

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

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

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: JANUARY 10, 2018
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. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 pm at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling because of the court's error under FRCP 60 (a) (FRBP 9024) ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 pm one business day before the hearing.

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**
[FW-19](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WILKINS
DROLSHAGEN & CZESHINSKI, LLP FOR JAMES H. WILKINS, SPECIAL
COUNSEL(S)
12-12-2017 [[352](#)]

JAMES WILKINS/MV
PETER FEAR
NON-OPPOSITION

Final Ruling

Application: 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, Wilkins Drolshagen & Czeshinski, LLP, special counsel for the debtor in possession, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$4,270.00 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.

Wilkins Drolshagen & Czeshinski, 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 \$4,270.00 and reimbursement of expenses in the amount of \$0.00. The applicant is authorized to draw on the retainer held in the amount of \$14,993.55.

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.

2. [17-13112](#)-A-11 **IN RE: PIONEER NURSERY, LLC**
[FW-22](#)

CONTINUED MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR
WADDELL, P.C. FOR PETER L. FEAR, DEBTORS ATTORNEY(S)
11-22-2017 [[266](#)]

PETER FEAR
NON-OPPOSITION

Final Ruling

Application: Allowance of First 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, Fear Waddell, P.C., counsel for the debtor in possession, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$50,109.50 and reimbursement of expenses in the amount of \$2,456.54.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession 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.

Fear Waddell, P.C.'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 \$50,109.50 and reimbursement of expenses in the amount of \$2,456.54. 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.

3. [15-12827](#)-A-11 **IN RE: BLUEGREENPISTA ENTERPRISES, INC.**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION
7-18-2015 [[1](#)]

No Ruling

4. [15-12827](#)-A-11 **IN RE: BLUEGREENPISTA ENTERPRISES, INC.**
[TGM-32](#)

CONTINUED MOTION TO COMPROMISE CONTROVERSY/APPROVE
SETTLEMENT AGREEMENT WITH RANDEEP KAUR AND BALRAJ SINGH,
CO-EXECUTORS OF THE ESTATE OF AMERJEET KAUR AND JOSEPH P.
AND PAMELA D. ROMANCE
11-3-2017 [[742](#)]

RANDELL PARKER/MV
TRUDI MANFREDO/ATTY. FOR MV.

No Ruling

5. [17-12389](#)-A-11 **IN RE: DON ROSE OIL CO., INC.**
[BTM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-30-2017 [[594](#)]

MACK FINANCIAL SERVICES/MV
RILEY WALTER
BENJAMIN MORTON/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

6. [17-12389](#)-A-11 **IN RE: DON ROSE OIL CO., INC.**
[JHK-2](#)

MOTION TO APPROVE STIPULATION FOR ADEQUATE PROTECTION
12-22-2017 [[654](#)]

MERCEDES-BENZ FINANCIAL
SERVICES USA, LLC/MV
RILEY WALTER
JOHN KIM/ATTY. FOR MV.

No Ruling

7. [17-12389](#)-A-11 **IN RE: DON ROSE OIL CO., INC.**
[WW-10](#)

CONTINUED MOTION FOR COMPENSATION BY THE LAW OFFICE OF
WALTER WILHELM LAW GROUP FOR MICHAEL L. WILHELM, DEBTORS
ATTORNEY(S)
9-20-2017 [[409](#)]

RILEY WALTER
NON-OPPOSITION

Final Ruling

The motion is granted on a final basis in the amounts specified in the Civil Minute Order ¶ 3, October 23, 2017, ECF # 510. The applicant is authorized to draw on any retainer held. If the retainer is insufficient to fully compensate the applicant for fees and costs, the chapter 11 trustee is authorized, but not required, to pay fees allowed by this order from available funds only if the estate is administratively solvent and such payment shall be consistent with the priorities in the Bankruptcy Code. The court will issue a civil minute order.

8. [17-12389](#)-A-11 **IN RE: DON ROSE OIL CO., INC.**
[WW-11](#)

CONTINUED MOTION FOR COMPENSATION FOR BROWN ARMSTRONG
ACCOUNTANCY CORP., ACCOUNTANT(S)
9-20-2017 [[402](#)]

BROWN ARMSTRONG/MV
RILEY WALTER
NON-OPPOSITION

Final Ruling

The motion is granted on a final basis in the amounts specified in the Civil Minute Order ¶ 3, October 23, 2017, ECF # 509. The applicant is authorized to draw on any retainer held. If the retainer is insufficient to fully compensate the applicant for fees and costs, the chapter 11 trustee is authorized, but not required, to pay fees allowed by this order from available funds only if the estate is administratively solvent and such payment shall be consistent with the priorities in the Bankruptcy Code. The court will issue a civil minute order.