

FILED & ENTERED

AUG 28 2019

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY bakchell DEPUTY CLERK

NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

CARLOS JOEL ARMIENTA
and TANIA GISELA ARMIENTA,

Debtors.

Case No. 2:18-bk-15579-RK

Chapter 7

**ORDER (1) DENYING MOTION OF DEBTOR
TANIA GISELA ARMIENTA FOR
CONTEMPT AGAINST NISSAN MOTOR
ACCEPTANCE CORPORATION FOR THEIR
INTENTIONAL VIOLATION OF THE
BANKRUPTCY DISCHARGE INJUNCTION;
(2) VACATING HEARING ON MOTION; (3)
IMPOSING SANCTIONS ON DEBTOR'S
COUNSEL FOR VIOLATIONS OF LOCAL
BANKRUPTCY RULES**

Vacated Hearing on Motion

Date: September 3, 2019

Time: 2:30 p.m.

Hearing on Sanctions

Date: September 17, 2019

Time: 1:30 p.m.

Place: Courtroom 1675

Roybal Federal Building

255 East Temple Street

Los Angeles, California 90012

1 TO DEBTORS CARLOS JOEL ARMIENTA AND TANIA GISELA ARMIENTA AND
2 THEIR COUNSEL OF RECORD, LAUREN TEGAN RODKEY AND YOUSSEF H.
3 HAMMOUD, OF THE PRICE LAW GROUP, AND INTERESTED PARTIES:

4 Pending before this court is the Motion of Debtor Tania Gisela Armienta
5 (“Debtor”) for Contempt Against Nissan Motor Acceptance Corporation for their
6 Intentional Violation of the Bankruptcy Discharge Injunction (“Motion”) (Docket No. 18),
7 filed on July 29, 2019.

8 Having considered the Motion, the court determines that oral argument on the
9 Motion is unnecessary and dispenses with it pursuant to Local Bankruptcy Rule 9013-
10 1(j)(2), takes the Motion under submission, vacates the hearing on the Motion noticed
11 for September 3, 2019 at 2:30 p.m. and rules on the Motion as follows.

12 The Motion should be denied because it was filed in violation of Local Bankruptcy
13 Rules (“LBR”) 9020-1 and 9013-1. By their motion, Debtor alleges various factual
14 contentions that the Nissan Motor Acceptance Corporation (“Nissan”) attempted to
15 collect a discharged debt in violation of the discharge injunction in this case under 11
16 U.S.C. §524(a)(2) and requests that court hold Nissan in contempt for violating the
17 discharge injunction.

18 The remedy to enforce a discharge injunction is a motion for civil contempt under
19 11 U.S.C. § 105(a). *Walls v. Wells Fargo Bank, N.A.*, 276 F.3d 502, 507 (9th Cir. 2002).
20 Motions for civil contempt in this bankruptcy court are governed by LBR 9020-1, which
21 provides: “Unless otherwise ordered by the court, contempt proceedings are initiated by
22 filing a motion that conforms with LBR 9013-1, and a lodged order to show cause.
23 Cause must be shown by filing a written explanation why the party should not be held in
24 contempt and by appearing at the hearing.” LBR 9020-1(a). LBR 9013-1(i) provides in
25 pertinent part: “Factual contentions involved in any motion, opposition or other response
26 to a motion, a reply, must be presented, heard, and determined upon declarations and
27 other evidence.” See *also*, 28 U.S.C. §1746 (unsworn declarations must be under
28 penalty of perjury). LBR 9020-1(d)(2) provides: “No hearing on the motion for issuance

1 of the order to show cause will be held unless the court so orders.”

2 The Motion was filed in violation of these rules. First, the Motion does not
3 comply with the order to show cause procedure of LBR 9020-1 in violation of LBR 9020-
4 1(a). No motion for an order to show cause conforming with LBR 9013-1 was filed, and
5 no proposed order to show cause was lodged, as required by LBR 9020-1(a). Second,
6 the Motion did not conform with LBR 9013-1 as required by LBR 9020-1(a) because the
7 factual contentions that Nissan attempted to collect a discharged debt are not supported
8 by declarations or other evidence in violation of LBR 9013-1(i). The Motion was noticed
9 for hearing in violation of LBR 9020-1(d)(2) that provides that no hearing on the motion
10 will be held unless ordered by the court.

11 The court has authority to impose sanctions for violations of the Local Bankruptcy
12 Rules pursuant to Local Bankruptcy Rules 1001-1(f), 9011-3(a) and (c) and 11 U.S.C.
13 §105(a). As Local Bankruptcy Rule 9011-3(c) provides failure to fully comply with the
14 Local Bankruptcy Rules subjects the offender and attorney to appropriate discipline,
15 including imposition of costs and attorneys’ fees and other sanctions.

16 Debtor filed the Motion through counsel, Attorneys Lauren Tegan Rodney and
17 Youssef H. Hammoud, of the Price Law Group, APC, who either signed, filed and/or
18 reviewed the Motion. The court has no reason to fault Debtor for the Motion filed in
19 violation of the rules since it appears that their attorneys prepared the Motion and the
20 violations are their fault. The attorneys filed, signed and/or reviewed the Motion in
21 violations of the rules because either they did not read the Local Bankruptcy Rules, or
22 they read the Local Bankruptcy Rules and did not understand and follow them, either of
23 which is cause to impose sanctions against them pursuant to Local Bankruptcy Rules
24 1001-1(f), 9011-3(a) and (c) and 11 U.S.C. §105(a).

25 Accordingly, the court imposes remedial sanctions against Attorneys Lauren
26 Tegan Rodney and Youssef H. Hammoud, of the Price Law Group, APC, and ordering
27 each of them as remedial sanctions to read Rules 9020-1 and 9013-1 of the Local
28 Bankruptcy Rules of the United States Bankruptcy Court for the Central District of

1 California and file a declaration under penalty of perjury that they have read and
2 understood these rules and will obey them in the future, and these declarations must be
3 filed on or before September 10, 2019.

4 Since the court has imposed sanctions against these attorneys without a prior
5 hearing, the court sets a hearing on the imposition of sanctions on September 17, 2019
6 at 1:30 p.m. before the undersigned United States Bankruptcy Judge in Courtroom
7 1675, Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012
8 to give the attorneys an opportunity to be heard and request reconsideration of the
9 imposition of these sanctions. If the attorneys file the declarations as ordered as
10 remedial sanctions by September 17, 2019, the court will assume that they have
11 complied with this order and are not asking reconsideration, and the court will vacate
12 the hearing.

13 If the attorneys do not file the declarations as ordered as remedial sanctions,
14 they are ordered to appear on September 17, 2019 at 1:30 p.m. before the undersigned
15 United States Bankruptcy Judge in Courtroom 1675, Roybal Federal Building, 255 East
16 Temple Street, Los Angeles, California 90012 to show cause why monetary sanctions
17 should not be imposed against them for filing the Motion in violation of the court's rules
18 as discussed above.

19 Accordingly, the court denies the Motion without prejudice, meaning that Debtor
20 may file an amended motion for an order to show cause regarding civil contempt, which
21 complies with the requirements of Local Bankruptcy Rules 9020-1 and 9013-1. The
22 court hereby vacates the hearing on the Motion noticed for September 3, 2019 at 2:30
23 p.m.

24 IT IS SO ORDERED.

25 Date: August 28, 2019

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27 Robert Kwan
28 United States Bankruptcy Judge