



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

Chief Judge Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: MONDAY
DATE: AUGUST 7, 2023
CALENDAR: 9:00 A.M. CHAPTER 9 AND 11 CASES

Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be heard simultaneously: (1) **IN PERSON** in Courtroom 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

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To appear remotely for law and motion or status conference proceedings, you must comply with the following 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.
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Please join at least 10 minutes prior to the start of the calendar. You are required to give the court 24 hours advance notice on the [Court Calendar](#).

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including screen shots 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.

PRE-HEARING DISPOSITION INSTRUCTIONS

RULINGS

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

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [22-23186](#)-A-11 **IN RE: C S I ROOF REMOVAL, INC.**

CONTINUED CONFIRMATION OF PLAN
3-9-2023 [\[52\]](#)

MATTHEW DECAMINADA/ATTY. FOR DBT.

Tentative Ruling

Matter: Plan Confirmation - Continued Hearing

Notice: LBR 7056-1, 9014-1(f)(1); written opposition required

Disposition: Denied

Order: Civil minute order

This is a continue hearing on confirmation of a Subchapter V Chapter 11 Plan. Civ. Minutes, ECF No. 71. Under the terms of the continued hearing the debtor was to augment the record was to feasibility and liquidation. *Id.*

The debtor bears the burden of proof on all elements of plan confirmation. *In re Curiel*, 651 B.R. 548, 562 (B.A.P. 9th Cir. 2023). Two elements are problematic here. First, the plan must satisfy the liquidation test. 11 U.S.C. § 1129(a)(7)(a)(ii). That provides, "With respect to each impaired class of claims or interests--(A) each holder of a claim or interest of such class-- (i) has accepted the plan; or (ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date." This requirement applies whether or not the claim holder as voted. *Id.* Here, not all Class 1 claims holders have voted. Tabulation of Ballot, ECF No. 86.

As one source explained it: "Applying the 'best interests' test requires the court to conjure up a hypothetical chapter 7 liquidation that would be conducted on the effective date of the plan." [In re Sierra-Cal (BC ED CA 1997) 210 BR 168, 172; In re Elsinore Shore Assocs. (BC D NJ 1988) 91 BR 238, 269-272 (detailed discussion of evidence supporting liquidation analysis and "best interests" test)]." March, Ahart & Shapiro, California Practice Guide: Bankruptcy § 11:1428 (Rutter Group December 2022).

There is insufficient evidence that the plan satisfies the liquidation analysis. The proffered evidence states, "Also, the Plan includes a liquidation analysis showing creditors would receive much more under the proposed Plan than they would under a hypothetical Chapter 7 liquidation." Flores decl. ¶ 9, ECF No. 84. The plan itself contains a projection, but no actual evidence. Plan 2:18-19 and Ex. A, ECF No. 52. This is not evidence and is not sufficiently detailed.

Second, the plan fails feasibility. "Confirmation of the plan is not likely to be followed by the liquidation, or the need for

further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.” 11 U.S.C. § 1129(a)(11).

The plan requires 60 monthly payments of \$1,950.75. Plan Article IV, Class 1, ECF No. 52. The evidence does not show that the debtor can make these payments. The debtor professes ability to make the payments, but the evidence is otherwise. Flores decl. ¶ 11, ECF No. 84. Monthly Operating Reports contradict the debtor; Net Cash Flow is as follows: December 2022-\$20,992, ECF No. 47; January 2023-(\$28,201), ECF No. 51; February 2023-\$14,816, ECF No. 53; March 2023-(\$13,049), ECF No. 65; April 2023-\$10,290, ECF No. 68; May 2023 - (\$4,174), ECF No. 75; and June 2023 - \$10,012, ECF No. 83. Net Cash Flow for 2022 (December only) and 2023 aggregates \$10,686 or \$1,526 per month. The debtor is a roofer and, concededly, his cash flow is seasonal. Flores decl. ¶ 11, ECF No. 84. These figures show that the debtor has not show feasibility.

For these reasons, confirmation is denied.

CIVIL MINUTE ORDER

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

The debtor’s motion to confirm its Chapter 11 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that confirmation is denied.

2. [22-23186](#)-A-11 **IN RE: C S I ROOF REMOVAL, INC.**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
12-9-2022 [[1](#)]

MATTHEW DECAMINADA/ATTY. FOR DBT.

No Ruling

3. [22-23186](#)-A-11 **IN RE: C S I ROOF REMOVAL, INC.**
[MJD-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF STUTZ LAW
OFFICE, P.C. FOR MATTHEW J. DECAMINADA, DEBTORS ATTORNEY(S)
7-10-2023 [\[77\]](#)

MATTHEW DECAMINADA/ATTY. FOR DBT.

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, Matthew DeCaminada, 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 \$9,720.00 and reimbursement of expenses in the amount of \$117.75.

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.

Matthew DeCaminada'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 \$9,720.00 and reimbursement of expenses in the amount of \$117.75. 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.

IT IS FURTHER ORDERED that future applications shall clearly state whether they are interim or final in nature.

4. [23-22228](#)-A-11 **IN RE: KADEN KOFFLER**
[KBK-1](#)

MOTION TO EXTEND AUTOMATIC STAY O.S.T.
7-28-2023 [\[36\]](#)

KADEN KOFFLER/ATTY. FOR MV.

No Ruling