



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

**HONORABLE RENÉ LASTRETO II  
Department B – Courtroom #13  
Fresno, California**

**Hearing Date: Tuesday, April 11, 2023**

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to ZoomGov, free of charge, using the information provided:

**Video web address:** <https://www.zoomgov.com/j/1605189912?pwd=NE83THplbU5jYnN2cmRzV252eDF5QT09>  
**Meeting ID:** 160 518 9912  
**Password:** 911333  
**ZoomGov Telephone:** (669) 254-5252 (Toll-Free)

Please join at least 10 minutes before the start of your hearing. You are required to give the court 24 hours advance notice on [Court Calendar](#).

To appear remotely for law and motion or status conference proceedings, you must comply with the following new guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Review the court's [Zoom Procedures and Guidelines](#) for these and additional instructions.
3. Parties appearing through CourtCall are encouraged to review the [CourtCall Appearance Information](#).

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including "screenshots" or other audio or visual copying of a hearing, is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

## **INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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, and all parties will need to appear at the hearing unless otherwise ordered. 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.

**Post-Publication Changes:** The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings 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 any possible updates.

9:30 AM

1. [22-11540](#)-B-11     **IN RE: VALLEY TRANSPORTATION, INC.**  
[HLG-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF HATMAKER LAW  
GROUP FOR SUSAN K. HATMAKER, SPECIAL COUNSEL(S)  
3-14-2023     [[365](#)]

RILEY WALTER/ATTY. FOR DBT.  
SUSAN HATMAKER/ATTY. FOR MV.

TENTATIVE RULING:             This matter will proceed as scheduled.

DISPOSITION:                     Granted as modified below.

ORDER:                             The minutes of the hearing will be the court's  
findings and conclusions. The Moving Party shall  
submit a proposed order after hearing.

Susan K. Hatmaker of Hatmaker Law Group ("Applicant"), special counsel to chapter 11, subchapter V debtor in possession Valley Transportation, Inc. ("Debtor"), requests interim compensation under 11 U.S.C. § 331 in the sum of \$42,275.72, subject to final review pursuant to 11 U.S.C. § 330. Doc. #365. This amount consists of \$38,400.25 in fees as reasonable compensation for services rendered and \$3,875.47 in reimbursement for actual, necessary expenses between January 1 through February 28, 2023 for general matters, and February 1 through 28, 2023 for all other matters. *Id.*

Deborah Simpson—Debtor's President, CEO, and representative—filed a client approval statement with declaration indicating that she has reviewed the application, determined that the application accurately reflects services rendered and costs incurred, and has no objection to the proposed payment. Doc. #367.

No party in interest timely filed written opposition. However, this matter will be called and proceed as scheduled. The court intends to GRANT THIS MOTION AS MODIFIED BELOW.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6). The failure of the creditors, the subchapter V trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys.*,

*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.

Applicant's retention as special counsel was authorized for services related to the following: (a) serving as general counsel for Debtor and providing consultation regarding general business and employment matters; (b) representing Debtor in and addressing issues arising from any further actions taken in Fresno County Superior Court Case No. 22CECG01786, entitled *Mendoza v. Valley Transportation, Inc.* ("VTI Action"), including but not limited to appearing for Debtor at the Bankruptcy Status Conference scheduled for March 10, 2023; (c) serving as litigation counsel in defense of Debtor with regard to the dispute alleged in the VTI Action, whether that disputes proceeds as an action in Bankruptcy Court or in State Court; (d) serving as litigation counsel in defense of Debtor's employees, Deborah Simpson and Rodney Heintz, in Fresno County Superior Court Case No. 22CECG02752, entitled *Mendoza v. Deborah Simpson, Rodney Heintz, and Barrett Business Services, Inc.* ["BBSI"], et al ("Simpson Action"), whether it proceeds in Bankruptcy Court or in State Court. Doc. #101.

This is Applicant's third interim fee application. Applicant was previously awarded the following fees:

Period	Fees	Expenses	Total
08/30/22-11/30/22	\$136,142.00	\$3,892.56	\$140,034.56
12/01/22-01/31/23	\$112,706.00	\$29,000.26	\$141,706.26
<b>Total fees awarded</b>			<b>= \$281,740.82</b>
Pre-petition retainer			- \$144,117.52
<b>Total fees paid by Debtor</b>			<b>= \$137,623.30</b>

Docs. #320; #355. Applicant now requests fees for 155.95 billable hours of legal services at the following rates, totaling **\$38,400.25**:

Professional	Rate	Hours	Fees
Susan K. Hatmaker, Attorney	\$325	33.25	\$10,806.25
Robert W. Branch, Attorney	\$305	51.2	\$15,616.00
Aimee E. Rainwater, Attorney	\$290	5.4	\$1,566.00
Ray S. Pool, Law Clerk	\$185	14.2	\$2,627.00
Melanie Salas, Paralegal	\$150	29.8	\$4,470.00
Kathy Giambalvo, Paralegal	\$150	16.2	\$2,430.00
Melanie Grandalski, Paralegal	\$150	5.9	\$885.00
<b>Total Hours &amp; Fees</b>		<b>155.95</b>	<b>\$38,400.25</b>

Doc. #365; Exs. B-C, Doc. #369. These fees can be further delineated as (a) 5.90 billable hours totaling \$1,711.00 in fees for Debtor's general business operations; (b) 90.30 billable hours totaling \$21,906.50 in fees for the VTI Action, and (c) 59.75 hours totaling \$14,782.75 for this bankruptcy case. *Id.*

Applicant also incurred **\$3,875.47** in expenses:

VTI General Business	
Reproduction	\$1.26
Total VTI General Expenses	= \$1.26
VTI Action	
Filing fees	\$161.37
Reproduction	+ \$394.26
Postage	+ \$27.32
Electronic Research	+ \$170.59
Overnight Fees	+ \$74.85
Deposition Transcripts	+ \$2,842.9
VTI Action Expenses	= \$3,671.29
Bankruptcy Action	
PACER	\$90.30
CourtCall	+ \$22.50
Reproduction	+ \$36.90
Postage	+ \$53.22
Bankruptcy Action Expenses	= \$202.92
<b>Total Expenses</b>	<b>= \$3,875.47</b>

*Exs. E-G, id.* These combined fees and expenses total **\$42,275.72**.

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3). Applications for interim compensation under 11 U.S.C. § 331 are subject to review under § 330.

Applicant's services here included, without limitation: (1) litigation matters in this bankruptcy case and the VTI Action; (2) preparing its fee application for services provided from December 2022 through January 2023; (3) assisting in review of the Rule 2004 Examination transcript; (4) assisting in analyzing and responding to objections to Debtor's plan of reorganization; (5) preparing responses to document production requests in the VTI Action; and (6) preparing a motion to quash service of summons and second amended complaint on Deborah Simpson in the VTI and Simpson Actions. *Exs. A-G, Doc. #369*. Debtor has consented to payment of the proposed fees and expenses. *Doc. #367*.

However, the court intends to disallow \$2,484.00 the fees for the following time entries for the reasons stated:

**B200 - Business Operations**

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Fees</b>	<b>Description</b>	<b>Reason</b>
1/27	AER	0.4	\$116	Begin drafting documentation.	Entry is vague and does not describe the documentation drafted.
2/1	AER	2.3	\$667	Review documents; further draft documents; research and draft the cover letter.	Entry is vague and does not describe the nature of the documentation or the service.
2/3	AER	1.9	\$551	Further draft documentation; further draft the cover letter, and draft correspondence to Deborah Simpson regarding the documents.	Entry is vague and does not describe the service.
Disallowed		4.6	\$1,334		

**B500 - Litigation - VTI Action**

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Fees</b>	<b>Description</b>	<b>Reason</b>
2/3	KLK	0.1	\$15	Telephone call with Michele Grandalski regarding filing project.	Vague and does not describe the project.
2/3	KLK	0.3	\$45	Conduct research.	Vague as to nature of research.
2/14	MG	1.1	\$165	Review and revised Oppositions to Request for Pretrial Discovery Conference; draft Proofs of Service; email correspondence to Zachary Lynch enclosing request: draft enclosure memorandum with service via U.S. Mail, efiled documents.	Lumped entry and some of the services appear clerical and not compensable.
2/20	KLK	0.4	\$60	Bates stamp documents for document production.	Clerical entry and not compensable.
2/21	MG	2.2	\$330	Review and organized clients Response to Request for Production of Documents, Set Three; draft Proofs of Service, enclosure memorandum, and prepare documents for service via U.S. Mail; email correspondence to opposing counsel attaching discovery responses.	Lumped entry and some services appear clerical and not compensable.
2/28	MG	1.6	\$240	Reviewed and organize client's Motion to Quash, Request for Judicial Notice, Memorandum of Points and Authorities, and Declaration of Deborah Simpson; draft enclosure memorandum; efiled documents; served documents via U.S. Mail.	Lumped entry and some services appear clerical.
Disallowed		5.7	\$855		

**B160 - Fee/Employment Applications**

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Fees</b>	<b>Description</b>	<b>Reason</b>
2/14	MS	0.7	\$105	Conference with Susan Hatmaker regarding errata; finalize, file and serve Errata.	Clerical and not compensable
Disallowed		0.7	\$105		

<b>B500 - Litigation</b>					
<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Fees</b>	<b>Description</b>	<b>Reason</b>
2/3	KLK	0.1	\$15	Telephone call with Michele Grandalski regarding filing project.	Entry is vague and no description of the "filing project."
2/3	KLK	0.3	\$45	Conduct research.	Entry is vague and no description of the "research."
2/7	SKH	0.4	\$130	Arrange for project.	Entry is vague as to "arrange" and "project."
Disallowed		0.8	\$190		
<b>Total</b>		<b>11.8</b>	<b>\$2,484</b>		
<b>Disallowed</b>					

This matter will be called and proceed as scheduled. The court intends to reduce the fees by \$2,484.00. Applicant will be awarded \$35,916.25 in fees as reasonable compensation for services rendered and \$3,875.47 in reimbursement for actual, necessary expenses under 11 U.S.C. § 331, subject to final review pursuant to § 330. Debtor will be authorized to pay Applicant a total of \$39,791.72 for fees and expenses from January 1 through February 28, 2023 for general matters, and February 1 through 28, 2023 for all other matters.

2. [23-10244](#)-B-11 **IN RE: BEAM & COMPANY, INC**  
[CAE-1](#)

STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY  
 PETITION  
 2-10-2023 [[1](#)]

PETER FEAR/ATTY. FOR DBT.

NO RULING.

3. [23-10244](#)-B-11 **IN RE: BEAM & COMPANY, INC**  
[FW-2](#)

FURTHER HEARING RE: MOTION TO USE CASH COLLATERAL  
 2-13-2023 [[6](#)]

BEAM & COMPANY, INC/MV  
 PETER FEAR/ATTY. FOR DBT.  
 RESPONSIVE PLEADING

NO RULING.

The court issued an order authorizing the interim use of cash collateral on March 1, 2023. Doc. #48. The order permitted interim use through April 11, 2023. Adequate protection was provided Hanmi Bank ("Bank") and other creditors claiming an interest in the cash collateral by granting replacement liens on post-petition acquired

assets, cash, and accounts receivable. *Id.* Bank's inspection rights were also acknowledged. *Id.*

Beam & Company, Inc. ("Debtor") filed a declaration of Mr. Cooper and an unaudited Profit and Loss Statement and a revised budget. Doc. #58. Debtor asks for a "final" cash collateral authorization through Plan confirmation. *Id.*

Bank opposes further use or, alternatively, requests that any authorization for cash collateral use continue only on an interim basis, though Bank does not specify the time period for such interim use. Doc. #63. Also Bank requests monthly adequate protection payments. Doc. #67.

Bank argues it is not adequately protected for four reasons. First, Debtor's monthly net income projections should be discounted by the 80% collection rate mentioned by the debtor. Second, the income is overstated because the amount of "undeposited funds" is not specified and Debtor's February MOR is less than projected. Third, Mr. Cooper testified at the creditor's meeting that Debtor had inadequate insurance. Fourth, Bank is not adequately protected because the accounts receivables are aging more than 90 days.

Debtor responds to concerns about the net income by noting that even discounting the actual accounts receivable as of March 31, there is approximately 215,000.00 in receivables and over \$86,000 in cash at the end of March. Docs. ##69-70. Second, the extent of "undeposited" funds is approximately 16,000.00 weekly as Debtor deposits these funds once weekly. *Id.* The court notes that the MOR is for February 2023 Doc. #1. This case was filed February 10, 2023.

On the insurance issue, Mr. Cooper's reply declaration explains that the insurance line item in the budget includes all insurance expenses except auto insurance which is a separate line item. Doc. #70. Finally, Debtor contends the accounts receivable are not diminishing but fully replenishing. *Id.* There is also a positive cash balance according to the February MOR. A portion of the receivables represent ongoing jobs which explains a delay in realizing payment. *Id.*

Bank raises three other issues. They can be quickly resolved. Bank says Debtor needs to submit the recent tax return and a cash flow statement. Doc. #63. Debtor responds that the tax return was filed with the petition and no cash flow statement has been prepared because there has been no accountant prepared statements, so far. Doc. ##69-70. Cash flow will need to be part of the submissions supporting the Plan. There is also a Subchapter V Trustee in this case who can provide Bank and Debtor with an extra layer of reporting and oversight should that be needed.

Bank also argues that Debtor's cash flow will not support payment of Bank's \$1.8 million debt with market interest under a Plan. Doc. #63. This is puzzling since Bank can raise these issues in the proper



context - Plan confirmation. It is not an issue relevant to a cash collateral motion. Bank can raise the issue then. Debtor has the burden of proof on adequate protection on this motion § 363(p)(1). Debtor will also have the burden on Plan confirmation to establish the necessary facts supporting confirmation. Bank can present evidence then.

Also, Bank seems to skip over the fact that the value of its security interest—whatever that may be—is the relevant concern here. Debtor has stated in its Status Report that it intends to seek a valuation of Bank's interest. So again, Bank's argument is premature.

Finally, Bank is concerned that Debtor redacted the names of its account debtors when it listed accounts receivable in the February MOR. Debtor says it did not want to list the identities of the account debtors in a public filing. The court shares Bank's concern. Bank has a panoply of discovery devices available. Should Debtor resist identifying the account debtors in an appropriate context, that may raise another issue. With appropriate facts, an unredacted A/R aging report could be filed under seal. See, 11 U.S.C. § 107. No party has asked for that relief or factually supported the request.

There should be other alternatives to a full redaction.

The hearing will proceed as scheduled.

4. [23-10457](#)-B-11     **IN RE: MADERA COMMUNITY HOSPITAL**  
[WJH-24](#)

MOTION FOR ORDER AUTHORIZING PASS THROUGH OF PAYMENTS (DHCS  
WORKER RETENTION PAYMENTS)  
3-28-2023    [[144](#)]

MADERA COMMUNITY HOSPITAL/MV  
RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will be called as scheduled.

DISPOSITION:                 Granted.

ORDER:                         The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after hearing.

Chapter 11 debtor in possession Madera Community Hospital ("Debtor") moves for an order authorizing Debtor to distribute worker retention payments from the Department of Health Case Services ("DHCS") to Debtor's former and current employees. Doc. #144.

Written opposition was not required and may be presented at the hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Prior to Debtor's chapter 11 filing, California State Senate Bill 184 was signed into law, thereby codifying the Hospital and Skilled Nursing Facility COVID-19 Worker Retention Pay program (the "Program").

The Program was enacted to retain California's healthcare workforce by issuing payments to qualified healthcare workers employed at certain approved entities. Whether a healthcare worker is qualified to receive payments, and whether an entity is designated as approved are determined by DHCS following a registration and application process. When approved, DHCS will release funds to the approved entity, who is required to release payments to approved employees within 60 days of receipt.

Debtor registered and applied for the Program for the period of July 30, 2022 through October 28, 2022. On March 21, 2023, DHCS advised Debtor that the amount of the disbursement to Debtor on behalf of its 593 approved employees will be \$553,000. A list of employees and the payments amount are included in a disbursement listed attached as an exhibit. See *Ex. A*, Doc. #147.

Debtor is informed DHCS is agreeable to the following mechanism to allow the funds to pass directly to current and former employees:

1. Upon granting this motion, DHCS will issue the disbursement to Debtor, which will be deposited into Debtor's DIP account, and
2. Upon receipt of the disbursement, Debtor will have 60 days to distribute the funds to the employees pursuant to the employee disbursement list, and 90 days to return funds that could not be distributed to the employees back to DHCS.

Doc. #146.

Written opposition was not required and may be presented at the hearing. This matter will be called and proceed as scheduled.

11:00 AM

1. [23-10230](#)-B-7     **IN RE: ERIC/MICHELE MEDLEY**

PRO SE REAFFIRMATION AGREEMENT WITH GOLDEN 1 CREDIT UNION  
3-13-2023     [[13](#)]

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Dropped.

ORDER:     The court will issue an order.

A Reaffirmation Agreement between debtors Eric and Michelle Medley and Golden 1 Federal Credit Union for a 2108 Chevy Colorado Crew Cab was filed on March 13, 2023. Doc. #13.

The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtor's attorney with the appropriate attestations. *Id.* Additionally, the reaffirmation agreement is between a represented debtor and a credit union. 11 U.S.C. § 524(m)(2); *Bay Fed. Credit Union v. Ong (In re Ong)*, 461 B.R. 559, 563 (B.A.P. 9th Cir. 2011) (reversing disapproval of reaffirmation agreement between represented debtor and credit union), citing *In re Morton*, 410 B.R. 556, 562 (B.A.P. 9th Cir. 2009) (reaffirmation agreement between represented debtor and credit union is "not subject to judicial oversight"). Pursuant to § 524(d), the court need not approve the agreement.

1:30 PM

1. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[BC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-2-2023     [[936](#)]

PATHWARD, NATIONAL ASSOCIATION/MV  
LEONARD WELSH/ATTY. FOR DBT.  
SHARON WEISS/ATTY. FOR MV.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR") and Federal Rules of Bankruptcy Procedure ("Rule").

First, for motions filed on 28 days' notice, LBR 9014-1(f)(1)(B) requires the movant to notify respondents that any opposition to the motion must be in writing and filed with the court at least 14 days preceding the date of the hearing.

Here, the motion and supporting documents were filed and served on March 2, 2023 and set for hearing on March 28, 2023. Docs. ##936-39. March 2, 2023 is forty (40) days before April 11, 2023. Therefore, this motion was set for hearing on 28 or more days of notice under LBR 9014-1(f)(1). Nevertheless, the notice provided:

**NOTICE IS FURTHER GIVEN** that opposition, if any, to the granting of the Motion shall be presented at the hearing of this Motion at the above date and time in the Fresno Division of the United State Bankruptcy Court for the Eastern District of California located at 2500 Tulare Street, Courtroom 13, Fresno, CA, 93721. Failure of the responding party to attend the hearing may be deemed a waiver of any opposition to the granting of the motion or may result in the imposition of sanctions, the motion being resolved without oral argument and the striking of untimely opposition.

Notice 2:19-25, Doc. #937. This is incorrect. Since the hearing was set on more than 28 days' notice, LBR 9014-1(f)(1) is applicable. The notice should have stated that written opposition was required and must be filed at least 14 days before the hearing, and failure to

timely file written opposition may be deemed a waiver of any opposition to the granting of the motion. Instead, the respondents were told not to file and serve written opposition even though it was necessary. Therefore, the notice was materially deficient. If the movant gives 28 days or more of notice of the hearing, there is no option to simply pretend that the motion was set for hearing on less than 28 days of notice to dispense with the court's requirement that any opposition must be in writing and filed with the court. Additionally, under LBR 9014-1(d)(3)(B)(i), the motion must include the names and addresses of the persons who must be served with such opposition.

Second, the notice of hearing contains contradictory hearing times. The caption correctly says the hearing will occur at 1:30 p.m., but the body paragraph claims the hearing will be at 11:00 p.m. *Id.* 2:10. Therefore, the notice of hearing is ambiguous.

Third, the debtor and the chapter 7 trustee were not properly served. Rule 4001(a)(1) requires a motion for relief from stay to be made in accordance with Rule 9014.

Rule 9014(b) requires motions in contested matters to be served upon the parties against whom relief is being sought pursuant to Rule 7004. This motion will affect the debtor's and the estate's interest in property, so the debtor and the chapter 7 trustee must be served in accordance with Rule 7004. Rule 7004 is specifically precluded from electronic service by Rule 9036. This service requirement is not subject to waiver under Fed. R. Civ. P. 4(d). See Rule 7004(a)(1). Thus, the movant must serve the debtor and the chapter 7 Trustee in conformance with Rule 7004.

Here, the certificate of service indicates service by first-class mail but does not include a matrix stating the parties served, so there is no evidence Debtor and . Section 6A(1), Doc. #939.

Fourth, LBR 9004-2(d) requires (1) exhibits to be filed as a separate exhibit document, (2) an exhibit index stating the page number at which each exhibit is found within the exhibit document, and (3) use of consecutively numbered exhibit pages throughout the exhibit document, including any separator, cover, or divider sheets. Here, the exhibits are attached to the motion, do not contain an exhibit index, and are not consecutively numbered. Doc. #936.

Fifth, the exhibits attached to the motion have not been properly authenticated or identified. See, Fed. R. Evid. 901. No separate declarations were filed in support of this motion.

For the above reasons, this motion will be DENIED WITHOUT PREJUDICE.

2. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[HJN-5](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-8-2023    [[950](#)]

AMUR EQUIPMENT FINANCE, INC./MV  
LEONARD WELSH/ATTY. FOR DBT.  
HOLLY NOLAN/ATTY. FOR MV.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        Granted.

ORDER:                The Moving Party shall submit a proposed order in  
conformance with the ruling below.

Amur Equipment Finance, Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a twenty (20) Carrier Reefer Units and twenty (20) 2021 CIMCR Reefer Trailers ("Vehicles"). Doc. #950. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. ("Rule") 4001(a)(3). Id.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., 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.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case-by-case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least four complete post-petition payments. The movant has produced evidence that debtor is delinquent at least \$145,753.48. Doc. #954. Additionally, Debtor has failed to maintain insurance coverage.

The court also finds that the debtor does not have any equity in the Vehicles and the Vehicles are not necessary to an effective reorganization because debtor is in chapter 7. *Id.* The Vehicles are valued at \$1,000,000.00 and debtor owes \$1,031,239.00. Doc. #950.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Rule 4001(a)(3) will be ordered waived because debtor has failed to make at least four post-petition payments to Movant, failed to maintain insurance coverage, and the Vehicles are depreciating assets.

3. [22-11224](#)-B-7     **IN RE: PAULETTA SEEBOHM**  
[FW-6](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR GABRIEL J. WADDELL, TRUSTEES ATTORNEY(S)  
3-14-2023    [\[66\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.  
GABRIEL WADDELL/ATTY. FOR MV.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

Fear Waddell, P.C. ("Applicant"), attorney for chapter 7 trustee James E. Salven ("Trustee"), requests final compensation in the sum of \$9,960.15. Doc. #66. This amount consists of \$9,626.00 in fees as reasonable compensation for services rendered and \$334.15 in reimbursement for actual, necessary expenses from August 5, 2022 through March 10, 2023. *Id.*

Trustee has reviewed the application, believes payment of the fees and expenses is reasonable and necessary for the administration of the estate, and has no objections to the proposed payment. Doc. #68.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., 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.

Pauletta Seeböhm ("Debtor") filed chapter 7 bankruptcy on July 18, 2022. Doc. #1. Trustee was appointed as interim trustee on that same day and became permanent trustee at the first § 341 meeting of creditors on September 8, 2022. Doc. #5; docket generally. Trustee moved to employ Applicant on August 15, 2022. Doc. #11. The court approved Applicant's employment on August 23, 2022, which is effective July 24, 2022 pursuant to LBR 2014-1(b)(1). Doc. #20. No compensation was permitted except upon court order following application pursuant to § 330(a). Compensation was set at the "lodestar rate" for legal services at the time that services are rendered in accordance with *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988). Applicant's services here were within the time period prescribed by the employment order.

This is Applicant's first and final fee application. Doc. #66. Applicant's firm provided 29.80 billable hours of legal services at the following rates, totaling **\$9,626.00** in fees:



Professional	Rate	Hours	Amount
Peter L. Fear (2022)	\$425	2.7	\$1,147.50
Gabriel J. Waddell (2023)	\$360	1.90	\$684.00
Gabriel J. Waddell (2022)	\$345	16.40	\$5,658.00
Peter A. Sauer (2023)	\$280	1.10	\$308.00
Peter A. Sauer (2022)	\$260	0.10	\$26.00
Katie Waddell (2023)	\$260	2.80	\$728.00
Katie Waddell (2022)	\$245	4.10	\$1,004.50
Laurel Guenther (2023)	\$115	0.00	\$0.00
Laurel Guenther (2022)	\$100	0.70	\$70.00
<b>Total Hours &amp; Fees</b>		<b>29.80</b>	<b>\$9,626.00</b>

*Id.*; *Exs. B-C*, Doc. #70. Applicant also incurred **\$334.15** in expenses:

Copying	\$231.57
Court fees	\$5.20
Postage	\$97.38
<b>Total Costs</b>	<b>\$334.15</b>

*Ex. B, id.* These combined fees and expenses total **\$9,960.15**.

11 U.S.C. § 330(a)(1)(A) and (B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) securing authorization for employment (FW-1); (2) negotiating with Debtor regarding an exemption in real property and agreeing to split the proceeds from the sale of that property between the estate and Debtor; (3) securing authorization to employ a real estate broker (FW-2); (4) preparing, filing, and prosecuting a motion to sell real property (FW-3) and a vehicle (FW-4); (5) after the sale of real property fell through, preparing, filing, and prosecuting a motion to sell real property to a replacement buyer (FW-5) and (6) preparing and filing this fee application (FW-6). *Ex. A*, Doc. #70. The court finds the services and expenses reasonable, actual, and necessary. As noted above, Trustee has reviewed the application and consents to payment of the requested fees and expenses. Doc. #68.

No party in interest timely filed written opposition to this motion. Accordingly, this motion will be GRANTED. Applicant will be awarded \$9,626.00 in reasonable fees and \$334.15 in actual, necessary expenses on a final basis pursuant to § 330. Trustee will be authorized, in Trustee's discretion, to pay Applicant \$9,960.15 on the terms outlined above for services rendered and costs incurred from August 5, 2022 through March 10, 2023.

4. [10-12725](#)-B-7     **IN RE: LEONARD/DEANNA RAGLE**  
[FW-7](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,  
P.C. FOR PETER A. SAUER, TRUSTEES ATTORNEY(S)  
3-9-2023     [\[87\]](#)

R. BELL/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in  
conformance with the ruling below.

Fear Waddell, P.C. ("Applicant"), attorney for chapter 7 trustee James E. Salven ("Trustee"), requests final compensation in the sum of \$12,400.13. Doc. #87. This amount consists of \$12,265.00 in fees as reasonable compensation for services rendered and \$135.13 in reimbursement for actual, necessary expenses from July 28, 2021 through March 6, 2023. *Id.*

Trustee has reviewed the application, believes payment of the fees and expenses is reasonable and necessary for the administration of the estate, and has no objections to the proposed payment. Doc. #90.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., 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.

Leonard A. Ragle and Deanna K. Ragle (collectively "Debtors") filed chapter 7 bankruptcy on March 16, 2010. Doc. #1. Then-chapter 7 trustee Randell Parker filed a report of no distribution, so Debtors'

discharge was entered on July 15, 2010 and the case was closed by final decree on July 16, 2010. Docs. ##14-15.

On July 27, 2021, the court reopened the case on request by the U.S. Trustee. Doc. #19. Trustee was appointed as interim successor trustee on July 28, 2021 and filed a notice of assets on August 6, 2021. Doc. #21; docket generally. Trustee moved to employ Applicant on August 10, 2021. Doc. #25. The court approved Applicant's employment on August 18, 2021, effective July 15, 2021. Doc. #31. No compensation was permitted except upon court order following application pursuant to § 330(a). Compensation was set at the "lodestar rate" for legal services at the time that services are rendered in accordance with *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988). Applicant's services here were within the time period prescribed by the employment order.

This is Applicant's first and final fee application. Doc. #87. Applicant's firm provided 45.50 billable hours of legal services at the following rates, totaling **\$12,265.00** in fees:

Professional	Rate	Hours	Amount
Peter L. Fear (2021)	\$410	7.3	\$2,993.00
Peter L. Fear (2022)	\$425	0.30	\$127.50
Peter A. Sauer (2021)	\$245	6.50	\$1,592.50
Peter A. Sauer (2022)	\$260	22.40	\$5,824.00
Peter A. Sauer (2023)	\$280	2.70	\$756.00
Peter A. Sauer (no charge)	\$0	1.80	\$0.00
Katie Waddell (2021)	\$230	0.40	\$92.00
Katie Waddell (2023)	\$260	3.00	\$780.00
Laurel Guenther (2022)	\$100	0.60	\$60.00
Sean M. Cox (2021)	\$80	0.50	\$40.00
<b>Total Hours &amp; Fees</b>		<b>45.50</b>	<b>\$12,265.00</b>

*Id.*; *Exs. B-C*, Doc. #91. Applicant also incurred **\$135.13** in expenses:

Copying	\$80.04
PACER fees	\$6.40
Postage	\$48.69
<b>Total Costs</b>	<b>\$135.13</b>

*Ex. B, id.* These combined fees and expenses total **\$12,400.13**.

11 U.S.C. § 330(a)(1)(A) and (B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) securing authorization for employment (FW-1); (2) analyzing the estate's

interest in an undisclosed product liability action and communicating with Trustee regarding the same; (3) objecting to Debtors' claim of exemption in the product liability claim (FW-2); (4) negotiating with Debtors, agreeing to a settlement, and seeking court approval of the same (FW-4); (5) securing authorization to employ and pay special counsel to prosecute the product liability action (FW-3; FW-6); (6) obtaining authorization to settle the product liability action (FW-5); and (7) preparing and filing this fee application (FW-7). *Ex. A*, Doc. #91. The court finds the services and expenses reasonable, actual, and necessary. As noted above, Trustee has reviewed the application and consents to payment of the requested fees and expenses. Doc. #90.

No party in interest timely filed written opposition to this motion. Accordingly, this motion will be GRANTED. Applicant will be awarded \$12,265.00 in reasonable fees and \$135.13 in actual, necessary expenses on a final basis pursuant to § 330. Trustee will be authorized, in Trustee's discretion, to pay Applicant \$12,400.13 on the terms outlined above for services rendered and costs incurred from July 28, 2021 through March 6, 2023.

5. [23-10240](#)-B-7     **IN RE: JOHN/TERRY AGUILAR**  
[PBB-1](#)

MOTION TO AVOID LIEN OF MERCED SCHOOL EMPLOYEES FEDERAL  
CREDIT UNION  
2-24-2023    [[11](#)]

TERRY AGUILAR/MV  
PETER BUNTING/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in  
conformance with the ruling below.

John Dominguez Aguilar and Terry Aguilar (collectively "Debtors") move to avoid a judicial in favor of Merced School Employees Federal Credit Union ("Creditor") in the sum of \$8,215.55 and encumbering residential real property located at 2103 W. Solis St., Merced, CA 95348 ("Property").<sup>1</sup> Doc. #11.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to

the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., 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.

Here, a judgment lien was entered against Debtors in favor of Creditor in the amount of \$6,654.60 on July 21, 2020. *Ex. D*, Doc. #14. The abstract of judgment was issued on July 27, 2020 and was recorded in Merced County on August 11, 2020. *Id.* That lien attached to Debtors' interest in Property. *Id.*; Doc. #13. Although Creditor has not filed a proof of claim as of this writing, joint debtor Terry Aguilar estimates Creditor was owed \$8,215.55 as of the petition date. *Id.*

As of the petition date, Property had an approximate value of \$319,400.00. *Id.*; *Sched. A/B*, Doc. #1. Property was encumbered by a first deed of trust in favor of LoanCare, LLC, in the amount of \$190,199.00. *Sched. D, id.* Debtors claimed a homestead exemption in Property in the amount of \$312,000.00 pursuant to Cal. Code Civ. Proc. ("CCP") § 704.730. *Sched. C, id.*

Strict application of the § 522(f)(2) formula with respect to Creditor's lien is as follows:

Amount of judgment lien	\$8,215.55
Total amount of unavoidable liens	+ \$190,199.00
Debtors' claimed exemption in Property	+ \$312,000.00
<i>Sum</i>	= \$510,414.55
Debtors' claimed value of interest absent liens	- \$319,400.00
Extent lien impairs exemption	= \$191,014.55

*All Points Capital Corp. v. Meyer (In re Meyer)*, 373 B.R. 84, 91 (B.A.P. 9th Cir. 2006). The § 522(f)(2) formula can be simplified by going through the same order of operations in the reverse, provided that determinations of fractional interests, if any, and lien deductions are completed in the correct order. Property's encumbrances can be re-illustrated as follows:

Fair market value of Property	\$319,400.00
Total amount of unavoidable liens	- \$190,199.00
Homestead exemption	- \$312,000.00
Remaining equity for judicial liens	= (\$182,799.00)
Creditor's judicial lien (estimated)	- \$8,215.55
Extent Debtors' exemption impaired	= (\$191,014.55)

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is insufficient equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under § 522(f)(1). This motion will be GRANTED. The proposed order shall state that the lien is avoided from the subject Property only and include a copy of the abstract of judgment attached as an exhibit.

---

<sup>1</sup> Debtors complied with Fed. R. Bankr. P. 7004(h) and (i) by serving Creditor's CEO/manager via certified mail on February 24, 2023. Doc. #15.

6. [23-10453](#)-B-7      **IN RE: SHARON DRAGNER**  
[BDB-1](#)

MOTION FOR EXEMPTION FROM FINANCIAL MANAGEMENT COURSE  
3-10-2023    [\[8\]](#)

SHARON DRAGNER/MV  
BENNY BARCO/ATTY. FOR DBT.

TENTATIVE RULING:      This matter will be called as scheduled.

DISPOSITION:              Granted.

ORDER:                      The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after hearing.

Laurie A. Dragner, power of attorney for and daughter of Sharon Rosalie Dragner ("Debtor"), requests an order under 11 U.S.C. § 109(h)(4) exempting Debtor from the requirement under § 727(a)(11) to complete the pre-filing and post-filing personal financial management courses. Doc. #8.

Although no party in interest timely filed written opposition, this matter will be called as scheduled to inquire about Ms. Dragner's authority to act on behalf of Debtor, and whether the chapter 7 trustee has received a copy of the power of attorney. This motion may be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the chapter 7 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

11 U.S.C. § 109(h)(1) requires an individual debtor to receive a credit counseling briefing and budget analysis from an approved nonprofit budget and credit counseling agency.

Under § 109(h)(4), the requirements of paragraph (1) shall not apply to a debtor whom the court determines, after notice and a hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. "Incapacity" for these purposes means that the debtor is impaired by reason of mental illness or mental deficiency such that the debtor is incapable of making rational decisions with respect to the debtor's financial responsibilities. "Disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or internet briefing. § 109(h)(4).

11 U.S.C. § 727(a)(11) prevents the court from entering a debtor's discharge if the debtor fails to complete an instructional course concerning personal financial management, but this requirement does not apply to a person described in § 109(h)(4).

Here, Ms. Dragner declares Debtor is a "frail 96-year-old woman" with significant mobility problems. Doc. #10. Debtor is largely confined to her bed 24 hours per day and has extreme difficulty to sit up for any amount of time. Laurie has been caring for Debtor and believes she is so physically impaired as to be unable, after reasonable effort, to participate in an in-person, telephone, or internet briefing. *Id.* Additionally, Debtor is unable to complete the pre-filing and post-filing credit counseling courses because she has diminishing mental capacity and confusion, which makes it difficult for her to maintain an adequate level of concentration and attentiveness.

On this basis, Ms. Dragner requests Debtor be exempted from the financial education requirements of § 109(h)(1) for incapacity and/or disability pursuant to § 109(h)(4). Doc. #8.

No party in interest timely filed written opposition. Therefore, the court finds that Debtor is unable to complete the requirements of 11 U.S.C. §§ 109(h)(1) and 727(a)(11) because of incapacity and disability. Debtor appears to be impaired by reason of mental illness

or mental deficiency such that Debtor is incapable of making rational decisions with respect to Debtor's financial condition, and physically impaired as to be unable, after reasonable effort, to participate in an in-person, telephone, or internet briefing.

This matter will be called as scheduled to inquire about Ms. Dragner's authority to act on behalf of Debtor, and whether the chapter 7 trustee has received a copy of the power of attorney. This motion may be GRANTED.

7. [21-12473](#)-B-7      **IN RE: BLAIN FARMING CO., INC.**  
[FW-9](#)

MOTION TO PAY  
2-22-2023    [[188](#)]

JAMES SALVEN/MV  
RILEY WALTER/ATTY. FOR DBT.  
PETER FEAR/ATTY. FOR MV.

FINAL RULING:      There will be no hearing on this matter.

DISPOSITION:      Granted.

ORDER:              The Moving Party shall submit a proposed order in conformance with the ruling below.

Chapter 7 trustee James E. Salven ("Trustee") seeks authority to pay corporate minimum taxes owed by the estate to the California State Franchise Tax Board ("FTB"), as well as any fees, penalties, or interest related to those taxes, as administrative expenses in a total amount not exceeding \$4,000.00. Doc. #188.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., 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.

11 U.S.C. § 503 allows an entity to file a request for payment of administrative expenses. After notice and a hearing, payment of certain administrative expenses shall be allowed, other than those specified in § 502(f), including taxes. § 503(b)(1)(B). Under 28 U.S.C. § 960(b), trustees are required to pay taxes the bankruptcy estate owes on or before the date they become due even if the respective tax agency does not file a request for administrative expenses. *Dreyfuss v. Cory (In re Cloobek)*, 788 F.3d 1243, 1246 (9th Cir. 2015).

Blain Farming Co., Inc. ("Debtor") filed chapter 7 bankruptcy on October 22, 2021. Doc. #1. Trustee was appointed as the interim trustee on that same day and became permanent trustee at the first meeting of creditors on November 18, 2021. Doc. #4; docket generally. Trustee employed Ratzlaff Tamberi & Wong ("Accountant") as the estate's accountant, effective October 23, 2021. Doc. #50.

Trustee has determined the estate has taxes currently due and owing to FTB in the amounts of \$822.00 for 2022, and \$822 for 2023, as well as a penalty owing for the 2022 tax year in the amount of \$25.21. Doc. #190. Additionally, the estate will owe taxes for the remaining years of administration, which be through at least 2024. *Id.* Trustee also seeks authority to pay any fees, penalties, or interest due to FTB as a result of these corporate minimum taxes above and beyond the penalty notes for the 2022 year, up to a combined total of \$4,000.00. *Id.* If more than \$4,000.00 is necessary, Trustee will file an additional motion. *Id.*

This motion was fully noticed and no party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Trustee will be authorized to pay, in Trustee's discretion, an aggregate total not exceeding \$4,000.00 to FTB for the 2022 and 2023 taxes, including any fees, penalties, or interest due to FTB on account of those taxes. If more than \$4,000.00 to FTB is necessary, Trustee shall file an additional motion.

8. [23-10289](#)-B-7      **IN RE: LACEY GIBSON**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE  
2-21-2023    [\[7\]](#)

LACEY GIBSON/MV  
LACEY GIBSON/ATTY. FOR MV.

NO RULING.