

**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: FEBRUARY 10, 2016
CALENDAR: 1:30 P.M. CHAPTER 11 AND 9 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [10-62315](#)-A-11 BEN ENNIS
LRP-55
DAVID STAPLETON/MV
RILEY WALTER/Atty. for dbt.
WILLIAM FREEMAN/Atty. for mv.

MOTION TO SELL
1-20-16 [[2007](#)]

No tentative ruling.

2. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE
DISTRICT

ORDER TO APPEAR AND SHOW CAUSE
WHY A PATIENT CARE OMBUDSMAN
SHOULD NOT BE APPOINTED
1-6-16 [[8](#)]

ASHLEY MCDOW/Atty. for dbt.

No tentative ruling.

3. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE
BH-1 DISTRICT
SOUTHERN INYO HEALTHCARE
DISTRICT/MV
ASHLEY MCDOW/Atty. for dbt.

MOTION TO EXCUSE THE
APPOINTMENT OF A PATIENT CARE
OMBUDSMAN
1-25-16 [[28](#)]

No tentative ruling.

4. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE
FEC-1 DISTRICT

STATUS CONFERENCE RE: CHAPTER 9
VOLUNTARY PETITION
1-4-16 [[1](#)]

ASHLEY MCDOW/Atty. for dbt.

No tentative ruling.

5. [13-14894](#)-A-11 JORENE MIZE
RAF-16

MOTION FOR COMPENSATION FOR
ROSEANN FRAZEE, DEBTORS
ATTORNEY(S)
12-31-15 [[367](#)]

ROSEANN FRAZEE/Atty. for dbt.

No tentative ruling.

6. [13-14894](#)-A-11 JORENE MIZE
RAF-17
JORENE MIZE/MV
ROSEANN FRAZEE/Atty. for dbt.

MOTION FOR FINAL DECREE
1-8-16 [[372](#)]

Tentative Ruling

Motion: Enter Final Decree Closing Chapter 11 Case

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

Disposition: Granted

Order: Prepared by moving party

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). 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).

Under § 350(a) and Federal Rule of Bankruptcy Procedure 3022, the court must enter a final decree closing a case when the estate has been "fully administered." 11 U.S.C. § 350(a); Fed. R. Bankr. P. 3022. "However, neither the Bankruptcy Code nor the Federal Rules of Bankruptcy Procedure define the term 'fully administered.'" See *In re Ground Sys., Inc.*, 213 B.R. 1016, 1018 (B.A.P. 9th Cir. 1997) (denying motion for entry of final decree because debtor's plan required estate to remain open pending completion of plan payments and such a plan requirement did not run afoul of the Code and Federal Rules of Bankruptcy Procedure).

The Advisory Committee Note to Rule 3022 lists a number of factors for courts to consider in determining whether the estate has been fully administered. See Fed. R. Bankr. P. 3022 advisory committee's note-1991 Am. These factors present a court with "flexibility in determining whether an estate is fully administered," and "not all of the factors . . . need to be present to establish that a case is fully administered for final decree purposes." *In re Provident Fin., Inc.*, Nos. MT-10-1134-JuPaD, MT-10-1135-JuPaD, Bankr. No. 09-61756, 2010 WL 6259973 (B.A.P. 9th Cir. Oct. 12, 2010) (unpublished opinion).

The Advisory Committee Note also states that entry of a final decree "should not be delayed solely because the payments required by the plan have not been completed." Fed. R. Bankr. P. 3022 advisory committee's note-1991 Am. It further provides that "[t]he court should not keep the case open only because of the possibility that the court's jurisdiction may be invoked in the future. A final decree closing the case after the estate is fully administered does not deprive the court of jurisdiction to enforce or interpret its own orders and does not prevent the court from reopening the case for cause pursuant to § 350(b) of the Code." *Id.*

Here, factors supporting a finding of full administration of the estate have been satisfied. The order confirming the plan has become final pursuant to Rule 8002 and payments under the confirmed plan have commenced. Fourteen monthly payments have been made to scheduled creditors under the plan as of the date of the motion's filing. All motions, other than this motion and the application for fees filed by

counsel for the debtor, contested matters, and adversary proceedings have been resolved. No other factors listed in the advisory committee note have been contested by any creditor or party in interest.