

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY

DATE: AUGUST 1, 2018

CALENDAR: 1:30 P.M. CHAPTERS 11 AND 9 CASES

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

1. [17-13112](#)-A-11 **IN RE: PIONEER NURSERY, LLC**
[FW-35](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR PETER L. FEAR, DEBTORS ATTORNEY(S)
7-3-2018 [[545](#)]

PETER FEAR

Final Ruling

Application: Allowance of Interim 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, Fear Waddell, P.C., counsel for the debtor in possession, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$55,137.50 and reimbursement of expenses in the amount of \$1,875.75.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Fear Waddell, P.C.'s application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$55,137.50 and reimbursement of expenses in the amount of \$1,875.75. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

2. [17-13112](#)-A-11 **IN RE: PIONEER NURSERY, LLC**
[FW-36](#)

MOTION FOR COMPENSATION FOR M. KATHLEEN KLEIN, ACCOUNTANT(S)
6-28-2018 [\[534\]](#)

M. KATHLEEN KLEIN/MV
PETER FEAR

Final Ruling

Application: Allowance of Interim 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, M. Kathleen Klein has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the

amount of \$7,170.00 and reimbursement of expenses in the amount of \$25.50.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

M. Kathleen Klein's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$7,170.00 and reimbursement of expenses in the amount of \$25.50. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

3. [18-11017](#)-A-11 **IN RE: VICTORY OUTREACH INC. VISALIA**
[MRT-2](#)

MOTION TO SELL
7-14-2018 [\[59\]](#)

VICTORY OUTREACH INC.
VISALIA/MV
MICHAEL TOTARO
OST 7/17/18

Tentative Ruling

Motion: Sell Property
Disposition: Denied without prejudice
Order: Civil minute order

All creditors and parties in interest have not received sufficient notice. Notice of a proposed sale other than in the ordinary course of business must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(2).

Specifically, the Tulare County Tax Collector, a creditor with a claim of about \$98,000, has not received notice of either the motion or the notice of hearing / order setting the hearing on shortened notice. A creditor with a smaller claim, the IRS, has also not received sufficient notice.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice.

4. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[18-1030](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
5-25-2018 [\[1\]](#)

TE VELDE V. RABOBANK N.A. ET
AL
RILEY WALTER/ATTY. FOR PL.
RESPONSIVE PLEADING

Final Ruling

The status conference is continued to August 22, 2018, at 3:00 p.m.

5. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[18-1030](#)

TRIAL HEARING RE: STIPULATED FACTS
7-6-2018 [[84](#)]

TE VELDE V. RABOBANK N.A. ET
AL

Final Ruling

The trial on stipulated facts is continued to August 22, 2018, at 3:00 p.m. Except as otherwise ordered, the terms of the Order on Advanced Status Conference, June 30, 2018, ECF # 77, control. No additional submissions are authorized. Participation by telephone at the trial on stipulated is authorized. The continuance resulted from the court's need to attend the Ninth Circuit Conference last week and to address personal matters, viz., displacement from its personal residence since July 26, by the Carr fire. The court apologizes to the parties and counsel for any inconvenience. Plaintiff Gregory te Velde will file and serve notice of the continued trial date. A civil minute order will issue.

6. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[GGL-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-11-2018 [[512](#)]

SINECO CONSTRUCTION LLC/MV
RILEY WALTER
VICTOR LUKE/ATTY. FOR MV.

Final Ruling

Pursuant to Order, ECF #571, the motion is denied and the matter will not be called. A civil minute order will issue.

7. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[JFS-2](#)

MOTION FOR AUTHORITY TO COMPLETE TRANSACTION WITH THE
AUTHORITY TO DEPOSIT CHECK PROCEEDS AND RELEASE OF LIVESTOCK
7-13-2018 [[528](#)]

FRINGS RANCH, LP/MV
RILEY WALTER
JOSEPH SOARES/ATTY. FOR MV.

No Ruling

8. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[WW-14](#)

CONTINUED MOTION TO BORROW
7-3-2018 [[472](#)]

GREGORY TE VELDE/MV
RILEY WALTER
RESPONSIVE PLEADING

No Ruling

9. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[RAC-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF BLAKELEY LLP
FOR RONALD A. CLIFFORD, CREDITORS ATTORNEY(S)
7-18-2018 [[556](#)]

RILEY WALTER

No Ruling

10. [18-11017](#)-A-11 **IN RE: VICTORY OUTREACH INC. VISALIA**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION
3-23-2018 [[1](#)]

MICHAEL TOTARO

No Ruling

11. [18-11651](#)-A-11 **IN RE: GREGORY TE VELDE**
[18-1049](#) [FRB-1](#)

MOTION TO DEPOSIT FUNDS INTO COURT REGISTRY
7-26-2018 [[7](#)]

COLUMBIA RIVER PROCESSING,
INC. V. TE VELDE ET AL
MICHAEL GOMEZ/ATTY. FOR MV.
OST 7/27/18

No Ruling