

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Thursday, December 16, 2021  
Place: Department A – Courtroom #11  
Fresno, California

*Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.*

**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.

**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 POSSIBLE UPDATES.**

1. [21-12101](#)-A-13     **IN RE: EMILIANO HERNANDEZ**  
[SLL-2](#)

MOTION FOR COMPENSATION FOR STEPHEN L. LABIAK, DEBTORS ATTORNEY(S)  
11-15-2021    [\[24\]](#)

STEPHEN LABIAK/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.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Stephen L. Labiak ("Movant"), counsel for Emiliano C. Hernandez ("Debtor"), the debtor in this chapter 13 case, requests interim allowance of compensation in the amount of \$9,000.00 for services rendered from February 15, 2021 through November 8, 2021. Doc. #24. Debtor's confirmed plan provides for \$9,000.00 in attorney's fees to be paid through the plan. Plan, Doc. ##22, 31. No prior fee applications have been submitted. Debtor consents to the amount requested in Movant's application. Doc. #26.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant demonstrates services rendered relating to: (1) pre-petition consulting and fact gathering; (2) investigating and analyzing Debtor's monthly income in the absence of formal paychecks; (3) valuing Debtor's business and commercial vehicles; and (4) preparing and prosecuting plan modification. Exs., Doc. #28. Although Debtor's bankruptcy petition was not filed until August 2021, the court approves Movant's application for reasonable compensation for work in connection with the bankruptcy case. Movant and Debtor first met in February 2021, but the information required to file the bankruptcy

petition was not immediately provided by Debtor. Ex. A, Doc. #28. A review of Movant's time sheets shows the work performed from February 2021 to the petition date was reasonably necessary and connected to the bankruptcy case. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows on an interim basis compensation in the amount of \$9,000.00 to be paid in a manner consistent with the terms of the confirmed plan.

2. [19-10507](#)-A-13     **IN RE: TUCKER/JAMIE MAXFIELD**  
[TCS-4](#)

MOTION TO VACATE DISMISSAL OF CASE  
12-2-2021     [\[118\]](#)

JAMIE MAXFIELD/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
DISMISSED 11/18/2021

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 after the hearing.

This motion was filed and served on at least 14 days' notice prior to the hearing date 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.

Tucker McKay Maxfield and Jamie Leann Maxfield (together, "Debtors") move to vacate the order dismissing their chapter 13 case and allow Debtors to continue with their chapter 13 plan. Doc. #118. Debtors' bankruptcy case was dismissed on November 18, 2021, after failing to bring plan payments current. Doc. #115.

Neither the Federal Rules of Civil Procedure ("Civil Rules") nor Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") recognize a motion for reconsideration, but courts typically construe such requests under either Civil Rule 59(e) (made applicable to bankruptcy proceedings by Bankruptcy Rule 9023) or Civil Rule 60(b) (made applicable to bankruptcy proceedings by Bankruptcy Rule 9024). See Am. Ironworks & Erectors Inc. v. N. Am. Constr. Corp., 248 F.3d 892, 898-99 (9th Cir. 2001). Because there is no clear provision for a motion for reconsideration, parties requesting such relief often file ambiguous motions that do not clearly request relief under a specific Civil Rule or cite to both Civil Rule 59(e) and Civil Rule 60(b). E.g., United States v. Nutri-Cology, Inc., 982 F.2d 394, 397 (9th Cir. 1992); Captain Blythers, Inc. v. Thompson (In re Captain Blythers, Inc.), 311 B.R. 530, 539 (B.A.P. 9th Cir. 2004).

In this case, the court finds no such ambiguity. The motion is a request for relief under Bankruptcy Rule 9024 and Civil Rule 60(b). Debtors cite Bankruptcy

Rule 9024 and set forth the grounds justifying relief enumerated in Civil Rule 60(b). The motion states that "Debtors believe that this court should vacate the dismissal in the above referenced case based on (1) mistake, inadvertence, surprise, or excusable neglect; and or (6) any other reason that justifies relief." Mot. ¶ 11, Doc. #118. This mirrors Civil Rule 60(b). Debtors also cite to Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380 (1993) to support the Civil Rule 60(b) "excusable neglect" standard.

Although Debtors also state the motion is timely filed pursuant to Bankruptcy Rule 9023 and Civil Rule 59(e), citing to Kona Enters. v. Estate of Bishop, 229 F.3d 877 (9th Cir. 2000) (discussing Civil Rule 59(e), this does not make the motion ambiguous. The court notes that the time requirements of Bankruptcy Rule 9023 do not apply to motions that clearly request relief only under Civil Rule 60(b).

Debtors argue that the order dismissing their chapter 13 case should be vacated under Civil Rule 60(b) because of Debtors' excusable neglect. "[F]or purposes of [Civil] Rule 60(b), 'excusable neglect' is understood to encompass situations in which the failure to comply with a filing deadline is attributable to negligence." Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 394 (1993). The determination of "what sorts of neglect will be considered 'excusable' . . . is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission." Id. at 395. Relevant circumstances include "the danger of prejudice to the debtor, the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith." Id.

The court is inclined to grant Debtors' motion and vacate the dismissal due to excusable neglect. Debtors filed the chapter 13 bankruptcy petition on February 13, 2019. Doc. #1. The first modified chapter 13 plan was confirmed on September 16, 2019. Doc. #86. The second modified plan was confirmed on May 11, 2020. Doc. #107. Debtors' case was dismissed on November 18, 2021, for failure to make plan payments. Doc. #115.

Debtors received a Notice of Default in July 2021, and after reviewing the online payment portal mistakenly thought they were current on plan payments. Decl. of Jamie Maxfield, Doc. #120. Debtors did not realize they were consistently one month behind in plan payments until they received the second Notice of Default. Id. Additionally, in August 2021 Debtors' daughter suffered a serious injury leading to unexpected medical bills that caused financial strain on the family. Id. Debtors are working through a forbearance plan with their mortgage servicer so they can maintain bankruptcy payments. Id. Debtors received the second Notice of Default in October that precipitated dismissal and initiated a payment to become current on plan payments, but Debtors' case was dismissed before the payment arrived. Id. The chapter 13 trustee has not closed out the case, and Debtors have submitted all delinquent funds so that they are current through November 2021. Id.

Debtors have been in bankruptcy for over 30 months and have tendered more than \$32,000 to the chapter 13 trustee for plan payments. Id. Debtors' confirmed plan is a 5-year plan that provides a 10% dividend to unsecured creditors. Doc. #93. Debtors are more than halfway through the confirmed plan and wish to complete the plan. Doc. #120.

It appears that refusing to vacate the dismissal order would be highly prejudicial to Debtors, that the length of delay between dismissal and Debtors' request to vacate dismissal is minimal, that Debtors' payments of all amounts

due through November 2021 will neutralize any impact that vacating dismissal will have on the bankruptcy case, and that Debtors acted in good faith. Debtors have established excusable neglect under Civil Rule 60(b).

Accordingly, pending any opposition raised at the hearing, this motion will be GRANTED. The court will vacate the dismissal order.

3. [21-11912](#)-A-13     **IN RE: JAIME CASILLAS AND NIDIA CAMACHO HI GUERA**  
[SLL-1](#)

MOTION FOR COMPENSATION FOR STEPHEN L. LABIAK, DEBTORS ATTORNEY(S)  
11-15-2021    [\[30\]](#)

STEPHEN LABIAK/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.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Stephen L. Labiak ("Movant"), counsel for Jaime Casillas and Nidia Camacho Hi Guera (together, "Debtors"), the debtors in this chapter 13 case, requests interim allowance of compensation in the amount of \$5,500.00 for services rendered from May 12, 2021 through November 8, 2021. Doc. #30. Debtors' confirmed plan provides for \$5,500.00 in attorney's fees to be paid through the plan. Plan, Doc. #3, 27. No prior fee applications have been submitted. Debtors consent to the amount requested in Movant's application. Doc. #30.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant demonstrates services rendered relating to: (1) pre-petition consulting and fact gathering; (2) investigating and analyzing Debtors' monthly income; (3) valuing Debtors' business and estate property; (4) responding to

and investigating basis of chapter 13 trustee's objection; and (5) preparing and prosecuting plan confirmation. Exs., Doc. #34. Although Debtors' bankruptcy petition was not filed until July 31, 2021, the court approves Movant's application for reasonable compensation for work in connection with the bankruptcy case. Movant and Debtors first met in May 2021, but due to Debtors' income, business, and other issues, the bankruptcy petition was not ready for filing until July 2021. Ex. A, Doc. #34. A review of Movant's time sheets shows the work performed from May 2021 to the petition date was reasonably necessary and connected to the bankruptcy case. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows on an interim basis compensation in the amount of \$5,500.00 to be paid in a manner consistent with the terms of the confirmed plan.

4. [21-11640](#)-A-13     **IN RE: TRICIA ACEVES**  
[SLL-1](#)

MOTION FOR COMPENSATION FOR STEPHEN L. LABIAK, DEBTORS ATTORNEY(S)  
11-11-2021     [\[22\]](#)

STEPHEN LABIAK/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.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Stephen L. Labiak ("Movant"), counsel for Tricia Aceves ("Debtor"), the debtor in this chapter 13 case, requests interim allowance of compensation in the amount of \$11,020.00 for services rendered from April 13, 2021 through October 18, 2021. Doc. #22. Debtor's confirmed plan provides for \$12,000.00 in attorney's fees to be paid through the plan. Plan, Doc. ##3, 16. No prior fee applications have been submitted. Debtor consents to the amount requested in Movant's application. Doc. #26.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1),

(4) (B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant demonstrates services rendered relating to: (1) pre-petition consulting and fact gathering; (2) investigating and analyzing Debtor's monthly income; (3) investigating Debtor's child support judgment and related divorce proceedings; (4) preparing objections to claims and filing claims; and (5) preparing and prosecuting plan confirmation. Exs., Doc. #24. Although Debtor's bankruptcy petition was not filed until June 29, 2021, the court approves Movant's application for reasonable compensation for work in connection with the bankruptcy case. Movant and Debtor first met in April 2021, but due to Debtor's income, domestic support issues, and other issues, the bankruptcy petition was not ready for filing until June 2021. Ex. A, Doc. #24. A review of Movant's time sheets shows the work performed from April 2021 to the petition date was reasonably necessary and connected to the bankruptcy case. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows on an interim basis compensation in the amount of \$11,020.00 to be paid in a manner consistent with the terms of the confirmed plan.

5. [18-14452](#)-A-13     **IN RE: ARIANA ERKELENS**  
[MAZ-1](#)

MOTION TO MODIFY PLAN  
11-4-2021    [\[32\]](#)

ARIANA ERKELENS/MV  
MARK ZIMMERMAN/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.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of 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 amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.



This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

6. [19-13053](#)-A-13      **IN RE: BLANCA MARTINEZ**  
[FW-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C.  
FOR PETER L. FEAR, DEBTORS ATTORNEY(S)  
11-15-2021    [\[67\]](#)

GABRIEL WADDELL/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.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Fear Waddell P.C. ("Movant"), counsel for Blanca Aurora Martinez ("Debtor"), the debtor in this chapter 13 case, requests interim allowance of compensation and reimbursement for expenses in the amount of \$3,889.57 for services rendered from April 1, 2020 through October 31, 2021. Doc. #67. Debtor's confirmed plan provides for \$10,000.00 in attorney's fees to be paid through the plan. Plan, Doc. ##51, 66. One prior fee application has been approved authorizing interim compensation and reimbursement of expenses of \$2,902.35. Doc. #46. Debtor consents to the amount requested in Movant's application. Ex. E, Doc. #69.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) preparing and prosecuting Debtor's second modified plan; (2) resolving objections to confirmation of the second modified plan; (3) communicating with Debtor's creditors and the chapter 13 trustee; (4) preparing the fee application; and (5) general case administration. Exs. A, B & C, Doc. #69. The court finds that



the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows on an interim basis compensation and reimbursement for expenses in the amount of \$3,889.57 to be paid in a manner consistent with the terms of the confirmed plan.

7. [21-12381](#)-A-13     **IN RE: MARIA BUGARIN ALVAREZ**  
[CLB-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION  
11-3-2021    [\[15\]](#)

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION/MV  
DAVID JENKINS/ATTY. FOR DBT.  
CHAD BUTLER/ATTY. FOR MV.  
DISMISSED 12/8/21

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

DISPOSITION:     Overruled as moot.

ORDER:             The court will issue an order.

An order dismissing this case was entered on December 8, 2021. Doc. #24. The objection will be OVERRULED AS MOOT.

8. [19-11395](#)-A-13     **IN RE: ORA DOUANGPHOUXAY**  
[FW-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C.  
FOR GABRIEL J. WADDELL, DEBTORS ATTORNEY(S)  
11-16-2021    [\[91\]](#)

GABRIEL WADDELL/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.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987).

Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Fear Waddell P.C. ("Movant"), counsel for Ora Parsith Douangphouxay ("Debtor"), the debtor in this chapter 13 case, requests interim allowance of compensation and reimbursement for expenses in the amount of \$9,720.15 for services rendered from January 1, 2020 through October 31, 2021. Doc. #91. Debtor's confirmed plan provides for \$17,000.00 in attorney's fees to be paid through the plan. Plan, Doc. ##64, 76. One prior fee application has been approved authorizing interim compensation and reimbursement of expenses of \$6,141.61. Doc. #59. Debtor consents to the amount requested in Movant's application. Ex. E, Doc. #93.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) preparing and prosecuting Debtor's first modified plan; (2) resolving title issue of Debtor's legal interest in real property; (3) communicating with Debtor's creditors and the chapter 13 trustee; (4) preparing the fee application; and (5) general case administration. Exs. A, B & C, Doc. #93. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion.

This motion is GRANTED. The court allows on an interim basis compensation and reimbursement for expenses in the amount of \$9,720.15 to be paid in a manner consistent with the terms of the confirmed plan.

1. [20-13451](#)-A-7     **IN RE: AMANDEEP SINGH**  
[21-1004](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
2-5-2021    [[1](#)]

BMO HARRIS BANK, N.A. V. SINGH  
RAFFI KHATCHADOURIAN/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

2. [20-13970](#)-A-7     **IN RE: IDA GLEASON**  
[21-1033](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
8-10-2021    [[1](#)]

FEAR V. SMITH  
THOMAS ARMSTRONG/ATTY. FOR PL.  
DISMISSED 11/23/21

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

DISPOSITION:     Dropped as moot.

NO ORDER REQUIRED.

This adversary proceeding was dismissed on November 23, 2021. Doc. #16.

3. [20-13970](#)-A-7     **IN RE: IDA GLEASON**  
[21-1034](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
8-10-2021    [[1](#)]

FEAR V. ISAAK  
THOMAS ARMSTRONG/ATTY. FOR PL.  
DISMISSED 11/23/21

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

DISPOSITION:     Dropped as moot.

NO ORDER REQUIRED.

This adversary proceeding was dismissed on November 23, 2021. Doc. #16.