

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

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
510 19th Street, Second Floor  
Bakersfield, California

**PRE-HEARING DISPOSITIONS**

**DAY:** THURSDAY  
**DATE:** OCTOBER 3, 2019  
**CALENDAR:** 10:30 A.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. [18-14414](#)-A-11     **IN RE: TITUS INDUSTRIAL, INC.**  
[LKW-11](#)

CHAPTER 11 DISCLOSURE STATEMENT FILED BY DEBTOR TITUS  
INDUSTRIAL, INC.  
8-21-2019    [\[169\]](#)

LEONARD WELSH

**No Ruling**

2. [18-14414](#)-A-11     **IN RE: TITUS INDUSTRIAL, INC.**  
[LKW-12](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS  
ATTORNEY(S)  
9-11-2019    [\[187\]](#)

LEONARD WELSH

**Tentative Ruling**

**Application:** Allowance of Fifth Interim Compensation and Expense  
Reimbursement

**Notice:** LBR 9014-1(f)(2); no 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). 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, Leonard K. Welsh, 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 \$8,982.50 and reimbursement of expenses in the amount of \$169.82.

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.

Leonard K. Welsh'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 \$8,982.50 and reimbursement of expenses in the amount of \$169.82. 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. [13-12358](#)-A-11     **IN RE: CENTRAL VALLEY SHORING, INC.**  
[LKW-19](#)

MOTION FOR ENTRY OF DISCHARGE AND/OR MOTION FOR FINAL DECREE  
9-18-2019    [[319](#)]

CENTRAL VALLEY SHORING,  
INC./MV  
LEONARD WELSH

### **Tentative Ruling**

**Motion:** Enter Final Decree Closing Chapter 11 Case

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). 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).

Under § 350(a) and Federal Rule of Bankruptcy Procedure 3022, the court must enter a final decree closing a case when the estate has been "fully administered." 11 U.S.C. § 350(a); Fed. R. Bankr. P. 3022. "However, neither the Bankruptcy Code nor the Federal Rules of Bankruptcy Procedure define the term 'fully administered.'" See *In re Ground Sys., Inc.*, 213 B.R. 1016, 1018 (B.A.P. 9th Cir. 1997) (denying motion for entry of final decree because debtor's plan required estate to remain open pending completion of plan payments and such a plan requirement did not run afoul of the Code and Federal Rules of Bankruptcy Procedure).

The Advisory Committee Note to Rule 3022 lists a number of factors for courts to consider in determining whether the estate has been fully administered. See Fed. R. Bankr. P. 3022 advisory committee's note—1991 Am. These factors present a court with "flexibility in determining whether an estate is fully administered," and "not all of the factors . . . need to be present to establish that a case is fully administered for final decree purposes." *In re Provident Fin., Inc.*, Nos. MT-10-1134-JuPaD, MT-10-1135-JuPaD, Bankr. No. 09-61756, 2010 WL 6259973 (B.A.P. 9th Cir. Oct. 12, 2010) (unpublished opinion).

The Advisory Committee Note also states that entry of a final decree "should not be delayed solely because the payments required by the plan have not been completed." Fed. R. Bankr. P. 3022 advisory committee's note—1991 Am. It further provides that "[t]he court should not keep the case open only because of the possibility that the court's jurisdiction may be invoked in the future. A final decree closing the case after the estate is fully administered does not deprive the court of jurisdiction to enforce or interpret its own orders and does not prevent the court from reopening the case for cause pursuant to § 350(b) of the Code." *Id.*

Here, factors supporting a finding of full administration of the estate have been satisfied. The order confirming the plan has become final pursuant to Rule 8002 and payments under the confirmed plan have commenced. All motions, other than this motion, contested matters, and adversary proceedings have been resolved. No other factors listed in the advisory committee note have been contested by any creditor or party in interest.