



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

Hearing Date: Tuesday, December 12, 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
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V
VOLUNTARY PETITION
6-22-2023 [[1](#)]

RILEY WALTER/ATTY. FOR DBT.

NO RULING.

2. [23-11332](#)-B-11 **IN RE: TWILIGHT HAVEN, A CALIFORNIA**
NON-PROFIT CORPORATION
[WJH-12](#)

CONTINUED MOTION TO COMPEL
7-11-2023 [[88](#)]

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**
[DL-1](#)

MOTION FOR COMPENSATION FOR WALTER R. DAHL, CHAPTER 11
TRUSTEE(S)
10-24-2023 [[170](#)]

WALTER DAHL/MV
PETER FEAR/ATTY. FOR DBT.
WALTER DAHL/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order
that conforms with the opinion below.

Walter R Dahl, the Chapter 11 Subchapter V Trustee ("Applicant"),
seeks approval of first and final compensation under 11 U.S.C. § 330
in the sum of \$10,596.18. Doc. #170. This amount consists of
\$10,390.50 in fees and \$205.68 in expenses from February 14, 2023,
through December 12, 2023. *Id.*

Applicant was appointed as the Subchapter V Trustee on February 14, 2023. (Doc. #21). Applicant requests fees for 24.7 billable hours of legal services at the following rates, totaling **\$10,390.50** in fees:

Professional	Rate	Hours	Amount
Walter R. Dahl (legal rate)	\$435.00	23.5	\$10,222.50
Walter R. Dahl (paralegal rate)	\$140.00	1.2	\$168.00
Total Fees & Expenses		24.7	\$10,390.50

Doc. #172. Applicant also incurred **\$205.68** in expenses:

Postage (via CertificateofService.com)	\$198.68
Reproduction	\$4.85
Postage to special notice matrix (estimated)	\$261
Total Expenses	\$205.68

Doc. #170. These combined fees and expenses total **\$10,596.18**.

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). The previous interim compensation awards under 11 U.S.C. § 331 are subject to final review under § 330.

Applicant's services here included, without limitation: (a) review of Debtor's business operations, (b) case administration, (c) fee/employment applications, (d) overseeing financing for Debtor, (e) work on the plan and disclosure statement, and (f) other work listed in the itemized time and fee entries. Doc. #170. The court finds the services and expenses reasonable, actual, and necessary. This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all such parties are entered.

Accordingly, this motion is GRANTED. The court will approve on a final basis under 11 U.S.C. §330 compensation in the amount of \$10,390.50 in fees and \$205.68 in costs, for a total award of \$10,596.18 as an administrative expense of the estate and an order authorizing and directing Debtor to pay such to Trustee from the first available estate funds.

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

CONTINUED RE: 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 RE: 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 RE: 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](#)

FURTHER HEARING RE: 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.

1:30 PM

1. [23-11914](#)-B-7 **IN RE: RUBEN/YOLANDA TIRADO**
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
11-9-2023 [[12](#)]

JAMES DOAN/ATTY. FOR DBT.

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

Chapter 7 trustee Peter L. Fear ("Trustee") seeks dismissal of this case for the debtors' failure to appear and testify at the continued § 341(a) meeting of creditors held on November 6, 2023. Doc. #13.

Ruben Anthony Tirado Sr. and Yolanda Tirado ("Debtors") timely opposed. Doc. #15. Debtors' attorney appeared at the November 6, 2023 meeting of creditors. Debtors attempted to appear but encountered technical difficulties and were unable to timely troubleshoot the issue. Debtors have resolved the issue and will be present for the continued meeting according to Debtors attorney. Id.

This motion to dismiss will be CONDITIONALLY DENIED.

Debtors shall attend the meeting of creditors rescheduled for January 8, 2024 at 3:00 p.m. See, Doc. #12. If Debtors fail to appear and 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 Debtors' 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.

2. [23-11228](#)-B-7 **IN RE: BELLA VINEYARD AG SERVICES, INC.**
[DMG-4](#)

MOTION FOR COMPENSATION FOR JEFFREY M. VETTER, CHAPTER 7
TRUSTEE(S)
11-20-2023 [\[38\]](#)

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

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

DISPOSITION: Withdrawn.

No order is required.

On November 22, 2023, D. Max Gardner, Applicant in this matter,
withdrew this Application. Doc. #44. Accordingly, this Application
is WITHDRAWN.

3. [17-11346](#)-B-7 **IN RE: DANIEL CANCHOLA**
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF, TAMBERI & WONG,
ACCOUNTANT(S)
11-7-2023 [\[176\]](#)

RATZLAFF TAMBERI & WONG/MV
JERRY LOWE/ATTY. FOR DBT.

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

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order
that conforms with the opinion below.

Ratzlaff, Tamberi & Wong, an Accountancy Corporation, ("Applicant")
seeks approval of a first and final allowance of compensation under
11 U.S.C. § 330 of the Bankruptcy Code for professional accounting
services rendered and reimbursement for expenses incurred in
advising and assisting the Trustee. Doc. #176. Chapter 7 Trustee
James E. Salven ("Trustee") has submitted a Declaration averring
that he has reviewed the Application and has no objection to it.
Doc. #180.

Applicant was employed by the Trustee to perform accounting services
under § 327 of the Code pursuant to an order of his court dated
September 8, 2023. Doc. #170). Applicant seeks \$2,236.04 in fees and
expenses from September 8, 2023, through October 25, 2023. Doc.

#176. Based on the exhibits, this appears to consist of 8.9 billable hours of accounting services at the following rates, totaling **\$2,225.00** in fees:

Professional	Rate	Hours	Amount
Chris Ratzlaff	\$250.00	8.9	\$2,225.00

Doc. #178. Applicant also incurred **\$11.04** in expenses for postage to notice creditors. *Id.* These combined fees and expenses total **\$2,236.04**.

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). The previous interim compensation awards under 11 U.S.C. § 331 are subject to final review under § 330.

Applicant's services here included, without limitation: (a) accounting services and tax preparation services pertaining to the post-discharge settlement of state court litigation involving the Debtor, and (b) communication with the Trustee regarding same. Doc. #176. The court finds the services and expenses reasonable, actual, and necessary. Trustee avers that he has reviewed the Application and does not object. Doc. #180.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all such parties are entered.

Accordingly, this motion is GRANTED. The court will approve on a final basis under 11 U.S.C. §330 compensation in the amount of \$2,225.00 in fees and \$11.04 in costs, for a total award of \$2,236.04 as an expense of the estate and an order authorizing and

directing Debtor to pay such to Trustee from the first available estate funds.

4. [23-11761](#)-B-7 **IN RE: ALEENE WILCOX**
[GT-1](#)

MOTION TO AVOID LIEN OF RESURGENCE FINANCIAL, LLC
11-13-2023 [\[16\]](#)

ALEENE WILCOX/MV
GRISelda TORRES/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

5. [17-11365](#)-B-7 **IN RE: MARIO GUERRA**
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF TAMBERI & WONG,
ACCOUNTANT(S)
10-30-2023 [\[180\]](#)

RATZLAFF TAMBERI & WONG/MV
JERRY LOWE/ATTY. FOR DBT.

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

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order that conforms with the opinion below.

Ratzlaff, Tamberi & Wong, an Accountancy Corporation, ("Applicant") seeks approval of a first and final allowance of compensation under 11 U.S.C. § 330 of the Bankruptcy Code for professional accounting services rendered and reimbursement for expenses incurred in advising and assisting Peter L. Fear, the Trustee in the underlying matter ("Trustee"). Doc. #180. Trustee has submitted a Declaration averring that he has reviewed the Application and has no objection to it. Doc. #183.

Applicant was employed by the Trustee to perform accounting services under § 327 of the Code pursuant to an order of his court dated September 8, 2023. Doc. #179). Applicant seeks \$2,235.61 in fees and expenses from September 8, 2023, through October 25, 2023. Doc. #176. Based on the exhibits, this appears to consist of 8.9 billable hours of accounting services at the following rates, totaling **\$2,225.00** in fees:

Professional	Rate	Hours	Amount
Chris Ratzlaff	\$250.00	8.9	\$2,225.00

Doc. #178. Applicant also incurred **\$10.61** in expenses for postage to notice creditors. *Id.* These combined fees and expenses total **\$2,235.61**.

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). The previous interim compensation awards under 11 U.S.C. § 331 are subject to final review under § 330.

Applicant's services here included, without limitation: (a) accounting services and tax preparation services pertaining to the post-discharge settlement of state court litigation involving the Debtor, and (b) communication with the Trustee regarding same. Doc. #176. The court finds the services and expenses reasonable, actual, and necessary. Trustee avers that he has reviewed the Application and does not object. Doc. #180.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all such parties are entered.

Accordingly, this motion is GRANTED. The court will approve on a final basis under 11 U.S.C. §330 compensation in the amount of \$2,225.00 in fees and \$10.61 in costs, for a total award of \$2,235.61 as an administrative expense of the estate and an order authorizing and directing Debtor to pay such to Trustee from the first available estate funds.

6. [23-12194](#)-B-7 **IN RE: KENNETH/LEXIE WICKER**
[KMM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-9-2023 [\[16\]](#)

TOYOTA MOTOR CREDIT
CORPORATION/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
KIRSTEN MARTINEZ/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.

Toyota Motor Credit Corporation ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2018 Dodge Truck Grand Caravan ("Vehicle"). Doc. #16. Kenneth Wicker and Lexie Wicker ("Debtors") did not oppose nor did the Trustee.

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 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 amount of damages). *Televideo Systems, 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.

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).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtors have failed to make at least four complete post-petition payments of \$1,508.08 and one post-petition payment of \$377.02. The movant has produced evidence that Debtors are delinquent at least \$1,885.10. Docs. ##18, 20.

The court also finds that the Debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because Debtors are in chapter 7. Doc. #20. The Vehicle is valued at \$14,175.00 and Debtors owe \$16,862.82. Id.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the Debtors' Statement of Intention, the Vehicle will be surrendered.