

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

IN RE:)	
)	Chapter 7
JESSICA DAWN SCOTT,)	
)	Case Number 16-50158
Debtors.)	
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JUDY A. ROBBINS,)	
United States Trustee For Region Four,)	
)	
Plaintiff,)	
)	
v.)	Adversary Proceeding
)	Case Number 16-05014
JOHN C. MORGAN, JR., JOHN C.)	
MORGAN, JR., PLLC, UPRIGHT LAW LLC,)	
LAW SOLUTIONS CHICAGO LLC, JASON)	
ROYCE ALLEN, KEVIN W. CHERN,)	
EDMUND SCANLAN, and SPERRO LLC,)	
)	
Defendants.)	
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ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSE

Defendants John C. Morgan, Jr. (“Morgan”), John Carter Morgan, Jr. PLLC (“JCM”), Upright Law LLC (“Upright Law”), Law Solutions Chicago LLC (“LSC”), Jason Royce Allen (“Allen”), Kevin W. Chern (“Chern”), and Edmund Scanlan (“Scanlan” and collectively with Morgan, JCM, Upright Law, LSC, Allen and Chern, the “Upright Defendants”), answer the Complaint of Judy A. Robbins (the “Trustee” or “Plaintiff”), the United States Trustee for Region Four (the “Complaint”) and assert their affirmative defense as follows:

I. Jurisdiction and Venue

1. This adversary proceeding relates to the chapter 7 case of Jessica Dawn Scott, case number 16-50158 (the “Scott Bankruptcy Case”), pending in the United States Bankruptcy Court for the Western District of Virginia, Harrisonburg Division.

ANSWER: The Upright Defendants admit that certain counts of the Complaint relate to the Scott Bankruptcy Case. The Upright Defendants deny the remainder of the allegations contained in paragraph 1 of the Complaint.

2. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 2 of the Complaint.

3. This complaint is based on 11 U.S.C. §§ 105, 307, 329, and 526; Fed. R. Bankr. P. 2016 and 2017; Local Rules 2090-1 and 5005-4; and the court's inherent power.

ANSWER: The Upright Defendants admit that Plaintiff has stated that her Complaint is predicated on 11 U.S.C. §§ 105, 307, 329, and 526; Fed. R. Bankr. P. 2016 and 2017; Local Rules 2090-1 and 5005-4; and the court's inherent power. The Upright Defendants deny the remaining allegations contained in paragraph 3 of the Complaint.

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 4 of the Complaint.

5. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

ANSWER: The Upright Defendants admit that Counts I through IV of the Complaint constitute core proceedings under 28 U.S.C. § 157(b)(2). The Upright Defendants deny the remaining allegations contained in paragraph 5 of the Complaint.

II. Background

A. The Parties

6. Plaintiff United States Trustee is a Department of Justice official with standing to file this complaint under 11 U.S.C. § 307.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 6 of the Complaint.

7. Defendant Kevin W. Chern is an attorney licensed by the State of Illinois to practice law. Chern is not licensed to practice law in Virginia.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 7 of the Complaint.

8. Defendant Jason Royce Allen is an attorney licensed by the State of Illinois to practice law. Allen is not licensed to practice law in Virginia.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 8 of the Complaint.

9. Defendant Law Solutions Chicago LLC (“LSC”) is an Illinois company. It filed articles of organization with the Illinois Secretary of State on October 10, 2008. It is authorized to transact business in Illinois under the following active assumed names: Jason Allen Law LLC; Upright Law LLC; and Allen & Associates, LLC. It has the following inactive assumed names in Illinois: Immediate Payroll Information Services LLC; and Law Solutions. It also holds itself out as a service of “Allen Chern Law.”

ANSWER: The Upright Defendants admit that Law Solutions Chicago LLC is an Illinois limited liability company. The Upright Defendants further admit the allegations contained in the remaining four sentences of paragraph 9 of the Complaint.

10. LSC solicits clients over the Internet. On its website, it purports to have “Local Offices Nationwide.”

ANSWER: The Upright Defendants admit the allegations contained in paragraph 10 of the Complaint.

11. On information and belief, LSC does not have offices nationwide.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 11 of the Complaint.

12. LSC was domesticated in Virginia on April 14, 2014. It listed its principal office as 25 E. Washington Street, Suite 400, Chicago, Illinois.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 12 of the Complaint.

13. Chern, Allen, and Lynn Coleman are listed in documents filed with the Illinois Secretary of State as the managers of LSC.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 13 of the Complaint.

14. On information and belief, Chern and Allen are members in LSC and its affiliates.

ANSWER: The Upright Defendants admit that Chern and Allen are members of LSC and deny the remaining allegations contained in paragraph 14 of the Complaint.

15. According to LSC's website, Defendant Edmund Scanlan is the chief executive officer of "Upright Law," and manager of an entity named Upright Litigation, LLC. According to LSC's website, "all legal services are provided by affiliated and related entities." The website states that Scanlan is the "CEO" or "Administrator" of every entity allegedly providing the legal services to prospective debtors.

ANSWER: The Upright Defendants admit the allegations contained in the first sentence of paragraph 15 of the Complaint. The Upright Defendants admit that its website, www.uprightlaw.com states that "all legal services are provided by affiliated and related

entities.” The Upright Defendants admit that its website states that Scanlan “is the CEO of the firm in all states but TX where his title is Administrator.” The Upright Defendants deny any remaining allegations contained in paragraph 15 of the Complaint.

16. Upon information and belief, Scanlan is not licensed to practice law in any jurisdiction.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 16 of the Complaint and further note that Scanlan does not practice law.

17. Defendant Upright Law LLC is a Virginia company. Allen signed the articles of organization for Upright Law LLC that were filed with the Virginia State Corporation Commission on or about January 9, 2015. According to the articles, the company’s principal office is located at 98 Alexandria Pike, Suite 10, Warrenton, Virginia 20186. A copy of the articles of organization is attached as Exhibit 1.

ANSWER: The Upright Defendants admit that Upright Law LLC is a Virginia limited liability company and further admit the remaining allegations contained in paragraph 17 of the Complaint. The Upright Defendants further note that the address set forth in paragraph 17 of the Complaint is the office of one of its limited partners, John Morgan.

18. John C. Morgan, Jr. is a member of the bar of the United States Bankruptcy Court for the Western District of Virginia. John C. Morgan practices before this court as a member of John C. Morgan, Jr., PLLC (collectively with John C. Morgan, Jr., “Morgan”) and also purports to be a partner in Upright Law LLC by virtue of a limited partnership agreement. Morgan’s law office is located at 98 Alexandria Pike, Suite 10, Warrenton, Virginia 20186.

ANSWER: The Upright Defendants admit the allegations contained in the first sentence of paragraph 18 of the Complaint and further admit that Morgan is a member of JCM and a limited partner in Upright Law LLC. The Upright Defendants further admit that Morgan practices law from his office located at 98 Alexandria Pike, Suite 10, Warrenton, Virginia 20186. The Upright Defendants deny the remaining allegations of paragraph 18 of the Complaint.

19. Defendant Sperro LLC (collectively with its affiliates, “Sperro”) is an entity owned by Brian Fenner that does business as Sperro Towing and Recovery. Affiliates of Sperro include Fenner & Associates LLC, which is commonly owned with Sperro, and uses the same address, 2534 Bluff Road, Indianapolis, Indiana, and the same registered agent, Joseph F. Thoms.

ANSWER: The Upright Defendants lack knowledge or information sufficient to admit or deny the allegations in paragraph 19 of the Complaint, and therefore deny the same.

20. Scott is an assisted person as defined by 11 U.S.C. § 101(3).

ANSWER: Paragraph 20 states a legal conclusion to which no response is required, and therefore, the Upright Defendants deny the same.

21. LSC, Upright Law LLC, and Morgan are debt relief agencies as defined in 11 U.S.C. § 101(12A), and all of them provided bankruptcy assistance to Scott.

ANSWER: Paragraph 21 states a legal conclusion to which no response is required, and therefore, the Upright Defendants deny the same.

B. The Appearance and Formation of Upright Law LLC in the Western District of Virginia

22. On information and belief, beginning in 2014, Allen, Chern, and/or LSC began recruiting attorneys licensed to practice in the Western District of Virginia to represent prospective debtors, including assisted persons, who had paid money to LSC for representation in bankruptcy cases to be filed in the United States Bankruptcy Court for the Western District of Virginia. Upon information and belief, attorneys that agreed to participate were given “limited partnership agreements” to sign.

ANSWER: The Upright Defendants admit that it began looking for attorneys licensed to practice law in the state of Virginia to join Upright Law as limited partners in 2014. The Upright Defendants deny the remaining allegations contained in paragraph 22 of the Complaint.

23. On or prior to October 29, 2014, Morgan obtained a second ECF password to use in connection with cases filed as a purported partner or representative of Upright Law LLC. On information and belief, Morgan signed a Case Management/Electronic Case Filing (CM/ECF)

System Participant Registration Form to obtain the password. On information and belief, Morgan represented his firm name to be Upright Law LLC on the CM/ECF participant registration form. However, no law firm named Upright Law LLC had been registered with the Virginia State Corporation Commission and the Virginia State Bar, and as a result no such law firm was authorized to practice law in Virginia at that time.

ANSWER: The Upright Defendants admit that Morgan obtained an ECF password to use in connection with cases filed as a partner of Upright Law LLC on or about October 29, 2014. The Upright Defendants further admit the allegations contained in the second and third sentences of paragraph 23. Defendants deny the remaining allegations contained in paragraph 23 of the Complaint and affirmatively state that LSC registered to do business as a foreign corporation in Virginia on or about April 14, 2014 and Upright Law LLC filed its trade name application with Fauquier County, Virginia on or about August 9, 2014.

24. Prior to the filing of both articles of organization for Upright Law LLC with the Virginia State Corporation Commission and an application for a certificate of registration with the Virginia State Bar, Morgan used his Upright ECF password to file the following cases: In re Long 14-5144; and In re Duncan 14-71520.

ANSWER: The Upright Defendants state that LSC registered to do business as a foreign corporation in Virginia on or about April 14, 2014 and Upright Law LLC filed its trade name application with Fauquier County, Virginia on or about August 9, 2014. Further, Upright Law LLC submitted domestic articles of organization on or about January 9, 2015 and its application to the Virginia State Bar on January 9, 2015. The Upright Defendants deny any remaining allegations contained in paragraph 24.

25. On or about August 12, 2015, Allen caused an application for a certificate of registration for Upright Law LLC (attached as Exhibit 2) to be filed with the Virginia State Bar. The application listed “John Morgan,” “Edrie Pfeiffer,” and “Darren Deerfield” (sic) as the members of Upright Law LLC who would practice law in Virginia.

ANSWER: The Upright Defendants state that they submitted Upright Law LLC's application to the Virginia State Bar on January 9, 2015, which noted on its face that its signatory was not licensed to practice law in the state of Virginia. The Upright Defendants further state that it was never notified by the Virginia State Bar that the Upright Law LLC application was defective and/or rejected – despite the clear requirement that its executive director do so within 15 days of Upright Law LLC's submission of its application, i.e. on or before January 24, 2015, after which date it was reasonable for Upright Law LLC to assume that the Virginia State Bar had accepted its application. Rather, on or about August 12, 2015, over seven months after Upright Law LLC submitted its application to the Virginia State Bar, the Virginia State Bar sent Upright Law LLC its certification. Further, upon its own review of Virginia documentation, Upright Law LLC determined it needed to amend its Virginia State Bar application, and did so on or about March 18, 2016 to include the following licensed Virginia attorneys on the application as managers and members of Upright Law LLC; Darren Delafield, John Morgan and Edrie Pfeiffer. The Upright Defendants deny the remaining allegations contained in paragraph 25 of the Complaint.

26. The application for a certificate of registration listed Upright Law LLC's address as 79 W. Monroe Street, Fifth Floor, Chicago, Illinois 60603.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 26 of the Complaint.

27. Although all documents filed with the Virginia State Bar must be signed by at least one member of the bar of Virginia, no person authorized to practice law in Virginia signed the application for a certificate of registration filed with the Virginia State Bar. Allen (an Illinois lawyer) signed the certificate of registration filed with the Virginia State Bar.

ANSWER: The Upright Defendants state that they submitted Upright Law LLC's application to the Virginia State Bar on January 9, 2015, which noted on its face that its

signatory was not licensed to practice law in the state of Virginia. The Upright Defendants further state that it was never notified by the Virginia State Bar that the Upright Law LLC application was defective and/or rejected – despite the clear requirement that its executive director do so within 15 days of Upright Law LLC’s submission of its application, i.e. on or before January 24, 2015, after which date it was reasonable for Upright Law LLC to assume that the Virginia State Bar had accepted its application. Rather, on or about August 12, 2015, over seven months after Upright Law LLC submitted its application to the Virginia State Bar, the Virginia State Bar sent Upright Law LLC its certification. Further, upon its own review of Virginia documentation, Upright Law LLC determined it needed to amend its Virginia State Bar application, and did so on or about March 18, 2016 to include the following licensed Virginia attorneys on the application as managers and members of Upright Law LLC; Darren Delafield, John Morgan and Edrie Pfeiffer. The Upright Defendants deny the remaining allegations contained in paragraph 27 of the Complaint.

28. As the certificate of registration indicates, LSC and Upright Law LLC’s dealings with Morgan are part of a broader pattern and practice of conduct. For example, at least one other attorney has filed cases in this district purportedly as a representative of “Upright Law LLC” prior to that entity being authorized to practice law in Virginia. Darren T. Delafield, a member of the bar of this court, obtained a second ECF password on or prior to January 10, 2015, to use in connection with cases filed as a purported partner or representative of Upright Law LLC. On information and belief, Delafield signed a Case Management/Electronic Case Filing (CM/ECF) System Participant Registration Form to obtain the password. On information and belief, Delafield represented his firm name to be Upright Law LLC on the CM/ECF participant registration form. However, no entity named Upright Law LLC was authorized to practice law in Virginia at that time. After the filing of articles of organization for Upright Law LLC with the Virginia State Corporation Commission but prior to Upright Law LLC obtaining a certificate of registration from the Virginia State Bar, Delafield used his Upright ECF password to file the following cases and adversary proceedings: In re McClenton 15-60037; In re Rubino 15-70130; In re Winners 15-70247; McClenton v. Asset Acceptance, LLC 15-06024; McClenton v. Springleaf Financial Services 15-06024; In re Epperson 15-70470; In re McDaniel 15-70572; In re Harvey 15-50564; In re Richerson 15-61444; In re Bass 15-61445; and In re Royall 15-71084.

ANSWER: The Upright Defendants deny the allegations contained in the first two sentences of paragraph 28 of the Complaint. The Upright Defendants admit that Darren Delafield obtained an ECF password in anticipation of filing cases as a limited partner of Upright Law LLC and that he signed a Case Management/Electronic Case Filing System Participant Registration Form to obtain the password under the name Upright Law LLC. The Upright Defendants further state Upright Law LLC registered to conduct business as a foreign corporation in the state of Virginia in August 2014. The Upright Defendants deny the remaining allegations contained in paragraph 28 of the Complaint.

C. The “New Car Custody Program”

29. By May 2015, LSC began advising the lawyers it worked with (its “Valued Partners”) to participate in the “New Car Custody Program.”

ANSWER: The Upright Defendants admit that in May 2015 it advised its partners and attorneys about the availability of a “New Car Custody Program” after reviewing the proposed program, conducting due diligence on Sperro and Fenner and analyzing the programs potential benefits for its clients. The Upright Defendants further state that the name “New Car Custody Program” was a name that Upright Law LLC used to refer to the program internally, but that the name has no official meaning. The Upright Defendants deny the remaining allegations contained in paragraph 29 of the Complaint.

30. In an email dated June 18, 2015 (attached as Exhibit 3), Chern explained that the program works as follows:

Qualifications:

- Client wants to file for Chapter 7 bankruptcy.
- Client has a vehicle, motorcycle, boat, truck or other property that client is willing to surrender.
- The property intended to be surrendered has no equity.
- The property to be surrendered is worth greater than \$5000.

Program Details:

- Client contacts Sperro LLC (Sperro), a towing and storage company, and arranges for Sperro to take custody of the debtor's property.
- At time of surrender of vehicle to Sperro, Client signs a towing, storage and custody agreement with Sperro. . .Sperro charges customary and reasonable fees for these services. . .
- UpRight notifies the finance company. . .that Sperro has custody of the vehicle. . .and they should recover the vehicle as soon as possible to avoid excessive storage fees.

Benefits to Client:

...

- Immediately upon placing the vehicle in Sperro's custody, Sperro will remit the entire legal fee plus filing fee to UpRight Law on client's behalf. . .

ANSWER: The Upright Defendants deny the allegations contained in paragraph 30 of the Complaint and note that an accurate and complete copy of Chern's June 18, 2015 email is attached to the Complaint as Exhibit 3, which email sets forth, among other things, the nature of the program, the benefits of the program for Upright Law clients and an overview of the due diligence conducted on the program and its operator.

31. On information and belief, Morgan received the email.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 31 of the Complaint.

32. On information and belief, LSC and Sperro created The New Car Custody Program as part of a scheme to generate revenue for themselves at the expense of prospective debtors and secured lenders. As part of this scheme, LSC advised prospective debtors with "qualifying" vehicles to enter the New Car Custody Program emphasizing that their bankruptcy legal fees would be paid. To have a "qualifying" vehicle, the prospective debtors had to have no equity in the vehicle. Prospective debtors who participated in the New Car Custody Program were directed to surrender their vehicle to Sperro and to incur new debt by signing its towing and storage agreement. On information and belief, prospective debtors were advised by LSC that they would not have to pay the towing and storage fees incurred and, if the prospective debtor inquired, that the transaction with Sperro was legal.

ANSWER: The Upright Defendants can neither admit nor deny the allegations contained in paragraph 32 of the Complaint that reference advice it gave to its clients because the

substance of any conversations with their clients are privileged, and therefore the Upright Defendants deny the same. The Upright Defendants further deny the remaining allegations contained in paragraph 32 of the Complaint.

33. An example of a contract Sperro provides to prospective debtors – including, on information and belief, Scott – is attached as Exhibit 4.

ANSWER: The Upright Defendants admit that Exhibit 4 appears to be a true and accurate copy of the agreement that Sperro sent to Scott. The Upright Defendants lack information and knowledge sufficient to admit or deny the remaining allegations contained in paragraph 33 of the Complaint, and therefore deny the same.

34. After a prospective debtor has signed a towing and storage contract with Sperro, Sperro takes possession of the prospective debtor's vehicle and transports it to a storage facility owned by Sperro, located in Indiana.

ANSWER: The Upright Defendants admit that once Sperro obtained possession of Scott's vehicle, it caused the vehicle to be transferred to a storage facility in Indiana. The Upright Defendants lack information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 34 of the Complaint, and therefore deny the same.

35. Sperro charges inflated fees for towing and storage that are designed to permit it to assert a lien large enough to cover these fees plus an additional amount to benefit Sperro.

ANSWER: The Upright Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 35 of the Complaint, and therefore deny the same.

36. After the debtor fails to pay the charges, Sperro asserts a lien against the vehicle and purports to exercise its lien rights to conduct an auction of the vehicle to obtain title to the vehicle.

ANSWER: The Upright Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 36 of the Complaint, and therefore deny the same.

37. Sperro pays LSC the fees and costs the prospective debtor agreed to pay for a bankruptcy case and, on information and belief, retains the rest of the proceeds.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 37 of the Complaint.

38. This situation has played out in multiple bankruptcy cases in multiple states in addition to having occurred in this case and in the Williams (15-71767), White (16-70361), and McGuire (16-70732) cases filed in this court. A similar complaint is pending in the Williams case, Adv. Pro. 16-07024.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 38 of the Complaint except that they admit that a substantially similar complaint filed by the same Plaintiff is pending before this Court as Adv. Pro. 16-07024.

39. Upon information and belief, some prospective debtors are told by LSC and/or Sperro that Sperro will take possession of the vehicles and obtain the consent of the secured creditors to sell the vehicles for the benefit of the secured creditors.

ANSWER: The Upright Defendants state that as part of the presentation to them of the benefit of its services, Sperro advised the Upright Defendants that he uses his connections as a former repossession, towing and storage service provider to automotive lenders and his regional storage facilities to facilitate the prompt turnover of the vehicles to the applicable secured lender. The Upright Defendants lack information and knowledge sufficient to admit or deny the remaining allegations contained in paragraph 39 of the Complaint, and therefore deny the same.

D. General Summary of the Business Model

40. When a prospective debtor reviews the website operated by LSC, the prospective debtor is asked to provide his or her contact information to learn if they qualify for bankruptcy

relief. Thereafter, agents of LSC – located, upon information and belief, in Chicago – call the prospective debtor, ask questions about his or her financial situation, and give the prospective debtor advice including, but not limited to, whether to file a bankruptcy petition and under which chapter to file it.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 40 of the Complaint.

41. If the prospective debtor agrees to hire “Upright,” LSC asks the prospective debtor to provide information for accounts that can be debited for bankruptcy-related fees and costs quoted to the prospective debtor. If the prospective debtor cannot pay the fee immediately, automatic withdrawals are set up to debit the prospective debtor’s account over time.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 41 of the Complaint.

42. On information and belief, only after LSC collects the full amount quoted does LSC refer the prospective debtor to a “limited partner” licensed to practice law in the prospective debtor’s state.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 42 of the Complaint.

43. On information and belief, LSC pays the “limited partner” a percentage of the fee received by LSC from the prospective debtor after the petition is filed and pays an additional percentage of the fee received after the discharge order is entered. However, the Statements of Financial Affairs on cases filed in this court generally state that the debtor paid “UpRight Law LLC.” Further, the attorney filing the petition generally files a Rule 2016 disclosure stating that the “Debtor” was “[t]he source of compensation paid to me.”

ANSWER: The Upright Defendants admit the allegations contained in the first sentence of paragraph 43 of the Complaint. The Upright Defendants further state that the “general” allegations contained in the second two sentences of paragraph 43 of the Complaint are “generally” correct but not applicable to the matter at hand, so therefore, they deny the same.

44. On information and belief, Defendants have no way to run proper conflicts checks. In addition, LSC usually controls all contact with prospective debtors until, in chapter 7 cases, all fees are collected by LSC.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 44 of the Complaint.

45. At least 8 cases, most under chapter 7 and at least 1 under chapter 13, have been filed in this court under the Upright ECF password issued to Morgan. More than 30 cases filed under chapter 7 and chapter 13 have been filed under the Upright ECF passwords issued to Delafield.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 45 of the Complaint.

E. Transactions Involving Scott

46. By October 2015, the debtor was financially distressed.

ANSWER: The Upright Defendants can neither admit nor deny the allegations contained in paragraph 46 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

47. As a result of her financial condition, Scott began searching the Internet for information about bankruptcy. She reviewed LSC's website and contacted "Upright."

ANSWER: The Upright Defendants lack knowledge or information sufficient to admit or deny the allegations contained in paragraph 47 of the Complaint, and therefore deny the same.

48. Scott agreed to retain "Upright" in or about October 2015 and she gave LSC's agents permission to debit her account \$100.00 immediately and then \$100.00 bi-weekly thereafter until approximately \$1,835.00 was received. LSC debited Scott's account and received \$100.00 from Scott.

ANSWER: The Upright Defendants admit the allegations contained in the last sentence of paragraph 48 of the Complaint. The Upright Defendants deny the remaining allegations contained in paragraph 48 of the Complaint.

49. Scott asked LSC for advice about a 2005 Pontiac Sunfire (the “Vehicle”) that she could not afford and did not want to try to keep.

ANSWER: The Upright Defendants can neither admit nor deny the allegations contained in paragraph 49 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

50. The LSC agent advised Scott that under the “New Car Custody Program,” Sperro would take the car, sell it, and use some of the proceeds to pay the fees and expenses quoted for representation of Scott in a chapter 7 case.

ANSWER: The Upright Defendants can neither admit nor deny the allegations contained in paragraph 50 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

51. The Vehicle was collateral for a debt owed to Credit Acceptance Corp. (“Credit Acceptance”).

ANSWER: The Upright Defendants admit the allegations contained in paragraph 51 of the Complaint.

52. Sometime in November 2015, the debtor received a towing and storage agreement from Sperro.

ANSWER: The Upright Defendants lack information or knowledge sufficient to admit or deny the allegations contained in paragraph 52 of the Complaint, and therefore deny the same.

53. On information and belief, pursuant to the Sperro Agreement, Scott, upon the advice of LSC, incurred the following charges: \$75.00 to load the car; \$1.85 per mile to tow the car from Scott’s residence in Strasburg, Virginia to Indianapolis, Indiana; \$75.00 to unload the

car; and \$45.00 per day in storage charges. Pursuant to the Sperro Agreement, Scott agreed to indemnify, hold harmless, and defend Sperro from all claims, demands, actions or causes of actions, including attorney's fees and all costs.

ANSWER: The Upright Defendants can neither admit nor deny the allegations contained in paragraph 53 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

54. Sperro's services were completely unnecessary. Apart from the fact that LSC advised her to do so, Scott had no reason to enter into the Sperro Agreement.

ANSWER: The Upright Defendants deny the allegations contained in the first sentence of paragraph 54 of the Complaint. The Upright Defendants can neither admit nor deny the allegations contained in the remainder of paragraph 54 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

55. On information and belief, pursuant to the Sperro Agreement, Sperro acquired a security interest in Scott's Vehicle.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 55 of the Complaint.

56. On information and belief, LSC's agents advised Scott to participate in the "New Car Custody Program" to, among other things, fund payment of Scott's legal fees for this bankruptcy case.

ANSWER: The Upright Defendants can neither admit nor deny the allegations contained in paragraph 56 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

57. On information and belief, Scott was given an odometer disclosure to sign. After an opportunity for discovery it is believed the evidence will show that the odometer disclosure names Scott as "sellers" of the Vehicle and either Sperro or Sperro's owner, Brian Fenner, as the "buyer" of the Vehicle. Upon information and belief, the odometer disclosure was provided to

Scott to obtain the necessary paperwork to permit Sperro to convert Scott's Vehicle and deprive Credit Acceptance of its security interest in the Vehicle.

ANSWER: The Upright Defendants lack information or knowledge sufficient to admit or deny the allegations contained paragraph 57 of the Complaint, and therefore deny the same.

58. On or about November 2015, an agent of Sperro took possession of the Vehicle.

ANSWER: The Upright Defendants lack information or knowledge sufficient to admit or deny the allegations contained in paragraph 58 of the Complaint, and therefore deny the same.

59. On information and belief, by entering into the Sperro Agreement upon the advice of LSC, Scott became contractually obligated to Sperro to pay towing and storage fees and other charges, and granted Sperro a statutory lien on the Vehicle in the event of non-payment. Under the Sperro Agreement, Sperro likely became a creditor of Scott. Scott's Schedules do not list Sperro as a creditor.

ANSWER: The Upright Defendants deny that Scott granted a lien to Sperro. The Upright Defendants can neither admit nor deny the remaining allegations contained in paragraph 59 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

60. Based upon LSC's legal advice, Scott transferred the Vehicle to Sperro in connection with and in contemplation of filing her bankruptcy case, to pay for the legal fees for LSC's (and Morgan's) bankruptcy representation and to pay for her bankruptcy case filing fee.

ANSWER: The Upright Defendants can neither admit nor deny the allegations contained in paragraph 60 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

61. Although a transcript of official certified vehicle record as of May 24, 2016, issued by the Virginia Department of Motor Vehicles (Exhibit 5) shows that the Vehicle is still titled to Scott and it still lists Credit Acceptance Corp as the lienholder, after an opportunity for discovery, it is believed the evidence will show that Sperro sold the Vehicle at auction in December 2015, based upon its purported lien. On information and belief, Sperro was aware or should have been aware of the existing security interest on the Vehicle and would have been

required to take steps to notify the creditor that it was in possession of the vehicle. The funds generated by Sperro's conversion of the Vehicle went to pay LSC's and Morgan's fees for Scott's bankruptcy case as well as to benefit Sperro. Upon information and belief, notwithstanding its security interest, Credit Acceptance received no funds from the sale of the Vehicle.

ANSWER: The Upright Defendants deny the allegations contained in the second to last sentence of paragraph 61 of the Complaint. The Upright Defendants lack information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 61 of the Complaint, and therefore deny the same.

62. After an opportunity for discovery, it is believed the evidence will show that Sperro paid LSC at least \$1,600.00 in or around December 2015.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 62 of the Complaint, but state that Sperro paid LSC \$1,650 plus a filing fee of \$335 on behalf of Scott in October 2015.

63. Consistent with its business practices, upon information and belief, LSC did not refer Morgan to Scott until the full fee quoted to Scott had been received.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 63 of the Complaint.

F. The Original Documents Filed With The Court

64. Scott testified she met with Morgan and his assistant to complete the schedules and statements filed in support of the petition. According to Scott, she reviewed the documents with Morgan and his assistant and signed the declarations concerning, among other things, the accuracy of her schedules and statements.

ANSWER: The allegations contained in paragraph 64 of the Complaint consist of incomplete and paraphrased testimony allegedly given by Scott, and are therefore denied.

65. Schedule F lists “Credit Acceptance” as an unsecured creditor holding a claim in the amount of \$6,520.00 as a result of a “Deficiency Balance.” [Scott Case Docket No. 1]

ANSWER: The Upright Defendants admit the allegations contained in paragraph 65 of the Complaint.

66. According to Statement of Financial Affairs #10 [Scott Case Docket No. 1], Credit Acceptance repossessed the Vehicle in November 2015 and the Vehicle had a value of \$2,000.00.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 66 of the Complaint.

67. According to Statement of Financial Affairs #15 [Scott Case Docket No. 1], Scott paid “UpRight Law LLC” \$1,500.00 in 2015.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 67 of the Complaint, but note that the cited language appears in response to Question 16.

68. According to Statement of Financial Affairs #18 [Scott Case Docket No. 1], the debtor did not transfer any property in the 2 years before her petition date.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 68 of the Complaint.

69. Morgan signed a Rule 2016 disclosure [Scott Case Docket No. 1] stating that the debtor was the source of the compensation paid.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 69 of the Complaint.

G. The Meeting Of Creditors

70. Morgan used his Upright Law ECF password and electronically filed with the court the petition, schedules, and statements he prepared for Scott and which she signed after

reviewing them with him. After the filing of the petition, the United States Trustee appointed Robert Stevens as Scott's chapter 7 trustee.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 70 of the Complaint, except that they note that Robert Stevens was appointed as the interim trustee of the Debtor's bankruptcy estate.

71. The chapter 7 trustee conducted the meeting of creditors on March 23, 2016. Scott appeared and testified under oath at the meeting of creditors. Morgan's associate attorney, James McMinn, appeared with Scott.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 71 of the Complaint.

72. During the meeting, Scott testified that the Vehicle was not repossessed, rather "Upright Law took that and or sent out the company, Sperry or something, and they got it..." In addition, Scott testified that she did not pay Upright except for a \$100 initial draw; all the funds came from the sale of the vehicle. Scott further testified that she gave the vehicle to Upright to sell for payment of the attorney's fees.

ANSWER: The Upright Defendants admit that paragraph 72 of the Complaint purports to contain excerpts from the testimony of the Debtor at her meeting of creditors, and denies such allegations to the extent that they are inconsistent with the actual testimony of the Debtor. The Upright Defendants deny the remaining allegations contained in paragraph 72 of the Complaint, including those that appear to paraphrase purported testimony of the Debtor.

G. *Amended Documents*

73. Scott's testimony at the meeting of creditors contradicted several assertions in her schedules and statement of financial affairs, namely a) that she had not transferred any property during the 2 years prior to filing, b) that Credit Acceptance repossessed the vehicle, and c) that she paid Upright Law and Morgan the attorney's fees. In truth, Scott transferred the Vehicle to Sperro, Sperro sold the Vehicle, and Sperro paid the attorney's fees.

ANSWER: The Upright Defendants admit that certain statements of the Debtor at the meeting of creditors were inconsistent with certain statements in her statements and schedules. The Upright Defendants deny the remaining allegations contained in paragraph 73 of the Complaint.

74. In spite of the serious misstatements in documents filed with the court, more than two months passed after the meeting of creditors before Morgan made any effort to correct Scott's schedules, statements, and other papers filed in connection with the case.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 74 of the Complaint.

75. On June 7, 2016, Morgan filed an amended Rule 2016 disclosure [Scott Case Docket No. 15]. The disclosure states that "Sperro, LLC" paid \$1,650.00. The Rule 2016 disclosure does not disclose the \$100 that LSC debited from her account.

ANSWER: The Upright Defendants admit the allegations contained in paragraph 75 of the Complaint and affirmatively state that the \$100 debited from the Debtor's account was subsequently returned to her.

76. Also on June 7, 2016, Morgan filed an amended Statement of Financial Affairs purporting to bear Scott's electronic endorsement [Scott Case Docket No. 14]. The amended Statement of Financial Affairs #16 indicates that "Sperro, LLC" paid "UpRight Law LLC" an attorney fee of \$1,650.00 and the filing fee of \$335.00. The amended Statement of Financial Affairs does not disclose any of the funds Scott testified LSC drafted from her account. Rather than disclose the actual dates of all payments, the amended Statement of Financial Affairs says "Sperro, LLC" made a payment in "November, 2015."

ANSWER: The Upright Defendants admit that Morgan filed an amended Statement of Financial Affairs bearing Scott's electronic endorsement that in response to question 16 indicates that "Sperro, LLC" paid "UpRight Law LLC" an attorney fee of \$1,650.00 and the filing fee of \$335.00. The Upright Defendants further admit that the payments are identified therein as coming to Upright Law LLC from Sperro LLC and affirmatively state that the \$100 debited from

the Debtor's account was subsequently returned to her. The Upright Defendants deny the remaining allegations contained in paragraph 76 of the Complaint.

77. The amended Statement of Financial Affairs #18 still falsely states that Scott did not transfer any property in the 2 years before her petition date.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 77 of the Complaint.

78. The amended Statement of Financial Affairs #10 still falsely states that Credit Acceptance repossessed the Vehicle in November 2015.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 78 of the Complaint.

79. Under the New Car Custody Program as described by Chern, a "qualifying" vehicle was one with no equity. Thus, LSC, Upright, and Morgan must have known or should have known that the Vehicle, like any "qualifying" vehicle, was subject to an existing security interest. Nevertheless, LSC advised Scott to participate in the Sperro scheme, and LSC, Upright, and Morgan accepted proceeds of the "sale" of the Vehicle which they knew or should have known were wrongfully obtained.

ANSWER: The Upright Defendants admit the allegations contained in the first two sentences of paragraph 79 of the Complaint. The Upright Defendants further deny the allegations contained in paragraph 79 of the Complaint that they received money from any sale of Scott's vehicle. The Upright Defendants can neither admit nor deny the remaining allegations contained in paragraph 79 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

80. Based upon the foregoing, Defendants have acted in bad faith.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 80 of the Complaint.

COUNT I – DISGORGEMENT UNDER 11 U.S.C. §§ 329(a) and 105 (a)
(MORGAN, UPRIGHT, LSC)

81. The allegations set forth above are incorporated by reference.

ANSWER: Defendants Morgan, Upright and LSC (the “Count I Defendants”) incorporate their answers above as if they were stated herein.

82. All attorneys representing a debtor either in or in connection with a bankruptcy case are required to disclose 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. § 329(a). See also Fed. R. Bankr. P. 2016. The precise nature of the fee arrangement must be disclosed, not merely the identity of the ultimate owner of the funds.

ANSWER: The Count I Defendants state that the statements contained in Paragraph 82 are incomplete recitations of the cited statute and rule, and a legal conclusion regarding the same, and therefore are denied.

83. LSC, Upright Law LLC, and Morgan all had an obligation to ensure the filing of an accurate statement under section 329(a) and Rule 2016(b). Despite this, they failed to disclose completely and accurately the compensation paid in this case, in particular both the ultimate source of the compensation and the sharing of compensation between the various entities involved.

ANSWER: The Count I Defendants admit that they must comply with any requirements imposed upon them under section 329(a) and Rule 2016(b). The Count I Defendants deny the remaining allegations contained in paragraph 83 of the Complaint.

84. 11 U.S.C. § 105(a) authorizes the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

ANSWER: The Count I Defendants admit that the statements contained in Paragraph 84 correctly paraphrase the cited statute.

85. The incomplete and inaccurate disclosures in this case related to compensation merit ordering LSC, Upright Law LLC, and Morgan to disgorge all fees received in this case.

ANSWER: The Count I Defendants deny the allegations contained in paragraph 85 of the Complaint.

COUNT II – DISGORGEMENT UNDER 11 U.S.C. § 329(b)
(MORGAN, UPRIGHT, LSC)

86. The allegations set forth above are incorporated by reference.

ANSWER: Defendants Morgan, Upright and LSC (the “Count II Defendants”) incorporate their answers above as if they were stated herein.

87. If compensation is excessive, a court may cancel a debtor’s agreement with counsel for compensation or order the return of such payment to the estate or entity that made the payment. 11 U.S.C. § 329(b); Fed. R. Bankr. P. 2017.

ANSWER: The Count II Defendants state that the statements contained in Paragraph 87 are an incomplete interpretation of the cited statute and rule, and a legal conclusion regarding the same, and therefore are denied.

88. Illegal and unethical conduct can serve as a factor considered in analyzing the reasonableness of legal fees paid by a debtor.

ANSWER: The Count II Defendants state the statements contained in Paragraph 88 are legal argument to which no response is required and therefore, deny the same.

89. The attorney defendants’ conduct associated with Scott’s case was illegal and/or unethical. Defendants advised Scott to enter into an agreement to transfer encumbered property, failed to accurately and completely disclose the transfer, failed to accurately and completely disclose the source of compensations, and when faced with the omissions, failed to properly correct the schedules and statement of financial affairs.

ANSWER: The Count II Defendants deny the allegations contained in the first sentence of paragraph 89 of the Complaint. The Upright Defendants can neither admit nor deny the remaining allegations contained in paragraph 89 of the Complaint because the substance of any conversations with their client is privileged, and therefore deny the same.

90. Any fee in this case is unreasonable in light of the misconduct of LSC, Upright Law LLC, and Morgan and should be returned under 11 U.S.C. § 329(b).

ANSWER: The Count II Defendants deny the allegations contained in paragraph 90 of the Complaint.

COUNT III – INJUNCTION 11 U.S.C. § 526(c)(5)(A)
(MORGAN, UPRIGHT, LSC)

91. The allegations set forth above are incorporated by reference.

ANSWER: Defendants Morgan, Upright and LSC (the “Count III Defendants”) incorporate their answers above as if they were stated herein.

92. The Bankruptcy Code provides that:

Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

- (A) enjoin the violation of such section; or
- (B) impose an appropriate civil penalty against such person.

11 U.S.C. § 526(c)(5).

ANSWER: The Count III Defendants admit that Plaintiff appears to have correctly cited the subject statute.

93. LSC, Upright Law LLC, and Morgan have intentionally and/or systematically violated 11 U.S.C. § 526(a)(2) by, among other things, advising debtors to sign declarations regarding Statements of Financial Affairs that reported payment to Upright Law LLC instead of

payments to LSC, and with relation to the Sperro cases, that inaccurately disclosed the source of payment and the transfer of vehicles.

ANSWER: The Count III Defendants deny the allegations contained in paragraph 93 of the Complaint.

94. LSC intentionally and/or systematically violated 11 U.S.C. § 526 by advising prospective debtors, including Scott, to participate in the Sperro scheme.

ANSWER: The Count III Defendants deny the allegations contained in paragraph 94 of the Complaint.

95. LSC intentionally and systematically violated 11 U.S.C. § 526(a)(3)(A) by, among other things, misrepresenting to prospective debtors, including Scott, that it is a firm with nationwide offices and is able to represent them in cases filed in, for example Virginia, and misrepresenting the nature of the Sperro Agreement.

ANSWER: The Count III Defendants deny the allegations contained in paragraph 95 of the Complaint.

96. Pursuant to 11 U.S.C. § 526(c)(5)(A), LSC, Upright Law LLC, and Morgan should be enjoined from violating 11 U.S.C. § 526.

ANSWER: The Count III Defendants deny the allegations contained in paragraph 96 of the Complaint.

COUNT IV – CIVIL PENALTIES UNDER 11 U.S.C. & 526(c)(5)(B)
(MORGAN, UPRIGHT LAW, LSC)

97. The allegations set forth above are incorporated by reference.

ANSWER: Defendants Morgan, Upright and LSC (the “Count IV Defendants”) incorporate their answers above as if they were stated herein.

98. Based on the foregoing, cause exists to impose civil penalties under 11 U.S.C. § 526(c)(5)(B) against LSC, Upright Law LLC, and Morgan in an amount not less than \$5,000.00 each.

ANSWER: The Count IV Defendants deny the allegations contained in paragraph 97 of the Complaint.

COUNT V – 11 U.S.C. & 105 AND INHERENT POWER
(ALL DEFENDANTS)

99. The allegations set forth above are incorporated by reference.

ANSWER: The Upright Defendants incorporate their answers above as if they were stated herein.

100. Cause exists for the court to use its inherent power and the authority granted to it under 11 U.S.C. § 105(a) to prohibit Morgan, LSC, Upright Law LLC, Allen, Scanlan and Chern from practicing before this court whether directly or indirectly through any companies in which they have any ownership interests or management authority. Cause also exists to sanction them monetarily.

ANSWER: The Upright Defendants deny the allegations contained in paragraph 100 of the Complaint.

101. Cause exists for the court to use its inherent power and the authority granted to it under 11 U.S.C. § 105(a) to require Sperro and its affiliates to disgorge all funds received as a result of the Sperro Agreement, and to enjoin Sperro and its affiliates from remitting or providing any funds to LSC or Upright Law LLC or to any affiliate, member, or agent of either of those entities, or any other entities, with relation to cases pending before this court, or in anticipation of filing a case before this court.

ANSWER: The allegations contained in paragraph 101 of the Complaint are not directed to the Upright Defendants, and therefore the Upright Defendants deny the same.

102. The Upright Defendants deny any other allegations not specifically admitted in this Complaint.

AFFIRMATIVE DEFENSE ONE

1. Credit Acceptance Corp. failed to take reasonable action to mitigate the damages it allegedly incurred as a result of Sperro's actions.

2. As a result of Credit Acceptance Corp.'s failure to mitigate its alleged damages, the amount of damages it may recover as a result of Sperro's actions is significantly reduced, if not eliminated.

3. As a result of Credit Acceptance Corp.'s failure to mitigate its alleged damages, the amount of restitution that could be ordered for its benefit is also significantly reduced, if not eliminated.

WHEREFORE, the Upright Defendants respectfully request this Court to enter judgment in their favor, and against Plaintiff, on all Counts, and with an award of appropriate fees and costs.

Dated: August 1, 2016

Respectfully submitted,

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MORGAN, JR., PLLC, UPRIGHT LAW
LLC, LAW SOLUTIONS CHICAGO LLC,
JASON ROYCE ALLEN, KEVIN W.
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By: /s/ Richard C. Maxwell
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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of August, 2016, the foregoing was filed electronically with the U.S. Bankruptcy Court and was served electronically on those parties who are CM/ECF participants, and by U.S. Postal Service on those parties who are non-CM/ECF participants as follows:

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/s/ Richard C. Maxwell