



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

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

**DAY: MONDAY**  
**DATE: AUGUST 21, 2023**  
**CALENDAR: 9:00 A.M. CHAPTER 9 AND 11 CASES**

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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**.

You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to the ZoomGov video and audio feeds, free of charge, using the connection information provided:

**Video web address:**

<https://www.zoomgov.com/j/1612698217?pwd=bVhQQVRVMmdFaXJnL1l1U3krcbVJYdz09>

**Meeting ID:** 161 269 8217

**Passcode:** 953912

**ZoomGov Telephone:** (669) 254-5252 (Toll Free)

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.
3. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

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.

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## PRE-HEARING DISPOSITION INSTRUCTIONS

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### 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.

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1. [21-22404](#)-A-11     **IN RE: PAR 5 PROPERTY INVESTMENTS, LLC**  
[DL-12](#)

MOTION FOR COMPENSATION FOR SIDES & FERKOVICH ACCOUNTANCY  
CORP, ACCOUNTANT(S)  
7-11-2023    [\[372\]](#)

WALTER DAHL/ATTY. FOR MV.

### **Final Ruling**

**Application:** Allowance of First 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, Sides & Ferkovich has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$4,572.60 and reimbursement of expenses in the amount of \$0.

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.

Sides & Ferkovich'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 \$4,572.60 and reimbursement of expenses in the amount of \$0. 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. [23-22125](#)-A-11     **IN RE: ESCALON LIVESTOCK MARKET, INC.**  
[CAE-1](#)

STATUS CONFERENCE RE: VOLUNTARY PETITION  
6-28-2023    [[1](#)]

DAVID JOHNSTON/ATTY. FOR DBT.

**Final Ruling**

The status conference is continued to September 11, 2023, at 9:00 a.m.

3. [23-22228](#)-A-11     **IN RE: KADEN KOFFLER**  
[CAE-1](#)

STATUS CONFERENCE RE: VOLUNTARY PETITION  
7-6-2023    [[1](#)]

KADEN KOFFLER/ATTY. FOR MV.

**Final Ruling**

The status conference is continued to September 25, 2023, at 9:00 a.m.

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

MOTION FOR RELIEF FROM AUTOMATIC STAY  
7-18-2023    [\[16\]](#)

MIKE NEUE/ATTY. FOR MV.  
PELORUS FUND REIT, LLC VS.

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

Pelorus Fund, REIT, LLC, seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). For the following reasons the motion will be denied without prejudice.

### **SERVICE AND NOTICE**

As of November 1, 2022, the court adopted Local Bankruptcy Rules 2002-3, 9036-1 and 7005-1 (requiring attorneys and trustees to use a standardized Certificate of Service, EDC 7-005).

The form certificate of service is intended to allow parties to memorialize service efficiently and accurately, and to aid the court in ensuring sufficient service is achieved in each proceeding.

### Matrix

Where the Clerk's Matrix of Creditors is attached to the Certificate of Service form, *such list shall be downloaded not more than 7 days prior to the date of serving the pleadings and other documents and shall reflect the date of downloading.* The serving party may download that matrix either in "pdf label format" or in "raw data format." Where the matrix attached is in "raw data format," signature on the Certificate of Service is the signor's representation that no changes, e.g., additions, deletions, modifications, of the data have been made except: (1) formatting of existing data; or (2) removing creditors from that list by the method described in paragraph (c) of this rule.

LBR 7005-1(d) (emphasis added).

On July 19, 2023, the movant filed and served an amended notice of hearing, ECF No. 26. The matrix attached to the amended certificate of service is not dated. See Amended Certificate of Service, ECF No. 27. Because the matrix is not dated service of the motion does not comply with LBR 7005-1.

#### **DEBTOR NOT SERVED WITH AMENDED NOTICE**

A motion for relief from stay is a contested matter and the debtor must be served with the motion. Fed. R. Bank. P. 9014, 7004. While Section 5 indicates that the debtor was served with the amended notice, the attached, undated, matrix fails to list the debtor. Thus, there is no proof the debtor was served with the amended notice. See Amended Certificate of Service, Section 5, Matrix, ECF No. 27.

Because the moving party has failed to comply with Local Rules regarding service of the motion the court will deny the motion without prejudice.

#### **CIVIL MINUTE ORDER**

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

Pelorus Fund, REIT, LLC's Motion for Relief From the Automatic Stay has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

5. [23-21573](#)-A-11     **IN RE: BHD SLT, LLC**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION  
5-15-2023    [\[1\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.

**\*[Since posting its original rulings, the court has changed its intended ruling on this matter].**

#### **Final Ruling**

The status conference is continued to October 2, 2023, at 9:00 a.m.