

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
2500 Tulare Street, 5<sup>th</sup> Floor  
Courtroom 11, Department A  
Fresno, California

**PRE-HEARING DISPOSITIONS**

**DAY: WEDNESDAY**  
**DATE: JUNE 12, 2019**  
**CALENDAR: 1:30 P.M. CHAPTERS 11 AND 9 CASES**

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

1. [17-13112](#)-A-11     **IN RE: PIONEER NURSERY, LLC**  
[KDG-6](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF KLEIN,  
DENATALE, GOLDNER, COOPER, ROSENLIEB & KIMBALL, LLP FOR  
HAGOP T. BEDOYAN, CREDITOR COMM. ATY(S)  
5-13-2019    [[675](#)]

PETER FEAR

### **Final Ruling**

**Application:** Allowance of Fifth Interim Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 11 case, Klein DeNatale, counsel for the Official Committee of Unsecured Creditors has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$10,807.50 and reimbursement of expenses in the amount of \$0.00.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Klein DeNatale's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$10,807.50 and reimbursement of expenses in the amount of \$0.00. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

2. [10-62315](#)-A-11     **IN RE: BEN ENNIS**  
[FRC-14](#)

CONTINUED OBJECTION TO CLAIM OF BANK OF THE SIERRA, CLAIM  
NUMBER 20  
1-29-2019    [\[2289\]](#)

DAVID STAPLETON/MV  
RILEY WALTER  
WILLIAM FREEMAN/ATTY. FOR MV.  
RESPONSIVE PLEADING

**No Ruling**

3. [10-62315](#)-A-11     **IN RE: BEN ENNIS**  
[FRC-15](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH BANK OF THE SIERRA AND OLD DOMINION CAPITAL  
5-15-2019    [\[2334\]](#)

DAVID STAPLETON/MV  
RILEY WALTER  
WILLIAM FREEMAN/ATTY. FOR MV.

**No Ruling**

4. [10-62315](#)-A-11    **IN RE: BEN ENNIS**  
[FRC-16](#)

MOTION FOR AN ORDER APPROVING EIGHTH INTERIM DISTRIBUTION  
5-15-2019    [[2329](#)]

DAVID STAPLETON/MV  
RILEY WALTER  
WILLIAM FREEMAN/ATTY. FOR MV.

**Final Ruling**

**Motion:** For an Order to Approve Eight Interim Distribution

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by the movant

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). Ben Ennis has filed a non-opposition to the motion. No opposition has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The plan administrator requests that the court approve an eight interim distribution in accordance with the table provided in the motion. The total distribution equals \$1.5 million.

At Section V(R) of the confirmed plan, the plan administrator may seek court orders and instructions as the plan administrator deems necessary to carry out and further the purposes of the provisions of the plan. Other plan provisions provide support for the court's approval of interim distributions and reservations of funds as to unresolved claims. For the reasons stated in the motion, the court will approve the distribution in accordance with the amounts stated in the motion.

5. [18-11651](#)-A-11     **IN RE: GREGORY TE VELDE**  
[RAC-6](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF BLAKELEY LLP  
FOR RONALD A. CLIFFORD, CREDITOR COMM. ATY(S)  
5-15-2019    [\[2070\]](#)

MICHAEL COLLINS  
RESPONSIVE PLEADING

### **Final Ruling**

**Application:** Fifth Allowance of Interim Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 11 case, Blakely LLP has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$43,131 and reimbursement of expenses in the amount of \$912.30.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

The U.S. Trustee has filed a response, seeking to reserve her rights for objecting to the compensation in the subject application, in future interim and final applications by the movant in this case.

The granting of the proposed compensation here is without prejudice to the U.S. Trustee objecting to such compensation in connection with future compensation applications in this case by the movant.

The court does not however grant the U.S. Trustee rights that she would otherwise not have under applicable bankruptcy law.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Blakely LLP's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$43,131 and reimbursement of expenses in the amount of \$912.30. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.