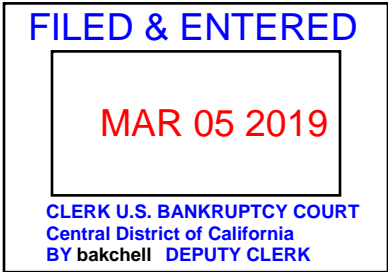


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**NOT FOR PUBLICATION**  
**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**LOS ANGELES DIVISION**

In re:  
ERIC OJIYI,  
Debtor.

Case No. 2:18-bk-24500-RK  
Chapter 7

**ORDER DENYING WITHOUT PREJUDICE  
SECOND MOTION OF CREDITOR  
AMELITA CUTLER TO DISMISS  
BANKRUPTCY CASE**

Vacated Hearing

Date: March 26, 2019  
Time: 2:30 p.m.  
Place: Courtroom 1675  
Roybal Federal Building  
255 East Temple Street  
Los Angeles, CA 90012

22 On February 26, 2019, creditor Amelita Cutler ("Movant") filed a motion to dismiss  
23 this Chapter 7 bankruptcy case ("First Motion"). ECF 15. The First Motion was filed on  
24 behalf of Movant by her counsel of record, John A. Belcher, of the Law Offices of John A.  
25 Belcher ("Attorney Belcher"). The First Motion was defective for at least three reasons:

- 26 1. Attorney Belcher filed the First Motion on February 26, 2019, noticing the hearing  
27 on the First Motion before the court on March 5, 2019, only 7 days later, which  
28 denies Debtor and the Chapter 7 Trustee procedural due process afforded by the

- 1 court's rules by denying them sufficient notice and opportunity to oppose the  
2 motion. See Local Bankruptcy Rule ("LBR") 9013-1(d)(2).
- 3 2. The First Motion and the declarations in support thereof did not include holographic  
4 signatures of Attorney Belcher or Movant as a declarant, and they included the  
5 electronic /s/ symbol instead. See ECF 15, 17, 18. These moving papers were  
6 manually filed with the court, and not electronically filed as it appears counsel for  
7 Movant is not an authorized electronic filer in this court pursuant to LBR 5005-4  
8 and related provisions in the Court Manual, and therefore, neither counsel nor his  
9 client, Movant, is permitted to use an electronic signature, /s/. See LBR 9011-1(a),  
10 (b)(1) and (2).
- 11 3. Service of the First Motion papers was also deficient because Movant and counsel  
12 did not serve a judge's copy on the assigned judge presiding over this case by  
13 personal delivery since the motion was filed less than 14 days before hearing  
14 pursuant to LBR 5005-2(d).

15 For these reasons, on February 28, 2019, the court entered an order denying the First  
16 Motion without prejudice and imposing remedial sanctions against Attorney Belcher (the  
17 "Remedial Sanctions Order"). ECF 19. Pursuant to the Remedial Sanctions Order, the  
18 court (1) denied the First Motion without prejudice; (2) vacated the hearing on the First  
19 Motion set for March 5, 2019 at 2:30 p.m.; (3) ordered Attorney Belcher to re-read the  
20 Local Bankruptcy Rules and file a declaration confirming compliance with such order; and  
21 (4) set a hearing on the Remedial Sanctions Order for March 26, 2019 at 1:30 p.m. to  
22 ensure Attorney Belcher's compliance with the Order. See ECF 19 at 3-4.

23 On February 28, 2019, the same day the court entered the Remedial Sanctions  
24 Order, Attorney Belcher, on behalf of Movant, apparently filed a second motion to dismiss  
25 this Chapter 7 bankruptcy case ("Second Motion"). ECF 23. It appears that the Second  
26 Motion was filed at the court's filing window on February 28, 2018, before the window  
27 closed at 4:00 p.m., which means the Second Motion was filed before the court entered  
28

1 the Remedial Sanctions Order. However, the Second Motion suffers from many of the  
2 same defects as the First Motion.

3 First, the Second Motion and the declarations in support thereof again do not  
4 include holographic signatures of Attorney Belcher or Movant as a declarant, and they  
5 include the electronic /s/ symbol instead. See ECF 23, 25, 26. These moving papers  
6 were manually filed with the court, and not electronically filed as it appears counsel for  
7 Movant is not an authorized electronic filer in this court pursuant to LBR 5005-4 and  
8 related provisions in the Court Manual, and therefore, neither counsel nor his client,  
9 Movant, is permitted to use an electronic signature, /s/. See LBR 9011-1(a), (b)(1) and  
10 (2). The Second Motion and supporting declarations are thus procedurally deficient,  
11 lacking valid signatures, and should be considered invalid pursuant to LBR 9011-1 and  
12 Federal Rule of Bankruptcy Procedure 9011(a).

13 Second, service of the Second Motion papers is also deficient because Movant and  
14 counsel did not serve a judge's copy on the assigned judge presiding over this case by  
15 personal delivery since the motion was filed less than 14 days before hearing pursuant to  
16 LBR 5005-2(d).

17 Third, according to the proof of service, the Second Motion was apparently served  
18 only on Debtor's counsel. See ECF 23 at 19. Pursuant to Federal Rules of Bankruptcy  
19 Procedure 2002(a)(4) and 9013, any motion to dismiss a Chapter 7 bankruptcy case must  
20 be served upon the debtor, the Chapter 7 trustee, all creditors, and indenture trustees.  
21 Fed. R. Bankr. P. 2002(a)(4) and 9013.

22 Having reviewed the Second Motion and related papers, the court determines that  
23 pursuant to Local Bankruptcy Rule 9013-1(j)(3), oral argument on the Second Motion is  
24 not necessary, dispenses with it, vacates the hearing on the Second Motion scheduled for  
25 March 26, 2019 at 2:30 p.m., takes the Second Motion under submission, and HEREBY  
26 ORDERS as follows:

27 1. The Second Motion is DENIED WITHOUT PREJUDICE because it is  
28 procedurally defective as discussed above.

