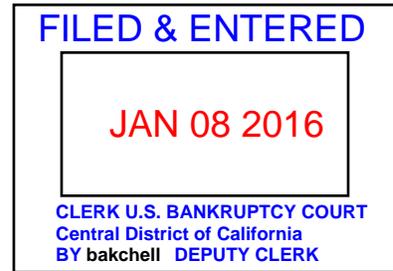


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CHANGES MADE BY COURT

ORDER NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

13 In re:	)	Case No.: 2:15-bk-21225-RK
)	
14 JAIME NARITO BIANO,	)	Chapter 7
)	
15 Debtor.	)	ORDER ON DEBTOR'S MOTION FOR
	)	ISSUANCE OF ORDER TO SHOW
16	)	CAUSE RE CONTEMPT AND ON
17	)	MOTION FOR CONTEMPT FOR
	)	VIOLATION OF DISCHARGE
	)	INJUNCTION
18)	
	)	Date: February 23, 2016
19	)	Time: 2:30 p.m.
	)	Place: Courtroom 1675
20)	
21)	

22
23 Pending before the court are: Debtor's "Motion for Issuance of Order to Show Cause re:
24 Contempt Why ONEMAIN FINANCIAL Should Not Be Held in Contempt for Violation of
25 Discharge Injunction [L.B.R. 9020-1]" [ECF 17] and "Notice of Motion and Motion for Contempt
26 for Violation of Discharge Injunction; Declarations In Support Thereof" (the "Substantive
27 Motion") [ECF 16] against ONEMAIN FINANCIAL.
28

1 The Substantive Motion alleges that ONEMAIN FINANCIAL sent correspondence to Debtor
2 on three (3) separate occasions following the granting of Debtor's discharge in this case, and
3 following separate written notice by Debtor's counsel regarding said violations. The Substantive
4 Motion alleges that ONEMAIN FINANCIAL had actual notice of the initial bankruptcy filing and
5 of the automatic stay as well as the Discharge Order, prior to sending the written notices to
6 Debtor, but did so anyway. The Substantive Motion further alleges that the actions of ONEMAIN
7 FINANCIAL were willful and malicious and with intent to circumvent and violate the Discharge
8 Injunction. The Discharge Order in this case was entered on October 26, 2015. ECF 9. The
9 Substantive Motion alleges that correspondence sent by ONEMAIN FINANCIAL and received by
10 Debtor was dated November 2, 2015, November 13, 2015, and December 13, 2015. The
11 Substantive Motion also alleges that legal action was necessary in order to prevent ONEMAIN
12 FINANCIAL from further attempting to collect a debt subject to the Discharge and that Debtor
13 has been harmed and damaged, including damages for emotional distress and attorney's fees and
14 costs.

15 The court has reviewed both motions and is not satisfied that Debtor has made a prima facie
16 case to warrant issuance of an order to show cause pursuant to Local Bankruptcy Rule 9020-1 on
17 grounds that there is insufficient evidence of proper notice of the Discharge Order on Creditor
18 ONEMAIN FINANCIAL ("Creditor"). The Substantive Motion alleges that Creditor had notice
19 of the Discharge Order entered on October 26, 2015 though service of the Discharge Order by the
20 Bankruptcy Noticing Center by first class mail to Creditor at the address of 21115 Hawthorne
21 Blvd., Torrance, CA 90503-4615, and by a letter of counsel dated November 16, 2015 faxed to
22 Creditor at 866-283-0356 and 310-543-9649 and that nevertheless, Creditor continued to send
23 demands to Debtor to pay discharged prepetition debts after such notice. However, the moving
24 papers for both motions provided insufficient evidence that the purported service address and fax
25 numbers properly relate to Creditor to constitute effective notice on it. There is no corroborating
26 evidence to support Debtor's statements that the address of 21115 Hawthorne Blvd., Torrance, CA
27 90503-4615, is a proper address for Creditor for noticing purposes, and the copies of the offending
28 notices of Creditor attached to the moving papers do not list such address. Absolutely no evidence

1 supports the use of the fax numbers of 866-283-0356 and 310-543-9649 as giving proper notice to
2 Creditor as alleged in the moving papers. Thus, the court cannot find that Debtor has made a prima
3 facie evidentiary showing by clear and convincing evidence that Creditor willfully disobeyed the
4 Discharge Order based on being notified of such order and should be held in civil contempt to
5 warrant issuance of the requested order to show cause or consider the Substantive Motion on the
6 merits at this time. *See, e.g., In re Bennett*, 298 F.3d 1059, 1069 (9th Cir. 2002)(citations
7 omitted).

8 Accordingly, the court DENIES WITHOUT PREJUDICE Debtor's "Motion for Issuance of
9 Order to Show Cause re: Contempt Why ONEMAIN FINANCIAL Should Not Be Held in
10 Contempt for Violation of Discharge Injunction [L.B.R. 9020-1]" [ECF 17] and "Notice of
11 Motion and Motion for Contempt for Violation of Discharge Injunction; Declarations In Support
12 Thereof" (the "Substantive Motion") [ECF 16] against ONEMAIN FINANCIAL. The noticed
13 hearing on the Substantive Motion on February 23, 2016 at 2:30 p.m. is VACATED.

14 IT IS SO ORDERED.

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23 Date: January 8, 2016



24 _____
Robert Kwan
United States Bankruptcy Judge