

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO**

In re:

ADIA JANINE PAYSINGER

Debtor.

Case No. 12-35943 EEB

CHAPTER 7

**RESPONDENT/APPELLANT'S DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL**

Appellants Heupel Law P.C. and Kevin D. Heupel, pursuant to F.R.B.P. 8009(a) hereby designate the following docket items to be included in the record on appeal:

Filing Date	Docket #	Docket Text
12/29/2015	201 (2 pgs)	Notice of Appeal and Statement of Election to BAP Filed by Kevin D. Heupel on behalf of Heupel Law, P.C. (related document(s) 181 Generic Order, 182 Judgment for BK Case, 187 Order on Motion to Amend, 188 Judgment for BK Case). Appellant Designation due by 01/12/2016. Appellee designation due by 01/26/2016. (Heupel, Kevin) (Entered: 12/29/2015)
12/23/2015	188 (1 pg)	Judgment Denying Motion to Amend. (related document(s) 187 Order on Motion to Amend). (mmg) (Entered: 12/23/2015)
12/23/2015	187 (2 pgs)	Order Denying Motion To Amend. (related document(s): 185 Motion to Amend). (mmg) (Entered: 12/23/2015)
12/22/2015	186 (2 pgs)	Objection Filed by Erik Atzbach on behalf of Adia Janine Paysinger (related document(s): 185 Motion

		to Amend). (Atzbach, Erik) (Entered: 12/22/2015)
12/21/2015	185 (6 pgs; 2 docs)	Motion to Amend Filed by Kevin D. Heupel on behalf of Heupel Law, P.C. (related document(s) 181 Generic Order, 182 Judgment for BK Case). (Attachments: # 1 Proposed/Unsigned Order) (Heupel, Kevin) (Entered: 12/21/2015)
12/07/2015	182 (1 pg)	Judgment For Adia Janine Paysinger Against Kevin Heupel and Heupel Law PC (related document(s) 181 Generic Order). (as) (Entered: 12/07/2015)
12/07/2015	181 (15 pgs)	Order Awarding Damages For Violation Of The Automatic Stay (related document(s) 16 Motion for Sanctions Or Damages, 21 Order to Show Cause). (as) (Entered: 12/07/2015)
12/03/2015	179	Transcript of Hearing Held on ** Partial transcript of Testimony of Erik Atzbach *** Evidentiary Hearing on the Assessment of Actual and Punitive Damages for Kevin Heupel and Heupel Law, P.C.'s Violation of the Automatic Stay. Date Of Hearing: 8/18/2015 before Judge Elizabeth E. Brown. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING, TRANSCRIPT RELEASE DATE IS 3/2/2016. Until that time the transcript may be viewed at the Bankruptcy Court or a copy may be obtained from the official court transcriber. Requested by Kevin Heupel, Esq, on 11/24/2015. Transcribed and filed by Aapex Legal Services, LLC. Total cost of Transcript \$55.25 (RE: related document(s) 170 Minutes of Proceedings/Minute Order). Notice of Intent to Request Redaction Deadline Due By 12/10/2015.

		Redaction Request Due By 12/24/2015. Redacted Transcript Submission Due By 1/4/2016. Transcript Access Will Be Restricted Through 3/2/2016. (mjp) (Entered: 12/03/2015)
12/02/2015	177	Transcript of Hearing Held on **Partial Transcript - Testimony of Erik Atzbach, only ** Evidentiary Hearing on the Assessment of Actual and Punitive Damages for Kevin Heupel and Heupel Law, P.C.'s Violation of the Automatic Stay. Date Of Hearing: 8/17/2015 before Judge Elizabeth E. Brown. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING, TRANSCRIPT RELEASE DATE IS 3/1/2016. Until that time the transcript may be viewed at the Bankruptcy Court or a copy may be obtained from the official court transcriber. Requested by Erik Atzbach on 80112. Transcribed and filed by Apex Legal Services, LLC. Total cost of Transcript \$242.25 (RE: related document(s) 169 Minutes of Proceedings/Minute Order). Notice of Intent to Request Redaction Deadline Due By 12/9/2015. Redaction Request Due By 12/23/2015. Redacted Transcript Submission Due By 1/4/2016. Transcript Access Will Be Restricted Through 3/1/2016. (mjp) (Entered: 12/02/2015)
08/28/2015	176 (3 pgs)	Erik Atzbach Supplemental Fee Affidavit Filed by Erik Atzbach on behalf of Adia Janine Paysinger (related document(s): 103 Document, 167 Document). (Atzbach, Erik) (Entered: 08/28/2015)
08/20/2015	171 (3 pgs)	Geoffrey Atzbach Supplemental Affidavit Filed by Erik Atzbach on behalf of Adia Janine Paysinger (related document(s): 104 Document,

		168 Document). (Atzbach, Erik) (Entered: 08/20/2015)
08/13/2015	168 (3 pgs)	Geoffrey Atzbach Supplemental Fee Affidavit Filed by Erik Atzbach on behalf of Adia Janine Paysinger (related document(s): 104 Document). (Atzbach, Erik) (Entered: 08/13/2015)
08/13/2015	167 (6 pgs)	Erik Atzbach Supplemental Fee Affidavit Filed by Erik Atzbach on behalf of Adia Janine Paysinger (related document(s): 103 Document). (Atzbach, Erik) (Entered: 08/13/2015)
12/30/2014	125 (4 pgs)	Reply Filed by Erik Atzbach on behalf of Adia Janine Paysinger (related document(s): 117 Response). (Atzbach, Erik) (Entered: 12/30/2014)
12/30/2014		re of Compensation In the Amount of \$ 300/hour or total recovery, whichever is greater Filed by Erik on behalf of Adia Janine Paysinger (related document(s): 16 Motion for Sanctions Or Damages). (Atzbach, Erik) (Entered: 12/30/2014)
12/16/2014	117 (28 pgs; 7 docs)	Response Filed by Kevin D. Heupel on behalf of Heupel Law, P.C. (related document(s): 102 Support Brief/Memorandum). (Attachments: # 1 Exhibit Invoice # 2 Exhibit Invoice # 3 Exhibit Retainer Agreement # 4 Exhibit Retainer Agreement # 5 Exhibit Retainer Agreement # 6 Exhibit Retainer Agreement) (Heupel, Kevin) (Entered: 12/16/2014)
11/18/2014	102 (4 pgs)	Support Brief/Memorandum Filed by Erik Atzbach on behalf of Adia Janine Paysinger (related document(s): 78 Order to File.) Modified

		linkage on 11/19/2014 (as). (Entered: 11/18/2014)
09/05/2014	83 (5 pgs)	Response Filed by Matthew Shimanek on behalf of Heupel Law, P.C. (related document(s): 81 Order to File). (Shimanek, Matthew) (Entered: 09/05/2014)
07/21/2013	45 (5 pgs)	Response Filed by Douglas D. Kockavy on behalf of Heupel Law, P.C. (related document(s): 21 Order to Show Cause, 43 Generic Order, Order to File). (Kockavy, Douglas) (Entered: 07/21/2013)
04/23/2013	21 (1 pg)	Order To Show Cause Pursuant To Bankruptcy Rule 9020; Respondent shall file a Response to the Motion no later than fourteen days from the date of this Order. (related document(s) 16 Motion for Sanctions Or Damages). Show Cause Response due date 5/7/2013. (pt) (Entered: 04/23/2013)
04/12/2013	16 (11 pgs; 2 docs)	Motion For Sanctions For Violation of the Automatic Stay Under 11 USC 362k Against Heupel Law, P.C. Filed by Erik Atzbach on behalf of Adia Janine Paysinger. (Atzbach, Erik) Additional attachment(s) added on 4/15/2013 (vo). Proposed Order attached. Modified on 4/15/2013 (vo). (Entered: 04/12/2013)

Appellant additionally designates the following transcripts from the hearing held on August 17 and 18, 2015 to be included in the record on appeal:

1. Transcript of testimony from Adia Paysinger on August 17, 2015;
2. Transcript of testimony from Geoffrey Atzbach on August 17 and 18, 2015;

3. Transcript of testimony from Erik Atzbach on August 17 and 18, 2015 (currently included in Docket Nos. 177 & 179 above); and
4. Transcript of closing arguments.

Appellant has ordered the above-designated transcripts to be included in the Designation of Record (except the transcript of testimony from Erik Atzbach that is already in Dockets Numbers 177 & 179) and the expected date of arrival to be January 22, 2016.

Statement of Issues to be Presented

1. Whether the Bankruptcy Court erred, as a matter of law under 11 U.S.C. § 362(d), in awarding attorney fees to Debtor as actual damages when Debtor signed a contingency fee agreement and paid no money to her attorney.
2. Whether the Bankruptcy Court erred, as a matter of law under 11 U.S.C. § 362(d), by awarding attorney fees incurred after the stay violation ceased rather than limiting the actual damages to those attorney fees incurred to stop the violation.
3. Whether the Bankruptcy Court erred, as a matter of law, in awarding punitive damages as a matter of law.
4. Whether the Bankruptcy Court erred, as a matter of law, by relying on the factors set out in *Bugg v. Gray (In re Gray)*, 519 B.R. 767, 775-76 (8th Cir. BAP 2014) for determining and awarding punitive damages.

Respectfully submitted this 12th day of January, 2016.



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CERTIFICATE OF SERVICE

I hereby certify that on today's date, I caused the foregoing this pleading to be served via United States Mail, postage prepaid, to the following:

Erik Atzbach
88 Inverness Circle East, Ste. A-201
Englewood, CO 80112

Geoffrey H. Atzbach
1155 Kelly Johnson Blvd. Ste. 470
Colorado Springs, CO 80920

/s/ Angelica Ortiz _____