set forth herein, and (iii) is ordered pursuant to the Local Rules, Bankruptcy Rule 9011, and 11 U.S.C. § 105(a).*[1]

On June 10, 2014, the Court entered a Judgment (the "Judgment") and a Memorandum Opinion[2] (the "Memorandum") [Doc. Nos. 199 & 200] suspending attorneys James C. Robinson and Elbert A. Walton, Jr. from the privilege of practicing before this Court for one year for their repeated, willful and unrepentant acts of contempt, refusal to comply with court orders, abuse of process, and making of false and misleading statements to this Court. Robinson

[1] The language herein that amends the June 15, 2015 Order is italicized.

[2] On June 11, 2014, the Court entered an Amended Memorandum Opinion [Doc. No. 201], amending the original Memorandum Opinion to correct a typographical error. Any reference herein to "Memorandum" refers to the Amended Memorandum Opinion.

and Walton appealed the Judgment and Memorandum to the U.S. District Court, which affirmed on March 31, 2015.

The Judgment and Memorandum did not make Robinson's and Walton's reinstatement to the privilege of practicing automatic upon the expiration of one year. Rather, reinstatement was made contingent as follows:

> Mr. Robinson's privilege to practice will not be reinstated after one year unless: (i) Mr. Robinson has submitted the information required in Part I.B;[3] (ii) all monetary amounts due by Mr. Robinson pursuant to this Memorandum Opinion are satisfied; (iii) Mr. Robinson provides evidence that he is in good standing in all other courts in which he has been admitted to practice; and (iv) the facts otherwise establish that reinstatement is proper. Mr. Robinson may file a Motion to Reinstate Privilege to Practice thirty days before the end of the one-year term.
>
> Mr. Walton's privilege to practice will not be reinstated after one year unless: (i) all monetary amounts due by Mr. Walton pursuant to this Memorandum Opinion are satisfied; (ii) Mr. Walton can provide evidence that he is in good standing in all other courts in

[3] Part I.B directs that Robinson and Critique Services L.L.C. provide:

- (I) a copy of the Articles of Incorporation of "Critique Services L.L.C.";
- (II) a copy of all retainer or employment agreements between and among Critique Services L.L.C., Mr. Robinson, and the Debtor; and
- (III) an affidavit attesting to:
  - (A) whether Critique Services L.L.C. is a law firm;
  - (B) what services Critique Services L.L.C. provides, if any, other than legal services;
  - (C) each owner, whether holding a majority or minority interest, of Critique Services L.L.C., and each such person's percent of ownership interest, from 2011 to the date of the submission of such affidavit;
  - (D) the exact nature (owner, employee, independent contractor, or other) of Mr. Robinson's relationship with Critique Services L.L.C.;
  - (E) whom Mr. Robinson's clients pay for his services;
  - (F) a description of what fee-sharing relationship Mr. Robinson may have with Critique Services L.L.C. and any other owners, members, or attorneys of Critique Services L.L.C.; and
  - (G) all attorneys employed by Critique Services L.L.C., in any capacity (whether as an employee, independent contractor or other relationship) from 2011 to the date of the submission of such affidavit.

> which he has been admitted to practice; and (iii) the facts otherwise establish that reinstatement is proper. Mr. Walton may file a Motion to Reinstate Privilege to Practice thirty days before the end of the one-year term.

One year has passed since the entry of the Judgment and Memorandum. For the reasons set forth below, the Court holds that it is proper to continue the suspensions of Robinson and Walton, for the reasons and as set forth below.

First, neither Robinson nor Walton has requested to be reinstated. The Court construes this to mean that, either, neither is interested in being reinstated at this time, or neither believes that the conditions for reinstatement have been met. The Court declines to reinstate a suspended attorney who has expressed no interest in reinstatement and alleges no facts in support of reinstatement.

Second, the conditions for reinstatement have not been satisfied.[4] Specifically:

(i) Reinstatement of Robinson was made contingent upon Robinson making certain disclosures regarding his business operations, to clarify unclear, incoherent, and contradictory representations made during the course of the Case regarding his business, and to establish that he is operating lawfully in the representation of debtors in this District and before this Court. Robinson has made no such disclosures.

(ii) Reinstatement of Robinson and Walton was made contingent upon the judgment and sanctions amounts being paid (a $495.00 judgment in favor of the Debtor and $49,720.00 in sanctions including attorney's fees). These amounts remain unpaid. The fact that a supersedeas bond securing Robinson's and Walton's obligation to pay the sanctions was posted by a third-party does not change the fact that the judgment

[4] The fact that Robinson and Walton appealed the Judgment and Memorandum to the U.S. District Court and now appeal to the U.S. Court of Appeals for the Eighth Circuit does not relieve them from the obligations to satisfy the conditions required thereunder. They have not obtained a stay of effectiveness pending appeal of the Judgment and Memorandum. As such, the terms of the Judgment and Memorandum are final and enforceable, regardless of appeals status.

and sanctions have not been paid. A bond is not payment of the obligation it secures. Moreover, Robinson and Walton demonstrated no good faith even related to the bond. They did not bother to respond to the Show Cause Order issued related to the need for a bond, and they contributed nothing to the funding of the bond.[5]

(iii) Reinstatement of Robinson and Walton was made contingent upon a showing each is good standing in all other courts in which he has been admitted to practice. Neither Robinson nor Walton has attempted to make such a showing. It is not incumbent upon the Court to scour the records of other federal, state, and municipal courts, for their standing records. And, given the complete absence of good character demonstrated by these attorneys, the Court will not give them the benefit of the doubt as to their standing before other tribunals.

(iv) Reinstatement of Robinson and Walton was made contingent upon the facts otherwise establishing that reinstatement is proper. The facts do not support the conclusion that reinstatement is proper; in fact, they establish the opposite:

a. Currently, there are two disciplinary referrals pending against each, Robinson and Walton, based on their conduct before this Court: one to the Missouri Supreme Court's Office of Chief Disciplinary Counsel (the "OCDC") (the OCDC is awaiting the exhaustion of the federal court appeals before formally acting upon the referrals), and another before the U.S. District Court (upon the disciplinary referrals, the U.S. District Court opened formal disciplinary proceedings against Robinson and Walton, and stayed those proceedings pending the OCDC's determination on its referrals).

b. Robinson and Walton knowingly violated the terms of their suspensions, as the Court detailed in numerous post-Judgment

[5] On May 1, 2015, Beverly Holmes Diltz, a third-party, remitted $52,206.00 by cashier's check to the Clerk of Court for the purpose of posting the bond to secure Robinson, Walton and Critique Services L.L.C's satisfaction of the $49,720.00 in sanctions.

orders entered in this Case, resulting in additional referrals to the OCDC and other authorities (*see, e.g.,* Orders entered at Doc. Nos. 207 215, 219, 221, 241 & 265).

c. Walton has continued in his near-pathological inability to tell the truth to a court, by making false statements to the U.S. District Court regarding this Case in his April 30, 2015 emergency motion for stay [Doc. No. 291], which resulted in yet-another referral of his behavior to the OCDC [Doc. No. 294].

d. In the matters of *In re Reed, et al.* (Lead Case No. 14-44818), Robinson is currently facing the likely imposition of additional sanctions for (once again) refusing to obey a court order related to turnover of documents and information concerning his business.

e. In the *In re Reed, et al*. cases, it has been established that Robinson improperly kept unearned client fees for months following his suspension, kept no records about those debtors and their fees, and personally pocketed the fees upon collection prior to the fees being earned.

f. Robinson (along with his alleged d/b/a, Critique Services, L.L.C., which also was a respondent to the Motion to Disgorge filed in this Case) is currently the subject of motions to disgorge in the matters of *In re Williams, et al.* (Lead Case No. 14-44204-659), pending before another Judge of this Court. In *In re Williams, et al.,* the U.S. Trustee alleges facts similar to those alleged in the instant Case: unauthorized practice of law, unprofessional and unlawful business practices, and failure to render legal services.

The unprofessional, unethical and contemptuous behavior of Robinson and Walton in this Case and before this Court has been and continues to be a disgraceful exercise in galling arrogance and unrepentant disrespect, employed in an effort to avoid the making of lawfully ordered discovery and the turnover of documents and information related to the "Critique Services" business. No fact suggests that these attorneys should be reinstated. Accordingly, the Court

ORDERS that, unless and until either (i) Robinson and Walton comply with the conditions required for reinstatement as set forth in the Judgment and Memorandum, or (ii) the Judgment and Memorandum is reversed as to the suspensions, the suspensions of Robinson and Walton remain **IN EFFECT**, on the terms set forth in the Judgment and Memorandum.

DATED: June 22, 2015
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

Copy Mailed To:

David Nelson Gunn
The Consumer Law Center of Saint Louis DBA The Bankruptcy Company LLC
2025 S. Brentwood, Ste 206
Brentwood, MO 63144

James Clifton Robinson
Critique Services 3919 Washington Blvd.
St. Louis, MO 63108

Elbert A. Walton, Jr.
Metro Law Firm, LLC
2320 Chambers Road
St. Louis, MO 63136

E. Rebecca Case
7733 Forsyth Blvd. Suite 500
Saint Louis, MO 63105

Office of US Trustee
111 S Tenth St, Ste 6.353
St. Louis, MO 63102

Attachment 93

Leonard's Affidavit in *In re Steward*

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE:	LATOYA L. STEWARD	)	CASE NO: 11-46399-705
	DEBTOR	)	CHAPTER 7

AFFIDAIVT

I, Pamela B. Leonard, being duly sworn upon my oath, state the following:

1. I am over the age of eighteen and competent to make this Affidavit.
2. I am attorney currently employed with the law firm of Sommars & Associates, LLC.
3. The Court may deem the following facts relevant to the issue of compliance with the Amended Memorandum Opinion and Order dated June 11, 2014. (Docket No. 29)
4. On August 13, 2015, I appeared in the Circuit Court of St. Louis County, Division 19 to conduct a judgment debtor examination in the matter of Gateway Metro Credit Union vs Michael Askew and Mary Stueck, Case No: 2106CC-02910.
5. Defendant, Michael Askew appeared.
6. Prior to beginning the examination, I asked Mr. Askew if he was willing to proceed, at which time he stated "Yes, I guess so, but I have hired James Robinson to file a Bankruptcy for me."
7. Being aware of the Orders entered by this Court in this matter and others, I advised Mr. Askew that it was my understanding that Mr. Robinson is currently prohibited from filing Bankruptcy cases or otherwise practicing before the Bankruptcy Court in this District.
8. Thereupon, Mr. Askew modified his response and stated that "Mr. Robinson is only helping out with the paperwork."
9. At this time, I advised Mr. Askew that, because he stated that he had hired an attorney, I could not proceed with the Debtor examination.
10. I then left the Courtroom and made notes to document the conversation.

Further Affiant sayeth not.

Pamela B. Leonard MO #37027
911 Washington Ave., Ste. 415
St. Louis, MO 63101
314/241-5500; fax 314/241-5507
pamela@sommars.net

STATE OF MISSOURI
CITY OF ST. LOUIS
Subscribed and sworn to me this 21st day of August, 2015.

Notary Public

My Commission Expires:

KIMBERLY MARIE YEAGER
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis City
My Commission Expires: July 24, 2016
Commission #12371543

Attachment 94

Order Referring Leonard's Affidavit to the OCDC, the UST13,
and the District Court

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 11-46399-705**
	§	
Latoya Steward,	**§**	**Chapter 7**
	§	
Debtor.	**§**	**[Related to Doc. No. 307]**

ORDER DIRECTING THAT THE AFFIDAVIT AT DOCKET NO. 307 BE FORWARDED TO THE PROPER AUTHORITIES

On August 21, 2015, a well-regarded, long-time bankruptcy practitioner in good standing in this District, Pamela Leonard, filed an affidavit (the "Affidavit") [Doc. No. 307] in this Case. In the Affidavit, Ms. Leonard attests that, during an unrelated state court proceeding, she was advised by the opposing party—a Mr. Michael Askew—that he retained the services of James C. Robinson to represent him in a bankruptcy case to be filed in this District. Ms. Leonard, being familiar with the order entered in this Case suspending Mr. Robinson from the privilege of practicing law before this Court, attests that she advised Mr. Askew that it was her understanding that Mr. Robinson was suspended. Ms. Leonard attests that Mr. Askew then stated, "Mr. Robinson is only helping out with the paperwork."

Ms. Leonard is an officer of this Court. She came upon information that suggests that Mr. Robinson is violating a suspension order of this Court and perpetrating a fraud upon the public and this Court by continuing to practice law in violation of his suspension. Ms. Leonard's decision to disclose to the Court this information is both professionally appropriate and personally commendable.

On August 24, 2015, Mr. Robinson filed a three-line Response to the Affidavit. In his Response, he claims that there is an "allegation" that he assisted Mr. Askew "in a bankruptcy case" and an "allegation" that he assisted Mr. Askew in "filling out bankruptcy papers." This is false. Ms. Leonard made no allegation of any kind regarding what Mr. Robinson may have done. Ms. Leonard merely attests to representations made to her by Mr. Askew, who advised that Mr. Robinson is his bankruptcy counsel.

Mr. Robinson also makes the representation that "no person has retained my services for bankruptcy since my suspension." The Court is uncertain of what the imprecise phrase "my services for bankruptcy" means, but notes that Mr. Robinson is prohibited from providing any services in connection with any case that is, or is anticipated to be, filed in this Court—including the service of "helping out with paperwork."

Mr. Robinson has repeatedly made false and misleading statements to this Court (both in this Case as well as in the matters of *In re Reed, et al.* (Lead Case No. 14-44818)). And, as numerous orders docketed in this Case show, Mr. Robinson also has violated both the terms of his suspension from using the Court's exteriorly located drop box to file documents, as well as the terms of his suspension from the privilege of practicing before this Court. Given Mr. Robinson's history of dishonesty and willful disobedience to Court orders, the attestations in the Affidavit come as no surprise to the Court.

The Court **ORDERS** as follows:

(I) a copy of this Order and the Affidavit be forwarded to the Missouri Supreme Court's Office of Chief Disciplinary Counsel (the "OCDC"), in supplement to the Court's currently pending referral of Mr. Robinson's activities in this Case;

(II) a copy of this Order and the Affidavit be forwarded to the U.S. District Court for the Eastern District of Missouri, in supplement to this Court's disciplinary referral to the U.S. District Court in June 2014, which lead to the opening of U.S.D.C. Case No. 14-MC-352, a disciplinary proceeding against Robinson now pending before that court; and

(III) a copy of this Order and Affidavit be forwarded to the Office of the United States Trustee.

In addition, the Court also may give consideration to the Affidavit, should Mr. Robinson seek reinstatement to the privilege of practicing in the future.

DATED: August 26, 2015
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

COPY MAILED TO:

Ross H. Briggs
Post Office Box 58628
St. Louis, MO 63158

James Clifton Robinson
Critique Services
3919 Washington Blvd.
St. Louis, MO 63108

Office of US Trustee
111 S Tenth St, Ste 6.353
St. Louis, MO 63102

Robert J. Blackwell
Blackwell and Associates (trustee)
P.O. Box 310
O'Fallon, MO 63366-0310

David A. Sosne
Summers Compton Wells LLC
8909 Ladue Rd.
St. Louis, MO 63124

Tom K. O'Loughlin
O'Loughlin, O'Loughlin et al.
1736 N. Kingshighway
Cape Girardeau, MO 63701

Kristin J Conwell
Conwell Law Firm LLC
PO Box 56550
St. Louis, MO 63156

Seth A Albin
Albin Law
7710 Carondelet Avenue
Suite 405
St. Louis, MO 63105

E. Rebecca Case
7733 Forsyth Blvd.
Suite 500
Saint Louis, MO 63105

Beverly Holmes Diltz And Critique Services L.L.C
Through their counsel, Laurence Mass
230 S Bemiston Ave Suite
1200 Clayton, MO 63105

Laurence D. Mass
230 S Bemiston Ave
Suite 1200
Clayton, MO 63105

Attachment 95

Transcript of July 22, 2015 hearing in *In re Hopson*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
ST. LOUIS DIVISION

IN RE:	)	Case No. 15-43871
	)	Chapter 7
	)	
	)	
ARLESTER HOPSON,	)	Thomas F. Eagleton Courthouse
	)	111 South 10th Street
	)	St. Louis, Missouri 63102
Debtor.	)	
	)	
	)	July 22, 2015
	)	9:58 a.m.

TRANSCRIPT OF MOTION FOR RELIEF FROM STAY AS TO 2008 ACURA, MOTION TO EXPEDITE HEARING DUE TO LACK OF INSURANCE FILED BY CREDITOR FIRST COMMUNITY CREDIT UNION (13)
[NO RESPONSE/GRANTED BY DEFAULT]
BEFORE HONORABLE CHARLES E. RENDLEN, III
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For Debtor:	ARLESTER HOPSON, Pro Se
For the U.S. Trustee's Office:	Office of the United States Trustee By: MARTHA M. DAHM, ESQ. 111 South 10th Street Suite 6353 St. Louis, Missouri 63102
ECRO:	Shontelle McCoy
TRANSCRIPTION SERVICE:	**TRANSCRIPTS PLUS, INC.** **435 Riverview Circle** **New Hope, Pennsylvania 18938** **Telephone: 215-862-1115** **Facsimile: 215-862-6639** **e-mail CourtTranscripts@aol.com**

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

THE COURT: Anybody here on the 9:30 docket that we didn't call? Come on up. Tell us your name, and if you've got your case number, we'd really appreciate it. Come on up to the podium, right there. Tell us your name.

MR. HOPSON: My name is Arlester Hopson.

THE COURT: Arlester, have you got your number?

MR. HOPSON: Case number?

THE COURT: Page 3.

ECRO: In the middle.

THE COURT: Oh, here we are. Granted by default due to lack of insurance. First Community Credit Union, a 2008 Acura. Were you going to give that car up?

MR. HOPSON: Okay. I moved it to -- over to a Chapter 13 so I can take care of --

THE COURT: Oh, you did?

MR. HOPSON: Yeah, I moved it -- yeah, I went to a attorney office over on the --

THE COURT: Who's your new attorney?

MR. HOPSON: Uh, let's --

THE COURT: Or is it --

MR. HOPSON: It's over at Critique Services. He's over at --

THE COURT: That's not an attorney. Critique Legal Services has gone on record saying they are not attorneys and they cannot represent themselves in this Court as attorneys.

So who was it at Critique that told you that?

MR. HOPSON: Oh, I'm trying to think of the lady's name.

THE COURT: Which lady?

MR. HOPSON: It was a lady over at Critique Services. I can't -- I can't remember -- I can't remember -- and I actually got a name yesterday when I was out there, um.

THE COURT: Do you have --

MR. HOPSON: They told me to come out here anyway, but we were moving it -- the case over to Chapter -- Chapter 13 so I could keep the --

THE COURT: Who was the lady that said this -- this -- this thing?

COURTROOM DEPUTY: It says Dean Meriwether is his --

THE COURT: I don't care about that. Dean Meriwether is a fake. Who, at Critique, said this?

MR. HOPSON: It was a -- it was a attorney who told me -- me but I can't --

THE COURT: An attorney? A lady attorney?

MR. HOPSON: Yeah. Yeah. So I need to -- so I need to get that lady's name and then can -- can I come back?

THE COURT: What'd she look like?

MR. HOPSON: It's -- it's -- she's a black lady.

THE COURT: Yeah. But about how old and -- was she a good looking black lady?

MR. HOPSON: Not -- not a white lady -- white lady.

THE COURT: Oh, white lady?

MR. HOPSON: Black. B-L-A-K -- C-K, black.

THE COURT: A black lady, okay.

MR. HOPSON: She could've been in her -- in her forties, yup.

THE COURT: Was her name Dedra Brock Moore?

MR. HOPSON: What's that?

THE COURT: Dedra --

MR. HOPSON: I think --

THE COURT: -- Brock Moore.

MR. HOPSON: I think that's -- that's probably who it was. I need to get -- I should've got that name yesterday so I can have everything --

THE COURT: Well, that is an attorney. I wanted to see if it was a Critique paralegal. So you think you are represented by Critique Legal Services?

MR. HOPSON: Yeah, that's what they told -- yeah, that's why -- that's --

THE COURT: I'm very confused.

MR. HOPSON: That's -- they -- they don't do anything good or -- or do you know of?

THE COURT: They -- they won't tell the Court, so they're in trouble. Okay? There's more trouble coming out today, and I'm sick of it. So you're just in a hornet's nest

and don't know it.

MR. HOPSON: They didn't tell -- they didn't tell -- they didn't do anything?

THE COURT: So you don't know who your attorney is because that's clearly not Dean Meriwether, the guy that filed the 7. You know him. Have you ever met Dean Meriwether?

MR. HOPSON: Dean Meriwether? No, I never met him.

THE COURT: You never met him, but he filed your Chapter 7. Who'd you meet with when you filed your Chapter 7?

MR. HOPSON: It was the -- I think it was -- like she's a legal assistant or --

THE COURT: Paralegal?

MR. HOPSON: Yeah.

THE COURT: Yeah. What was her name?

MR. HOPSON: She said her name was Bay. That was the first -- that's the only thing I got out of her. I had --

THE COURT: Her name was what?

MR. HOPSON: Bay, B-A-Y.

THE COURT: Bay. Bay. Okay. I've heard of Bay. I don't know her last name, I've heard of Bay.

MS. WILLIE: Your Honor, would you like me to get the United States Trustee's Office up here?

THE COURT: Yeah, Martha, get to work. Take this man out and get him going. I'm tired of this stuff going. There's a lot more going on than we know. And you can tell Dan that,

too.

All right. You -- if I grant -- I have granted relief from the stay. You're going to have to refile in your 13 to keep that car.

MR. HOPSON: I already -- I already filed it.

COURTROOM DEPUTY: Judge, this is a Chapter 7. There's been no Chapter 13, or a motion to convert, or anything.

MR. HOPSON: I already --

THE COURT: Whatever you filed, you just signed paperwork. Those dudes have not filed it, and they're going to come get your car. So they -- you need to go back by their office after you get done here, and tell them the Judge is tired of this telling clients that you're filing things when they're not filed. Okay? I'm on your side on that.

MR. HOPSON: Okay. I need -- because I paid them already.

THE COURT: Yeah, I understand. What'd you have to pay them to get your 13 filed?

MR. HOPSON Three hundred and -- I think -- seventy-eight dollars.

THE COURT: Three seventy-eight to file your 13. But you already filed your Chapter 7 --

MR. HOPSON: Then I had to get out of that because I wanted to keep the property.

THE COURT: Right. And how much do you have to pay in your 7?

MR. HOPSON: Was it two -- two ninety-nine to start it, and then three thirty-five altogether.

THE COURT: So you paid them --

MR. HOPSON: Three thirty-five -- no, three thirty-five after I paid the two ninety-nine.

THE COURT: Yeah. And then you've now paid another $378?

MR. HOPSON: Yeah.

THE COURT: They don't disclose that correctly then, at least in the past.

Ms. Dahm, you've got all kinds of material here. And I am so tired of this. I have lost my patience. I think Mr. Briggs is about to find that out.

So please meet with the U.S. Trustee. As far as this Court is concerned, you lost the car. But by filing -- if they filed the 13, which is not on record, that will let you reset. You'll go to a different judge, okay?

MR. HOPSON: Okay.

THE COURT: And also, they best be disclosing this correctly. Got that, Abby? All right, thank you.

MS. WILLIE: Yes, Your Honor.

THE COURT: We're done with our 9:30 docket. Please meet with Ms. Dahm from the U.S. Trustee.

(Whereupon, at 10:05 p.m., the hearing was adjourned.)

CERTIFICATE OF TRANSCRIBER

I, KAREN HARTMANN, a certified Electronic Court Transcriber, certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

Karen Hartmann, AAERT CET**D0475 Date: July 29, 2015

TRANSCRIPTS PLUS, INC.

Attachment 96

Show Cause Order, entered in *In re Hopson*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 15-43871-705**
	§	
Arlester Hopson,	**§**	**Chapter 7**
	§	
Debtor.	**§**	

NOTICE OF INTENT TO IMPOSE SANCTIONS AND ORDER TO SHOW CAUSE AS TO WHY DISGOREMENT, SANCTIONS, OTHER DIRECTIVES OR REFERRALS SHOULD NOT BE ORDERED

On May 21, 2015, attorney Dean Meriwether filed a petition for chapter 7 relief (the "Petition") for the above-referenced debtor (the "Debtor"). Meriwether is affiliated with the non-law firm entity of Critique Services L.L.C. His office is located at 3919 Washington Blvd., St. Louis, Missouri—the address for the business known as "Critique Services." His registered "d/b/a" with the Missouri Secretary of State is "Critique Services." He appears at § 341 meetings as "Critique Services." At § 341 meetings, he often "hot-seats for" (that is, "appears for") attorney Dedra Brock-Moore, another attorney affiliated with Critique Services L.L.C. In his Statement of Financial Affairs, the Debtor represents that, on sometime in January 2015 (at least four months before his Petition was filed), he paid Meriwether $299.00 for debt counseling or bankruptcy services.

Disclosure of Compensation Form Establishes a Violation of Local Bankruptcy Rule 2093(c)(3). At Line 7 of the Disclosure of Compensation of Attorney for Debtor, Meriwether certifies that his agreement with the Debtor includes the following terms: representation does not include "[r]epresentation of the debtors [sic] in any dischargeability actions, judicial lien avoidances, redemption, any motions and relief from stay actions or any other adversary proceeding and/or motions. Also excludes preparation, negotiation and filing of

reaffirmation agreements." These "carve-outs" from Meriwether's scope of representation violates Local Rule 2093(c)(3),[1] which provides that:

> Regardless of which chapter of the Bankruptcy Code the case is under, Debtor's counsel shall provide ***all legal services necessary for representation of the debtor in connection with the bankruptcy case until conclusion of the case***, except for, at the discretion of debtor's counsel, representation of the debtor in an adversary proceeding and/or an appeal, for the fee set forth in the attorney fee disclosure statement filed with the Court pursuant to L.R. 2016-1(A). ***"Unbundling" of legal services or any similar arrangement is prohibited, and debtor's counsel shall not include any language in the attorney fee disclosure statement or in a client agreement that contradicts or is inconsistent with this Rule***. Debtor's counsel may, subject to any applicable Bankruptcy Code sections and rules governing compensation of professionals, be additionally compensated for representation of the debtor in an adversary proceeding and/or an appeal. This is regardless of the fee option selected in a Chapter 13 case.

(emphasis added.) As such, Meriwether's "carve-outs" in his Disclosure of Compensation form for "judicial lien avoidances, redemption, any motions and relief from stay actions . . . and/or motions. . . . [and] preparation, negotiation and filing of reaffirmation agreements"—all of which are legal services necessary for representation of the debtor in connection with the main bankruptcy case—violate the Local Rule.

The Debtor's Representations at the July 22, 2015 Hearing. On July 10, 2015, creditor First Community Credit Union filed a Motion for Relief from the Automatic Stay (the "Motion for Relief") [Docket No. 13], seeking authority to re-possess the Debtor's vehicle for the failure to maintain insurance on said vehicle. The motion was set for evidentiary hearing on July 22, 2015. Meriwether did not file a response on behalf of his client. He did not show up at the hearing. His client, however, did show up, and was clearly confused about the Motion for Relief as well as the status of his Case as a chapter 7 proceeding.

[1] This Local Rule went into effect December 1, 2014—at least a month, if not more, before the Debtor paid for legal services, and many months before the Debtor's Case was actually commenced by the filing of the Petition.

- The Court had to advise the Debtor that he was in default, as no response to the Motion for Relief had been filed.
- The Debtor advised the Court that he had "moved" his Case to a chapter 13 (he appeared to mean that he had converted his Case from a chapter 7 to a chapter 13 proceeding). The Debtor stated that he had already paid additional money to "them" (presumably, to people at "Critique Services") for the conversion. However, the Court's records show that no motion to convert has been filed and no conversion has been ordered.
- And, perhaps most alarmingly, the Debtor had absolutely no idea who Meriwether is. The Debtor thought that he was represented by "Critique Services." The Debtor stated that he never met Meriwether—the attorney who signed his Petition and certified that he had been paid to render legal services to the Debtor. The Debtor stated that, instead of being given legal counsel by a lawyer, he met with a paralegal named "Bay."

This is certainly not the first time that the Court has heard of professional malfeasance of occurring at the business run out of the office of "Critique Services" at 3919 Washington Blvd. Critique Services L.L.C. (the company that currently licenses the name "Critique Services"), its prior "Critique"-named business permutations, its owner (Beverly Holmes Diltz), and attorneys and non-attorneys affiliated with it have been repeatedly sued by the U.S. Trustee and enjoined from unlawful business practices and the unauthorized practice of law. At least three attorneys—Leon Sutton, Ross H. Briggs, and James C. Robinson—have been disbarred or suspended for their behavior while affiliated with the business. Diltz has been permanently enjoined by the U.S. Bankruptcy Court for the Southern District of Illinois from operating a bankruptcy-services related business in that district, and permanently barred from serving as a bankruptcy petition preparer in this District. Last year, in the matter of In re Latoya Steward (Case No. 11-46399), Robinson and Critique Services L.L.C. were ordered to disgorge client fees after Robinson failed to render services and filed false documents on behalf of the debtor. (Robinson and Critique Services L.L.C. were also sanctioned almost $50,000.00 for contempt of court and making

false statements. In addition, Robinson and Robinson and Critique Services L.L.C.'s counsel, Elbert A. Walton, were suspended for their abuse of process, contempt of court, and making of false statements). Currently, in the matters of *In re Reed, et al.* (Lead Case 14-44818), Robinson is facing sanctions for failing to return unearned attorneys fees, and Critique Services L.L.C. is facing sanctions for failing to comply with an Order Compelling Turnover related to debtor records. In addition, in the matters of *In re Williams, et al.* (Lead Case 14-44204), the U.S. Trustee has filed motions against Critique Services L.L.C., Diltz, and Robinson for disgorgement of fees and show cause orders based on allegations of improper business practices and violations of a previous injunction.

All this to say: the Debtor's representations of problems with representation by anyone affiliated with "Critique Services" came as no surprise. However, predictability of unethical and unprofessional behavior should not breed tolerance of it. If the Debtor's representations are true, Meriwether's actions included failing to render legal services, failing to meet with his client before filing the Case, failing to advocate for his client, entering into an attorney-client relationship with a scope that is impermissibly limited under the Local Rules, and allowing non-attorneys to do his lawyering for him.

The Court hereby gives **NOTICE** to Meriwether that it is considering ordering disgorgement of fees pursuant to 11 U.S.C. § 329, and/or sanctions pursuant to 11 U.S.C § 105(a), and/or issuing other directives and/or making referrals to the proper authorities, for Meriwether's alleged behavior in this Case and the representations he made in documents filed in this Case. Meriwether has until August 19, 2015 to respond to this Notice and show cause as to why disgorgement, sanctions, other directives, and/or referrals should not be ordered.

DATED: August 6, 2015
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

COPY MAILED TO:

Ross H. Briggs
Post Office Box 58628
St. Louis, MO 63158

James Clifton Robinson
Critique Services
3919 Washington Blvd.
St. Louis, MO 63108

Office of US Trustee
111 S Tenth St, Ste 6.353
St. Louis, MO 63102

Robert J. Blackwell
Blackwell and Associates (trustee)
P.O. Box 310
O'Fallon, MO 63366-0310

David A. Sosne
Summers Compton Wells LLC
8909 Ladue Rd.
St. Louis, MO 63124

Tom K. O'Loughlin
O'Loughlin, O'Loughlin et al.
1736 N. Kingshighway
Cape Girardeau, MO 63701

Kristin J Conwell
Conwell Law Firm LLC
PO Box 56550
St. Louis, MO 63156

Seth A Albin
Albin Law
7710 Carondelet Avenue
Suite 405
St. Louis, MO 63105

E. Rebecca Case
7733 Forsyth Blvd.
Suite 500
Saint Louis, MO 63105

Mary E. Lopinot
P.O. Box 16025
St. Louis, MO 63105

Laurence D. Mass
230 S Bemiston Ave
Suite 1200
Clayton, MO 63105

Attachment 97

Order for Disgorgement of Fees and Suspending Meriwether from Using his CM-ECF passcode to Remotely Access the CM-ECF System for a Year, entered in *In re Hopson*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 15-43871-705**
	§	
Arlester Hopson,	**§**	**Chapter 7**
	§	
Debtor.	**§**	

ORDER:

(I) DIRECTING ATTORNEY DEAN MERIWETHER TO FILE RULE 2016(b) STATEMENTS THAT DO NOT VIOLATE L.B.R. 2093(c)(3);
(II) SUSPENDING THE ELECTRONIC FILING AND REMOTE ACCESS FILING PRIVILEGES OF ATTORNEY DEAN MERIWETHER; AND
(III) REPORTING THIS MATTER TO THE MISSOURI SUPREME COURT'S OFFICE OF CHIEF DISCIPLINARY COUNSEL

For the reasons set forth herein, the Court orders that: (I) attorney Dean Meriwether file Rule 2016(b) Statements (defined herein) that do not violate Local Bankruptcy Rule ("L.B.R.") 2093(c)(3) of the U.S Bankruptcy Court for the Eastern District of Missouri (this "District"); (II) the electronic filing and remote access filing privileges (described herein) of Meriwether be suspended for a period of one year, effectively immediately; and (III) this matter be reported to the Missouri Supreme Court's Office of Chief Disciplinary Counsel (the "OCDC").

I. BACKGROUND

A. Meriwether's Affiliation with the "Critique Services" Business

Meriwether is an attorney involved with the business operations conducted at the "Critique Services" office at 3919 Washington Blvd., St. Louis, Missouri (the "Critique Services business"). The Critique Services business is an all-cash business where cut-rate "bankruptcy services" are sold to the public—primarily, to the working-poor of inner-city St. Louis. The details of how the Critique Services business operates are murky—principally because, over the past two years, persons affiliated with the Critique Services business have refused to comply with discovery orders and turnover directives requiring the disclosure of information and documents related to the business operations. However, a few things are known about the Critique Services business. It is known that Critique Services L.L.C., a limited liability company owned by a non-attorney, Beverly

Holmes Diltz, contracts with attorneys. Critique Services L.L.C. licenses the name "Critique Services" and provides administrative services, bookkeeping, advertising, and intellectual property.[1] The attorneys work at the 3919 Washington Blvd. office and represent that they are with "Critique Services."

It also is known that the Critique Services business is not a small operation in this District. According to the Clerk of Court's records,[2] in 2013, James C. Robinson (who, at the time, was the primary Critique Services business attorney) filed 1,014 chapter 7 cases (charging an average attorney fee of $296.23 per case) and 123 chapter 13 cases (charging an average attorney fee of $4,000.00 per case). As such, in 2013 alone, Robinson collected approximately $300,337.22 in chapter 7 attorney's fees, and approximately $492,000.00 in chapter 13 attorney's fees—for a total of approximately $792,337.22 in attorney's fees. This means that, just through Robinson, more than three-quarters of a million dollars in attorney's fees on cases filed in this District flowed through the Critique Services business annually.

And, it is known that Diltz, the various permutations of "Critique"-named bankruptcy-related businesses (including Critique Services L.L.C.) that Diltz has owned over the past fifteen-plus years, and its affiliated persons are notorious for their unprofessional business practices. Attorneys have been disbarred, suspended, and sanctioned for their activities while affiliated with Diltz and her businesses. (*See, e.g.,* Leon Sutton (disbarred in 2003), Ross H. Briggs (suspended in 2003 from filing new bankruptcy cases for six months), and James C. Robinson (suspended and sanctioned in June 2014)). Diltz, her businesses (including Critique Services L.L.C.), and affiliated persons have repeatedly been enjoined by the Court from the unauthorized practice of law and unprofessional business practices. In 2003, Diltz was permanently enjoined from ever conducting any sort of bankruptcy services business just across the Mississippi,

---

[1] *See, e.g.,* the contract between James C. Robinson and Critique Services L.L.C. submitted in the matters of *In re Reed, et al.* (Lead Case No. 14-44818).

[2] Attachment A.

in the U.S. Bankruptcy Court for the Southern District of Illinois. As recently as last year, in this Distrct, in the matter of *In re Latoya Steward* (Case No. 11-46399), Robinson was suspended from the privilege of practicing before this Court (as was his and Critique Services L.L.C.'s attorney, Elbert A. Walton, Jr.) for refusal to obey Court orders related to discovery involving Robinson's business operations and for making false statements. Robinson, Critique Services L.L.C., and Walton also were held jointly and severally liable for $49,720.00 in sanctions. Moreover, Robinson was found to have provided no legal services of any value to the debtor, to have knowingly filed documents that contained false statements, and to have allowed non-attorneys to practice law. It was determined that Robinson's role at the Critique Services business was—at best—that of a human rubberstamp, being paid for the placement of his signature on pleadings but rendering no actual legal services. Currently, in the matters of *In re Williams, et al*. (Lead Case No. 14-44204), Robinson, Diltz and Critique Services L.L.C. are the respondents to (yet-another) series of motions filed by the United States Trustee, alleging (yet-again) unlawful business practices and violations of previous injunctions.

Meriwether chose to become affiliated with the Critique Services business in the fall of 2014 (a few months after Robinson's suspension), at which time he began filing debtor cases, doing business as "Critique Services." Meriwether's business address, as registered with this Court, is 3919 Washington Blvd.—the office of the Critique Services business.

B. Meriwether's Participation in this Case

On May 21, 2015, Meriwether filed the Debtor's petition and related documents [Docket No. 1], thereby commencing this Case. In the Statement of Financial Affairs filed by Meriwether on behalf of the Debtor, it is represented that, in January 2015 (at least four months before the Debtor's petition was filed), the Debtor paid Meriwether $299.00 for his services. In addition, in Meriwether's statutorily required Disclosure of Compensation of Attorney for Debtor (the "Rule

2016(b) Statement"[3]), Meriwether certifies that the scope of his representation excludes "[r]epresentation of the debtors [sic] in any dischargeability actions, judicial lien avoidances, redemption, any motions and relief from stay actions or any other adversary proceeding and/or motions. Also excludes preparation, negotiation and filing of reaffirmation agreements."

C. The July 22 Hearing on the Motion for Relief from Stay

On July 10, 2015, First Community Credit Union, a creditor, filed a Motion for Relief from the Automatic Stay (the "Motion for Relief") [Docket No. 13], seeking authority to re-possess the Debtor's vehicle for the failure to maintain insurance. The deadline for filing a timely response to the Motion for Relief was July 15, 2015, and the matter was set for hearing on July 22, 2015.

Meriwether did not file a response on behalf of the Debtor; he also did not appear at the hearing. When the matter was first called at the July 22 docket, no one appeared on behalf of the Debtor, and the Motion for Relief was granted. However, at some point between the docket's first-call and second-call, the Debtor (but not Meriwether) came to the courtroom. When the Court made a second call for matters, the Debtor approached. It quickly became apparent that the Debtor was confused as to the status of his response to the Motion for Relief and the status of his Case as a chapter 7 proceeding. The following occurred:

- When the Court advised the Debtor that the Motion for Relief had just been granted by default, the Debtor stated that he had "moved" (meaning "converted") his Case to a proceeding under chapter 13—explaining that

[3] Federal Rule of Bankruptcy Procedure ("Rule") 2016(b) requires that "[e]very attorney for a debtor, whether or not the attorney applies for compensation, shall file and transmit to the United States trustee within 14 days after the order for relief, or at another time as the court may direct, the statement required by [11 U.S.C.] § 329 . . .." Section 329, in turn, requires that "[a]ny attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of or in connection with the case by such attorney, and the source of such compensation." This statement is referred to as a "Rule 2016(b) Statement."

he had gone to his attorney's office to do so. However, the Court's records showed that the Case had not been converted. In fact, no motion to convert had even been filed—despite the Debtor's clear belief that such a step had been taken on his behalf by his attorney.

- The Court then asked the Debtor for the name of his attorney—which the Debtor could not give. In fact, the Debtor could not give the *gender* of his attorney. The Debtor responded to the Court's inquiry by stating: "It's over at Critique Services. He's . . ." However, an attorney is not an "it," and a business is not an attorney. Despite all low-brow jokes to the contrary, an attorney is a *human being*. Further, the Debtor's abbreviated reference to a "he" was later contradicted by the Debtor's specific description of the persons with whom he spoke at the Critique Services business—who were women.
- When the Court asked the Debtor why he thought he was represented by "Critique Services," the Debtor advised that he was "trying to think of the lady's name" . . . "over at Critique Services" who had told her that he was represented by "Critique Services."
- The Debtor advised that "they" (apparently meaning, the persons with whom he had spoken at the Critique Services business) had told him "to come out here [to the hearing] anyway, but we were moving it – that case over to . . . Chapter 13." That is: *the Debtor advised that persons at the Critique Service business directed him to appear without counsel, at a court proceeding that involved his legal interests, and falsely advised that they were working to convert his Case to a chapter 13 proceeding.*
- The courtroom deputy advised the Court that the records of the Clerk's Office show that the Debtor's attorney is Dean Meriwether. However, by that point in the proceeding, it appeared that Meriwether had nothing to do with the representation of the Debtor, despite his signature being affixed to the petition papers. The Court observed that "Meriwether" was a "fake," and endeavored to determine the person at the Critique Services business who had provided services to the Debtor.

- The Debtor advised that he was counseled at the Critique Services business by an African-American woman in her forties (possibly an attorney named Dedra Brock-Moore) and by a paralegal named "Bay" (a woman). Meriwether (who has appeared in court on an occasion) presents himself plainly as a middle-aged Caucasian male. He could not be mistaken for a woman or an African-American. In short, the Debtor's unequivocal representations at the hearing made it clear that Meriwether was not the person who had counseled the Debtor.
- The Debtor advised the Court that he had never met with Meriwether. ("Dean Meriwether? No, I never met him.") By all appearances, the Debtor did not even recognize Meriwether's name.
- When asked, "who'd you meet with when you filed your Chapter 7?", the Debtor responded, "It was the – I think it was – like she's a legal assistant or --" and named her as "Bay" (a non-attorney staff person at the Critique Services business).

At the end of the hearing, the Court directed the Debtor to speak with the Assistant United States Trustee, who was present in the courtroom. The Court was hopeful that the Office of the United States Trustee might be able to get to the bottom of these troubling representations about "legal" services being provided to a debtor in this District.

D. Meriwether's Disclosure of Compensation Form

Following the hearing, the Court reviewed the transcript of the proceeding and the documents filed in the Case. In the process, the Court noticed another issue with Meriwether's "representation" of the Debtor. As noted earlier, Meriwether stated in his Rule 2016(b) Statement that the scope of his representation excludes "[r]epresentation of the debtors [sic] in any dischargeability actions, judicial lien avoidances, redemption, any motions and relief from stay actions or any other adversary proceeding and/or motions. Also

excludes preparation, negotiation and filing of reaffirmation agreements." However, L.B.R. 2093(c)(3),[4] provides:

> Regardless of which chapter of the Bankruptcy Code the case is under, Debtor's counsel shall provide ***all legal services necessary for representation of the debtor in connection with the bankruptcy case until conclusion of the case***, except for, at the discretion of debtor's counsel, representation of the debtor in an adversary proceeding and/or an appeal, for the fee set forth in the attorney fee disclosure statement filed with the Court pursuant to L.R. 2016-1(A). ***"Unbundling" of legal services or any similar arrangement is prohibited, and debtor's counsel shall not include any language in the attorney fee disclosure statement or in a client agreement that contradicts or is inconsistent with this Rule***. Debtor's counsel may, subject to any applicable Bankruptcy Code sections and rules governing compensation of professionals, be additionally compensated for representation of the debtor in an adversary proceeding and/or an appeal. This is regardless of the fee option selected in a Chapter 13 case.

(emphasis added.) As such, the Rule 2016(b) Statement shows that Meriwether's representation is subject to exclusions—most notably, the carve-out of all "motions and relief from stay actions"—that violate L.B.R. 2093(c)(3).

E. Issuance of the Show Cause Order

On August 6, 2015, the Court issued a Notice of Intent to Impose Sanctions and Show Cause Order (the "Show Cause Order") [Docket No. 25], giving Meriwether notice that it "is considering ordering disgorgement of fee pursuant to 11 U.S.C. § 329, and/or sanctions pursuant to 11 U.S.C § 105(a), and/or issuing other directives and/or making referrals to the proper authorities, for Meriwether's alleged behavior in this Case and the representations he made in documents filed in this Case." The Court gave Meriwether until August 19, 2015 to respond and show cause as to why disgorgement, sanctions, other directives, and/or referrals should not be ordered. On August 17, 2015, Meriwether filed a Response [Docket No. 27]. On August 18, 2015, Meriwether filed a Motion to Recuse [Docket No. 28] and a Motion to Transfer the Sanctions

[4] L.B.R. 2093(c)(3) went into effect on December 1, 2014—at least one month before the Debtor paid for legal services, and months before his Case was filed.

Matter to the U.S. District Court (the "Motion to Transfer") [Docket No. 29]. On August 20, 2015, the Court entered an order denying the Motion to Recuse and the Motion to Transfer [Docket No. 30]. The Court now turns to the issue of whether sanctions, directives, or referrals against Meriwether are proper, and considers all facts in this Case, the representations of the Debtor and Meriwether, and all documents provided by Meriwether with his Response.

II. NOTICE AND OPPORTUNITY TO BE HEARD

The Show Cause Order identified the acts for which the Court was considering imposing sanctions. Meriwether was provided almost two weeks to respond. Meriwether responded by filing his Response and other documents, including the Affidavit. Meriwether chose not to request an evidentiary hearing. Instead, he chose to stand on his Response, the documents submitted in support of his Response, and the record. The Court **HOLDS** that adequate notice and an opportunity to be heard was provided to Meriwether.

III. THE DEBTOR'S STATEMENTS

Meriwether did not respond by challenging the admissibility of, or the propriety of considering, the Debtor's statements made at the July 22 hearing. He challenges the veracity of the Debtor's statements. The Court **HOLDS** that Meriwether has waived any objection to the admissibility of, or to the Court's consideration of, the Debtor's statements.

IV. FINDINGS OF FACT

A. Meriwether's Scope of Representation Violates L.B.R. 2093(c)(3)

In the Show Cause Order, the Court observed that the representations in the Rule 2016(b) Statement show that Meriwether "enter[ed] into an attorney-client relationship with a scope that is impermissibly limited under the Local Rules." Although the Response itself does not specifically address this issue, Meriwether attached a copy of a form captioned "Notice of Non-Attorney Representation on Reaffirmation Agreements/Rescission." This undated form purports to be signed by the Debtor. It is not clear whether this is supposed to be responsive to the issue of whether Meriwether should be sanctioned for the

limitations in his Rule 2016(b) statement. But, to any degree, an attorney and his client cannot "contract-out" of L.B.R. 2093(c)(3) by a private agreement.

B. Meriwether Committed Other Sanctionable Acts

Failure to Render Legal Services. In the Show Cause Order, the Court observed that, "[i]f the Debtor's representations are true, Meriwether's actions included failing to render legal services . . ." In response to this observation, Meriwether blames his failure to appear at the hearing on his client. In his Response, he states that "did not appear at the hearing . . . for the reason that [the D]ebtor . . . failed to provide the proof of insurance to avoid a default order on the pending motion by the default date of July 15, 2015." However, the Debtor's failure to provide proof of insurance by the July 15 response date did not excuse Meriwether from filing a response on behalf of his client, or excuse Meriwether from appearing at the July 22 hearing, or excuse Meriwether from advising his client of the status of his case. And, it certainly did not permit anyone other than Meriwether to give legal advice the Debtor or to instruct the Debtor to appear without counsel and represent himself at the hearing.

The Court also notes that Meriwether had no other basis for believing that he was excused from the hearing. His client had not affirmatively conceded the merits of the Motion for Relief. His client had not directed him not to appear. Meriwether did not request to be excused. No order disposing of the Motion for Relief was entered ahead of the hearing; as such, as of the scheduled hearing time and date, the matter was pending (a point that the Debtor clearly understood—given that he came to the hearing and expected an opportunity to address the merits of the matter).[5] Meriwether just chose to not to assist his client in this matter in his client's main bankruptcy case.

[5] The boilerplate in the Motion for Relief advising that an order "may be" entered prior to the hearing date did not (i) effect a disposition; (ii) obligate the Court to enter such an order ahead of the hearing; (iii) remove the matter from the docket; or (iv) excuse any attorney or party from appearing. It remained in the Court's discretion as to whether to rule before the hearing, and the Court chose not to do so. Meriwether or his client might have shown up at the hearing with proof of insurance obtained at the last minute (not an uncommon situation with debtors).

Failure to Meet with the Debtor Before Filing the Case. In the Show Cause Order, the Court observed that it appeared that Meriwether "fail[ed] to meet with his client before filing the Case." In response to this observation, Meriwether represents that he, in fact, met with the Debtor on June 16, 2015, to advise him to provide the required insurance. The Court finds this representation to lack credibility and to be made now by Meriwether in an attempt to conceal the fact that he never previously met with the Debtor.

In addition, Meriwether filed an affidavit signed by the Debtor, in which his client now attests that he lied to the Court at the July 22 hearing about never having met Meriwether. Doing a complete one-eighty from his representations made at the hearing, the Debtor attests that he met with Meriwether on three previous—and oddly specific—occasions. The Debtor also attests that he lied to the Court because he was "fearful." The Court rejects these attestations as utterly non-credible. They are unsupported by any credible documentary or testimonial evidence, and they are directly contrary to the credible representations made at the hearing. At the hearing, the Debtor did not appear the least bit "intimidated," as he now attests. He was not "confused" by the Court's questions and was clear that he had not previously met Meriwether. The Debtor's response was genuine; it was not hesitating or contrived. And nothing in the Debtor's manner and presentation at the hearing suggested that he was fearful of anything or anyone. It appears to the Court that the affidavit is the product of a quid pro quo transaction between Meriwether and the Debtor. The day before Meriwether filed his Response, the Debtor's fees were suddenly returned to him—and, on that very same day, the Debtor contemporaneously executed the affidavit, in which he reversed his clear statements at the hearing.

Allowing Non-Attorneys to Provide Legal Services. In the Show Cause Order, the Court observed that it appeared that Meriwether "allow[ed] non-attorneys to do his lawyering for him." At the July 22 hearing, the Debtor stated that he had never met Meriwether, that he had paid someone at the Critique Services business other than Meriwether, and that he was counseled by women, not Meriwether, at the Critique Services business. Meriwether provides

no response to these allegations, other than by attaching a document titled "Attorney's Introduction Checklist," which bears the signatures of the Debtor and Meriwether and purports to be dated "1-14-15." However, the Court rejects this document as credible evidence of anything—other than, perhaps, the fact that it is not difficult to backdate a copy of a form, when sufficiently motivated to do so.

Failure to Disclose All Fees Received. In responding to the Show Cause Order, Meriwether represents that, on August 17, 2015, he returned to the Debtor $299.00 in fees by money order and another $373.00 in fees by case. Meriwether attached to his Response a copy of the $299.00 money order,[6] as well as a copy of a document in which the Debtor states that Meriwether returned to him $373.00 in cash. The problem is: the return of the $373.00 is evidence that Meriwether never disclosed to the Court compensation that he received an additional $373.00 in compensation, beyond his original $299.00 in fees disclosed in the Rule 2016(b) Statement. Had the Debtor not appeared at the July 22 hearing and had the Court not issued the Show Cause Order, it is unlikely that the Court would have known about the undisclosed attorney's fees.

C. Summary of Findings of Fact

The Court **FINDS** that Meriwether violated L.B.R. 2093(c)(3), failed to render legal services, failed to meet with the Debtor before representing him,

[6] The Court also notes the highly suspicious form of the return of the Debtor's $299.00 in fees. Instead of being returned in the form in which they were paid (cash), or by a check drawn off a client trust account, or by a check drawn off a law firm account, the $299.00 was paid by a personal money order—certainly, an unorthodox and unprofessional method of transferring client fees. Moreover, the Meriwether's signature appears to have been forged on the money order. The money order includes a line for "Signature of Purchaser (Drawer"), where Meriwether's name is "signed." However, the signature does not appear to be Meriwether's signature. When the signature is compared to Meriwether's signature as shown in other documents filed with the Court, the signature on the money order is not even a close facsimile. All this sketchiness raises many questions: *who was the true purchaser of the money order, and why did this person purchase it, and with what funds (and if the funds were client funds, why did this person have custody of such funds), and why did this person sign the money order indicating that Meriwether was the purchaser?*

allowed non-attorneys to provide "legal" services, and failed to disclose the true amount of attorney's fees he received.

IV. CONCLUSION OF LAW

In his Response, Meriwether seems to suggest that the sudden return to the Debtor of the fees makes the imposition of sanctions against him improper. However, the only issue that the return of the fees resolves is whether disgorgement under 11 U.S.C. § 329 is required. Meriwether cannot "buy" his way out of sanctions for his unprofessional behavior in this Case simply by returning the fees. Regardless of the return of the fees, it remains true that Meriwether filed a Rule 2016(b) showing that his scope of representation violates L.B.R 2093(c)(3), failed to render legal services, failed to meet with the Debtor prior to filing his Case, permitted non-attorneys to do his lawyering for him, and failed to disclose to the Court that he received additional compensation. Meriwether's Response to the Show Cause Order has served only to make his situation worse. Now, the Court believes not only that Meriwether violated L.B.R. 2093(c)(3), failed to represent his client, failed to meet with his client before representing him, and failed to provide him with legal services, but also that he failed to disclose all his fees received and, in an effort to avoid sanctions, manipulated his own client into lying in an affidavit. The Court **HOLDS** that the Debtor's acts and violations make proper the imposition of sanctions.

V. DIRECTIVE

Based on the findings of fact and conclusions of law set forth herein, the Court **ORDERS** that, in each and every open bankruptcy case filed after December 1, 2014, regardless of chapter, (a) over which the undersigned Judge presides, (b) Meriwether represents the debtor, and (c) in which the filed Rule 2016(b) Statement violates L.B.R. 2093(c)(3), Meriwether file an amended Rule 2016(b) statement, containing terms that do not violate L.B.R. 2093(c)(3). Such amended Rule 2016(b) statements must be filed within seven days of the entry of this Order. The Court also **ORDERS** that, no later than eight days from entry of this Order, Meriwether file in this Case a Certificate of Compliance, listing the case number and debtor's name for each case in which he filed an amended

Rule 2016(b). In addition, the Court gives **NOTICE** that: (i) if Meriwether fails to timely file such amended Rule 2016(b) statements or the Certificate of Compliance, the Court may order disgorgement of his fees in any case in which such an amended statement is required and was not filed, and may impose additional monetary or non-monetary sanctions; and (ii) if Meriwether files in the future any new case in which the Rule 2016(b) violates L.B.R. 2093(c)(3), the Court may strike the Rule 2016(b) statement, order disgorgement of Meriwether's fees in such case, and impose additional monetary or non-monetary sanctions.

VI. SANCTIONS

The ability of an attorney to file documents electronically and through the overnight drop-box is a privilege, not a right—and it is a privilege that cannot be extended to an attorney who cannot be trusted to be honest and Rule-abiding in his dealings with the Court. Accordingly, the Court **ORDERS** that Meriwether's CM-ECF electronic filing privilege and remote access filing privilege (the privilege to use the exteriorly located overnight drop-box) be immediately suspended. Meriwether may not utilize these privileges in his individual capacity or in any "d/b/a" capacity. The term of the suspension will be for one year (365 days) from the date of the entry of this Order. Pursuant to this suspension, Meriwether may not submit any document for filing by using the Court's CM-ECF electronic filing system, by using the exteriorly located drop box for the U.S. Bankruptcy Court, or by delivering a document to the Clerk's Office through the U.S. Mail or by any other carrier. To file a document, Meriwether must present, in person and personally, such document at the Clerk's Office during regular business hours. He may not present a document for filing through an agent. No agent, associate, or assistant may operate the computers in the Clerk's office for him. He may not instruct or advise his clients that they must file these documents themselves (that is, Meriwether may not "shift" that obligation to file documents to the clients, to save himself from having to file their documents in person.) All acts related to filing must be done entirely by Meriwether. Any agent, associate, or assistant brought to the Clerk's Office with Meriwether cannot be left unattended by Meriwether or be permitted to do any filing-related work for Meriwether. If

Meriwether violates this suspension, the document submitted may be rejected for filing and returned, and Meriwether may be sanctioned $1,000.00 for each document submitted for filing in violation of the suspension. Further, any violation of this suspension may result in the imposition of additional sanctions upon Meriwether, which may include but are not limited to, suspension from the privilege of practicing before the Court. At the end of this one-year suspension period, Meriwether's electronic and remote access filing privileges will be reinstated, provided that Meriwether has not been further sanctioned and the facts otherwise indicate that reinstatement of the privileges is proper.

VII. REPORT TO THE OCDC

In addition, this Order shall constitute a report to the OCDC regarding Meriwether's actions in this Case. The Clerk of Court shall forward a copy this Order to the OCDC.

CHARLES E. RENDLEN, III
U. S. Bankruptcy Judge

DATED: August 27, 2015
St. Louis, Missouri
kar

ATTACHMENT A

UNITED STATES GOVERNMENT
OFFICIAL MEMORANDUM

Bankruptcy Court
Eastern District of Missouri

To: Judge Rendlen's Chambers

Date: April 2, 2015

Based on the Court record, James Robison filed the following quantity of cases per the chapter type identified below during the 2013 year. Note the amount of Adversary cases filed during 2013 is not included in the totals below.

Chapter 7 – 1014
Chapter 13 - 123

Taking into consideration the average fee charged by Mr. Robinson which was outlined in a Memorandum dated May 20, 2014 and shown below, the estimated total revenue for 2013 would be $792,377.22.

Chapter 7:	1,014 (cases) x $296.23 (average fee per case)	= $300,377.22
Chapter 13:	123 (cases) x $4,000.00 (average fee per case	= 492,000.00
	Estimated Total	**= $792,377.22**

Attachment 98

Certificate of Compliance, filed in *In re Hopson*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	)	**Case No 15-43871-705**
Arlester Hopson	)	
	)	**Chapter 7**
	)	

Certificate of Compliance

Comes Now, Attorney Dean Meriwether, attorney for Debtor, Arlester Hopson, Certifies that Amended Rule Statements 2016(b) have been filed in the attached list of cases to comply with the Courts Order dated 08/27/2015, Document # 32.

Respectfully submitted,

Dean Meriwether #48336
Law Office of Dean Meriwether
3919 Washington Ave
St. Louis, Mo 63108
(314)533-4357
(314)533-4356
attydeanmeriwether@yahoo.com

Certificate of Service

I hereby certify that a true and correct copy of the above and forgoing was served either through the Courts ECF system or by regular mail this 3th day of September, 2015 on the following:

James Robinson
3919 Washington
St. Louis, Mo 63108

Office of US Trustee
111 S. Tenth St Ste 6.353
St. Louis, Mo 63102

Robert Blackwell
PO Box 310
O'Fallon, Mo 63366

David Sosne
8909 Ladue Rd
St. Louis MO 63124

Tom O'Loughlin
1736 N. Kingshighway
Cape Girardeau, Mo 63701

Kristen Conwell
PO Box 56550
St. Louis, Mo 63156

Attachment 99

Order Imposing Monetary Sanctions Against Meriwether,
entered in *In re Hopson*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 15-43871-705**
	§	
Arlester Hopson,	**§**	**Chapter 7**
	§	
Debtor.	**§**	

ORDER: (i) IMPOSING SANCTIONS UPON DEAN MERIWETHER FOR HIS FAILURE TO COMPLY WITH THE AUGUST 27 ORDER, AND (II) DIRECTING THAT MERIWETHER TAKE ACTIONS AS SET FORTH HEREIN OR FACE POSSIBLE FURTHER SANCTIONS

Attorney Dean Meriwether is the attorney of record for the Debtor in the above-referenced Case. On May 21, 2015, Meriwether filed a Disclosure of Attorney Compensation statement (the "Rule 2016(b) Statement") [Docket No. 1] that contained terms that violated Local Bankruptcy Rule 2093(c) (the Local Bankruptcy Rule that prohibits "unbundling" of services for debtor representation in main bankruptcy cases). The Rule 2016(b) Statement came to the Court's attention when the Court reviewed the entire record of this Case, following a July 22 hearing at which numerous troubling allegations were made by the Debtor regarding Meriwether's "representation" of him.

After affording Meriwether an opportunity to respond to the issue of whether he should be sanctioned, on August 27, 2015 the Court entered an Order (the "August 27 Order") [Docket No. 32], directing that:

> in each and every open bankruptcy case filed after December 1, 2014, regardless of chapter, (a) over which the undersigned Judge presides, (b) Meriwether represents the debtor, and (c) in which the filed Rule 2016(b) Statement violates L.B.R. 2093(c)(3), Meriwether file an amended Rule 2016(b) statement, containing terms that do not violate L.B.R. 2093(c)(3). Such amended Rule 2016(b) statements must be filed within seven days of the entry of this Order.

Further, the Court ordered that, "no later than eight days from entry of this Order, Meriwether file in this Case a Certificate of Compliance, listing the case number and debtor's name for each case in which he filed an amended Rule 2016(b)." The Court also gave notice that: "if Meriwether fails to timely file such amended

Rule 2016(b) statements or the Certificate of Compliance, the Court may order disgorgement of his fees in any case in which such an amended statement is required and was not filed, and may impose additional monetary or non-monetary sanctions . . ."

On September 4, 2015 (the eighth day after the entry of the August 27 Order), Meriwether filed a "Certificate of Compliance" [Docket No. 39]. This one-sentence document was screwed-up in almost every conceivable way:

- Meriwether failed to sign the Certificate of Service attached to the Certificate of Compliance. Pursuant to the Local Bankruptcy Rules, a Certificate of Service must be signed. This resulted in the Office of the Clerk of Court having to issue an automated notice of errors, directing Meriwether to correct the omission.
- In the unsigned Certificate of Service, Meriwether represented that he served the Certificate of Compliance on September 3, 2015. However, the Certificate of Compliance was not even filed until September 4, 2015.
- And, almost unbelievably, ***Meriwether represents in the Certificate of Compliance that the Court-ordered list of case numbers and names is attached to the Certificate of Compliance. However, no such list is actually attached.*** As such, on its face, the Certificate of Compliance is deficient and fails to satisfy the Court's directive.

The Court **FINDS** that Meriwether failed to comply with the requirement that he file a Certificate of Compliance that lists of the case number and the debtor's name for each case in which he filed an amended Rule 2016(b). Accordingly, consistent with the notice given in the August 27 Order, the Court **ORDERS** that monetary sanctions in the amount of $400.00 be imposed upon Meriwether for his failure.[1] In addition, the Court **ORDERS** that by the close of the Clerk's Office today—Tuesday, September 8, 2015—Meriwether file an

[1] The sanction of $400.00 represents $100.00 a day for each day (Friday, September 4, 2015 through Monday, September 7, 2015) that the list has been required but has not been filed. Because Monday, September 7, 2015 was the federal holiday of Labor Day, the soonest that the Court could have entered this Order was Tuesday, September 8, 2015.

amended Certificate of Compliance, ***with the required list attached***, and pay the $400.00 in sanctions. Further, the Court **ORDERS** that for each day after September 8, 2015, through Friday, September 11, 2015, that Meriwether fails to file an amended Certificate of Compliance or fails to pay the sanctions, Meriwether will accrue another $100.00 a day in sanctions. And, the Court gives **NOTICE** that, if Meriwether does not file the amended Certificate of Compliance and pay all accrued sanctions by 12:00 P.M. (Central), September 11, 2015, Meriwether may be suspended from the privilege of practicing before this Court, until such time the amended Certificate of Compliance is filed and all outstanding sanctions are paid.

The Court cannot fathom what is going on with Meriwether, to have resulted in such incompetency. The Court strongly encourages Meriwether to up-his-game when practicing in this forum. In the August 27 Order, Meriwether had his electronic filing privileges revoked for a year and a referral was made by the Court to the Missouri Supreme Court's Office of Chief Disciplinary Counsel (the "OCDC"). Now, he has been monetarily sanctioned and given notice that he may incur more sanctions or be suspended. ***It is time for Meriwether to start paying attention, obeying Court orders, practicing competently, and being in compliance with the Local Bankruptcy Rules.*** A copy of this Order shall be forwarded to the OCDC, in supplement to the referral made pursuant to the August 27 Order.

DATED: September 8, 2015
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

Copy Mailed To

Dean D. Meriwether
Law Offices of Dean Meriwether
3919 Washington Avenue
St. Louis, MO 63108

Mary E. Lopinot
P.O. Box 16025
St. Louis, MO 63105

Office of US Trustee
111 S Tenth St, Ste 6.353
St. Louis, MO 63102

Attachment 100

Notice to Dellamano, entered in *In re Hopson*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI

In re:	**§**	**Case No. 15-43871-705**
	§	
Arlester Hopson,	**§**	**Chapter 7**
	§	
Debtor.	**§**	

NOTICE REGARDING THE PROFESSIONAL AFFILATION OF ATTORNEY ROBERT JAMES DELLAMANO WITH THE CRITIQUE SERVICES BUSINESS AND ATTORNEY DEAN MERIWETHER

Dean Meriwether is an attorney affiliated with the low-cost "bankruptcy services" business currently operating at 3919 Washington Blvd., St. Louis, Missouri (the "Critique Services business"). Meriwether is under contract with Critique Services L.L.C. (a non-law firm entity owned by a non-lawyer, Beverly Holmes Diltz), has registered to himself with the Missouri Secretary of State the fictitious name "Critique Services," has represented to the Court that he does business as "Critique Services," and lists his business address with the Court as that of the Critique Services business office at 3919 Washington Blvd.

Over the years, Critique Services L.L.C., Diltz, Diltz's previous permutations of "Critique"-named businesses, and attorneys and non-attorneys affiliated with Diltz's various businesses have been enjoined by this Court for their unprofessional and unlawful business practices. Several attorneys affiliated with Diltz's "Critique"-named bankruptcy services businesses have been suspended, sanctioned or disbarred for their activities while affiliated with Diltz's businesses. Meriwether became involved with the Critique Services business following the June 2014 suspension of the Critique Services business attorney, James C. Robinson.

On July 22, 2015, the Court held a hearing in this Case on a motion for relief from the automatic stay. Prior to the hearing, Meriwether failed to respond on behalf of his client, the Debtor. Then, Meriwether failed to appear at the July 22 hearing on behalf of the Debtor. The Debtor, however, did appear at the July 22 hearing, without his counsel. At the hearing, the Debtor made numerous,

troubling representations regarding Meriwether's role in this Case, including the representations that the Debtor had never even met Meriwether and that the Debtor had been advised by staff at the Critique Services business that he should appear without counsel at the July 22 hearing. After issuing a show cause order, and after Meriwether failed to show cause as to why sanctions should not be imposed upon him, on August 27, 2015, the Court entered an Order [Docket No. 32] suspending Meriwether's privilege to use the Court's electronic docketing system ("CM-ECF") and the Court's exteriorly located dropbox. The Court also directed Meriwether to file (i) amended Rule 2016 Attorney Compensation Disclosure statements in all cases pending before the undersigned Judge in which Meriwether currently is counsel of record, and (ii) a certificate of compliance with a list of all cases in which such amended Rule 2016 statements were filed. Meriwether, however, failed to timely comply with the requirement that he file the certificate of compliance with the list. Accordingly, on September 8, 2015, the Court entered an Order [Docket No. 45], sanctioning Meriwether $100.00 a day for each day of non-compliance since the certificate of compliance had been due on September 4, 2015. On September 9, 2015, Meriwether paid the accrued $500.00 in sanctions and filed the certificate of compliance and list.

On September 14, 2015, an attorney named Robert James Dellamano sought CM-ECF training from the Office of the Clerk for the U.S. Bankruptcy Court (the "Clerk's Office"). He advised the Clerk's Office that he is not licensed to practice in Missouri and is not admitted to practice before this Court, but that he is in the process of seeking to be admitted to practice before the Court. He also advised that he has been working with Meriwether at the Critique Services business since July 2015—apparently, despite not being licensed to practice in this state and despite not being admitted to practice before this Court. On the training sign-in sheet, Dellamano indicated that he is an attorney and listed his "firm" as "Critique."[1] The Clerk's Office provided Dellamano with requested

[1] Attachment A.

training, but declined Dellamano's request for a CM-EFC log-in (a CM-ECF log-in is available only to an attorney admitted to practice before the Court). The Clerk's Office also notified Chambers of its interactions with Dellamano, as it is unusual for an attorney who is not licensed in this state and is not admitted to practice before this Court to seek CM-ECF training.

The Court has confirmed that Dellamano was admitted to practice in Illinois in February 2013, and is not admitted to practice in Missouri. According to the records available on the website of the Illinois Supreme Court, Dellamano's registered business address is the Critique Services business office on Washington Blvd. in St. Louis, Missouri.[2] He has no registered business address in Illinois.

The Court is uncertain of what role Dellamano has had at the Critique Services business for the past several months, given his lack of a Missouri law license. However, out of an abundance of caution (and in light of the fact that, in the past, persons affiliated with the Critique Services business have had to be enjoined from the unauthorized practice of law), the Court provides **NOTICE** that, unless and until Dellamano is admitted to practice before this Court, he may not practice law or otherwise render legal services or advice of any kind in connection with any case that has been filed or is anticipated to be filed in this Court, whether such practice or services would be rendered inside or outside the courtroom. He may not appear at a § 341 meeting on behalf of any debtor in any case that has been filed in this Court, as he cannot serve as the attorney of record for a debtor.

The Court also encourages Dellamano (if he intends to practice before this Court) to familiarize himself with the Local Bankruptcy Rules (including the Rule related to the prohibition on the "unbundling" of legal services in main bankruptcy cases) and recognize the importance of honesty with the Court, appearing on behalf of clients when court appearances are required for advocacy, and properly handling attorney fees. Hopefully, Dellamano can avoid committing the same

[2] Attachment B.

violations that Meriwether and Robinson committed while practicing before this Court while affiliated with the Critique Services business.

The Court **DIRECTS** the Clerk's Office to provide a copy of this Notice to Dellamano at Critique Services, 3919 Washington Blvd., St. Louis, MO 63108.

DATED: September 18, 2015
St. Louis, Missouri 63102
mtc

CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

Copy Mailed To:

Dean D. Meriwether
Law Offices of Dean Meriwether
3919 Washington Avenue
St. Louis, MO 63108

Robert Dellamano
Attorney at Critique Services
3919 Washington Avenue
St. Louis, MO 63108

Mary E. Lopinot
P.O. Box 16025
St. Louis, MO 63105

Office of US Trustee
111 S Tenth St, Ste 6.353
St. Louis, MO 63102

ATTACHMENT A

Basic Debtor Attorney Training

Monday, September 14, 2015

Name (please print)	Firm	Phone Number	Attorney? Yes or No
Bob Dellamano	Critique	435-419-0595	Yes
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

Trainer: [redacted]

CM/ECF

ATTACHMENT B

Lawyer Search
Lawyer Registration
How to Submit a Request For Investigation
Rules and Decisions
Ethics Inquiry Program
Publications
New Filings, Hearing Schedules and Clerk's Office
Client Protection Program
Resources & Links
ARDC Organizational Information

LAWYER SEARCH: ATTORNEY'S REGISTRATION AND PUBLIC DISCIPLINARY RECORD

ARDC Individual Attorney Record of Public Registration and Public Disciplinary and Disability Information as of September 17, 2015 at 1:13:22 PM:

Full Licensed Name:	Robert James Dellamano
Full Former name(s):	None
Date of Admission as Lawyer by Illinois Supreme Court:	February 4, 2013
Registered Business Address:	Dean D. Meriwether, Esq 3919 Washinton Blvd Saint Louis, MO 63108-3507
Registered Business Phone:	(314) 533-4357
Illinois Registration Status:	Active and authorized to practice law - Last Registered Year: 2015
Malpractice Insurance: (Current as of date of registration; consult attorney for further information)	In annual registration, attorney reported that he/she does not have malpractice coverage. (Some attorneys, such as judges, government lawyers, and in-house corporate lawyers, may not carry coverage due to the nature of their practice setting.)

Public Record of Discipline and Pending Proceedings: None

Check carefully to be sure that you have selected the correct lawyer. At times, lawyers have similar names. The disciplinary results displayed above include information relating to any and all public discipline, court-ordered disability inactive status, reinstatement and restoration dispositions, and pending public proceedings. Investigations are confidential and information relating to the existence or status of any investigation is not available. For additional information regarding data on this website,

please contact ARDC at (312) 565-2600 or, from within Illinois, at (800) 826-8625.

ARDC makes every effort to maintain the currency and accuracy of Lawyer Search. If you find any typographical errors in the Lawyer Search information, please email registration@iardc.org. For changes to contact information, including address, telephone or employer information, we require that the attorney submit a change of address form. Please consult our Address Change Requests page for details. Name changes require the filing of a motion with the Supreme Court. Please consult our Name Change Requests page for details.

Back to Search Results

New Search

IARDC ®:online access to registration and discipline information regarding Illinois lawyers
presented by the Illinois Attorney Registration & Disciplinary Commission.