

FILED & ENTERED

APR 16 2024

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
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**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION**

In re:

Sandra C. Estrada,

Debtor.

Case No.: 2:24-bk-11389-NB

Chapter: 13

**MEMORANDUM DECISION  
DISCHARGING ORDER TO SHOW CAUSE  
BASED UPON ATTORNEY AARON  
BERGER'S VOLUNTARY AGREEMENT  
NOT TO APPEAR AS COUNSEL FOR ANY  
PARTY IN ANY BANKRUPTCY CASE  
PENDING IN THE CENTRAL DISTRICT OF  
CALIFORNIA FOR A PERIOD OF ONE  
YEAR**

Hearing:

Date: April 9, 2024

Time: 11:00 a.m.

Place: Courtroom 1545

255 E. Temple Street

Los Angeles, CA 90012

(or via ZoomGov per posted procedures)

On March 13, 2024, this Court issued an order requiring Debtor's counsel, Aaron Berger, to appear and show cause why he should not be sanctioned for facilitating Debtor's abuse of the bankruptcy process (dkt. 14, the "OSC"). A hearing on the OSC took place as set forth in the caption above. Based upon Mr. Berger's declaration explaining the circumstances (dkt. 20) and his voluntary agreement not to appear as

1 counsel for any party in any bankruptcy case pending in the Central District of California  
2 for a period of one year absent authorization from this Court, a separate order  
3 discharging the OSC will be issued.

#### 4 **1. BACKGROUND**

5 Debtor, who was represented by Mr. Berger with respect to all matters pertaining  
6 to this short-lived bankruptcy case, filed a chapter 13 petition on February 26, 2024. On  
7 March 1, 2024, this Court issued an “Order Directing Debtor to Appear and Show Cause  
8 Why Her Chapter 13 Case Should Not be Transferred to the Southern District of  
9 California” (dkt. 3, the “Venue OSC”). As explained in the Venue OSC, the residential  
10 address listed in the petition is located within the Southern District of California, not the  
11 Central District of California (the district in which the case was filed). See Venue OSC  
12 at p. 2. The Venue OSC set a deadline of March 8, 2024 for Debtor to file a written  
13 response explaining why the Central District of California was the proper venue.

14 Debtor did not respond to the Venue OSC. Instead, on March 6, 2024, Debtor  
15 filed a motion to voluntarily dismiss this case (dkt. 10, the “Dismissal Motion”). The  
16 Dismissal Motion stated that Debtor “no longer seeks federal bankruptcy protection at  
17 this time,” *id.* at p. 1, but did not explain why or how Debtor’s circumstances had  
18 changed, such that bankruptcy protection was necessary on February 26, 2024 but no  
19 longer necessary approximately two weeks later.

20 On March 13, 2024, this Court dismissed the case, based upon Debtor’s  
21 absolute right to dismissal,<sup>1</sup> but retained jurisdiction to adjudicate the issues raised by  
22 the OSC. Dkt. 14. As explained in the OSC:

23 Although this Court is required to honor Debtor’s request for dismissal, it  
24 still retains jurisdiction to determine whether Mr. Berger caused the  
25 petition to be filed on Debtor’s behalf to accomplish objectives other than  
26 those contemplated by the Bankruptcy Code. Such an abuse of the  
bankruptcy process could include, for example, filing the petition merely to  
delay Debtor’s creditors even though Debtor had no intent to reorganize.

27 <sup>1</sup> See 11 U.S.C. § 1307(b); see also *In re Nichols*, 10 F.4th 956, 964 (9th Cir. 2021) (holding that  
28 “§ 1307(b)’s text confers upon the debtor an absolute right to dismiss a Chapter 13 bankruptcy case,  
subject to the single exception noted expressly in the statute itself,” regardless of any determination that  
the debtor abused the bankruptcy process).

1 It appears that by filing this case, Mr. Berger may have been facilitating an  
2 abuse of the bankruptcy process: (1) the petition was a “face sheet” filing  
3 not accompanied by any schedules; (2) the petition was filed in the Central  
4 District of California, even though Debtor’s residential address (as listed  
5 on the petition) is located within the Southern District of California, which  
6 suggests that Mr. Berger may have lacked a good-faith basis for  
7 determining that the Central District of California was the proper venue for  
8 this case (see the Venue OSC for a more detailed discussion); and (3)  
9 Debtor requested voluntary dismissal of the case only nine days after filing  
10 the petition, with no explanation as to the change in circumstances. [OSC  
11 at pp. 2–3 (footnote omitted).]

## 7 **2. DISCUSSION**

8 Mr. Berger’s declaration (dkt. 20) in response to the OSC explains his attempts,  
9 under a tight time schedule, to assist Debtor, while recognizing his lack of expertise in  
10 the field of bankruptcy and the fact that he did not file the bankruptcy petition in the  
11 correct district. His declaration also states the following:

12 As of right now, I have no intention of ever representing a client in a  
13 bankruptcy case again. I am very sorry and embarrassed for the  
14 inconvenience I have unintentionally caused the court, trustee, creditors,  
15 and any other parties involved in this case. I swear it will never happen  
16 again. [Berger Decl. (dkt. 20) at ¶¶ 32–34.]

17 Prior to the hearing on the OSC, this Court posted a tentative ruling, which stated  
18 in relevant part:

19 This Court interprets [the foregoing statement of Mr. Berger] as a  
20 voluntary agreement not to appear as counsel for any party in any  
21 bankruptcy case pending in the Central District of California for an  
22 indefinite period of time, and potentially on a permanent basis. The  
23 tentative ruling is that it is appropriate to bar Mr. Berger from appearing as  
24 counsel for any party in any bankruptcy case in this district for a period of  
25 **one year from this hearing date**, absent further order of this Court lifting  
26 this bar. To be clear, Mr. Berger offers plausible explanations, and  
27 appears to exhibit appropriate remorse, and to avoid the time and  
28 expense of an evidentiary hearing it appears appropriate to accept Mr.  
Berger's apparent offer rather than attempt to determine precisely whether  
a lesser or greater sanction is appropriate.

To the extent this Court has misinterpreted Mr. Berger’s statement,  
he is directed to appear to contest this tentative ruling. Provided that Mr.  
Berger is prepared to voluntarily agree not to represent clients in  
bankruptcy cases filed in this district for a period of one year as set forth  
above, this Court is prepared to discharge the OSC. [Tentative Ruling for  
OSC Hearing at pp. 84–85.]

1 Mr. Berger appeared at the hearing on the OSC and elected not to contest the  
2 tentative ruling. Therefore, based upon Mr. Berger's voluntary agreement not to  
3 represent clients in bankruptcy cases filed in this district for a period of one year from  
4 the above-captioned hearing date, absent further order of this Court lifting this bar, a  
5 separate order discharging the OSC will be issued.

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24 Date: April 16, 2024



Neil W. Bason  
United States Bankruptcy Judge

