

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Wednesday, August 31, 2016
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**
2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.
3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.
4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.
5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 A.M.

1. [15-13308](#)-B-7 WILLIAM BURNINGHAM
TGM-2

MOTION FOR COMPENSATION FOR
TRUDI G. MANFREDO, TRUSTEES
ATTORNEY(S)
7-20-16 [[57](#)]

JEFFREY ROWE/Atty. for dbt.

The fee application will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under FRBP 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. The applicant served as the trustee's attorney and the trustee has consented to the payment.

2. [14-13430](#)-B-7 STEPHEN/JENNIFER FORD
TGM-2

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF TRUDI G. MANFREDO
FOR TRUDI G. MANFREDO, TRUSTEES
ATTORNEY(S)
7-20-16 [[83](#)]

MICHAEL ARNOLD/Atty. for dbt.

The fee application will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under FRBP 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. The applicant served as the trustee's attorney and the trustee has consented to the payment.

3. [13-11642](#)-B-7 MERCED MILLING COMPANY,
JTW-2 LLC
JANZEN, TAMBERI AND WONG/MV

MOTION FOR COMPENSATION FOR
JANZEN, TAMBERI AND WONG,
ACCOUNTANT(S).
11-14-14 [[105](#)]

THOMAS ARMSTRONG/Atty. for dbt.

The fee application will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under FRBP 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. The applicant served as the trustee's accountant and the trustee has consented to the payment.

4. [16-12257](#)-B-7 ADOLFO OCAMPO JR.
TMT-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
7-29-16 [[16](#)]

GEORGE ALONSO/Atty. for dbt.

Debtor's counsel shall notify his client that no appearance is necessary at this hearing. The court will issue a civil minute order.

The debtor shall attend the meeting of creditors rescheduled for September 19, 2016, at 9:30 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or to move for dismissal of the case under section 707(b) is extended to 60 days after the conclusion of the meeting of creditors.

5. [12-12583](#)-B-7 STEVE/REBECCA FUGITT
MAZ-2
STEVE FUGITT/MV
MARK ZIMMERMAN/Atty. for dbt.

MOTION TO AVOID LIEN OF
FINANCIAL CREDIT NETWORK, INC.
7-29-16 [[45](#)]

The motion will be granted without oral argument based upon well-pled facts. The moving party shall submit a proposed order. No appearance is necessary.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondents' defaults will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under FRBP 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here. It appears that the debtors are entitled to avoid this lien.

6. [14-10398](#)-B-7 LAURA GEIGER
THA-3

MOTION FOR COMPENSATION FOR
THOMAS H. ARMSTRONG, TRUSTEES
ATTORNEY(S)
8-2-16 [[107](#)]

PETER FEAR/Atty. for dbt.

The application for fees will be granted. No appearance is necessary. The applicant shall submit a proposed order.

The trustee's counsel requests compensation in the amount of \$2,452.50. Since this application is not lengthy, the court was able to review the services rendered without much difficulty. However, counsel is reminded that 11 U.S.C. § 330(a) permits compensation awards for "actual, necessary services" Without dividing the tasks into project categories as set forth in "United States Trustee Guidelines For Reviewing Applications For Compensation And Reimbursement of Expenses Filed Under 11 U.S.C. § 330 Issued January 30, 1996" ("Guidelines"), such review is difficult and the weighing of factors mandated by § 330 (a) (3), impossible. The applicant has the burden of proof and risk of non-persuasion. *In re Scoggins*, 517 B.R. 206, 221 (Bankr. E.D. Cal. 2014); *In re Gianulias*, 111 B.R. 867, 869 (E.D. Cal. 1989).

Although applicant provided a narrative and an amount for each area, such a narrative is not a substitute for project categorization. Future applications may well be denied for lack of proof unless the application divides the tasks into project categories. This should be presented with the chronological listing of the tasks as was done in this case. The Guidelines should be followed.