

**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Thursday, September 8, 2022
Department B – Courtroom #13
Fresno, California**



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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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, and all parties will need to appear at the hearing unless otherwise ordered. 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.

Post-Publication Changes: The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:30 AM

1. [21-12031](#)-B-13 **IN RE: JUAN FAJARDO**
[SL-4](#)

MOTION FOR COMPENSATION FOR SCOTT LYONS, DEBTORS ATTORNEY(S)
8-8-2022 [\[81\]](#)

SCOTT LYONS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Scott Lyons ("Applicant"), attorney for Juan Fajardo ("Debtor"), seeks interim compensation in the sum of \$8,500.00. Doc. #81. This amount consists of \$7,735.84 in fees as reasonable compensation and \$764.16 in reimbursement for actual, necessary expenses from June 16, 2021 through April 27, 2022. *Id.*

Debtor executed a statement dated August 4, 2022 indicating that Debtor has reviewed the fee application and has no objections. *Id.*, § 9(7).

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6). The failure of the creditors, the chapter 13 trustee, the U.S. trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Debtor filed chapter 7 bankruptcy on August 20, 2021. Doc. #1. The case was converted to chapter 13 on February 3, 2022. Doc. #49. While

seeking confirmation of *Debtor's First Modified Chapter 13 Plan* dated April 15, 2022, Debtor, through Applicant, stipulated with the chapter 13 trustee to reduce the fees paid through the plan to \$6,500.00, which is a \$4,000.00 reduction from those proposed. Docs. #69; #74. The plan was confirmed June 6, 2022 with those same terms. Doc. #78. Applicant was paid \$1,963.00 pre-petition plus a \$37.00 credit reporting fee, for a total of \$2,000.00, and the remaining \$6,500.00 will be paid through the plan. *Id.*; Doc. #1.

This is Applicant's first interim request for compensation. Applicant's firm provided 49.53 hours of legal services at the following rates, totaling \$8,111.50 in fees. Doc. #83, *Ex. B*. However, Applicant limited this fee application to **\$7,735.84**:

Professional	Rate	Hours	Rate x Hour	Requested
Scott Lyons	\$400	0.77	\$308.00	\$308.00
Louis Lyons ¹	\$350	11.71	\$4,098.50	\$3,722.84
Sylvia Gutierrez	\$100	19.78	\$1,978.00	\$1,978.00
Delores Rodriguez	\$100	17.27	\$1,727.00	\$1,727.00
Total Hours & Fees		49.53	\$8,111.50	\$7,735.84

Id. Applicant also incurred **\$764.16** in expenses:

Credit report fee	\$37.00
Postage	+ \$727.16
Total	= \$764.16

Id. These combined fees and expenses total **\$8,500.00**. After applying the \$2,000.00 pre-petition payment, the balance of \$6,500.00 remains to be paid through the plan.

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) advising Debtor about bankruptcy and non-bankruptcy alternatives; (2) reviewing Debtor's financial information, the effects of exemptions, and value of assets; (3) gathering information and documents for and preparing the petition, schedules, statements; (4) filing chapter 7 bankruptcy; (5) converting case to chapter 13 due to chapter 7 trustee's interest in selling non-exempt equity in property (SL-2); (6) preparing, filing, and stipulating with trustee to confirm plan (SL-3); (7) preparing and sending § 341 meeting of creditor documents to the

trustee and attending the meeting; (8) filing and serving this fee application (SL-4). Doc. #83, Exs. A, B. As noted above, Debtor has consented to payment of the requested fees. Doc. #81, § 9(7). The court finds the services and expenses actual, reasonable, and necessary.

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Applicant will be awarded \$7,735.84 in fees and \$764.16 in expenses on an interim basis under 11 U.S.C. § 331, subject to final review pursuant to § 330. After application of the pre-petition payment of \$2,000.00, the chapter 13 trustee is authorized, in his discretion, to pay Applicant \$6,500.00 in accordance with the chapter 13 plan for services rendered and expenses incurred from June 16, 2021 through April 27, 2022.

¹ Louis Lyons waived 0.5 hours (\$175.00) for the initial consultation on June 16, 2021 and requested only \$72.34 for 0.78 hours (\$273.00) for meeting with Debtor prior to and after the meeting of creditors on April 26, 2022. Doc. #83, Ex. B.

2. [22-10339](#)-B-13 **IN RE: ELIZABETH VALVERDE**
[MHM-3](#)

MOTION TO DISMISS CASE
8-11-2022 [[30](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

Debtor Elizabeth Valverde moved to voluntarily dismiss this case pursuant to 11 U.S.C. § 1307(b) on September 1, 2022, which was granted September 2, 2022. Doc. ##43-44. Accordingly, the chapter 13 trustee's motion to dismiss will be DENIED AS MOOT.

3. [22-10339](#)-B-13 **IN RE: ELIZABETH VALVERDE**
[TCS-1](#)

MOTION TO SELL AND/OR MOTION TO INCUR DEBT
8-17-2022 [[34](#)]

ELIZABETH VALVERDE/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

Debtor Elizabeth Valverde moved to voluntarily dismiss this case pursuant to 11 U.S.C. § 1307(b) on September 1, 2022, which was granted September 2, 2022. Doc. ##43-44. Accordingly, the debtor's motion to dismiss will be DENIED AS MOOT.

4. [19-11740](#)-B-13 **IN RE: RICHARD/VERONICA ESPINOZA**
[MHM-3](#)

MOTION TO DISMISS CASE
8-10-2022 [[76](#)]

MICHAEL MEYER/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

Since posting the original pre-hearing dispositions, the court has changed its intended ruling on this matter.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Withdrawn.

NO ORDER REQUIRED

The chapter 13 trustee withdrew this motion on September 7, 2022. Doc. #80. Accordingly, this matter will be taken off calendar pursuant to the trustee's withdrawal.

5. [19-10965](#)-B-13 **IN RE: GUADALUPE RAMIREZ**
[MHM-4](#)

MOTION TO DISMISS CASE
8-11-2022 [\[81\]](#)

MICHAEL MEYER/MV
SCOTT LYONS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The court will issue an order.

The chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtors that is prejudicial to creditors and 11 U.S.C. § 1307(c)(6) for failure to make all payments due under the confirmed plan. Doc #81. Debtor did not oppose.

Unless Trustee's motion is withdrawn before the hearing, the motion will be GRANTED without oral argument for cause shown.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor has failed to make all payments due under the plan as required by 11 U.S.C. § 1307(c)(6). Debtor is delinquent in the amount of \$4,959.32. Doc. #83. Before this hearing, another payment in the amount of \$2,624.32 will also come due. *Id.*

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for "cause". "A debtor's unjustified failure to expeditiously accomplish

any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." *Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth)*, 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(6) for failure to complete the terms of the confirmed plan.

In addition, the trustee has reviewed the schedules and determined that the debtor's assets are over encumbered or exempted, so there is no equity to be realized for the benefit of the estate. Docs. #81; #83. Therefore, dismissal, rather than conversion, serves the interests of creditors and the estate.

Accordingly, the motion will be GRANTED, and the case DISMISSED.

6. [22-10699](#)-B-13 **IN RE: JESUS GUERRA**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-11-2022 [[67](#)]

WELLS FARGO BANK, N.A./MV
HENRY NUNEZ/ATTY. FOR DBT.
WENDY LOCKE/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued or denied without prejudice.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order.

Wells Fargo Bank, N.A. ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to real property located 209 S. O. Street, Madera, CA 93637 ("Property"). Doc. #43.

Jesus Lopez Guerra ("Debtor") timely filed written opposition. Doc. #77.

This matter will be called and proceed as scheduled.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the chapter 13 trustee, the U.S. trustee, or any other party in interest except Debtor to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest except Debtor are entered. Upon default, factual allegations will be taken as true

(except those relating to amounts of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case-by-case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985).

Movant's predecessor, Suntrust Mortgage, Inc., lent Debtor \$135,000 secured by Property in 2007. Docs. #70; #72, Exs. 1, 2. Thereafter, the loan was assigned to Movant. *Id.*, Ex. 3. In 2010, Debtor refinanced the loan in the new principal amount of \$135,475.38. *Id.*, Ex. 4. Now, Movant claims that Debtor has missed three post-petition payments totaling \$3,042.51 from May 2022 through July 2022. *Id.*, Ex. 5; Doc. #70. Two additional payments of \$717.15 will become due in August and September 2022. *Id.*

In response, Debtor claims to be current with his payment to Movant. Docs. #77-78. Debtor's attorney, Henry D. Nunez, declares that Debtor paid \$4,056.68 to Movant on August 19, 2022 to cure the delinquency through August 2022. *Id.* Additionally, Debtor claims that Movant is adequately protected because Property is worth at least \$180,100.04 while Movant is owed only \$86,699.96. *Id.* Therefore, Debtor requests that the motion either be denied or continued 30 days because Debtor is in the hospital and unable to assist in preparing opposition. *Id.*

In addition to admitted equity in favor of Movant, neither Movant's declaration (Doc. #70) nor exhibits (Doc. #72) address the additional facts needed under LBR 4001-1(b) other than the accounting for post-petition delinquencies.

This matter will be called as scheduled to inquire about Movant's reply and whether Movant has received Debtor's payment. If so, this motion may be DENIED WITHOUT PREJUDICE.

7. [22-10699](#)-B-13 **IN RE: JESUS GUERRA**
[MHM-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H.
MEYER
7-15-2022 [[49](#)]

HENRY NUNEZ/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objected to Jesus Lopez Guerra's ("Debtor") *Chapter 13 Plan* dated May 6, 2022 under 11 U.S.C. § 1325(a)(6) because Debtor will not be able to make all payments under the plan and comply with the plan. Doc. #49.

Since then, Debtor filed the *First Modified Chapter 13 Plan* dated July 26, 2022, and the *Second Modified Chapter 13 Plan* dated September 1, 2022. Docs. #59; #80. Trustee's objection to the original plan is now moot. Accordingly, this objection will be DENIED AS MOOT.

10:00 AM

1. [21-11405](#)-B-7 **IN RE: NORTHWEST PETROLEUM, INC.**
[DMG-3](#)

MOTION FOR COMPENSATION FOR D. MAX GARDNER, TRUSTEES
ATTORNEY(S)
8-9-2022 [[43](#)]

LEONARD WELSH/ATTY. FOR DBT.
D. GARDNER/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

D. Max Gardner ("Applicant"), general counsel for chapter 7 trustee Jeffrey M. Vetter ("Trustee"), requests final compensation in the sum of \$7,853.65. Doc. #43. This amount consists of \$7,702.50 in fees as reasonable compensation and \$151.15 in reimbursement for actual, necessary expenses from August 23, 2021 through August 8, 2022. *Id.*

Trustee has reviewed the application and has no objections to the proposed payment. Doc. #48.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(6).² The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Northwest Petroleum, Inc. ("Debtor") filed chapter 7 bankruptcy on May 28, 2021. Doc. #1. Trustee was appointed as interim trustee on that same date and became permanent trustee at the first § 341 meeting of creditors on July 23, 2021. Doc. #3; docket generally. Trustee moved to employ Applicant as general counsel on September 23, 2021, which the court granted on October 4, 2021, effective August 23, 2021. Docs. #28; #30. No compensation was permitted except upon court order following application pursuant to § 330(a) and compensation was set at the "lodestar rate" for legal services at the time that services are rendered in accordance with *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988). *Id.* Applicant's services were performed within the authorized time period.

This is Applicant's first and final fee application. The source of funds for payment will be from the funds currently held by the bankruptcy estate. Applicant's firm provided 23.70 billable hours of legal services at \$325.00 per hour, totaling **\$7,702.50** in fees. Doc. #45, *Ex. A*. Applicant also incurred **\$151.15** in expenses:

Postage	\$96.10
Photocopies	+ \$55.05
Total Costs	= \$151.15

Id. These combined fees and expenses total **\$7,853.65**.

11 U.S.C. § 330(a)(1)(A) and (B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) providing counsel to the Trustee as to the administration of the case; (2) responding to creditor inquiries concerning assets of the Debtor and their values; (3) analyzing and negotiating with the secured SBA claim so that monies would be available to general unsecured creditors; (4) finalizing the employment application (DMG-1); (5) preparing, filing, and prosecuting a motion to compromise controversy (DMG-2); and (6) preparing and filing this fee application (DMG-3). Docs. #45, *Ex. A*; #46. The court finds the services and expenses reasonable, actual, and necessary. As noted above, Trustee has reviewed the application and consents to payment of the requested fees and expenses. Doc. #48.

No party in interest timely filed written opposition to this motion. Accordingly, this motion will be GRANTED. Applicant will be awarded \$7,702.50 in reasonable fees and \$151.15 in actual, necessary expenses on a final basis pursuant to § 330. Trustee will be authorized, in his discretion, to pay Applicant \$7,853.65 on the terms outlined above for

services rendered and costs incurred from August 23, 2021 through August 8, 2022.

² Applicant's original notice was filed on 28 days' notice, contained the correct hearing time and location, and set the responsive pleading deadline at 14 days before the hearing. Doc. #44. On August 16, 2022, Applicant filed an amended notice of hearing that corrected the hearing location only. Doc. #50. Since the hearing date and time and the responsive pleading deadline were unchanged, Applicant's motion was set for hearing on 28 days' notice.

2. [22-10816](#)-B-7 **IN RE: ROBERTO RENTERIA AND ERIKA ARTEAGA**
[DWE-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-29-2022 [[15](#)]

U.S. BANK NATIONAL
ASSOCIATION/MV
FLOR DE MARIA TATAJE/ATTY. FOR DBT.
DANE EXNOWSKI/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

U.S. Bank National ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2018 Jayco T30F Toy Hauler ("Vehicle"). Doc. #15. Movant also requests waiver of the 14-day of Federal Rule of Bankruptcy Procedure ("Rule") 4001(a)(3).

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

The notice did not contain the language required under LBR 9014-1(d)(3)(B)(i), which requires movants to notify respondents of the names and addresses of persons to be served with any opposition.

Therefore, the motion will be DENIED WITHOUT PREJUDICE.

3. [22-10870](#)-B-7 **IN RE: BETTY EDELBROCK**
[FW-2](#)

MOTION TO SELL AND/OR MOTION TO PAY
8-5-2022 [\[24\]](#)

PETER FEAR/MV
LAYNE HAYDEN/ATTY. FOR DBT.
GABRIEL WADDELL/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed for higher and better
 bids, only.

DISPOSITION: Granted

ORDER: The Moving Party shall submit a proposed order in
 conformance with the ruling below.

Chapter 7 trustee Peter L. Fear ("Trustee") requests an order authorizing the sale of the estate's interest in residential real property located at 236 Hill Street, Crescent City, CA 95531 ("Property") to John T. Cole ("Proposed Buyer") for \$81,000.00. Doc. #24. Trustee also seeks authorization to pay broker commission of 5%, split between RE/MAX Coastal Redwoods ("Broker") and the buyer's real estate broker, under 11 U.S.C. § 327(a), 328, and 330, and requests waiver of the 14-day stay of Fed. R. Bankr. P. ("Rule") 6004(h). *Id.*

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Rule 2002(a)(2) and (a)(6). The failure of the creditors, the debtors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion affects the proposed disposition and the Broker. Under Fed. R. Civ. P. ("Civ. Rule") 21 (Rule 7021 incorporated in contested matters under Rule 9014(c)), the court will exercise its discretion and allow the relief requested by movant here as to the proposed

broker and use the court's discretion to add a party under Civ. Rule 21.

Compensation is separate from the sale. Since payment of Broker's compensation and the sale are separate claims, the court will allow their joinder in this motion under Civ. Rule 18 (Rule 7018) because it is economical to handle this motion in this manner absent an objection. This rule is not incorporated in contested matters absent court order under Rule 9014(c) and affected parties are entitled to notice. Trustee, having requested this relief, is deemed to have notice. Since no party timely filed written opposition, defaulted parties are deemed to have consented to application of this rule.

Betty Edelbrock ("Debtor") filed chapter 7 bankruptcy on May 24, 2022. Doc. #1. Trustee was appointed as interim trustee on that same day and became permanent trustee at the first § 341 meeting of creditors on June 27, 2022. Doc. #5; docket generally. In the course of administering the estate, Trustee investigated the estate's assets, which included Property. Trustee now seeks to sell Property pursuant to 11 U.S.C. § 363(b) and (f).

Compensation of Broker

On July 7, 2022, Trustee moved to employ Broker to assist the trustee in carrying out the trustee's duties by selling property of the estate. Doc. #13. The court authorized Broker's employment on July 11, 2022 under 11 U.S.C. §§ 327 and 328. Doc. #17.

Pursuant to the employment order, Trustee requests to compensate Broker a commission of 5%, which will be split equally between Broker and the buyer's real estate broker. Doc. #24. Trustee believes that this is a reasonable compensation for the services performed by Broker, including listing Property for sale, soliciting offers, showing the Property, marketing the Property, and negotiating the terms of the sale with the buyer. Doc. #27.

If sold at the proposed sale price, Broker and the buyer's broker will split \$4,050.00 in compensation: \$2,025.00 each. The court will authorize Trustee to pay Broker's compensation as prayed.

Proposed Sale

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 North Brand Partners, Ltd. v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners, Ltd.)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D.

Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 594 B.R. at 889, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given 'great judicial deference.'" *Id.*, citing *In re Psychometric Sys., Inc.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887 citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). Trustee wishes to sell Property to Proposed Buyer. There is nothing in the record suggesting that Proposed Buyer is an insider with respect to Debtor. Trustee is neither listed in the schedules nor the master address list. Docs. #1; #4.

Trustee declares that he entered into a contract with Proposed Buyer to sell Property for \$81,000.00. Docs. #26, *Ex. A*; #27. The sale is subject to a number of relevant terms and conditions. Namely, Proposed Buyer has agreed that the sale of Property is as-is, where-is, and the buyer will pay all escrow fees, owner's title insurance policy, and all county transfer taxes and fees. *Id.*

Trustee includes a copy of the preliminary title report. Doc. #26, *Ex. B*. Property is subject to a deed of trust securing an approximate \$35,260.50 debt owed to Greg Forsht, Trustee of the Greg Forsht Trust dated June 13, 2002. *Id.* Additionally, taxes are currently owed or in default. Both the deed of trust and the taxes will be paid through escrow. Doc. #27.

If sold at the proposed sale price, the sale would be illustrated as follows:

Sale price	\$81,000.00
Greg Forsht deed of trust	- \$35,260.46
Estimated taxes	- \$1,392.47
Estimated costs of sale	- \$100.00
Estimated broker fee (5%)	- \$4,050.00
Estimated net proceeds to estate	= \$40,197.07

Id. Debtor has not claimed an exemption in Property and Property does not appear to be encumbered by any other security interests.

The sale under these circumstances should maximize potential recovery for the estate. The sale of the Property appears to be in the best interests of the estate because it will pay off the deed of trust in favor of Greg Forsht and provide liquidity that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a

valid business judgment and proposed in good faith. There are no objections to the motion. Therefore, this sale is an appropriate exercise of Trustee's business judgment and will be given deference.

No party in interest timely filed written opposition. This motion will be GRANTED. Trustee will be authorized to sell the Property to the prevailing bidder at the hearing and pay Broker and the buyer's broker for its services.

Any party wishing to overbid shall deposit with Trustee's counsel certified monies in the amount of \$1,000.00 prior to the time of the sale motion hearing, provide proof in the form of a letter of credit, or some other written pre-qualification for any financing that may be required to complete the purchase of the Property sufficient to cover the necessary overbid amount, and provide proof that any successful overbidder can and will close the sale within 15 days of delivery of a certified copy of the court's order approving the sale and execute a Purchase Agreement for the Property. The successful overbid shall have the \$1,000.00 deposit applied to the successful overbid price and unsuccessful bidders' deposits shall be returned at the conclusion of the hearing.

In the event a successful overbidder fails to close the sale within 15 days of delivery of a certified copy of the court's order approving the sale and execute a Purchase Agreement for the Property, the \$1,000.00 deposit shall become non-refundable, and the next highest bidder shall become the buyer. Any party wishing to overbid may do so by making an appearance at the hearing or having an authorized representative with written proof of authority to bid on behalf of the prospective overbidder. All overbids shall be in the minimum amount of \$1,000.00 such that the first of any overbid shall be in the minimum amount of \$82,000.00.

The sale of Property is in "as-is" condition with no warranty or representations, express, implied, or otherwise by the bankruptcy estate, the Debtor, or their representatives. The buyer will pay all escrow fees, the owner's title insurance policy, and all county taxes and fees.

4. [22-11171](#)-B-7 **IN RE: MIGUEL HERNANDEZ-BARRIGA AND BRANDI HERNANDEZ**
[GAL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-10-2022 [[16](#)]

MIC GENERAL INSURANCE
CORPORATION/MV
STEPHEN LABIAK/ATTY. FOR DBT.
GARRY MASTERSON/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

MIC General Insurance ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d) (1) and (d) (2) with respect to a 2017 Chevrolet Equinox ("Vehicle"). Doc. #16. Movant also requests waiver of the 14-day of Federal Rule of Bankruptcy Procedure ("Rule") 4001(a) (3).

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

First, the notice did not contain the language required under LBR 9014-1(d) (3) (B) (i), which requires movants to notify respondents of the names and addresses of persons to be served with any opposition.

And second, the moving papers were not properly served on the U.S. Trustee at the correct address in Fresno, California.

Therefore, the motion will be DENIED WITHOUT PREJUDICE.

5. [20-10299](#)-B-7 **IN RE: MANUEL DICOCHEA**
[MOT-1](#)

MOTION TO AVOID LIEN OF GLORIA VEGA
8-4-2022 [[64](#)]

MANUEL DICOCHEA/MV
T. O'TOOLE/ATTY. FOR DBT.
T. O'TOOLE/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

Manuel Adrian Dicochea ("Debtor") seeks to avoid a judicial lien originally in favor of Gloria Vega as assigned to Creditors Bureau USA ("Creditor") in the sum of \$20,534.00.³ Doc. #64.

No party in interest timely filed written opposition. However, Debtor did not claim an exemption in Property, so Creditor's lien does not impair an exemption to which Debtor is entitled. The motion will be DENIED WITHOUT PREJUDICE for failure to make a *prima facie* showing of entitlement to the relief sought. The moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *In re Tracht Gut, LLC*, 503 B.R. 804, 811 (B.A.P. 9th Cir. 2014) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

To avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting *In re Mohring*, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), *aff'd*, 24 F.3d 247 (9th Cir. 1994)).

Here, a judgment was entered against Debtor in favor of Gloria Vega in the amount of \$20,534.00 on November 1, 2010. Doc. #68, Ex. A. The judgment was assigned to Creditor on July 12, 2019. *Id.* Thereafter, Creditor obtained an abstract of judgment issued on November 19, 2019 and recorded it in Fresno County on November 27, 2019. *Id.*

Though that judgment was entered more than 10 years ago, it has not yet expired. Absent tolling, the judgment would have expired on November 1, 2020 - 3,653 days later.⁴ The 10-year renewal period ran for 3,376 days (with 277 days remaining) from November 1, 2010 to January 29, 2020, when Debtor filed a chapter 7 bankruptcy.

On filing that bankruptcy, Debtor triggered the automatic stay. 11 U.S.C. § 362(a) precludes creditors from renewing judgments while the automatic stay is in effect, so Creditor was unable to renew the judgment during this time. *Spirtos v. Moreno (In re Spirtos)*, 221 F.3d 1079, 1080 (9th Cir. 2000); see also, *Kertesz v. Ostrovsky*, 115 Cal. App. 4th 369, 377-78 (2004) ("The suspension of a statute of limitations for a certain period is, in effect 'time taken out,' for that period and adds the same period of time to the limitation time provided in the statute.") (internal quotation omitted), citing *Schumacher v. Worcester*, 55 Cal. App. 4th 376, 380 (1997).

Section 108(c) preserves the period of renewal while the automatic stay is in effect and the bankruptcy case is pending:

[I]f applicable nonbankruptcy law . . . fixes a period for commencing or continuing a civil action . . . and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—

- (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case, or
- (2) 30 days after the notice of termination or expiration of the stay under section 362 . . . with respect to such claim.

11 U.S.C. § 108(c). The automatic stay will remain in effect until 30 days after the case was closed or dismissed. See § 362(c)(1), (c)(2). Since the case is still pending, the stay will continue to toll the renewal period until 30 days after the case is closed or dismissed. Thus, Creditor's lien is still avoidable.

As of the petition date, Property had an approximate fair market value of \$178,512.00. Doc. #66; see also Doc. #19, *Am. Sched. A/B*. Property is solely encumbered by a \$196,607.30 deed of trust in favor of PennyMac. Doc. #1, *Sched. D*. There do not appear to be any other encumbrances on Property other than the mortgage and this judicial lien. *Id.*

However, Debtor did not claim any exemption in Property. Doc. #19, *Am. Sched. C*. Since no exemption was claimed, Debtor cannot establish entitlement to an exemption that is impaired by Creditor's lien. The Eastern District of California has held that "the debtor, as the exemption claimant, bears the burden of proof which requires her to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under [California law] and the extent to which that exemption applies." *In re Pashenee*, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015).

For the foregoing reason, this motion will be DENIED WITHOUT PREJUDICE.

³ Debtor appears to have complied with Fed. R. Bankr. P. 7004(b)(3) by serving via regular U.S. mail John D. Suhr, Creditor's authorized agent, at the address listed in the proof of claim, and Creditor's PO Box from the *Acknowledgment of Assignment of Judgment*, on August 4, 2022. Doc. #69; *cf.* Docs. #68, *Ex. A*; Claim 4.

⁴ 3,653 days, rather than 3,650, to account for leap years in 2012, 2016, and 2020.

10:45 AM

1. [22-10947](#)-B-11 IN RE: FLAVIO MARTINS
[MB-8](#)

MOTION FOR ADMINISTRATIVE EXPENSES
8-11-2022 [[137](#)]

FLAVIO MARTINS/MV
HAGOP BEDOYAN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

Flavio Almeida Martins dba Top Line Dairy ("Debtor") seeks authority to pay certain administrative expense claims in the total amount of \$114,551.25 (the "503(b)(9) Claims") pursuant to 11 U.S.C. § 503(b)(9). Doc. #137.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Debtor filed chapter 11 bankruptcy on June 1, 2022. Doc. #1. No trustee has been appointed and Debtor is the debtor-in-possession. Debtor is currently operating under the court's *Final Order Authorizing Use of Cash Collateral and Granting Adequate Protection* dated July 7, 2022 (Doc. #80; "Cash Collateral Order"), which includes a cash collateral budget through September 30, 2022. That budget does not authorize Debtor to pay the 503(b)(9) claims.

Debtor expects to have sufficient funds budgeted for payment of the 503(b)(9) Claims and will seek authorization to pay such claims in its next motion for authorization to use cash collateral ("Second Cash Collateral Motion"). Doc. #139. Debtor declares that the Second Cash Collateral Motion will be filed towards the end of August and set for hearing in late September 2022. *Id.* Debtor filed a *Motion to Modify Final Order Authorizing Use of Cash Collateral and Granting Adequate Protection* on August 29, 2022, which is set for hearing on September 20, 2022. See MB-10.

Debtor says that all creditors holding 503(b)(9) Claims delivered goods within 20 days of filing the chapter 11 case. Doc. #139. Those goods were sold to Debtor in the ordinary course of Debtor's business.

The 503(b)(9) Claims are as follows:

Creditor	503(b)(9) Priority Amount	Total Claim Amount
California Bio-Productex	\$22,997.70	\$127,691.67
Culligan	\$737.83	\$1,495.50
GEA Westfalia Surge West	\$12,365.88	\$64,931.49
Imperial Western Products	\$23,857.70	\$23,857.70
Jimenez Breeding Services	\$2,000.00	\$7,500.00
JS West	\$1,837.96	\$1,837.96
SC Fuels	\$35,523.25	\$36,234.66
VPI	\$15,231.93	\$142,301.61
Total	\$114,552.25	\$405,850.59

Doc. #139. The court notes that Debtor says the sum of the 503(b)(9) Claims is \$114,551.25, but it appears to actually be \$114,552.25. This \$1.00 discrepancy is a clerical or typographical error and appears to be *de minimis*.

11 U.S.C. § 503 allows an entity to file a request for payment of administrative expenses. After notice and a hearing, payment of certain administrative expenses shall be allowed, other than those specified in § 502(f), including the actual, necessary costs and expenses of preserving the estate and taxes. §§ 503(b)(1)(A) and (B).

11 U.S.C. § 503(b)(9) provides for payment of administrative expenses for the value of any goods received by the debtor within 20 days before the date of commencement of a case in which the goods have been sold to the debtor in the ordinary course of such debtor's business. Under § 507(a)(2), administrative expenses are entitled to priority treatment.

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. The court will allow the administrative

expense claims pursuant to 11 U.S.C. §§ 503(b)(9) and 507(a)(2) for each 503(b)(9) Claim holder in the respective amounts set forth in the motion and totaling \$114,552.25. If payment of § 503(b)(9) claims is authorized under a subsequent cash collateral order, then Debtor will be authorized to pay the 503(b)(9) Claims as cash-flow permits pursuant to a subsequent order. This ruling is not permitting any unauthorized use of cash collateral.

2. [22-10947](#)-B-11 **IN RE: FLAVIO MARTINS**
[MB-9](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF MCCORMICK,
BARSTOW, SHEPPARD, WAYTE AND CARRUTH, LLP FOR HAGOP T.
BEDOYAN, DEBTORS ATTORNEY(S)
8-11-2022 [[141](#)]

HAGOP BEDOYAN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

McCormick, Barstow, Sheppard, Wayte & Carruth, LLP ("Applicant"), the law firm representing debtor-in-possession Flavio Almeida Martins dba Top Line Dairy ("Debtor"), seeks interim compensation under 11 U.S.C. §§ 330 and 331 in the sum of \$17,012.25. Doc. #141. This amount consists of \$15,752.50 in fees as reasonable compensation and \$1,259.75 in reimbursement for actual, necessary expenses from July 1, 2022 through July 31, 2022. *Id.*

Debtor has reviewed the applications and statement for fees and costs, has no objection to the same, and declares that the budget approved by the court in the *Final Order Authorizing Use of Cash Collateral and Granting Adequate Protection* dated July 7, 2022 (Doc. #80; "Cash Collateral Order") provides for payment of professional fees in the total amount of \$90,000.00 through September 30, 2022. Doc. #143. Debtor also has no objection to paying the outstanding balance of \$7,354.25 for June fees owed to Applicant that were approved on August 9, 2022. *Id.*

However, Debtor says that the application requests fees of \$15,572.50 and costs of \$1,259.75, for a total of \$16,832.25. *Id.* This \$180.00 discrepancy appears to be derived from a clerical or typographical error. The discrepancy appears to be *de minimis*. Further, the application was properly served on Debtor and Debtor did not oppose, so the court will allow the compensation as prayed.

No other parties in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. 2002(a)(6). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Applicant's employment as general bankruptcy counsel was authorized pursuant to 11 U.S.C. §§ 327(a) and 329-331 on June 22, 2022, effective June 1, 2022⁵ Doc. #60. No compensation was permitted except upon court order following application under § 330(a) and will be paid at the "lodestar rate" for attorney services applicable at the time that services are rendered in accordance with *In re Manoa Fin. Co., Inc.*, 853 F.2d 687 (9th Cir. 1988). All funds received by Applicant from Debtor are deemed to be an advanced payment of fees and shall be maintained in a trust account until prevailing on an application for compensation and the issuance of an order authorizing disbursement of a specific amount. *Id.* Monthly applications for interim compensation exceeding \$5,000.00 will be entertained under § 331.

Prior to filing bankruptcy, Applicant received a \$50,000.00 retainer. Doc. #141. Applicant was paid \$45,261.75 from the retainer prior to commencement of the case, so \$4,738.25 remained in trust at the time of Applicant's first interim fee application. *Id.*

On August 9, 2022, the court awarded \$37,132.50 in fees and \$4,960.00 in expenses, for a total interim award of \$42,092.50. Doc. #132. Applicant was allowed to draw down the \$4,738.25 retainer and Debtor was authorized to pay Applicant \$30,000.00 pursuant to the Cash Collateral Order. *Id.* The remaining \$7,354.25, which remains outstanding, was not authorized until further funds became available under the Cash Collateral Order.

This is Applicant's second interim fee application. Applicant's firm performed 35.30 billable hours of legal services at the following rates, totaling \$15,752.50 in fees:

Professional	Rate	Hours	Amount
Hagop T. Bedoyan	\$475	32.50	\$15,437.50
Amy G. Sherrick	\$0	0.70	\$0.00
Sebastian K. Wenthe	\$150	2.10	\$315.00
Total Hours & Fees		35.30	\$15,752.50

Doc. #145, Exs. A, B. Applicant also incurred **\$1,259.75** in expenses as follows:

Old Republic Title Company Report Fees	\$1,200.00
Misc./Court/Filing Fees	+ \$32.00
First Legal Network LLC Filing Fees	+ \$27.75
Total Costs	= \$1,259.75

Id., Ex. C. These combined fees and expenses total **\$17,012.25**. This amount plus the outstanding \$7,354.25 from the first interim fee application total \$24,366.50. Under the Cash Collateral Order, \$90,000.00 in fees is authorized through September 30, 2022. If approved, the total amount of fees paid from cash collateral (excluding the \$4,738.25 retainer) will be \$54,366.50.

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) preparing and filing amended bankruptcy schedules and identifying § 503(b)(9) claims; (2) continued responding to information and document requests from the U.S. trustee; (3) preparing and filing status conference statements for the July 21, 2022 initial status conference; (4) preparing and filing Applicant's first interim fee application (MB-7); (5) reviewing and entering into two separate stipulations for relief from the automatic stay to allow Bank of the Sierra to terminate the pending receivership in state court and to record its Notice of Default and Election under the terms of its deed(s) of trust to sell the remainder of its real property collateral (DJP-1; DJP-2); (6) telephonically appearing at the continued meeting of creditors on July 7, 2022; (7) working with Debtor's real estate broker to review ongoing marketing efforts with respect to Debtor's four dairies; (8) reviewing check registers to analyze existence of avoidable transfers under § 547; (9) conducting legal research on the question of ownership of Debtor's Land-O-Lakes "Base" after termination of Debtor's milk delivery contracts; (10) communicating with PG&E and its attorney with respect to the amount of Debtor's proposed adequate

assurance deposit; (11) reviewing Bank of the Sierra's limited objection to the employment of Committee Counsel and reviewing Western Milling's response to Applicant's first interim fee application; and (12) addressing ongoing business cash-flow matters pertaining to the use of cash collateral, the purchase and payment of feed, and the possible need to liquidate Debtor's "dry" cows. Docs. #144; #145, Exs. A, B. The court finds the services and expenses reasonable, actual, and necessary. As noted above, Debtor reviewed the fee application and consents to payment of the requested compensation, notwithstanding the \$180.00 typographical error.

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Applicant will be awarded \$15,752.50 in fees and \$1,259.75 in expenses on an interim basis under 11 U.S.C. § 331, subject to final review pursuant to § 330. Debtor will be authorized to pay Applicant \$17,012.25 from cash collateral when authorized under the Cash Collateral Order (Doc. #80) for services rendered and/or costs incurred between July 1, 2022 through July 31, 2022. Applicant is further authorized to pay Debtor the outstanding balance of \$7,354.25 from the first interim fee application when authorized by the Cash Collateral Order. This ruling is not permitting any unauthorized use of cash collateral.

⁵ The court notes that the order authorizing employment says that employment is effective as of June 1, 1022. Doc. #60. This is a typographical error and will be construed as June 1, 2022, which is the petition date.

3. [22-11540](#)-B-11 **IN RE: VALLEY TRANSPORTATION, INC.**
[WJH-3](#)

MOTION FOR ORDER AUTHORIZING DEBTOR TO PAY PRE-PETITION
ACCRUED EMPLOYEE WAGES
9-7-2022 [[16](#)]

VALLEY TRANSPORTATION, INC./MV
RILEY WALTER/ATTY. FOR DBT.
OST 9/7/2022

NO RULING.