

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

FREEDOM MEDICAL, INC.,

Plaintiff,

v.

Case No. 6:20-cv-771-Orl-37GJK

MAHESHWAR SEWPERSAUD; and  
USINE ROTEC, INC.,

Defendants.

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**ORDER**

Before the Court is Defendant Maheshwar Sewpersaud's ("**Sewpersaud**") suggestion of bankruptcy and the implications it has in this case. (*See* Doc. 134.) First, a brief history.

In May 2020, Plaintiff Freedom Medical, Inc. ("**Freedom**") sued Sewpersaud, a former employee, alleging he misappropriated trade secrets and confidential information and was violating his covenant not to compete by going to work for a competitor, Defendant Usine Rotec, Inc. ("**Rotec**"). (*See* Doc. 1.) The Court entered a Temporary Restraining Order (Doc. 11 ("**TRO**")), which was later converted into a Preliminary Injunction on June 23, 2020 (Doc. 73 ("**PI**")). The TRO and PI enjoined Sewpersaud from using Freedom's trade secrets and proprietary information and from soliciting or doing business with any current or prospective customers of Freedom. (Doc. 73, p. 16.) The PI also directed Freedom and Sewpersaud to confer and provide the Court with a list of

current and prospective customers subject to the injunction. (*Id.*)

The day after the PI was entered, Freedom filed an amended complaint, adding Rotec as a party. (*See* Doc. 75.) Freedom promptly served Rotec with a copy of the PI and TRO against Sewpersaud. (*See* Doc. 115-2.) In the meantime, Freedom and Sewpersaud could not agree on a customer list for the PI, so Freedom filed a motion for approval of its list. (Docs. 95–96 (collectively, “**List Motion**”).) The List Motion was referred to U.S. Magistrate Judge Gregory J. Kelly.

On August 24, 2020, Freedom moved to hold both Sewpersaud and Rotec in civil contempt for violating the TRO and PI. (Doc. 115 (“**Contempt Motion**”).) Freedom presented evidence that Sewpersaud—on behalf of Rotec—solicited Freedom’s customers despite the injunction. (*See id.*) The Court ordered both Rotec and Sewpersaud to show cause why they should not be held in civil contempt and set a hearing for October 1, 2020 (“**Show Cause Hearing**”). (Docs. 116, 125.) On September 21, 2020, Magistrate Judge Kelly recommended Freedom’s List Motion be granted and the Court approve Freedom’s customer list. (Doc. 129 (“**R&R**”).)

One week later—only two days before the Show Cause Hearing—Sewpersaud filed a suggestion of bankruptcy. (Doc. 134.) So the Court canceled the Show Cause Hearing, stayed the case as to Sewpersaud, and ordered Freedom and Rotec to provide more briefing on whether the action should proceed without Sewpersaud. (Doc. 136 (“**Stay Order**”).) With briefing complete (Docs. 147–48), the Court will modify its Stay Order.

First, the Contempt Motion, Sewpersaud, and his suggestion of bankruptcy. When Sewpersaud notified the Court he had filed for bankruptcy, he triggered § 362 of the bankruptcy code. (Doc. 134); 11 U.S.C. § 362. Section 362(a) automatically stays any proceeding that arose before the filing of bankruptcy, unless an exception applies. There are both statutory and non-statutory exceptions to the automatic stay – and the Court has jurisdiction to determine their applicability. *Dominic's Rest. of Dayton, Inc. v. Mantia*, 683 F.3d 757, 760 (6th Cir. 2012). While civil contempt is not a statutory exception under § 362(b), courts may refuse to stay a case with respect to a bankrupt party if necessary to protect “the dignity of the court.” *Forsberg v. Pefanis*, No. 1:07-cv-03116-JOF, 2010 WL 2331465, at \*1 (N.D. Ga. June 7, 2010). Courts have the power to ensure parties comply with their orders and “we cannot conceive that Congress intended to strip a court of this power, and instead permit a party to blatantly violate direct orders of the court and then seek shelter from a bankruptcy judge.” *Mantia*, 683 F.3d at 760 (cleaned up, citing *In re Rook*, 102 B.R. 490, 493 (Bankr. E.D. Va. 1989)). If so, “the court’s orders could be rendered almost meaningless.” *Id.* (cleaned up).

Here, the TRO and PI were entered before Sewpersaud filed for bankruptcy. (See Docs. 11, 73, 134.) And both were injunctive – neither imposing a monetary judgment. (See Docs. 11, 73). Freedom now argues Sewpersaud, working for Rotec, is blatantly violating this Court’s orders. (See Doc. 115.) Sewpersaud’s bankruptcy proceeding does not give him permission to violate this Court’s injunctive orders. See *Burr & Forman, LLP v. Perihelion Global, Inc.*, CV-08-BE-0526-S, 2010 WL 11561483, at \*1–2 (S.D. Ala. Jan. 15,

2010). So the Court will proceed on the Contempt Motion against Sewpersaud, and on the pending R&R which relates to the scope of the injunctive relief. (*See* Docs. 115, 129.) But, beyond clarifying and enforcing the already-entered TRO and PI, the case will be stayed as to Sewpersaud.

Next, can the case continue with Rotec? The automatic stay applies only to the bankrupt party, Sewpersaud – and doesn't necessarily require the stay of the entire case. *See* 11 U.S.C. § 362. But under the facts of this case, it would be inefficient and unfair to continue this case without Sewpersaud. He is the star of this show – the first complaint filed by Freedom only named Sewpersaud as a defendant, and while Rotec was later added, Rotec's liabilities and defenses are inextricably intertwined with Sewpersaud's. (*See* Docs. 1, 75.) The issues to be decided between Rotec and Sewpersaud are the same. (*See* Doc. 75.) And the prejudice Freedom faces will be ameliorated by the Court's continued enforcement of the TRO and PI. (*See* Doc. 11, 73.) Freedom can continue to monitor and bring motions to enforce the already-ordered injunctive relief, but in all other respects the Court, under its inherent authority to control its docket and manage its cases efficiently, will stay the case. *See Clinton v. Jones*, 520 U.S. 681, 706 (1997); *see also Lanard Toys Ltd. v. Toys "R" Us-Delaware, Inc.*, No. 3:15-cv-849-J-34PDB, 2017 WL 5256870, at \*3-5 (M.D. Fla. Nov. 13, 2017).

It is **ORDERED AND ADJUDGED**:

1. The parties, including Defendant Maheshwar Sewpersaud, are **DIRECTED** to appear before the Undersigned on Tuesday, **October 27, 2020 at 1:30 p.m.**

for a show cause hearing on Plaintiff's Motion for Order to Show Cause (Doc. 115).

2. The hearing will be held, *in person*, in Courtroom 4A of the Orlando Courthouse, 401 West Central Boulevard, Orlando, Florida, 32801.
3. In light of concerns because of the COVID-19 pandemic, the Court will permit the parties to appear via Zoom if they wish, **PROVIDED:**
  - a. By Thursday, **October 22, 2020** any person (counsel, corporate representative, witnesses, etc.) must file a notice with the Court, informing the Court they will be appearing via Zoom.
  - b. Parties appearing via Zoom must provide to the Court, *at least one hour* before the hearing, two copies of their physical exhibit binders containing copies of any exhibits they wish to present to the Court. (*See* Doc. 107, p. 20.)
4. All parties, including those appearing in-person, must be prepared to present any exhibits via Zoom screen share. (*See* Doc. 133, pp. 1-2.)
5. By Thursday, **October 22, 2020** Defendant Maheshwar Sewpersaud may file an objection to the R&R (Doc. 129) and a response to Defendant Usine Rotec's objection (Doc. 140), if he wishes. All other deadlines for responding to the R&R remain the same.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on October 16, 2020.



  
ROY B. DALTON JR.  
United States District Judge

Copies to:  
Counsel of Record