The relief described hereinbelow is SO ORDERED.

SIGNED this 4th day of November, 2024.

Robert D. Berger
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

In re:

SEAN KRISTIAN TARPENNING,

Debtor.

Case No. 23-21455
Chapter 7

ORDER DENYING MOTION FOR SANCTIONS

This matter comes before the Court on debtor Sean Tarpenning's motion for sanctions against five attorneys involved in his Chapter 7 bankruptcy case.[1] The motion arises out of conversations Tarpenning overheard in the courtroom gallery prior to the August 22, 2024 Chapter 7 docket.

[1] ECF 323 at 1-2.

A bankruptcy court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [title 11]." 11 U.S.C. § 105(a). This provision imbues the bankruptcy court with the power to maintain order and confine improper behavior in its own proceedings. *See In re Courtesy Inns, Ltd., Inc.*, 40 F.3d 1084, 1089 (10th Cir. 1994) (affirming decision imposing sanctions). Here, Tarpenning argues that the attorneys "engaged in conduct that constituted harassment, discrimination, abuse of the legal process, and attempt[s] to intimidate the Debtor and Mackaylee Beach through bullying and malicious statements" in eight ways.[2]

Item (1) of Tarpenning's motion alleges that two attorneys "boasted" about contacting the U.S. Marshals about Tarpenning to "intimidate and harass" him. However, the Court must disregard conclusory statements in determining whether Tarpenning's motion "states a claim," as it were, for sanctions—and "intimidation" and "harassment" are conclusory statements, not facts. *Cf. Brooks v. Mentor Worldwide LLC*, 985 F.3d 1272, 1281 (10th Cir. 2021) ("An allegation is conclusory where it states an inference without stating underlying facts or is devoid of any factual enhancement."); *Sullivan v. Univ. of Kan. Hosp. Auth.*, 844 F. App'x 43, 50 (10th Cir. 2021) (characterizing allegations of "persistent abuse, neglect, defamation, intimidation, and racketeering" as conclusory); Fed. R. Bankr. P. 9014(c) (permitting court to apply Rule 7012 to contested matter). Conclusions aside, item (1) alleges that two attorneys said that they had discussed Tarpenning

[2] ECF 323 at 2; *see id.* at 2-5.

with the Marshals. Such statements, standing alone, are not sanctionable—particularly where, as here, Tarpenning does not allege that the attorneys knew Tarpenning was present in the gallery or that he could hear their conversation. (Tarpenning also conceded at the October 26, 2024 hearing on his motion that he has had no contact with the Marshals.)

Items (2) through (5) of the motion allege that the attorneys "mocked" Tarpenning's pro se filings, "discussed [his] ongoing civil cases in Jackson County with an intent to disparage and ridicule him," "made disparaging remarks" about his decision to hire counsel, "discuss[ed] potential actions against [Mackaylee Beach] in a manner that was threatening and intended to cause distress," "inappropriately referenced the Debtor's Chapter 7 bankruptcy case to discuss unrelated civil matters," and "have engaged in a pattern of harassment against the Debtor and his family since 2019." But again, allegations of "disparagement," "ridicule," and "harassment" are labels and conclusions, not facts. Conclusions aside, items (2) through (5) allege that the attorneys discussed Tarpenning's pro se filings, his civil cases, his counsel, and potential actions against Beach. Such discussions, standing alone, are not sanctionable—particularly because, as before, Tarpenning does not allege that the attorneys knew he was present or that he could hear their conversation. *Cf. Robbins v. Oklahoma*, 519 F.3d 1242, 1247 (10th Cir. 2008) (observing that allegations "so general that they encompass a wide swath of conduct, much of it innocent" do not state a claim for relief).

Items (6) and (7) of the motion do not allege that the attorneys Tarpenning seeks to sanction did anything at all. Moreover, the incidents described in items (6) and (7) occurred in 2020, whereas Tarpenning did not file this case until October 2023.

Finally, item (8) alleges that two attorneys—the trustee for the Chapter 7 estate of 1 Big Red, LLC, and an attorney representing that estate—sat together in the gallery after engaging in private conversation in the hallway. Although Tarpenning argues that this constitutes "suspicious activity," there is nothing inherently suspicious about a conversation between an attorney and his client.

For these reasons, Tarpenning's motion for sanctions is hereby denied.

IT IS SO ORDERED.

###