

**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: JUNE 29, 2016**  
**CALENDAR: 1:30 P.M. CHAPTER 11 AND 9 CASES**

**GENERAL DESIGNATIONS**

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

**ORAL ARGUMENT**

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

**COURT'S ERRORS IN FINAL RULINGS**

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

1. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE CONTINUED HEARING ON  
BH-12 DISTRICT ELIGIBILITY TO FILE UNDER  
CHAPTER 9 OF TITLE 11 OF THE  
UNITED STATES CODE RE: CHAPTER  
9 VOLUNTARY PETITION  
1-4-16 [[1](#)]

ASHLEY MCDOW/Atty. for dbt.

*[Matters involving this debtor will be called at the end of the  
Chapters 9 & 11 calendar.]*

**No tentative ruling.**

2. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE CONTINUED STATUS CONFERENCE RE:  
FEC-1 DISTRICT CHAPTER 9 VOLUNTARY PETITION  
1-4-16 [[1](#)]

ASHLEY MCDOW/Atty. for dbt.

*[Matters involving this debtor will be called at the end of the  
Chapters 9 & 11 calendar.]*

**No tentative ruling.**

3. [15-12827](#)-A-11 BLUEGREENPISTA CONTINUED STATUS CONFERENCE RE:  
ENTERPRISES, INC. CHAPTER 11 VOLUNTARY PETITION  
7-18-15 [[1](#)]

DAVID JENKINS/Atty. for dbt.

**Final Ruling**

This matter is continued to August 31, 2016, at 1:30 p.m. Not later than August 17, 2016, trustee Parker shall file and serve a status report.

4. [15-14327](#)-A-11 ABATECO, A CALIFORNIA MOTION TO DISMISS CASE AND/OR  
UST-1 CORPORATION MOTION TO CONVERT CASE FROM  
TRACY DAVIS/MV CHAPTER 11 TO CHAPTER 7  
5-19-16 [[158](#)]

LEONARD WELSH/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.  
DISMISSED

**Final Ruling**

The case dismissed, the matter is dropped as moot.

5. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES, CONTINUED STATUS CONFERENCE RE:  
LLC CHAPTER 11 VOLUNTARY PETITION  
11-1-13 [[1](#)]

ELAINE NGUYEN/Atty. for dbt.

*[Of the trilogy of motions and hearings to be held in this case on June 29, 2016, this motion will be called last.]*

**No tentative ruling.**

6. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES, CONTINUED MOTION TO CONFIRM  
EVN-15 LLC CHAPTER 11 PLAN  
BHAVIKA'S PROPERTIES, LLC/MV 11-18-15 [[389](#)]  
ELAINE NGUYEN/Atty. for dbt.

*[Of the trilogy of motions and hearings to be held in this case on June 29, 2016, this motion will be called second.]*

The court will conduct a pretrial conference, including scheduling an evidentiary hearing. The parties should review the Scheduling Order, filed December 18, 2015, ECF # 426, in advance of the pretrial conference. Notwithstanding the parties request to use alternate direct testimony, LBR 9017-1, the court intends to take all testimony live. In the following order, the court's suggested trial dates are: (1) September 6, September 7 (afternoon only), September 8, September 9; (2) August 29, August 30, (August 31 dark), September 1 (starting at 10:30 a.m.), September 2; (3) August 1, August 2, August 3 (afternoon only), August 4, August 5; or (4) October 3, October 4, October 5 (afternoon only), October 6, October 7. Counsel for the parties are ordered to meet and confer before the hearing to select one of these four dates. Trial time will be allocated equally between the debtor in possession and the Small Business Administration.

7. [15-12885](#)-A-11 ARS INVESTMENT GROUP, CONTINUED STATUS CONFERENCE RE:  
LLC CHAPTER 11 VOLUNTARY PETITION  
7-22-15 [[1](#)]

DISMISSED

**Final Ruling**

The case dismissed, the matter is dropped as moot.

8. [14-11595](#)-A-11 RAY FISHER PHARMACY, INC. MOTION FOR COMPENSATION BY THE  
PWC-9 LAW OFFICE OF LEECH TISHMAN  
FUSCALDO & LAMPL, LLC FOR  
PATRICK W. CAROTHERS, DEBTORS  
ATTORNEY(S)  
5-27-16 [[321](#)]

ALAN KINDRED/Atty. for dbt.

### **Final Ruling**

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

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

**Disposition:** Approved

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 11 case, Leech Tishman, counsel for the debtor in possession, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$131,735.50 and reimbursement of expenses in the amount of \$22,755.31. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

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 a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

### **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.

Leech Tishman's application for allowance of final 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 a final basis. The court allows final compensation in the amount of \$131,735.50 and reimbursement of expenses in the amount of \$22,755.31. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

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.

9. [10-62315](#)-A-11 BEN ENNIS  
LRP-62  
DAVID STAPLETON/MV  
RILEY WALTER/Atty. for dbt.  
MICHAEL GOMEZ/Atty. for mv.

MOTION TO PAY  
6-8-16 [[2077](#)]

**No tentative ruling.**

10. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES,  
EVN-18 LLC  
BHAVIKA'S PROPERTIES, LLC/MV  
ELAINE NGUYEN/Atty. for dbt.

MOTION TO USE CASH COLLATERAL  
6-1-16 [[506](#)]

*[Of the trilogy of motions and hearings to be held in this case on June 29, 2016, this motion will be called first.]*

**No tentative ruling.**