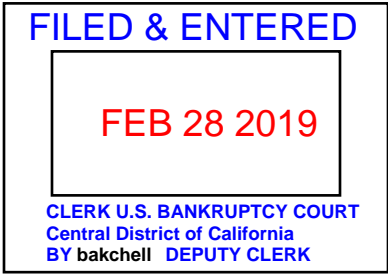


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NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
ERIC OJIYI,
Debtor.

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

**ORDER DENYING WITHOUT PREJUDICE
MOTION OF CREDITOR AMELITA
CUTLER TO DISMISS BANKRUPTCY
CASE AND IMPOSING REMEDIAL
SANCTIONS AGAINST COUNSEL FOR
MOVANT FOR FAILURE TO COMPLY
WITH LOCAL COURT RULES**

Vacated Hearing

Date: March 5, 2019
Time: 2:30 p.m.
Place: Courtroom 1675
Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012

Pending before the court is the motion ("Motion") of creditor Amelita Cutler ("Movant") to dismiss this Chapter 7 bankruptcy case, ECF 15, filed on February 26, 2019. The Motion was filed on behalf of Movant by her counsel of record, John A. Belcher, of the Law Offices of John A. Belcher ("Attorney Belcher").

Local Bankruptcy Rule ("LBR") 9013-1 governs motions filed in this court. Generally, "[a] motion must be filed and served not later than 21 days before the hearing

1 date designated in the notice." LBR 9013-1(d)(2). Notwithstanding this explicit 21-day
2 notice requirement of LBR 9013-1(d)(2), counsel for Movant filed the Motion on February
3 26, 2019, noticing the hearing on the Motion before the court on March 5, 2019, only 7
4 days later, which denies debtor procedural due process afforded by the court's rules by
5 denying him sufficient notice and opportunity to oppose the motion. See ECF 15 at 1.

6 Moreover, the Motion and the declarations in support thereof do not include
7 holographic signatures of Attorney Belcher or Movant as a declarant, and they include the
8 electronic /s/ symbol instead. See ECF 15, 17, 18. These moving papers were manually
9 filed with the court, and not electronically filed as it appears counsel for Movant is not an
10 authorized electronic filer in this court pursuant to LBR 5005-4 and related provisions in
11 the Court Manual, and therefore, neither counsel nor his client, Movant, is permitted to
12 use an electronic signature, /s/. See LBR 9011-1(b)(1) and (2). LBR 9011-1(a) provides,
13 in relevant part, as follows:

14 **Holographic Signatures.** . . . [E]very signature on a filed
15 document must be handwritten in ink (holographic). If the
16 document is filed electronically then the filer must scan the
17 signature page and insert it into the electronic (.pdf) version of the
18 document filed with the court. . . . Under no circumstances may a
reproduction of the same holographic signature be used on multiple
pages or in multiple documents. Each page that bears the
signature of a person must actually have been signed by the
person whose signature appears on such page.

19 LBR 9011-1(a). The Motion and supporting declarations are thus procedurally deficient,
20 lacking valid signatures, and should be considered invalid pursuant to LBR 9011-1 and
21 Federal Rule of Bankruptcy Procedure 9011(a).

22 Service of the moving papers is also deficient because Movant and counsel did not
23 serve a judge's copy on the assigned judge presiding over this case by personal delivery
24 since the motion was filed less than 14 days before hearing pursuant to LBR 5005-2(d).

25 LBR 1001-1(f) and 9011-3 allow the court to impose penalties and sanctions for a
26 party's violation of, or failure to conform to, the Local Bankruptcy Rules.

27 Having reviewed the Motion and related papers, the court determines that pursuant
28 to Local Bankruptcy Rule 9013-1(j)(3), oral argument on the Motion is not necessary,

1 dispenses with it, vacates the March 5, 2019 hearing on the Motion as improvidently
2 noticed by Movant, takes the Motion under submission, and HEREBY ORDERS as
3 follows:

4 1. The Motion is DENIED WITHOUT PREJUDICE because it is procedurally
5 defective as discussed above.

6 2. The hearing on the Motion noticed before the court for March 5, 2019 at 2:30
7 p.m. is VACATED and TAKEN OFF CALENDAR. No appearances are permitted at the
8 March 5, 2019 hearing on the Motion.

9 3. Attorney Belcher, who apparently filed the Motion on Movant's behalf
10 because it is purportedly signed in his name, acted contrary to (1) Local Bankruptcy Rule
11 9013-1(d)(2) by noticing a hearing date on the Motion on less than 21 days' notice;
12 (2) Local Bankruptcy Rule 9011-1(a) by not including holographic signatures in the moving
13 papers; and (3) Local Bankruptcy Rule 5005-2(d) by failing to serve a judge's copy of the
14 moving papers on the presiding judge by personal delivery. Pursuant to Local Bankruptcy
15 Rule 9011-3(a), to remedy the violations of Local Bankruptcy Rules 9013-1(d)(2), 9011-
16 1(a) and 5005-2(d), which indicate a general lack of familiarity by counsel with the court's
17 rules, Attorney Belcher is ORDERED to re-read the entire Local Bankruptcy Rules, and to
18 pay special attention to Local Bankruptcy Rules 9013-1, 9011-1 and 5005-2(d).

19 4. By no later than March 21, 2019, Attorney Belcher must file a declaration
20 under penalty of perjury with the court stating that he has re-read the entire Local
21 Bankruptcy Rules and now understands the rules and will obey them. Failure to timely file
22 this declaration with the court may result in the imposition of monetary sanctions against
23 Attorney Belcher. Further transgressions of Local Bankruptcy Rules 9013-1(d)(2) and
24 9011-1(a) by Attorney Belcher will result in the imposition of sanctions, which may include
25 attorneys' fees to compensate opposing parties for having had to file unnecessary
26 oppositions and other responsive pleadings.

27 5. The court sets a further hearing on these sanctions against Attorney Belcher
28 on March 26, 2019, at 1:30 p.m. for him to be heard if he seeks reconsideration of these

1 sanctions. The hearing will be in Courtroom 1675, Roybal Federal Building, 255 East
2 Temple Street, Los Angeles, California. If Attorney Belcher fails to file the declaration that
3 he has read and understood the Local Bankruptcy Rules as ordered, he is ordered to
4 appear at the hearing on March 26, 2019, at 1:30 p.m. If Attorney Belcher timely files the
5 declaration, the court will assume that he does not contest these sanctions, and the court
6 will take the hearing on sanctions off calendar.

7 IT IS SO ORDERED.

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24 Date: February 28, 2019



Robert Kwan
United States Bankruptcy Judge