
Megan E. Rulli

dryan@postschell.com
717-612-6052 Direct
717-731-1985 Direct Fax
File #: 211983

April 15, 2025

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Todd Elliott Koger, Sr. and Elliot-Todd Parker Koger v. Duquesne Light Company
Docket No. C-2025-3054190

Dear Secretary Chiavetta:

Attached please find the Preliminary Objections of Duquesne Light Company in response to the Complaint of Todd Elliott Koger, Sr. and Elliot-Todd Parker Koger in the above-referenced proceeding. Copies are being provided per the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/dmc
Attachment

cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA EMAIL AND FIRST-CLASS MAIL

Todd Elliott Koger and Elliott-Todd Parker Koger
515 Kelly Avenue
Pittsburgh, PA 15221
kogerfriend@gmail.com

Dated: April 15, 2025



Megan E. Rulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Todd Elliott Koger, Sr. and Elliot-Todd
Parker Koger,

Complainants,

v.

Duquesne Light Company,

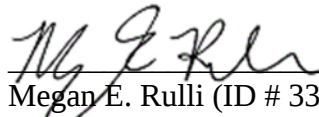
Respondent.

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Docket No. C-2025-3054190

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTION WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTION MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.



Megan E. Rulli (ID # 331981)

Post & Schell, P.C.

17 North Second Street, 12th Floor

Harrisburg, PA 17101-1601

Phone: 717-731-1970

Fax: 717-731-1985

mrulli@postschell.com

Date: April 15, 2025

Attorney for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Todd Elliott Koger, Sr. and Elliot-Todd	:	
Parker Koger,	:	
	:	
Complainants,	:	
	:	Docket No. C-2025-3054190
v.	:	
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTIONS OF
DUQUESNE LIGHT COMPANY TO THE COMPLAINT OF
TODD ELLIOTT KOGER, SR. AND ELLIOT-TODD PARKER KOGER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes Duquesne Light Company (“Duquesne Light” or the “Company”) and hereby files these Preliminary Objections, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that: (1) the portions of the Formal Complaint of Todd Elliott Koger, Sr. and Elliot-Todd Parker Koger (“Complainants”) alleging violations of Title 18 of the United States Code, Title 18 of the Pennsylvania Code, and Title VI of the Civil Rights Act of 1964 be dismissed because the Pennsylvania Public Utility Commission (“Commission”) lacks subject matter jurisdiction over those claims; and (2) the portions of the Formal Complaint related to the ongoing bankruptcy petition of Elliot-Todd Parker Koger and requesting damages be dismissed because they constitute scandalous or impertinent matter.

In support thereof, Duquesne Light states as follows:

I. BACKGROUND

1. Duquesne Light is a “public utility,” an “electric distribution company,” and a “default service provider” as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803.

2. On March 26, 2025, Duquesne Light was served with the above-captioned Formal Complaint filed by the Complainants.

3. The issues raised in the Complaint relate to claims that Duquesne Light is in violation of certain portions of the Pennsylvania Code, the United States Code, and federal law, including 18 Pa.C.S. § 4911, 18 Pa.C.S. § 1911, 18 U.S.C. § 3057(a), 18 U.S. Code §§ 1961-1968, and Title VI of the Civil Rights Act of 1964. (Complaint ¶ 4.)

4. The Complainants also claim that Duquesne Light and/or its representatives “intentionally” and/or “criminally” misrepresented facts during the ongoing Chapter 7 Bankruptcy Petition proceeding of Elliot-Todd Parker Koger before the U.S. Bankruptcy Court for the Western District of Pennsylvania at Docket No. 24-210801-GLT (“Chapter 7 Petition”). (Complaint ¶ 4.)

5. Duquesne Light herein files these Preliminary Objections to the Complaint. For the reasons explained below, Duquesne Light respectfully requests that the Commission summarily dismiss the portions of the Complaint that: (1) allege violations of Title 18 of the United States Code, Title 18 of the Pennsylvania Code, and Title VI of the Civil Rights Act of 1964 because the Commission lacks subject matter jurisdiction over those claims; and (2) allege Duquesne Light made false representations during the Chapter 7 Petition proceeding and request damages because they constitute scandalous or impertinent matter.

I. STANDARD OF REVIEW

6. Pursuant to the Commission’s regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a) (emphasis added).

7. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom. *Stilp v. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (citing *Dep't of Gen. Servs. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)). However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

8. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. See *Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987). Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. See *Stilp*, at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998).

II. PRELIMINARY OBJECTION NO. 1 – PORTIONS OF THE COMPLAINT SHOULD BE DISMISSED BECAUSE THE COMMISSION LACKS SUBJECT MATTER JURISDICTION OVER THE CLAIMS RAISED THEREIN

9. Duquesne Light incorporates by reference Paragraphs 1 through 8 as if fully set forth herein.

10. The Commission lacks subject matter jurisdiction to decide the Complainants' allegations regarding violations of 18 Pa.C.S. § 4911, 18 Pa.C.S. § 1911, 18 U.S.C. § 3057(a), 18 U.S. Code §§ 1961-1968, and Title VI of the Civil Rights Act of 1964. (Complaint ¶ 4.)

11. As a creature of statute, the Commission “has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication.” *Feingold v. Bell*, 383 A.2d 791, 794 (Pa. 1977) (citations omitted).

12. The Commission must act within its jurisdiction and may only hear complaints regarding the Public Utility Code, Commission regulations, or Commission orders. *See Alkhatib v. PECO Energy Co.*, Docket No. C-2011-2242125, 2012 Pa. PUC LEXIS, at *13-14 (Jan. 12, 2012) *citing* 66 Pa. C.S. § 701.

13. The Commission does not have jurisdiction over claims arising under the United States Code. *Feingold v. Bell*, at 794.

14. Application and interpretation of federal law and Title 18 of the Pennsylvania Code are outside of the Commission's express jurisdiction of the Public Utility Code, Commission regulations, or Commission orders. *See* 66 Pa. C.S. § 701; *Alkhatib v. PECO* at *13-14.

15. The Commission lacks jurisdiction over the Complainant's allegations that are rooted in alleged violations of federal law and Title 18 of the Pennsylvania Code.

16. Thus, the Commission should dismiss the portions of the Complaint alleging violations of Title 18 of the Pennsylvania Code, Title 18 of the U.S. Code, and Title VI of the Civil

Rights Act of 1964 pursuant to Section 5.101(a)(1) of the Commission’s regulations because the Commission lacks subject matter jurisdiction over those claims. 52 Pa. Code § 5.101(a)(1).

III. PRELIMINARY OBJECTION NO. 2 – PORTIONS OF THE COMPLAINT SHOULD BE DISMISSED BECAUSE THEY CONSTITUTE SCANDALOUS OR IMPERTINENT MATTER

17. “Scandalous or impertinent matter” is defined as statements that are immaterial and inappropriate to the proof of the cause of action. *Common Cause/Pennsylvania v. Commonwealth of Pennsylvania*, 710 A.2d 108, 115 (Pa. Cmwlth. Ct. 1998); *Brennan v. Smith*, 299 A.2d 683 (Pa. Cmwlth. Ct. 1972).

18. Here, the Complainants allege that Duquesne Light and/or its representatives made false statements during the Chapter 7 Petition proceeding. (See Complaint ¶ 4.)

19. These claims are immaterial to the claims before the Commission regarding, are inappropriately raised, and have no bearing on the subject action.

20. Moreover, these baseless arguments have already been heard and rejected by the Bankruptcy Court overseeing the Bankruptcy Petition. Specifically, on March 31, 2025, Chief U.S. Bankruptcy Judge Gregory L. Taddonio issued an Order (“Bankruptcy Order”) at the Bankruptcy Petition docket denying two Motions for Sanctions filed by the Complainants, which raised these same arguments. A true and correct copy of the Bankruptcy Order is attached hereto as **Duquesne Light Appendix A**.

21. For these reasons, the portions of the Complaint related to the ongoing Chapter 7 Petition proceeding should be stricken as impertinent pursuant to Section 5.101(a)(2) of the Commission’s regulations. 52 Pa. Code § 5.101(a)(2). .

22. In addition, the portion of the Complaint requesting damages should be dismissed because the Commission cannot award damages.

23. In the Complaint, the Complainants request “such other further relief as the PUC deems just and proper (specifically actual (property damages and physical harm) and punitive damages if available.” (Complaint ¶ 4.)

24. It is well-established that the Commission does not have the authority to order a public utility to pay damages, as requested by the Complainant. *See DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595, 596-97 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794-95 (Pa. 1977).

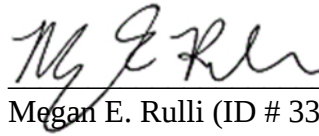
25. Here, the Complainant’s request for damages is impertinent matter “in the sense that it is irrelevant to [the] cause of action” because the Commission lacks authority to award damages. *See Stoner v. PPL Elec. Utils. Corp.*, Docket No. C-2013-2385588, p. 3 (Nov. 14, 2013) (order sustaining preliminary objections). Indeed, requests for damages are regularly stricken from complaints as being impertinent matter. *See, e.g., id.* at pp. 3, 5; *Powell v. Verizon Pa., Inc.*, Docket No. C-2011-2264876, 2011 Pa. PUC LEXIS 652, at *8-9, 16-17 (Dec. 21, 2011), *adopted by Commission*, 2012 Pa. PUC LEXIS 374 (Order Entered Mar. 1, 2012); *J.E. Culbertson Co. v. Pa. Elec. Co.*, Docket No. C-2010-2204947, 2011 Pa. PUC LEXIS 781, at *8-9, 12 (Feb. 4, 2011), *adopted by Commission*, Docket No. C-2010-2204947 (Order Entered Apr. 8, 2011).

26. Therefore, Duquesne Light respectfully requests that the Complaint’s request for damages be summarily dismissed pursuant to 52 Pa. Code § 5.101(a)(2).

II. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that the Pennsylvania Public Utility Commission grant these Preliminary Objections.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M E Rulli', is written over a horizontal line.

Megan E. Rulli (ID # 331981)

Post & Schell, P.C.

17 North Second Street, 12th Floor

Harrisburg, PA 17101-1601

Phone: 717-731-1970

Fax: 717-731-1985

mrulli@postschell.com

Date: April 15, 2025

Attorney for Duquesne Light Company

APPENDIX A
March 31, 2025 Bankruptcy Order

FILED
4/1/25 8:57 am
CLERK
U.S. BANKRUPTCY
COURT - WDPA

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re:	:	Case No. 24-21081-GLT
	:	
ELLIOTT-TODD PARKER KOGER,	:	Chapter 7
	:	
<i>Debtor.</i>	:	
	:	
ELLIOTT-TODD PARKER KOGER	:	
and TODD ELLIOTT KOGER, SR.,	:	
	:	
<i>Movants,</i>	:	Related to Dkt. Nos. 73, 123
	:	
v.	:	
	:	
DUQUESNE LIGHT COMPANY and	:	
WILKINSBURG SCHOOL DISTRICT,	:	
	:	
<i>Respondents.</i>	:	

ORDER

The *pro se* debtor, Elliott-Todd Parker Koger (“Elliott”) and his father, Todd Elliott Koger, Sr. (“Todd Sr.”), bring two motions seeking an award of damages from Respondents, Duquesne Light Company (“DLC”) and Wilkinsburg School District (“WDS”), for alleged violations of the automatic stay and contempt.¹ *Motion I* raises a myriad of allegations against DLC,² but the only ones of relevance involve two “shut-off” notices posted to the front door of his

¹ See *Motion for Sanctions (Violation of the 11 U.S.C. § 362 Stay) Request for Injunctive Relief and Damages*, Dkt. No. 73 (“Motion I”); *Motion for Sanctions (Violation of the 11 U.S.C. § 362 Stay) Request for Injunctive Relief and Damages*, Dkt. No. 123 (“Motion II,” and together with Motion I, the “Motions”). *Motion II* also makes several references to violations of “11 U.S.C. § 1334” but no such statute exists. To the extent Elliott is referring to 28 U.S.C. § 1334, that statute is purely jurisdictional and does not impose a duty on private parties or give rise to a private cause of action.

² Among other allegations, Elliott contends that the “August 2022 foreclosure sale of the Koger family residence and the subsequent eviction action ... all are ongoing violations of 11 U.S.C. § 362(a)(1)” despite the fact these events preceded the filing of his case on May 3, 2024 and were not subject to the stay. See *Motion I* at ¶ 21. At the hearing on *Motion I*, DLC was also accused of interfering with the Debtor’s Wi-Fi, but this was not substantiated with any convincing proof beyond mere conjecture. See *Transcript of September 24, 2024 Hearing*, Dkt. No. 128 (“Trans.”) at 46-49, 54:14-17 (“they had to be hacked into our

residence by DLC employees and a third sent by mail. *Motion II* contends that two additional notices were issued by DLC in October 2024, yet little detail is provided.³ The Movants suggest the notices were “fraudulent” and part of an effort to harass and intimidate them. *Motion II* also contends that DLC and WSD should be held in contempt for making false statements to the Court in prior proceedings. In all, the Movants seek an order granting actual and punitive damages, as well as an award of attorneys’ fees.

DLC opposed *Motion I* and the Court thereafter conducted a hearing. Before the Court issued its decision, however, Movants filed *Motion II* which raises similar issues. And while it is the moving party’s obligation to self-schedule matters for hearing and establish a response date,⁴ the Court refrained from entering its own scheduling order because it found *Motion II* to be procedurally and substantively defective. After reviewing the motions and considering the statements made at the Court’s hearing on *Motion I*, the Court will deny both motions.

This Court has authority to exercise jurisdiction over the subject matter and the parties under 28 U.S.C. §§ 157(a), 1334, and the Order of Reference entered by the United States District Court for the Western District of Pennsylvania on October 16, 1984. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (G).

A. **Todd Koger Lacks Standing**

As an initial matter, the Court finds that Todd Sr. lacks standing to bring either motion. He did not (and could not) execute the voluntary petition as a debtor, nor does he hold a

Wi-Fi to mess up with the [Zoom] audio”). Ultimately, the Kogers acknowledged that many of their allegations were speculative, and in the absence of adequate proof, the Court will not consider them. *Id.* at 54:21-23.

³ *Motion II* at ¶ 4, 8.

⁴ *See General Procedures for Cases Assigned to Gregory L. Taddonio* requiring parties to self-schedule motions using the prescribed forms.

claim as a creditor. The protections of the automatic stay are meant to preserve the status quo for the benefit of the Elliott's bankruptcy estate, but Todd Sr. has failed to establish any cognizable legal interest that would entitle him to assert rights under §§ 105 or 362(k). And though he is a debtor in his own bankruptcy proceedings (Case No. 20-23340), the stay is admittedly no longer in place because he received a discharge and the case was eventually closed in 2023.⁵

B. Motion II is Procedurally Deficient

Motion II fails to comply with the local rules of this Court. Under Local Rule 9004-1, motions shall contain a caption conforming to the Court's official form and it shall expressly identify the parties against who relief is sought as "Respondent."⁶ The purpose of the rule is to ensure due process by alerting parties in a clear and conspicuous way that the movant is seeking relief that may implicate their rights. Parties should not have to scour through dozens of pages to discern whether their position is under challenge. It must be apparent on the face of the document. In *Motion II*, Movants wrongly identify "Issac Usoroh" as the respondent, when in reality, the allegations are directed at DLC and WSD. *Motion II* also references a "RICO criminal operation" and "RICO conspirators" without identifying the participants. Because *Motion II* fails to comply with Local Rule 9004-1 by putting the proper parties on notice of the potential allegations asserted against them, it will be denied.

C. Motion II Fails to State a Claim Against WSD

Aside from the procedural defect, *Motion II* fails to state a colorable claim for relief against WSD. Viewing the allegations in the motion in a light most favorable to the movants, it does not identify any conduct by WSD, its counsel, or employees that would establish a willful

⁵ The Court acknowledges that Todd Sr. has moved to reopen his case and reinstate the stay, but those motions remain pending as of the date of this Order. See Case No. 20-23340, Dkt. Nos. 125, 137, 147.

⁶ See W.Pa.LBR 9004-1.

stay violation or justify a contempt finding. All of the postpetition conduct alleged in *Motion II* relates to the activities of DLC and its counsel.⁷ The remaining allegations (including paragraphs 19-27) could not give rise to a stay violation as these acts allegedly occurred before the stay was imposed. And because they occurred before the present bankruptcy case was filed, they also cannot serve as the basis for a contempt finding.

D. The Motions Fail to Establish a Recovery Under § 362(k)

Under section 362(k), “an individual injured by any willful violation of a stay ... shall recover actual damages, including costs and attorneys’ fees.”⁸ A stay violation is “willful” if the creditor commits an intentional act that violates the stay with knowledge that a bankruptcy petition has been filed.⁹ No specific intent to violate the stay is required.¹⁰ Thus, to recover damages under section 362(k), one must establish three elements by a preponderance of the evidence: (1) a stay violation occurred; (2) the act giving rise to the violation was willful; and (3) the violation caused injury.¹¹

Elliott contends that DLC violated the stay by issuing shut-off notices on several occasions. The exact number of shut-off notices is disputed,¹² but the difference is immaterial to

⁷ Movants appear to suggest that one attorney represents both DLC and WSD, but the appearances taken at the Court’s September 24, 2024 hearing show otherwise. *See Trans.* at 3.

⁸ 11 U.S.C. § 362(k)(1). This provision was previously codified as section 362(h) but re-codified in 2005 as section 362(k)(1) as part of BAPCPA. Because the provisions are identical, prior caselaw regarding section 362(h) remains relevant to the application of section 362(k)(1). *Wingard v. Altoona Reg. Health Sys. (In re Wingard)*, 382 B.R. 892, 900 n. 5 (Bankr. W.D. Pa. 2008).

⁹ *Krystal Cadillac-Oldsmobile GMC Truck, Inc. v. Gen. Motors Corp.*, 337 F.3d 314, 320 n.8 (3d Cir. 2003); *Univ. Med. Ctr. v. Sullivan (In re Univ. Med. Ctr.)*, 973 F.2d 1065, 1088 (3d Cir. 1992).

¹⁰ *Atl. Bus. & Cmty. Dev. Corp. (In re Atl. Bus. & Cmty. Dev. Corp.)*, 901 F.2d 325, 329 (3d Cir. 1990) (quoting *Goichman v. Bloom (In re Bloom)*, 875 F.2d 224, 227 (9th Cir. 1989)).

¹¹ *Prithvi Catalytic, Inc. v. Microsoft Corp. (In re Prithvi Catalytic, Inc.)*, 571 B.R. 105, 143 (Bankr. W.D. Pa. 2017); *In re Wingard*, 382 B.R. at 900.

¹² Elliott claims that five separate shut-off notices were issued: two were posted on his residence on August 15 and 29, 2024, and a third was mailed on September 23, 2024. *See Trans.* at p. 49:1-17. Following the

the outcome here. Elliott argues that these actions violated § 362(a)(1), which prohibits “the commencement or continuation ... of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case ... or to recover a claim against the debtor that arose before the commencement of the case ...”¹³

Elliott has not alleged that DLC commenced or continued a prepetition collection action against him, so the focus is whether DLC issued the shut-off notice(s) to recover a prepetition claim against him. The record shows that it did not.

To begin, the Kogers readily admit that DLC does not have a claim against Elliott. The DLC account is in Todd Koger, Sr.’s name, and Todd Sr. concedes that he makes the payments on the account.¹⁴ Todd Sr. also acknowledged that the notices referenced in *Motion I* were all addressed to him.¹⁵ To be eligible for relief, Elliott must demonstrate that he was target of these actions, and the mere fact that a family member is the account holder is not enough to impute a stay violation on the debtor’s behalf.¹⁶

The Kogers also failed to establish this was an effort to collect a debt. By his own admission, Todd Sr. asserted the account had a “zero balance.”¹⁷ Based on the foregoing, any action DLC allegedly took was not directed at Elliott, the debtor in these proceedings and the only

September 24 hearing, Elliott contends an additional notice was issued on October 21, 2024 and the family was threatened with termination in a November 4, 2024 phone call. See Motion II at ¶ 2, 4. For its part, DLC admits to posting a single notice on the Koger property by mistake, contending that it was meant to provide an alert of a service interruption occurring across the street in conjunction with some repair work. See Trans. at p. 51-52.

¹³ 11 U.S.C. § 362(a)(1).

¹⁴ *Trans.* at p. 48:15-17; 49:23-25.

¹⁵ *Id.* at p. 50:22-24.

¹⁶ See In re Lyle, 662 B.R. 229, 236 (Bankr. E.D.N.C. 2024).

¹⁷ *Trans.* at p. 48:15; 50:18; 55:9-11.

party protected by the stay, nor was it done in furtherance of an action to collect a debt.¹⁸ Having failed to establish the first element of a stay violation, the motions must be denied.

E. **Elliott Has Not Proven Any Damages**

Even if Elliott could establish a willful stay violation, he has failed to demonstrate any entitlement to damages. The motions fail to identify any financial or other harm Elliott may have endured. There is no dispute that, notwithstanding any shut-off notice, electrical power was never terminated at the Koger residence.¹⁹ There also appears to be no dispute that the notice was withdrawn. Moreover, Elliott cannot claim any entitlement to attorneys' fees when he has proceeded in this matter *pro se*. On this record, the Court could find no basis to award damages.

F. **Elliott Has Not Justified a Finding of Contempt**

The allegations in *Motion II* also fail to establish a basis for the Court to impose a finding of contempt. Bankruptcy courts are empowered to remedy civil contempt through § 105(a) and the court's inherent power.²⁰ Proof of civil contempt requires: "(1) that a valid court order existed; (2) that the alleged contemnor knew of the order; and (3) that the contemnor disobeyed the order."²¹ "A finding of civil contempt must be supported by clear and convincing evidence."²²

In this instance, Elliott seeks a contempt finding against DLC's counsel for allegedly false statements made during the September 24, 2024 hearing. At its core, however, the

¹⁸ See note 5, *infra*.

¹⁹ *Trans.* at p. 52-53.

²⁰ See *Minech v. Clearview Fed. Credit Union (In re Minech)*, 632 B.R. 274, 280 (Bankr. W.D. Pa. 2021); *Winnecour v. Ocwen Loan Serv. (In re Ransom)*, 599 B.R. 791, 802 (Bankr. W.D. Pa. 2019); *Englert v. Ocwen Loan Serv., LLC (In re Englert)*, 495 B.R. 266, 271 (Bankr. W.D. Pa. 2013); *Walsh v. Free (In re Free)*, 466 B.R. 48, 57 (Bankr. W.D. Pa. 2012).

²¹ *In re Minech*, 632 B.R. at 280; see *F.T.C. v. Lane Labs-USA, Inc.*, 624 F.3d 575, 582 (3d Cir. 2010); *Harris v. City of Phila.*, 47 F.3d 1311, 1326 (3d Cir. 1995).

²² *Harris v. City of Phila.*, 47 F.3d at 1321.

issue involves a factual dispute. The Kogers allege that three shut-off notices were issued before the September hearing, while DLC admits to only one. And because the parties were not under oath when they made their statements, perjury is not in play. While truthfulness is expected from all parties whenever they make representations to the Court (irrespective of whether they are under oath), a finding of contempt requires definitive proof that an order was violated. Having failed to satisfy the first element of a contempt finding, Elliott's allegations must fail.²³

For the reasons stated herein, it is hereby **ORDERED, ADJUDGED, and DECREED** that:

1. The *Motion for Sanctions (Violation of the 11 U.S.C. § 362 Stay) Request for Injunctive Relief and Damages*, Dkt. No. 73 is **DENIED**.

2. The *Motion for Sanctions (Violation of the 11 U.S.C. § 362 Stay) Request for Injunctive Relief and Damages*, Dkt. No. 123 is **DENIED**.

ENTERED at Pittsburgh, Pennsylvania

Dated: March 31, 2025


GREGORY L. TADDONE
CHIEF UNITED STATES BANKRUPTCY JUDGE

Case administrator to mail to:
Debtor
Todd Elliott Koger, Sr.

²³ The Court also observes that the shut-off notices attached to the motions are difficult to read and therefore the Court is unable to make definitive conclusions about their contents in their current form.

