

**UNITED STATES BANKRUPTCY COURT**  
**Eastern District of California**  
**Honorable W. Richard Lee**  
**Hearing Date: Thursday, July 10, 2014**  
**Place: Department B – Courtroom #12**  
**Fresno, California**

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

**9:00 A.M.**

1. [13-16954](#)-B-11 MADERA ROOFING, INC.  
CRD-1  
  
ERIC FROMME/Atty. for dbt.  
RESPONSIVE PLEADING
- MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF RUTAN AND TUCKER,  
LLP FOR CAROLINE R. DJANG,  
DEBTOR'S ATTORNEY(S)  
6-5-14 [[334](#)]

**This matter will be rescheduled to August 7, 2014, at 9:00 a.m., for further responses by the applicant. The court will enter a separate order. No appearance is necessary.**

2. [13-16954](#)-B-11 MADERA ROOFING, INC.  
EJF-15  
  
ERIC FROMME/Atty. for dbt.
- MOTION BY ERIC J. FROMME TO  
WITHDRAW AS ATTORNEY  
6-19-14 [[369](#)]

3. [13-13388](#)-B-11 GEORGE/MARILYN LANTING  
TCS-7  
GEORGE LANTING/MV  
NANCY KLEPAC/Atty. for dbt.  
RESPONSIVE PLEADING,  
WITHDRAWN
- MOTION TO EMPLOY SCHUIL AND  
ASSOCIATES AS REALTOR(S)  
6-25-14 [[236](#)]

**The matter has been withdrawn. No appearance is necessary.**

4. [13-13388](#)-B-11 GEORGE/MARILYN LANTING  
TCS-8  
GEORGE LANTING/MV  
NANCY KLEPAC/Atty. for dbt.  
RESPONSIVE PLEADING,  
WITHDRAWN
- MOTION TO SELL  
6-25-14 [[243](#)]

**The matter has been withdrawn. No appearance is necessary.**

5. [13-13388](#)-B-11 GEORGE/MARILYN LANTING  
TCS-9  
GEORGE LANTING/MV  
NANCY KLEPAC/Atty. for dbt.  
RESPONSIVE PLEADING,  
WITHDRAWN
- MOTION TO SELL  
6-25-14 [[247](#)]

**The matter has been withdrawn. No appearance is necessary.**

JACOB EATON/Atty. for dbt.

This motion will be continued to July 30, 2014, at 3:00 a.m., in Bakersfield, for supplemental information. On April 25, 2014, the court approved KDG's first application for compensation of services rendered through March 19, 2014, in the amount of \$45,086. KDG is now requesting an additional award of more than \$34,000 for two months of service through May 19, 2014. The debtor is also requesting compensation for Glassratner and the Captial Group totaling more than \$34,000 for services rendered during essentially the same period. The court cannot tell from the applications, or from its review of the record, what has been accomplished in this case by KDG during the billing period other than a few ministerial and administrative matters. The application offers no information regarding the status of the chapter 11 plan which the debtor has projected to be filed by July 31, 2014.

The court has an independent duty to review applications for compensation of professionals. "[T]he court should review a fee application to ensure the applicant exercises the same "billing judgment" as do non-bankruptcy attorneys by, for example, writing off unproductive research time, duplicative services, redundant costs precipitated by overstaffing, or other expenses with regard to which the professional generally assumes the cost as overhead in corresponding non-bankruptcy matters, or for which analogous non-bankruptcy clients typically decline to pay." *In re Busy Beaver Bldg. Centers, Inc.*, 19 F.3d 833 (C.A.3 (Pa.), 1994).

From its review of the employment applications for professionals, the court is unable to determine how the responsibilities for this case have been delegated. The employment application for KDG stated: "The Debtor-in-Possession will require the services of bankruptcy counsel under a general retainer for representation in the Chapter 11 case." The "Included Services" were listed as:

1. "Consulting with Debtor-in-Possession concerning their present financial situation, the realistically achievable goals, and the efficacy of various forms of bankruptcy as a means to achieve their goals.
2. Preparing the documents necessary to commence the bankruptcy case.
3. Advising Debtor-in-Possession concerning its duties as a debtor-in-possession in a Chapter 11 case.
4. If it appears that it can propose a viable plan, helping the formulation of the Chapter 11 plan, drafting the plan and disclosure statement, and prosecuting legal proceedings to seek confirmation of the plan.

- . If necessary, preparing and prosecuting such pleadings as complaints to avoid preferential transfers or transfers deemed fraudulent as to creditors, motions for authority to borrow money, sell property, or compromise claims and objections to claim."

Specifically excluded were:

1. Auditing/Investigation.
2. Accounting/Tax Advice.
3. Business or Financial Advice.
4. Employment of Experts.
5. Litigation.

First, the court notes that KDG billed approximately \$900 for the ill-advised and disapproved employment application for Moss Tucker as "special counsel" for unspecified litigation purposes. The application fails to show how this legal service was necessary or beneficial to the bankruptcy estate.

The employment of multiple professionals responsible for overlapping duties inevitably leads to inefficiencies. In this case, each of the professionals employed, Glassratner Advisory Group, LLC, ("Glassratner"), Frazier, LLP, ("Frazier"), and Klein, Denatale, Goldner, Cooper, Rosenlieb and Kimball, LLP ("KDG") have employment applications with overlapping duties, including that for the debtor's chapter 11 plan of reorganization. This arrangement almost inevitably leads to duplicative services and inefficiencies.

For example, On April 2, 2014, KDG billed \$541.50 related to an "Action Plan" for the chapter 11 plan:

- .2 hours for "Telephone calls to and prepared e-mail to [Glassratner] regarding plan."
- .4 hours for "Prepared for telephone conference regarding Action Plan for developing Plan of Reorganization."
- 1.2 hours for "Telephone conference with Jim Wilson, [Glassratner], Bob Matlick, and Amanda Hebesha regarding Action Plan for developing Plan of Reorganization."
- .1 hours for "exchanged e-mail with Craig Barbarosh regarding Plan of Reorganization."

On the same day, apparently in connection with the same conference call, two different partners at Frazier billed a total of \$762 for:

- 1.25 hours, "Conference call-Doug Tucker, Moss Tucker, [Glassratner], and [KDN] re: restructure plan
- 1.6 hours, "Phone call- Jim Wilson & [KDG], [Glassratner] re: Reorganization."

And, also on the same day and apparently in connection with the same conference call, Glassratner billed \$300 for 1 hour, "Telephone conference with Debtor, [KDG], and [Frazier] regarding plan issues."

Nevertheless, despite many, many telephone conferences and e-mail communications between these professionals, a chapter 11 plan has yet to be filed.

7.     [14-10588](#)-B-11   J & D WILSON AND SONS                   MOTION FOR COMPENSATION FOR  
          KDG-16                 DAIRY                                 FRAZER, LLP, ACCOUNTANT(S).  
          FRAZER, LLP/MV   6-12-14 [[198](#)]  
          JACOB EATON/Atty. for dbt.

**This motion will be continued to July 30, 2014, at 3:00 p.m., in Bakersfield, for consideration with the fee application of debtor's counsel and the supplemental information provided therewith. No appearance is necessary.**

8.     [14-10588](#)-B-11   J & D WILSON AND SONS                   MOTION FOR COMPENSATION FOR  
          KDG-17                 DAIRY                                 GLASSRATNER ADVISORY AND  
          GLASSRATNER ADVISORY & CAPITAL                             CAPITAL GROUP, LLC, OTHER  
          GROUP, LLC/MV   PROFESSIONAL(S).  
   6-12-14 [[205](#)]  
          JACOB EATON/Atty. for dbt.

**This motion will be continued to July 30, 2014, at 3:00 p.m., in Bakersfield, for consideration with the fee application of debtor's counsel and the supplemental information provided therewith. No appearance is necessary.**

10:30 A.M.

- |    |  |   |
|----|--|---|
| 1. | <a href="#"><u>11-12668</u></a> -B-13    ALVINA FISCHER<br><a href="#"><u>13-1139</u></a><br>FISCHER V. EVERBANK ET AL<br>NANCY KLEPAC/Atty. for pl.   | CONTINUED STATUS CONFERENCE RE:<br>COMPLAINT<br>12-31-13 [ <a href="#"><u>1</u></a> ] |
|    |  |   |
| 2. | <a href="#"><u>14-10371</u></a> -B-7    SUSANA VITO<br><a href="#"><u>14-1051</u></a><br>EDUCATIONAL EMPLOYEES CREDIT<br>UNION V. VITO<br>DON POOL/Atty. for pl.<br>STIPULATION/JUDGMENT FILED<br>6/3/14 | STATUS CONFERENCE RE: COMPLAINT<br>5-6-14 [ <a href="#"><u>1</u></a> ]                |

The matter has been settled and the adversary proceeding has been closed. No appearance is necessary.

1:30 P.M.

1. [14-11210](#)-B-13 JOHN LUCE  
GGL-3  
JOHN LUCE/MV  
GEORGE LOGAN/Atty. for dbt.  
RESPONSIVE PLEADING  
MOTION TO CONFIRM PLAN  
5-20-14 [[37](#)]
2. [14-11111](#)-B-13 PHILLIP/MARNIE HAMILTON  
TCS-1  
PHILLIP HAMILTON/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
RESPONSIVE PLEADING  
MOTION TO MODIFY PLAN  
6-3-14 [[25](#)]
3. [14-12623](#)-B-13 ADRIAN/DANA BAUTISTA  
TOG-1  
ADRIAN BAUTISTA/MV  
THOMAS GILLIS/Atty. for dbt.  
MOTION TO VALUE COLLATERAL OF  
PATELCO CREDIT UNION  
6-5-14 [[12](#)]

**This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted for cause shown without oral argument. Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. *Unless the chapter 13 plan has been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.* The debtor(s) shall submit a proposed order consistent with this ruling. No appearance is necessary. *This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.***

4. [12-60537](#)-B-13 LARRY/PEGGY LOFTIN  
MAZ-3  
LARRY LOFTIN/MV  
MARK ZIMMERMAN/Atty. for dbt.  
RESPONSIVE PLEADING  
MOTION TO MODIFY PLAN  
5-21-14 [[50](#)]

**The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and the trustee has filed an opposition. Based on the debtors' reply to the trustee's objection, the motion will be granted without oral argument for cause shown. The trustee's objection is to be resolved in a proposed confirmation order submitted by the debtors for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.**

5. [10-10438](#)-B-13 RONNIE/CHARLOTTE RACKLEY MOTION FOR COMPENSATION BY THE  
PLF-5 LAW OFFICE OF FEAR LAW GROUP,  
P.C. FOR PETER L. FEAR,  
DEBTOR'S ATTORNEY(S).  
6-9-14 [[75](#)]

PETER FEAR/Atty. for dbt.

**This matter will be continued to July 24, 2014, at 1:30 p.m., for supplemental information. The court is unable to reconcile from the application the amount of the additional fees requested with the amount of fees already paid. No appearance is necessary.**

6. [14-11047](#)-B-13 JANITZY FLORES OBJECTION TO DEBTOR'S CLAIM OF  
MHM-1 EXEMPTIONS  
MICHAEL MEYER/MV 6-12-14 [[43](#)]  
SCOTT LYONS/Atty. for dbt.

**The trustee's objection has been withdrawn. No appearance is necessary.**

7. [14-12248](#)-B-13 EDDIE GUZMAN MOTION TO CONFIRM PLAN  
PBB-1 5-20-14 [[17](#)]  
EDDIE GUZMAN/MV  
PETER BUNTING/Atty. for dbt.

**The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.**

8. [14-11361](#)-B-13 DAVID/GLORIA RIVERA MOTION TO VALUE COLLATERAL OF  
PLF-1 PREMIER VALLEY BANK  
DAVID RIVERA/MV 6-3-14 [[32](#)]  
PETER FEAR/Atty. for dbt.  
RESPONSIVE PLEADING

**Based on the respondent's opposition, this matter will be continued to August 7, 2014, at 1:30 p.m. This matter is now deemed to be a contested matter. Pursuant to FRBP 9014(c), the federal rules of discovery apply to contested matters. The debtors shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date.**

**This contested matter will be consolidated with DC no. PLF-2 for all purposes including discovery and trial if necessary. The court will prepare a civil minute order. No appearance is necessary.**



9. [14-11361](#)-B-13 DAVID/GLORIA RIVERA  
PLF-2  
DAVID RIVERA/MV  
PETER FEAR/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO VALUE COLLATERAL OF  
PREMIER VALLEY BANK  
6-5-14 [[37](#)]

Based on the respondent's opposition, this matter will be continued to August 7, 2014, at 1:30 p.m. This matter is now deemed to be a contested matter. Pursuant to FRBP 9014(c), the federal rules of discovery apply to contested matters. The debtors shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date.

This contested matter will be consolidated with DC no. PLF-1 for all purposes including discovery and trial if necessary. The court will prepare a civil minute order. No appearance is necessary.

10. [10-15863](#)-B-13 ERNESTO/LINDA AMPARAN  
GMA-1  
ERNESTO AMPARAN/MV  
GEOFFREY ADALIAN/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION FOR ENTRY OF DISCHARGE  
5-28-14 [[39](#)]

This motion will be denied without prejudice. The procedure for entry of chapter 13 discharge is set forth in Local Rule 5009-1. The motion does not provide a reason why the discharge cannot be entered pursuant to the Local Rules. No appearance is necessary.

11. [14-11671](#)-B-13 GLENN BAILES  
BHT-1  
OCWEN LOAN SERVICING, LLC/MV  
  
F. GIST/Atty. for dbt.  
BRIAN TRAN/Atty. for mv.

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY OCWEN  
LOAN SERVICING, LLC  
4-30-14 [[19](#)]

12. [14-10684](#)-B-13 NADER SHOKRY  
PLG-2  
NADER SHOKRY/MV

MOTION TO AVOID LIEN OF  
COLLECTIBLES MANAGEMENT  
RESOURCES, A GENERAL  
PARTNERSHIP  
6-4-14 [[50](#)]

RABIN POURNAZARIAN/Atty. for dbt.

**This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.**

13. [09-10890](#)-B-13 WALTER/SHARON WEBB  
MHM-1  
MICHAEL MEYER/MV

OBJECTION TO DEBTORS 11 U.S.C.  
SEC. 1328 CERTIFICATION BY  
MICHAEL H. MEYER  
5-22-14 [[36](#)]

DAVID JENKINS/Atty. for dbt.  
WITHDRAWN

**The trustee's objection has been withdrawn. No appearance is necessary.**

14. [10-19193](#)-B-13 ENRIQUE/SUSANA MEDINA  
TOG-11  
ENRIQUE MEDINA/MV  
THOMAS GILLIS/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO COMPEL  
5-31-14 [[46](#)]

**2:00 P.M.**

1. [14-12224](#)-B-13 BARRY ELDER  
MHM-1
- GARY HUSS/Atty. for dbt.  
RESPONSIVE PLEADING
- OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
6-16-14 [[18](#)]

**The trustee's objection has been withdrawn. No appearance is necessary.**

2. [14-10431](#)-B-13 ANTHONY/CHERI BEASLEY  
MHM-1
- GARY HUSS/Atty. for dbt.
- OBJECTION TO CONFIRMATION OF  
PLAN  
3-25-14 [[24](#)]

3. [14-11671](#)-B-13 GLENN BAILES  
MHM-1
- F. GIST/Atty. for dbt.
- OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
6-17-14 [[35](#)]

**This matter will be advanced to the 1:30 p.m. calendar and called with the continued hearing on Ocwen's objection to the plan. No appearance is necessary at 2:00 p.m.**

4. [13-16845](#)-B-7 KEYSTONE MINE MANAGEMENT  
DMT-1 II  
JOHN HAGESTAD/MV  
PHILLIP GILLET/Atty. for dbt.  
WILLIAM LOBEL/Atty. for mv.
- CONTINUED MOTION FOR RELIEF  
FROM AUTOMATIC STAY  
3-14-14 [[130](#)]

2:30 P.M.

1. 12-17199-B-7 GURSEV KAUR  
12-1188  
VETTER V. KAUR  
RENE LASTRETO/Atty. for pl.

TRIAL RE: AMENDED COMPLAINT  
11-16-12 [ 6 ]

**The defendant's motion has been withdrawn and this special set evidentiary hearing has been vacated by order dated July 9, 2014. No appearance is necessary.**