



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
HONORABLE RENÉ LASTRETO II
Department B – Courtroom #13
Fresno, California**

Hearing Date: Thursday, November 16, 2023

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

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1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
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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. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION

CONTINUED APPOINTMENT OF HEALTH CARE OMBUDSMAN, BLANCA
CASTRO
7-20-2023 [[105](#)]

RILEY WALTER/ATTY. FOR DBT.

NO RULING.

2. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION
[WJH-19](#)

RESCHEDULED HEARING RE: MOTION FOR AUTHORITY TO ENTER INTO
TRANSACTION
10-20-2023 [[252](#)]

TWILIGHT HAVEN, A CALIFORNIA
NON-PROFIT CORPORATION/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

3. [23-10244](#)-B-11 **IN RE: BEAM & COMPANY, INC**
[FW-7](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR PETER L. FEAR, DEBTORS ATTORNEY(S)
10-19-2023 [[164](#)]

PETER FEAR/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.

Fear Waddell P.C. ("Applicant"), attorney for Beam and Company, Inc., Reorganized Debtor and Debtor-In-Possession in the above-styled case ("Debtor"), requests interim compensation in the sum of \$66,399.87 under 11 U.S.C. § 330. Doc. #164. This amount consists of \$54,813.50 in fees and \$586.37 in expenses from February 10, 2023, to September 12, 2023. *Id.* With a reduction of \$6,048.00 from the prepetition retainer, Applicant seeks \$60,341.37 to be paid from Subchapter V plan payments. *Id.* This is Applicant's first fee application.

Debtor, through Brandon Cooper, President of Debtor, executed a client approval statement on October 18, 2023, indicating that Debtor has read the fee application and approves the same. *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 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.

Section 5.04 of the *Chapter 11 Plan* dated May 8, 2023, confirmed August 28, 2023, assumes administrative claims for attorneys' fees in the amount of \$90,000.00 over the life of the plan. The application for employment avers that Debtor paid Applicant a prepetition retainer in the amount of \$25,000.00, of which \$18,952.00 was earned for prepetition services and costs, leaving \$6,048.00 in retainer funds to apply to the instant application. Doc. #50.

Applicant's retention as general bankruptcy counsel was authorized pursuant to 11 U.S.C. §§ 327(a) and 329-31 on March 21, 2023, effective as of the petition date. Doc. #57. This is Applicant's first fee application. Doc. #164.

Applicant's firm provided 171.40 billable hours at the following rates, totaling **\$65,813.50** in fees:

Professional	Rate	Billed	Total
Peter L. Fear	\$40.00	131.50	\$57,860.00
Gabriel J. Waddell	\$360.00	1.10	\$396.00
Peter A. Sauer	\$380.00	14.70	\$4,116.00
Katie Waddell	\$260.00	1.50	\$390.00
Kayla Schlaak	\$140.00	18.10	\$2,534.00
Laurel Guenther	\$115.00	4.50	\$517.50
Total Hours & Fees		171.40	\$65,813.50

Docs. ##164, 168. Applicant incurred **\$586.37** in expenses:

Copying	\$367.65
Court Fees	\$32.00
Postage	\$186.22
Total Expenses	\$586.37

Id. These combined fees and expenses total **\$66,399.87**. *Id.*

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" 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 here included, without limitation: (1) case administration, (2) meetings and communications with creditors, (3) fee/employment applications, (4) work on financing and cash collateral motions, (5) work on the plan and disclosure statement. Doc. #168. The court finds these services and expenses reasonable, actual, and necessary. No party in interest timely filed written opposition and Debtor has consented to payment of the proposed fees.

Accordingly, this motion will be GRANTED on an interim basis. Applicant shall be awarded \$66,399.87 in fees as reasonable compensation for services rendered and cost, less the remaining retainer balance of \$6,048.00, for a total award of \$60,351.87 under 11 U.S.C. § 331, subject to final review under § 330. The chapter 11 Debtor will be authorized to pay Applicant \$60,351.87 through the confirmed plan for services and expenses from February 10, 2023, through September 12, 2023.

4. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-19](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
4-6-2023 [[204](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

5. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-21](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
4-6-2023 [[218](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

6. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-22](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
4-7-2023 [[230](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

7. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-3](#)

CONTINUED MOTION TO USE CASH COLLATERAL AND/OR MOTION FOR
ADEQUATE PROTECTION
3-13-2023 [[18](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

8. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-40](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
4-26-2023 [[301](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

9. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-42](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
5-2-2023 [[334](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

11:00 AM

1. [23-11310](#)-B-7 **IN RE: CHARANDEEP SODHI**

REAFFIRMATION AGREEMENT WITH SANTANDER CONSUMER USA INC.
9-18-2023 [[26](#)]

RAJ WADHWANI/ATTY. FOR DBT.

NO RULING.

1:30 PM

1. [22-11403](#)-B-7 **IN RE: STANFORD CHOPPING, INC.**
[PA-2](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC
STAY , AND/OR MOTION TO ABANDON
11-1-2023 [\[127\]](#)

LISA HOLDER/MV
DAVID JOHNSTON/ATTY. FOR DBT.
ESTELA PINO/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
shall submit a proposed order with the
stipulation attached as an exhibit and shall
separately file the stipulation and docket it
as a stipulation.

Lisa Holder, acting Chapter 7 Trustee in this case ("Trustee"),
requests an order (1) approving a stipulation ("Stipulation") to
abandon certain leased property located at 15471 Avenue 22,
Chowchilla, California 93610 ("the Property") and to terminate the
automatic stay and (2) for waiver of the stay of the order under
Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure. Doc.
#127.

Written opposition was not required and may be presented at the
hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served pursuant to Local Rule of Practice
("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless
opposition is presented at the hearing, the court intends to enter
the respondents' defaults and grant the motion. If opposition is
presented at the hearing, the court will consider the opposition and
whether further hearing is proper pursuant to LBR 9014-1(f)(2). The
court will issue an order if a further hearing is necessary.

The gravamen of the motion is that Stanford Chipping, Inc.
("Debtor") leased the Property from the late Larry Dale Stanford and
Penny Louise Stanford (collectively "the Stanfords") and operated
its business out of the Property prepetition. Docs. ##127, 130. This
lease agreement was unwritten. *Id.* The Stanfords died in an accident
on or about July 7, 2021, and ownership/control of the Property
passed to Callie Styles ("Styles"), who is both administratrix of
Larry Stanford's estate and Successor Trustee of the Larry Dale
Stanford and Penny Louise Stanford Revocable Trust. *Id.*

Debtor filed this Chapter 11, Subchapter V case on August 17, 2022. *Id.*; Doc. #1. On October 18, 2022, the court entered an order converting the case to Chapter 7. Doc. #6. Since then, Debtor has discontinued its business, and the lease agreement pertaining to the Property is not being assumed. *Id.* To reduce administrative expenses, Trustee and Styles have reached this Stipulation whereby Trustee will abandon the Property to Styles and agree to a termination of the automatic stay to allow Styles to exercise her state law remedies to obtain possession of the Property without further order of the bankruptcy court. *Id.* In exchange, Styles will waive any and all claims against the Chapter 7 estate for unpaid rents which came due after the petition date. *Id.* Movant and Trustee signed the Stipulation. *Id.* The court notes that the Stipulation was filed as an exhibit to this motion, and it has not been separately filed and docketed as a stipulation.

Under Rule 4001(d)(1)(A)(iii), a party may file a motion for approval of an agreement to modify or terminate the stay provided in § 362. The motion contains the required contents outlined in Rule 4001(d)(1)(B) and was properly served on all creditors as required by Rule 4001(d)(1)(C). Pursuant to Rule 4001(d)(1), (2), and (3), a hearing was set on at least seven days' notice and the parties required to be served (Debtor and Trustee) were given at least 14 days to file objections or may appear to object at the hearing.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED, and the Stipulation approved. The court will also order the 14-day stay of Rule 4001(a)(3) waived because the parties have consented to stay relief.

Any proposed order shall attach the Stipulation as an exhibit. Movant shall also separately file the Stipulation and docket it as a stipulation.

2. [23-12109](#)-B-7 **IN RE: SUZANNE DEAN**

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE
9-21-2023 [\[4\]](#)

SCOTT LYONS/ATTY. FOR DBT.

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

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

The chapter 13 trustee filed no objection. Suzanne Dean ("Debtor") qualifies for fee waiver as Debtor's income is below the guidelines for a one-person household.

3. [23-11919](#)-B-7 **IN RE: MARIA REYES**
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
10-11-2023 [\[17\]](#)

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue an order.

Chapter 7 trustee Peter L. Fear ("Trustee") seeks dismissal of this case for the debtor's failure to appear and testify at the § 341(a) meeting of creditors held on October 10, 2023. Doc. #17.

No response was filed by the Debtor. Notwithstanding Debtor's failure to respond and/or present any reasons for her failure to appear, this motion to dismiss will be CONDITIONALLY DENIED.

Debtor shall attend the meeting of creditors rescheduled for December 4, 2023, at 3:00 p.m. See Doc. #18. If Debtor fails to appear at testify at the rescheduled meeting, Trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The times prescribed in Fed. R. Bankr. P. 1017(e)(1) and 4004(a) for the Chapter 7 Trustee and U.S. Trustee to object to Debtor's discharge or file motions for abuse, other than presumed abuse under § 707, are extended to 60 days after the conclusion of the meeting of creditors.

4. [23-11625](#)-B-7 **IN RE: THOMAS STINER**
[SL-1](#)

MOTION TO AVOID LIEN OF WILMINGTON SAVINGS FUND SOCIETY, FSB
10-3-2023 [\[16\]](#)

THOMAS STINER/MV
SCOTT LYONS/ATTY. FOR DBT.
CONT'D TO 11/30/23 WITHOUT ORDER

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

DISPOSITION: Dismissed without prejudice.

ORDER: The court will issue an order.

On October 3, 2023, Thomas Stiner ("Debtor") filed the instant *Motion to Avoid the Judgment Lien of Wilmington Savings Fund Society, FSB*. Doc. #17. On October 26, 2023, Debtor filed a second *Motion to Avoid the Judgment Lien of Wilmington Savings Fund Society, FSB* that appears to be substantially identical to the first one. Doc. #24. The first motion was set for hearing on November 16, 2023, at 1:30 pm. Doc. #17. The second is set for hearing on November 30, 2023, at 1:30 p.m. in what is styled as an *Amended Notice of Hearing*. Doc. #25. Both motions have the same Docket Control Number.

The court interprets the filing of the second identical motion to represent a voluntary dismissal of the instant motion. Accordingly, this motion will be DISMISSED WITHOUT PREJUDICE. While the October 26 motion is still set for hearing on November 30, 2023, and so its disposition is not under present consideration, the court notes that it may well be subject to dismissal without prejudice for failure to properly apply the Local Rules pertaining to Docket Control Numbers. The court encourages Debtor's counsel to carefully review the Local Rules before filing any subsequent motion with the correct Docket Control Number.

5. [23-11739](#)-B-7 **IN RE: ELIZABETH QUINTERO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-26-2023 [\[18\]](#)

T. O'TOOLE/ATTY. FOR DBT.
FILING FEE PAID 10/27/23

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid. Accordingly, the order to show cause will be VACATED.

6. [17-11346](#)-B-7 **IN RE: DANIEL CANCHOLA**
[RWR-10](#)

MOTION FOR ADMINISTRATIVE EXPENSES
11-1-2023 [\[171\]](#)

JAMES SALVEN/MV
JERRY LOWE/ATTY. FOR DBT.
RUSSELL REYNOLDS/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted

ORDER: The Movant will prepare the order.

James Edward Salven, Chapter 7 Trustee in the above-styled Chapter 7 bankruptcy case ("Trustee"), moves the court for an order authorizing him to pay the bankruptcy estate's federal and state taxes as an administrative expense pursuant to 11 U.S. 503, including any late fees or penalties associated with the return. Doc. #171.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Daniel Canchola ("Canchola" or "Debtor") filed the petition on April 11, 2017, and received a discharge on August 11, 2017. Docs. ##1, 27. During the pendency of Canchola's bankruptcy, he was involved in certain state court litigation arising from a wrongful death claim brought against Canchola, Mario Alberto Guerra ("Guerra"), and other defendants not relevant to the instant motion. Doc. #173. *Id.* Canchola and Guerra were also involved in subsequent state court litigation against Infinity Insurance Company and their agents and attorneys (collectively "Infinity") arising from bad faith denial of insurance claim and other tortious conduct by Infinity. *Id.* That litigation was finally resolved as to both Canchola and Guerra in 2023, with part of the settlement money going to their respective bankruptcy estates. *Id.* On September 9, 2023, the court entered an order approving Trustee's Application to hire accountants to determine whether the Debtor's estate would have any tax liability arising from the settlement. *Id.* According to Trustee, the accountants have determined that the Debtor's Estate has tax liabilities as follows:

Federal Tax Liability (2022)	\$3,050.00
Cal. State Tax Liability (2022)	\$676.00
Federal Tax Liability (thru October 31, 2023)	\$2,528.00
Cal. State Tax Liability (thru October 31, 2023)	\$500.00

Trustee assert that he has an obligation to pay the estate's taxes as an administrative expense and that he has the funds to do so, subject to notice and a hearing. Doc. 173 (*citing Drefuss v. Corry (In Re: Cloobek)*, 2015 U.S. App. LEXIS 9882 (9th Cir. 2015)).

The court agrees with Trustee's analysis, and if there is no objection at the hearing, this motion will be GRANTED.

7. [17-11365](#)-B-7 **IN RE: MARIO GUERRA**
[RWR-10](#)

MOTION FOR ADMINISTRATIVE EXPENSES
11-1-2023 [\[186\]](#)

PETER FEAR/MV
JERRY LOWE/ATTY. FOR DBT.
RUSSELL REYNOLDS/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted

ORDER: The Movant will prepare the order.

Peter L. Fear, Chapter 7 Successor Trustee in the above-styled Chapter 7 bankruptcy case ("Trustee"), moves the court for an order authorizing him to pay the bankruptcy estate's federal and state taxes as an administrative expense pursuant to 11 U.S. 503, including any late fees or penalties associated with the return. Doc. #171.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Mario Alberto Guerra ("Guerra or "Debtor") filed the petition on April 12, 2017, and received a discharge on September 5, 2017. Docs. #1,37. During the pendency of Guerra's bankruptcy, he was involved in certain state court litigation arising from a wrongful death claim brought against Guerra, David Canchola ("Canchola") and other defendants not relevant to the instant motion. Doc. #188. *Id.* Canchola and Guerra were also involved in subsequent state court

litigation against Infinity Insurance Company and their agents and attorneys (collectively "Infinity") arising from bad faith denial of insurance claim and other tortious conduct by Infinity. *Id.* That litigation was finally resolved as to both Canchola and Guerra in 2023, with part of the settlement money going to their respective bankruptcy estates. *Id.* On September 8, 2023, the court entered an order approving Trustee's Application to hire accountants to determine whether the Debtor's estate would have any tax liability arising from the settlement. *Id.* According to Trustee, the accountants have determined that the Debtor's Estate has tax liabilities as follows:

Federal Tax Liability (2022)	\$3,050.00
Cal. State Tax Liability (2022)	\$676.00
Federal Tax Liability (thru October 31, 2023)	\$2,570.00
Cal. State Tax Liability (thru October 31, 2023)	\$516.00

Trustee assert that he has an obligation to pay the estate's taxes as an administrative expense and that he has the funds to do so, subject to notice and a hearing. Doc. 173 (*citing Drefuss v. Corry (In Re: Cloobek)*, 2015 U.S. App. LEXIS 9882 (9th Cir. 2015)).

The court agrees with Trustee's analysis, and if there is no objection at the hearing, this motion will be GRANTED.

8. [23-10867](#)-B-7 **IN RE: NARPINDER KAUR**
[PAB-2](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC
 STAY
 10-11-2023 [\[34\]](#)

STEPHANIE SCHREINER/MV
 T. O'TOOLE/ATTY. FOR DBT.
 WARREN PABOOJIAN/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will enter the order.

This matter comes before the court on stay relief a motion filed by Stephanie and Roland Schreiner ("Movants"), who desire to allow their state court litigation against Narpinder Kaur ("Debtor") to proceed. Doc. #34. This motion will be DENIED WITHOUT PREJUDICE for the following procedural deficiencies.

On September 12, 2023, Movants filed their first iteration of this motion. Doc.#30. The court denied that motion without prejudice for Movants' failure to comply with the Local Rules concerning the proper use of Docket Control Numbers ("DCN"). Doc. #40. On October 11, 2023, Movants filed the instant motion, and while it does

contain a DCN, other procedural flaws compel the court to dismiss this motion without prejudice as well.

First, while the instant motion does carry a DCN, it is denoted as PAB-2, thus skipping PAB-1 entirely. In light of the confusion engendered by the prior dismissed motion, this technical violation might be forgivable, but other errors are more serious.

Second, LBR 9014-1(d)(3)(B)(iii) requires the movant to notify respondents that they can determine (a) whether the matter has been resolved without oral argument; (b) whether the court has issued a tentative ruling that can be viewed by checking the pre-hearing dispositions on the court's website at <http://www.caeb.uscourts.gov> after 4:00 p.m. the day before the hearing; and (c) parties appearing telephonically must view the pre-hearing dispositions prior to the hearing. Here, the notice does not contain the required language directing respondents to the pre-hearing dispositions on the court's website, or that parties appearing telephonically are required to view the pre-hearing dispositions prior to appearing at the hearing. Doc. #35.

Third, LBR 9004-2(c)(1) requires that motions, exhibits, and other specified pleadings are to be filed as separate documents. More particularly, LBR 9004(d)(1) requires that exhibits be filed separately from the documents to which they relate. Here, the motion is accompanied by a Notice of Hearing, the Movants' Information Sheet, a Declaration, and a Certificate of Service. Docs. #34-37. The Declaration of attorney Jason S. Bell references Exhibits which are attached directly to said Declaration in contravention of LBR 9004(d)(1). Doc. #37. Likewise, the Motion itself incorporates a Memorandum of Authorities which, based on its length, should have been filed as a separate document. Doc. #34.

Fourth, LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters, and all other proceedings in this district that are filed by attorneys, trustees, or other Registered Electronic Filing System Users to document their service of any such pleadings and/or documents by filing a certificate of service and using the *Official Certificate of Service Form*, EDC 007-005. That form can be found on the court's website at <https://www.caeb.uscourts.gov/CertificateOfServiceForm> (visited November 14, 2023). Movants did not employ the Official Form.

Finally, while this matter is styled on all the moving papers as a *Motion for an Order Granting Relief From Stay* and contains a lengthy memorandum presenting arguments for why the motion should be granted for cause, Movants mention (seemingly as an afterthought) that Movants and Debtor have entered into a Stipulation for Relief from the Automatic Stay. *Id.* This Stipulation is included in the improperly filed exhibits accompanying the Declaration. As the court cannot "approve" an exhibit, any stipulation must be filed as a separate document, and Movants would be better served by simply filing the stipulation accompanied by a motion conforming to the

local rules of practice and Fed. R. Bankr. Proc. 4001 asking the court to approve it.

For the foregoing reasons, this motion is DENIED WITHOUT PREJUDICE.

9. [21-12473](#)-B-7 **IN RE: BLAIN FARMING CO., INC.**
[FW-17](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL,
P.C. FOR GABRIEL J. WADDELL, TRUSTEES ATTORNEY(S)
10-12-2023 [\[269\]](#)

RILEY WALTER/ATTY. FOR DBT.
GABRIEL WADDELL/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.

Fear Waddell P.C. ("Applicant"), general counsel for James Salven, Chapter 7 Trustee ("Trustee") in the of the bankruptcy estate of Blain Farming, Inc. ("Debtor") requests interim compensation in the sum of \$167,987.00 in fees and \$4,762.83 in expenses pursuant to 11 U.S.C. § 331. Doc. #269. This amount covers fees and expenses incurred between November 3, 2021, and September 30, 2023. *Id.* This is Applicant's first fee application.

Trustee executed a Declaration indicating that Trustee has reviewed this application and approves the same. Doc. #272. The court notes, however, that while Trustee's Declaration properly identifies this as the First Interim Application in the header, the body of the Declaration erroneously says that Trustee reviewed the *Final Application*. *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 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.

This court issued an order authorizing Applicant's employment as general counsel for Trustee on November 15, 2021. Doc. #29.

Applicant's firm provided 485.5 billable hours at the following rates, totaling **\$167,987.00** in fees:

Professional	Rate	Billed	Total
Peter L. Fear (2023)	\$440.00	2.20	\$968.00
Peter L. Fear (2022)	\$425.00	4.10	\$1,742.50
Peter L. Fear (2021)	\$425.00	24.00	\$9,840.00
Gabriel J. Waddell (2023)	\$360.00	163.70	\$59,148.00
Gabriel J. Waddell (2022)	\$345.00	201.60	\$69,552.00
Gabriel J. Waddell (2021)	\$330.00	64.30	\$21,219.00
Peter A. Sauer (2023)	\$280.00	0.80	\$224.00
Peter A. Sauer (2022)	\$260.00	0.20	\$52.00
Kattie Waddell (2023)	\$260.00	9.50	\$2,470.00
Kattie Waddell (2022)	\$245.00	2.10	\$514.50
Kattie Waddell (2021)	\$230.00	6.90	\$1,587.00
Laurel Guenther (2023)	\$115.00	4.00	\$460.00
Laurel Guenther (2022)	\$100.00	2.10	\$210.00
Total		485.5	\$167,987.00

Docs. ##269, 271. Applicant incurred **\$4,763.83** in expenses:

Copying	\$2,359.64
Court Fees	\$1,274.70
Postage	\$1,129.49
Total Expenses	\$4,763.83

Id. These combined fees and expenses total **\$ 172,750.83**. *Id.*

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" 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 here included, without limitation: (1) case administration, (2) asset disposition, (3) relief from stay/adequate protection proceedings, (4) meetings of and communications with creditors, (5) fee/employment applications, (6) avoidance action analysis, and (7) legal work on multiple adversary proceedings associated with this case. Doc. #271. The court finds these services and expenses reasonable, actual, and necessary. No party in interest timely filed written opposition and Debtor has consented to payment of the proposed fees.

Accordingly, this motion will be GRANTED on an interim basis. Applicant shall be awarded **\$ 172,750.83** in fees as reasonable compensation for services rendered and costs incurred, subject to final review under § 330. The Chapter 7 Trustee is authorized to pay the approved fees at his discretion. The fees approved are for the period from November 3, 2021, through September 30, 2023.

10. [23-11175](#)-B-7 **IN RE: JASWINDER SINGH**
[DMG-1](#)

CONTINUED OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
9-5-2023 [[38](#)]

JEFFREY VETTER/MV
VINCENT GORSKI/ATTY. FOR DBT.
D. GARDNER/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.