

SO ORDERED: June 16, 2020.



*Robyn L. Moberly*  
Robyn L. Moberly  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE: )  
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USA GYMNASTICS ) CASE NO. 18-9108-RLM-11  
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DEBTOR )  
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**ORDER ON MOTION FOR PROTECTIVE ORDER FILED BY THE USOPC**

On June 10, 2020 the United States Olympic and Paralympic Committee (“USOPC”) filed a Motion for Protective Order requesting the Court limit additional discovery in this matter pursuant to FRBP 7026 which bars duplicative, overbroad, and irrelevant discovery. On June 14, 2020 certain of the Sexual Abuse Survivors filed a response thereto. Simone Biles, Rachael Denhollander, Alexandra Raisman, Madison Kocian, McKayla Maroney, Kyla Ross, Jordyn Wieber, Jamie Dantzscher and Jessica Thomashow, and approximately 140 additional fellow survivors (the “Propounding Claimants”) are represented by the law firm who is requesting the discovery. The official committee of sexual abuse survivors did not

request the additional discovery. The Court, having reviewed the motion, objection and attachments thereto determines that further hearing on this matter is not warranted.

As we all know, USA Gymnastics (“USAG” or “Debtor”) has requested the USOPC receive a channeling injunction and releases from the sexual abuse survivors as a prerequisite to the contribution of proceeds from certain insurance policies on which both organizations are named insureds toward the settlement election in the Debtor’s proposed Plan. USAG proposes that the USOPC would also waive indemnity claims against USAG, claims which may or may not have merit.

Counsel for the Propounding Claimants has issued eight subpoenas for current and former USOPC directors, officers, and employees because the Propounding Claimants seek additional information regarding USOPC’s liability regarding sexual abuse committed by Larry Nassar and USOPC’s assets that otherwise will be available to satisfy settlements or judgments against USOPC if it were not for the channeling injunctions.

In part, the discovery requests by the Propounding Claimants are well-taken. However, they stray significantly from the narrowly tailored and relevant discovery parameters of Rule 7026 in that they seek information regarding USOPC’s interactions, policies, correspondence, and remedial actions pertaining to all other National Governing Bodies, not limited to USAG. This belies the stated intent of the discovery requests and permeates those requests with inferences of ulterior motives.

The Court has previously stated, and orders today, that the Propounding Claimants may depose the CFO of the USOPC, Ms. Morane Kerek, with regard to any changes in the financial condition of the USOPC since the last audited financial statement and all financial projections made by USOPC and their advisers as to income and expenses anticipated through 2028.

The other subpoenaed witnesses have overlapping and redundant testimony to that already given by some of the subpoenaed witnesses. Further due to time constraints imposed by the progression of this bankruptcy case, there simply isn't time to conduct all of the depositions requested, even if they were not redundant, burdensome and duplicative in some respects. Therefore, rather than the Court identifying the specific witnesses that would be most likely to offer the requested testimony, the Court will allow the Propounding Claimants to depose two (2) of the other witnesses they have subpoenaed, along with the production of documents requested as set forth below. The two witnesses selected to be deposed shall be identified after a meet and confer with USOPC's counsel. However, the universe of testimony and discovery shall be limited to:

- 1) Claimants and claims brought in this chapter 11 case concerning abuse relating to USAG;
- 2) Corrective measures taken by the USOPC with respect to USAG only;
- 3) Acts of governance over USAG management and policies by the USOPC from 2000 until 2018;

Documents to be produced by the two selected witnesses shall include and be limited to:

- 4) Any and all communications, correspondence, or documents in the witness' possession regarding allegations of sexual abuse of member athletes of USAG;
- 5) Any and all communications, correspondence, or documents in the witness' possession regarding responsive or corrective measures implemented by the USOPC or USAG in response to allegations of sexual abuse of member athletes of USAG; and
- 6) Any and all communications, correspondence, or documents in the witness' possession regarding allegations of sexual abuse perpetrated by Lawrence Gerard Nassar against member athletes of USAG.

Finally, all documents the USOPC has produced and transcripts of depositions taken in the underlying civil litigation shall be deemed produced in this action.

The Court bars any further discovery by the Propounding Claimants and their attorneys not in conformity with the terms of this Order.

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