

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

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY

DATE: DECEMBER 18, 2019

CALENDAR: 1:30 P.M. CHAPTERS 11 AND 9 CASES

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

1. [10-12709](#)-A-11 **IN RE: ENNIS COMMERCIAL PROPERTIES, LLC**
[FRC-14](#)

MOTION FOR AN ORDER TO APPROVE SIXTH INTERIM DISTRIBUTION
11-14-2019 [[1897](#)]

DAVID STAPLETON/MV
PETER FEAR/ATTY. FOR DBT.
MICHAEL GOMEZ/ATTY. FOR MV.

Final Ruling

Motion: For an Order Approving Fifth Interim Distribution

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The plan administrator request authorization to disburse \$400,000 to unsecured creditors in accordance with the table provided in the motion. Section V(N) of the Plan provides that the "Plan Administrator shall be entitled to see such Bankruptcy Court orders and instructions as the Plan Administrator deems necessary to carry out and further the intentions and purposes, and to give full effect to, the provisions of the plan." The confirmed plan also contains a mechanism for disbursing funds to creditors at Article VI. The court will authorize the distribution. The moving party shall prepare and submit an order.

2. [17-13112](#)-A-11 **IN RE: PIONEER NURSERY, LLC**

RESCHEDULED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION
8-11-2017 [[1](#)]

PETER FEAR/ATTY. FOR DBT.

No Ruling

3. [17-13112](#)-A-11 **IN RE: PIONEER NURSERY, LLC**
[KDG-10](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF KLEIN,
DENATALE, GOLDNER, COOPER, ROSENLIB & KIMBALL, LLP FOR
JACOB L. EATON, CREDITOR COMM. ATY(S)
11-26-2019 [[778](#)]

PETER FEAR/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 11 case, Klein DeNatale, committee counsel, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$15,862.00 and reimbursement of expenses in the amount of \$254.96.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Klein DeNatale's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$15,862.00 and reimbursement of expenses in the amount of \$254.96. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

4. [17-13112](#)-A-11 **IN RE: PIONEER NURSERY, LLC**
[MB-3](#)

MOTION FOR COMPENSATION FOR CHARLES RIVER ASSOCIATES,
CONSULTANT(S)
11-27-2019 [[788](#)]

CHARLES RIVER ASSOCIATES/MV
PETER FEAR/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 11 case, Charles River Associates, economists and consultants, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$8,122.00 and reimbursement of expenses in the amount of \$0.00.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by an employed professional in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable

compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Charles River Associates' application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$8,122.00 and reimbursement of expenses in the amount of \$0.00. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

5. [18-14414](#)-A-11 **IN RE: TITUS INDUSTRIAL, INC.**

RESCHEDULED STATUS CONFERENCE RE: VOLUNTARY PETITION
10-30-2018 [\[1\]](#)

LEONARD WELSH/ATTY. FOR DBT.

No Ruling

6. [18-14414](#)-A-11 **IN RE: TITUS INDUSTRIAL, INC.**
[LKW-2](#)

RESCHEDULED HEARING RE: MOTION TO USE CASH COLLATERAL AND/OR
MOTION FOR ADEQUATE PROTECTION
11-6-2018 [[19](#)]

TITUS INDUSTRIAL, INC./MV
LEONARD WELSH/ATTY. FOR DBT.

No Ruling

7. [19-14052](#)-A-11 **IN RE: BALDOMERO CISNEROS**
[LKW-4](#)

MOTION TO EMPLOY HARDAWAY AXUME WEIR AS ACCOUNTANT(S)
11-27-2019 [[54](#)]

BALDOMERO CISNEROS/MV
LEONARD WELSH/ATTY. FOR DBT.

Tentative Ruling

Application: Approval of Employment

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

Disposition: Approved

Order: Prepared by applicant pursuant to the instructions below

Unopposed applications are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between [professional's name] and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

8. [19-14690](#)-A-11 **IN RE: ARLON BERBANO**

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
11-7-2019 [[1](#)]

DISMISSED

Final Ruling

This case was dismissed November 18, 2019, then closed on December 6, 2019. The Status Conference is concluded.