

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

IN RE:

CYNTHIA A. D'ANGIOLINI

CASE NO. 6:19-bk-06479-LVV

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MOTION TO STRIKE PLEADINGS

The debtor, through her undersigned attorney, files this Motion to Strike Pleadings and in support states as follows:

1. On Sunday, December 4, 2022, Flagler County Board of County Commissioners (hereinafter referred to as “Flagler County”) filed a Notice of Appearance and Request for Notice (Doc No. 24) in this case.
2. On December 7, 2022, Flagler County filed a Motion to Revoke Discharge and Convert Case to Chapter 7 (Doc No. 28).

"A party in a case is one who has standing. 'A party in interest must mean pecuniary interest'. Caserta v. Tobin, 175 B.R. 773, 775 (Bankr.S.D.Fla.1994) (citing Kapp v. Naturelle, 611 F.2d 703, 706 (8th Cir.1979).

“The law in the Eleventh Circuit governing standing to be heard is well established. The standard adopted by the Eleventh Circuit and every other circuit to consider the issue is that only a “person aggrieved” has standing to object to a bankruptcy order.⁷ A “person aggrieved” is a party having a “direct and substantial interest in the question” before the court.⁸ In a bankruptcy context, the “person aggrieved” doctrine restricts standing even more than Article III standing as it allows a person to be heard concerning a matter only when the person is “directly and adversely affected pecuniarily by the order.”⁹ This requires the person objecting to the order to have a financial stake in the outcome.¹⁰ A person has a financial stake when the order diminishes the person's property, increases the person's burdens, or impairs the person's rights.” In re Jones, 494 B.R. 569 (Bankr. M.D. Fla. 2013)

3. Flagler County is not a creditor in this case and has no standing. It would not share in any of the monetary proceeds were this case converted to a chapter 7 as its motion

seeks. Its rights would not be impaired or diminished or affected in any way by whether or not the Court grants its motion. Rather its sole purpose in filing this motion is to attempt to acquire Debtor's real property through a bankruptcy proceeding rather than to use the powerful arsenal legitimately at its disposal (eminent domain, condemnation actions et al). Its pleadings should be stricken and Flagler County should not be allowed to misuse the bankruptcy courts to circumvent its constitutionally approved legal remedies of acquiring real property.

Wherefore Debtor requests this Honorable Court to grant her Motion to Strike Pleadings.

I HEREBY CERTIFY that a copy of the foregoing has been furnished to Laurie Weatherford, Chapter 13 Trustee and Scott Spradley, counsel for Flagler County Board of County Commissioners via email this 8th day of December, 2022.

/s/Ann W. Rogers

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