

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

June 10, 2015 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

- 2. The court will not continue any short cause evidentiary hearings scheduled below.**
- 3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.**
- 4. If no disposition is set forth below, the matter will be heard as scheduled.**

1.	15-20600-D-11	SAEED ZARAKANI	CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 1-28-15 [1]
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2.	15-21101-D-7	VICTOR/THEODORA BRAZELTON	MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION 5-5-15 [17]
	DWB-1		
	LOANME, INC. VS.		

Final ruling:

This matter is resolved without oral argument. This is Loanme, Inc.'s motion for relief from automatic stay. The court's records indicate that no timely

opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtors are not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. Accordingly, the court will grant relief from stay by minute order. As the debtors are not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). There will be no further relief afforded. No appearance is necessary.

3.	15-20106-D-12	TOMMY/LINDA THOMAS	MOTION TO EXTEND TIME
	BLG-6		5-15-15 [65]

4.	13-24507-D-7	DKW PRECISION MACHINING	MOTION FOR COMPENSATION BY THE
	CWS-8	INC.	LAW OFFICE OF NEUMILLER &
			BEARDSLEE FOR CLIFFORD W.
			STEVENS, TRUSTEE'S ATTORNEY(S)
			5-13-15 [193]

Tentative ruling:

This is the application of Neumiller & Beardslee for an allowance of compensation as counsel for the trustee. The court is not prepared to consider the motion because the notice list attached to the proof of service is for Case No. 14-24507, whereas this is Case No. 13-24507. The court intends to continue the hearing to permit the moving party to provide notice to creditors in this case.

The court will hear the matter.

5.	13-24507-D-7	DKW PRECISION MACHINING	MOTION FOR COMPENSATION FOR
	CWS-9	INC.	RYAN, CHRISTIE, QUINN & HORN,
			ACCOUNTANT(S)
			5-13-15 [200]

Tentative ruling:

This is the application of Ryan, Christie, Quinn & Horn for an allowance of compensation as accountants for the trustee. The court is not prepared to consider the motion because the notice list attached to the proof of service is for Case No. 14-24507, whereas this is Case No. 13-24507. The court intends to continue the hearing to permit the moving party to provide notice to creditors in this case.

The court will hear the matter.

6. 14-25816-D-11 DEEPAL WANNAKUWATTE
DNL-12

MOTION FOR COMPENSATION FOR
BACHECKI, CROM & CO., LLP,
ACCOUNTANT(S)
5-13-15 [410]

Tentative ruling:

This is the first interim application for approval of fees and reimbursement of expenses filed by Bachecki, Crom & Co., LLC for accounting services rendered to the Chapter 11 trustee. As this case is not complete, the court is unable to make the various determinations that are necessary under 11 U.S.C. paragraph 330 for final award of compensation. Accordingly, at this time the court will approve an interim award at 70% of the fees and 100% of the costs. This interim award is subject to final approval and the court will consider any and all objection to the interim award at the time the court considers applicant's final fee request. The court will hearing the matter.

7. 14-25816-D-11 DEEPAL WANNAKUWATTE
DNL-13

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF DESMOND, NOLAN,
LIVAICH & CUNNINGHAM TRUSTEE'S
ATTORNEY(S)
5-13-15 [418]

Tentative ruling:

This is the first interim application for approval of fees and reimbursement of expenses filed by Desmond, Nolan, Livaich & Cunningham for services rendered to the Chapter 11 trustee. As this case is not complete, the court is unable to make the various determinations that are necessary under 11 U.S.C. paragraph 330 for final award of compensation. Accordingly, at this time the court will approve an interim award at 70% of the fees and 100% of the costs. This interim award is subject to final approval and the court will consider any and all objection to the interim award at the time the court considers applicant's final fee request. The court will hearing the matter.

8. 14-25816-D-11 DEEPAL WANNAKUWATTE
DNL-14

MOTION TO ABANDON
5-21-15 [425]

9. 14-25816-D-11 DEEPAL WANNAKUWATTE
DNL-15

MOTION TO ABANDON
5-21-15 [430]

10.	14-25816-D-11 DNL-16	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [435]
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11.	14-25816-D-11 DNL-17	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [440]
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12.	14-25816-D-11 DNL-18	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [445]
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13.	14-25816-D-11 DNL-19	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [450]
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14.	14-25816-D-11 DNL-20	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [455]
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15.	14-25816-D-11 DNL-21	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [475]
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16.	14-25816-D-11 DNL-22	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [480]
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17.	14-25816-D-11 DNL-23	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [485]
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18.	14-25816-D-11 DNL-24	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [460]
19.	14-25816-D-11 DNL-25	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [465]
20.	14-25816-D-11 DNL-26	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [470]
21.	14-25816-D-11 DNL-27	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [490]

22.	14-25816-D-11 DNL-28	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [495]
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23.	14-25816-D-11 DNL-29	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [500]
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24.	14-25816-D-11 DNL-30	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [505]
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25.	14-25816-D-11 DNL-31	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [510]
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26.	14-25816-D-11 DNL-32	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [515]
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27.	14-25816-D-11 DNL-33	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [520]
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28.	14-25816-D-11 DNL-34	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [525]
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29.	14-25816-D-11 DNL-35	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [530]
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30.	14-25816-D-11 DNL-36	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [535]
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31.	14-25816-D-11 DNL-37	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [540]
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32.	14-25816-D-11 DNL-38	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [545]
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33.	14-25816-D-11 DNL-39	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [550]
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34.	14-25816-D-11 DNL-40	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [555]
35.	14-25816-D-11 DNL-41	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [560]
36.	14-25816-D-11 DNL-42	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [565]
37.	14-25816-D-11 DNL-43	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [570]

38.	14-25816-D-11 DNL-44	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [575]
39.	14-25816-D-11 DNL-45	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [580]
40.	14-25816-D-11 DNL-46	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [585]
41.	14-25816-D-11 DNL-47	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [590]

42.	14-25816-D-11 DNL-48	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [595]
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43.	14-25816-D-11 DNL-49	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [600]
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44.	14-25816-D-11 DNL-50	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [605]
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45.	14-25816-D-11 DNL-51	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [610]
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46.	14-25816-D-11 DNL-52	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [615]
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47.	14-25816-D-11 DNL-53	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [620]
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48.	14-25816-D-11 DNL-54	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [625]
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49.	14-25816-D-11 DNL-55	DEEPAL WANNAKUWATTE	MOTION TO ABANDON 5-21-15 [630]
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50.	14-25816-D-11	DEEPAL WANNAKUWATTE	MOTION FOR COMPENSATION BY THE
	JC-3		LAW OFFICE OF JOSEPH & COHEN,
			P.C. FOR DAVID A. HONIG,
			CREDITOR COMM. ATY(S)
			5-13-15 [400]

Tentative ruling:

This is the first interim application for approval of fees and reimbursement of expenses filed by Joseph & Cohen, P.C. for services rendered to Official Committee of Unsecured Creditors in this Chapter 11 case. As this case is not complete, the court is unable to make the various determinations that are necessary under 11 U.S.C. paragraph 330 for final award of compensation. Accordingly, at this time the court will approve an interim award at 70% of the fees and 100% of the costs. This interim award is subject to final approval and the court will consider any and all objection to the interim award at the time the court considers applicant's final fee request. The court will hearing the matter.

51.	14-25820-D-11	INTERNATIONAL	MOTION TO COMPROMISE
	DMC-3	MANUFACTURING GROUP, INC.	CONTROVERSY/APPROVE SETTLEMENT
			AGREEMENT WITH TIMOTHY P. MAR
			5-13-15 [646]

52.	14-25820-D-11	INTERNATIONAL	MOTION TO ESTIMATE THE VALUE OF
	FWP-23	MANUFACTURING GROUP, INC.	UNRECORDED LIENS AT ZERO FOR
			CASH COLLATERAL PURPOSES
			5-13-15 [655]

53.	14-25820-D-11	INTERNATIONAL	MOTION TO USE CASH COLLATERAL
	FWP-24	MANUFACTURING GROUP, INC.	5-13-15 [659]

54. 14-25820-D-11 INTERNATIONAL
FWP-25 MANUFACTURING GROUP, INC.

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FELDERSTEIN
FITZGERALD WILLOUGHBY &
PASCUZZI LLP FOR THOMAS A.
WILLOUGHBY, TRUSTEE'S
ATTORNEY(S)
5-13-15 [630]

Tentative ruling:

This is the first interim application for approval of fees and reimbursement of expenses filed by Felderstein Fitzgerald Willoughby & Pascuzzi LLP for services rendered to the Chapter 11 trustee. As this case is not complete, the court is unable to make the various determinations that are necessary under 11 U.S.C. paragraph 330 for final award of compensation. Accordingly, at this time the court will approve an interim award at 70% of the fees and 100% of the costs. This interim award is subject to final approval and the court will consider any and all objection to the interim award at the time the court considers applicant's final fee request. The court will hearing the matter.

55. 14-25820-D-11 INTERNATIONAL
FWP-26 MANUFACTURING GROUP, INC.

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF TERAOKA &
PARTNERS, LLP FOR THOMAS M.
GOSSELIN, SPECIAL COUNSEL
5-13-15 [635]

Tentative ruling:

This is the first interim application for approval of fees and reimbursement of expenses filed by Teraoka & Partners, LLP for services rendered as special counsel to the Chapter 11 trustee. As this case is not complete, the court is unable to make the various determinations that are necessary under 11 U.S.C. paragraph 330 for final award of compensation. Accordingly, at this time the court will approve an interim award at 70% of the fees and 100% of the costs. This interim award is subject to final approval and the court will consider any and all objection to the interim award at the time the court considers applicant's final fee request. The court will hearing the matter.

56. 14-25820-D-11 INTERNATIONAL
GC-1 MANUFACTURING GROUP, INC.

MOTION FOR COMPENSATION FOR
GABRIELSON & COMPANY,
ACCOUNTANT(S)
5-13-15 [640]

Tentative ruling:

This is the first interim application for approval of fees and reimbursement of expenses filed by Gabrielson & Company for accounting services rendered to the Chapter 11 trustee. As this case is not complete, the court is unable to make the various determinations that are necessary under 11 U.S.C. paragraph 330 for final award of compensation. Accordingly, at this time the court will approve an interim award at 70% of the fees and 100% of the costs. This interim award is subject to final approval and the court will consider any and all objection to the interim award at the time the court considers applicant's final fee request. The court will hearing the matter.

57. 14-25820-D-11 INTERNATIONAL MOTION FOR COMPENSATION BY THE
JC-3 MANUFACTURING GROUP, INC. LAW OFFICE OF JOSEPH & COHEN,
P.C. FOR DAVID A. HONIG,
CREDITOR COMM. ATY(S)
5-13-15 [625]

Tentative ruling:

This is the first interim application for approval of fees and reimbursement of expenses filed by Joseph & Cohen, P.C. for services rendered to Official Committee of Unsecured Creditors in this Chapter 11 case. As this case is not complete, the court is unable to make the various determinations that are necessary under 11 U.S.C. paragraph 330 for final award of compensation. Accordingly, at this time the court will approve an interim award at 70% of the fees and 100% of the costs. This interim award is subject to final approval and the court will consider any and all objection to the interim award at the time the court considers applicant's final fee request. The court will hearing the matter.

58. 15-20425-D-7 JUDITH FRASER MOTION FOR ENTRY OF DEFAULT
15-2049 SDB-1 JUDGMENT
FRASER V. UNITED STATES OF 5-12-15 [15]
AMERICA INTERNAL REVENUE

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion for entry of default judgment is sufficiently supported by the record. As such the court will grant the motion by minute order and moving party is to submit an appropriate form of default judgment. No appearance is necessary.

59. 15-23727-D-7 HEATHER CASTLEBERRY ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-20-15 [11]

Final ruling:

The deficiency has been corrected. As a result the court will issue a minute order discharging the order to show cause and the case will remain open. No appearance is necessary.

60. 15-23231-D-7 DEAN ENGEL MOTION FOR RELIEF FROM
BN-1 AUTOMATIC STAY
THE GOLDEN ONE CREDIT UNION 5-13-15 [9]
VS.

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant relief from stay. As the debtor's Statement of Intentions indicates he will surrender the property, the court will also waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

61. 15-21934-D-7 JAMES/MONICA HODGES
DMW-2

MOTION TO SELL
5-13-15 [14]

62. 10-50339-D-7 ELEFThERIOS/PATRICIA
HSM-4 EFSTRATIS

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH GENESIS
SPECIALTY TILE AND ACCESSORIES,
LLC, ELEFThERIOS T. EFSTRATIS,
PATRICIA E. EFSTRATIS, ET AL.
5-20-15 [243]

Tentative ruling:

This is the trustee's motion to approve a compromise of the estate's claims against certain parties in pending state court litigation. The motion also indicates the transaction may be evaluated as a sale of the estate's claims, subject to overbidding. The court believes this to be appropriate under the law applicable in this circuit. See Goodwin v. Mickey Thompson Entm't Group, Inc. (In re Mickey Thompson Entm't Group, Inc.), 292 B.R. 415, 421-422 (9th Cir. BAP 2003). The court sees a potential problem in that, although the motion mentions the possibility, albeit unlikely, of overbidding at the hearing,¹ the notice of hearing, which is the only document served on the general creditor body, does not. Thus, the court intends to continue the hearing to permit the trustee to file and serve a notice of continued hearing, to mention the possibility of overbidding.

The court will hear the matter.

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While overbidding is possible, it is not expected in this instance. The Settlement Agreement was negotiated as a comprehensive settlement of Claims, making it difficult to establish specific overbidding procedures. Therefore, the Trustee does not propose overbidding terms at this time. If any party or entity appears to overbid at the hearing on the Motion, the Trustee may request that the hearing be treated as a status conference, at which overbidding terms shall be set, and that the hearing on the Motion be continued.

Mot., at 9:8-13.

63. 15-23642-D-7 AISHMA KENNEDY MOTION FOR RELIEF FROM
JDM-1 AUTOMATIC STAY
TRAVIS CREDIT UNION VS. 5-19-15 [14]

64. 15-23647-D-7 BEVERLY MONROE ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-15-15 [12]

Final ruling:

The debtor's application to waive the Chapter 7 filing fee was granted on May 28, 2015. As a result the court will issue a minute order discharging the order to show cause and the case will remain open. No appearance is necessary.

65. 12-31648-D-12 RONALD/TINA BOX MOTION TO DISMISS CASE
JPJ-1 5-13-15 [77]

66. 14-25148-D-11 HENRY TOSTA MOTION FOR RELIEF FROM
CENTRAL VALLEY REGIONAL AUTOMATIC STAY
WATER QUALITY CONTROL BOARD 5-11-15 [428]
VS.

This matter will not be called before 11:00 a.m.

Tentative ruling:

This is the Central Valley Regional Water Quality Control Board's motion for relief from stay. The motion suffers from the following defects: (1) moving party has failed to include an appropriate docket control number as required by LBR 9014-1(c); moving party failed to file a Relief From Stay Summary Sheet as required by LBR 4001-1(a)(3); and moving party failed to serve the debtor and the holders of the 20 largest unsecured claims as required by Federal Rule of Bankruptcy Procedure 4001(a)(1). Based on the above procedural and service defects the court will deny the motion, or alternatively, continue the hearing on this motion to allow the moving party to correct the service defect. The court will hear the matter.

67. 14-25148-D-11 HENRY TOSTA
MF-31

CONTINUED MOTION TO EMPLOY
VANDE POL REALTY AS BROKER(S)
4-16-15 [402]

This matter will not be called before 11:00 a.m.

68. 14-25148-D-11 HENRY TOSTA
WJH-1

MOTION TO DISMISS CASE AND/OR
MOTION TO APPOINT TRUSTEE
5-13-15 [433]

This matter will not be called before 11:00 a.m.

Tentative ruling:

This is Bank of the West's motion to dismiss this chapter 11 case or to appoint a chapter 11 trustee. The court is not prepared to consider the motion at this time because the moving party served only the debtors, their counsel, the United States Trustee, and a few creditors, and failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(a)(4). The court intends to continue the hearing and require the moving party to serve all creditors, including those who have filed claims in the consolidated cases, those requesting special notice, and all other scheduled creditors. With regard to the notice of continued hearing, the moving party's counsel is cautioned, if counsel chooses to give 28 days' notice and require written opposition, to consult LBR 9014-1(d)(4) regarding the cautionary language required to be included in the notice. Counsel is also cautioned that proofs of service are to be signed under oath, as required by 28 U.S.C. § 1746.

The court will hear the matter.

69. 15-20655-D-7 PAUL GOMEZ AND MARY
UST-2 OMALLEY-GOMEZ

MOTION TO DISMISS CASE PURSUANT
TO 11 U.S.C. SECTION 707(B)
4-10-15 [19]

70. 09-29162-D-11 SK FOODS, L.P.
SH-325

CONTINUED OMNIBUS OBJECTION TO
CLAIMS
2-27-15 [5537]

Final ruling:

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the omnibus objection to claims has been filed and the objection is supported by the record. Accordingly, the court will sustain the trustee's omnibus objection to claims. Moving party is to submit an appropriate order. No appearance is necessary.

71. 14-26862-D-7 VLADIMIR/YELENA TIMCHUK
MJG-1

MOTION FOR COMPENSATION FOR
MARCEL GESMUNDO, TRUSTEE'S
ATTORNEY
5-8-15 [43]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

72. 14-20064-D-7 GLENN GREGO
BHS-2

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH HERITAGE OAKS
BANK AND SID PATEL, ROE PATEL,
MARIN MANAGEMENT, INC. AND
CAMBRIA INN, LLC
5-13-15 [328]

Final ruling:

This is the trustee's motion to approve a compromise and to sell and assign to certain persons and entities all causes of action the debtor and the estate may have against them in an action pending in the San Luis Obispo County Superior Court. The debtor has filed opposition and the trustee has filed a reply. The court will continue the hearing to June 24, 2015 at 10:00 a.m. to coincide with the hearing on conversion or dismissal of the case, calendared by the court in response to the Bankruptcy Appellate Panel's order of remand. The record on this motion to approve a compromise is closed; the parties are directed to file nothing further regarding the motion pending the continued hearing.

The hearing will be continued by minute order. No appearance is necessary on June 10, 2015.

73. 14-20064-D-7 GLENN GREGO
SJS-1

MOTION BY SCOTT J. SAGARIA TO
WITHDRAW AS ATTORNEY
5-19-15 [340]

74. 14-23368-D-7 JESSE M. LANGE
BLL-10 DISTRIBUTOR, INC.

MOTION FOR ADMINISTRATIVE
EXPENSES
5-12-15 [79]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion for administrative expenses is supported by the record. As such the court will grant the motion for administrative expenses. Moving party is to submit an appropriate order. No appearance is necessary.

75. 14-23368-D-7 JESSE M. LANGE
BLL-11 DISTRIBUTOR, INC.

MOTION FOR COMPENSATION FOR
WAYNE BROWN, ACCOUNTANT
5-12-15 [84]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

76. 14-23368-D-7 JESSE M. LANGE
BLL-12 DISTRIBUTOR, INC.

MOTION FOR COMPENSATION FOR
BYRON LEE LYNCH, DEBTOR'S
ATTORNEY
5-12-15 [87]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

77. 15-21971-D-7 JOHN CHAPMAN
CJO-1
GREEN TREE SERVICING, LLC
VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-30-15 [11]

Final ruling:

This matter is resolved without oral argument. This is Green Tree Servicing, LLC's motion for relief from automatic stay. The court records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and the property is not necessary for an effective reorganization. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay by minute order. There will be no further relief afforded. No appearance is necessary.

78. 15-22377-D-7 SUSAN SMETTS
BLG-1

MOTION TO AVOID LIEN OF KELKRIS
ASSOCIATES, INC.
5-6-15 [10]

Final ruling:

This is the debtor's motion to avoid a judicial lien she claims is held by Kelkris Associates, Inc. The motion will be denied because it was not served in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served Kelkris (1) in the name of its dba at a street address, but with no attention line; and (2) through the attorney who obtained its abstract of judgment. The first method was insufficient because the rule requires that a corporation be served to the attention of an officer, managing or general agent, or agent for service of process, whereas here, there was no attention line. The second method was insufficient because there is no evidence the attorney who obtained the abstract of judgment is authorized to accept service of process on behalf of the creditor in bankruptcy contested matters pursuant to Fed. R. Bankr. P. 7004(h) and 9014(b). See In re Villar, 317 B.R. 88, 93 (9th Cir. BAP 2004).

Further, the abstract of judgment names Kelkris Associates, Inc. as the plaintiff in the action, but Kelstin Group, Inc., as the judgment creditor. There is no evidence of service on Kelstin Group, Inc., and it is not named in the moving papers.

As a result of these service defects, the motion will be denied by minute order. No appearance is necessary.

79. 10-30583-D-7 STEVEN LONG
SMD-7

CONTINUED MOTION FOR
COMPENSATION FOR SUSAN M.
DIDRIKSEN, CHAPTER 7 TRUSTEE
3-25-15 [507]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion for compensation for Susan M. Didriksen, Chapter 7 trustee is appropriate compensation under Bankruptcy Code § 326 is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

80. 13-35288-D-7 DUSTIN/KAREN BOLE
14-2097 MGB-2
GENERAL COUNCIL OF THE
ASSEMBLIES OF GOD V. BOLE ET

CONTINUED MOTION FOR SUMMARY
JUDGMENT
3-18-15 [71]

Final ruling:

The hearing on this motion is continued to June 24, 2015 at 10:00 a.m. No appearance is necessary.

81. 14-24788-D-11 CHRISTIAN/AMANDA BADER
RLC-7

CONTINUED MOTION FOR
COMPENSATION BY THE LAW OFFICE
OF REYNOLDS LAW CORPORATION FOR
STEPHEN M. REYNOLDS, DEBTORS'
ATTORNEY(S)
3-27-15 [110]

DEBTOR DISMISSED:

03/06/2015

JOINT DEBTOR DISMISSED:

03/06/2015

Final ruling:

The hearing on this motion has been continued to June 24, 2015 at 10:00 a.m. No appearance is necessary.

82. 15-20096-D-7 DAVID KUMAR
15-2051 MRE-1
ESIO V. KUMAR

MOTION FOR ENTRY OF DEFAULT
JUDGMENT
5-8-15 [12]

Final ruling:

The court finds that a hearing will not be helpful and is not necessary. This is the plaintiff's motion for entry of a default judgment. The defendant has filed opposition. For the following reasons, the motion will be denied.

"[I]t is black-letter law that entry of default does not entitle a plaintiff to judgment as a matter of right or as a matter of law." All Points Capital Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (9th Cir. BAP 2007), citing Fed. R. Civ. P. 55(b)(2), incorporated herein by Fed. R. Bankr. P. 7055. "Settled precedent establishes that default judgment is a matter of discretion in which the court is entitled to consider, among other things, the merits of the substantive claim, the sufficiency of the complaint, the possibility of a dispute regarding material facts, whether the default was due to excusable neglect, and the 'strong policy' favoring decisions on the merits." Id., citing Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986). The court may also consider the possibility of prejudice to the plaintiff and the sum of money at stake in the action. Eitel, 782 F.2d at 1471-72. "In order to do justice, a trial court has broad discretion to require that a plaintiff prove up even a purported prima facie case by requiring the plaintiff to establish the facts necessary to determine whether a valid claim exists that would

support relief against the defaulting party." Cashco Fin. Servs. v. McGee (In re McGee), 359 B.R. 764, 773 (9th Cir. 2006). In short, "[the] default rules do not permit entry of judgments that are not warranted on the merits." Meyer, 373 B.R. at 87.

The plaintiff's complaint in this case alleges that the parties entered into an oral agreement under which "the Defendant would act as a long-haul dispatcher for the Plaintiff, that Defendant would collect proceeds owed to the Plaintiff from vendors, take a dispatch fee of \$60.00 per route, and forward to the Plaintiff the rest." Plaintiff's Complaint, filed March 5, 2015, at 2:14-16. The complaint goes on to allege that the defendant collected proceeds belonging to the plaintiff and deducted his fee, but turned over only a portion of the remaining funds held in trust for the plaintiff, and spent the rest for his own purposes. The complaint adds that the plaintiff obtained a pre-petition judgment against the defendant in state court, apparently in the amount of \$29,599, although that is unclear, which should be deemed to be nondischargeable pursuant to § 523(a)(2) and (a)(4) of the Bankruptcy Code.

Although the present motion refers to the state court judgment and to certain spreadsheets identifying "the long-hauls that Plaintiff performed that Defendant collected" and identifying "the deposits that Defendant made to the Plaintiff's account," the plaintiff has submitted no evidence in support of the motion - no spreadsheets, no copy of the state court judgment, no declarations. The court cannot determine whether the plaintiff seeks to apply preclusive effect to the state court judgment, whether it would be appropriate to do so, whether the spreadsheets accurately depict the amounts due, whether the defendant made the representations alleged in the complaint, and if so, what his intentions were when he made them, whether the parties in fact established a trust relationship, or whether the defendant owed a fiduciary duty to the plaintiff, and if so, whether he breached that duty. These are merely examples of matters the court cannot determine; they are not intended as a roadmap to what the plaintiff needs to prove.

The defendant, for his part, has submitted a copy of the declaration he has filed in support of his motion to set aside the default, set for hearing on June 24, 2015, in which he testifies to alleged facts that, if accurate, would refute the plaintiff's figures as to the amount due. He also testifies he has other meritorious defenses to the complaint, and states he did not willfully default on the complaint, suggesting he failed to file a timely answer because he works long hours and was unable to take action to defend himself until he hired counsel. The court need not determine any of these issues; the declaration is sufficient, however, to suggest the strong possibility of disputes regarding material facts, and to suggest the default was due to excusable neglect. In short, the issues raised by the defendant are sufficient for the court to conclude the case should be decided on the merits.

Finally, the court notes that the plaintiff's complaint was filed only three months ago; there is no evidence the plaintiff would suffer substantial prejudice, if any, if the case is allowed to proceed. For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

83. 15-20898-D-7 DOUGLAS MOODY

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-18-15 [44]

Final ruling:

The deficiency has been corrected. As a result the court will issue a minute order discharging the order to show cause and the case will remain open. No appearance is necessary.

84. 15-23600-D-7 DAVID/FALISIA SWOBODA
HLG-1

MOTION TO COMPEL ABANDONMENT
5-22-15 [15]

Final ruling:

This is the debtors' motion to compel the trustee to abandon the debtors' business. The motion will be denied for the following reasons: (1) the moving parties failed to serve the IRS, the Franchise Tax Board, and the Employment Development Department at their addresses on the Roster of Governmental Agencies, as required by LBR 2002-1; and (2) the moving parties failed to serve Judy Krause, listed on their Schedule G, at all. Minimal research into the case law concerning § 101(5) and (10) of the Bankruptcy Code discloses an extremely broad interpretation of "creditor," certainly one that includes the other party to a lease with the debtors. Pursuant to Fed. R. Bankr. P. 1007(a)(1), the moving parties were required to include that party on their master address list, which they did not do, and were required to give that party notice of this motion.

As a result of these service defects, the motion will be denied by minute order. No appearance is necessary.

85. 15-23314-D-7 ROBYN STREET
WAJ-1
CLARA PATTERSON BYPASS B
TRUST VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-22-15 [29]

86. 14-31725-D-11 TAHOE STATION, INC.
DB-1

MOTION BY JAMIE P. DREHER TO
WITHDRAW AS ATTORNEY
5-27-15 [176]

87. 13-34980-D-7 MICHELO/MYLA SANTIAGO MOTION TO COMPEL ABANDONMENT
EWV-63 5-21-15 [21]

Final ruling:

Motion withdrawn by moving party. Matter removed from calendar.