



# CASEY ANTHONY

*In re Casey Marie Anthony*, Bankruptcy Case Number 13-00922 in the Tampa Division of the Middle District of Florida.

# *State v. Casey Anthony*

- Arrested in July 2008 and charged with first degree murder of her 2-year-old daughter
- Became known as “Tot Mom,” a nickname coined by TV personality Nancy Grace, during the coverage of the murder trial in June and July 2011.
- Acquitted of the murder charges in July 2011, but convicted of four counts of providing false information to law enforcement
- Released for time served in July 2011



# *In re Casey Marie Anthony*

Case No. 13-00922 (Bankr. M.D. Fla.)

- Filed Chapter 7 case on January 25, 2013
- Scheduled unsecured claims totaling nearly \$800,000, most of which was for legal fees and costs billed by the State of Florida for costs associated with the search for her missing daughter
- Scheduled approximately \$1,000 in personal property, all of which was claimed as exempt
- In March 2013, Trustee filed motion to approve auction procedures for sale of rights for Anthony's life story
- Anthony objected to the motion, arguing that the property that the Trustee sought to sell did not exist on the petition date and would require post-petition labor to create
- Trustee and Anthony ultimately agreed to compromise the matter in exchange for Anthony's payment of \$25,000

Type of Property	N O N E
22. Patents, copyrights, and other intellectual property. Give particulars.	X
23. Licenses, franchises, and other general intangibles. Give particulars.	X

# Ethical Considerations

- Should a lawyer advise his or her client to schedule rights to the client's life story?
- Texas Disciplinary Rules of Professional Conduct
  - Rule 1.03(b) – “A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”
- FRBP 1008
  - “All petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration as provided in 28 U.S.C. § 1746.
- Bankruptcy Fraud
  - 18 U.S.C. § 152 (Concealment of assets; false oaths and claims; bribery)
  - 18 U.S.C. § 1519 (Destruction, alteration, or falsification of records in Federal investigations and bankruptcy)

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

In re:

Casey Marie Anthony,

Case Number: 8:13-bk-00922-KRM

Chapter 7

Debtor.

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**TRUSTEE'S MOTION SELL PROPERTY  
OF THE ESTATE AND APPROVE AUCTION PROCEDURES**

Stephen L. Meininger, Chapter 7 Trustee ("Trustee"), by and through his undersigned attorney, pursuant to 11 U.S.C. §363 and Fed.R.Bankr.P §§ 2002 and 6004, and other applicable law, files this Motion to Sell Property of the Estate and Approve Auction Procedures, saying:

1. On January 25, 2013, Casey Marie Anthony ("Debtor") filed a Voluntary Petition for Relief under Chapter 7 of the Bankruptcy Code.
2. Stephen L. Meininger was appointed interim trustee and is now duly qualified and acting as Trustee.
3. Among the assets of the Estate are the exclusive worldwide rights in perpetuity to the commercialization of Anthony's life story including her version of the facts, her thoughts and impressions of whatever nature, in so far as these pertain to her childhood, the disappearance and death of her daughter, Caylee Anthony, her subsequent arrest, incarceration, trial, acquittal and withdrawal from society, including the rights to motion pictures, documentaries, live stage performances and any other form of performance art, any transmission of video and /or audio content, by any means of technology, whether presently existing or hereafter developed, including, without

limitation, standard free over-the-air television, non-standard television distribution including, without limitation, basic, tier and/or premium cable distribution; direct broadcast satellite television, subscription television; multi-point distribution systems, multiple multi-point distribution systems, local multi-point distribution systems, satellite master antenna television systems, open video system, television receive-only, closed circuit television, and radio; online including, without limitation, Internet, world-wide-web, all forms of social media, including Facebook, YouTube, Instagram, and Twitter now known or hereinafter developed; cable modem and all other forms of online distribution now known and hereinafter developed; internet protocol television, mobile/wireless, all portable devices including tablets and /or mobile phones; all interactive forms of distribution now known or hereinafter developed; airline, theater, restaurant and hotel/motel distribution, narrow and broadband services, video dial tone, paper-per-view, high-definition format, video-on-demand, and subscription video-on-demand; literary rights including publication(s) in print and /or electronic means, including but not limited to electronic books, audio books, online magazines, and internet articles; and merchandise tie-ins (the "Property").

4. The Trustee has received a written offer from James M. Schober in the amount of \$10,000 for the Property. Mr. Schober's stated intention is to acquire the Property in order to prevent Ms. Anthony or others from publishing or profiting from her story in the future, and therefore his offer is not subject to any contingency based upon the cooperation or promise of cooperation from Ms. Anthony.

5. Due to the intense public interest in the Debtor and the Property, the Trustee believes that there will be interest from others in purchasing the Property.

6. The Trustee believes, in the exercise of his business judgment, that if there are additional bids that it would be appropriate to set terms for bidding for the Property as the best way to maximize the value for the Estate and its creditors.

7. The Trustee believes that the establishment of an orderly procedure for bidding for the Property will be the most efficient and effective method of selling the Property, and that such a process is necessary, appropriate and in the best interest of all creditors.

8. The Trustee will entertain any higher bid for the purchase of the Property that meets the following requirements: (a) such bids must be in writing and accompanied by a deposit of 100% of the proposed higher purchase price; (b) such higher bid must be received by the Trustee's counsel no later than twenty-one (21) days from the date of mailing of this motion; and (c) a statement that such higher bid is not contingent upon Ms. Anthony's cooperation. If no additional bids are received, James Schoder will be the winning bidder. If more than one bid has been received, an auction will occur among bidders. If an auction becomes necessary, the Court will set an auction date. The rules governing the auction shall be: a) Any person wishing to bid must provide to the undersigned counsel in a form acceptable to the Trustee, proof of financial ability to pay, b) the minimum raise on any raise on any bid shall be \$10,000, c) the winning bidder shall close within ten (10) days of the Court entering its order approving the auction, d) the second highest bidder shall serve as a back-up bidder in the event that the winning bidder fails to close within the ten (10) day period, e) the back-up bidder shall close within ten (10) days after the winning bidder fails to close, f) immediately after the Court approves the winning bid and back-up bid, the Trustee shall return all funds to

unsuccessful bidders, except the back-up bidder, g) in the event the winning bidder fails to close, the deposit shall be forfeited to the Bankruptcy Estate.

**WHEREFORE**, Stephen L. Meininger, Trustee, requests that this Court enter an Order Granting this Motion authorizing the Trustee to sell the Property under the terms and conditions set forth above, and to auction the Property under the terms set forth herein and to set a date for such auction.

Respectfully submitted,

**WATKINS LAW FIRM, P.A.**

/s/ Allan C. Watkins

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UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

Case No. 8:13-bk-0922-KRM

CASEY MARIE ANTHONY,

Debtor.

DEBTOR'S RESPONSE TO TRUSTEE'S MOTION TO SELL PROPERTY

Debtor, Casey Marie Anthony ("Ms. Anthony"), hereby responds to the TRUSTEE'S MOTION TO SELL PROPERTY OF THE ESTATE AND APPROVE AUCTION PROCEDURES (Doc. 34) ("Trustee's Motion"). For all of the reasons that follow, the Trustee's Motion should be denied.

The Trustee's Motion expressly seeks to sell Ms. Anthony's "*thoughts and impressions of whatever nature*" from the time of her birth to some unspecified date in the future. The motion was filed after a prospective "purchaser" made a post-petition offer to buy the rights to Ms. Anthony's "life story;" the Trustee seeks to now sell to the highest bidder any and all of Ms. Anthony's memories that might possibly at some time in the future be expressed, transcribed, or otherwise recorded. Significantly, Ms. Anthony's "life story" has never been published or otherwise memorialized or marketed by her.

The Trustee's Motion should be denied because the "property" that the Trustee seeks to sell does not exist. Instead, in order for the "property" to exist and be available for enjoyment by others, Ms. Anthony would have to engage in post-petition labor to create it, *i.e.*, she would have to speak, write, or otherwise express her memories so they

could be recorded in a form enjoyable by others. For that reason alone, the Trustee's Motion should be denied as a matter of law.

The Trustee's Motion also creates a slippery slope that would have dangerous repercussions far beyond the scope of this case. An Order granting the Trustee's Motion would sound the death knell of the primary purpose of bankruptcy proceedings -- which is to establish a "fresh start" for debtors. By allowing property that can only be created by post-petition labor to be sold as part of the bankruptcy estate, a debtor would never be able to achieve a "fresh start."

Perhaps more troubling, the Order sought by the Trustee would result in the judicial invasion and taking of thoughts and memories that have not been memorialized but are contained solely within the debtor's mind. This is a terrifying Orwellian prospect that would destroy the long-standing protections guaranteed by the Bankruptcy Code and the Fifth, Thirteenth, and Fourteenth Amendments to the United States Constitution. The enforcement of such an Order would also create an administrative nightmare and litigation quagmire over a myriad of issues, such as whether a previously unexpressed thought or idea was conceived pre-petition or post.

Furthermore, both the Trustee and the prospective purchaser acknowledge that the principal purpose of the offer to purchase Ms. Anthony's thoughts and memories is to punish Ms. Anthony so that she never profits from selling her "story," a motive in complete contradiction to the stated purpose of the Bankruptcy Code—to provide debtors with an opportunity for a fresh start, unencumbered by past obligations which have been discharged. Just as astonishing, the Trustee's requested relief is so broad that it would prevent Ms. Anthony from ever telling her "life story" to anyone, regardless of whether

she was doing so for remuneration, which would be an unprecedented invasion of a debtor's private thoughts and First Amendment rights.

Glaringly, the Trustee does not cite any law to support his contention that he can sell "property" that has not yet been created. The reason for that omission is clear: no law exists that even arguably supports the relief requested. Instead, while the Trustee invites this Court to venture into relatively uncharted territory, the Trustee's Motion is actually in direct conflict with existing law.

For those reasons, and as further explained below, the Court should decline the Trustee's invitation to create judicial legislation that would drastically alter existing bankruptcy law, sell assets that did not exist when the petition was filed, and punish a debtor for no reason other than spite.

#### **1. BACKGROUND**

On July 16, 2008, Ms. Anthony was arrested and various charges were filed against her, including a charge for the alleged murder of her daughter, in *State v. Casey Anthony*, Circuit Court of Orange County, Florida, Case No.: 48-2008-CF-015606-O (the "Criminal Case"). Both before and after her arrest, Ms. Anthony was the subject of a highly public criminal investigation in Orlando, Florida. The public investigation of Ms. Anthony attracted national and international attention and fed an insatiable need for media of all type to have "content." The media coverage of the Criminal Case was absolutely unprecedented. Her trial was televised nationally and streamed live over the internet. When the trial was not playing, there was nonetheless the incessant chatter of ill-informed "commentators."

In July of 2011, a sequestered jury acquitted Ms. Anthony of the most serious charges in the Criminal Case, including the murder charge. However, she was convicted of misdemeanor charges of lying to law enforcement, though some of the convictions were reversed and the others remain on appeal. She has fully served all punishment meted out by the criminal judge; indeed, she served twice as much time as was legally permitted, given the reversal of two of the four charges.

Since her acquittal in the criminal case, Ms. Anthony has been the target of numerous profiteers who, in a misguided quest for publicity and financial gain, seek to capitalize on the tragedy involving Ms. Anthony and her daughter. Some have sought to capitalize by filing lawsuits and trying to use the courts to make Ms. Anthony answer questions. Others have gained wealth by making Ms. Anthony the subject of cable shows which are permeated with hatred of a media-created caricature they call the "tot mom" and the "most hated woman in America." Since her acquittal, virtually all of Ms. Anthony's efforts and donated resources have been expended fending off attempts to invade her privacy and collect monies that she does not owe.

By January of 2013, Ms. Anthony was not only destitute, she lacked the will and the resources to continue to fend off alleged creditors, including those filing frivolous lawsuits against her. Therefore, she filed this bankruptcy proceeding, seeking the "fresh start" that Chapter 7 of Title 11 of the United States provides to persons in her financial position.

Unfortunately, some of the profiteers, like Zenaida Gonzalez and her counsel, do not want their fifteen minutes of infamy to end and are trying to delay these proceedings by continuing their frivolous claims. Others seek to capitalize on this tragedy in different

ways. One of those is the prospective purchaser to whom the Trustee seeks to sell Ms. Anthony's pre-petition thoughts and memories.

## II. THE TRUSTEE'S MOTION

The Trustee's Motion was filed after he received a letter from an attorney in Texas who is involved in various media-related businesses. The letter states:

Please consider this letter as a firm offer, subject to the approval of the Bankruptcy Court, to purchase from the bankruptcy estate, for the sum of \$10,000 cash, the exclusive worldwide right to publish Ms. Anthony's version of the facts, and her other thoughts and impressions of whatever nature, insofar as they pertain to the disappearance and death of her daughter Caylee, and her subsequent arrest, incarceration, trial, acquittal, and withdrawal from society. The assets to be purchased also include any photographs or other visual or written depictions of the foregoing. The offer contained herein is subject to the approval of the Bankruptcy Court and the entry of an order, in form and substance satisfactory to me, approving the transfer of the exclusive rights described above. However, **this offer is not contingent on any cooperation or promise of cooperation by Ms. Anthony.** *I do not intend to publish Ms. Anthony's story, nor do I intend to permit others to do so.*

*See Exhibit 1 (bold in original, italics added).*

After receiving the foregoing letter, the Trustee filed the instant motion seeking permission to sell Ms. Anthony's thoughts and memories and establish Court-approved auction procedures for proceeding with the sale. The Trustee's Motion expressly states that:

*Among the assets of the Estates are the exclusive worldwide rights in perpetuity to the commercialization of Anthony's life story including her version of the facts, her thoughts and impressions of whatever nature, in so far as these pertain to her childhood, the disappearance and death of her daughter, Caylee Anthony, her subsequent arrest, incarceration, trial, acquittal and withdrawal from society, including the rights to motion pictures, documentaries, live stage performances and any other form of performance art, any transmission of video and/or audio content, by any means of technology, whether presently existing or hereafter developed, including, without limitation, standard free over-the-air television, non-standard television distribution including, without*

limitation, basic, tier and/or premium cable distribution; direct broadcast satellite television, subscription television; multi-point distribution systems, multiple multi-point distribution systems, local multi-point distribution systems, satellite master antenna television systems, open video system, television receive-only, closed circuit television, and radio; online including, without limitation, Internet, world-wide-web, all forms of social media, including Facebook, YouTube, Instagram, and Twitter now known or hereinafter developed; cable modem and all other forms of online distribution now known and hereinafter developed; internet protocol television, mobile/wireless, all portable devices including tablets and/or mobile phones; all interactive forms of distribution now known or hereinafter developed; airline, theater, restaurant and hotel/motel distribution, narrow and broadband services, video dial tone, paper-per-view, high-definition format, video-on-demand, and subscription video-on-demand; literary rights including publication(s) in print and/or electronic means, including but not limited to electronic books, audio books, online magazines, and internet articles; and merchandise tie-ins (the "Property").

*See* Trustee's Motion, ¶ 3 (emphasis added). Thus, the "property" which the Trustee seeks to sell includes all of Ms. Anthony's memories, experiences, and thought processes from her birth. There is not a single, private thought or memory that Ms. Anthony ever had – from the time she was born through the time she filed her petition -- that is not included within the "property" the Trustee seeks to sell. Significantly, the Trustee does not cite a single statute or case that supports his conclusory assertion that the matters enumerated in paragraph 3 of the Trustee's Motion are "among the assets of the Estate."

It is also significant that the Trustee does not allege that the memories, thoughts, and experiences he seeks to sell have already been expressed, transcribed, recorded, memorialized or otherwise extracted from Ms. Anthony's mind. Nor is there any allegation that Ms. Anthony has tried to previously record, market, or sell the "property" at issue. Rather, the motion acknowledges that Ms. Anthony would have to engage in post-petition labor that would create the "property" in a form in which it could be sold or otherwise enjoyed by others.

Furthermore, the motion expressly seeks to sell the rights to thoughts and impressions “*presently existing or hereafter developed.*” Thus, the Order sought by the Trustee would enable the purchaser to seize the earnings of Ms. Anthony from any of her memories she discussed as part of a book, an interview, a movie, a television show, an internet communication or production, and so on, whether she disclosed her memories now, ten years from now, or fifty years from now. In fact, the Trustee’s Motion would literally bar Ms. Anthony from ever discussing her life experiences with anyone by use of “all forms of social media” or “the internet.” Therefore, the plain language of the requested Order would bar Ms. Anthony from even sending an e-mail to her mother relating to her childhood experiences because the rights to those thoughts and memories would belong to someone else.

Astonishingly, the Trustee’s Motion expressly acknowledges that one of the stated purposes of the proposed sale is to “prevent Ms. Anthony or others from publishing or profiting from her story in the future.” Trustee’s Motion, ¶ 4. While the potential purchaser’s apparent interest in media-related enterprises make his actual motives suspect,<sup>1</sup> it is interesting that the Trustee would acknowledge that one of his stated purposes is to punish Ms. Anthony and interfere with her ability to earn post-petition income. By what means the Trustee supposedly gained the power to punish debtors he may not like is never explained.

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<sup>1</sup> The purchaser has connections with Rainmaker Publishing, LLC and Hunter-Grace Publishing.

### **III. ARGUMENTS AND AUTHORITIES**

#### **I. *Ms. Anthony's Thoughts and Memories Are Not Property of the Estate***

##### **A *There is No Cognizable Property Interest in Ms. Anthony's Unrecorded Life Story***

Section 541(a)(1) of the Bankruptcy Code defines property of the bankruptcy estate as "all legal or equitable interests of the debtor in property *as of the commencement of the case.*" (emphasis supplied) This seemingly broad definition is limited by applicable State law in determining whether there is a cognizable property interest that can be reached by creditors of a debtor. *Butner v. United States*, 99 S. Ct. 914, 918 (1979). Therefore, in this case, the Court must defer to Florida law in determining whether Ms. Anthony's thoughts and memories are property interests that can be sold and that could thus be considered property of the estate.

Under Florida law, "[p]roperty, in a legal sense, consists in the domination which is rightfully and lawfully obtained over a material thing, with the right to its use, enjoyment, and disposition." *Tatum Bros. Real Estate & Investment Co. v. Watson*, 92 Fla. 278, 289 (1926). Similarly, "intangible property" is a group of rights inhering in a person's relation to a physical thing, [such] as a right to possess and use." *Fla DOT vs. Rogers*, 705 So.2d 584, 587 (5<sup>th</sup> DCA 1998). In the case at bar, Ms. Anthony's memories and thoughts are not physical or material things of any kind. There is no book, no movie deal, no contract, no copyright, no trademark – there is nothing whatsoever of any material or physical nature in which Ms. Anthony's thoughts and memories have been recorded or offered for sale. Rather, what the Trustee seeks to sell is located exclusively within Ms. Anthony's mind and memory and has never been expressed or marketed to anyone.



No Florida case has ever defined property rights as broadly as the Trustee seeks to define them here. The crux of Florida law pertaining to property interests is that there must be something concrete, something more than a mere expectancy, for a property right to exist. A thought or memory contained within a person's mind is not a property right recognized by Florida statute or Florida case law. In fact, research has not uncovered a single case in which any court in any State in the union has defined "property" as broadly as the Trustee.

In *Morenberg v. Morenberg*, 65 So.3d 1199, 1201 (Fla. 4<sup>th</sup> DCA 2011), the court addressed the issue of whether marital property included future book royalties paid with respect to books authored by the husband, an author. The court held that marital property included royalties for all books written by the husband during the marriage, but *did not include* any royalties received for books authored after the divorce petition was filed. Indeed, the Court excluded from marital property income from a new edition of an original book that was written during the marriage. The Court found that the income from the post-marital revisions was not marital property, even though the original edition had been previously conceived and published during the marriage.

Thus, under Florida law, there is no cognizable property interest in a book that is not yet written, regardless of when the ideas that might go into the book were first developed. This concept easily extends to movies not yet made, interviews not yet given, and stories not yet told of any kind. Consequently, Florida law bars the relief the Trustee seeks.

*B. Bare Expectancies are Not Property of the Estate*

At best, as of the date the petition was filed, the possibility that Ms. Anthony might decide in the future to express and sell her life story (and that any one might actually be willing to pay her for that story) may be described as a “bare expectancy.” Such an expectancy is not a cognizable property interest included within the property of the bankruptcy estate. In *In Re Morrison*, 403 B.R. 895 (Bankruptcy M.D. Fla. 2009), the court held that a debtor’s interest in life insurance benefits, as beneficiary to a spouse who was living at the time of the filing of the bankruptcy petition was filed, was a “bare expectancy” and not existing property of the estate. Notably, the claim to a life insurance benefit is more certain to occur than Ms. Anthony’s possible sale of her life story. Everyone dies. There is no way to know for certain whether Ms. Anthony will ever wish to sell her memoirs, or, as of the petition date, whether she could find a buyer if she did.

*C. Future Earnings are Not Property of the Estate*

Section 541(a)(6) of the Bankruptcy Code expressly excludes from property of the estate “*earnings from services performed by an individual debtor after the commencement of the case.*” (emphasis added) Post-petition earnings that are excluded from property of the estate are not limited to wages but apply to income of any sort received by a debtor, regardless of the time spent earning the income or how it is earned. See *In re Fitzsimmons*, 725 F.2d 1208, 1211 (9<sup>th</sup> Cir. 1984); *In Re Evans*, 464 B.R. 429 (D. Colo. 2011). The exclusion of post-petition earnings from property of the bankruptcy estate is intended to foster the “fresh start” policy of the Bankruptcy Code *Id.*

Because the ideas within Ms. Anthony’s mind would require her labor in order to create them in a form that could be enjoyed by others, the bankruptcy estate does not

include any future earnings that Ms. Anthony might derive from those services. Likewise, since the Trustee could not directly seize the earnings from Ms. Anthony's post-petition labors, he cannot sell them to someone else who hopes to later seize or otherwise profit from them.

The situation at bar is analogous to the rules involving personal services contracts. If the debtor supplied personal services under a contract that has been fully performed and all that remains is the right to collect payment, then the right to payment passes to the trustee. However, if the contract is executory and the personal services have not yet been performed, then the contract rights do not pass to the trustee because the right to payment can only be earned by the debtor's future services. *See, e.g., Waldschmidt v. CBS, Inc.*, 14 B.R. 309, 311 (M.D. Tenn. 1981); 4A *Collier on Bankruptcy* § 70.22(3) (14<sup>th</sup> Ed. 1979). The rationale for this rule, and a central theme of the Bankruptcy Code, is that the property of the estate does not include any property interests which the debtor earns or for which she otherwise must provide services after the petition is filed.

The situation presented can also be analogized to cases involving the question of whether property of the estate includes royalties from songs written by the songwriter/debtor. The courts uniformly hold that the property of the estate does not include royalties from songs written *after* the petition, regardless of when an idea for a song may have been conceived. *See, e.g., In re Dillon*, 219 B.R. 781 (M.D. Tenn. 1998); *Waldschmidt v. CBS, Inc., supra*. It is the act of expressing the song, not the idea itself, that creates a cognizable property right. Similarly, it would be Ms. Anthony's expression of her memories in a form that could be understood by others that would create value and thus create a cognizable property interest in her life story. Until she does so, her thoughts

and memories are private and of no commercial value. Therefore, Ms. Anthony's unexpressed thoughts and memories cannot be property of the estate.

*D. Future Prospective Rights Are Not Property of the Estate*

Under § 541(a), the "key date for property definition purposes" is the commencement of the bankruptcy case; property acquired thereafter is not property of the estate. *See Bracewell v. Kelley*, 454 F.3d 1234, 1237 (11<sup>th</sup> Cir. 2006) (crop loss payments made after the commencement of bankruptcy were excluded from property of the estate, even though losses occurred pre-petition, where legislation authorizing payments was enacted post-petition); *see also Wilko v. Menotte (In Re Wilko)*, 374 F.3d 1040 (11<sup>th</sup> Cir. 2004) (legal malpractice claim which did not exist at the time of the commencement of the bankruptcy case, although based on acts occurring pre-petition, was not property of the estate).

In this case, Ms. Anthony has not made any book deal, movie deal, or any other sort of arrangement to sell her life story or any of her thoughts and memories. Accordingly, even assuming she was inclined to do so in the future, the royalties or other proceeds derived therefrom would not be property of the estate because they did not exist when the petition was filed.

Moreover, the fact that there has been a post-petition offer to purchase Ms. Anthony's life story does not create an asset of the estate. It is well established that the bankruptcy estate cannot be greater than the property rights that the debtor had at the commencement of the case. *See Wilko v. Menotte, supra*, 374 F.3d at 1042-43.

**2. *The Relief Requested Would Eviscerate the Salutary Purposes of Bankruptcy***

The central purpose of the Bankruptcy Code is to enable insolvent debtors to discharge their debts and enjoy the opportunity for a “fresh start.” *In re Bullock*, 670 F.3<sup>rd</sup> 1160 (11<sup>th</sup> Cir. 2012 ). The reason post-petition earnings are excluded from property of the estate is to enable the debtor to make a fresh start and use their post-petition earnings to do so. *See In re Taronji*, 174 B.R. 964, 970 (Bankr. N.D. Ill. 1994).

An Order granting the Trustee’s motion would deny Ms. Anthony the “fresh start” to which she is entitled. It would result in someone with whom she has no relationship continuously looking over her shoulder to see if anything she did involved the disclosure of her thoughts and memories which were sold by the Trustee with the imprimatur of this Court.

The restraints that the Trustee seeks to impose on Ms. Anthony are unlimited in time and subject matter. For the remainder of her life – she just turned twenty-seven years old -- Ms. Anthony would not be able to receive any earnings if she should write a book, give an interview, or otherwise disclose any of her thoughts, memories, and impressions from the date she was born. This type of restraint on her freedom is unprecedented, unwarranted, and unavailable under the Bankruptcy Code. Moreover, the restraints proposed by the Trustee are even broader. Under the proposed terms of sale, Ms. Anthony would be unable to accept plane fare and hotel accommodations so she could travel and counsel other victims of child abuse. She would be barred from working as a victim’s advocate with the Court system because all of her life experiences – including her thoughts and memories -- would be brought to bear as part of that role. She would be barred as she entered her twilight years from writing a book of her

experiences from which others might learn and benefit. In fact, Ms. Anthony would be barred from ever telling anyone about anything that ever happened to her from the time she was born until at least the petition date.<sup>2</sup>

There is no need for statutory remodeling or examining existing law with blurry eyes to try to find some hidden image that will help decide the issue presented. The applicable policies and rules are clear. There is not a single case in the entire country that justifies granting the relief the Trustee seeks here. The Trustee requests this Court to create special law and write different rules for Ms. Anthony, an unfortunate inclination of many that is inconsistent with the rule of law. The Court should decline that invitation.

Justitia, the Roman Goddess of Justice, commonly wears a blindfold to symbolize the justice system's impartial resolution of disputes without fear or favor. In this case, the Trustee, relying upon a bogus, bad faith purchase offer, wants Lady Justice to peek under her blindfold, see Casey Anthony, and create an onerous special law to punish Ms. Anthony solely because of who the media has depicted her to be.

There are no good grounds supporting the Trustee's contention that the thoughts and memories located solely within the mind of Ms. Anthony are property of the estate. The Trustee's Motion would encumber property that did not exist as of the petition date and deny Ms. Anthony the fresh start to which she is entitled. Such a rule, if applied in other cases, could be used to prevent professionals and others who use their minds at

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<sup>2</sup> The administrative quagmire and litigation that could result from the proposed sale is endless. It is widely reported that Ms. Anthony was the victim of child abuse. It is not uncommon for victims of child abuse to wall themselves off from past memories and live in fantasy worlds with imagined memories. If the Trustee's proposed sale were allowed, would it encompass memories that Ms. Anthony might recall if she were to undergo hypnosis or other therapy as part of her continuing efforts to come to terms with the past? Where does the invasion of her thoughts and memories end?

work from earning a living and receiving the rewards of their post-petition services just because their future earnings arose from pre-bankruptcy education, training, or experience. This would obviously eviscerate the stated policy of the Bankruptcy Code.

The fact that the relief sought here would frustrate the fresh start policy of bankruptcy is punctuated by the Trustee's admissions that one of the stated purposes of the offer is to punish Ms. Anthony by preventing her from ever selling her life story in the future. "Punishment" has no place in a bankruptcy determination of the reach of the debtor's estate. It is surprising that the Trustee would admit that the purpose of the proposed sale is to punish Ms. Anthony. It is equally surprising that he does not recognize how grievously this expressed motive of punishing the Debtor conflicts with his statutory duties, though it is doubtful that the Trustee has ever filed a motion to sell property on explicitly stated punitive grounds. In all events, the Court should reject the efforts to punish Ms. Anthony by interfering with her ability to earn post-petition income.

**3. *The Deprivation of a Debtor's Undisclosed Thoughts is Constitutionally Impermissible***

The United States Supreme Court has found a right to privacy in the penumbras of the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution. Ms. Anthony's rights to privacy would be undeniably violated if the Trustee was successful in his efforts to sell her thoughts and memories. An Order granting the relief sought by the Trustee would result in the mental exploitation of Ms. Anthony and the deprivation of one of the most fundamental rights of American citizens: to own and maintain the privacy of their thoughts.

Moreover, the relief requested by the Trustee would result in the theoretical deprivation of Ms. Anthony's right to speak at all about any matter pertaining to her childhood, her daughter, or any other of her life experiences. While this may sound like an absurd scenario – and it certainly is – it is also a result realistically flowing from the requested relief. If someone is allowed to purchase the rights to Ms. Anthony's thoughts and memories, regardless of the format or forum in which they may be later expressed, which is precisely the relief requested by the Trustee, then Ms. Anthony could be subject to a lawsuit for a variety of torts, including Interference with Contractual Rights, if she should later express her thoughts and memories to anyone without the permission of the owner of her "life story." This would violate, *inter alia*, Ms. Anthony's First Amendment rights

Further still, the Thirteenth Amendment to the Constitution bars involuntary servitude. The Bankruptcy Code acknowledges that prohibition by barring bankruptcy trustees from collecting a Chapter 7 debtor's post-petition earnings. Yet, the Trustee seeks relief that ignores the Constitution and which would make the future earnings of Ms. Anthony's post-petition labors subject to seizure. While the Trustee will undoubtedly argue that the proposed sale does not compel Ms. Anthony to express her thoughts, but only penalizes her if she does so without the purchaser's permission, the proposed sale would clearly subject Ms. Anthony to monitoring, compelled disclosures, forfeiture of post-petition earnings, and the prospects of litigation which would trample upon her rights under the Thirteenth Amendment and other provisions of the Constitution.



The relief sought by the Trustee is both absurd and frightening. It is absurd that the Trustee would try to stretch the law far beyond where anyone has ever attempted, far beyond the limit which an objective examination of the law proves is permissible, and far beyond the public policies supporting bankruptcy relief. It is frightening to envision scenarios that would likely ensue if the Trustee is successful, where the government would have the right to sell your most secret thoughts, and punish you for crimes of which you were previously acquitted.

**IV. CONCLUSION**

For all of the reasons set forth above, the Trustee's Motion should be denied.

Dated this 4th day of April, 2013.

/s/ David L. Schrader  
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*Counsel for Debtor*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 4, 2013, the foregoing was filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following: Stephen L. Meininger, Trustee at [slmeininger@earthlink.net](mailto:slmeininger@earthlink.net); Allan Watkins, Esq. [allan@watkinslawfl.com](mailto:allan@watkinslawfl.com); the office of the United States Trustee at [USTPRegion21.TP.EFC@USDOJ.GOV](mailto:USTPRegion21.TP.EFC@USDOJ.GOV), and to: R. Scott Shuker, Esquire, Latham Shuker Eden & Beaudine LLP, [rshuker@lseblaw.com](mailto:rshuker@lseblaw.com); Charles M. Greene, Esq., [cmg@cmgpa.com](mailto:cmg@cmgpa.com) and Michael Nardella, Esq., [Michael.nardella@burr.com](mailto:Michael.nardella@burr.com).

/s/ David L. Schrader  
David L. Schrader, Esq.

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

In re:

Casey Marie Anthony,

Case Number: 8:13-bk-00922-KRM

Chapter 7

Debtor.

\_\_\_\_\_ /

**JOINT MOTION TO APPROVE COMPROMISE OF CONTROVERSY**

Stephen L. Meininger, Trustee, and Casey Marie Anthony, Debtor, by and through their respective undersigned counsel, pursuant to Federal Rules of Bankruptcy Procedure Rule 9019 and other applicable law, hereby move the Court for an order authorizing the Trustee to compromise a controversy between the Estate and the Debtor relating to intellectual property rights, the right of publicity and commercialization of the Debtor's life story up to the date of the filing of the Petition, saying:

**NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING**

**Pursuant to Local Rule 2002-4, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within 21 days from the date this paper is entered on the docket. If you object to the relief requested in this paper, you must file your objection with the Clerk of Court at United States Bankruptcy Court, Middle District of Florida, Tampa Division, Sam M. Gibbons United States Courthouse, 801 N. Florida Avenue, Suite 727, Tampa, Florida 33602-3899, and serve a copy on the Trustee, Stephen L. Meininger, Trustee, 707 North Franklin Street, Suite 850, Tampa, FL 33602 and Trustee's attorney, Allan C. Watkins, Esquire, Watkins Law Firm, P.A., 707 N. Franklin Street, Suite 750, Tampa, FL 33602, and any other appropriate persons.**

**If you file and serve an objection within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper without further notice or hearing, and may grant the relief requested.**

## **INTRODUCTION**

1. Casey Marie Anthony, filed a Voluntary Petition for Relief under Chapter 7 of the Bankruptcy Code on January 25, 2013.
2. Stephen L. Meininger was appointed interim trustee and is now duly qualified and acting as Trustee.
3. The Creditors Meeting pursuant to §341 of the Bankruptcy Code was held on March 4, 2013 and was concluded.
4. On March 15, 2013, the Trustee filed a Motion to Sell Property of the Estate and Approve Auctions Procedures (Doc. No. 34).
5. The Debtor filed her Response to the Trustee's Motion to Sell Property on April 4, 2013 (Doc. No. 51).
6. On May 7, 2013, the Trustee filed a Notice of Withdrawal of the Motion to Sell Property (Doc. No. 88).

## **CONTROVERSY**

7. The Trustee maintains that the Debtor has a right to publicity and to commercialization of her story, which became property of the Bankruptcy Estate (the "Estate") upon filing. The Debtor's story is potentially of great public interest. The Trustee has received a number of inquiries and two firm offers to purchase the right to commercialization of the Debtor's story. The Trustee fully realizes that the Debtor has no obligation to commercialize her story and the Trustee has no means to compel the Debtor to do so.
8. The Debtor adamantly opposes the concept that the Estate has as property the right to commercialization of the Debtor's story. The "property" which the Trustee seeks to sell consists of memories, experiences, and thought processes that have not been recorded, transcribed, or otherwise expressed. Rather, the Debtor would have to engage in post-petition

labor that would create the “property” in a form in which it could be sold or otherwise enjoyed by others. The Debtor raises significant Constitutional, statutory, and equitable questions concerning the relief sought by the Trustee.

9. Both the Debtor and the Trustee acknowledge that the relief sought in the Trustee’s Motion to sell the alleged property interest is novel and has not been addressed by any case law that the parties have been able to discover. The parties also acknowledge that each side has made plausible arguments and that each bears some risk of losing the legal questions raised by the Trustee’s Motion.

10. The parties have discussed this and reviewed substantial case law.

### **COMPROMISE**

11. The parties have reached a compromise whereby the Debtor will pay to the Estate the sum of \$25,000 to compromise the controversy as to whether the Estate has any property right that is an asset of the Estate which can be sold.

12. The Trustee believes and asserts that this compromise is in the best interest of the creditors in the Estate, in that it will avoid substantial long term litigation. Some “experts” have opined that the “property” at issue is not cognizable in this proceeding and that the relief sought by the Trustee has serious Constitutional implications. On the other hand, in the Bloomberg Report “Bill on Bankruptcy” of April 8, 2013 (on YouTube), Bill Rochelle commented that the Estate probably may have some property interest in the matter at issue, but he questioned how much. He further commented that this issue could easily go the Eleventh Circuit and, potentially, the Supreme Court.

13. In the event of an adverse decision, there is no doubt that the Debtor would exhaust all of her options for appeal. Thus, the questions raised could remain unanswered for

years. This would result in the unwarranted expenditure of the resources of the parties and the Court, as well as the unnecessary taxation of the system. As a practical matter, the Trustee believes and asserts that the potential value of the commercialization rights to a story which the Debtor may never tell are limited and do not warrant the expenditure of the legal time and effort necessary to pursue the sale.

14. The Trustee believes that the proposed compromise satisfies the standards necessary for the Court to approve the compromise and is in the best interest of its Estate and its creditors. The cost of litigation and the risk of potential loss justify the settlement. The Trustee is acting within his reasonable discretion in making the settlement.

15. It is generally recognized that the law favors compromise of disputes over litigation. In re: Bicoastal Corporation, 164 B.R. 1009, 1016 (Bankr.M.D.Fla.1993). Some Courts have held that a proposed settlement should be approved unless it yields less than the lowest amount the litigation could reasonably produce. In re Holywell Corp., 93 B.R.291, 294 (Bankr.S.D.FLA.1998). In the case of In re: Justice Oaks II, Ltd., 898 F.2d 1544 (11<sup>th</sup> Cir. 1990), cert. denied, 498 U.S. 959, 111 S.Ct.387, 112 L.Ed.2d 298 (1990), the Eleventh Circuit enunciated certain factors which must be considered in determining whether to approve a compromise, which are:

- a. The probability of success in the litigation;
- b. The difficulties, if any to be encountered in the matter of collection;
- c. The complexity of the litigation involved, the expense, inconvenience and delay necessarily attending it; and
- d. The paramount interest of the creditors and a proper deference to the reasonable views in the premises.

16. The Trustee believes that the compromise satisfies the Justice Oaks, factors.

**WHEREFORE**, Stephen L. Meininger, Trustee, requests this Court enter an order approving this compromise and ordering that the Debtor will pay to the Bankruptcy Estate the sum of \$25,000, and for such other and further relief as just.

Respectfully submitted,

**WATKINS LAW FIRM, P.A.**

/s/ Allan C. Watkins

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**ALLAN C. WATKINS, ESQUIRE**

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Email: [allan@waktinslawfl.com](mailto:allan@waktinslawfl.com)

Attorney for Stephen L. Meininger, Trustee

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by either CM/ECF electronic transmission or by United States postage prepaid mail to: United States Trustee, 501 E. Polk Street, Suite 1200, Tampa, Florida 33602; Stephen L. Meininger, Esquire, 707 North Franklin Street, Suite 850, Tampa, FL 33602; David L. Schrader, Esq., 111 Second Avenue NE, Suite 911, St. Petersburg, FL 33701; Debra Ferwerda, Esq., 351 E. Sr 434, Winter Springs, Florida 32708; Debra Ferwerda, Esq., 351 E. Sr 434, Winter Springs, Florida 32708; and Casey Marie Anthony, c/o Charles M Greene, Esq., 55 E Pine Street, Orlando, FL 32801 and to all parties in interest on the CM/ECF matrix on July 3, 2013.

/s/ Allan C. Watkins

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**ALLAN C. WATKINS, ESQUIRE**

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

In re:

Casey Marie Anthony,

Case Number: 8:13-bk-00922-KRM  
Chapter 7

Debtor.  
\_\_\_\_\_ /

**ORDER GRANTING JOINT MOTION TO  
APPROVE COMPROMISE OF CONTROVERSY**

THIS CAUSE came on for consideration on the Trustee's Joint Motion to Compromise Controversy with Casey Marie Anthony filed July 3, 2013 (Doc. No. 122). Notice having been given pursuant to Local Rule 2002-4 and no creditor or party in interest having filed an objection or sought a hearing, and the Court being fully advised in the premise, it is.

**ORDERED:**

1. That the Joint Motion to Compromise Controversy between the Stephen L. Meininger, Trustee, and Casey Marie Anthony, Debtor be and it is hereby GRANTED;
2. Upon the payment of \$25,000 to the Trustee, the Estate will relinquish any right to publicity and commercialization of the Debtor's story which it may claim as property of the Estate.

**DONE AND ORDERED** in Tampa, Florida July 31, 2013.



**K. Rodney May**  
United States Bankruptcy Judge

Attorney, Allan C. Watkins, Esq. is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.