

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

December 14, 2016 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.

3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.

4. If no disposition is set forth below, the matter will be heard as scheduled.

1.	16-27410-D-7	JOSE ACOSTA	MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE OR OTHER FEE 11-8-16 [5]
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2.	14-25816-D-11 DNL-59	DEEPAL WANNAKUWATTE	MOTION FOR COMPENSATION BY THE LAW OFFICE OF DESMOND, NOLAN, LIVAICH & CUNNINGHAM FOR J. RUSSELL CUNNINGHAM, TRUSTEE'S ATTORNEY(S) 11-16-16 [1025]
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Tentative ruling:

This is the application of Hank M. Spacone, as chapter 11 trustee for the

consolidated bankruptcy estates of Deepal Sunil Wannakuwatte ("DW"), Betsy Kathryn Wannakuwatte ("BKW"), and Sarah Kathryn Wannakuwatte ("SKW"), for an order approving final chapter 11 compensation of his counsel, Desmond, Nolan, Livaich & Cunningham. The motion was noticed under LBR 9014-1(f) (1) and no opposition has been filed. However, the court has a concern about service of the motion.

On September 18, 2014, the court entered an order establishing notice and administrative procedures in this case, under which the trustee was permitted to create and utilize a limited service list for motions brought under Fed. R. Bankr. P. 2002(a)(2), (3), and (6). The trustee utilized that limited service list, as updated from time to time, for service of this motion. However, on February 5, 2015, the court issued an order granting the trustee's motion for approval of an inter-estate agreement, pursuant to which the bankruptcy estates in the BKW and SKW cases were substantively consolidated with this case. Pursuant to the order, the trustee was authorized to file in this case all documents necessary to effectuate the order, including an amended mailing matrix to include those creditors on the BKW and SKW case matrices that were not already on the matrix in this case, along with persons filing proofs of claim in the BKW and SKW cases not already filed in this case.

So far as the court can determine, the trustee never updated the mailing matrix in this case to include those creditors and claimants. Thus, at least one creditor filing a claim in the SKW case and a large number of creditors filing claims in the BKW case were not served with this motion. Nor were a large number of creditors listed on the schedules in one or both of those cases. Nor were the debtors or their attorneys in the BKW and SKW cases served with this motion. The court does not view the order establishing notice and administrative procedures as applicable to motions pertaining to the consolidated estates because the estates had not been consolidated at the time that order was entered and the order was not served on creditors who were unique to the BKW and/or SKW case or the debtors or their attorneys.

Because the moving party failed to notice all parties entitled to notice, the court intends to continue the hearing and require the moving party to file a notice of continued hearing and serve it on creditors previously omitted. The court will hear the matter.

3.	14-25816-D-11	DEEPAL WANNAKUWATTE	MOTION TO CONVERT CASE TO
	DNL-60		CHAPTER 7
			11-16-16 [1031]

Tentative ruling:

This is the application of Hank M. Spacone, as chapter 11 trustee for the consolidated bankruptcy estates of Deepal Sunil Wannakuwatte ("DW"), Betsy Kathryn Wannakuwatte ("BKW"), and Sarah Kathryn Wannakuwatte ("SKW"), to convert this case to a case under chapter 7 of the Bankruptcy Code. The motion was noticed under LBR 9014-1(f) (1) and no opposition has been filed. However, the court has a concern about service of the motion.

On September 18, 2014, the court entered an order establishing notice and administrative procedures in this case, under which the trustee was permitted to create and utilize a limited service list for motions brought under Fed. R. Bankr.

P. 2002(a)(2), (3), and (6). The trustee utilized that limited service list, as updated from time to time, for service of this motion. However, on February 5, 2015, the court issued an order granting the trustee's motion for approval of an inter-estate agreement, pursuant to which the bankruptcy estates in the BKW and SKW cases were substantively consolidated with this case. Pursuant to the order, the trustee was authorized to file in this case all documents necessary to effectuate the order, including an amended mailing matrix to include those creditors on the BKW and SKW case matrices that were not already on the matrix in this case, along with persons filing proofs of claim in the BKW and SKW cases not already filed in this case.

So far as the court can determine, the trustee never updated the mailing matrix in this case to include those creditors and claimants. Thus, at least one creditor filing a claim in the SKW case and a large number of creditors filing claims in the BKW case were not served with this motion. Nor were a large number of creditors listed on the schedules in one or both of those cases. Nor were the debtors or their attorneys in the BKW and SKW cases served with this motion. The court does not view the order establishing notice and administrative procedures as applicable to motions pertaining to the consolidated estates because the estates had not been consolidated at the time that order was entered and the order was not served on creditors who were unique to the BKW and/or SKW case or the debtors or their attorneys. Further, the court does not view the order establishing notice and administrative procedures as providing for limited notice of this motion to creditors in the DW case because that order provided for limited notice only of motions noticed pursuant to subdivisions (2), (3), and (6) of Fed. R. Bankr. P. 2002(a), not subdivision (4) (motions to convert cases).

Because the moving party failed to notice all parties entitled to notice, the court intends to continue the hearing and require the moving party to file a notice of continued hearing and serve it on creditors previously omitted. The court will hear the matter.

4. 14-25816-D-11 DEEPAL WANNAKUWATTE
DNL-61

MOTION TO APPROVE ADDENDUM
11-16-16 [1036]

Tentative ruling:

This is the application of Hank M. Spacone, as chapter 11 trustee for the consolidated bankruptcy estates of Deepal Sunil Wannakuwatte ("DW"), Betsy Kathryn Wannakuwatte ("BKW"), and Sarah Kathryn Wannakuwatte ("SKW"), for an order approving an addendum to the inter-estate agreement approved by the court's order filed February 5, 2015 (DN 355). The motion was noticed under LBR 9014-1(f)(1) and no opposition has been filed. However, the court has a concern about service of the motion.

On September 18, 2014, the court entered an order establishing notice and administrative procedures in this case, under which the trustee was permitted to create and utilize a limited service list for motions brought under Fed. R. Bankr. P. 2002(a)(2), (3), and (6). The trustee utilized that limited service list, as updated from time to time, for service of this motion. However, on February 5, 2015, the court issued an order granting the trustee's motion for approval of an inter-estate agreement, pursuant to which the bankruptcy estates in the BKW and SKW cases were substantively consolidated with this case. Pursuant to the order, the trustee was authorized to file in this case all documents necessary to effectuate

the order, including an amended mailing matrix to include those creditors on the BKW and SKW case matrices that were not already on the matrix in this case, along with persons filing proofs of claim in the BKW and SKW cases not already filed in this case.

So far as the court can determine, the trustee never updated the mailing matrix in this case to include those creditors and claimants. Thus, at least one creditor filing a claim in the SKW case and a large number of creditors filing claims in the BKW case were not served with this motion. Nor were a large number of creditors listed on the schedules in one or both of those cases. Nor were the debtors or their attorneys in the BKW and SKW cases served with this motion. The court does not view the order establishing notice and administrative procedures as applicable to motions pertaining to the consolidated estates because the estates had not been consolidated at the time that order was entered and the order was not served on creditors who were unique to the BKW and/or SKW case or the debtors or their attorneys.

Because the moving party failed to notice all parties entitled to notice, the court intends to continue the hearing and require the moving party to file a notice of continued hearing and serve it on creditors previously omitted. The court will hear the matter.

5. 14-25816-D-11 DEEPAL WANNAKUWATTE
DNL-62

MOTION FOR COMPENSATION FOR
BACHECKI, CROM & CO., LLP,
ACCOUNTANT(S)
11-17-16 [1047]

Tentative ruling:

This is the application of Hank M. Spacone, as chapter 11 trustee for the consolidated bankruptcy estates of Deepal Sunil Wannakuwatte ("DW"), Betsy Kathryn Wannakuwatte ("BKW"), and Sarah Kathryn Wannakuwatte ("SKW"), for an order approving final chapter 11 compensation of his accountant, Bachecki, Crom & Co., LLP. The motion was noticed under LBR 9014-1(f)(2); thus, ordinarily, the court would entertain opposition, if any, at the hearing. However, the court has a concern about service of the motion.

On September 18, 2014, the court entered an order establishing notice and administrative procedures in this case, under which the trustee was permitted to create and utilize a limited service list for motions brought under Fed. R. Bankr. P. 2002(a)(2), (3), and (6). The trustee utilized that limited service list, as updated from time to time, for service of this motion. However, on February 5, 2015, the court issued an order granting the trustee's motion for approval of an inter-estate agreement, pursuant to which the bankruptcy estates in the BKW and SKW cases were substantively consolidated with this case. Pursuant to the order, the trustee was authorized to file in this case all documents necessary to effectuate the order, including an amended mailing matrix to include those creditors on the BKW and SKW case matrices that were not already on the matrix in this case, along with persons filing proofs of claim in the BKW and SKW cases not already filed in this case.

So far as the court can determine, the trustee never updated the mailing matrix in this case to include those creditors and claimants. Thus, at least one creditor filing a claim in the SKW case and a large number of creditors filing claims in the BKW case were not served with this motion. Nor were a large number of creditors listed on the schedules in one or both of those cases. Nor were the debtors or their attorneys in the BKW and SKW cases served with this motion. The court does not view the order establishing notice and administrative procedures as applicable to motions pertaining to the consolidated estates because the estates had not been consolidated at the time that order was entered and the order was not served on creditors who were unique to the BKW and/or SKW case or the debtors or their attorneys.

Because the moving party failed to notice all parties entitled to notice, the court intends to continue the hearing and require the moving party to file a notice of continued hearing and serve it on creditors previously omitted. The court will hear the matter.

6. 14-25816-D-11 DEEPAL WANNAKUWATTE
JC-4

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF JOSEPH & COHEN,
P.C. FOR DAVID A. HONIG,
CREDITOR COMM. ATY(S)
11-16-16 [1041]

Tentative ruling:

This is the application of Joseph & Cohen, P.C. for a second interim and final allowance of compensation as counsel for the Official Committee of Unsecured Creditors in this case. The motion was noticed under LBR 9014-1(f)(1) and no opposition has been filed. However, the court has a concern about service of the motion.

On September 18, 2014, the court entered an order establishing notice and administrative procedures in this case, under which the trustee was permitted to create and utilize a limited service list for motions brought under Fed. R. Bankr. P. 2002(a)(2), (3), and (6). The moving party utilized that limited service list, as updated from time to time, for service of this motion. However, on February 5, 2015, the court issued an order granting the trustee's motion for approval of an inter-estate agreement, pursuant to which the bankruptcy estates in the BKW and SKW cases were substantively consolidated with this case. Pursuant to the order, the trustee was authorized to file in this case all documents necessary to effectuate the order, including an amended mailing matrix to include those creditors on the BKW and SKW case matrices that were not already on the matrix in this case, along with persons filing proofs of claim in the BKW and SKW cases not already filed in this case.

So far as the court can determine, the trustee never updated the mailing matrix in this case to include those creditors and claimants. Thus, at least one creditor filing a claim in the SKW case and a large number of creditors filing claims in the BKW case were not served with this motion. Nor were a large number of creditors listed on the schedules in one or both of those cases. Nor were the debtors or their attorneys in the BKW and SKW cases served with this motion. The court does not view the order establishing notice and administrative procedures as applicable to motions pertaining to the consolidated estates because the estates had not been

consolidated at the time that order was entered and the order was not served on creditors who were unique to the BKW and/or SKW case or the debtors or their attorneys.

Because the moving party failed to notice all parties entitled to notice, the court intends to continue the hearing and require the moving party to file a notice of continued hearing and serve it on creditors previously omitted. The court will hear the matter.

7.	14-25820-D-11	INTERNATIONAL	MOTION FOR COMPENSATION FOR
	FWP-35	MANUFACTURING GROUP, INC.	BEVERLY N. MCFARLAND, CHAPTER
			11 TRUSTEE
			11-16-16 [970]

Tentative ruling:

This is the fourth interim application for approval of fees and reimbursement of expenses filed by Beverly N. McFarland, the Chapter 11 trustee. As this case is not complete, the court is unable to make the various determinations that are necessary under 11 U.S.C. § 326 for final award of compensation. Accordingly, at this time the court will approve an interim award at 90% of the fees requested and 100% of the costs requested. This interim award is subject to final approval and the court will consider any and all objection to the interim award at the time the court considers applicant's final fee request. The court will hearing the matter.

8.	14-25820-D-11	INTERNATIONAL	MOTION FOR COMPENSATION BY THE
	FWP-36	MANUFACTURING GROUP, INC.	LAW OFFICE OF BAKER & MCKENZIE,
			LLP FOR THOMAS A. WILLOUGHBY,
			SPECIAL COUNSEL(S)
			11-16-16 [975]

9.	14-25820-D-11	INTERNATIONAL	MOTION FOR COMPENSATION BY THE
	JC-4	MANUFACTURING GROUP, INC.	LAW OFFICE OF JOSEPH & COHEN,
			P.C. FOR DAVID A. HONIG,
			CREDITOR COMM. ATY(S)
			11-16-16 [983]

10. 10-49826-D-7 MARLON/MARIA VEGA
SSA-3

MOTION FOR COMPENSATION FOR
STEVEN S. ALTMAN, TRUSTEE'S
ATTORNEY
11-7-16 [108]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

11. 14-22526-D-7 DAVID JONES
PA-12

MOTION FOR ADMINISTRATIVE
EXPENSES AND/OR MOTION TO PAY
11-16-16 [200]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the Motion for Allowance of Administrative Claim and Authorizing Payment of Administrative Claim to the Franchise Tax Board of the State of California and the Internal Revenue Service (the "Motion") is supported by the record. As such the court will grant the Motion. Moving party is to submit an appropriate order. No appearance is necessary.

12. 16-22230-D-7 NORMAN/CHERI RYAN
MPD-2

OBJECTION TO DEBTORS' CLAIM OF
EXEMPTIONS
11-3-16 [32]

Final ruling:

This is the trustee's objection to the debtors' claim of exemption in the real property that is the debtors' residence. On November 23, 2016, the debtors filed an amended Schedule C. As a result of the filing of the amended Schedule C, the present objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

13. 15-29334-D-7 RAYLENE JEFFREY AND MARK
DNL-2 RUTLEDGE

MOTION FOR TURNOVER OF PROPERTY
11-16-16 [35]

14.	16-24736-D-7	EDWARD/LORELEE MILLER	MOTION TO AVOID LIEN OF TARGET
	ALF-2		NATIONAL BANK
			11-9-16 [23]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

15.	10-50339-D-7	ELEFThERIOS/PATRICIA	MOTION TO COMPROMISE
	HSM-13	EFSTRATIS	CONTROVERSY/APPROVE SETTLEMENT
			AGREEMENT WITH GUY O. KORNBLUM
			11-16-16 [402]

16.	14-25148-D-11	HENRY TOSTA	MOTION FOR COMPENSATION FOR
	ABG-1		HOWARD BAILEY, OTHER
			PROFESSIONAL
			11-16-16 [641]

17.	10-42050-D-7	VINCENT/MALANIE SINGH	MOTION TO STRIKE
	12-2365	HLC-2	11-16-16 [158]
	BURKART V. PANDEY		

18. 13-25654-D-7 KENNETH/APRIL GOORE
KJH-3

MOTION FOR COMPENSATION FOR
KIMBERLY HUSTED, CHAPTER 7
TRUSTEE
11-15-16 [100]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion for compensation of Kimberly Husted, Chapter 7 Trustee is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

19. 15-28354-D-7 CESAR MEJIA
MKM-1

MOTION SEEKING CONTEMPT
REMEDIES FOR VIOLATION OF
AUTOMATIC STAY AND DISCHARGE
INJUNCTION
11-7-16 [29]

Final ruling:

Motion withdrawn by moving party on December 5, 2016. Matter removed from calendar. No appearance is necessary.

20. 13-33966-D-7 HOWARD HOLZER
DE-1

MOTION TO AVOID LIEN OF CAPITOL
ONE BANK, N.A.
11-3-16 [27]

Final ruling:

This is the debtor's motion to value collateral of Capital One Bank (the "Bank"). The motion will be denied because the moving party failed to serve the Bank in strict compliance with Fed. R. Bankr. P. 7004(h), as required by Fed. R. Bankr. P. 9014(b). The moving party served the Bank to the attention of an "Officer or Agent Designated to Accept Service of Process." This was insufficient because the rule requires service on an FDIC-insured institution, such as the Bank, to the attention of an officer and only an officer. Fed. R. Bankr. P. 7004(h).

This distinction is important. For service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution, the applicable rule requires service to the attention of an officer, managing or general agent, or agent for service of process (Fed. R. Bankr. P. 7004(b)(3)), whereas service on an FDIC-insured institution must be to the attention of an officer. Fed. R. Bankr. P. 7004(h). If service on an FDIC-insured institution to the attention of an "Officer or Agent Designated to Accept Service of Process" were appropriate, the distinction in the manner of service, as between the two rules, would be superfluous.

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

21. 13-33966-D-7 HOWARD HOLZER
DE-2

AMENDED MOTION TO AVOID LIEN OF
CAPITOL ONE BANK, N.A.
11-4-16 [36]

Final ruling:

This is the debtor's motion to value collateral of Capital One Bank (the "Bank"). The motion will be denied because the moving party failed to serve the Bank in strict compliance with Fed. R. Bankr. P. 7004(h), as required by Fed. R. Bankr. P. 9014(b). The moving party served the Bank to the attention of an "Officer or Agent or other Party Designated to Accept Legal Documents." This was insufficient because the rule requires service on an FDIC-insured institution, such as the Bank, to the attention of an officer and only an officer. Fed. R. Bankr. P. 7004(h).

This distinction is important. For service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution, the applicable rule requires service to the attention of an officer, managing or general agent, or agent for service of process (Fed. R. Bankr. P. 7004(b)(3)), whereas service on an FDIC-insured institution must be to the attention of an officer. Fed. R. Bankr. P. 7004(h). If service on an FDIC-insured institution to the attention of an "Officer or Agent or other Party Designated to Accept Legal Documents" were appropriate, the distinction in the manner of service, as between the two rules, would be superfluous.

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

22. 16-26873-D-11 DEF ENTERPRISES, INC.
WJS-1
CAROL MANLY VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-16-16 [25]

23. 15-29890-D-7 GRAIL SEMICONDUCTOR
DNL-15

MOTION TO USE ESTATE FUNDS
11-15-16 [533]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to use estate funds, of up to \$1,000 per month for expenses related to e-discovery, is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

24.	15-29890-D-7	GRAIL SEMICONDUCTOR	MOTION FOR PRELIMINARY
	16-2088	DNL-4	INJUNCTION
	CARELLO V. STERN ET AL		11-16-16 [138]

Final ruling:

The hearing on this motion is continued to January 4, 2017 at 10:00 a.m. No appearance is necessary on December 14, 2016.

25.	16-26899-D-7	VIVIAN GOODBEER	MOTION FOR RELIEF FROM
	APN-1		AUTOMATIC STAY
	SANTANDER CONSUMER USA, INC.		11-15-16 [12]
	VS.		

26.	15-00203-D-0	OPUS WEST CORPORATION	CONTINUED ORDER TO APPEAR FOR
			EXAMINATION (GREGORY WATSON,
			CEO)
			10-13-16 [11]

CLOSED 12/07/2015

27.	16-23505-D-7	DIANE BURNS	CONTINUED AMENDED MOTION TO
	BHS-3		COMPROMISE CONTROVERSY/APPROVE
			SETTLEMENT AGREEMENT WITH DIANE
			MICHAEL BURNS
			11-30-16 [45]

28.	12-29510-D-7 MS-1	STEVEN POHL	MOTION TO AVOID LIEN OF ARROW FINANCIAL SERVICES, LLC 11-29-16 [22]
29.	15-23511-D-7 15-2150 BAKER V. COURTNEY	SCOTT COURTNEY RLC-1	MOTION BY STEPHEN M. REYNOLDS TO WITHDRAW AS ATTORNEY 11-30-16 [55]
30.	14-25820-D-11 FWP-37	INTERNATIONAL MANUFACTURING GROUP, INC.	MOTION FOR COMPENSATION BY THE LAW OFFICE OF TERAOKA & PARTNERS LLP FOR THOMAS MICHAEL GOSSELIN, SPECIAL COUNSEL(S) 11-21-16 [998]
31.	16-27349-D-11	JACOB WINDING	ORDER TO SHOW CAUSE - FAILURE TO FILE DOCUMENTS 11-22-16 [36]

32.	16-25556-D-11 UST-1	AK BUILDERS AND COATINGS, INC.	MOTION TO CONVERT CASE FROM CHAPTER 11 TO CHAPTER 7 (FILING FEE NOT PAID OR NOT REQUIRED), MOTION TO DISMISS CASE 11-21-16 [47]
33.	16-25556-D-11	AK BUILDERS AND COATINGS, INC.	CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 8-23-16 [1]
34.	16-21659-D-7 CDH-3	TRONG NGUYEN	MOTION TO ABANDON 11-30-16 [73]
35.	16-26873-D-11	DEF ENTERPRISES, INC.	CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 10-17-16 [1]