SO ORDERED.
SIGNED this 5th day of January, 2017

Suzanne H. Bauknight
UNITED STATES BANKRUPTCY JUDGE

THIS ORDER HAS BEEN ENTERED ON THE DOCKET.
PLEASE SEE DOCKET FOR ENTRY DATE.

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

In re

ANNETTE HARRIS HAYNES
aka ANNETTE HARRIS

Debtor

Case No. 3:16-bk-30352-SHB
Chapter 7

In re

CLARA IMOGENE WRIGHT

Debtor

Case No. 3:16-bk-30917-SHB
Chapter 13

In re

PAMELA JO HAGSTROM
fka PAMELA JO YOUNT
fka PAMELA JO MENDOZA

Debtor

Case No. 3:16-bk-31214-SHB
Chapter 7

MEMORANDUM AND ORDER

Pending before this Court are the following matters: the Court's various show cause orders in the above-captioned cases; the Chapter 13 Trustee's various objections to confirmation,

as amended and supplemented, in the above-captioned cases; and the Chapter 13 Trustee Motion Seeking Sanctions Against Attorney Grace Gardiner and Law Solutions Chicago LLC dba Upright Law LLC ("Chapter 13 Trustee's Sanction Motion") filed in the above-captioned *Wright* case on August 12, 2016 [Doc. 78[1]] (collectively referred to as "the Pending Matters"). At a status hearing held on September 28, 2016, Law Solutions Chicago LLC d/b/a UpRight Law LLC ("UpRight Law") argued that its voluntary disgorgement of fees in these and other cases mooted the issues raised by the Chapter 13 Trustee and the Court concerning whether UpRight Law meets the exception in 11 U.S.C. § 504(b) for the sharing of fees within a professional association, corporation, or partnership. Because the Court determined it necessary to resolve the mootness issue before it could decide what issues would be the subject of an evidentiary hearing, the Court ordered briefing by UpRight Law and the Chapter 13 Trustee [Doc. 134]. Consistent with the Court's September 30 Order, UpRight Law filed its brief on mootness of the § 504 issue on October 21 [Doc. 144], and the Chapter 13 Trustee filed her response on November 4 and her amended response on November 7 [Docs. 148, 149]. The United States Trustee also filed a response to UpRight Law's brief on November 3. [Doc. 147.] UpRight Law replied to the Chapter 13 Trustee's and the United States Trustee's briefs on November 18. [Docs. 151, 152.]

UpRight Law argues for the Court to exclude consideration of the § 504 issue for two reasons. First, UpRight Law argues that the presumptive remedy for a § 504 violation is disgorgement and because UpRight Law voluntarily disgorged all fees in these cases, there is no live controversy and the § 504 issue is Constitutionally moot. Second, UpRight Law argues that a ruling by the Court granting the Chapter 13 Trustee's Sanction Motion would require a finding

[1] Docket references herein are to the respective documents filed in the *Wright* case unless otherwise noted.

of bad faith, which UpRight Law argues is patently inappropriate under the circumstances, such that, aside from mootness, the Court should not take up the § 504 issue because the "current procedural posture is not conducive to proper review of the issue." [UpRight Law Mem. (Doc. 144) at 4.]

THE § 504 ISSUE IS NOT MOOTED BY THE VOLUNTARY DISGORGEMENT OF FEES.

I. The Court expressly reserved the § 504 issue when accepting the offer of UpRight Law to voluntarily disgorge fees, and the Court has authority under § 105(a) to impose sanctions other than and in addition to disgorgement for a violation of § 504.

The Court finds that the disgorgement of fees by UpRight Law did not moot the § 504 argument. The Court made it clear at the August 17 hearing, at which UpRight Law member Kevin W. Chern first appeared, that the § 504 issue was central to the Court's concerns:

> I looked at the partnership agreement as amended in th[e Clara Wright] case as well as the retention agreement and I have some real concerns that this is, that in practice it appears to be a guise for a referral fee. . . .

[Tr. of Aug. 17, 2016 Hr'g (Doc. 105) at 10.] After Mr. Chern offered for UpRight Law to disgorge fees in all of the cases, the Court responded by stating, "Let's address the disgorgement issue. That offer is accepted by the Court, but does not resolve all of the issues." [*Id.* at 9.] The Court expressly addressed at that time the impact that disgorgement would have on the proceedings: "And . . . if we get to the place where after a full evidentiary hearing I determine that there is wrongdoing, I'm going to see this as a mitigation, . . . this offer and, indeed, carrying through with . . . the disgorgement." [*Id.* at 11.[2]]

[2] Although the record could fairly be read to indicate Mr. Chern's consent to the Court's reservation of the § 504 issue, UpRight Law is correct that mootness implicates subject matter jurisdiction such that it is not waivable. The Court's ruling that the § 504 issue is not mooted by disgorgement is not based on any waiver by UpRight Law.

Similarly, at the initial hearing on the Chapter 13 Trustee's Sanction Motion on September 14, the Court reiterated the intent to review the § 504 issue notwithstanding disgorgement:

> I want to get to the bottom of the [§] 504 issue and I'm following what's [going] on in other courts across the country. I don't really want to be on the cutting edge of this, but I am. And I'm concerned about that issue. . . . [T]he issues in all of these cases arose before this court for two reasons. One, because it was clear to the trustee that there was an attorney's fee issue here and she identified that issue, in part, because the disclosure and the information she obtained otherwise, they didn't match up, that more than the base fee, the no look fee, was being charged in some circumstances and her investigation has then revealed further issues that caused this court at least to *need to look into the issue of whether this is an appropriate partnership for purposes of the Code and ethics. And so I'm going to look at that.*

[Tr. of Sept. 14, 2016 Hr'g (Doc. 124) at 10 (emphasis added).] Acknowledging the mootness of two of the remedies sought by the Chapter 13 Trustee,[3] the Court then identified the remaining issues related to the Chapter 13 Trustee's Sanction Motion:

> So that remains, that leaves, then, the remaining issues of, of the issue [t]hat's been termed disbarment, which there could be something lesser than that, which would be a continuing, continuing the order that I've already put down that restricts UpRight to filing 13s under lodestar. So I could continue that. That would be an element of sanctions that would be short of an absolute bar. And then the issue of whether there should be any additional monetary sanctions.

[*Id.* at 6.]

UpRight Law now counters that disgorgement is the only available sanction for a violation of § 504. The Court finds unpersuasive the cases cited by UpRight Law for this proposition. First and foremost, although the cited courts did find, almost in passing, that disgorgement remedied the particular § 504 violations in those cases, such does not control whether this Court may impose a remedy other than disgorgement if the Court ultimately

[3]The Chapter 13 Trustee's Sanction Motion sought to compel substitution of counsel for Debtor Wright and disgorgement of the fee by UpRight Law and Ms. Gardiner. Both of those issues were resolved before the initial hearing on the motion.

determines that UpRight Law and Ms. Gardiner violated § 504's prohibition on fee-splitting. UpRight Law did not cite, and this Court could not find, any case that limits or restricts the Court to disgorgement as a sole remedy for violation of § 504. Notably, the text of § 504 contains no remedy for its violation. Rather, the authority for any sanction for a violation of § 504 – including the sanction of disgorgement – arises from 11 U.S.C. § 105(a).

Section 105(a) provides that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." It is axiomatic that this Court may fashion an appropriate sanction for a violation of § 504 (which, obviously, is part of Title 11). *Cf. Initial Invs. V. Woodford (In re Woodford)*, 560 B.R. 710, 723 (Bankr. E.D. Mich. 2016) ("[T]he Court has an inherent power to award sanctions and attorney fees under *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991), as applied to bankruptcy courts by the Sixth Circuit in *Grossman v. Wehrle (In re Royal Manor Mgmt., Inc.)*, 652 F. App'x 330, 342 (6th Cir. 2016) and *Mapother & Mapother, P.S.C. v. Cooper (In re Downs)*, 103 F.3d 472, 477 (6th Cir. 1996)."). As summarized by the Fourth Circuit Court of Appeals:

> The bankruptcy court has the inherent power, "incidental to all courts" to "discipline attorneys who appear before it." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991). This inherent power includes the power to suspend or disbar attorneys from practicing before the court. *In re Snyder*, 472 U.S. 634, 643 (1985). Additionally, the Bankruptcy Code authorizes the bankruptcy court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [Title 11] or to prevent an abuse of process." 11 U.S.C. § 105(a) (2012); *see In re Walters*, 868 F.2d 665, 669 (4th Cir.1989) (upholding under 11 U.S.C. § 105(a), contempt sanctions based on attorney's failure to disclose fees, disgorge unauthorized fees, and obtain authority to represent debtor).

Williams v. Lynch (In re Lewis), 611 F. App'x 134, 136 (4th Cir. 2015); s*ee also In re Johnson*, 921 F.2d 585, 586 (5th Cir.1991) (stating that bankruptcy courts "have both the statutory and inherent authority to deny attorneys and others the privilege of practicing before that bar"). "A court's inherent authority to impose sanctions is not displaced by sanctions schemes available

through statutes or court rules [*Chambers*, 501 U.S. at 46, 50]; rather, such inherent authority provides an independent basis for sanctioning bad-faith conduct in litigation[.] *First Bank of Marietta v. Hartford Underwriters Ins. Co.*, 307 F.3d 501, 518 n.14 (6th Cir. 2002)." *In re Royal Manor Mgmt., Inc.*, 652 F. App'x at 342.

II. The § 504 issue also remains a live controversy as a result of the Court's August 18 Order prohibiting UpRight Law from filing a Chapter 13 case that seeks a presumptive fee authorized by local rule.

On August 18, the Court issued the following order:

> The Court, on its own motion, directs that, pending further order of this Court, UpRight Law, LLC and any partner thereof is precluded from filing any Chapter 13 bankruptcy case providing for the payment of the Presumptive Fee provided by E.D. Tenn. LBR 2016-1(a) and may only file cases that provide for payment of the Lodestar Fee as provided by E.D. Tenn. LBR 2016-1(b).

[Doc. 86.] UpRight Law argues that the August 18 Order does not reference or tie resolution of the issues to § 504, even asserting in its Reply, "[n]or is there any logical connection between the two." [Doc. 151 at 13-14.] UpRight Law asserts that the order "relating to a prohibition of the Presumptive Fee relates to the reasonableness of fees under 11 U.S.C. § 330, not § 504" and cites to *In re Beale*, 553 B.R. 69, 83 (Bankr. E.D. Va. 2016), in which the bankruptcy court rejected an attorney's argument that the court was required to articulate a specific standard for suspension of the application of that court's "no-look fee." Notwithstanding that it does not appear that any sort of § 504 argument was raised in the *Beale* case, what another court intended by an order prohibiting the filing of an application for a "no-look fee" is of no moment here.

Instead, what matters is what *this Court* intended, and this Court's intention is easily gleaned from the transcript of the August 17 hearing at which the Court first raised the possibility of such an order:

> One thing I wanted to address with you, Mr. Chern, is my inclination to enter an order now that, pending further order of the court, precludes UpRight Law or its partners from filing Chapter 13s and seeking the base fee such that any 13s filed by

> UpRight Law partners going forward would have to have a lodestar fee. I'm inclined until we get this resolved that no base fee is going to be paid, but UpRight Law can still represent debtors. I don't see how I have anything but the utmost discretion to do that. It's a Local Rule that allows it, to begin with, given all the problems and *my concerns about what I'm reading in the partnership agreements*. I think it also will cause this case to move forward more quickly if I decline to allow a base fee to UpRight Law until this is resolved.
>
> . . . .
>
> My primary concern is not the stuff in the motion for sanctions. My primary concern is the partnership agreement . . . .
>
> . . . .
>
> In the . . . *Wright* case, the distribution . . . percentage was [52.5] percent that UpRight Law in Chicago retains and the local lawyer gets none of in these base-fee cases, notwithstanding that there's lots of prepetition work that the local lawyer's doing. That, that issue is, *what I'm concerned about, is whether that is nothing more, very little more than . . . a fee for referral . . .* – that you get to keep 52 percent when the local lawyer is doing all this work. . . . *But until this is resolved, I don't think that the base fee should be applied to UpRight Law cases where, where I have such a concern about whether this is an appropriate arrangement.*

[Tr. of Aug. 17, 2016 Hr'g (Doc. 105) at 51-55 (emphasis added).] After this exchange, Mr. Chern launched into a lengthy argument about the structure of his partnership arrangement in an attempt to convince the Court that the partnership arrangement is not violative of § 504. Thus, the Court finds surprising UpRight Law's argument now that there is "no logical connection" between the Court's August 18 Order and the § 504 issue. In any event, the Court has determined that the August 18 Order alone establishes that the § 504 issue is not moot.[4]

[4] Because the Court has determined that the § 504 issue was expressly reserved for the Court to impose further sanctions as authorized under § 105(a) if it ultimately determines that UpRight Law violated § 504, the Court need not reach the arguments by the Chapter 13 Trustee and the United States Trustee that the issue is capable of repetition yet evading review or that the voluntary cessation doctrine applies. The Court, however, notes that UpRight Law is incorrect in its assertion that the exception to mootness created by an issue that is capable of repetition yet evading review is available only on appeal. *See U.S. v. Iverson*, No. 14-CR-197-LJV, 2016 WL 6143195 (W.D.N.Y. Oct. 21, 2016) (in which the district court determined that the issue before it was not moot because it was capable of repetition yet evading review). The Court also notes that the § 504 issue here is a matter of public concern. *See id.* at *1 ("Additionally, '[i]n analyzing whether a matter is capable of repetition yet evading review, courts have considered whether the conflict at issue in the case is a matter of public concern that ought, in the public interest, be decided.'").

THE COURT REQUIRES EVIDENCE CONCERNING THE VARIOUS ISSUES RAISED BY THE ORDERS TO SHOW CAUSE AND THE CHAPTER 13 TRUSTEE'S SANCTION MOTION.

UpRight Law argues that "[i]n addition to mootness, the current procedural posture is not conducive to a proper review of the issue." [Doc. 144 at 4.] The essence of this argument appears to be that the Court should accept as true UpRight Law's assertion that it acted in good faith. [*Id.* at 4-5.] The Court will not prejudge the factual issues without an evidentiary hearing, and such hearing needs to address, *inter alia*, the actual operations of UpRight Law in this district in comparison and contrast to the theoretical business model "approved" by the professional responsibility counsel hired by UpRight Law.

The remainder of arguments raised by UpRight Law and the Chapter 13 Trustee in their briefing directed by the Court on the mootness issue concern the proper scope of such an evidentiary hearing. The Court will not address those arguments in detail at this time, except for the arguments by UpRight Law that the Court lacks jurisdiction to hear the Chapter 13 Trustee's Sanction Motion.

UpRight Law couches the Chapter 13 Trustee's Sanction Motion as "omnibus attorney disciplinary proceedings."[5] [Doc. 144 at 2.] In so doing, UpRight Law argues that bankruptcy courts do not possess the power to sanction attorneys by suspension or disbarment. [*Id.* at 7 (citing *Riser v. Bostic (In re Riser)*, 58 F. App'x 169, 171 (6th Cir. 2003).] The unpublished case cited by UpRight Law, however, is inapposite because it was founded upon a local rule in the bankruptcy court for the Southern District of Ohio that expressly restricts the bankruptcy court's power under § 105 to discipline attorneys to require a recommendation by the bankruptcy court

[5] The Court disagrees with this characterization. In any event, the Chapter 13 Trustee's suggestion of remedies does not dictate the options available to the Court, which as explained above, include a panoply of sanctions available under § 105(a) and related jurisprudence, including United States Supreme Court precedent.

to the district court. The local rules for this District and this Bankruptcy Court do not so restrict this Court's authority under § 105. This District Court's rule, E.D. Tenn. LR 83.7, is silent as to disciplinary proceedings before the Bankruptcy Court, and it in no way restricts the Bankruptcy Court's authority under § 105(a).[6]

Nor is this proceeding affected by the existence of a District Court local rule concerning attorney discipline to be imposed by the district and magistrate judges. First, the Local Rules for the Bankruptcy and District Courts reflect cross references when intended. For example, this Court's Local Rule 2090-1 references the District Court's Local Rule 83.5 concerning attorney admission to practice. Similarly, the District Court's Local Rule 83.1(d) expressly references bankruptcy judges' authorization of use of photography or recording in the courthouse. Had it been the intention to do so, the Bankruptcy Court could have adopted a local rule similar to that in the Southern District of Ohio, or the District Court could have made clear that its Local Rule 83.7 was intended to restrict bankruptcy judges' authority to suspend or disbar attorneys appearing before the Bankruptcy Court. This analysis is not altered by the fact that disciplinary proceedings before the District Court were initiated under the District Court's Local Rule 83.7(b) by the United States Trustee's motion to the Chief Judge of the District Court in *In re Cowan*, 620 F. Supp. 2d 867 (E.D. Tenn. 2009).

UpRight Law next argues that the Chapter 13 Trustee's "omnibus disciplinary proceedings" are "non-core proceedings in that the rights protected thereby do not derive from the Bankruptcy Code, but from state law." [Doc. 144 at 8.] UpRight Law misses the point that the Chapter 13 Trustee's Sanction Motion is predicated in part on an alleged violation of § 504,

[6] Indeed, the District Court's Local Rule 83.7 expressly provides, "Nothing in this rule shall be construed as limiting in any way the exercise by the Court of its inherent contempt power or its authority to impose other sanctions provided under federal law and the Federal Rules of Civil or Criminal Procedure."

which is not moot and which is very clearly core under 28 U.S.C. § 157. That a review of UpRight Law's business model in theory and practice might require a review of state ethics rules or application of other state law does not remove the issue from this Court's core jurisdiction.

The Fourth Circuit recently rejected a similar argument in a case in which the attorney "contend[ed] that the bankruptcy court lack[ed] authority to suspend the bar privileges of attorneys who practice[d] in that court, claiming that only the district court ha[d] such authority." *Williams v. Lynch (In re Lewis),* 611 F. App'x 134, 136 (4th Cir. 2015). After first acknowledging the bankruptcy court's authority under § 105 ("This inherent power includes the power to suspend or disbar attorneys from practicing before the court." (citing *In re Snyder*, 472 U.S. 634, 643 (1985))), the *Lewis* court noted:

> The basis upon which the bankruptcy court imposed sanctions was Lewis' violation of bankruptcy law and procedures and his misconduct in the bankruptcy court. The bankruptcy court clearly had jurisdiction over this matter based on the fact that Lewis voluntarily presented himself in the bankruptcy court as an attorney and officer of the court, and because, unlike the counterclaim in *Stern*, the bases upon which the sanctions were imposed arose from, and were dependent upon, the bankruptcy proceeding.

Id. at 137.

Accordingly, this Court concludes that the issues raised by the Pending Matters are core and are within this Court's jurisdiction to decide.[7]

ORDER

For the reasons stated herein, the Court directs the following:

I. The mootness issue raised by UpRight Law is without merit.

[7] If the Court is incorrect, then the district court on appeal may simply review *de novo* this Court's eventual ruling. *See Executive Benefits Ins. Agency v. Arkison*, 134 S. Ct. 2165 (2014).

II. Having disposed of the preliminary issue of mootness, an evidentiary hearing shall be required to resolve the following issues:[8]

A. Section 504 and Rule 2016(b) (raised by the Court, the Chapter 13 Trustee, and the United States Trustee):

1. May Attorney Gardiner and UpRight Law share compensation or reimbursement under § 504?

a. Do Attorney Gardiner or other similarly situated local Tennessee attorneys qualify as "member[s], partner[s], or regular associate[s]" of UpRight Law under § 504(b)(1)?

b. Is UpRight Law a "professional association, corporation, or partnership" under § 504(b)(1)?

i. Measured by the Tennessee Rules of Professional Conduct, applicable Tennessee statutes, and/or the Local Rules of the United States Bankruptcy Court for the Eastern District of Tennessee, is UpRight Law authorized to practice law in Tennessee courts or before the Eastern District of Tennessee bankruptcy courts according to its business/practice model?

ii. Measured by the Tennessee Rules of Professional Conduct, applicable Tennessee statutes, and/or the Local Rules of the United States Bankruptcy Court for the Eastern District of Tennessee, is UpRight Law authorized to practice law in Tennessee courts or before the Eastern District of

[8] The Court notes that the United States Trustee filed, in the *Wright* and *Haynes* cases, Motions for an Order (I) Voiding Retainer Agreement and Purported Retainer Agreement, (II) Enjoining Violations of 11 U.S.C. § 526, (III) Imposing a Civil Penalty, and (IV) Imposing Sanctions Pursuant to 11 U.S.C. § 105 and the Court's Inherent Authority (collectively "the § 526 Motions") [*Wright* Doc. 153, *Haynes* Doc. 154], which were set for initial hearing on January 11, 2017, and January 26, 2017, respectively. The Court intends to consolidate these new motions with the other Pending Matters and determine a pre-trial and trial schedule for the combined issues at the January 11, 2017 hearing scheduled herein.

Tennessee bankruptcy courts in its *de facto* operations, as evidenced by its "partnership agreements" with Attorney Gardiner and other local Tennessee attorneys, its retainer agreements with debtors in this Bankruptcy Court, and the facts of Attorney Gardiner's and UpRight Law's representation of clients before this Court?

2. Do the Rule 2016(b) disclosures filed by Attorney Gardiner and UpRight Law violate Federal Rule of Bankruptcy Procedure 2016(b)?

3. If Attorney Gardiner and UpRight Law may not share compensation or reimbursement under § 504 and/or if they violated Rule 2016(b) in these cases, what sanctions are appropriate?

B. Unauthorized Practice of Law (raised by the Chapter 13 Trustee and the United States Trustee):

1. If UpRight Law is entitled to share compensation or reimbursement with local Tennessee attorneys under § 504(b), does the provision of legal services by the firm's out-of-state, non-Tennessee-licensed attorneys constitute the unauthorized practice of law in Tennessee? If so, what sanction is appropriate in this Court?

2. If UpRight Law is entitled to share compensation or reimbursement with local Tennessee attorneys under § 504(b), did the communications between Debtors and Attorney Gardiner's local staff constitute the unauthorized practice of law in Tennessee? If so, what sanction is appropriate in this Court?

C. Quality of Representation (raised by the Court and the Chapter 13 Trustee): In light of the quality of legal representation provided to Debtors by Attorney Gardiner and UpRight Law, are sanctions appropriate under § 105?[9]

D. Rule 9011 Violations (raised by the Court and the United States Trustee): Did Attorney Gardiner and/or UpRight Law violate Federal Rule of Bankruptcy Procedure 9011(a) or (b), Local Rule 9011-4 (Nov. 1, 2012), and/or Section III.A. of the Administrative Procedures for Electronic Case Filing for the Eastern District of Tennessee (Oct. 27, 2008) by the following improprieties[10] such that the Court may impose sanctions under Federal Rule of Bankruptcy Procedure 9011(c), Section II.D.1. of the Administrative Procedures for Electronic Case Filing for the Eastern District of Tennessee (Oct. 27, 2008), and/or 11 U.S.C. § 105?

1. *Annette Harris Haynes*

As reflected in the original documents produced by Attorney Gardiner pursuant to the Production Order entered in Debtor Haynes's case [Doc. 43], the Court discovered the following deficiencies and/or inconsistences in the documents with original signatures:

[9] The Chapter 13 Trustee raised in her list of issues submitted at the September 28 status hearing the excessiveness of fees and whether UpRight Law and its local attorneys should be allowed "base fee" compensation. Because UpRight Law voluntarily disgorged all fees in these cases, any potential excessiveness issue is moot. With respect to any future cases, Local Rule 2016-1(b) governs any and all flat fee awards and the procedure for challenging the reasonableness thereof.

[10] The listing of the documents herein is intended only to provide notice to Attorney Gardiner and UpRight Law of the problems discovered by the Court upon review of original-signature documents provided under the Court's various Production Orders issued pursuant to Section III.A. of the Administrative Procedures for Electronic Case Filing for the United States Bankruptcy Court for the Eastern District of Tennessee, and in no way is such listing intended to restrict the Court's review of potential Rule 9011 issues to the documents listed.

a. page 6 of the Voluntary Petition [Doc. 1] purportedly dated February 12, 2016, includes the case number;[11]

b. the Verification of Creditor Matrix [Doc. 1] purportedly dated February 12, 2016, includes the case number;

c. the Declaration About an Individual Debtor's Schedules [Doc. 1] purportedly dated February 12, 2016, includes the case number;

d. page 6 of the Statement of Financial Affairs [Doc. 1] purportedly dated February 12, 2016, includes the case number;

e. the Social Security Number Statement [Doc. 3] purportedly dated February 12, 2016, includes the case number;[12]

f. the signed page 3 of Form 122C-1 Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period [Doc. 5] was not produced;

g. page 8 of Form 122C-2 Chapter 13 Calculation of Disposable Income [Doc. 5] purportedly dated February 12, 2016, includes the case number;

h. the signed Statement Regarding Payment Advices or Other Evidence of Payment [Doc. 7] was not produced;

i. the last page of the amended plan [Doc. 25] purportedly dated April 8, 2016, bears the Court's CM/ECF header/legend dated April 26, 2016; and

[11] The inclusion of the case number on case-initiating documents patently shows that the signature was obtained after filing (*i.e.*, when the case number is assigned). Likewise, the inclusion of the Court's CM/ECF header/legend on a document indicates that the signature was obtained after filing.

[12] Document 3 was filed at 1:57 p.m., immediately after the Voluntary Petition and attached documents were filed, also at 1:57 p.m. on February 12, 2016.

j. the last page of the amended plan [Doc. 29] purportedly dated April 29, 2016, bears the Court's CM/ECF header/legend dated April 29, 2016.

The only documents signed by Debtor Haynes and produced by Attorney Gardiner that did not appear to be problematic under Rule 9011 are the last page of the amended chapter 13 plan [Doc. 36] and the amended Declaration About an Individual Debtor's Schedules [Doc. 37], both of which were dated June 12, 2016, and filed on June 21, 2016.

2. *Clara Imogene Wright*

As reflected in the original documents produced by Attorney Gardiner pursuant to the Production Order entered in Debtor Wright's case [Doc. 43], the Court discovered the following deficiencies and/or inconsistences in the documents with original signatures:

a. page 6 of the Voluntary Petition [Doc. 1] purportedly dated March 23, 2016, bears the Court's CM/ECF header/legend;

b. the Verification of Creditor Matrix [Doc. 1] purportedly dated March 23, 2016, bears the Court's CM/ECF header/legend;

c. the Declaration About an Individual Debtor's Schedules [Doc. 1] purportedly dated March 23, 2016, bears the Court's CM/ECF header/legend;

d. page 8 of the Statement of Financial Affairs [Doc. 1] purportedly dated March 23, 2016, bears the Court's CM/ECF header/legend;

e. the Social Security Number Statement [Doc. 3] purportedly dated March 23, 2016, includes the case number;[13]

[13] Document 3 was filed at 4:00 p.m., immediately after the Voluntary Petition and attached documents were filed, also at 4:00 p.m. on March 23, 2016.

f. page 3 of Form 122C-1 Chapter 13 Statement of Current Income and Calculation of Commitment Period [Doc. 5] purportedly dated March 23, 2016, bears the Court's CM/ECF header/legend;

g. the Statement Regarding Payment Advices or Other Evidence of Payment [Doc. 7] purportedly dated March 23, 2016, bears the Court's CM/ECF header/legend;

h. the last page of the erroneously filed "amended" plan [Doc. 11] purportedly dated March 24, 2016, bears the Court's CM/ECF header/legend;[14]

i. the Amended Declaration Concerning Debtor's Schedules [Doc. 18] purportedly dated April 8, 2016, bears the Court's CM/ECF header/legend (and is the outdated form that expired November 30, 2015);

j. the signed page 3 of amended Form 122C-1 Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period [Doc. 37] filed June 2, 2016, was not produced; and

k. the amended Declaration About an Individual Debtor's Schedules [Doc. 36] purportedly dated June 2, 2016, was provided in duplicate with different original signatures.

The only documents signed by Debtor Wright and produced by Attorney Gardiner that did not appear to be problematic under Rule 9011 are the amended Declaration About an Individual Debtor's Schedules [Doc. 51] and page 3 of Form 122C-

[14] Attorney Gardiner also provided a duplicate of the last page of the amended plan dated March 24, 2016, with an original signature but without the CM/ECF legend/heading.

1 Chapter 13 Statement of Current Income and Calculation of Commitment Period [Doc. 52], both of which are dated and were filed on July 8, 2016.

3. *Pamela Jo Hagstrom*

As reflected in the original documents produced by Attorney Gardiner pursuant to the Production Order entered in Debtor Hagstrom's case [Doc. 47], the Court discovered the following deficiencies and/or inconsistences in the documents with original signatures:

a. the last page of the plan dated April 6, 2016, that was produced appears not to have been filed with the Court and

b. the last page of the plan [Doc. 2] purportedly dated April 18, 2016, includes the case number.

The remaining documents signed by Debtor Hagstrom and produced by Attorney Gardiner do not appear to be problematic under Rule 9011.

4. *Willette Dawn Terrell*; Case No. 3:16-bk-30918-SHB[15]

As reflected in the original documents produced by Attorney Gardiner pursuant to the Production Order entered in Debtor W. Terrell's case [Doc. 54], the Court discovered the following deficiencies and/or inconsistences in the documents with original signatures:

a. page 6 of the Voluntary Petition [Doc. 1] purportedly dated March 16, 2016, bears the Court's CM/ECF header/legend dated March 23, 2016;

[15] This case is not included in the caption of this decision because the case was dismissed on June 9, 2016, and because Attorney Gardiner represented Debtor W. Terrell solely under the firm Gardiner & Associates. Because UpRight Law did not purport to represent Debtor W. Terrell, the Rule 9011 issues relating to this case do not involve UpRight Law. The hearing on the Pending Matters, however, will include evidence concerning this case with regard to potential sanctions against Attorney Gardiner in her individual capacity.

b. the Verification of Creditor Matrix [Doc. 1] purportedly dated March 16, 2016, bears the Court's CM/ECF header/legend dated March 23, 2016;

c. the Declaration About an Individual Debtor's Schedules [Doc. 1] purportedly dated March 16, 2016, bears the Court's CM/ECF header/legend dated March 23, 2016;

d. the signed page 7 of the Statement of Financial Affairs [Doc. 1] was not produced;

e. the last page of the plan [Doc. 2] purportedly dated March 22, 2016, bears the Court's CM/ECF header/legend dated March 26, 2016, and appears to reflect that the original signature is on a copy of a page that had been two-hole punched at the top of the page;

f. the signed Social Security Number Statement [Doc. 4] was not produced;

g. the Amended Declaration Concerning Debtor's Schedules [Doc. 15] purportedly dated April 8, 2016, bears the Court's CM/ECF header/legend dated April 8, 2016, and appears to reflect that the original signature is on a copy of a page that had been two-hole punched at the top of the page;

h. the Amended Declaration Concerning Debtor's Schedules [Doc. 16] purportedly dated April 8, 2016, bears the Court's CM/ECF header/legend dated April 8, 2016, and appears to reflect that the original signature is on a copy of a page that had been two-hole punched at the top of the page;

i. the signed page 3 of Form 122C-1 Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period dated May 7, 2016, that was produced appears never to have been filed with the Court;

j. the signed page 3 of Form 122C-1 Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period dated July 8, 2016 [Doc. 45] was not produced; and

k. the signed Statement Regarding Payment Advices or Other Evidence of Payment [Doc. 47] was not produced.

The only document signed by Debtor W. Terrell and produced by Attorney Gardiner that did not appear to be problematic under Rule 9011 is the Amended Declaration Concerning Debtor's Schedules [Doc. 19] dated April 18, 2016; however, it was filed using the outdated form that expired November 30, 2015.

5. *Tymira Jame'a Terrell*; Case No. 3:16-bk-30919-SHB[16]

As reflected in the original documents produced by Attorney Gardiner pursuant to the Production Order entered in Debtor T. Terrell's case [Doc. 44], the Court discovered the following deficiencies and/or inconsistences in the documents with original signatures:

a. page 6 of the Voluntary Petition [Doc. 1] purportedly dated March 16, 2016, bears the Court's CM/ECF header/legend dated March 23, 2016;

[16] This case is not included in the caption of this decision because the case was dismissed on September 14, 2016, and because Attorney Gardiner represented Debtor T. Terrell solely under the firm Gardiner & Associates. Because UpRight Law did not purport to represent Debtor T. Terrell, the Rule 9011 issues relating to this case do not involve UpRight Law. The hearing on the Pending Matters, however, will include evidence concerning this case with regard to potential sanctions against Attorney Gardiner in her individual capacity.

b. the Verification of Creditor Matrix [Doc. 1] purportedly dated March 16, 2016, bears the Court's CM/ECF header/legend dated March 23, 2016;

c. the signed Declaration About an Individual Debtor's Schedules [Doc. 1] was not produced;

d. page 7 of the Statement of Financial Affairs [Doc. 1] purportedly dated March 16, 2016, bears the Court's CM/ECF header/legend dated March 23, 2016;

e. the last page of the plan [Doc. 2] purportedly dated March 22, 2016, bears the Court's CM/ECF header/legend March 23, 2016;

f. the signed Social Security Number Statement [Doc. 4] was not produced;

g. the Statement Regarding Payment Advices and Other Evidence of Payment [Doc. 6] purportedly dated March 16, 2016, bears the Court's CM/ECF header/legend dated March 23, 2016;

h. page 3 of Form 122C-1 Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period [Doc. 8] purportedly dated March 16, 2016, bears the Court's CM/ECF header/legend dated March 23, 2016;

i. the Amended Declaration Concerning Debtor's Schedules [Doc. 15] purportedly dated April 8, 2016, bears the Court's CM/ECF header/legend dated April 8, 2016, and appears to reflect that the original signature is on a copy of a page that had been two-hole punched at the top of the page;

j. the signed page 3 of a Form 122C-1 dated May 7, 2016, that was produced appears never to have been filed with the Court; and

k. the signed last page of a plan dated July 18, 2016, that was produced appears never to have been filed with the Court.

The only documents signed by Debtor T. Terrell and produced by Attorney Gardiner that did not appear to be problematic under Rule 9011 are the amended Declaration About an Individual Debtor's Schedules dated May 17, 2016, and filed on May 24, 2016 [Doc. 30], and the amended Declaration About an Individual Debtor's Schedules dated July 16, 2016, and filed on July 19, 2016 [Doc. 57]. Each was filed with an original signature reflected on the document.

E. Section 526 Violations (raised by the United States Trustee): Did Attorney Gardiner and UpRight Law violate the provisions of § 526(a) such that (A) the retainer agreements with Debtors should be voided under § 526(c)(1); (B) Attorney Gardiner and UpRight Law should be enjoined from further violations of § 526 pursuant to § 526(C)(5)(A); (C) the Court should impose a civil penalty against Attorney Gardiner and UpRight Law under § 526(c)(5)(B); and/or (D) Attorney Gardiner and UpRight Law should be sanctioned under 11 U.S.C. § 105?

III. A scheduling conference for the evidentiary hearing on the Pending Matters and the § 526 Motions filed by the United States Trustee shall be held on Wednesday, January 11, 2017, at 9:00 a.m., in Bankruptcy Courtroom 1-C, First Floor, Howard H. Baker, Jr. United States Courthouse, 800 Market Street, Knoxville, Tennessee.

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