



**Dated: August 25, 2020**  
**The following is ORDERED:**

*Jennie D. Latta*

**Jennie D. Latta**  
**UNITED STATES BANKRUPTCY JUDGE**

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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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In re  
WILLIAM H. THOMAS, JR.,  
Debtor.

Case. No. 16-27850-L  
Chapter 11

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Tennessee Dept. of Transportation,  
Movant,  
v.  
William H. Thomas, Jr.,  
Respondent.

[Dkt. No. 1198]  
Emergency Motion to Strike Debtor’s  
“Amended Supplemental Objection  
to Claims of TDOT” and Vacate  
Order Approving Debtor’s Joinder  
in Trustee’s Objection to Claim

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**ORDER GRANTING EMERGENCY MOTION TO STRIKE DEBTOR’S “AMENDED  
SUPPLEMENTAL OBJECTION TO CLAIMS OF TDOT” AND VACATE ORDER  
APPROVING DEBTOR’S JOINDER IN TRUSTEE’S CLAIM OBJECTION  
AND  
AWARDING ATTORNEY FEES  
AND  
REFERRING WILLIAM H. THOMAS, JR. TO THE TENNESSEE BOARD OF  
PROFESSIONAL RESPONSIBILITY FOR CONSIDERATION  
OF FURTHER DISCIPLINARY ACTION**

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BEFORE THE COURT is the *Emergency Motion to Strike Debtor’s “Amended  
Supplemental Objection to Claims of TDOT” and Vacate Order Approving Debtor’s Joinder in*

*Trustee's Claim Objection* filed August 19, 2020, by the Office of the Attorney General, on behalf of the Tennessee Department of Transportation ("TDOT") [Dkt. No. 1198] ("Motion to Strike and Vacate"). The motion asks that the court strike the *Amended Supplemental Objection to Claims of TDOT* attempted to be filed by William H. Thomas, Jr. ("Debtor"). By its *Order Granting TDOT's Emergency Motion for an Ex Parte Order Blocking Certain ECF Filings from Public View and Requiring Debtor to Cease and Desist from Publicizing Settlement Discussions*, entered August 20, 2020 [Dkt. No. 1203], the court ordered that Docket Numbers 1185, 1195, and 1199 filed or attempted to be filed by the Debtor be blocked from public view because they contain information concerning settlement discussions. TDOT notes that despite the court's *Order Overruling the Debtor's Objection to Proof of Claim No. 76 and Approving the Debtor's Joinder in the Chapter 11 Trustee's Objection to the Proofs of Claim of the Tennessee Department of Transportation*, June 2, 2020 [Dkt. No. 1153], in which the court specifically found that "the interests of the estate in [TDOT's] claim are adequately represented" by Michael E. Collins, the Chapter 11 trustee, and dismissed the Debtor's objection with prejudice, the Debtor has twice attempted to file "supplemental" objections to TDOT's claims. In both instances, TDOT notes that the Debtor, a licensed attorney, included confidential settlement discussions as exhibits to his pleadings. TDOT states that these "'Supplemental Objections' are nothing more than an attempt by Debtor to interfere with and direct the prosecution of the Trustee's claim objection in complete disregard of this Court's admonition contained in its order" of June 2, 2020.

The Debtor has filed a response to the Motion to Strike and Vacate in which he questions the standing of TDOT to file pleadings and assert claims in this bankruptcy case and reiterates for the untold number of times arguments based upon the constitutionality of the *Tennessee Billboard*

*Regulation and Control Act.* These arguments have been repeatedly raised and repeatedly rejected. The court will not permit the Debtor to raise them again.<sup>1</sup>

TDOT is completely correct in its assessment of the conduct of the Debtor. The Debtor, a licensed attorney, has proven over and over again that he is incapable of cooperating in the administration of his case.<sup>2</sup> Moreover, as an attorney licensed to practice in Tennessee,<sup>3</sup> he is subject to the Tennessee Supreme Court's Rules of Professional Conduct. His conduct in the course of this case has violated the following rules:

RULE 3.1: MERITORIOUS CLAIMS AND CONTENTIONS. A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein,

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<sup>1</sup> The court does not in any way limit the arguments which may be raised on behalf of the estate by the Trustee.

<sup>2</sup> This court is not the only one to find the Debtor incapable of cooperating in related litigation. *See, e.g.:* "Order Denying Emergency Motion, Granting Motion to Strike, Striking Additional Reply Sua Sponte, and Imposing Sanctions," *Thomas v. Tennison Bros., Inc.*, Case No. 2:19-cv-02065-SHL-dkv, Dkt. No. 22, slip op. at 7 (W.D. Tenn. Feb. 11, 2019) (Lipman, D.J.):

Although a pro se litigant here, Mr. Thomas is a licensed attorney. His repeated violations of both the Court's orders and the Local Rules of this Court, despite being warned, call for a corrective measure...If he continues to ignore this Court's admonitions or the Local Rules, he will leave the Court no choice but to hold him in contempt.

*See also Thomas v. Schroer*, 2014 WL 11514963, slip op. at \*1 (W.D. Tenn. October 16, 2014) (McCalla, D.J.):

Plaintiff's arguments in the instant motion, by and large, are the same arguments asserted in Plaintiff's previous Motion for Leave to File Amended Complaint and Motion to Add Tennessee Department of Transportation as Defendant (ECF No. 22) and Reply (ECF No. 26). Most of the case law cited in the present motion was also cited in those filings. (See ECF Nos. 22, 26.) The Court gave due consideration to these arguments prior to ordering a denial of Plaintiff's motion. (See ECF No. 34.) Furthermore, much of the case law cited by Plaintiff was considered by the Court of Appeals in affirming dismissal in *Thomas 1*. (See ECF No. 26-1 at 8.) Plaintiff has failed to show either a change in controlling case law or clear error in the Court's previous order such that a correction of the order is required to avoid injustice.

<sup>3</sup> William H. Thomas, Jr. appears as an active attorney in the directory maintained by the Board of Professional Responsibility. See <https://www.tbpr.org/attorneys/8D1E08C7-48B2-E411-80D5-0050568F14C6> (accessed August 24, 2020).

unless after reasonable inquiry the lawyer has a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law.<sup>4</sup>

RULE 3.2: EXPEDITING LITIGATION. A lawyer shall make reasonable efforts to expedite litigation.<sup>5</sup>

RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

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(d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party.<sup>6</sup>

RULE 8.4: MISCONDUCT. It is professional misconduct for a lawyer to:

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<sup>4</sup> The pending “Supplemental Objections” are excellent examples. The Debtor’s own objection was dismissed with prejudice. He did not seek leave of court to present “supplemental objections.” In the June 2, 2020 order, in permitting the Debtor to join in the objection of the Trustee, this court said, “Although the court finds that the Debtor’s interests are fully represented by the Trustee, the court will allow the Debtor to join in the Trustee’s Objection to express his opinion concerning the claim. The objection remains the Trustee’s however. The Debtor will be permitted to appear and be heard, but not be permitted to interfere in the Trustee’s decisions concerning or litigation of the claim and objection. The Debtor will not, for example, be permitted to seek discovery or question witnesses.” (p. 4). The court deeply regrets allowing the Debtor this privilege, which he so quickly abused.

<sup>5</sup> See, e.g., *Order Denying Motion for Continuance*, May 26, 2020 [Dkt. No. 1122]: “The motion seeks a continuance of the hearing on the Debtor’s Motion to Disqualify Judge Jennie D. Latta, which was set for hearing on Thursday, May 21, 2020, upon the written request of the Debtor. No reason for continuing the hearing was set forth in the motion. At the hearing, the Debtor said that he thought the hearing should be continued because the hearing calendar for May 21 was already full.”

See also *Order Denying Request for Continuance*, April 15, 2020 [Dkt. NO. 990]: “As grounds for [Debtor’s] motion, the Debtor states: ‘This request is being made based upon the complex legal issues involves [sic] with such motion.’” Upon review, the court found that the issues were not complex.

<sup>6</sup> See *Order Granting Motion for Protective Order*, March 25, 2020 [Dkt. No. 914]: The court found the temporal scope of the Debtor’s interrogatories to be overbroad and noted that, “Given the opportunity to respond [to the underlying *Motion for Protective Order Striking or Limiting Discovery*], the Debtor merely stated, ‘Debtor’s discovery request [sic] are relevant to his objections that are based upon actions of Movant’s regarding their legal representation of Debtor and Movant’s misrepresentation to this Court.’ [Dkt. No. 910]. The Objection provides no basis upon which the court may conclude that the Debtor’s motives are anything other than harassment and delay.”

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;<sup>7</sup>

\*\*\*; or

(g) knowingly fail to comply with a final court order entered in a proceeding in which the lawyer is a party, unless the lawyer is unable to comply with the order or is seeking in good faith to determine the validity, scope, meaning, or application of the law upon which the order is based.<sup>8</sup>

In addition, the United States Code provides:

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.<sup>9</sup>

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<sup>7</sup> See *Order Denying "Motion for Sanctions Pursuant to Rule 9011 of the Federal Rules of Bankruptcy Civil [sic] Procedure Against the Office of the Tennessee Attorney General Including Michael Willey,"* February 26, 2020 [Dkt. No. 854]: "The Attorney General notes that Michael Collins was appointed Trustee in Bankruptcy on January 24, 2019; that the Debtor unsuccessfully appealed that appointment; and that the Debtor did not obtain the consent of the Trustee in Bankruptcy prior to filing his pro se motion for sanctions, nor did the Trustee in Bankruptcy join in the motion or support the motion. The Attorney General maintains that the Debtor lacks standing to bring his motion. The Attorney General is correct. The Trustee in Bankruptcy has the right to sue and be sued as representative of the estate. 11 U.S.C. § 323(b)." Notwithstanding the appointment of a trustee in bankruptcy, the Debtor continues to act as if he is the representative of the bankruptcy estate.

See also *Notice of Unconstitutional Actions by the Court*, March 6, 2019 [Dkt. No. 622], in which the Debtor addresses Chief Judge David S. Kennedy in a wholly insulting and disrespectful manner: "This Court knowingly issues self-serving orders to justify its on going [sic] violations of Debtors Federal Constitutional Rights of Due Process, the Full Faith and Credit Clause Article IV, Section 1 and the Supremacy Clause Article VI in various proceedings conducted by this Court."

<sup>8</sup> The Debtor has violated the Rules of Professional Conduct and has refused to abide by the final order of this court dismissing his objection to the claim of TDOT with prejudice but permitting limited joinder in the objection filed by the Trustee.

<sup>9</sup> See *Memorandum and Order Re "Debtor's Motion for Leave Pursuant to Bankruptcy Rule 8004 for Appeal Under 28 U.S.C. § 158(a)" Combined with Notice of the Entry Thereof*, January 16, 2019 (Kennedy, B.J.) [Dkt. No. 525]:

These parties have been litigating for approximately 15 years in the United Bankruptcy Court for the Northern District of Florida, various Tennessee State courts (e.g., the Shelby County Chancery Court with the assistance of a high [sic] qualified Special Master, the Tennessee Court of Appeals, and the Tennessee Supreme Court); the United States District Court for the Western District of Tennessee; the United

28 U.S.C. § 1927.

This court has statutory authority to take any action or make any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process; and, like other federal courts, inherent authority to manage its own affairs so as to achieve the orderly and expeditious disposition of cases by imposing sanctions. See, Fed. R. Bankr. P. 7041(b); 11 U.S.C. § 105(a); *Rosellini v. U.S. Bankr. Court (In re Sanchez)*, 941 F.3d 625, 628 (2nd Cir. 2019), citing, *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43, 111 S. Ct. 2123, 2132 (1991). See also, *Law v. Siegel*, 571 U.S. 415, 420-21; 134 S. Ct. 1188, 1194 (2014); *Charbono v. Sumski (In re Charbono)*, 790 F.3d 80, 86-87 (1st Cir. 2015); *Mapother & Mapother, P.S.C. v. Cooper (In re Downs)*, 103 F.3d 472, 477 (6th Cir. 1996). The equitable authority enjoyed by a bankruptcy court under Code section 105 exceeds the equitable authority available under “traditional equity jurisprudence” to issue sanctions to prevent an abuse of process. *In re Gorges*, 590 B.R. 771, 794 (Bankr. E.D. Mich. 2018), citing, *In re Dow Corning Corp.*, 280 F.3d 648, 658 (6th Cir. 2002).

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States Court of Appeals for the Sixth Circuit; the United States Bankruptcy Court for the Western District of Tennessee.” (p. 2). “Although a tremendous amount of legalistic bickering and extreme, deeply seeded, severe acrimony continue to be ongoing between Mr. Thomas, on the one hand, and Clear Channel and Tennison Brothers, on the other, no real or meaningful progress has seemingly been made that this Court is aware of regarding the core functions of a typical Chapter 11 case (e.g., the filing of a completed/finalized disclosure statement and plan.” (p. 2). “Because the Tennessee Court of Appeals considered the intervening change of law regarding the constitutionality of the *Tennessee Billboard Regulation and Control Act* but found it to be irrelevant to the tort claims, this Court saw no reason under the totality of the circumstances and applicable law why the intervening change of law should have any bearing on the issue of whether the doctrine of collateral estoppel applies in the non-dischargeability litigation here under 11 U.S.C. § 523(a)(6).

Applying the doctrine of collateral estoppel and being ever mindful that this Bankruptcy Court is not a reviewing court (nor a legal playground), Mr. Thomas was unable to relitigate these issues before this Bankruptcy Court. This is not the time or place for Mr. Thomas to relitigate such State court matters as this Court does not write a clean slate here. ... Mr. Thomas now seeks to appeal (not a court order but) this Court’s calendar agenda of proceedings.” (p. 3).

Similarly, the courts’ “inherent powers,” not conferred by rule or statute, “to manage their own affairs so as to achieve the orderly and expeditious disposition of cases” includes “the ability to fashion an appropriate sanction for conduct which abuses the judicial process.” *Id.*, citing, *Goodyear Tire & Rubber Co. v. Haeger*, \_\_\_ U.S. \_\_\_, 137 S. Ct. 1178, 197 L. Ed. 585 (2017). “Because of their very potency, inherent powers must be exercised with restraint and discretion.” *Chambers* at 44, 111 S. Ct. 2132. This inherent authority includes the right, in “narrowly defined circumstances,” to assess attorney fees against counsel. *Id.* at 45, 111 S. Ct. 2132. Thus, exercise of these statutory or inherent sanction powers by bankruptcy courts most often involves awarding compensatory punitive awards of attorney fees after findings of bad faith or contempt. *Ardell v. John Richards Homes Bldg. Co. (In re John Richards Homes Bldg. Co)*, 552 F. App’x 401, 414 (6th Cir. 2013).

Indeed, “an appropriate sanction for conduct which abuses the judicial process ... is an ‘assessment of attorney’s fees’—an order ... instructing a party that has acted in bad faith to reimburse legal fees and costs incurred by the other side.” *Goodyear Tire & Rubber*, 137 S. Ct. at 1186. The *Goodyear* court further “held that such sanctions must be ‘limited to the fees the innocent party incurred solely because of the misconduct—or put another way, to the fees that party would not have incurred but for the bad faith.’” *Gorges* at 793, citing *Goodyear* at 1184. Nonetheless, a court “has broad discretion to calculate fee awards under that standard.” *Id.*

As the result of the Debtor’s contumacious conduct, the court, being aware that the interests of the bankruptcy estate are fully and adequately represented by the Trustee and his counsel, and that the Debtor has been warned repeatedly not to impede the administration of this case, **GRANTS** the Motion to Strike and to Vacate and, *sua sponte*, imposes the following limitations on the Debtor’s activities in this case:

1. The motion to strike is granted. The Debtor's Supplemental Objection [Dkt. No. 1185]; Amended Supplemental Objection [Dkt. No. 1195]; and Response to Emergency Motion [Dkt. No. 1206] are stricken from the docket and shall be completely hidden from public view.
2. The portions of the court's June 2, 2020 order which permitted the Debtor's joinder in the Trustee's objection to TDOT's claims are vacated.
3. The Debtor shall reimburse TDOT for the costs, expenses, and attorneys' fees it incurred as the result of the filing of the Debtor's "Supplemental Objections." Counsel for TDOT should submit an affidavit without fourteen days after the entry of this order concerning the costs, expenses, and attorneys' fees reasonably incurred by TDOT because of conduct of the Debtor. The court will supplement this order accordingly.
4. The Debtor shall not be permitted to file any additional pleading in this case or in any related adversary proceeding except through counsel.<sup>10</sup>
5. The Debtor will not be permitted to present arguments at any scheduled hearing in this case or in any related adversary proceeding except through counsel.
6. Should the Debtor ignore this order, and attempt to file pleadings with the court, no response shall be required by any party unless specifically requested by the court and the court may, in its discretion, summarily dismiss them.
7. A copy of this order shall be transmitted by the court to the Tennessee Board of Professional Responsibility for further action consistent with the findings of the court.

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<sup>10</sup> Lest this appear to impose an undue burden on this bankruptcy debtor, the court notes that the Debtor's spouse is represented by Mr. Adam Langley, a well-respected bankruptcy attorney. As the court has said before, the Debtor and his spouse are married to each other, live in the same household, and form an economic unit. To the extent that the Debtor has interests in this case that are not allied with those of the bankruptcy estate, they appear to be allied with his spouse and may be presented to the court through his spouse's counsel. The Debtor is, of course, free to engage separate counsel as well.



cc: Debtor (pro se)  
Chapter 11 Trustee  
Attorney for Chapter 11 Trustee  
Office of the Attorney General on behalf of the TN Dept. of Transportation  
Attorney for the Office of the Attorney General on behalf of the TN Dept. of Transportation  
Interested Parties  
Board of Professional Responsibility (10 Cadillac Dr., #220, Brentwood, TN 37027)