UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re GARY BERNHARD	:	**Chapter 7**
	:	
Debtor	:	**Bky. No. 11-15799 ELF**
	:	
GARY BERNHARD	:	
	:	
Plaintiff	:	
	:	
v.	:	
	:	
BRIAN KULL	:	
THERESA KULL	:	
PAUL BUCCO, et al.	:	
	:	
Defendants	:	**Adv. No. 19-167**

M E M O R A N D U M

I. INTRODUCTION

In this adversary proceeding, Plaintiff Gary Bernhard ("the Debtor") requested a determination that Defendants Brian Kull ("Mr. Kull") and his wife, Theresa B. Kull (collectively, "the Kulls"), along with the Kulls' attorneys ("the Bucco Defendants"),[1] were in contempt of the discharge order ("Discharge Order") entered on December 15, 2011in this chapter 7 bankruptcy case. After a trial, and by opinion and order entered on February 22, 2022, I determined that the debt owed by the Debtor to the Kulls had been discharged, that the Kulls' collection efforts violated the discharge order, but that the Defendants' conduct did not constitute

[1] The Bucco Defendants are Paul Bucco, Nathaniel Flandreau, John Dorsey, David S. Markar, and the law firm that employed them, Davis, Bucco & Ardizzi ("the Law Firm").

contempt of the discharge order. See In re Bernhard, 2022 WL 532737 (Bankr. E.D. Pa. Feb. 22, 2022). The Debtor has appealed that decision. (Doc. # 148).

Prior to the trial of this adversary proceeding, the Debtor filed a motion under Fed. R. Bankr. P. 9011 ("the Motion") (Doc. # 31), requesting sanctions against the Kulls, Paul Bucco and the Law Firm (collectively, "Respondents"). The Motion focused on the sufficiency of the Kulls' answer ("the Answer") to the Debtor's complaint in this adversary proceeding ("the Complaint"). Essentially, the Debtor argued that by answering the Complaint with responses such as "the document speaks for itself" and "the allegation is a conclusion of law that requires no response," the Respondents violated Fed. R. Bankr. P. 9011. The Debtor requested that the court strike certain allegations in the Answer or deem them admitted and award reasonable attorney's fees.

On December 18, 2019, I held a hearing on the Motion. I took the matter under advisement, but did not rule on the Motion prior to the trial of this adversary proceeding or entry of my opinion and order deciding the matter on February 22, 2022.

By order entered February 28, 2022, I denied the Motion. (Doc. # 146). The Debtor has appealed the order denying the Motion. (Doc. # 149).

Pursuant to Local Bankruptcy Rule 8003-1, I submit this Memorandum to explain the reasons for the denial of the Motion.

I. THE CONTENT OF THE MOTION

In the Motion, the Debtor asserts that the Respondents violated Fed. R. Bankr. P. 9011 by failing to "to ethically and honestly answer the Adversary Complaint." (Motion, Introduction).

The Motion contained 99 paragraphs and is 44 pages long.

In Paragraphs 1-7, the Debtor quotes Rule 9011 and describes counsel's efforts to comply with the procedural requirements of Rule 9011(c).

In Paragraphs 8-28, the Debtor refers to the Kulls' prepetition litigation against him, quotes certain averments made by Kulls in various pleadings and identifies what the Debtor considers to be conflicts between the statements made by the Kulls in those pleadings and the Answer.[2]

Paragraphs 29-36 are a *de facto* memorandum of law on the subject of judicial admissions in which the Debtor cites more than dozen cases and set out lengthy quotations from several cases.

Paragraphs 37-80 begin with a lengthy discussion of Fed. R. Civ. P. 8, which is

[2] For example, the Debtor quoted from Paragraph 9 of the Kulls' state court complaint (in which they averred that the Debtor was personally liable to repay a promissory note dated June 9, 2009) and an amended complaint filed in federal court after the state court action was removed (averring the same). (Motion ¶¶ 10, 15). The Debtor then pointed to the Kulls' Answer to Paragraph 29 of the Complaint, in which they state that the debt "was for G.B. Excavating," (the Debtor's closely held business entity) and denied the balance of the averment. (Motion ¶ 20).

In some sense, this particular response to the Complaint was factually accurate. The Debtor incurred the subject debt for the benefit of his business. The checks disbursing the loan were made out to G.B. Excavating and deposited in the business' account. Only later did the Debtor personally sign a promissory note. See Bernard, 2022 WL 532737, at *3 (Findings of Fact Nos. 12-14).

That said, I appreciate the Debtor's frustration with the nonresponsive answer. The thrust of Paragraph 29 of the Complaint was simply to establish that the subject debt was a prepetition debt. The Kulls' response — that it was a debt of the business and not the Debtor, because the checks were made out to the business — was not pressed at trial. Probably, this defense theory was dropped because some time after cashing the checks and depositing the funds in his business, the Debtor personally signed a promissory note for the same debt. Further, this entire adversary proceeding arose because the Kulls were pursuing the Debtor personally for the debt. So it is difficult to understand why the Kulls responded to Paragraph 29 by seemingly denying that the subject debt was the Debtor's and arose prepetition.

incorporated in Fed. R. Bankr. P. 7008.[3] Again, the Motion provides citations and lengthy quotations from a number of cases. The Debtor then identifies fifteen (15) paragraphs of the Kulls' Answer to the Complaint (Nos. 19, 20, 23, 25, 26, 30, 32, 36, 37, 55, 56, 60, 67, 79, 87) in which the Kulls responded to the Complaint's references to prior pleadings or documents

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[3] Rule 8 provides, in pertinent part:

> (b) Defenses; Admissions and Denials.
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> (1) In General. In responding to a pleading, a party must:
>
> (A) state in short and plain terms its defenses to each claim asserted against it; and
>
> (B) admit or deny the allegations asserted against it by an opposing party.
>
> (2) Denials—Responding to the Substance. A denial must fairly respond to the substance of the allegation.
>
> (3) General and Specific Denials. A party that intends in good faith to deny all the allegations of a pleading—including the jurisdictional grounds—may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.
>
> (4) Denying Part of an Allegation. A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.
>
> (5) Lacking Knowledge or Information. A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.
>
> (6) Effect of Failing to Deny. An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

Fed. R. Bankr. P. 8.

by stating that "the document speaks for itself."[4] The Debtor asserts that these responses failed to comply with Rule 8's requirement that the pleading "fairly respond" to the substance of the Complaint's allegations.

In Paragraphs 81-85, the Debtor identifies five (5) paragraphs in the Kulls' Answer to the Complaint (Nos. 35, 78, 95, 101 and 122) in which the Kulls responded to the Complaint's references to prior pleadings or documents by denying the allegation and adding that the allegation was denied as a conclusion of law to which no response is required. The Debtor asserts that these responses also failed to comply with Rule 8.

In Paragraphs 86-94, the Debtor asserts that the Kulls raised two (2) meritless, affirmative defenses in their Answer to the Complaint: the Kulls' Eleventh Affirmative Defense (asserting that the Debtor's claim for emotional distress damages "should be dismissed as frivolous in violation of [Rule 11]") and the Twelfth Affirmative Defense (invoking the Rooker-Feldman doctrine).

III. DISCUSSION

A. Rule 9011 – General Principles

Fed. R. Bankr. P. 9011 provides, in part:

> (b) Representations to the Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

[4] These prior pleadings and documents include the Trustee's Report of No Distribution, the discharge order, the entire bankruptcy case docket and the post-discharge state court complaint (and exhibits attached thereto) that the Kulls' filed against the Debtor.

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

A lengthy exposition on Rule 9011 is not necessary to resolve the Motion. But a few points of law warrant mention.

"The purpose of Rule 11 is to deter litigation abuse that is the result of a particular 'pleading, written motion, or other paper' and, thus, streamline litigation." In re Schaefer Salt Recovery, Inc., 542 F.3d 90, 97 (3d Cir. 2008); see also Charles Alan Wright, Arthur R. Miller, et al., 5A Fed. Prac. & Proc. Civ. §1336.3 (4th ed. West. 2021) ("Wright and Miller") (the main purpose of Rule 11 is to deter improper behavior, not to compensate the victims of it or punish the offender).[5]

If all the procedural prerequisites for determining whether a Rule 11 violation has occurred have been met, see Fed. R. Bankr. P. 9011(c)(1) — and there is no issue in this case regarding those procedural prerequisites — the decision to impose sanctions is discretionary, not mandatory. See Waltz v. Cty. of Lycoming, 974 F.2d 387, 390 (3d Cir. 1992); In re GSC Grp.,

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[5] Bankruptcy Rule 9011 is the equivalent sanctions rule to Rule 11 of the Federal Rules of Civil Procedure. Decisions applying Rule 11 also apply to Rule 9011. E.g., In re Miller, 730 F.3d 198, 204 n.4 (3d Cir. 2013). I will refer to Rule 11 and Rule 9011 interchangeably.

Inc., 502 B.R. 673, 754 (Bankr. S.D.N.Y. 2013). If sanctions are imposed, they must be "limited to what is sufficient to deter repetition" of the conduct that violated the rule. See Fed. R. Bankr. P. 9011(c)(2).

B. The Asserted Violations of Rule 7008

1.

The Debtor's request for sanctions is largely grounded in their assertion that the Kulls' violated Fed. R. Bankr. P. 8 (incorporated by Fed. R. Bankr. P. 7008) by filing the Answer.[6]

This is the first problem with the Debtor's request for sanctions. Rule 8 is not Rule 11. A violation of Rule 8 is not a *per se* violation of Rule 11. See Elan Microelectronics Corp. v. Apple, Inc., 2009 WL 2972374, at *4 (N.D. Cal. Sept. 14, 2009) ("whether a party has complied with Rule 11(b) and whether it has complied with Rule 8 are two separate inquiries").

Rule 8 prescribes the requirements for pleadings filed in federal court. The general purpose and functioning of Rule are explained well in a leading treatise:

> [Rule 8] is intended to inform a pleader how to challenge and place in issue some or all of the allegations in the preceding pleading. The provision directs the author of a responsive pleading, whether it be an answer or a reply, to state in short and plain terms his defenses to each claim asserted against him and to admit or deny the allegations upon which the adverse party relies. . . . A failure to deny an allegation when a responsive pleading is required results in it being treated as admitted according to Rule 8(b)(6). As has been noted in many judicial opinions, the theory of Rule 8(b) is that a defendant's pleading should apprise the opponent of those allegations in the complaint that stand admitted and will not be in issue at trial and those that are contested and will require proof to be established to enable the plaintiff to prevail.

[6] I will address the Debtor's other argument — that asserting the Eleventh and Twelfth Affirmative Defenses violated Rule 9011 — in Part III.C., infra.

5 Wright & Miller §1261 (footnotes omitted).[7]

The primary remedy for violating Rule 8 is not an award of monetary sanctions. Most commonly, a party aggrieved by a violation of Rule 8(b) will invoke either: (1) Rule 12(f) to request that the answer be stricken, typically with leave to amend[8] or (2) Rule 8 itself to request that the corresponding allegation be treated as an admission.[9]

Here, the Debtor jumped right to a request for monetary sanctions.

In invoking Rule 9011, the Debtor did not identify the subsection of Rule 9011(b) he claims the Kulls violated. I presume that he relies on either Rule 9011(b)(1) or (b)(4).

2.

With respect to Rule 9011(b)(1) — which refers to the presentation of a document to purposefully harass or cause unnecessary delay or needless expense — any time that Rule 8 is

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7 I digress for a moment to point out that it is ironic, to say the least, that the Motion is grounded in the assertion that the Kulls' pleading violated Rule 8, considering that the Complaint itself likely violated Rule 8.

Rule 8(a)(2) requires that a complaint contain "a short and plain statement of the claim . . . ." Here, the gravamen of the Debtor's Complaint is that the Kulls were aware of the Debtor's bankruptcy filing and did not request a determination that his debt to them was nondischargeable, but nonetheless later attempted to collect the prepetition debt in violation of the court's discharge order. A short and plain statement of this claim easily could have consisted of twenty (20) to thirty (30) paragraphs of factual matter. Instead, the Debtors filed a 126-paragraph Complaint, filled with lengthy discussions of various legal principles as well as characterizations of various documents that were docketed in several different legal proceedings. As one court has observed, "[b]loated, argumentative pleadings are a bane of modern practice. Frantz v. U.S. Powerlifting Fed'n, 836 F.2d 1063, 1068 (7th Cir. 1987).

8 See Sinclair Cattle Co., Inc. v. Ward, 2015 WL 6125260, at *2 (M.D. Pa. Oct. 16, 2015) ; Ross v. Slabach, 2002 WL 31689386, at *1 (N.D. Cal. Nov. 26, 2002); see also Calogero v. Shows, Cali & Walsh, LLP, 2021 WL 5028250, at *3 (E.D. La. Oct. 29, 2021);

9 See, e.g., Fid. & Guar. Ins. Co. v. Keystone Contractors, Inc., 2002 WL 1870476, at *3 (E.D. Pa. Aug. 14, 2002); see also J. Christopher's Restaurants, LLC v. Kranich, 2010 WL 4007666, at *5 (M.D. Fla. Oct. 13, 2010); In re TCW/Camil Holding L.L.C., 2004 WL 1151562, at *5 (D. Del. May 12, 2004).

violated by a nonresponsive answer to a complaint, delay and additional expense is inevitable and the opposing party likely will feel frustrated or harassed. But as a stated above, Rule 8 is not Rule 11, and not every violation of Rule 8 is a violation of Rule 11. A party seeking sanctions under Rule 11 for a Rule 8 violation must show something more. See In re Kunstler, 914 F.2d 505, 518–19 (4th Cir. 1990) ("it is not enough that the injured party subjectively believes that a lawsuit was brought to harass, or to focus negative publicity on the injured party; instead, such improper purposes must be derived from the motive of the signer . . . .").

Here, the Debtor did not present "something more" in the Motion and, based on the circumstances in this litigation, I see no reason to infer that the Kulls had the intent necessary to constitute a Rule 9011(b)(1) violation. At that early stage of the litigation, it was more likely that they had not yet fully refined their defense theory and were attempting to minimize their admissions. The approach may well have violated Rule 8, but I do not perceive it as an attempt to unnecessarily prolong the litigation or increase the Debtor's costs. I will amplify this point in Part III.B.4. below.

3.

As for Rule 9011(b)(4), a stronger case can be made for the proposition that the denials were "not warranted on the evidence." But the nature of the Complaint's allegations must be put in context.

To the extent that the Complaint sought the Kulls' agreement that a particular document stated certain things, the Kulls responded, not by disputing the authenticity of the document, but simply by stating that the document spoke for itself. While the responses may have been nitpicking, they were not truly denials and certainly not ones that require the imposition of

sanctions. The responses did not impede the Debtor's ability to create the factual record he needed to support his claim.

Nor am I particularly troubled by the Debtor's complaints regarding the responses in which the Kulls responded with a denial and then added that no response was required because the averment was a conclusion of law. With respect to most of the paragraphs of the Complaint cited by the Debtor, that form of denial was legitimate.

For example, Paragraphs 35 and 95 of the Complaint asked the Kulls to admit that the debt owed to them was subject to the discharge order, which prohibited any subsequent collection efforts. The Kulls denied this allegation. This was one the central and most hotly contested issues in the litigation. Determining the outcome of the issue required the resolution of conflicting evidence presented at trial. While I ruled for the Debtor on the issue, I also found that the Kulls' argument that the discharge order did not apply to them was not objectively unreasonable. See Bernhard, 2022 WL 532737, at *17. The denial at the pleading stage was perfectly proper.

Similarly, Paragraph 78 of the Complaint asked the Kulls to admit that, to the extent that the Kulls asserted a claim for fraud, the statute of limitations expired. While this issue is more complicated because it involves the interrelationship of state and federal law, the Debtor raised the same issue when he filed a motion for summary judgment. I specifically ruled against the Debtor on this issue for several overlapping reasons.[10] Again, the Kulls' denial at the pleading

[10] My reasoning on the issue was set forth in a bench opinion. (See Doc. #'s 99-100).

stage was perfectly proper.[11]

4.

In exercising my discretion to deny the Debtor's request for Rule 9011 sanctions based on the asserted Rule 8 violations, I am also influenced by subsequent events in the case.

The Debtor sent Requests for Admission ("the Requests") to the Kulls shortly after the pleadings closed. Dissatisfied with the Kulls' responses to the Requests, the Debtor filed a motion to determine the sufficiency of the responses. I held a hearing on the that motion and subsequently granted the motion in part. I ruled that thirteen (13) of the responses were inadequate and that those Requests would be deemed admitted. (See Doc. # 80). The effect was to finalize the authenticity of various documents that the Debtor considered relevant (e.g., the chapter 7 trustee's final report and the discharge order) as well as to deem admitted potentially significant facts as to when the Kulls learned of the Debtor's bankruptcy filing.[12] There was some overlap between the admissions deemed admitted by court order and the responses to the Complaint which the Debtor claim violated Rule 8 and Rule 11.

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[11] As for the Debtor's complaint about the responses to Paragraphs 101 and 122, I have no sympathy for the Debtor, considering that these paragraphs are far more appropriately found in a memorandum of law responding to a motion to dismiss the complaint or in support of a motion for summary judgment than in a pleading. Paragraphs 101 and 122 are examples of what I described in n.7, supra, when I stated that the Complaint itself likely violated Rule 8(a)(2). I have included Paragraphs 101 and 122 as an Appendix to this Memorandum. I have also includes Paragraphs 120 and 121 in the Appendix to further illustrate this point.

In considering whether to award sanctions, a court can take into account the conduct of the complaining party. See Thomas v. Schwab, 2012 WL 6553773, at *1 (E.D. Mich. Dec. 14, 2012) (citing S. Shore Ranches, LLC v. Lakelands Co., LLC, 2010 WL 2546112, at *5 (E.D. Cal. Jun. 18, 2010).

[12] The deemed admissions established that the Kulls knew of the Debtor's bankruptcy before they commenced their state court collection efforts and while his bankruptcy case was open. I discussed this issue and the effect of the admission in my prior opinion. See Bernhard, 2022 WL 532737, at *14-15.

Taking these events into account, I find it inappropriate to award sanctions for several interrelated reasons.

To some extent, the pleading and discovery fights that arose were caused by the Debtor's counsel's "overlawyering" the case. Many of the facts that were involved in all the pretrial wrangling were subject to judicial notice; they were documents that were filed in this court or other courts. Or, the documents could have been authenticated by simple affidavit. If the Debtor had requested admissions in the pleadings or in discovery limited to the authenticity of the documents he believed needed to be considered by the court — leaving the effect of the content of the documents to later advocacy — much time and expense would have been saved. Instead, the Debtor insisted on burdening the Defendants and the court with multiple motions seeking admissions on factual matters that were not truly in dispute or were of marginal significance. This should not be rewarded.

Further, to the extent the Kulls' counsel contributed to the increased litigation by nonresponsive answers, they were held accountable when numerous responses to the Requests were deemed admitted. In this respect, the deterrent purposes of Rule 9011 have been vindicated, at least in part. It is not necessary to attempt achieve any further deterrent effect by imposing monetary sanctions at this time.

In the end, the Kulls' responses to the Complaint did not impede the Debtor's ability to prosecute his case. Based on the asserted inadequacies in the Answer to the Complaint, and taking into account the Debtor's counsel's contribution to unnecessary litigation and the overall effect of any violation of Rule 9011 by the Kulls or their counsel, I do not find it appropriate or equitable to sanction the Kulls or their counsel.

C. The Affirmative Defenses

Finally, I address the Debtor's argument that the Kulls raised two (2) meritless, affirmative defenses in their Answer to the Complaint: (1) the Eleventh Affirmative Defense, in which they asserted that the Debtor's claim for emotional distress damages "should be dismissed as frivolous in violation of [Rule 11];" and (2) the Twelfth Affirmative Defense, in which they invoked the Rooker-Feldman doctrine.

These contentions merit little discussion.

The Debtor abandoned any claim for emotional distress damages. Thus, it is difficult to understand why the Kulls' assertion the claim lacked merit is sanctionable or even problematic.

The Debtor stands on somewhat better footing regarding Rooker-Feldman. Application of the doctrine requires the existence of a prior state court judgment in favor of the defendant and against the federal plaintiff. See Great W. Mining & Min. Co. v. Fox Rothschild LLP, 615 F.3d 159, 161 (3d Cir. 2010). No such judgment existed here. Thus, this defense obviously lacked merit.

That said, it is commonplace for defendants to plead a series of boilerplate affirmative defenses. While the practice is driven by attorneys' deep-seated fear that they will overlook and waive a potential defense, it may well be inappropriate under Rule 11(b). Usually, however, unless the affirmative defense is developed in pretrial discovery or motions, the "boilerplate" defenses simply fall by the wayside at summary judgment or trial without any complaint by the plaintiff that assertion of the defense violated Rule 11. Indeed, the Kulls pled several other affirmative defenses that, arguably, were equally, or at least almost equally, non-meritorious. To name just a few: statute of limitations, lack of jurisdiction, equitable doctrines of waiver, laches and estoppel, statute of repose, insufficient service. It is hard to understand why the Debtor

latched on to the emotional distress and Rooker-Feldman affirmative defenses in the Motion as somehow worthy of sanctions.

I do not condone the practice of shotgun pleading of affirmative defenses. However, in the circumstances in this case, in my discretion, I conclude the Kulls and their attorneys' conduct does not warrant the imposition of Rule 9011 sanctions.

IV.

For the reasons stated above, I have denied the Debtor's Motion for Sanctions based on asserted violations of Fed. R. Bankr. P. 9011.

Date: March 21, 2022

ERIC L. FRANK
U.S. BANKRUPTCY JUDGE

A P P E N D I X

Excerpts from the Debtor's Complaint

101. "[W]illfulness is not a necessary element of civil contempt. Robin Woods, Inc. v. Woods, 28 F.3d 396, 399 (3d Cir. 1994)." Close, 2003 Bankr. Lexis 1507, at 40. Cf. Krystal Cadillac-Oldsmobile GMC Truck Inc. v. General Motors Corp., 337 F.3d 314, 320, n.8 (3d Cir. 2003) (A "willful" violation of the stay entails a creditor with knowledge of the debtor's bankruptcy filing committing an intentional act in violation of the stay. **A creditor's intent to violate the stay is not required for willfulness, but rather that the creditor intended to act in the way that is then determined to be in violation of the stay**. In re University Medical Center, 973 F.2d 1065 (3d Cir. 1992)." (Emphasis added.) See also Jones v. LaSalle Nat'l Bank (In re Jones), 2004 Bankr. LEXIS 1273 (E.D. Pa. 2004), *42-43 (same).

120. "Sanctions for civil contempt serve two purposes: (1) to coerce the disobedient party into compliance with the court's order; and (2) to compensate for losses sustained by the disobedience. Woods, 28 F.3d at 400. The court has broad discretion in selecting appropriate sanctions. In re Chambers, 324 B.R. 326 (N.D. Ohio 2005) (citing In re Tubbs, 302 B.R. 290, 291 (Bankr. W.D. Ark. 2003)). Upon a finding of civil contempt, a bankruptcy court has the power to issue sanctions such as costs, compensatory damages and attorneys' fees. See McDonald's Corp. v. Victory Investments, 727 F.2d 82 (3d Cir. 1984); In re Foltz, 324 B.R. 250, 253 (Bankr. M.D. Pa. 2005); In re Ray, 262 B.R. 580, 585 (Bankr. D. Me. 2001). Myers, 344 B.R. at 66.

122. “The absence of an express right of action under section 524 if, in fact, no such right of action exists, does not mean that a violation of the discharge injunction cannot be remedied. Bankruptcy courts have regularly exercised their contempt power under 11 U.S.C. § 105 in order to remedy violations of the discharge injunction. See, e.g., In re Close, 2003 Bankr. LEXIS 1507, 2003 WL 22697825 at *10; Beck v. Gold Key Lease, Inc. (In re Beck), 272 B.R. 112, 126 (Bankr. E.D. Pa. 2002); In re Continental Airlines, Inc., 236 B.R. 318 (Bankr. D. Del. 1999); accord, In re Feldmeier, 335 B.R. 807, 811-812 (Bankr. D. Or. 2005); Gervin v. Cadles of Grassy Meadows II, LLC (In re Gervin), 337 B.R. 854, 858 (Bankr. W.D. Tex Nov. 12, 2005).” In re Meyers, 344 B.R. at 64-65.

122. “If no private right of action exists for a violation of the discharge injunction, a debtor is not without a legal remedy. It is indisputable that the discharge injunction is enforceable through a contempt motion. E.g., In re Meyers, 344 B.R 61, 64-65 (Bankr. E.D. Pa. 2006) (citing cases); see also In re Beeghley, 529 B.R. 98, 105 (Bankr. E.D. Pa. 2015); In re Zine, 521 B.R. 31, 38 (Bankr. D. Mass. 2014). Indeed, some courts have held that this is the sole remedy for enforcing an alleged violation of the discharge. See Barrientos v. Wells Fargo Bank, N.A., 633 F.3d 1186, 1190 (9th Cir. 2011); Cox v. Zale Delaware, Inc., 239 F.3d 910, 917 (7th Cir.2001)." In re Traversa, 585 B.R. 215, 222 (Bankr. E.D.Pa. 2018) (J. Frank).