

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

EOD
01/10/2022

IN RE: §
§
DONALD R. TRIPLETT, JR. § Case No. 19-42570
xxx-xx-8753 §
§
Debtor § Chapter 7

JEREMY HALTOM §
§
Plaintiff §
§
v. § Adversary No. 20-04059
§
DONALD R. TRIPLETT, JR. §
§
Defendant §

**ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF’S AMENDED MOTION FOR SANCTIONS AGAINST DONALD R.
TRIPLETT, JR., FOR THE UNAUTHORIZED PRACTICE OF LAW**

ON THIS DATE the Court considered the “Amended Motion for Sanctions against Donald R. Triplett, Jr., For the Unauthorized Practice of Law” (the “Motion”) [[Dkt. #92](#)] filed by Plaintiff, Jeremy Haltom, on December 6, 2021. The Court also considered the Objection to the Motion filed by Defendant, Donald R. Triplett, on December 20, 2021 [[Dkt. #95](#)]. In the Motion, Plaintiff seeks the imposition of sanctions on Defendant for Defendant’s alleged engagement in the unauthorized practice of law, including recovery of Plaintiff’s costs for filing and prosecuting the Motion. Specifically, Plaintiff believes Defendant prepared a motion to quash a subpoena sent by Plaintiff to depose Jose D. Escoffie, Defendant’s husband. Plaintiff further asks the Court to strike the motion to quash

allegedly prepared by Defendant and enter an order prohibiting Defendant from preparing any other pleadings on behalf of his husband.

Prior to considering the Motion, the Court conducted a hearing on the “Amended Motion to Quash and/or Modify Subpoena to Nonparty” [[Dkt. #84](#)] (the “Quash Motion”) filed in the name of Jose D. Escoffie, as well as “Defendant Donald R. Triplett, Jr's Objection to Subpoena of Jose D. Escoffie and Request for Sanctions” (the “Triplett Quash Objection”) [[Dkt. #75](#)]. These were resolved after hearing by this Court’s “Order Granting in Part Motions to Quash and/or Modify Subpoena to Nonparty for Deposition of Jose Doniceth Escoffie” [[Dkt. #93](#)] which order did not include any findings regarding the authorship of the Quash Motion. This order did however require that Jose D. Escoffie be deposed at the date, time, and place set forth therein.

A pleading is moot “when a court's decision on a pending motion will be ‘hypothetical or academic’ or without any ‘practical significance.’” *Scarborough-St. James Corp. v. 67500 S. Main St., Richmond, LLC*, [554 B.R. 714, 720](#) (D. Del. 2016), quoting Black's Law Dictionary 1099 (9th ed. 2009). The portion of the Motion which seeks to strike the Quash Motion is moot because the Quash Motion has been resolved by this Court. Striking the Quash Motion would have no practical significance. Furthermore, the Court does not consider the Motion to be seeking reconsideration of the Quash Motion order [[Dkt. #93](#)] pursuant either to [Fed. R. Civ. P. 59\(e\)](#) or 60(b).

Therefore, the true issue in this contested matter is whether Defendant should be sanctioned for allegedly engaging in the unauthorized practice of law. A person not an attorney at law or a member of the State Bar of Texas is not permitted to represent a third

party. The Fifth Circuit has explained that “an ordered society has a valid interest in limiting legal representation to licensed attorneys.” *Guajardo v. Luna*, [432 F.2d 1324, 1324](#) (5th Cir. 1970). This is because:

proper presentation of a case by a skilled advocate saves the time of the courts and so public time and expense. It helps the court by sifting out the relevant facts in advance, putting them in logical order, working out their possible legal consequences, and narrowing the questions which the court must decide to the really crucial points. Moreover, prohibiting laymen from representing other persons in court allows courts to impose upon lawyers the responsibility incident to the professional spirit and appropriate to those who are ‘officers of the court.

Id. Federal courts have the power to regulate and discipline the conduct of nonlawyers amounting to the practice of law without a license to uphold this valid interest. *U.S. v. Johnson*, [327 F.3d 554, 559-60](#) (7th Cir. 2003).

Bankruptcy courts can look to state law to determine what constitutes the unauthorized practice of law. *See In re Guttierrez*, [248 B.R. 287, 294](#) (Bankr. W.D. Tex. 2000); *In re Stacy*, [193 B.R. 31, 38](#) (Bankr.D.Or.1996); *In re Lyvers*, [179 B.R. 837, 840](#) (Bankr.W.D.Ky.1995); *In re Samuels*, [176 B.R. 616, 620](#) (Bankr.M.D.Fla.1994); *In re Bright*, [171 B.R. 799](#) (Bankr.E.D.Mich.1994). The Texas Government Code defines the practice of law as:

[T]he preparation of a pleading or other document incident to an action or special proceeding or the management of the action or proceeding on behalf of a client before a judge in court as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined.

[TEX. GOV’T CODE ANN. § 81.101\(a\)](#) (West 2022). However, this statutory definition is not exclusive. In Texas, courts have authority to determine whether acts not

expressly listed in the statutory definition might also constitute the practice of law. *See Unauthorized Practice of Law Committee v. Cortez*, [692 S.W.2d 47, 50](#) (Tex. 1985). At least one decision holds that preparing bankruptcy documents constitutes the practice of law. *In re Gutierrez*, [248 B.R. 287, 295](#) (Bankr. W.D. Tex. 2000). Texas courts have further stated that a nonlawyer may not practice law even on behalf of their spouse. *Hunter v. Liberty Mut. Ins.*, No. 01-19-00418-CV, [2020 WL 425295](#), *1 (Tex. App.—Houston [1st Dist.] Jan. 28, 2020, pet denied).

In this case the Defendant is *pro se* and not a licensed attorney. Plaintiff's Motion alleges that Defendant wrote, prepared, and filed the Quash Motion on behalf of Jose D. Escoffie. Pl. Mot., [ECF No. 92 at 4](#). This is not a matter the Court takes lightly. The main reason given by Plaintiff for this allegation is that English is not Jose D. Escoffie's first language and so he was incapable of preparing the Quash Motion without assistance. *Id.* at 2. Defendant not surprisingly denies ghostwriting the Quash Motion and claims that Jose D. Escoffie is fluent in English. Def. Obj., [ECF No. 95 at 2-3](#). The similarities between the Quash Motion and the Triplett Quash Objection are not lost on the Court, nor is the fact they were filed almost simultaneously.

"Fluency" in a second language is an elastic and subjective concept. A person may be "fluent" in a spoken language but not in writing the same language, or vice versa. This is even more so the case when writing legal documents such as the Quash Motion. While the Court acknowledges Plaintiff's allegations about the authorship of the Quash Motion, the Court is reluctant to impose its own judgment on the legal

writing English language proficiency of Jose D. Escoffie in a matter as serious as a request for sanctions.

However, the Court does not view prohibiting Defendant from preparing bankruptcy documents on behalf of anyone other than himself, including his spouse Jose D. Escoffie, as a sanction. Rather, such a ruling is simply an enforcement of the already existing prohibition on the unauthorized practice of law applicable in this case to *pro se* Defendant. Accordingly,

IT IS THEREFORE ORDERED that “Amended Motion for Sanctions Against Donald R. Triplett, Jr., for the Unauthorized Practice of Law” filed by Plaintiff, Jeremy Haltom, is **GRANTED IN PART** to prohibit Defendant, Donald R. Triplett, Jr., from preparing or filing pleadings, motions, or any other bankruptcy documents in this case or before this Court on behalf of anyone other than himself, including but not limited to his spouse Jose D. Escoffie.

IT IS FURTHER ORDERED that the “Amended Motion for Sanctions Against Donald R. Triplett, Jr., for the Unauthorized Practice of Law” filed by Plaintiff, Jeremy Haltom, is otherwise **DENIED**.

Signed on 01/10/2022



THE HONORABLE JOSHUA P. SEARCY
UNITED STATES BANKRUPTCY JUDGE