

**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:** FEBRUARY 26, 2020

**CALENDAR:** 9:00 A.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. [18-14414](#)-A-11     **IN RE: TITUS INDUSTRIAL, INC.**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY  
PETITION  
10-30-2018    [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.

#### **No Ruling**

2. [19-15278](#)-A-11     **IN RE: THE MAGNOLIA GROUP, INC.**  
[GLF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-24-2020    [[26](#)]

ABLP REIT, LLC/MV  
JUSTIN HARRIS/ATTY. FOR DBT.  
AMY MARTINEZ/ATTY. FOR MV.

#### **Final Ruling**

**Motion:** Relief from Stay

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The court will deny the motion without prejudice on grounds of insufficient service of process. A motion for relief from stay is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4001(a)(1), 9014(b); *In re LSSR, LLC*, 2013 WL 2350853 \*4 (9th Cir. BAP May 29, 2013). Under Rule 7004 a domestic corporation or partnership must be served "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. Fed. R. Bankr. 7004(b)(3); *LSSR*, 2013 WL at \* 4.

Here, service of the motion was insufficient. Movant ABLP REIT, LLC did serve the 20 largest creditors. Certificate of Service, January 24, 2020, ECF # 35. But service on at least four such entities, e.g., Comcast, Coulter Interiors, Inc., Shahan & Shahan dba Security First Alarm and Waste Management, was not accomplished in the manner prescribed by Rule 7004(b)(3). The motion is denied without prejudice.

3. [19-15278](#)-A-11     **IN RE: THE MAGNOLIA GROUP, INC.**  
[GLF-3](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR ADEQUATE PROTECTION  
2-7-2020    [[46](#)]

ABLP PROPERTIES VISALIA LLC/MV  
JUSTIN HARRIS/ATTY. FOR DBT.  
AMY MARTINEZ/ATTY. FOR MV.

### **Final Ruling**

**Motion:** Relief from Stay  
**Disposition:** Denied without prejudice  
**Order:** Civil minute order

The court will deny the motion without prejudice on grounds of insufficient service of process. A motion for relief from stay is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4001(a)(1), 9014(b); *In re LSSR, LLC*, 2013 WL 2350853 \*4 (9th Cir. BAP May 29, 2013). Under Rule 7004 a domestic corporation or partnership must be served "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. Fed. R. Bankr. 7004(b)(3); *LSSR*, 2013 WL at \* 4.

Here, service of the motion was insufficient. Movant ABLP REIT, LLC did serve the 20 largest creditors. Certificate of Service, February 7, 2020, ECF # 53. But service on at least four such entities, e.g., Comcast, Coulter Interiors, Inc., Shahan & Shahan dba Security First Alarm and Waste Management, was not accomplished in the manner prescribed by Rule 7004(b)(3). The motion is denied without prejudice.

Moreover, there are procedural violations underlying this motion. All pleadings must contain a caption. LBR 9004-2(b)(5). Exhibits 1 and A, February 7, 2020, ECFs # 50-51 are filed without caption. Also, the movant has not Bates stamped or indexed those exhibits. LBR 9004-2(9). Finally, the movant has used an incorrect docket control number on the Certificate of Service. LBR 9014-1(c).

4. [19-15278](#)-A-11     **IN RE: THE MAGNOLIA GROUP, INC.**  
[HLF-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF HARRIS LAW  
FIRM, PC FOR JUSTIN D. HARRIS, DEBTORS ATTORNEY(S)  
2-5-2020    [[40](#)]

JUSTIN HARRIS/ATTY. FOR DBT.

**Tentative Ruling**

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

**Notice:** LBR 9014-1(f)(2); no 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). 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, Harris Law Firm, 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 \$9,798.00 and reimbursement of expenses in the amount of \$237.15.

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.

Harris Law Firm'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 \$9,798.00 and reimbursement of expenses in the amount of \$237.15. 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.

5. [19-15279](#)-A-11     **IN RE: MAGNOLIA PARK**  
[GLF-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR ADEQUATE PROTECTION  
2-7-2020    [[41](#)]

ABLP PROPERTIES VISALIA LLC/MV  
JUSTIN HARRIS/ATTY. FOR DBT.  
AMY MARTINEZ/ATTY. FOR MV.

**Final Ruling**

**Motion:** Relief from Stay

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The court will deny the motion without prejudice on grounds of insufficient service of process. A motion for relief from stay is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4001(a)(1), 9014(b); *In re LSSR, LLC*, 2013 WL 2350853 \*4 (9th Cir. BAP May 29, 2013). Under Rule 7004 a domestic corporation or partnership must be served "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. Fed. R. Bankr. 7004(b)(3); *LSSR*, 2013 WL at \* 4.

Here, service of the motion was insufficient. Movant ABLP REIT, LLC did serve the 20 largest creditors. Certificate of Service, February 7, 2020, ECF # 48. But service on at least approximately 12 entity creditors was not accomplished in the manner prescribed by Rule 7004(b)(3). The motion is denied without prejudice.

Moreover, there are procedural violations underlying this motion. All pleadings must contain a caption. LBR 9004-2(b)(5). Exhibits 1 and A, February 7, 2020, ECFs # 50-51 are filed without caption. Also, the movant has not Bates stamped or indexed those exhibits. LBR 9004-2(9). Finally, the movant has used an incorrect docket control number on the Certificate of Service. LBR 9014-1(c).

6. [20-10100](#)-A-12     **IN RE: TRANQUILITY PISTACHIO, LLC**

STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY PETITION  
1-13-2020    [[1](#)]

NOEL KNIGHT/ATTY. FOR DBT.

**No Ruling**

7. [20-10188](#)-A-12     **IN RE: MIKE WEBER**

STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY PETITION  
1-17-2020    [[1](#)]

DAVID JENKINS/ATTY. FOR DBT.

**No Ruling**