

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In Re: CHRISTOPHER BATEMAN
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CASE NO. 8:14-bk-5369-RCT

VERIZON WIRELESS PERSONAL
COMMUNICATIONS, LP,

Appellant,

v.

CASE NO. 8:18-cv-1394-T-23

CHRISTOPHER BATEMAN,

Appellee.
_____ /

ORDER

In 2012 Christopher Bateman entered a “Customer Agreement” under which Verizon provided cellular service in exchange for monthly payments. The Customer Agreement contained an arbitration clause. Later, Bateman petitioned for Chapter 7 bankruptcy protection and listed Verizon as a creditor possessing a \$481 unsecured claim. Although receiving notice, Verizon neither challenged the discharge nor otherwise appeared in the bankruptcy. In due course the bankruptcy court discharged Bateman’s debts under 11 U.S.C. § 727 and enjoined Verizon and other creditors from undertaking “any attempt to collect from the debtor a debt that has been discharged.” Verizon never appeared to challenge the issuance of the discharge injunction or to request a modification.

About five months after the discharge and without obtaining permission from the bankruptcy court, Verizon unilaterally sent Bateman a letter demanding payment of the discharged debt. After receiving the letter, Bateman moved to hold Verizon in contempt of the discharge injunction. Citing the arbitration clause in the Customer Agreement, Verizon moved to compel arbitration of the contempt motion. Noting that the bankruptcy court had “not agreed to arbitrate its contempt powers,” the bankruptcy court denied the motion. Verizon appeals.

A party moving to compel arbitration must establish that the parties agreed to arbitrate the dispute. Verizon cites an arbitration clause in the Customer Agreement, which states that “[a]ny dispute that in any way relates to or arises out of this agreement . . . will be resolved by [arbitration].” But Verizon identifies no dispute that “in any way relates to or arises out of” the Customer Agreement. Bateman claims that Verizon violated a court-issued injunction, not that Verizon breached the Customer Agreement. Although characterizing the allegedly contemptuous conduct as an attempt to enforce the Customer Agreement, no party disputes that the debt accruing under the Customer Agreement was discharged. That is, no dispute “that in any way relates to or arises out of” the Customer Agreement remains. *Seifert v. U.S. Home Corp.*, 750 So. 2d 633, 638 (Fla. 1999); *Verizon Wireless v. Bateman*, 264 So. 3d 345 (Fla. 2d DCA 2019) (holding that the same arbitration clause lacks a “significant relationship” to Christopher Bateman’s claim under the FCCPA).

Further, a bankruptcy court, like any court, retains the inherent power to enforce an order. Although begun by a party, a contempt proceeding is “at all times

an action of the court.” *United States v. Coulton*, 594 F. App’x 563, 567 (11th Cir. Nov. 25, 2014) (per curiam) (holding that a court possesses a “distinct interest” in compliance with an order, which interest “activates immediately in each action in which the court's authority is defied [and] in each instance in which the court's authority is defied.”)

Although subject to the discharge injunction, Verizon — unilaterally and without permission — reportedly defied the injunction by demanding collection of the discharged debt. Because the bankruptcy court “that issued the injunctive order alone possesses the power to enforce compliance with and punish contempt of that order,” *Alderwoods Grp., Inc. v. Garcia*, 682 F.3d 958, 973 (11th Cir. 2012) (Tjoflat, J.), Verizon, which maintained silence in response to Bateman’s petition and in response to issuance of the discharge injunction, cannot demand that an arbitrator determine Verizon’s compliance. Words in a consumer agreement cannot deprive the bankruptcy court of the inherent power to enforce compliance with an injunction, the issuance of which was lawful, uncontested, and binding.

The May 24, 2018 order (Bk. Doc. 50) denying Verizon’s motion to compel arbitration is **AFFIRMED**. The clerk is directed to close this case.

ORDERED in Tampa, Florida, on September 24, 2019.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE