

Charles M. Walker  
U.S. Bankruptcy Judge  
Dated: 7/2/2019



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

IN RE:	)	
	)	Case No: 3:19-bk-01810
GAYLE H. BAGSBY,	)	Chapter 13
	)	
Debtor.	)	
_____	)	
	)	Case No: 3:16-bk-08631
GAYLE H. BAGSBY,	)	Chapter 13
	)	
Debtor.	)	
_____	)	
	)	Case No: 3:18-bk-01762
GAYLE H. BAGSBY,	)	Chapter 13
	)	
Debtor.	)	
_____	)	

**ORDER GRANTING MOTION DISMISS,  
DENYING REQUEST TO VOLUNTARILY DISMISS,  
AND GRANTING MOTION TO IMPOSE SANCTIONS**

THIS MATTER came before the Court<sup>1</sup> on May 1, 2019 on the Trustee’s Motion to Dismiss (ECF No. 10)<sup>2</sup>, the Trustee’s Motion for Sanctions Against the Debtor and the Debtor’s Administratrix (ECF No. 11), the Motion to Voluntarily Dismiss Chapter 13 Case for Debtor

<sup>1</sup> 3:19-bk-01810 came before Judge Charles M. Walker when he sat for the collective Chapter 13 docket. In order to adjudicate all matters before the Court, 3:16-bk-08631 and 3:18-bk-01762 were reopened and the three cases were transferred to Judge Walker.

<sup>2</sup> All “ECF” designations refer to 3:19-bk-01810, unless otherwise noted.

(ECF No. 19), and the Court’s Order Scheduling Rule to Show Cause, Requiring Appearances, and Referring the Matter to the U.S. Trustee for Investigation (ECF No. 21).<sup>3</sup>

### SUMMARY

On April 8, 2011, the Chancery Court for Williamson County, Tennessee, issued Letters of Administration appointing Elizabeth Bagsby (aka Elizabeth Pace Bagsby Dish, Elizabeth Dish) (referred to here as “Elizabeth”) as Administratrix of Sharon Gayle Bagsby (“Gayle”), a deceased person. (ECF No. 1, p.9). Since that time, Elizabeth caused to be filed five bankruptcy petitions in Gayle’s name seeking relief under Chapter 13.<sup>4</sup>

The first two cases were filed in 2016 and 2018<sup>5</sup> by attorney E. Covington Johnston (“Mr. Johnston”). Both cases were filed with bare-bones<sup>6</sup> petitions for relief and contained a conformed signature<sup>7</sup> for Gayle. No plan or schedules were ever filed in the cases, and they were dismissed prior to confirmation – the 2016 case on the Trustee’s motion for failure to file schedules and plan, and the 2018 case voluntarily by the Debtor.

The last three cases were all filed *pro se* in Gayle’s name with the petition signed as follows: “Gayle Bagsby by Elizabeth Bagsby, Administratrix.” The first two of these cases<sup>8</sup> were dismissed on the Trustee’s motion for failure to file schedules and a plan. The third case is the present case, before this Court on the Trustee’s motions and the Debtor’s notice, as referenced above.

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<sup>3</sup> The Court *sua sponte* raised the issues regarding E. Covington Johnston’s actions in the first two bankruptcy cases filed in Sharon Gayle Bagsby’s name.

<sup>4</sup> 11 U.S.C. § 704; 11 U.S.C. § 101 *ff.* Any reference to “section” or “Chapter” is a reference to the Bankruptcy Code unless another reference is stated.

<sup>5</sup> 3:16-bk-08631 and 3:18-bk-01762.

<sup>6</sup> “Bare bones” filing is a term of art referring to a bankruptcy filing wherein only the petition for relief is filed.

<sup>7</sup> Electronic signature as follows: /s/ Gayle Bagsby.

<sup>8</sup> 3:18-bk-05563 and 3:19-bk-00910.

It is of grave concern to this Court that five bankruptcy petitions have been filed in this district on behalf of a deceased person. As there is no provision in the Code that provides for debt relief on behalf of a probate estate, and there are several provisions regarding a Debtor's intentions, good faith, disclosure, and duties, some of the issues raised by the filings include fraud and abuse on the part of the filer, serious questions regarding the representation of the attorney in the first two cases, and the immediate need to deter Elizabeth and Mr. Johnston from similar troublesome acts in the future.

### **EVIDENTIARY HEARING**

The Court held an evidentiary hearing wherein Elizabeth and Mr. Johnston appeared and testified, each on their own behalf. Mr. Johnston was represented by attorney Timothy Niarhos. Elizabeth appeared *pro se*. On the Court's inquiry, Mr. Niarhos agreed that no attorney-client privilege attached to Mr. Johnston's testimony as the Debtor's attorney because the Debtor, Gayle, was deceased at all relevant times. (Exhibit A. L142-154).<sup>9</sup>

The U.S. Trustee ("UST") and the Chapter 13 Trustee ("Trustee") examined Elizabeth and Mr. Johnston, as did Mr. Niarhos, with the Court also posing questions to both witnesses.

Entered into evidence were documents tendered by Mr. Niarhos – they are attached hereto as Exhibit B. The documents attached to the UST's Statement regarding Order to Show Cause (ECF No. 24) are of particular interest and relevance, and are attached hereto as Exhibit C.

### **PRE-BANKRUPTCY BACKGROUND**

Gayle died on February 28, 2006. She was survived by Elizabeth, her only child. Prior to Gayle's death, mother and daughter lived together at 708 Red Fox Court, Franklin, Tennessee

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<sup>9</sup> The transcript of the hearing is attached hereto as Exhibit A.

(the “Property”). Elizabeth continued to reside at that address after her mother’s death, and it remains her residence to this day. (Exhibit A. L507-533).

Five years after Gayle’s death, Elizabeth filed a petition in the Chancery Court for Williamson County, Tennessee seeking her appointment as administratrix of Gayle’s estate, and on April 8, 2011, the Order of Appointment was entered. As administratrix of the estate, Elizabeth filed an estate inventory (“Inventory”) and executed a sworn statement attesting that the following was a true and complete account of the assets of Gayle’s estate:

Bank of America Checking Account	\$ 510.00
1991 Pontiac Bonneville (approximate)	\$ 750.00
Furniture, appliances and household furnishings (approximate)	\$8,000.00

It appears that, based on these filings, an Order to Close Estate Without Detailed Accounting was entered on October 13, 2011. *See* Exhibit C.

**MR. JOHNSTON**

The First Case

Elizabeth consulted with Mr. Johnston sometime in 2016 and hired him to file a bankruptcy case on the eve of a foreclosure proceeding concerning the Property. (Exhibit A. L1069-1073). She paid him \$1,500, plus the \$310 filing fee. (Exhibit A. L1126-1131). She did not provide the required information to prepare the schedules and statements. (Exhibit A. L1071-1073). He then filed the first case in Gayle’s name, aka Sharon Gayle Bagsby, by affixing her electronic signature to the petition, as well as his own.<sup>10</sup> He attached to the petition

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<sup>10</sup> 3:16-bk-08631.

a mailing matrix that included Gayle as a notice recipient at the Property address. He did not file any statements or schedules, nor did he file Form 2030 disclosing any compensation he received.

Although he testified that he thought he was filing the petition in the name of Gayle's probate estate (Exhibit A. L1056-1057), he did not attach any documentation to that effect. (3:18-bk-01762 at ECF No. 1). He also filed on that same day Official Form 121, again with Gayle's electronic signature affixed, attesting to her Social Security number. (*Id.* at ECF No. 2). Two months later, an order was entered dismissing the case on the Trustee's motion for failure to file required documents. FED. R. BANKR. P. 1007.

### The Second Case

The second Chapter 13 petition was filed in Gayle's name on March 14, 2018<sup>11</sup> to stop another foreclosure attempt on the Property. (Exhibit A. L1136-1138). Again, the petition was electronically signed by Mr. Johnston on behalf of Gayle. He did, however, include "Estate of Gayle H. Bagsby" as an also-known-as designation. Again, he filed no statements, schedules, or Form 2030.<sup>12</sup> A credit counseling certificate was obtained in Elizabeth's name, not in Gayle's name as the Debtor, and was filed by Mr. Johnston.

Although Elizabeth did not provide the information necessary to prepare statements and schedules, Mr. Johnston prepared a proposed plan. Nine days after filing the petition, Mr. Johnston filed the plan on behalf of Gayle which professed that she would make a monthly payment of \$2,230 to the Trustee for a period of 60 months. The plan provided for payment to Deutsche Bank for the first mortgage, with an arrearage of \$45,000. It also provided for payment of attorney fees in the amount of \$2,810 prior to any payment made on the mortgage

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<sup>11</sup> 3:18-bk-01762.

<sup>12</sup> Disclosure of Compensation of Attorney for Debtor.

arrears. The plan contained Mr. Johnston's signature as attorney for the debtor, and no signature for the debtor. In response to the Trustee's motion to dismiss,<sup>13</sup> Mr. Johnston filed a motion to voluntarily dismiss the case, and an order was entered dismissing the case the next day. LBR 1017-2(d).

### Discussion

The record and Mr. Johnston's testimony at the evidentiary hearing constitute the circumstances by which the Court will make its determinations – and those circumstances are tremendously disturbing.

Mr. Johnston testified that he didn't know a probate estate was not eligible for relief under Title 11, that he thought he was filing both cases on behalf of Gayle's probate estate, and that he did no research and conducted no due diligence in either case. His actions as Debtor's counsel were tremendously distressing, and his testimony cast a dark shadow on his veracity, as well as his competence as an attorney. Not only did these statements do nothing to quell the Court's already grave concerns, but his answers were so alarming that they raised serious questions as to his motivations and competence.

Looking at the facts and his testimony, we start off with the first petition for relief under Chapter 13 filed in Gayle's name 10 years after her death. Although Mr. Johnston insisted that he thought he was filing on behalf of the probate estate, the petition was signed and filed by Mr. Johnston as attorney for Gayle, the debtor. Nowhere in any of the filings is there any indication that Gayle was deceased at the time of filing, that a probate estate even existed, or that the case

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<sup>13</sup> Basis for the motion was the Debtor's failure to file schedules, statement of financial affairs, Form 22C, and a certificate of credit counseling in the Debtor's name.

was filed on behalf of her probate estate. Nowhere is there any indication that someone else besides Gayle authorized the petition or signed it.

Mr. Johnston affixed Gayle's electronic signature to the petition and the Social Security statement. Although he testified that he did so because he did not know how to upload the wet signature of Elizabeth, this contradicts his actions in that the plan filed in the second case contains his wet signature as Debtor's attorney.

The facts and Mr. Johnston's testimony answer few questions, and raise many:

1. If Mr. Johnston truly believed he was filing a petition for relief on behalf of the probate estate, why didn't he have Elizabeth sign the petition as the estate's administratrix?
2. Why was Gayle listed on the mailing matrix as a notice recipient five years after her death?
3. How did Mr. Johnston plan on conducting the meeting of creditors?
4. What tax returns and pay advices would be submitted to support income sufficient to fund a plan?
5. Whose income would fund the plan – the probate estate with less than \$10,000 in assets and none that generate income? It obviously couldn't come from Gayle. So what entity or individual would fund a Chapter 13 plan?
6. How did Mr. Johnston draft a plan in the second case without any documentation providing the necessary and required information?

And the deeper questions regarding Mr. Johnston's competence to practice in this Court:

7. How does Mr. Johnston determine his client's eligibility for relief under the Code? Is eligibility ascertained at the front end – prior to filing a petition for relief, or at the back end – when a Trustee or party-in-interest files a Motion to Dismiss?

8. If he, in fact, had doubts as to Gayle's eligibility as a Debtor, why didn't Mr. Johnston consult with another bankruptcy attorney, or one of the attorney's associated with his firm specializing in probate law?

9. Why, if he was uncertain regarding Debtor's eligibility, would he file a second case under the same circumstances?

10. How could Mr. Johnson, an attorney with decades of experience, truly believe Gayle was eligible for relief under the Code?

Primarily, pure logic excludes Gayle and her estate from eligibility for several reasons. First, because the central purpose of the Code is to give debtors a fresh start, unburdened in future endeavors by old debts. *Spencer v. Bogdanovich (In re Bogdanovich)*, 292 F. 3d 104, 107 (2d Cir. 2002). Gayle would never obtain a fresh start or pursue future endeavors. Death has already unburdened her from the trials and tribulations of life, including personal liabilities. Therefore, the policy of the Code would not be furthered by a decedent as debtor. *See In re Jarrett*, 19 B.R. 413, 414 (Bankr. M.D.N.C. 1982); *cf. In re Estate of Hiller*, 240 F. Supp. 504, 504 (N.D. Cal. 1965) (interpreting 1898 Bankruptcy Act); *Adams v. Terrell*, 4 F. 796, 801 (W.D. Tex. 1880) (in the case of an insolvent decedent's estate, "death has already discharged [the decedent] of all personal liability").

Additionally, beyond the requirements of verifying the schedules and statements provided as part of the petition for relief, Gayle and/or her estate could not provide required information such as tax returns and pay advices to the Trustee. These are essential in advance of the meeting of creditors, which brings us to another logical reason Gayle and her estate could not be debtors: the inability to appear and be subject to examination pursuant to § 341. And lastly,

neither Gayle nor her estate could fund a plan because Gayle had no income and the estate had no ability to generate income.

Let's not forget, at the time of filing the first case, Mr. Johnston had been practicing in the bankruptcy court for 37 years and had filed in excess of 1,000 cases on behalf of consumer debtors. He also confirmed that his firm – consisting of three attorneys – included probate matters in their practice. Therefore, it is not unreasonable to charge Mr. Johnston with the knowledge that Tennessee, like all other states, has instituted its own probate system to deal with the assets and liabilities of decedents, and that the bankruptcy system particularly excluded probate estates in light of the state system, despite his testimony to the contrary. (Exhibit A. L1143-1147).

All of the circumstances, the statute, and good old fashion logic compel the conclusion that Mr. Johnston did not believe he *could* file a Chapter 13 case on behalf of Gayle or her probate estate, or that he even *did* file for Gayle or her probate estate. The facts do not support a conclusion that Mr. Johnston could have possibly thought that – in a stretch that boggles the mind – Gayle or her probate estate were eligible for relief and would perform under Chapter 13. No, Mr. Johnston filed the Chapter 13 in Gayle's name at Elizabeth's request, and after accepting payment of attorney fees and court costs – a fact he failed to disclose – with the sole intention of delaying the foreclosure. To aggravate matters, he did it TWICE.

#### Standard of Representation

Attorneys representing parties and appearing in this Court are held to the canons of the ABA Model Rules of Professional Conduct and the Tennessee Rules of Professional Conduct, as well as the Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules of this Court. It is the duty of this Court to implement those rules and provisions to ensure parties are receiving

competent representation when navigating the bankruptcy system. *In re Moncier*, 550 F.Supp.2d 768 (E.D. Tenn. 2008); *see also Wolters Kluwer Fin. Servs. v. Scivantage*, 525 F.Supp.2d 448, 449-50 (S.D.N.Y. 2007). This Court is only as good as its standards, and those standards are the business of this Court. The obligation is one I take to heart and I intend to shine a very bright light on circumstances that indicate an attorney is providing representation that is not in line with the expectations, requirements, and standards of this Court.

The ABA Model Rules of Professional Conduct (“MPRC”) lay the foundation by which Courts determine the standard of practice implemented in their jurisdiction.<sup>14</sup> The MPRC are mirrored in the Tennessee Rules of Professional Conduct,<sup>15</sup> and provide in relevant part:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.1 – COMPETENCE, MODEL RULES OF PROF’L CONDUCT 1.1.

As an attorney practicing in this Court, Mr. Johnston is also held to the Code and Federal Rules of Bankruptcy Procedure. Relevant here is § 707(b)(4)(C) and (D):

- (C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has--
- (i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and
  - (ii) determined that the petition, pleading, or written motion--
    - (I) is well grounded in fact; and
    - (II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

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[10] The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. *This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.*

PREAMBLE: A LAWYER’S RESPONSIBILITIES, MODEL RULES OF PROF’L CONDUCT § 10 (emphasis added).

<sup>15</sup> Tenn. Sup. Ct. R. 8, RPC 1.1.

(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

11 U.S.C.A. § 707(b)(4)(C) and (D) (West).

The fees paid to Mr. Johnston in the first two cases are subject to the reviewing powers of this Court and the requirements of § 329, as well as Rule 2016(b), respectively providing in relevant 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 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.

11 U.S.C.A. § 329 (West).

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**(b) Disclosure of compensation paid or promised to attorney for debtor**

Every 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 § 329 of the Code including whether the attorney has shared or agreed to share the compensation with any other entity. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for the sharing of the compensation with a member or regular associate of the attorney's law firm shall not be required. A supplemental statement shall be filed and transmitted to the United States trustee within 14 days after any payment or agreement not previously disclosed

FED. R. BANKR. P. 2016.

Significantly applicable here is Rule 9011:

**Rule 9011.** Signing of Papers; Representations to the Court; Sanctions; Verification and Copies of Papers

**(a) Signature**

Every petition, pleading, written motion, and other paper, except a list, schedule, or statement, or amendments thereto, shall be signed by at least one

attorney of record in the attorney's individual name. A party who is not represented by an attorney shall sign all papers. Each paper shall state the signer's address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

**(b) Representations to the court**

By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

**(c) Sanctions**

If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

FED. R. BANKR. P. 9011.

Mr. Johnston's violations begin with his filing of the 2016 petition and Official Form 121,<sup>16</sup> both with Gayle's electronic signature as the Debtor. Page 7 of the petition includes a statement signed by Mr. Johnston attesting that he informed the debtor about eligibility to proceed under Chapter 13. (ECF No. 1).

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<sup>16</sup> Official Form 121: Statement About Your Social Security Numbers.

Mr. Johnston affixed Gayle's electronic signature attesting to the information contained in the petition, and thereby, representing to the Court that Gayle, as the debtor, was informed as to the requirements and consequences of filing for relief under Chapter 13, and was able to perform the requirements for such relief.

Mr. Johnston's signature on the petition was a representation to the Court that the following were true and correct:

- 1) The information contained thereon was true and correct to the best of his knowledge.
- 2) He represented Gayle as the debtor in the case.
- 3) He provided the required disclosures to Gayle.
- 4) He conducted an inquiry to determine Gayle's eligibility for relief under Title 11 and particularly, Chapter 13.
- 5) He determined that Gayle was eligible for relief under Chapter 13.
- 6) Gayle signed the petition and Official Form 121.
- 7) The filings were in furtherance of a valid bankruptcy purpose and not merely to avoid foreclosure.

*See In re Bailey*, 321 B.R. 169, 183 (Bankr. E.D. Pa. 2005). All of these representations were false and in violation of Rule 9011.

Misrepresentations can also come in the form of omissions in disclosures. Here, Mr. Johnston failed to disclose the fees he received from Elizabeth in connection with the filing of the first two cases. (Exhibit A. L1126-1131 and 1201-1202, respectively). As the Code and Rules require an attorney to disclose whether or not the attorney intends to file a fee application, Mr. Johnston violated § 329 and Rule 2016(b) when he chose to retain the funds tendered by Elizabeth prior to filing those two cases without complying with the disclosure requirements.

Mr. Johnston's representations to this Court, both in the two bankruptcy petitions and in his testimony at the evidentiary hearing, demonstrate a lack of competence and candor as required by this Court. *See* Tenn. Sup. Ct. R. 8, RPC 1.1 and LBR 2090-2.

When Mr. Johnston filed the 2016 case, Gayle had been dead for 10 years, and Mr. Johnston had been practicing bankruptcy for 37 years. The math just doesn't add up to the ignorance that Mr. Johnston sought to convey from the stand.

Given that (1) Mr. Johnston made no inquiries and conducted no research before filing either bankruptcy case in Gayle's name, (2) there was no basis in existing law to support a reasonable possibility that a Chapter 13 case would be successful, and (3) the cases were filed for the express purpose of delaying foreclosure actions, Mr. Johnson's conduct was not reasonable under the circumstances. *See Mapother & Mapother, P.S.C. v. Cooper (In re Downs)*, 103 F.3d 472, 481 (6th Cir. 1996).

Therefore, Mr. Johnston's actions in these cases constitutes a violation of ABA Model Rules of Professional Conduct and the Tennessee Rules of Professional Conduct, as well as the Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules of this Court. These violations, particularly that of Rule 9011, amounts to abuse of the bankruptcy system and subject him to sanctions in accordance with those findings.

### **ELIZABETH BAGSBY**

Elizabeth is not a trustworthy person. She is not a law-abiding person. She is definitely not an honorable person. As her actions and testimony reflect, Elizabeth perpetrated a scheme to defraud the company holding the mortgage on her mother's house<sup>17</sup> ("Mortgagee") and stay in that house free of charge indefinitely following her mother's death. She purposefully

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<sup>17</sup> Deutsche Bank was the original Mortgagee. Carrington Mortgage is the Mortgagee via transfer.

misinformed two courts in her plot, obtaining orders from both through her deceit, and fraudulently obtained relief from both.

The Chancery Court for Williamson County, Tennessee appears to have been her first stop in advancing her illicit goal. There, she petitioned the court for appointment as administratrix of Gayle's estate five years after Gayle's death. As administratrix, Elizabeth filed the Inventory necessary to account for *all* of the assets of the estate. (Exhibit C). However, her failure to include the Property in the inventory resulted in no notice to the Mortgagee. Without notice, the Mortgagee could not protect its interests and file a claim against the estate.

Elizabeth then filed a Statement in Lieu of Final Accounting ("Statement") wherein she stated under oath that she notified all creditors of the Estate and all claims against the estate had been settled or paid. (Exhibit C). Based on the Statement, the Chancery Court entered an Order to Close Estate without Detailed Accounting which stated that the estate was solvent, no claims were filed against the estate, and all state inheritance tax obligations had been addressed, (Exhibit C).

Elizabeth testified that she then provided the Order to the Mortgagee numerous times, along with her request for a refinance of the Property into her name. She provided no documentation to support this assertion and could not explain why she did not account for the Property in the probate estate. Moreover, she could not state with any degree of certainty when she had last made a mortgage payment to the Mortgagee (Exhibit A. L914-946), but the jumbled facts from her testimony and the amount of the mortgage arrearage indicate that it could have been in 2014 but was more likely never.

Although Elizabeth stated she obtained a loan modification of the mortgage in the name of the Estate, she could not state when that was or any details of the agreement. She also

neglected to explain how the Estate obtained a loan modification when the Property was not listed as an asset of the Estate. Directly contradicting her testimony is the fact that the foreclosure notice that inspired the last case was in Gayle's name, not that of her estate. (Exhibit C). Moreover, if the loan modification was obtained to put the mortgage on the Property in the name of Gayle's probate estate, why did Elizabeth file for bankruptcy protection in Gayle's name to stop foreclosure proceedings?

The record reflects that Elizabeth met with Mr. Johnston to file the first two cases but failed to provide any required documentation or appear for the meeting of creditors in either case. After the first case was filed, Mr. Johnston sent her a letter stating that he was going to file a Voluntary Dismissal of the case because his research indicated that they could not proceed in the name of the Gayle H. Bagsby Estate. (Exhibit B).

Elizabeth did not heed Mr. Johnston's word that Gayle's estate could not proceed in a Chapter 13 bankruptcy, and instead filed three more cases in her mother's name to avoid foreclosure on the Property and remain there without making payments on the mortgage. She had no intention of complying with Code, beginning with filing a petition in her mother's name and continuing by failing to file statements and schedules, or appear for examination at the meeting of creditors or the 2004 examination ordered by this Court. This makes Elizabeth a serial filer acting in bad faith to abuse the bankruptcy system; and supports an imposition of sanctions against Elizabeth. *Cusano v. Klein (In re Cusano)*, 431 B.R. 726, 736 (B.A.P. 6th Cir. 2010) ("We cannot excuse a lack of good faith based upon a debtor's *pro se* status, particularly when the debtor was in fact represented by counsel or had retained counsel during the vast majority of his time in the bankruptcy court, but failed to follow counsel's advice."); *In re Grischkan*, 320 B.R. 654, 658 (Bankr. N.D. Ohio 2005) ("The key inquiry . . . is whether the

debtor is seeking to abuse the bankruptcy process.” *Alt v. United States, (In re Alt)*, 305 F.3d 413, 419 (6th Cir. 2002). ““Stated somewhat differently, a Chapter 13 case is illicit if its pendency is fundamentally unfair to creditors in a manner that contravenes the *spirit* of the Code.”” *Chase Manhattan Mortgage Corp. v. Rodriguez (In re Rodriguez)*, 248 B.R. 16, 19 (Bankr. D. Conn. 1999). *See also In re Herrera*, 194 B.R. 178 (Bankr. N.D. Ill. 1996).

Elizabeth’s testimony was rife with inconsistencies and untruths. For example, she testified that she did not receive notice of the Motion for 2004 Examination because of trouble with the U.S. Mail, but she did receive emails from the UST regarding the evidentiary hearing. If Elizabeth was in receipt of email transmissions, then as a *pro se* filer, she would receive notices regarding the bankruptcy cases she filed. Consequently, she would have received notice of the Motion for 2004 Examination and the Order requiring her appearance.

So, to review, Elizabeth petitioned the probate court for an Order based on her misrepresentation that the Property was not part of the probate estate, filed five bankruptcy petitions in her mother’s name, failed to comply with § 521<sup>18</sup> in any of the cases, did not appear for five § 341 meetings, ignored an order of this Court by failing to appear for a Rule 2004 examination, and offered testimony under oath that calls into question her truthfulness.

One of the challenges in determining the appropriate sanction for Elizabeth is the fact that she filed all of the cases in her mother’s name. To hide behind her deceased mother’s good name to advance her own immoral interests is a repugnant act of cowardice and offends this Court immeasurably. Unfortunately, the record is the record and Gayle’s name unfittingly remains on these five cases and the foreclosure actions of the Mortgagee thanks to her own daughter.

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<sup>18</sup> Section 521 is titled “Debtor’s duties” and sets forth the filing, disclosure, and appearance requirements of Debtors seeking relief under Title 11.

Fortunately, this Court possesses the power to punitively sanction Elizabeth for her abhorrent actions, and by doing so, deter her from further bad acts. *Cusano*, 431 B.R. at 737 (“Where there is sufficient cause, bankruptcy courts have the authority pursuant to 11 U.S.C. §§ 105(a) and 349(a) to prohibit bankruptcy filings in excess of 180 days.”). *See also Grischkan*, 320 B.R. at 660 (“Additionally, §§ 105(a) and 349(a) give the bankruptcy court authority to prohibit a debtor from making future bankruptcy filings. *See Casse v. Key Bank Nat’l Assoc. (In re Casse)*, 198 F.3d 327, 337–339 (2d Cir. 1999) (collecting cases which hold that bankruptcy courts derive the power from §§ 105(a) and 349(a), in an appropriate case, to prohibit a serial filer from filing petitions for periods of time exceeding 180 days.)”). *See also In re Price*, 304 B.R. 769, 773 (Bankr. N.D. Ohio 2004) (“*In rem* relief is used in serial filing situations because it will not be affected by subsequent bankruptcy filings by the debtor or third-party transferees.”), citing *In re Graham*, No. 98-11990DWS, 1998 WL 473051, at \*1 (Bankr. E.D. Pa. Aug. 3, 1998).

### **RULING**

Based on the foregoing findings, IT IS HEREBY ORDERED that, for his actions as Debtor’s attorney in the first two bankruptcy cases filed in the name of Gayle H. Bagsby, the Court imposes the following sanctions on Mr. Johnston:

1. E. Covington Johnston is suspended from filing any new bankruptcy cases for 90 days from the date of this Order.
2. E. Covington Johnston must complete 10 hours of ethics education within 90 days from the date of this order and provide certification of that completion to the U.S. Trustee.
3. E. Covington Johnston is to pay to the Chapter 13 Trustee \$374 representing the Trustee’s costs in administering the first two bankruptcy cases.

4. E. Covington Johnston must tender to the U.S. Trustee a cashier's check in the amount of \$2,190, representing the fees he was paid in the first two cases minus the filing fees paid to the Court. The cashier's check is to be made payable to The Legal Aid Society of Middle Tennessee and The Cumberlands.

5. E. Covington Johnston shall self-report his conduct in the two cases he filed in the name of Gayle Bagsby to the Tennessee Board of Professional Responsibility no later than August 1, 2019. He shall include in that report a copy of this Order and its Exhibits and provide proof of such submission to the U.S. Trustee.

IT IS FURTHER ORDERED that, based on the foregoing findings for her acts as a bad faith serial filer, and her abuse of the bankruptcy system, the Court imposes the following sanctions on Elizabeth (aka Elizabeth Pace Bagsby Dish, Elizabeth P. Bagsby, Elizabeth Dish):

6. Elizabeth Bagsby is barred from filing bankruptcy in her name for a period of five (5) years from the date of this Order.

7. All debts of Elizabeth Bagsby as of the date of this Order are deemed excepted from discharge under any Code provision.

8. Elizabeth Bagsby is to provide her Social Security number to the U.S. Trustee within five days of the entry of this Order.

9. Elizabeth Bagsby is to tender a cashier's check in the amount of \$1,000 to the U.S. Trustee. Such check is to be made payable to the Legal Aid Society of Middle Tennessee and The Cumberlands.

IT IS FURTHER ORDERED that:

10. The U.S. Trustee shall effectuate service upon Elizabeth Bagsby and E. Covington Johnston via personal service and file a certificate of that service in these cases.

11. Upon receipt pursuant to paragraph (7) above, the U.S. Trustee shall provide Elizabeth Bagsby's Social Security number to the Clerk of the Bankruptcy Court for the Middle District of Tennessee to impose the bar to refiling.

12. For the purpose of paragraph (5) above, the Clerk of the Court is directed to place Elizabeth Bagsby's Social Security number under seal for a period of five years and one day from the date of this Order, at which time it will be purged as appropriate.

13. Pursuant to paragraphs (4) and (8) above, upon receipt the U.S. Trustee shall forward those cashiers' checks to Legal Aid Society of Middle Tennessee and The Cumberlands.

14. The U.S. Trustee shall provide the requisite information to Elizabeth Bagsby to facilitate compliance with paragraphs (7) and (8).

15. The U.S. Trustee shall provide a copy of this Order to the Williamson County, Tennessee Chancery Court Clerk & Master.

16. The filing of a future bankruptcy petition by any individual or entity will not extend the protection of the automatic stay of 11 U.S.C. § 362(a) to the property located at 708 Red Fox Court, Franklin, Tennessee. Such *in rem* relief will be in full force and effect for a period of 360 days from the entry of this order.

17. The U.S. Trustee is to prosecute any failure on the part of the sanctioned parties to comply with any and all provisions of this Order.

IT IS FURTHER ORDERED that

18. The Trustee's Motion to Dismiss (ECF No. 10) is **GRANTED**.

19. The Trustee's Motion for Sanctions (ECF No. 11) as against Elizabeth Bagsby is **GRANTED**, with those sanctions as set forth in paragraphs (6) through (9), above.

20. The Motion to Voluntarily Dismiss (ECF No. 19) is **DENIED**.

21. These cases are hereby closed, and this Court retains jurisdiction for purposes of enforcing the provisions of this Order.

***THIS ORDER WAS SIGNED AND ENTERED ELECTRONICALLY AS  
INDICATED AT THE TOP OF THE FIRST PAGE.***

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE

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IN RE:

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Case No. 19-1810

GAYLE H. BAGSBY

DEBTOR

NASHVILLE, TENNESSEE  
May 15, 2019

\*\*\*\*\*

TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE CHARLES M. WALKER  
UNITED STATES BANKRUPTCY JUDGE

Elizabeth Pace Bagsby  
708 Red Fox Court  
Franklin, TN 37064  
Williamson County

Daughter to decedent: Gayle H. Bagsby

E. Covington Johnston  
Johnston & Street  
236 Public Square, Suite 103  
Franklin, TN 37064  
615-791-1819  
Fax: 615-791-1418  
[ecjohnston@johnstonandstreet.com](mailto:ecjohnston@johnstonandstreet.com)

Attorney representing Debtor in Case Number:  
3:16-bk-08631 and 3:18-bk-01792

Timothy Niarhos  
Niarhos & Waldron, PLC.  
1106 18<sup>th</sup> Avenue South  
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615-320-1101  
Fax: 615-320-1102  
[tim@niarhos.com](mailto:tim@niarhos.com)

Attorney representing E. Covington Johnston

Megan Seliber  
Office of the United States Trustee  
701 Broadway, Suite 318  
Nashville, TN 37203  
615-695-4060

Attorney for United States Trustee

48 Fax: 615-736-2260  
49 [megan.seliber@usdoj.gov](mailto:megan.seliber@usdoj.gov)  
50  
51 Henry Edward Hildebrand III  
52 Office of the Chapter 13 Trustee  
53 P.O. Box 340019  
54 Nashville, TN 37203-0019  
55 615-244-1101  
56 Fax: 615-242-3241  
57 [hhecf@ch13nsh.com](mailto:hhecf@ch13nsh.com)  
58  
59

60 \*\*\*\*\*

61  
62  
63 (Proceedings began at approximately 12:04 p.m.)  
64

65  
66 Hildebrand: And, Your Honor, that should simply, uh, leave the, uh, one  
67 case.

68  
69 Judge: OK, uhmm, Bagsby, let's go ahead and call that one. [Brief  
70 Pause.] Alright, I guess the question is who goes first since this is, uh, can I hear from the UST?

71  
72 Seliber: Megan Seliber on behalf of the U.S. Trustee. Uhm. Do you, are  
73 you, do you want me to start?

74  
75 Judge: Yes.  
76

77 Seliber: OK. Uhm. At the court's request, I filed a statement of the U.S.  
78 Trustee. Uhm. After I had already prepared the report and just before I'd filed it, I, uhm, talked  
79 to Ms. Elizabeth Bagsby, and, uhm, so [Inaudible] I added that to the end of the report. So, I, I  
80 was able to make contact yesterday. It was, it took quite some time and effort to locate her,  
81 uhm, but she, she called me back, and, uh, we have discussed the matter and she is now under  
82 the, she now understands that she cannot file bankruptcy on behalf of, uhm, a deceased person,  
83 her mother. Uhm. I also talked to Ms. Culp, uhm, earlier, uhm, she was representing the  
84 substitute trustee in this case. Uh. This property has been under, has been set for foreclosure  
85 seven times. Uhm. My understanding that there was a loan modification in 2013. Uhm. The  
86 deceased passed away in 2006. So, there was a loan modification that occurred after the  
87 deceased had passed that was in the name of the estate. Uhm. So, the loan and the property is  
88 still in the name of the deceased, uhm, Sharon Gayle Bagsby, and, uhm, the property, uh, the  
89 loan modification has not been current since 2014 according to the substitute trustee. Uhm.  
90 There's a \$89,000.00 default. The claim is for \$258,375.00, uhm, so, uhm, it, it appears that the,  
91 that, Elizabeth Bagsby has been trying to stop the foreclosure on her mother's home in which  
92 she and her husband now live. Uhm. I, I, the, the property never went through Probate, so, it  
93 never switched to her name. Uhm. It, it appears that she was having a lot of problems with her  
94 attorneys and getting the property, the property through probate. I don't exactly understand  
95 why it never went through probate, uhm, but it, it never did, and it is still in the estate's name.

96 Uh. At, at this point, I believe Elizabeth Bagsby, Ms. Bagsby, understands that she's cannot file  
97 bankruptcy any further. So, uhm, my recommendation is that she be barred which she's already  
98 not eligible to file on behalf of the estate and that any further filings, uh, result in a, an  
99 Attachment Order until she dismisses the case. I, I'm under, I believe that she won't file again,  
100 uhm, but she is present here today to...

101  
102 Judge: OK. Well,

103  
104 Seliber: ...talk to the court.

105  
106 Judge: I want, I want her to testify because based on what I have seen I  
107 am not so sure, and I'm very concerned about the fraud that has been perpetrated and I will use  
108 that term. Uh. The first two filings were clearly filed in the name of a deceased woman. Uh.  
109 Not in a representative capacity, uh, but in a deceased person who had been dead for years,  
110 and, uh, I've looked at the documents about the probate which conspicuously leave the  
111 property off the assets and to continually file bankruptcies. We're in bankruptcy number five  
112 Ms. Bagsby. Uhm. That's a problem. That's a huge problem for, uh, someone who's been dead,  
113 ah, for a number of years. Uh. So, I want to hear from you. I want you to testify today as to  
114 what, uh, what was your purpose in filing these multiple bankruptcies.

115  
116 Ms. Seliber: Would you take the stand please?

117  
118 CRD: Please remain standing. Raise your right hand. Do you  
119 solemnly swear and affirm that the testimony you are about to give is the truth, the whole truth  
120 and nothing but the whole trust so help you God?

121  
122 Ms. Bagsby: Yes.

123  
124 CRD: Please have a seat and state your full name for the record.

125  
126 Ms. Bagsby: Elizabeth [clears throat], excuse me, Elizabeth Pace Bagsby Dish.

127  
128 Ms. Seliber: Uhm. Are, are, are, you going by, the, your, by your maiden  
129 name Ms. Bagsby?

130  
131 Ms. Bagsby: I do, I do go by my maiden name, commonly. Yes.

132  
133 Ms. Seliber: OK, so would you prefer to be called Ms. Bagsby or Ms. Dish?

134  
135 Ms. Bagsby: Uhm. Ms. Bagsby please.

136  
137 Ms. Seliber: OK. Uhm. Ms. Bagsby, you filed this bankruptcy case, uhm, on,  
138 let me rephrase this. You, you first filed for bankruptcy in 2016, is that correct?

139  
140 Ms. Bagsby: Uhm. I believe so.

141  
142 Ms. Seliber: And, uhm, at that time, did you, were you filing bankruptcy on  
143 behalf of yourself or behalf of your deceased mother?

144  
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191

Ms. Bagsby: Uhm. Well, on behalf of my deceased mother because the property was held in her name.

Ms. Seliber: And why was the property in her name?

Ms. Bagsby: [Clears throat.] She was the original homeowner and she died intestate. Uhm. After her death we, uh, had an attorney prepare some paperwork that, uhm, Carrington Mortgage Services wouldn't accept as proof of my possession of the property so in 2011, I hired a different attorney who prepared letters of administration, uhm, on behalf of the estate.

Ms. Seliber: Uhm. Are, are you referring, at that time, to when you filed probate?

Ms. Bagsby: Uhm. Yes, because she died intestate. You know, there was no Will, uhm, so, it was quite, uh, more complicated process for me.

Ms. Seliber: And when you, you filed, uhm, for, administration of your mother's estate you did not list the 708 Red Fox Court, that property, right?

Ms. Bagsby: Evidently not, according to the paperwork.

Ms. Seliber: Were you aware that, that did you intend for that property to be included in the paperwork?

Ms. Bagsby: I would. Now that I understand what your question is, yes. I would of intended that. There was no intentional exclusion.

Ms. Seliber: Did you, did your attorney at the time, Mark Harkskum (sp), did you tell him about the, the property?

Ms. Bagsby: He was aware, yes.

Ms. Seliber: And your attorney past away recently.

Ms. Bagsby: Yes, in January of this year.

Ms. Seliber: Have you contacted the firm to try to remedy the situation?

Ms. Bagsby: Uhm. This firm, no.

Ms. Seliber: You haven't contacted the firm?

Ms. Bagsby: Not since I've heard he passed away.

Ms. Seliber: OK, when did you come to understand that the property was not included in the probate?

192  
193 Ms. Bagsby: As a result of these proceedings and the information you have  
194 shared today.  
195  
196 Ms. Seliber: But you did understand that the property was still in the name  
197 of your mother?  
198  
199 Ms. Bagsby: Well, the, the mortgage was held in the estate's name. Yes.  
200  
201 Ms. Seliber: OK, did you know that the, the warranty deed was in your  
202 mother's name too?  
203  
204 Ms. Bagsby: No, I don't believe I did.  
205  
206 Ms. Seliber: OK. Uhm. Since filing for probate in 2011, have you contacted  
207 an attorney about dealing with the outstanding mortgage?  
208  
209 Ms. Bagsby: Uhm. Yes, and there've been several, uh, filings or applications  
210 on my part to Carrington Mortgage Services for loan modifications or requests for, uhm,  
211 mortgage assistance.  
212  
213 Ms. Seliber: OK, why did you first file for bankruptcy on behalf of your  
214 mother's estate in 2016?  
215  
216 Ms. Bagsby: Uhm. Because I received a Notice of Intent to foreclose on the  
217 property after having, uh, submitted, a, a loan modification packet to the mortgage company.  
218  
219 Ms. Seliber: But you did, the estate did receive a loan modification in 2013,  
220 correct?  
221  
222 Ms. Bagsby: Yes, it did. Uhm. There, one time was an adjustable rate  
223 mortgage and it went to a fixed rate, that, that loan modification was accepted.  
224  
225 Ms. Seliber: And when did you become in default on the, the loan  
226 modification, or the new one, do you know?  
227  
228 Ms. Bagsby: No, I, I'm not able to answer that. I'm sorry.  
229  
230 Ms. Seliber: Does 2014 sound correct?  
231  
232 Ms. Bagsby: Uhm. I'm not sure. I know in 2014, my husband and I, uh,  
233 attempted to apply for a mortgage with State Farm and the process was unable to be completed  
234 because, uhm, they did not get paperwork timely from Carrington Mortgage Services.  
235  
236 Ms. Seliber: I'm sorry, just to clarify. You're saying you applied for a  
237 mortgage with State Farm Insurance?  
238  
239 Ms. Bagsby: To, yes, State Farm does mortgages, yes.

240  
241 Ms. Seliber: So, you were attempting to refinance?  
242  
243 Ms. Bagsby: I was attempting to refinance the home as I have done, uhm,  
244 several times most recently in fall 2018.  
245  
246 Ms. Seliber: You refinanced in 2018?  
247  
248 Ms. Bagsby: I attempted to.  
249  
250 Ms. Seliber: OK. And when you attempted to refinance it, were you  
251 refinancing it in the name of your mother or in your name?  
252  
253 Ms. Bagsby: No, I wanted to get the mortgage in my name and my husband's  
254 name because, uh, the current mortgage company has refused, on several occasions, to put the  
255 mortgage in my name.  
256  
257 Ms. Seliber: Did any of the mortgage companies tell you that the property  
258 was not in your name?  
259  
260 Ms. Bagsby: No.  
261  
262 Ms. Seliber: So, you filed for bankruptcy in 2016, correct?  
263  
264 Ms. Bagsby: Yes.  
265  
266 Ms. Seliber: And you, you filed that because you were in default...  
267  
268 Ms. Bagsby: Uhm...  
269  
270 Ms. Seliber: ...and Carrington Mortgage was attempting to foreclose?  
271  
272 Ms. Bagsby: Yes.  
273  
274 Ms. Seliber: And, how did you know that bankruptcy would assist you, or  
275 how did you think bankruptcy was going to assist you?  
276  
277 Ms. Bagsby: Uhm. At that time, I did speak to Mark Harksog (sp) and he  
278 informed me that, that was a likely option to help stop the foreclosure.  
279  
280 Ms. Seliber: OK, and at that point you contacted, uhm, an attorney?  
281  
282 Ms. Bagsby: Yes.  
283  
284 Ms. Seliber: And who did you contact?  
285  
286 Ms. Bagsby: Uhm. Covington Johnston.  
287

288 Ms. Seliber: And he filed, he, you, you discussed with him filing bankruptcy,  
289 uhm?  
290  
291 Ms. Bagsby: Yes.  
292  
293 Ms. Seliber: And how did you decide to file a Chapter 13?  
294  
295 Ms. Bagsby: Uhm. At his recommendation based on his professional beliefs.  
296  
297 Ms. Seliber: OK, uhm, and that case was, uh, that case was dismissed in,  
298 after a small period of time, right?  
299  
300 Ms. Bagsby: Uhm. Yes, to my knowledge it was.  
301  
302 Judge: And just for clarification, uh, that, that first case that Mr.  
303 Johnston filed was for Gayle H. Bagsby as the debtor not, uhm, Ms. Bagsby testifying today,  
304 Elizabeth Bagsby, correct?  
305  
306 [Inaudible]  
307  
308 Ms. Seliber: Uhm. Ms. Bagsby, why did you file in the name of Gayle H.  
309 Bagsby?  
310  
311 Ms. Bagsby: Uhm. Because she was the debtor and I had been declared  
312 Administratrix.  
313  
314 Ms. Seliber: You filed on behalf of, of your mother's estate, or in the name  
315 of Gayle Bagsby because the mortgage loan was in her name? Is that correct?  
316  
317 Ms. Bagsby: Yes, or it was in the estate's name.  
318  
319 Ms. Seliber: OK, why did you not file any schedules in that case?  
320  
321 Ms. Bagsby: Uhm. That was an error on my part to not to follow through in  
322 a timely manner.  
323  
324 Ms. Seliber: Why didn't you follow through?  
325  
326 Ms. Bagsby: I don't have a reason for not following through in that instance.  
327  
328 Ms. Seliber: Did you tell your attorney that you didn't want to pursue it  
329 anymore?  
330  
331 Ms. Bagsby: Uhm. No, I didn't, uh, I didn't communicate that with him.  
332  
333 Ms. Seliber: Did you have any contact with him after he filed the petition in  
334 your case?  
335

336 Ms. Bagsby: Uhm. We communicated, uh, via mail and, uh, possibly email.  
337  
338 Ms. Seliber: Did you discuss with him your desire not to pursue the case?  
339  
340 Ms. Bagsby: Uhm. We had initially discussed the possibility of withdrawing  
341 it. And again, it was my fault for not following up and following through in the deadline.  
342  
343 Ms. Seliber: And why did you discuss possibly withdrawing it?  
344  
345 Ms. Bagsby: Uhm. Because I had, uhm, [inaudible] reapplied for yet, uh,  
346 another, uh, request for mortgage assistance and, uhm, hoped that that would resolve the  
347 situation and Carrington would be willing to work with me.  
348  
349 Ms. Seliber: So, you were considering withdrawing it because you believed  
350 that you no longer needed the bankruptcy?  
351  
352 Ms. Bagsby: That's correct. I believed that I could resolve the situation and  
353 submitted the, the loan modification paperwork which I also did in, uhm, 2017, uhm, twice. And  
354 once more in late November 2018. I have a current, uhm, letter from Carrington dated April 23,  
355 of this year, uhm, in which they, once again, ask for, uhm, much of the same paperwork I have  
356 provided, uhm, numerous times, uh, but this is a, a different piece of paperwork that, uh, says  
357 I'm being considered as a potential successor-in-interest.  
358  
359 Ms. Seliber: Have you sent them that information?  
360  
361 Ms. Bagsby: I sent the information and again, uhm, it was identified as  
362 incomplete, uhm, even though I completed everything on the initial checklist. Uhm. This time,  
363 they, they requested one different thing which was, uh, my birth certificate.  
364  
365 Ms. Seliber: OK. Uhm. You filed bankruptcy again in 2018, right?  
366  
367 Ms. Bagsby: Uhm. I believe so, yes.  
368  
369 Ms. Seliber: Uhm. And you filed that again in the name of your mother?  
370  
371 Ms. Bagsby: I did.  
372  
373 Ms. Seliber: And did you, did you go back to an attorney to do that?  
374  
375 Ms. Bagsby: Uh. In 2018?  
376  
377 Ms. Seliber: The second bankruptcy.  
378  
379 Ms. Bagsby: Uhm. I, I believe so. I believe so.  
380  
381 Ms. Seliber: OK. Uhm. Why did you decide to file the second bankruptcy  
382 case?  
383

384 Ms. Bagsby: Uhm. Because I provided all of the documentation, uh, for a  
385 loan modification to Carrington Mortgage Services and, uhm, received no response. Uhm.  
386 Resent it. I have, this is, uh, 2018, you said?  
387  
388 Ms. Seliber: Yes.  
389  
390 Ms. Bagsby: OK. Uhm, Yes, I have a fax, like a transmission sheet, from,  
391 uhm, the 27<sup>th</sup> of February; uhm, another from, the, uhm, May 3, 2018; another, May 24, 2018;  
392 uhm, right here, and then I think I have a few others. It, uhm, I, I did this because I, I felt like I  
393 had no other options.  
394  
395 Ms. Seliber: When, when you filed the 2<sup>nd</sup> bankruptcy case had Carrington  
396 Mortgage noticed it for foreclosure?  
397  
398 Ms. Bagsby: Uhm. The second one? I, I do believe so.  
399  
400 Ms. Seliber: And you, you went to your former attorney, uhm, Mr.  
401 Johnston...  
402  
403 Ms. Bagsby: Yes.  
404  
405 Ms. Seliber: ...again to file the second case?  
406  
407 Ms. Bagsby: Yes.  
408  
409 Ms. Seliber: Did you, but you, why did you not file any schedules in that  
410 case?  
411  
412 Ms. Bagsby: In that one, if memory serves, we withdrew.  
413  
414 Ms. Seliber: Excuse me?  
415  
416 Ms. Bagsby: I said in that one, [clears throat] excuse me, if memory serves,  
417 we withdrew.  
418  
419 Ms. Seliber: And why did you withdraw it?  
420  
421 Ms. Bagsby: Uhm. We withdrew because I had submitted yet another  
422 application for a loan modification and I, uhm, also, uhm, had begun the process of, uhm,  
423 completing, uh, applying for another, uhm, mortgage with a different company.  
424  
425 Ms. Seliber: Did you attend the 341 meeting in, in your second bankruptcy?  
426  
427 Ms. Bagsby: No.  
428  
429 Ms. Seliber: When, when you withdrew your second bankruptcy, were you  
430 aware that you were not allowed to file, that, that deceased persons were not eligible to file  
431 bankruptcies?

432  
433 Ms. Bagsby: That was a lack of understanding or comprehension on my part.  
434 So, no, I did not understand.  
435  
436 Ms. Seliber: Do you recall anyone telling you that deceased persons were  
437 not eligible to file bankruptcies?  
438  
439 Ms. Bagsby: I don't recall.  
440  
441 Ms. Seliber: OK. Uhm. You filed a third bankruptcy in 2018?  
442  
443 Ms. Bagsby: Uhm. Yes.  
444  
445 Ms. Seliber: Why did you file that?  
446  
447 Ms. Bagsby: Uhm. After another loan modification packet was, uhm, not  
448 acknowledged, uhm, I received Notice of Intent to Foreclose.  
449  
450 Ms. Seliber: So, you filed the third bankruptcy to stop the foreclosure?  
451  
452 Ms. Bagby: Yes, after the loan modification went quite, uhm, honestly  
453 ignored and a death certificate, I believe in that case, was once again requested.  
454  
455 Ms. Seliber; You filed a fourth bankruptcy case at the beginning of this year?  
456  
457 Ms. Bagsby: Uhm. Yes.  
458  
459 Ms. Seliber: When you filed your third or fourth bankruptcies did you  
460 contact any attorneys to file those on your behalf?  
461  
462 Ms. Bagsby: I did not.  
463  
464 Ms. Seliber: Why did you decide to file without an attorney?  
465  
466 Ms. Bagsby: I don't know. Uhm.  
467  
468 Ms. Seliber: Did anyone advise you to do that?  
469  
470 Ms. Bagsby: No one advised me to do that. It was my decision in yet another  
471 attempt to deal with this, uh, mortgage situation.  
472  
473 Ms. Seliber: How did you know how to file bankruptcy?  
474  
475 Ms. Bagsby: Uhm. I followed instructions online.  
476  
477 Ms. Seliber: And you decided to file under Chapter 13?  
478  
479 Ms. Bagsby: Yes.

480  
481 Ms. Bagsby: And at the time you filed the third and fourth bankruptcies you  
482 were not aware that you, that your mother was a deceased, was not eligible to file bankruptcy?  
483  
484 Ms. Bagsby: No, I wasn't aware. I wouldn't have done it otherwise.  
485  
486 Ms. Seliber: If you hadn't filed bankruptcy what would you have done?  
487  
488 Ms. Bagsby: That's a great question. I, I don't know. I [inaudible] have been  
489 very unsuccessful in working with the mortgage company on this matter, so I don't know.  
490  
491 Ms. Seliber: You, you recently filed this case that we're present on today.  
492  
493 Ms. Bagsby: Yes.  
494  
495 Ms. Seliber: Did you contact any attorney when filing this?  
496  
497 Ms. Bagsby: I did not.  
498  
499 Ms. Seliber: Why didn't you contact Mr. Johnston again?  
500  
501 Ms. Bagsby: I'm not, I don't have a reason. I'm not sure. Possibly, I mean, I  
502 think, financial aspect certainly. Uhm. My husband and I already, uhm, have several attorneys  
503 for which we're paying, uhm, for a custody dispute with him and his ex-wife and money's  
504 certainly is a considerable concern. We're more than a year into a custody dispute and have  
505 spent a considerable amount of money on attorneys.  
506  
507 Ms. Seliber: And you and your husband are currently living in...  
508  
509 Ms. Bagsby: Yes.  
510  
511 Ms. Seliber: ...the house?  
512  
513 Ms. Bagsby: Yes.  
514  
515 Ms. Seliber: Uhm. Have, have you always lived in the house?  
516  
517 Ms. Bagsby: Yes.  
518  
519 Ms. Seliber: [Inaudible.]  
520  
521 Ms. Bagsby: I mean.  
522  
523 Ms. Seliber: Did you live there with your mother?  
524  
525 Ms. Bagsby: I did, she was the original homeowner, and bought the home,  
526 uhm, when I was 12. I moved out, obviously, college and, uhm, during my first marriage I lived  
527 somewhere else for a year, and we were married about a year before she died.

528  
529 Ms. Seliber: But, currently, you and your husband live in the house? Does  
530 anyone else live there with you?  
531  
532 Ms. Bagsby: Yes. Uhm. His daughter, my step-daughter, and, uhm, his  
533 mother.  
534  
535 Ms. Seliber: Do you intend to file any further bankruptcies on behalf of your  
536 mother's estate?  
537  
538 Ms. Bagsby: I do not.  
539  
540 Ms. Seliber: Do you intend to file any bankruptcies on your behalf?  
541  
542 Ms. Bagsby: I do not.  
543  
544 Ms. Seliber: Do you have debt? Are you in debt? Do you owe anyone any  
545 money?  
546  
547 Ms. Bagsby: Yes. Yes. [What sounds like laughter.]  
548  
549 Ms. Seliber: Approximately how much do you owe creditors?  
550  
551 Ms. Bagsby: Uhm. For my own debt and my husbands, and that would like  
552 include cars and things like that?  
553  
554 Ms. Seliber: Yes.  
555  
556 Ms. Bagsby: I have to estimate. I don't know, between 20 and 30, [clears  
557 throat] excuse me, \$20,000.00 and \$30,000.00 but not including the attorney's fees that  
558 continue to accumulate.  
559  
560 Ms. Seliber: OK. Does your mother's estate owe anyone any money?  
561  
562 Ms. Bagsby: No, except for...  
563  
564 Ms. Seliber: The mortgage?  
565  
566 Ms. Bagsby: The mortgage company. No.  
567  
568 Ms. Seliber: At this point, do you understand that you, you're not, that your  
569 mother's estate is not eligible for bankruptcy?  
570  
571 Ms. Bagsby: I absolutely understand that.  
572  
573 Ms. Seliber: OK. No further questions.  
574  
575 Judge: OK. Uhm. Any other parties have questions before I ask mine?

576  
577 Mr. Hildebrand: Ms. Bagsby, uhm, what, I, I, what I don't understand is this is  
578 now your fifth Chapter 13 case.  
579  
580 Ms. Bagsby: Yes.  
581  
582 Mr. Hildebrand: And you did not respond to a Motion to Dismiss your case; did  
583 not provide documents in any of those cases. Am I right?  
584  
585 Ms. Bagsby: In any of them? I can't, I can't.  
586  
587 Mr. Hildebrand: None of them. Did you...  
588  
589 Ms. Bagsby: I can't confirm that I didn't in any of them.  
590  
591 Mr. Hildebrand: Uh. Your Honor, I'm going to move for the admission of the, uh,  
592 uh, what I submitted electronically. It's marked as exhibits A-E. It is the debtor's, uh, 19, uh,  
593 2016 case, the two 2018 cases, uh, the first 2019 case and then this case. It's the documents.  
594 It'll also includes the Trustee's Motion to Dismiss. So, you got all of those Motions to Dismiss,  
595 did you not?  
596  
597 Ms. Bagsby: I can't testify with absolute certainty that I, that I did. I received  
598 mail from this office but I can't testify.  
599  
600 Mr. Hildebrand: And you chose to ignore that?  
601  
602 Ms. Bagsby: I did not choose to ignore it.  
603  
604 Mr. Hildebrand: You didn't show up for the Meeting of Creditors, correct?  
605  
606 Ms. Bagsby: No, I did not.  
607  
608 Mr. Hildebrand: You did not file the documents that demonstrated your assets,  
609 or your liabilities or your income or your expenses, did you?  
610  
611 Ms. Bagsby: No, not, uhm, not before withdrawing.  
612  
613 Mr. Hildebrand: And, in fact, when you filed these cases, when you did it  
614 yourself, you didn't even file a matrix that would show, the ident...the address of the people you  
615 owed money to, did you?  
616  
617 Ms. Bagsby: Not to my knowledge.  
618  
619 Mr. Hildebrand: Uhm. Did you pay Mr. Johnston any funds?  
620  
621 Ms. Bagsby: Yes.  
622  
623 Mr. Hildebrand: How much did you pay him?

624  
625 Ms. Bagsby: Uhm. For both instances, if you, several thousands of dollars. I  
626 can't remember an exact number, I am sorry.  
627  
628 Mr. Hildebrand: That's all I have.  
629  
630 Judge: OK.  
631  
632 Ms. Seliber: Uhm. Ms. Bagsby, did you receive the Motion for 2004  
633 Examination from me?  
634  
635 Ms. Bagsby: Uhm. I'm sorry?  
636  
637 Ms. Seliber: From the U.S. Trustee's Office? Did you receive mail requesting  
638 that you, ordering you, to appear on, uhm, April 18, 2019?  
639  
640 Ms. Bagsby: On April 18, I, I, no. I received this notification.  
641  
642 Ms. Seliber: How did you receive this notification?  
643  
644 Ms. Bagsby: Uhm. Via email.  
645  
646 Ms. Seliber: Was that an email that I sent you?  
647  
648 Ms. Bagsby: Yes.  
649  
650 Ms. Seliber: OK, so you didn't receive any, you didn't receive this order by  
651 mail?  
652  
653 Ms. Bagsby: I have not received this one. I received it email.  
654  
655 Ms. Seliber: Right, but, by U.S. mail?  
656  
657 Ms. Bagby: Regarding today, no.  
658  
659 Ms. Seliber: OK. And...  
660  
661 Ms. Bagsby: I received it by email.  
662  
663 Ms. Seliber: Did you get a, approximately April 10, did you receive a Motion  
664 for a, for a Rule 2004 Examination and an Order, ordering you to appear on April 18?  
665  
666 Ms. Bagsby: Uh. No, I, I would have appeared if there was an Order to  
667 Appear.  
668  
669 Ms. Seliber: So, so, you have, you don't recall receiving anything in the mail?  
670 Uhm. Prior...  
671

672 Ms. Bagsby: No, in, in fact, I was here on the 18<sup>th</sup> or 19<sup>th</sup> of April to..  
673  
674 Ms. Seliber: You were here on the 18<sup>th</sup> of April?  
675  
676 Ms. Bagsby: ...to with... voluntarily withdraw the bankruptcy filing.  
677  
678 Ms. Seliber: And, uhm, why did you withdraw it?  
679  
680 Ms. Bagsby: Uhm. Same reason as always. I had submitted the  
681 documentation, uhm, for a loan modification. This time I was as exhaustive as I could be on, and  
682 this time I got a response indicating that it might be accepted should I provide the final things  
683 that they want.  
684  
685 Ms. Seliber: Do you regularly receive mail at 708 Red Fox Court?  
686  
687 Ms. Bagsby: I do. I mean that's my address. Yes.  
688  
689 Ms. Seliber: [Inaudible.] That's the correct mailing address?  
690  
691 Ms. Bagsby: Yes. Uhm. [What sounds like a sigh.] Unfortunately, uhm, 708  
692 is located between 704 and 705, so, the house to one side of me is 704 and the other is 705.  
693  
694 Ms. Seliber: OK. Thank you.  
695  
696 Mr. Niarhos: Good morning, Tim Niarhos for Covington Johnston. Your  
697 Honor, that Show Cause Order was issued. Mr. Johnston was very concerned and took it very  
698 seriously and came to see me to talk about it and make sure that he was properly represented  
699 and that we could make the court aware of his position. Uhm. Ms. Bagsby, you, uh, you came  
700 to Mr. Johnston to file a Chapter 13 first in 2016?  
701  
702 Ms. Bagsby: Yes, I believe so.  
703  
704 Mr. Niarhos: OK. And you never prepared, there was never any statements  
705 and schedules prepared beyond the initial papers to file?  
706  
707 Ms. Bagsby: Uhm. Not that I recall. Not to my knowledge.  
708  
709 Mr. Niarhos: And you, and you didn't show up for that Meeting of Creditors?  
710  
711 Ms. Bagsby: I, no, I guess not.  
712  
713 Mr. Niarhos: Have you ever shown up for any Meeting of Creditors?  
714  
715 Ms. Bagsby: No.  
716  
717 Mr. Niarhos: OK. So, you didn't show up for the second one that he filed for  
718 you, either. Is that correct?  
719

720 Ms. Bagsby: That one I believe was withdrawn, uhm, before the Meeting of  
721 Creditors.  
722  
723 Mr. Niarhos: OK. Your Honor, I have the wet signatures on two petitions  
724 here that have not been uploaded. I don't know if anybody is going to have a problem with me  
725 showing Ms. Bagsby how she signed these papers and admitting them into evidence.  
726  
727 Judge Walker: OK. If you could just, uh, let everyone see them before you pass  
728 them up.  
729  
730 Mr. Niarhos: OK. It's really just for the signature page, Your Honor.  
731  
732 Unknown speaker(s): [Inaudible.]  
733  
734 Mr. Niarhos: ...that she signed it Administratrix.  
735  
736 Mr. Hildebrand: I saw that.  
737  
738 Mr. Niarhos: [Inaudible.] You couldn't have seen it on the electronic version,  
739 right?  
740  
741 Mr. Hildebrand: I saw it. [Inaudible.]  
742  
743 Unknown speaker(s): [Inaudible.]  
744  
745 Judge: Yes  
746  
747 Mr. Niarhos: I'm going to have to go back there and ask questions...  
748 ...[inaudible].  
749  
750 Ms. Bagsby: Oh, OK.  
751  
752 Mr. Niarhos: Can you tell the court how you signed the first bankruptcy  
753 petition that was filed by Mr. Johnston in 2016?  
754  
755 Ms. Bagsby: Yes. Gayle H. Bagsby by Elizabeth P. Bagsby as Administratrix.  
756  
757 Mr. Niarhos: OK, and it was your belief that that was the proper way to file  
758 that case at the time?  
759  
760 Ms. Bagsby: Absolutely. Based on Mr. Johnston's professional judgement  
761 and opinion.  
762  
763 Mr. Niarhos: OK and then you didn't show up at that Meeting of Creditors, is  
764 that correct?  
765  
766 Ms. Bagsby: Evidently not.  
767

768 Mr. Niarhos: OK. And then you filed a second case through Mr. Johnston,  
769 2018?  
770  
771 Ms. Bagsby: Yes sir.  
772  
773 Mr. Niarhos: And did you sign that petition the same way?  
774  
775 Ms. Bagsby: Uhm. Yes, I did. [Inaudible.] Sorry. Yes, I signed it, and you  
776 were correct, same way.  
777  
778 Ms. Niarhos: Can you testify how you signed that one?  
779  
780 Mr. Bagsby: [Clears throat.] Excuse me, Gayle H. Bagsby by Elizabeth P.  
781 Bagsby, Administratrix.  
782  
783 Ms. Niarhos: And then can you also tell me, the, and flip to the front page  
784 and on number two, all other names you have used in the last eight years?  
785  
786 Ms. Bagsby: Estate of Gayle H. Bagsby  
787  
788 Mr. Niarhos: OK, and then Your Honor, I have also got a Notice of Chapter 13  
789 Bankruptcy Case that was in the second case. Uh. That I would ask the court to take judicial  
790 notice of. In number two it says, uh, other names used in the last eight years, aka. Estate of  
791 Gayle H. Bagsby. Would anyone like to see that or?  
792  
793 Mr. Hildebrand: [Inaudible]  
794  
795 Judge: And again, to be clear though, we're talking about Gayle H.  
796 Bagsby, the debtor and other names that Gayle H. Bagsby has used, not Elizabeth Bagsby.  
797  
798 Mr. Niarhos: I agree Your Honor. I just, I, I wanted to make sure that the  
799 court knew from Mr. Johnston's perspective that he was not trying to hide that there was an  
800 estate out that and that he was trying to file.  
801  
802 Judge: We will get to Mr. Johnston when he has an opportunity to  
803 speak further.  
804  
805 Mr. Niarhos: OK, but I felt like I needed her, her, her, to, uh, to get that into  
806 evidence, Your Honor. Did, did, uh, Mr. Johnston tell you, uhm, after the second case was filed  
807 that, uh, you shouldn't, you, that he, he's been, he had been told that he could not file in the  
808 name of the, uh, the estate for your mother?  
809  
810 Ms. Bagsby: No.  
811  
812 Mr. Niarhos: You don't recall ever been told that?  
813  
814 Ms. Bagsby: I, I, I don't or I wouldn't have continued to do so.  
815

816 Mr. Niarhos: So, do you recall him, did you approach him on the third filing?  
817  
818 Ms. Bagsby: I did not.  
819  
820 Mr. Niarhos: You didn't ask him to file a third case for you?  
821  
822 Ms. Bagsby: No, I did not.  
823  
824 Mr. Niarhos: OK, so, that was just about money at that point...  
825  
826 Ms. Bagsby: I was...  
827  
828 Mr. Niarhos: ...why you didn't go to him?  
829  
830 Ms. Bagsby: Yes. [Inaudible.]  
831  
832 Mr. Niarhos: OK. [Pause.] Your Honor, I'm showing, uh, other counsel the,  
833 uh, the letter, that Mr. Johnston sent to her, after the second filing.  
834  
835 Judge: OK.  
836  
837 Ms. Bagsby: OK.  
838  
839 Mr. Niarhos: And I apologize for not having this uploaded. I got hired at the  
840 last minute and was not able to do that.  
841  
842 Ms. Bagsby: OK.  
843  
844 Mr. Niarhos: I just got the contents of his file. Mr. Hildebrand do you want to  
845 see this letter? Mr. Hildebrand do you want to see this letter that Mr. Johnston...?  
846  
847 Mr. Hildebrand: No. Nope that's fine.  
848  
849 Unknown speaker: [Inaudible.]  
850  
851 Mr. Niarhos: So, do you recall receiving that letter? Well, I will give you time  
852 to read it.  
853  
854 Mr. Niarhos: Your Honor, do you want me to upload these or hand them to  
855 you so that you can see what I'm giving?  
856  
857 Judge Walker: Uh. At this point, I'd like them. Unless you can readily upload  
858 them right now.  
859  
860 Mr. Hildebrand: [Inaudible.]  
861  
862 Mr. Niarhos: I can't.  
863

864 Judge Walker: OK. Just hand them up.  
865  
866 Mr. Niarhos: OK.  
867  
868 Ms. Bagsby: I remember parts of this as, uhm, verbal conversations.  
869  
870 Mr. Niarhos: OK, so what does that letter say about filing in that, filing that  
871 second case? And what, Mr. Johnston ...  
872  
873 Ms. Bagsby: Uh. It says, uhm, he is of the opinion that we will not be able to  
874 proceed and that the best course of action is to refinance the mortgage and to get a mortgage  
875 loan in my name and I did heed his advice on, on, on, on this.  
876  
877 Mr. Niarhos: So, he did tell you that he, that, that, that you could not file in  
878 the name of your mother?  
879  
880 Ms. Bagsby: Uhm. It says this in this letter. In the verbal conversations he  
881 and I had discussed the, uhm, uncertainty of, of it being able to work which is why in, in this  
882 instance, we, uhm, withdrew it. Uh.  
883  
884 Mr. Niarhos: So, he filed a Motion to Dismiss that case?  
885  
886 Ms. Bagsby: Yes.  
887  
888 Mr. Niarhos: OK. So, do you agree that you were told that you could not file  
889 a case in your mother's name, based on that letter?  
890  
891 Ms. Bagsby: [What sounds like a laugh.] I mean, based on this letter, uhm,  
892 what I'm reading now, yes, I understand that, that's what this says.  
893  
894 Judge Walker: And, are you going to move to admit these into evidence?  
895  
896 Mr. Niarhos: Yes, Your Honor. I move to admit all those into evidence. I  
897 don't know that she recalls getting the letter. Did you recall getting that letter in the mail?  
898  
899 Ms. Bagsby: I don't recall getting the letter. I remember verbal  
900 conversations in which we discussed the uncertainty.  
901  
902 Mr. Niarhos: But you...  
903  
904 Ms. Bagsby: [Inaudible.]  
905  
906 Mr. Niarhos: ...but that was your address on the letter and you don't dispute  
907 receiving it, you just don't recall?  
908  
909 Ms. Bagsby: I didn't. I didn't look at the address but if it says 708, then that's  
910 my address.  
911

912 Mr. Niarhos: [Pause.] Alright, I have no further questions.  
913  
914 Judge: OK. Any other redirect or cross or...? OK, uhm, I have a couple  
915 of questions for you Ms. Bagsby. Uh. When was the last time you made a mortgage payment?  
916  
917 Ms. Bagsby: Uhm. I can't recall, uhm. I have...  
918  
919 Judge: Within the last year?  
920  
921 Ms. Bagsby: No sir. Not within...  
922  
923 Judge Walker: Within the last two years?  
924  
925 Ms. Bagsby: I'm not sure. I have, uh, in, in the process of this and I have, uh,  
926 when I had a loan modification, uhm, in 2017 and it, and it moved, uh, into, I'm, I'm not sure if it  
927 moved into the next year, I, I made payments then. [Clears throat.] Excuse me. [Clears throat.]  
928 And those were, uhm, received. Uhm. The next one I sent, uhm, was, the check was returned  
929 to me, uhm, with a statement that, uh, paperwork, uhm, the final piece of paperwork had not  
930 been received, though I, I faxed it, uhm, to Carrington Mortgage. So, I have made three months-  
931 worth of payments per my loan modification agreement and there would be no reason for me  
932 not to want to [laugh] continue that.  
933  
934 Judge: Well, but obviously you keep filing bankruptcy because they  
935 keep fore, trying to initiate foreclosure proceedings.  
936  
937 Ms. Bagsby: Yes, they do.  
938  
939 Judge: So, you're, you're not being totally genuine with the court when  
940 you say you've made efforts to make mortgage payments over the course of the time that your  
941 mother's been deceased.  
942  
943 Ms. Bagsby: Well, I would. I would say that I have made many efforts via  
944 these requests for mortgage assistance, and have been, I, I can't tell you how many times, this  
945 company has rejected paperwork or sent it back because they don't have a death certificate  
946 which I've supplied numerous times since 2006. I'm at my wits end.  
947  
948 Judge: If you were operating in good faith, what did you do with the  
949 money that would have gone to mortgage payments? You spent it, right?  
950  
951 Ms. Bagsby: Spent it? Yes. I mean, some, some of it yes and on attorneys  
952 and, and household things. Not, uhm, luxury items or, or trips.  
953  
954 Judge: And it's your testimony today that you did not receive any of  
955 the mailings that have been sent to you?  
956  
957 Ms. Bagsby: I received via email the notification of today. Uhm. I can't say  
958 what I have or haven't received [inaudible] if I haven't seen it.  
959

960 Judge: OK. The most recent mailings from the U.S. Trustee's Office for  
961 related to a 2004 Examination. Is it your testimony, you did not receive that via U.S. Mail?  
962

963 Ms. Bagsby: I don't know what a 2004 Examination is, and I don't know. I received  
964 something about today via email for which is why I contacted Ms. Seliber and why I'm here.  
965

966 Judge: Alright. At any point did you take credit counseling on behalf of  
967 your mother initiating the first or second bankruptcy?  
968

969 Ms. Bagsby: Yes.  
970

971 Judge: OK. After the two cases with Mr. Johnston, why did you  
972 continue to file Chapter 13's as opposed to Chapter 7 bankruptcies or, uh, another chapter?  
973

974 Ms. Bagsby: It was my belief that that was the appropriate one for my  
975 situation.  
976

977 Judge: And too, on both instances; the first instance where you went  
978 to Mr. Johnston...  
979

980 Ms. Bagsby: Uh, hum.  
981

982 Judge: ...he was aware that your mother had been deceased.  
983

984 Ms. Bagsby: Uh, hum.  
985

986 Judge: Alright. That's all the questions that I have. Any other  
987 questions for the witness? OK. You may step down.  
988

989 Ms. Bagsby: Thank you for your time.  
990

991 Judge: Alright, uhm, Mr. Niarhos, if you're representing Mr. Johnston I  
992 have questions for him based on, uh, the testimony that's been given, and correct me if I'm  
993 wrong, but I, I don't see any attorney-client privilege or other issues given, the fact, the client  
994 was dead, and Ms. Elizabeth Bagsby would have no priviledge, uh, with Mr. Johnston with  
995 respect to any conversations.  
996

997 Mr. Niarhos: We, We've thought about that and I mean, only in the context,  
998 maybe, as Administratrix, uh, because the whole thought was that he was going to file for this  
999 estate, you know, and did not know that that was improper at the time, and until he was told by  
1000 Mr. Hildebrand on the second filing, uhm, where he dismissed immediately and told her she  
1001 could no longer file with him. Uhm. He was, he was trying to protect the debtor and thought he  
1002 was doing the right thing at the time that he did it.  
1003

1004 Judge: OK.  
1005

1006 Mr. Niarhos: Is our position, but would you like to ask him questions on the  
1007 stand, Your Honor.

1008  
1009 Judge: Yes, and I will go last if the U.S. Trustee would like to start with  
1010 any questions. This is an opportunity. Uhm. Your statement had recommendations for Ms.  
1011 Bagsby but didn't really deal with Mr. Johnston's, uh, part in this. Based on the documents that,  
1012 uh, have been tendered to the court as evidence, uhm, does the U.S. Trustee have a position on  
1013 any issues relating to Mr. Johnston's conduct in the first two cases?  
1014  
1015 Ms. Seliber: The U.S. Trustee is, uhm, is, is willing to conduct a further  
1016 investigation but, at this time, we don't, we do not have a recommendation as to Mr. Covi.  
1017 Uhm. I'm concerned because those cases, uhm, that Mr. Covi filed two cases in the past and if  
1018 the U.S. Trustee was going to take action, uhm, against Mr. Covi, I believe I'd need to reopen  
1019 those cases.  
1020  
1021 Judge: OK. Mr. Johnston.  
1022  
1023 CRD: Raise your right hand. Do you solemnly swear and affirm that  
1024 the testimony you are about to give is the truth, the whole truth and nothing but the whole  
1025 truth so help you God?  
1026  
1027  
1028 Mr. Johnston: I do.  
1029  
1030 CRD: Please be seated and state your full name for the record.  
1031  
1032 Mr. Johnston: E. Covington Johnston.  
1033  
1034 Ms. Seliber: Mr. Johnston, uhm, did you, did you file the 2016 and 2018  
1035 case, uhm, for, on, on behalf of the Estate of Sharon Gayle Bagsby.  
1036  
1037 Mr. Johnston: Yes.  
1038  
1039 Ms. Seliber: Did you, did you realize that she was deceased when you filed  
1040 the cases?  
1041  
1042 Mr. Johnston: Yes.  
1043  
1044 Ms. Seliber: Had you ever previously filed on behalf of a deceased party.  
1045  
1046 Mr. Johnston: I had not.  
1047  
1048 Ms. Seliber: Have, since filing those cases, have you filed on behalf of a  
1049 deceased party?  
1050  
1051 Mr. Johnston: No.  
1052  
1053 Ms. Seliber: When did you learn that deceased persons are not eligible to  
1054 file bankruptcy?  
1055

1056 Mr. Johnston: Well, this, this was an attempt to file it for the Estate of, of  
1057 Gayle Bagsby. Uhm. I did it incorrectly, obviously. Uhm, and, uhm, I had a conversation with  
1058 Mr. Hildebrand after the second one was filed, I gave him the scenario, talked to him in the hall  
1059 upstairs, or downstairs, and, uhm, I had, I wasn't sure that I could do that, and this was filed on  
1060 the eve of a foreclosure, and, uh, both of them were actually. And, uhm, when the second one,  
1061 after the second one, I had concerns that, uhm, that we couldn't go forward with it so that's  
1062 when I talked to Mr. Hildebrand and he give us his opinion that an estate could not go forward  
1063 in a Chapter 13, so, that's when we, that's when I did the voluntary dismissal of that case. But,  
1064 my, my intent was not to mislead anybody, I would, I'd never do that. I didn't want to mislead  
1065 anybody and, uhm, from the beginning it was, I was trying to file it for the estate and that's why  
1066 I had Ms. Bagsby sign it Executor, I mean, Administratrix of the Estate, and, uhm, so that's, that's  
1067 where we were with that.

1068  
1069 Ms. Seliber: Why did you not file any schedules in the first case?  
1070

1071 Mr. Johnston: Uhm. There was no, it was a skeleton petition on the eve of a  
1072 foreclosure and, uhm, Ms. Bagsby never did provide any documents for schedules or  
1073 information to prepare the schedules.  
1074

1075 Ms. Seliber: Did you feel like you didn't have sufficient time to prepare those  
1076 at the time of filing?  
1077

1078 Mr. Johnston: Yes.  
1079

1080 Ms. Seliber: Did you arrange for her to come back to, to ... give you that  
1081 information?  
1082

1083 Mr. Johnston: Yes, I told her what we needed. I have a due diligence list that  
1084 we provide every client with all the documents that we need, and, uhm, she was provided with  
1085 that. I attended the first Meeting of Creditors, she didn't show up and so Mr. Hildebrand  
1086 dismissed that case.  
1087

1088 Ms. Seliber: When you attended the first Meeting of Creditors did you  
1089 intend to go forward with the first filing? Did you, did you think you were going to file the  
1090 schedules and, uhm, try to get a confirmed plan in that case?  
1091

1092 Mr. Johnston: Yes.  
1093

1094 Ms. Seliber: Did you attempt to contact Ms. Elizabeth Bagsby after she  
1095 didn't appear at the Meeting of Creditors?  
1096

1097 Mr. Johnston: Yeah, I wrote her a letter, I think. Uhm. It said I appeared and  
1098 because you didn't the Trustee is filing a Motion to Dismiss.  
1099

1100 Ms. Seliber: At, after, at that point, did you realize that the estate was not  
1101 eligible to file bankruptcy?  
1102

1103 Mr. Johnston: Well, I didn't really go into it any further because it, the case  
1104 was then dismissed.  
1105  
1106 Ms. Seliber: But you, personally, what was your knowledge at the time?  
1107  
1108 Mr. Johnston: I was unsure, at that time. Uhm. I'd never run into that before.  
1109  
1110 Ms. Seliber: Did you attempt to do any research on the question?  
1111  
1112 Mr. Johnston: Not at that time.  
1113  
1114 Ms. Seliber; OK. Did you talk to Ms. Bagsby, uhm, after her case was  
1115 dismissed, after her first case was dismissed?  
1116  
1117 Mr. Johnston: I don't think so. I wrote her a letter, uhm, but I don't think I  
1118 actually talked to her.  
1119  
1120 Ms. Seliber: And then she came...  
1121  
1122 Mr. Johnston: I don't, I don't, I don't recall ... [inaudible]... whether I did or not.  
1123  
1124 Ms. Seliber: OK. Uhm. How much did she pay you for the first bankruptcy?  
1125  
1126 Mr. Johnston; For the first one, she paid a total of, uhm, \$1810.00, \$1500.00  
1127 attorney's...  
1128  
1129 Ms. Seliber: Does that include the filing fee?  
1130  
1131 Mr. Johnston: ...\$1500.00 attorney's fee and \$310.00 filing fee.  
1132  
1133 Ms. Seliber: OK. And, in the, ...[inaudible] when, when did you next see Ms.  
1134 Bagsby?  
1135  
1136 Mr. Johnston: Uhm. Very shortly before the second bankruptcy was filed.  
1137 Uhm. Again, it was on the, the eve of a foreclosure. Just hours before foreclosure, and, uhm,  
1138 she contacted me again.  
1139  
1140 Ms. Seliber: And at that point you didn't have any concerns about filing on  
1141 behalf of an estate?  
1142  
1143 Mr. Johnston: Uhm. There again, I wasn't sure. I'd, I'd never run into it  
1144 before. I hadn't, I wasn't, I just wasn't sure, and so that, in that one, we, I put, that it was, a.k.a.  
1145 the Estate of, of Gayle Bagsby. I just, I wasn't, again, I wasn't trying to mislead anybody, or,  
1146 uhm, do anything like that, and so, and again, she had, I had her sign it as an Administratrix of  
1147 the Estate. Uhm. So.  
1148  
1149 Ms. Seliber: And, at, did, did you believe that Ms. Bagsby was going to  
1150 attend the Meeting of Creditors in your second case?

1151  
1152 Mr. Johnston: Uhm. Yes. Uhm.  
1153  
1154 Ms. Seliber: And you attended the Meeting of Creditors?  
1155  
1156 Mr. Johnston: Well, I don't, it didn't get that far, uhm, I, but then I saw, when I  
1157 was in here on another case, I talked, talked to Mr. Hildebrand briefly and, uhm, just informally,  
1158 and gave him the scenario and he, he was of the opinion that an estate could not, could not  
1159 proceed with a Chapter 13.  
1160  
1161 Ms. Seliber: OK. And other than the letter that you, that you have  
1162 presented as evidence, here today, uhm, did you talk to Ms. Bagsby about why you needed to  
1163 dismiss the case? Did you talk to her in person or on the phone?  
1164  
1165 Mr. Johnston: I don't, I don't remember whether I saw her in person or, I  
1166 don't, pretty sure I didn't see her in person. I may have talked to her on the phone about it.  
1167  
1168 Ms. Seliber: You don't recall though?  
1169  
1170 Mr. Johnston: I don't recall.  
1171  
1172 Ms. Seliber: So, after filing that case, you no longer believed that it was  
1173 proper to file on behalf of an estate, correct?  
1174  
1175 Mr. Johnston: Yes, that's correct.  
1176  
1177 Ms. Seliber: And you haven't done so since?  
1178  
1179 Mr. Johnston: No. I've had, I had a similar case the only other time I have ever  
1180 run into this. The same, just recently, the same exact situation where a lady came in and she  
1181 had a mother who had died and she was the sole beneficiary and the property and the mortgage  
1182 was still in the mother's name. She did get a, the deed into her name and the mortgage was still  
1183 in the mother's, deceased mother's name, and filed a bankruptcy in this lady's name, the, the  
1184 survivor, beneficiary, filed it in her name, uhm, and in fact, it is set for confirmation hearing next  
1185 week. So, uhm, I understand that's, that's the proper way to do it.  
1186  
1187 Ms. Seliber: And, your firm also handles Probate and Estate matters,  
1188 correct?  
1189  
1190 Mr. Johnston: Some, yes.  
1191  
1192 Ms. Seliber: And, and is, is this the sort of matter that could be handled in  
1193 Probate? Do you, did you discuss, uhm, did you discuss within your firm whether or not this  
1194 property needed to go through Probate?  
1195  
1196 Mr. Johnston: No.  
1197

1198 Ms. Seliber: Oh. No further questions. Oh, sorry. One, one more. How  
1199 much were you paid for the second bankruptcy case?  
1200  
1201 Mr. Johnston: Uhm. I think it was a total of \$1000.00 but that included a  
1202 \$310.00 filing fee that was paid when the case was filed.  
1203  
1204 Ms. Seliber: No further questions. Thank you.  
1205  
1206 Judge: OK. Any other questions?  
1207  
1208 Mr. Hildebrand: Did you ever have any inkling or problem, problem that the  
1209 debtor communicated, or that Ms. Bagsby communicated, to you that that address was not  
1210 delivering mail to her.  
1211  
1212 Mr. Johnston: No.  
1213  
1214 Mr. Hildebrand: Thank you. That's all I have.  
1215  
1216 Mr. Niarhos: Mr. Johnston, did Ms. Bagsby, Elizabeth Bagsby, come to you  
1217 about filing the third case?  
1218  
1219 Mr. Johnston: To my recollection she did. She contacted me.  
1220  
1221 Mr. Niarhos: And what did you tell her?  
1222  
1223 Mr. Johnston: I told her I couldn't do it. That, that we can't proceed. The  
1224 estate can't proceed.  
1225  
1226 Mr. Niarhos: And do you believe that if the first Meeting of Creditors would  
1227 have gone forward, if she would have shown up, that the Trustee would have talked to you  
1228 about this issue and the case would have been dismissed and you would never file another  
1229 case?  
1230  
1231 Mr. Johnston: I think it would have been discovered at that time. Yeah,  
1232 absolutely.  
1233  
1234 Mr. Niarhos: And... [inaudible]...you would not have filed another case?  
1235  
1236 Mr. Johnston: Absolutely not.  
1237  
1238 Mr. Niarhos: You, you, were just trying to help this debtor out, who you  
1239 thought was in trouble, is that right?  
1240  
1241 Mr. Johnston: Yes, trying to, as I said, it was right on the eve of foreclosure,  
1242 and I think one of the cases was... [inaudible]...actually hours before foreclosure but...  
1243

1244 Mr. Niarhos: And in hindsight, would you have, uh, filed in Elizabeth's name  
1245 and dealt with whatever fall out to prove that she's the sole heir, trying to stop that foreclosure  
1246 sale?  
1247  
1248 Mr. Johnston: Absolutely.  
1249  
1250 Mr. Niarhos: And the money that you received, uhm, are you willing to  
1251 disgorge that?  
1252  
1253 Mr. Johnston: Absolutely.  
1254  
1255 Mr. Niarhos: OK. I have no further questions, Your Honor.  
1256  
1257 Judge: OK. Couple of questions for you Mr. Johnston...  
1258  
1259 Mr. Johnston: Sure.  
1260  
1261 Judge: ...before you leave. Uh. In both the cases that you filed, you  
1262 failed to, to upload a 2016-B Disclosure, why?  
1263  
1264 Mr. Johnston: Uhm. Explain what that is, Your Honor.  
1265  
1266 Judge: Your 2016-B Disclosure of Fees received.  
1267  
1268 Mr. Johnston: ...[inaudible]...because, uhm, the, uhm, the, I usually file those  
1269 with the schedules. When all of the rest of the schedules are filed, and Ms. Bagsby never  
1270 brought in any information so those, those schedules were not ever filed.  
1271  
1272 Judge: OK.  
1273  
1274 Mr. Johnston: [Inaudible.] It's just a skeleton petition.  
1275  
1276 Judge: And you are aware that that's a requirement of the code,  
1277 separate and distinct from the schedules that you received funds in a bankruptcy case as  
1278 counsel and failed to disclose those to the court?  
1279  
1280 Mr. Johnston: I did, I did receive fees and I didn't file that, but I was, as I said, I  
1281 didn't realize that had to be filed with a skeleton petition.  
1282  
1283 Judge: OK. Uh. Did you know either the deceased Gayle Bagsby or  
1284 Elizabeth Bagsby before her coming to your office for the first filing?  
1285  
1286 Mr. Johnston: I did not.  
1287  
1288 Judge: On the first case, that you filed, on the petition, page 6 where  
1289 you conformed this signature of Gayle H. Bagsby, not with any representative capacity, not with  
1290 anything other than reporting to be a bankruptcy petition filed by Gayle H. Bagsby. Why did you  
1291 upload that electronic signature to that affect?

1292  
1293 Mr. Johnston: Well, the, the, the software we have automatically does that,  
1294 and I, I wasn't sure how to, to upload the, the wet signature, uhm, of Ms. Bagsby, uhm,  
1295 Elizabeth Bagsby.  
1296  
1297 Judge: And with the documents that your counsel has put into  
1298 evidence clearly Ms. Gayle H. Bagsby by Elizabeth Bagsby as Administratrix is how, uhm,  
1299 Elizabeth Bagby's, the wet signature reads. Is it typically your practice to duplicate the wet  
1300 signature on petitions that you upload?  
1301  
1302 Mr. Johnston: Uhm. No, usually, uhm, the only things uploaded is the, just the  
1303 electronic.  
1304  
1305 Judge: Right. [Inaudible.] The electronic signature should be a mirror  
1306 of the wet signature, is that your practice?  
1307  
1308 Mr. Johnston: Uhm. I'm not, I'm not sure what you're asking, Your Honor.  
1309 Uhm.  
1310  
1311 Judge: So, the whole point of an electronic signature is to represent  
1312 the signature of whoever's signing that document. Would you agree with that?  
1313  
1314 Mr. Johnston: Yes.  
1315  
1316 Judge: OK. So, is it your practice to conform this, the electronic  
1317 signature to the same name that is provided as the wet signature?  
1318  
1319 Mr. Johnston: Yes, but I didn't know, I didn't know how to do that in this case,  
1320 Your Honor. Uhm.  
1321  
1322 Judge: OK. How long have you been practicing Mr. Johnston?  
1323  
1324 Mr. Johnston: Uhm. About 40 years.  
1325  
1326 Judge: How long have you been practicing in Bankruptcy Court?  
1327  
1328 Mr. Johnston: I'm not sure. Uhm. Most of that time.  
1329  
1330 Judge: OK. I don't have any other questions. Any redirect, or? OK.  
1331 You may stepdown.  
1332  
1333 Mr. Niarhos: Your Honor, with regard to that signature issue that you were  
1334 just questioning him about, I've had a lot of issues over the years with my staff when I want that  
1335 software program on the bankruptcy petitions to work a certain way and to say a certain thing  
1336 and it says it can't fit in that blank, it doesn't go in that spot. So, I assume he doesn't necessarily  
1337 know that for sure, uh, in terms of duplicating that exactly the way that it was on the wet  
1338 signature. Based on my experience of how you can't really manipulate those programs  
1339 manually like that. There may just not have been enough room in the box.

1340  
1341 Judge: OK. Alright, any other statements from Counsel or anyone, U.S.  
1342 Trustee, Chapter 13 Trustee? Alright, I, I'm going to take this matter under advisement and I  
1343 continue to be concerned, uhm, with how we got here today and, uhm, what appears to be a, a  
1344 significant problem in understanding from Ms. Bagsby's point-of-view which rises potentially,  
1345 uh, to the level of, of, uh, perhaps even bankruptcy, uh, crimes based on what she may have  
1346 known or not known, at the time. So, the court's going to take this under advisement and issue,  
1347 uh, an opinion...

1348  
1349 Unknown speaker(s): [Inaudible.]

1350  
1351 Judge: ...on this, uh, regarding contempt and further sanctions. Uhm.  
1352 I'm also troubled, uhm, with Mr. Johnston, uhm, not undertaking due diligence initially. If, if it  
1353 didn't smell right, it probably wasn't right. And, uh, for any practitioner who has been  
1354 practicing, uh, as long as you have to not understand the ramifications of putting this alleged  
1355 debtor and the estate, whatever it was, into bankruptcy without any due diligence and then  
1356 having a debtor, debtor's representative, or whatever, we really had here not show up the first  
1357 time and then file a second case. Uh. It's troubling and problematic for me, uh, in that I, I expect  
1358 more, uh, from any practitioner who appears in, in this court. And that expectation goes well  
1359 beyond bankruptcy. It goes to the underlying professional responsibility, uh, to be an officer of  
1360 the court and do due diligence in a way that, uh, you are not going to participate knowingly or  
1361 unknowingly in what appears to be a pattern of, uh, at least, deceit and, and willful, uh,  
1362 attempts to, uh, live free. That's the, I'll just say it. Uhm. Ms. Bagsby knew there was a  
1363 mortgage. Uh. She had probated estate left this mortgage out of, uh, the property, out of  
1364 there. Uh. So, I don't buy this, I just didn't know. I mean, this, this, this was meant to be the  
1365 way it was and filing these bankruptcies, uh, appears she, she had enough understanding,  
1366 particularly with being put on notice, uh, that this estate was not eligible to file bankruptcy. So  
1367 again, uh, the court does not take this as a joking matter, and I'm going to, uh, address this with  
1368 the issue of contempt and sanctions, uh, and I will take, uh, Ms. Seliber's request as an Oral  
1369 Motion to Re-open, uh, the prior two cases and I will re-open those two cases, uh, that Mr.  
1370 Johnston filed on behalf of, uh, Ms. Bagsby's estate, uh, for the limited purpose of dealing with  
1371 these proceedings such that any further investigation that the U.S. Trustee needs to do or any  
1372 referrals that need to be made can be made, uhm, but I'm, I'm, I'm concerned about this case  
1373 and, and the reason why we're spending time. This is, this is to the heart of what we're here for.  
1374 If we can't rely on the statements of counsel and the documents that are filed, this whole  
1375 process doesn't work. So, uh, the court is concerned about when things like this happen and it  
1376 takes it very seriously. Uhm. But I will take it under advisement. Uh. I do appreciate the fact  
1377 Mr. Johnston that you have already, to some extent agreed, to self-sanction yourself, uh, by  
1378 agreeing to disgorge any funds that were received, so, uh, that does play, play well in that, uh,  
1379 you realize the severity of, of what has happened. Uhm. Any other comments?

1380  
1381 Ms. Seliber: Your Honor, disgorgement would give the funds back to the  
1382 debtor? Uhm. If, if the Court wants to. I, I mean, the Chapter 13 Trustee has, has incurred fees  
1383 and I would request that the fees be given to the Chapter 13 Trustee for any amount that Mr.  
1384 Covington is ordered to disgorge. Uhm. Other, otherwise, they're going to go back to the  
1385 debtor. Uhm.

1386

1387 Judge: OK. Well, the Court's also considering sanctions, uhm, and  
1388 contempt so, uh, the likelihood of it going back to the debtor are fairly slim.  
1389  
1390 Ms. Seliber: OK. Thank you.  
1391  
1392 Judge: Mr. Hildebrand?  
1393  
1394 Mr. Hildebrand: Just for purposes to follow-up on Ms. Seliber's said, uhm, the  
1395 cost, the out-of-pocket costs that my office incurs as a result of setting-up a case is \$187.00, so  
1396 that, uh, for whatever that's worth, if the court had been aware.  
1397  
1398 Judge: So, that's \$187.00 times five?  
1399  
1400 Mr. Hildebrand: \$187.00 is the out-of-pocket cost for setting-up any case.  
1401  
1402 Judge: OK. Alright. OK. Uhm. Thank y'all for, uh, your time. Uhm.  
1403 Any other matters on today's docket that we may have overlooked?  
1404  
1405 CRD: No sir.  
1406  
1407 Judge: Alright. Court will be adjourned.  
1408  
1409 CRD: All rise.  
1410

1411 (Proceedings concluded at 1:16 p.m.)  
1412

1413 "I, court-approved transcriber for the United States Bankruptcy Court Middle District of Tennessee,  
1414 certify that the foregoing is a correct transcript from the official electronic sound recording of the  
1415 proceedings in the above-entitled matter."

1416 Allison DeVore  
1417

1418 Signature of Approved Transcriber

1416 5-24-19  
1417

1418 Date

1422 Allison DeVore  
1423 Type or Printed Name



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March 28, 2018

Ms. Elizabeth P. Bagsby  
708 Red Fox Ct.  
Franklin, TN 37064

RE: Gayle H. Bagsby Chapter 13 – Case No. 3:18-01762

Dear Betsey:

Enclosed please find a copy of the Notice of the First Meeting of Creditors in the Chapter 13 Bankruptcy filed on behalf of Gayle H. Bagsby. The Meeting of Creditors is set to be held May 1, 2018 at 11:00 a.m. in Room 100 of the Customs Building, 701 Broadway, Nashville, Tennessee. If we proceed with the Chapter 13 proceeding, you will be required to appear with me on that date.

As I have previously discussed with you on several occasions, in doing additional research, I am of the opinion that we will not be able to proceed with the Chapter 13 Bankruptcy in the name of the Gayle H. Bagsby Estate. Therefore, as we have previously discussed, it is my opinion that the best course of action for you would be to immediately attempt to refinance the mortgage and obtain a mortgage loan in your name. You can attempt to work something out with the current mortgage holder or obtain financing from a new lender. If you do not obtain a workout with the current mortgage holder, or obtain new financing, the present mortgage holder will eventually foreclose on the property.

I am enclosing a copy of a Voluntary Dismissal of this Chapter 13 Bankruptcy proceeding that I will file with the Bankruptcy Court. If you have any objection to this action, please notify me immediately. Otherwise, I will proceed to file the Motion, and the case will be dismissed.

Sincerely,

E. Covington Johnston, Jr.  
Attorney at Law

ECJ/th  
/Enclosure

**Fill in this information to identify your case:**

United States Bankruptcy Court for the:

MIDDLE DISTRICT OF TENNESSEE

Case number (if known) \_\_\_\_\_

Chapter you are filing under:

- Chapter 7
- Chapter 11
- Chapter 12
- Chapter 13

Check if this an amended filing

**Official Form 101**

**Voluntary Petition for Individuals Filing for Bankruptcy**

12/15

The bankruptcy forms use you and Debtor 1 to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use you to ask for information from both debtors. For example, if a form asks, “Do you own a car,” the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Identify Yourself**

**About Debtor 1:**

**About Debtor 2 (Spouse Only in a Joint Case):**

**1. Your full name**

Write the name that is on your government-issued picture identification (for example, your driver's license or passport).

Bring your picture identification to your meeting with the trustee.

**GAYLE**

First name

**H.**

Middle name

**BAGSBY**

Last name and Suffix (Sr., Jr., II, III)

First name

Middle name

Last name and Suffix (Sr., Jr., II, III)

**2. All other names you have used in the last 8 years**

Include your married or maiden names.

**SHARON GAYLE BAGSBY**

**3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)**

**xxx-xx-3469**

**About Debtor 1:**

**About Debtor 2 (Spouse Only in a Joint Case):**

**4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years**

I have not used any business name or EINs.

I have not used any business name or EINs.

Include trade names and *doing business as* names

Business name(s) \_\_\_\_\_

Business name(s) \_\_\_\_\_

EINs \_\_\_\_\_

EINs \_\_\_\_\_

**5. Where you live**

**708 Red Fox Ct  
Franklin, TN 37064**

Number, Street, City, State & ZIP Code

**Williamson**

County

**If your mailing address is different from the one above, fill it in here.** Note that the court will send any notices to you at this mailing address.

Number, P.O. Box, Street, City, State & ZIP Code

**If Debtor 2 lives at a different address:**

Number, Street, City, State & ZIP Code

County

**If Debtor 2's mailing address is different from yours, fill it in here.** Note that the court will send any notices to this mailing address.

Number, P.O. Box, Street, City, State & ZIP Code

**6. Why you are choosing this district to file for bankruptcy**

Check one:

Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

I have another reason. Explain. (See 28 U.S.C. § 1408.)

Check one:

Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

I have another reason. Explain. (See 28 U.S.C. § 1408.)

**Part 2: Tell the Court About Your Bankruptcy Case**

7. **The chapter of the Bankruptcy Code you are choosing to file under** *Check one.* (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)*). Also, go to the top of page 1 and check the appropriate box.

Chapter 7

Chapter 11

Chapter 12

Chapter 13

8. **How you will pay the fee**  **I will pay the entire fee when I file my petition.** Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

**I need to pay the fee in installments.** If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).

**I request that my fee be waived** (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. **Have you filed for bankruptcy within the last 8 years?**  No.

Yes.

District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_

District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_

District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_

10. **Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?**  No

Yes.

Debtor \_\_\_\_\_ Relationship to you \_\_\_\_\_

District \_\_\_\_\_ When \_\_\_\_\_ Case number, if known \_\_\_\_\_

Debtor \_\_\_\_\_ Relationship to you \_\_\_\_\_

District \_\_\_\_\_ When \_\_\_\_\_ Case number, if known \_\_\_\_\_

11. **Do you rent your residence?**  No. Go to line 12.

Yes. Has your landlord obtained an eviction judgment against you and do you want to stay in your residence?

No. Go to line 12.

Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it with this bankruptcy petition.

**Part 3: Report About Any Businesses You Own as a Sole Proprietor**

**12. Are you a sole proprietor of any full- or part-time business?**

- No. Go to Part 4.
- Yes. Name and location of business

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

\_\_\_\_\_  
Name of business, if any

\_\_\_\_\_  
Number, Street, City, State & ZIP Code

*Check the appropriate box to describe your business:*

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- None of the above

**13. Are you filing under Chapter 11 of the Bankruptcy Code and are you a small business debtor?**

*If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines. If you indicate that you are a small business debtor, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. 1116(1)(B).*

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

- No. I am not filing under Chapter 11.
- No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
- Yes. I am filing under Chapter 11 and I am a small business debtor according to the definition in the Bankruptcy Code.

**Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention**

**14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?**

- No.
- Yes.
  - What is the hazard? \_\_\_\_\_
  - If immediate attention is needed, why is it needed? \_\_\_\_\_
  - Where is the property? \_\_\_\_\_

*For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?*

\_\_\_\_\_  
Number, Street, City, State & Zip Code

**Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**

**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

**About Debtor 1:**

*You must check one:*

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

**I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy. If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

**I am not required to receive a briefing about credit counseling because of:**

**Incapacity.**  
I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

**Disability.**  
My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

**Active duty.**  
I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver credit counseling with the court.

**About Debtor 2 (Spouse Only in a Joint Case):**

*You must check one:*

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

**I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

**I am not required to receive a briefing about credit counseling because of:**

**Incapacity.**  
I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

**Disability.**  
My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

**Active duty.**  
I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

**Part 6: Answer These Questions for Reporting Purposes**

16. What kind of debts do you have?
- 16a. **Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."
- No. Go to line 16b.
- Yes. Go to line 17.
- 16b. **Are your debts primarily business debts?** *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.
- No. Go to line 16c.
- Yes. Go to line 17.
- 16c. State the type of debts you owe that are not consumer debts or business debts

17. Are you filing under Chapter 7?
- No. I am not filing under Chapter 7. Go to line 18.
- Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?
- Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
- No
- Yes

18. How many Creditors do you estimate that you owe?
- 1-49
- 50-99
- 100-199
- 200-999
- 1,000-5,000
- 5001-10,000
- 10,001-25,000
- 25,001-50,000
- 50,001-100,000
- More than 100,000

19. How much do you estimate your assets to be worth?
- \$0 - \$50,000
- \$50,001 - \$100,000
- \$100,001 - \$500,000
- \$500,001 - \$1 million
- \$1,000,001 - \$10 million
- \$10,000,001 - \$50 million
- \$50,000,001 - \$100 million
- \$100,000,001 - \$500 million
- \$500,000,001 - \$1 billion
- \$1,000,000,001 - \$10 billion
- \$10,000,000,001 - \$50 billion
- More than \$50 billion

20. How much do you estimate your liabilities to be?
- \$0 - \$50,000
- \$50,001 - \$100,000
- \$100,001 - \$500,000
- \$500,001 - \$1 million
- \$1,000,001 - \$10 million
- \$10,000,001 - \$50 million
- \$50,000,001 - \$100 million
- \$100,000,001 - \$500 million
- \$500,000,001 - \$1 billion
- \$1,000,000,001 - \$10 billion
- \$10,000,000,001 - \$50 billion
- More than \$50 billion

**Part 7: Sign Below**

**For you** I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**/s/ GAYLE H. BAGSBY**  
**GAYLE H. BAGSBY**  
 Signature of Debtor 1

Executed on **December 5, 2016**  
 MM / DD / YYYY

Signature of Debtor 2

Executed on  
 MM / DD / YYYY

**For your attorney, if you are represented by one**

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

**If you are not represented by an attorney, you do not need to file this page.**

**/s/ E. Covington Johnston**  
Signature of Attorney for Debtor

Date **December 5, 2016**  
MM / DD / YYYY

**E. Covington Johnston**  
Printed name

**Johnston and Street**  
Firm name

**236 Public Square, Suite 103**  
**Franklin, TN 37064**  
Number, Street, City, State & ZIP Code

Contact phone **615-791-1819**

Email address **ecjohnston@johnstonandstreet.com**

**4408**  
Bar number & State

GAYLE H. BAGSBY  
708 RED FOX CT  
FRANKLIN TN 37064

E. COVINGTON JOHNSTON  
JOHNSTON AND STREET  
236 PUBLIC SQUARE, SUITE 103  
FRANKLIN, TN 37064

DEUTSCHE BANK NATIONAL TRUST CO  
C/O SHAPIRO AND INGLE, LLP  
1030 PERMIMETER PKWY, STE 400  
CHARLOTTE NC 28216

**Fill in this information to identify your case:**

United States Bankruptcy Court for the:

MIDDLE DISTRICT OF TENNESSEE

Case number (if known) \_\_\_\_\_

Chapter you are filing under:

- Chapter 7
- Chapter 11
- Chapter 12
- Chapter 13

Check if this an amended filing

# Official Form 101 Voluntary Petition for Individuals Filing for Bankruptcy

12/17

The bankruptcy forms use you and Debtor 1 to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use you to ask for information from both debtors. For example, if a form asks, “Do you own a car,” the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Identify Yourself**

**About Debtor 1:**

**About Debtor 2 (Spouse Only in a Joint Case):**

**1. Your full name**

Write the name that is on your government-issued picture identification (for example, your driver's license or passport).

Bring your picture identification to your meeting with the trustee.

**GAYLE**  
First name

**H**  
Middle name

**BAGSBY**  
Last name and Suffix (Sr., Jr., II, III)

\_\_\_\_\_  
First name

\_\_\_\_\_  
Middle name

\_\_\_\_\_  
Last name and Suffix (Sr., Jr., II, III)

**2. All other names you have used in the last 8 years**

Include your married or maiden names.

**Estate of Gayle H Bagsby**

**3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)**

**xxx-xx-3469**

**About Debtor 1:**

**About Debtor 2 (Spouse Only in a Joint Case):**

**4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years**

I have not used any business name or EINs.

I have not used any business name or EINs.

Include trade names and *doing business as* names

Business name(s) \_\_\_\_\_

Business name(s) \_\_\_\_\_

EINs \_\_\_\_\_

EINs \_\_\_\_\_

**5. Where you live**

**708 Red Fox Ct  
Franklin, TN 37064**

Number, Street, City, State & ZIP Code

**Williamson**

County

**If your mailing address is different from the one above, fill it in here.** Note that the court will send any notices to you at this mailing address.

Number, P.O. Box, Street, City, State & ZIP Code

**If Debtor 2 lives at a different address:**

Number, Street, City, State & ZIP Code

County

**If Debtor 2's mailing address is different from yours, fill it in here.** Note that the court will send any notices to this mailing address.

Number, P.O. Box, Street, City, State & ZIP Code

**6. Why you are choosing this district to file for bankruptcy**

Check one:

Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

I have another reason. Explain. (See 28 U.S.C. § 1408.)

Check one:

Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

I have another reason. Explain. (See 28 U.S.C. § 1408.)

**Part 2: Tell the Court About Your Bankruptcy Case**

7. **The chapter of the Bankruptcy Code you are choosing to file under** *Check one.* (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)*). Also, go to the top of page 1 and check the appropriate box.

Chapter 7

Chapter 11

Chapter 12

Chapter 13

8. **How you will pay the fee**  **I will pay the entire fee when I file my petition.** Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

**I need to pay the fee in installments.** If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).

**I request that my fee be waived** (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. **Have you filed for bankruptcy within the last 8 years?**  No.

Yes.

District	<u><b>Middle Dist TN</b></u>	When	<u><b>12/05/16</b></u>	Case number	<u><b>16-08631</b></u>
District	_____	When	_____	Case number	_____
District	_____	When	_____	Case number	_____

10. **Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?**  No

Yes.

Debtor	_____	Relationship to you	_____
District	_____	When	_____
Case number, if known	_____		
Debtor	_____	Relationship to you	_____
District	_____	When	_____
Case number, if known	_____		

11. **Do you rent your residence?**  No. Go to line 12.

Yes. Has your landlord obtained an eviction judgment against you?

No. Go to line 12.

Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

**Part 3: Report About Any Businesses You Own as a Sole Proprietor**

**12. Are you a sole proprietor of any full- or part-time business?**

- No. Go to Part 4.
- Yes. Name and location of business

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

\_\_\_\_\_  
Name of business, if any

\_\_\_\_\_  
Number, Street, City, State & ZIP Code

*Check the appropriate box to describe your business:*

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- None of the above

**13. Are you filing under Chapter 11 of the Bankruptcy Code and are you a small business debtor?**

*If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines. If you indicate that you are a small business debtor, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. 1116(1)(B).*

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

- No. I am not filing under Chapter 11.
- No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
- Yes. I am filing under Chapter 11 and I am a small business debtor according to the definition in the Bankruptcy Code.

**Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention**

**14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?**

- No.
- Yes.
  - What is the hazard? \_\_\_\_\_
  - If immediate attention is needed, why is it needed? \_\_\_\_\_
  - Where is the property? \_\_\_\_\_

*For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?*

\_\_\_\_\_  
Number, Street, City, State & Zip Code

**Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**

**15. Tell the court whether you have received a briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

**About Debtor 1:**

*You must check one:*

- I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy. If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- I am not required to receive a briefing about credit counseling because of:**
  - Incapacity.**  
I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
  - Disability.**  
My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.
  - Active duty.**  
I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver credit counseling with the court.

**About Debtor 2 (Spouse Only in a Joint Case):**

*You must check one:*

- I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

- I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

- I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

- I am not required to receive a briefing about credit counseling because of:**
  - Incapacity.**  
I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
  - Disability.**  
My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.
  - Active duty.**  
I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

**Part 6: Answer These Questions for Reporting Purposes**

16. What kind of debts do you have?
- 16a. **Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."
- No. Go to line 16b.
- Yes. Go to line 17.
- 16b. **Are your debts primarily business debts?** *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.
- No. Go to line 16c.
- Yes. Go to line 17.
- 16c. State the type of debts you owe that are not consumer debts or business debts
- 

17. **Are you filing under Chapter 7?**
- No. I am not filing under Chapter 7. Go to line 18.
- Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?**
- Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
- No
- Yes
- 

18. **How many Creditors do you estimate that you owe?**
- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000     |
| <input type="checkbox"/> 50-99           | <input type="checkbox"/> 5001-10,000   | <input type="checkbox"/> 50,001-100,000    |
| <input type="checkbox"/> 100-199         | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999         |  |  |
- 

19. **How much do you estimate your assets to be worth?**
- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> \$0 - \$50,000 | <input type="checkbox"/> \$1,000,001 - \$10 million    | <input type="checkbox"/> \$500,000,001 - \$1 billion     |
| <input type="checkbox"/> \$50,001 - \$100,000      | <input type="checkbox"/> \$10,000,001 - \$50 million   | <input type="checkbox"/> \$1,000,000,001 - \$10 billion  |
| <input type="checkbox"/> \$100,001 - \$500,000     | <input type="checkbox"/> \$50,000,001 - \$100 million  | <input type="checkbox"/> \$10,000,000,001 - \$50 billion |
| <input type="checkbox"/> \$500,001 - \$1 million   | <input type="checkbox"/> \$100,000,001 - \$500 million | <input type="checkbox"/> More than \$50 billion          |
- 

20. **How much do you estimate your liabilities to be?**
- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> \$0 - \$50,000 | <input type="checkbox"/> \$1,000,001 - \$10 million    | <input type="checkbox"/> \$500,000,001 - \$1 billion     |
| <input type="checkbox"/> \$50,001 - \$100,000      | <input type="checkbox"/> \$10,000,001 - \$50 million   | <input type="checkbox"/> \$1,000,000,001 - \$10 billion  |
| <input type="checkbox"/> \$100,001 - \$500,000     | <input type="checkbox"/> \$50,000,001 - \$100 million  | <input type="checkbox"/> \$10,000,000,001 - \$50 billion |
| <input type="checkbox"/> \$500,001 - \$1 million   | <input type="checkbox"/> \$100,000,001 - \$500 million | <input type="checkbox"/> More than \$50 billion          |
- 

**Part 7: Sign Below**

**For you** I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**/s/ GAYLE H BAGSBY**  
**GAYLE H BAGSBY**  
 Signature of Debtor 1

Signature of Debtor 2

---

Executed on **March 14, 2018** Executed on  
 MM / DD / YYYY MM / DD / YYYY

---

**For your attorney, if you are represented by one**

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

**If you are not represented by an attorney, you do not need to file this page.**

**/s/ E. Covington Johnston**  
Signature of Attorney for Debtor

Date **March 14, 2018**  
MM / DD / YYYY

**E. Covington Johnston 4408**  
Printed name

**Johnston and Street**  
Firm name

**236 Public Square, Suite 103**  
**Franklin, TN 37064**  
Number, Street, City, State & ZIP Code

Contact phone \_\_\_\_\_ Email address \_\_\_\_\_

**4408**  
Bar number & State

GAYLE H BAGSBY  
708 RED FOX CT  
FRANKLIN TN 37064

E. COVINGTON JOHNSTON  
JOHNSTON AND STREET  
236 PUBLIC SQUARE, SUITE 103  
FRANKLIN, TN 37064

DEUTSCHE BANK NATIONAL  
C/O SHAPRIO AND INGLE LLP  
1030 PERMIMETER PKWY, STE 400  
CHARLOTTE NC 28216

**Information to identify the case:**

Debtor 1 **GAYLE H. BAGSBY**

First Name Middle Name Last Name

Debtor 2

(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court **MIDDLE DISTRICT OF TENNESSEE**

Case number: **3:18-bk-01762**

Social Security number or ITIN **xxx-xx-3469**

EIN \_ \_ - \_ \_ \_ \_ \_ \_ \_

Social Security number or ITIN \_ \_ \_ \_ \_

EIN \_ \_ - \_ \_ \_ \_ \_ \_ \_

Date case filed for chapter **13 3/14/18**

**Official Form 309I****Notice of Chapter 13 Bankruptcy Case**

12/17

**For the debtors listed above, a case has been filed under chapter 13 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.**

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors, the debtors' property, and certain codebtors. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

Confirmation of a chapter 13 plan may result in a discharge. Creditors who assert that the debtors are not entitled to a discharge under 11 U.S.C. § 1328(f) must file a motion objecting to discharge in the bankruptcy clerk's office within the deadline specified in this notice. Creditors who want to have their debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office by the same deadline. (See line 13 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at [www.pacer.gov](http://www.pacer.gov)).

**The staff of the bankruptcy clerk's office cannot give legal advice.**

**To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.**

**Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.**

	About Debtor 1:	About Debtor 2:
<b>1. Debtor's full name</b>	GAYLE H. BAGSBY	
<b>2. All other names used in the last 8 years</b>	aka Estate of Gayle H Bagsby	
<b>3. Address</b>	708 Red Fox Ct Franklin, TN 37064	
<b>4. Debtor's attorney</b> Name and address	E. COVINGTON JOHNSTON JOHNSTON & STREET 236 PUBLIC SQ SUITE 103 FRANKLIN, TN 37064	Contact phone: 615 791-1819 Email: ecjohnston@johnstonandstreet.com
<b>5. Bankruptcy trustee</b> Name and address	HENRY EDWARD HILDEBRAND III OFFICE OF THE CHAPTER 13 TRUSTEE PO BOX 340019 NASHVILLE, TN 37203-0019	Contact phone: 615 244-1101 Email: None
<b>6. Bankruptcy clerk's office</b> Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at <a href="http://www.pacer.gov">www.pacer.gov</a> .	701 Broadway Room 170 Nashville, TN 37203	Hours open: 8:00AM-4:00PM Monday-Friday Contact phone: 615-736-5584 Date: 3/16/18

**For more information, see page 2**

<p><b>7. Meeting of creditors</b> Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so.</p>	<p><b>May 1, 2018 at 11:00 AM</b></p> <p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>	<p><b>Location:</b> <b>Customs House, 701 Broadway, Room 100, Nashville, TN 37203</b></p>
<p>*** Valid photo identification required ***</p>		
<p><b>8. Deadlines</b> The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p><b>Deadline to file a complaint to challenge dischargeability of certain debts:</b></p> <p><b>You must file:</b></p> <ul style="list-style-type: none"> <li>a motion if you assert that the debtors are not entitled to receive a discharge under U.S.C. § 1328(f) or</li> <li>a complaint if you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4).</li> </ul> <p><b>Deadline for all creditors to file a proof of claim (except governmental units):</b></p> <p><b>Deadline for governmental units to file a proof of claim:</b></p> <hr/> <p><b>Deadlines for filing proof of claim:</b> A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at <a href="http://www.uscourts.gov">www.uscourts.gov</a> or any bankruptcy clerk's office. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed. Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p> <hr/> <p><b>Deadline to object to exemptions:</b> The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.</p>	<p><b>Filing deadline: 7/2/18</b></p> <p><b>Filing deadline: 5/23/18</b></p> <p><b>Filing deadline: 9/10/18</b></p> <hr/> <p><b>Filing deadline:</b> 30 days after the <i>conclusion</i> of the meeting of creditors</p>
<p><b>9. Filing of plan</b></p>	<p>If the debtor has filed a plan, it is enclosed. Any written objection must be filed at least 5 calendar days before the meeting of creditors. An oral objection may be raised at the meeting of creditors. If a timely objection is made, the confirmation hearing will be held on: <b>5/30/18 at 08:30 AM</b>, Location: <b>Courtroom 1, 2nd Floor Customs House, 701 Broadway, Nashville, TN 37203</b>. If no timely objection is made, the plan may be confirmed as unopposed.</p>	
<p><b>10. Creditors with a foreign address</b></p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadline in this notice. Consult an attorney familiar with United States bankruptcy law if you have <u>any questions about your rights in this case</u>.</p>	
<p><b>11. Filing a chapter 13 bankruptcy case</b></p>	<p>Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts according to a plan. A plan is not effective unless the court confirms it. You may object to confirmation of the plan and appear at the confirmation hearing. A copy of the plan, if not enclosed, will be sent to you later, and if the confirmation hearing is not indicated on this notice, you will be sent notice of the confirmation hearing. The debtor will remain in possession of the property and may continue to operate the business, if any, unless the court orders otherwise.</p>	
<p><b>12. Exempt property</b></p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors, even if the case is converted to chapter 7. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at <a href="http://www.pacer.gov">www.pacer.gov</a>. If you believe that the law does not authorize an exemption that debtors claimed, you may file an objection by the deadline.</p>	
<p><b>13. Discharge of debts</b></p>	<p>Confirmation of a chapter 13 plan may result in a discharge of debts, which may include all or part of a debt. However, unless the court orders otherwise, the debts will not be discharged until all payments under the plan are made. A discharge means that creditors may never try to collect the debt from the debtors personally except as provided in the plan. If you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4), you must file a complaint and pay the filing fee in the bankruptcy clerk's office by the deadline. If you believe that the debtors are not entitled to a discharge of any of their debts under 11 U.S.C. § 1328(f), you must file a motion by the deadline.</p>	

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE  
AT FRANKLIN

FILED  
WILLIAMSON COUNTY  
CLERK & MASTER

2011 OCT -5 PM 3: 24

ELIZABETH P. BAGSBY, )  
 )  
Petitioner )  
 )  
In Re: ESTATE OF SHARON GAYLE )  
BAGSBY, deceased )

ENTERED 10-13-11

No. P6057

**ORDER TO CLOSE ESTATE WITHOUT  
DETAILED ACCOUNTING**

Based on examination of the Petition, the Court finds the following:

1. Petitioner is the qualified personal representative of this estate.
2. The estate is solvent.
3. The estate has been fully administered.
4. No claims were filed against this estate. All other debts have been paid.
5. An Inheritance Tax Return has been filed with the State of Tennessee Department of Revenue, and a Tax Closing Letter is attached hereto.
6. An Application for a TennCare Waiver has been submitted to the State of Tennessee Department of Revenue, and a TennCare Waiver is attached hereto.
8. The estate representative is the sole beneficiary of the residuary estate and acknowledges that she is in receipt of the entirety of same.

It is, therefore, **ORDERED, ADJUDGED** and **DECREED** that the estate herein shall be closed and the estate representative shall be discharged from any further responsibilities relative thereto.

ENTER this 13 day of Oct, 2011.



**ELAINE B. BEELER**  
Clerk and Master

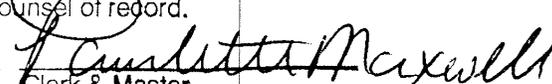
**APPROVED FOR ENTRY:**

**HARTZOG & SILVA, PLC**

  
**MARK HARTZOG, #3450**  
Attorney for Estate  
123 Fifth Avenue North; P. O. Box 664  
Franklin, Tennessee 37065-0664  
615/790-1500

**CLERK'S CERTIFICATE**

I hereby certify that a true and exact copy of foregoing has been mailed or delivered to all parties or counsel of record.

10-18-11   
Date Clerk & Master

FILED  
WILLIAMSON COUNTY  
CLERK OF COURT

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE

AT FRANKLIN

2011 OCT -5 PM 3:24

ELIZABETH P. BAGSBY, )  
 )  
Petitioner )  
 )  
In Re: ESTATE OF SHARON GAYLE )  
BAGSBY, deceased )

ENTERED 10-13-11

NO. P6057

**STATEMENT IN LIEU OF FINAL ACCOUNTING**

The undersigned, being the Administratrix of the Estate of Sharon Gayle Bagsby makes this sworn statement in accordance with T.C.A. § 30-2-601 for the purpose of closing the Estate of Sharon Gayle Bagsby without making a detailed final accounting required by T.C.A. § 30-2-601. The Administratrix affirms:

1. The Estate of Sharon Gayle Bagsby is solvent;
2. The Administratrix has:
  - a. Properly administered the estate;
  - b. Mailed or delivered notice of the requirement to file claims, as prescribed in T.C.A. Section 30-2-306(e), to the creditors of the decedent who were known or reasonably ascertainable.
  - c. Paid or settled all claims lawfully presented.
  - d. Paid all expenses of administration;
  - e. Secured from the State of Tennessee Department of Revenue a Tax Closing Letter.
  - f. Secured from the State of Tennessee Bureau of TennCare a TennCare Waiver.
  - g. Distributed the estate in accordance with Tennessee Statutes governing descent and distribution.
3. The Administratrix is the sole beneficiary and/or heir-at-law of the Deceased and is in receipt of all real and/or personal property to which she is entitled therefrom.
4. The Administratrix has paid and/or agreed to pay all attorneys' fees and court costs

herein.

*Elizabeth P. Bagsby*  
ELIZABETH P. BAGSBY  
Administratrix

APPROVED FOR ENTRY:

HARTZOG & SILVA, PLC

*MHS*

MARK HARTZOG; #3450  
Attorney for Estate  
123 Fifth Avenue North; P. O. Box 664  
Franklin, Tennessee 37065-0664  
615/790-1500

STATE OF TENNESSEE  
COUNTY OF WILLIAMSON

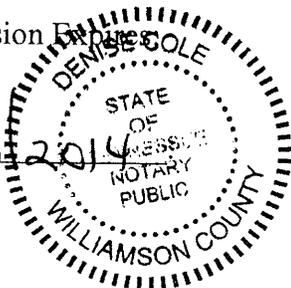
ELIZABETH P. BAGSBY, being first duly sworn according to law, makes oath that she has read the foregoing and that the facts set therein are true to the best of her knowledge, information and belief.

*Elizabeth P. Bagsby*  
ELIZABETH P. BAGSBY  
Administratrix

SWORN TO and subscribed before me on this the 4th day of Oct, 2011.

My Commission Expires

3/30/2014



*Denise Cole*  
Notary Public

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE

FILED  
WILLIAMSON COUNTY  
CLERK & MASTER  
2011 JUN 24 PM 12:45

AT FRANKLIN

ENTERED \_\_\_\_\_

ELIZABETH P. BAGSBY, )  
 )  
Petitioner )  
 )  
In Re: ESTATE OF SHARON GAYLE )  
BAGSBY, deceased )

No. P6057

**INVENTORY**

Petitioner, Elizabeth P. Bagsby, Administratrix of the Estate of Sharon Gayle Bagsby, submits herewith the following inventory in this cause:

Bank of America Checking Account #004900725072	\$510.00
1991 Pontiac Bonneville (approximate)	\$750.00
Furniture, appliances and household furnishings (approximate)	\$8,000.00

*Elizabeth P. Bagsby*  
ELIZABETH P. BAGSBY  
Administratrix

STATE OF TENNESSEE  
COUNTY OF WILLIAMSON

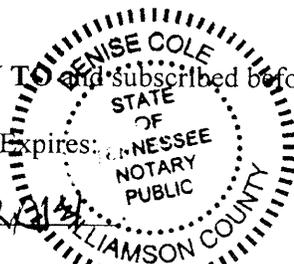
I, ELIZABETH P. BAGSBY, Administratrix of the Estate of Sharon Gayle Bagsby, deceased, certify that the above described inventory is a true and complete inventory of the Estate of Sharon Gayle Bagsby, deceased, to the best of my knowledge, information and belief.

*Elizabeth P. Bagsby*  
ELIZABETH P. BAGSBY

SWORN TO and subscribed before me on this the 24<sup>th</sup> day of June, 2011.

My Commission Expires:

3/30/2014



*Denise Cole*  
Notary Public

PT

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE

AT FRANKLIN

FILED  
WILLIAMSON COUNTY  
CLERK & MASTER  
2011 JUN 24 PM 12:45

ENTERED 7-11-11

ELIZABETH P. BAGSBY, )  
 )  
Petitioner )  
 )  
In Re: ESTATE OF SHARON GAYLE )  
BAGSBY, deceased )

No. P6057

**ORDER**

In this cause, it appearing to the Court that Elizabeth P. Bagsby, Administratrix of the Estate of Sharon Gayle Bagsby, deceased, has filed with the Court an Inventory in this cause, said Inventory appearing to be in all respects proper;

It is, therefore, **ORDERED** that the Inventory filed herein in this cause by Elizabeth P. Bagsby, Administratrix of the Estate of Sharon Gayle Bagsby, shall be entered on the appropriate minutes of the Court.

ENTER this the 11 day of July, 2011.



\_\_\_\_\_  
ELAINE B. BEELER  
Clerk and Master

APPROVED FOR ENTRY:

HARTZOG & SILVA, PLC

  
\_\_\_\_\_  
MARK HARTZOG, #3450  
Attorney for the Estate  
123 Fifth Avenue North  
P. O. Box 664  
Franklin, Tennessee 37065-0664  
615/790-1500

pm

# Foreclosure Notice

<b>Borrower:</b>	Gayle H Bagsby
<b>Address:</b>	708 Red Fox Ct Franklin, TN 37064-5722
<b>Original Trustee:</b>	Lighthouse Title and Escrow
<b>Attorney:</b>	Shapiro & Kirsch, LLP
<b>Instrument No.:</b>	3518 859
<b>Substitute Trustee:</b>	Shapiro & Ingle, LLP
<b>Advertised Auction Date:</b>	4/9/2019
<b>Date of First Public Notice:</b>	3/8/2019
<b>Trust Date:</b>	3/25/2005
<b>TDN No.:</b>	Fol43242

## SUBSTITUTE TRUSTEE'S SALE

A sale at public auction will be on April 9, 2019 at 10:00AM local time, at the south door, Williamson County Courthouse, 4th Avenue, Franklin, Tennessee pursuant to Deed of Trust executed by Gayle H. Bagsby, to Lighthouse Title and Escrow, Trustee, as trustee for New Century Mortgage Corporation on March 25, 2005 at Book 3518, Page 859; conducted by Shapiro & Ingle, LLP, having been appointed Substitute or Successor Trustee, all of record in the Williamson County Register's Office. Default has occurred in the performance of the covenants, terms, and conditions of said Deed of Trust and the entire indebtedness has been declared due and payable.

Party Entitled to Enforce the Debt: Deutsche Bank National Trust Company, as Indenture Trustee, for New Century Home Equity Loan Trust 2005-2, its successors and assigns. The following real estate located in Williamson County, Tennessee, will be sold to the highest

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE

AT FRANKLIN

FILED  
WILLIAMSON COUNTY  
CLERK AND MASTER  
2011 APR -8 AM 9:43

ENTERED 4-8-11

ELIZABETH P. BAGSBY, )  
 )  
Petitioner )  
 )  
In Re: ESTATE OF SHARON GAYLE )  
BAGSBY, deceased )

No. P-6057

**ORDER**

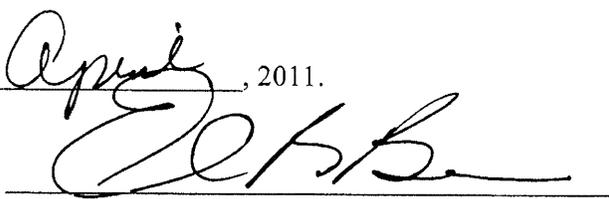
This cause came on to be heard on the 8th day of April, 2011, before the Honorable Elaine B. Beeler, Clerk and Master, upon the Petition for the appointment of an Administratrix heretofore entered in this cause, upon testimony of the Petitioner herein, upon statement of counsel, and upon the entire record in this cause, from all of which the Court finds that the Petition is well taken and that under the provisions of T.C.A. Section 30-1-101, et seq., the Petitioner, Elizabeth P. Bagsby, is entitled to the administration of the estate of the deceased.

It is, therefore, **ORDERED, ADJUDGED** and **DECREED** that Elizabeth P. Bagsby be appointed Administratrix of the estate of Sharon Gayle Bagsby, deceased, and that she be clothed with all of the responsibilities, liabilities and duties of Administratrix as may be required under Tennessee Statutes.

It is further **ORDERED** that the Administratrix shall be permitted to serve without bond pursuant to T.C.A. Section 30-1-201.

It is further **ORDERED** that the Administratrix shall be required to file an Inventory herein on or before the expiration of sixty (60) days from even date herewith, and additionally, an annual accounting, if applicable.

ENTER this 8 day of April, 2011.



**ELAINE B. BEELER**  
Clerk and Master

**APPROVED FOR ENTRY:**

**HARTZOG & SILVA, PLC**



**MARK HARTZOG**; #3450  
Attorney for Estate  
123 Fifth Avenue North  
Franklin, Tennessee 37065-0664

[http://www.williamsonherald.com/obituaries/obituary-teacher-leaves-legacy-of-love-and-friendship/article\\_aad63965-108d-57a1-8235-2d39823fcc8d.html](http://www.williamsonherald.com/obituaries/obituary-teacher-leaves-legacy-of-love-and-friendship/article_aad63965-108d-57a1-8235-2d39823fcc8d.html)

## Obituary: Teacher leaves legacy of love and friendship

CAROLE ROBINSON Staff Writer Mar 8, 2006

The day after her death, amidst tears and laughter, a group of Franklin Special School District teachers and principals took time to heal and to memorialize their longtime friend, colleague and mentor, Sharon Gayle Huff Bagsby.

The 33-year veteran teacher died Tuesday at Freedom Intermediate School doing what she loved -- tutoring a group of students.

Some in the group had known her since childhood. Many had taught with her for years and one was a former student who now taught alongside Gayle at FIS.

"As sad as it was, she didn't suffer. She was surrounded by friends doing what she loved," said Florence Pitts, a longtime friend and colleague. "She spent her last moments with people who loved her. For Gayle, this was the best place for her to have gone. What more could anyone want?"

Gayle Bagsby left behind a legacy of love, friendship, joy and compassion. She loved children, her family and her friends and she loved to live life. She overcame cancer, the loss of her parents and a divorce, yet her arms were always open -- teachers and students often stopped by for their daily hug from Gayle.

"She came to work every day with joy in her heart to make an impact on children," said FIS principal Sean Impeartrice. "She made an impact on all of us."

Gayle was born and raised in Franklin. The daughter of the late Sheriff Earl M. "Mutt" and Emma Arms Huff, the jail was her home, the (female) inmates her babysitters.

Gayle attended the Franklin Special schools through eighth grade and graduated from Franklin High School. She was active in her church, Bethesda United Methodist Church, and with her sorority, Alpha Delta Kappa.

FIS computer technology teacher Jennie Harris grew up with Gayle. For several years the childhood friends even taught together in the same classroom.

"She was my memory bank," said Harris whose shaky voice gave away her grief. "She never forgot a face or a name. Working with her made teaching fun. She loved children, and she found love in everyone."

And, her friends said, she loved to laugh.

As a teacher and a mother, she was dedicated, compassionate and an inspiration. She could teach every subject, but she was especially good with underachievers and at-risk children.

"She never had a child she didn't love, and she never had a child she didn't push to achieve," said Pitts. "No Child Left Behind -- she'd been doing that a long time."

Her love and caring went well beyond the school. If a child needed additional support, she was there to not only cheer them on, but she made sure they got to their activities, as in the case of boxer Clay Jenkins who went on to be a Golden Gloves boxing champion.

"She wasn't just a kind mom to her own child, she was a mom to so many children," said Pearlette Green, FIS Guidance counselor. "Even after they left (here) they would come back to see her."

Cooking was another way Gayle expressed love. She was the first to provide comfort food and had a specialty dish for every occasion. She knew everyone's favorite dish and never forgot a birthday.

"Cooking was her gift of love," said Harris.

Her pies, jams, pickles, cakes and other dishes were renowned and often brought big bucks in auctions.

But as dedicated as Gayle was to teaching, she was also a dedicated mother. Her daughter Betsy came first in her life and is now following in her mother's footsteps pursuing a career as a teacher.

"There's not a person in here that hasn't learned something from her," said Harris. "God's the lucky one. He has her, now."

© 2006 Williamson Herald

SENATE RESOLUTION 143  
By Bryson

A RESOLUTION to honor the memory of Sharon Gayle Huff  
Bagsby of Franklin.

WHEREAS, the members of this General Assembly were greatly saddened to learn of the untimely passing of Freedom Intermediate School teacher Sharon Gayle Huff Bagsby; and

WHEREAS, Gayle Bagsby was an exemplary public servant and consummate professional who worked assiduously to improve the quality of life for her fellow citizens in numerous capacities; and

WHEREAS, a longtime fixture in the Franklin Special School District, Ms. Bagsby died while tutoring a group of nine students after school; the loss is hard-felt in the district where educators pride themselves on the family atmosphere they keep in a school environment; and

WHEREAS, a Franklin native, Gayle Bagsby was the daughter of the late Sheriff Earl M. "Mutt" Huff and Emma Arms Huff; and

WHEREAS, Gayle Bagsby attended the Franklin Special schools through eighth grade and graduated from Franklin High School; she took her first teaching job with the District in 1972, and for thirty-three years she taught grades four, five, and six; she never saw a child she didn't love, or one she didn't push to achieve; and

WHEREAS, in her youth, Gayle Bagsby was recognized as the cheerful daughter of Sheriff Mutt Huff; she spent a great deal of time at the old Bridge Street jail, where her mother cooked meals for the inmates; and

WHEREAS, as an adult, Ms. Bagsby would often bring comfort food to the school, and was famous for four items: Chicken Divan, pimento cheese, tuna fish, and her chocolate cake with nuts; cooking was her gift of love, and she knew everyone's favorite dish and never forgot a birthday; and

WHEREAS, Ms. Bagsby was a tireless advocate for students, especially the ones who needed encouragement; she taught summer school for more than ten years, and also served as

an after-school tutor for many years, receiving the school-level Teacher of the Year honor in 1999; and

WHEREAS, she was always quick to offer help, great at remembering and sharing funny stories, prone to giving nicknames, and shared her culinary concoctions freely; Gayle Bagsby was a friend, a colleague, and a mentor at Freedom Intermediate School, and she leaves behind an indelible legacy of love, friendship, joy, and compassion; and

WHEREAS, Ms. Bagsby was a devout member of Bethesda United Methodist Church, and she was active in her sorority, Alpha Delta Kappa; and

WHEREAS, Gayle Bagsby was deeply devoted to teaching, but her daughter, Betsy Hulsey, was first and foremost in her life; Betsy Hulsey has been a substitute teacher in the District and is nearly finished earning her credentials to follow in her mother's footsteps; and

WHEREAS, Ms. Bagsby is survived by her daughter, a sister, and a brother; and

WHEREAS, she found love in everyone, and she loved children, her family, and her friends; Gayle Bagsby had overcome cancer, the loss of her parents, and a divorce, yet her arms were always open – teachers and students often stopped by for their daily hug; and

WHEREAS, it is fitting that this General Assembly should pause to remember the bountiful life of this exceptional public servant and human being; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED FOURTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that we honor the memory of Sharon Gayle Huff Bagsby, reflecting fondly upon her positive impact on the world around her, her impeccable character, and her stalwart commitment to living the examined life with courage and conviction.

BE IT FURTHER RESOLVED, that we express our sympathy and offer our condolences to the family and many friends of Sharon Gayle Huff Bagsby.

BE IT FURTHER RESOLVED, that an appropriate copy of this resolution be prepared for presentation with this final clause omitted from such copy.

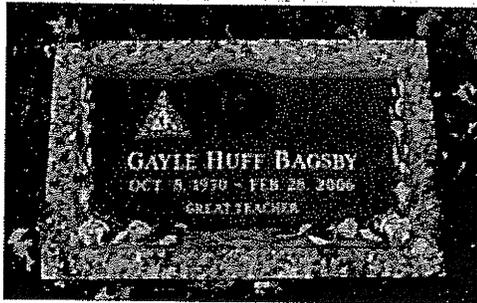


Photo added by bbarnhill

## Sharon Gayle *Huff* Bagsby

**BIRTH** 8 Oct 1950  
Williamson County, Tennessee, USA

**DEATH** 28 Feb 2006 (aged 55)  
Williamson County, Tennessee, USA

**BURIAL** Williamson Memorial Gardens  
Franklin, Williamson County, Tennessee, USA

**MEMORIAL ID** 86021625 · [View Source](#)

Sharon Gayle Huff Bagsby, age 55, passed away Tuesday, Feb. 28, 2006 at Williamson Medical Center. Mrs. Bagsby was born in Williamson County, daughter of the late Earl M. "Mutt" and Emma Arms Huff and made her home in Franklin. She was a teacher in Franklin Special School District for 34 years and member of Bethesda United Methodist Church. She is survived by her daughter, Betsy Bagsby (Brian) Hulsey of Franklin; Betsy's half-brother, Phillip Bagsby; brother, Kenny (Sue Ellen) Huff of Burwood Community; sister, Elda A. Marshall of Kings Mill, Ohio; nephews, Don and Doug Marshall; many special friends and colleagues in the Franklin Special School District and her many special students.

Services will be conducted at 4 p.m. Friday, March 3, 2006 at Williamson Memorial Funeral Home, with Allison Gilliam officiating. Interment will follow at Williamson Memorial Gardens. Cousins will be active pallbearers. Honorary pallbearers will be members of Bethesda United Methodist Church and The Franklin Special School District. Memorials may be made to Bethesda United Methodist Church. Visitation was 7-9 p.m. on Wednesday, and will be 3-9 p.m. Thursday and two hours prior to service Friday at Williamson

Memorial Funeral Home (3009 Columbia Ave., Franklin), which is in charge of arrangements.

### Family Members

#### Parents



Earl Milton Huff  
1920–1990



Emma Lois  
Arms Huff  
1922–1990

#### Siblings

Kenneth Alan  
Huff  
1952–2016

Created by: bbarnhill

Added: 29 Feb 2012

Find A Grave Memorial **86021625**

*Find A Grave*, database and images

(<https://www.findagrave.com> : accessed 10 May 2019), memorial page for Sharon Gayle *Huff* Bagsby (8 Oct 1950–28 Feb 2006), Find A Grave Memorial no. 86021625, citing Williamson Memorial Gardens, Franklin, Williamson County, Tennessee, USA ; Maintained by bbarnhill (contributor 47395133) .

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This Order has been electronically signed. The Judge's signature and Court's seal appear at the top of the first page.  
United States Bankruptcy Court.