

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TSR LLC,

Plaintiff,

v.

WIZARDS OF THE COAST LLC,

Defendant.

Case No. C21-1705-SKV

ORDER RE: MOTION TO
ENFORCE THE PROTECTIVE
ORDER GOVERNING CONDUCT

WIZARDS OF THE COAST LLC,

Counterclaim Plaintiff,

v.

TSR LLC; JUSTIN LANASA; and DUNGEON
HOBBY SHOP MUSEUM LLC,

Counterclaim Defendants.

INTRODUCTION

This civil matter is subject to an automatic stay following Plaintiff/Counterclaim Defendant TSR LLC's (TSR) bankruptcy filing in the United States Bankruptcy Court for the Eastern District of North Carolina. Dkt. 57. After securing a Consent Order from the Bankruptcy Court finding that the stay does not apply to Counterclaim Defendants Justin LaNasa (LaNasa) and Dungeon Hobby Shop Museum LLC (the Museum), Dkt. 59, Ex. G, Defendant/

ORDER RE: MOTION TO
ENFORCE PROTECTIVE ORDER

1 Counterclaim Plaintiff Wizards of the Coast LLC (Wizards) filed, in this Court, a Motion to
2 Enforce the Protective Order Governing Conduct, Dkt. 58.

3 Wizards argues that LaNasa and the Museum violated the Stipulated Protective Order
4 Governing Conduct entered by the Court in November 2022 (hereinafter “Protective Order”),
5 Dkt. 47,¹ by posting disparaging remarks about third-party witness Don Semora. Wizards
6 requests that the Court impose a \$10,000 monetary sanction on LaNasa and the Museum, and
7 require them to pay attorney fees incurred by Wizards in bringing violations of the Protective
8 Order to the Court’s attention. Dkt. 58. LaNasa and the Museum oppose the motion and request
9 oral argument. Dkt. 60.

10 The Court finds it appropriate to consider Wizards’ motion notwithstanding the stay.
11 Having now considered the motion, all papers filed in support and opposition, and the remainder
12 of the record, the Court finds oral argument unnecessary and concludes that LaNasa and the
13 Museum violated the Protective Order, but declines to impose the requested sanctions.

14 BACKGROUND

15 TSR filed this civil lawsuit seeking a declaratory judgment as to Wizards’ lack of
16 ownership over certain trademarks and copyrights. Dkt. 1. Wizards denies the alleged lack of
17 ownership and filed counterclaims against TSR, the Museum, and LaNasa, the organizer of TSR
18 and the Museum. Dkt. 11.

19 Prior to entry of the automatic stay, the Court held a hearing on Wizards’ request for an
20 order requiring that Counterclaim Defendants refrain from harassing Semora and Michael
21 Hovermale, two third-party subpoena recipients and witnesses. *See* Dkt. 41. Wizards argued
22

23 ¹ Another Protective Order entered in this case addresses the treatment of confidential
information, Dkt. 27, and is not relevant to the dispute before the Court.

1 that Counterclaim Defendants had harassed Semora and Hovermale through anonymous emails,
2 disparaging posts and comments on social media, and a website, <https://www.donosemora.com>
3 (hereinafter “donosemora.com”), containing personal information about Semora and believed by
4 Wizards to be created by LaNasa. Counterclaim Defendants opposed the request, describing a
5 longstanding dispute between LaNasa and Semora, arguing Semora and Hovermale had similarly
6 harassed LaNasa, and suggesting that Semora or someone else bore responsibility for the website
7 and anonymous emails.

8 Semora and Hovermale identified themselves as present for the hearing. The Court,
9 while acknowledging that Semora and Hovermale were not parties to the case, cautioned them to
10 be aware that commercial disputes are properly resolved in the courts and that they should be
11 thoughtful about activities engaged in beyond their compliance with subpoenas. The Court also
12 expressed its concern to counsel for Counterclaim Defendants about conduct linked to this case
13 and its potential negative impact, but declined to order sanctions. The Court, instead, directed
14 counsel for Wizards to draft a protective order relating to conduct.

15 The parties submitted and the Court entered the Protective Order now at issue in
16 Wizards’ motion. Dkt. 47. The Protective Order prohibits a party from engaging in direct or
17 indirect conduct to improperly influence testimony or participation in this lawsuit, and provides
18 for the imposition of sanctions for violations. *Id.*

19 On June 15, 2023, the Court entered a Bankruptcy Stay Order, staying this action until
20 further application of the parties. Dkt. 57. In July 2023, Wizards requested that the Bankruptcy
21 Court confirm the automatic stay did not preclude Wizards from filing a motion in this Court to
22 enforce the Protective Order. *In re TSR, LLC*, No. 23-01577-5 (Bankr. E.D.N.C. July 23, 2023)
23 (Dkt. 13). The Bankruptcy Trustee initially opposed and sought additional time to consider the

request. *Id.* (Dkt. 19). The Trustee later submitted a Consent Order finding that the automatic stay did not apply to non-debtor third parties LaNasa and the Museum, and the Bankruptcy Court entered that Order on November 13, 2023. *Id.* (Dkt. 48); *see also* Dkt. 59, Ex. F.

DISCUSSION

Wizards now moves to enforce the Protective Order in this Court. Dkt. 58. Wizards argues that the automatic stay does not preclude the Court from enforcing the Protective Order, and that LaNasa and the Museum violated the Protective Order and should be sanctioned. Dkt. 58. LaNasa and the Museum argue that the Court should refuse to hear Wizards’ motion because it was filed in violation of the stay. Dkt. 60. They further argue that, if considered, the motion should be denied due to Wizards’ failure to establish a violation of the Protective Order, and that Wizards and Semora should be admonished for Semora’s ongoing harassment of LaNasa. *Id.*

A. Consideration of Motion During Stay

Wizards asserts that the automatic stay applies only to claims against TSR, the debtor, or against the property of the estate, *see* 11 U.S.C. § 362(a), and “does not apply to actions against non-debtor third parties or codefendants of the debtor.” *Holland v. High Power Energy*, 248 B.R. 53, 57 (S.D. W. Va. 2000). Wizards also asserts that, even during the stay, it remains within this Court’s “inherent power to take whatever steps necessary to ensure those persons within its power comply with its orders.” *In re Rook*, 102 B.R. 490, 493-95 (Bankr. E.D. Va. 1989) (adopting reasoning finding that a non-bankruptcy court ““must retain the ability to compel compliance with its orders; a party seeking relief from his creditors is not free to run rampant in flagrant disregard of the powers of the court.””) (quoted case omitted). *See also In re Dingley*, 852 F.3d 1143, 1146 (9th Cir. 2017) (observing that the reach of a bankruptcy automatic stay “is not unlimited,” and finding civil contempt proceedings exempted under 11

1 U.S.C. § 362(b)(4), the “government regulatory exemption”, when “proceedings are intended to
2 effectuate the court’s public policy interest in deterring litigation misconduct.”)

3 LaNasa and the Museum do not dispute any of the legal authority cited by Wizards.
4 They also concede this Court’s authority to allow a filing in this stayed case, and argue only that
5 the Bankruptcy Court lacked authority to address the status of the stay. *See Holland*, 248 B.R. at
6 56-57 (“[W]hile it is correct that the bankruptcy court is the exclusive forum to consider a
7 motion for relief from the automatic stay, the district court retains jurisdiction independent of the
8 bankruptcy court to determine whether a pending civil action is subject to the automatic stay.”)

9 The Court is not persuaded that it should decline to consider Wizards’ motion based on
10 the procedural objection raised by LaNasa and the Museum. The Court also finds it appropriate
11 to exercise the Court’s undisputed authority to allow Wizards’ filing in this stayed case and to
12 enforce the Protective Order, as may be found warranted.

13 B. Alleged Violations of Protective Order

14 The Protective Order addresses conduct regarding witnesses in this case, including third-
15 party subpoena recipients, witnesses subject to deposition or examination at trial, or any other
16 person who may have or be perceived to have pertinent information. Dkt. 47. Its protections
17 extend to witnesses, parties, and any party’s employees, agents, representatives, family members
18 or other persons acting under a party’s direction and control. The Protective Order explains:

19 The full litigation of disputes on the merits requires truthful and open testimony
20 by those individuals with knowledge of facts relevant to a case. It also requires
21 cooperation of both Parties and non-party Witnesses who have information,
22 documents, or other materials subject to discovery. While parties in litigation
23 retain their First Amendment rights, their rights regarding the issues before the
Court are constrained by the Court’s pursuit of truth and the just resolution of
disputes. Speech that interferes with this pursuit by harassing, intimidating,
pressuring, or otherwise improperly attempting to influence Witnesses or a Party
is not permitted. . . .

1 *Id.* at 2. The Protective Order provides that no party may engage in any direct or indirect
 2 conduct to improperly influence testimony or participation in this lawsuit. Prohibited conduct
 3 includes, but is not limited to, “any public, limited, or private statements intended to or likely to
 4 have the effect of harassing, intimidating, threatening, or otherwise improperly influencing” a
 5 witness or party, “the actual or threatened dissemination of any personal information” about a
 6 witness or party, use of the name or likeness of a witness or party in a derogatory or harassing
 7 manner, “solicitation, encouragement, or suggestion for others to perform any conduct barred”
 8 by the Protective Order, or “any other behavior intended to or likely to have the effect of
 9 improperly influencing” a witness or party. *Id.* at 2-3. A party found to have directly or
 10 indirectly violated the Protective Order “may be subject to sanctions,” including attorney fees for
 11 the party bringing the violation to the Court’s attention and any damages or expenses incurred by
 12 a witness or party as a result of barred conduct. *Id.* at 3-4.

13 Wizards here asserts that, while ceasing for some time following entry of the Protective
 14 Order, the harassment of Semora resumed almost immediately after TSR’s bankruptcy filing.
 15 *See* Dkts. 58 & 59. Wizards points to, *inter alia*, the reappearance of donosemora.com in June
 16 2023, anonymous social media posts and emails with derogatory and threatening content, and
 17 posts and comments made by LaNasa and the Museum. *See* Dkt. 59, ¶¶2-4, 6-7 & Exs. A-C, E.²

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 19 ² Wizards provides screenshots of the donosemora.com website, Dkt. 59-1 at 3-63, and
 20 anonymous posts, comments, and other communications, *id.* at 65-68 (“Anonymous member” Facebook
 21 post providing link to donosemora.com and warning others to “stay away” from “this grifter” who “got
 22 me for a few dollars” and “scammed [others] for much more.”; communications alerting Semora that
 23 “Vance K. Yarg” accused Semora of a “scam”), and at 90 (email from “Anonymousemail” stating: “This
 is not Justin or anyone else who knows him. Your day is coming prison is where you are going. No
 convention will happen your LIES Don will be exposed. We are emailing everyone the nice pics of your
 wife. AI is a wonderful thing. You can’t do anything about it.”) *See also* Dkt. 59, ¶7 (counsel for
 Wizards attests that Semora told her he had been contacted by a state employee in Michigan regarding a
 tip that Semora falsely claimed veteran status). Wizards also provides an email chain appearing to show
 LaNasa, using his own name, made an inquiry to a third party before the third party received a series of

LaNasa and the Museum deny responsibility for and assert an absence of proof in relation to the bulk of the alleged harassment. *See* Dkt. 60 & Dkt. 61, ¶¶2, 4-5 (LaNasa attests that donosemora.com is not registered to him or within his control and denies responsibility for the anonymous posts and communications). LaNasa and the Museum maintain their compliance with the Protective Order, asserting their posts and comments, *see* Dkt. 59-1 at 69, 70 & 73, reflect their personal or professional frustration, not an intent to improperly influence witness testimony or participation in this lawsuit. Dkt. 60 & Dkt. 61, ¶¶3, 6-8. LaNasa and the Museum also argue that Semora should be admonished for violating the Protective Order through his continued harassment of LaNasa, providing examples of lewd and offensive social media posts and comments, as well as Semora's public commentary on the proceedings in both this Court and the Bankruptcy Court. Dkt. 61, ¶¶9-12.³ They assert that Semora has worked closely with Wizards and its counsel, and that he falls within the Protective Order as a person acting under Wizards' direction or control.

The Court declines to reach a conclusion regarding donosemora.com, anonymous posts, comments, and other communications, or other alleged harassment not directly attributable to LaNasa or the Museum. While the Court is concerned by the timing and other connections drawn by Wizards and construed as suggesting LaNasa's involvement, the evidence does not clearly establish that LaNasa bears responsibility for this activity.

anonymous emails alleging fraud by Semora. Dkt. 59-1 at 85-88. However, because the personal contact information is redacted, it is not clear whether LaNasa made the initial inquiry. *Id.*

³ In addition to lewd and offensive comments, Semora posted a link to a "pot" business owned by LaNasa and notes his "plan to ensure proper people know[.]" and commented as follows on a post mocking LaNasa's bankruptcy filing: "[LaNasa] is a two legged lying, crawling piece of shit. I cannot wait for my day in court against him." Dkt. 61, ¶¶9-11.

1 The Court, on the other hand, find it necessary to reach a conclusion in relation to activity
2 directly attributable to and not disputed by LaNasa and the Museum. First, on a Facebook post
3 made by “Anonymous Member” and providing a link to donosemora.com, LaNasa commented:
4 “Donald got me for 23k plus damages. He has caused a lot of others in the publishing/game
5 industry a lot of strife, confusion, and injury. Don’t worry; my case on Semora is still pending,
6 and he will see the scales of justice very soon.” Dkt. 59-1 at 69. Second, in a Facebook post
7 responding to a post mocking TSR’s bankruptcy filing (“NuTSR bankrupt? Oh my, what is the
8 world coming to? Ah, it’s senses. Big surprise when you are headed by a slimeball.”), the
9 Museum provided a link to donosemora.com, and stated: “These are the people that huddle
10 together as a team. I thought that as you get older, you get wiser. This is not the case for some.”
11 *Id.* at 73-74. Third, in response to a YouTube comment made by Wizard Tower Games, a
12 company owned by Semora, that “Games are being played, and they are games one does not
13 want to play with the Bankruptcy Court,” the Museum replies: “Lol, as you would know, I think
14 bankruptcy is the only thing you’re a pro at! Is that 3 or 5 you have filed[,] hard to track
15 Semora[.]” *Id.* at 70.

16 The Facebook comment and post necessitate consideration of the content of donosemora.
17 com. Screenshots provided by Wizards show that donosemora.com contained numerous
18 disparaging comments about Semora and companies he owns, accusing Semora of scamming,
19 grifting, threatening, and doxing his customers, forging documents, and attacking games created
20 by LaNasa, advising that Semora and his companies should be avoided, and inviting reports from
21 anyone harmed by his actions. *Id.* at 3-63.⁴ The screenshots also show numerous personal items
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23 ⁴ Counsel for Wizards explains that the website was back online as of June 14, 2023, that the
screenshots were captured on the following day, and that, as of the November 6, 2023 filing of Wizards’

1 associated with Semora and available for download, including, *inter alia*, “Bank” documents and
2 documents associated with civil, criminal, and bankruptcy court matters. *Id.* at 13-14, 22-23.

3 In posting a link to donosemora.com, the Museum violated the Protective Order through
4 dissemination of personal information about a witness. By commenting on a post containing a
5 link to donosemora.com that Semora would soon “see the scales of justice”, LaNasa stepped over
6 the line set by the Protective Order with statements intended to or likely to have the effect of
7 harassing, intimidating, threatening, or otherwise improperly influencing a witness. In addition,
8 all three of the statements at issue entail indirect or direct use of a witness’s name in a derogatory
9 or harassing manner.

10 The Court, on the other hand, disagrees with the contention that Semora may be found to
11 have violated the Protective Order. The Protective Order provides that no “Party” may engage in
12 any direct or indirect conduct to improperly influence testimony or participation in this lawsuit,
13 and provides for sanctions against a “Party” found to have violated its terms. Dkt. 47 at 2-3.
14 Semora is not a party to this action. Nor is he represented by counsel for Wizards.

15 The Court, at the same time, disagrees with Wizards’ contention that Semora’s actions
16 are “irrelevant.” Dkt. 63 at 7. LaNasa and the Museum show that Semora has on multiple
17 occasions made derogatory and offensive comments about LaNasa, comments that, if made by a
18 party, would be sanctionable under the Protective Order. *See* Dkt. 61, ¶¶9-12. It is hard to
19 reconcile these comments with Wizards’ contention that the conduct found to have violated the
20 Protective Order had or could have had the effect of intimidating, pressuring, or otherwise
21 improperly attempting to influence Semora’s testimony or other participation in this lawsuit. If
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23 motion, donosemora.com redirects to a GoDaddy.com notice stating: ““The domain donosemora.com is
registered, but may still be available. It’s parked free, courtesy of GoDaddy.com.”” Dkt. 59, ¶2.

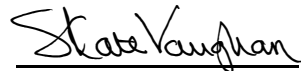
1 anything, Semora appears eager to continue his participation in these proceedings. *See, e.g.*, Dkt.
2 61. The Court, for these reasons, declines to exercise its discretion to impose sanctions against
3 LaNasa or the Museum for violations of the Protective Order at this time.

4 The Court nonetheless remains concerned by all of the conduct addressed in this Order.
5 LaNasa and the Museum knowingly entered into the Protective Order and are advised that
6 further violations of the Order will result in sanctions. They should also note that any
7 association with donosemora.com or “anonymous” communications such as those discussed
8 herein is a topic likely to be further explored. The Court advises Semora that it will reflect upon
9 his conduct in entertaining any future motion seeking enforcement of the Protective Order, and,
10 as necessary, in considering the admissibility of evidence relevant to his credibility as a witness
11 at trial. The Court, finally and once again, cautions that all parties and witnesses to this matter
12 should refrain from behavior that negatively impacts the litigation process.

13 CONCLUSION

14 The Court, in sum and for the reasons discussed above, GRANTS Wizards’ Motion to
15 Enforce the Protective Order Governing Conduct, Dkt. 58, but declines to impose the requested
16 sanctions. The Clerk is directed to send a copy of this Order to the parties.

17 Dated this 18th day of December, 2023.

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19 S. KATE VAUGHAN
20 United States Magistrate Judge
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