

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 15, 2020

Hearing Room 303

11:00 AM

6:19-10742 Joshua Michael Thomson and Katherine Naomi Thomson

Chapter 13

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Kia Forte LX Sedan 4D

MOVANT: CAPITAL ONE AUTO FINANCE

EH__

Docket 56

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
12/7/20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joshua Michael Thomson

Represented By
Edward G Topolski

Joint Debtor(s):

Katherine Naomi Thomson

Represented By
Edward G Topolski

Movant(s):

Capital One Auto Finance, a division

Represented By
Marjorie M Johnson

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-13500 Joe A Pickens, II

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2032W 98th Street, Los Angeles, CA 90047

MOVANT: DEUTSCHE BANK NATIONAL TRUST COMPANY

EH__

Docket 59

***** VACATED *** REASON: ORDER GRANTING MOTION ENTERED
12/10/20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joe A Pickens II

Represented By
William Radcliffe

Movant(s):

Deutsche Bank National Trust

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-15117 Michael Colbus and Lisa Colbus

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2013 Nissan Altima

MOVANT: NISSAN MOTOR ACCEPTANCE CORPORATION

EH ____

(Tele. appr. Austin P. Nagel, rep. creditor, Nisan Motor Acceptance Corp.)

Docket 62

Tentative Ruling:

12/15/2020

Service: Proper

Opposition: None

For the reasons set forth in the motion, the Court is inclined to:

- GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1)
- GRANT waiver of Rule 4001(a)(3) stay
- GRANT request under ¶ 2
- DENY alternative request under ¶ 11 as moot

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Michael Colbus

Represented By
Andy Nguyen

Joint Debtor(s):

Lisa Colbus

Represented By
Andy Nguyen

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CONT... Michael Colbus and Lisa Colbus

Chapter 13

Movant(s):

NISSAN MOTOR ACCEPTANCE

Represented By
Austin P Nagel

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:19-16979 Flor Aguilar

Chapter 13

#4.00 CONT. Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 34611 J Street, Barstow, CA 92311

MOVANT: NATIONS DIRECT MORTGAGE, LLC

From: 11/17/20

EH__

Docket 62

*** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
11/25/20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Flor Aguilar

Represented By
Rabin J Pournazarian

Movant(s):

Nations Direct Mortgage, LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-20408 Juan Carlos De La Cruz and Claudia Veronica De La Cruz Chapter 13

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 3465 Tipperary Way, Riverside, CA 92506

MOVANT: LAKEVIEW LOAN SERVICING, LLC

EH__

(Tele. appr. Sanaz Bereliani, rep. Debtors)

(Tele. appr. Darlene Vigil, rep. creditor, Lakeview Loan Servicing LLC)

Docket 72

Tentative Ruling:

12/15/2020

Service: Proper

Opposition: Debtors

Movant to apprise the Court of the status of arrears and parties to apprise the Court of the status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Juan Carlos De La Cruz

Represented By
Sanaz Sarah Bereliani

Joint Debtor(s):

Claudia Veronica De La Cruz

Represented By
Sanaz Sarah Bereliani

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CONT... Juan Carlos De La Cruz and Claudia Veronica De La Cruz

Chapter 13

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:19-20562 Emmanuel Pastor and Razel Pastor

Chapter 13

#6.00 CONT. Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 12930 Cobblestone Lane Moreno Valley, California 92555

MOVANT: CARRINGTON MORTGAGE SERVICES, INC.

From: 11/17/20

EH__

Docket 45

***** VACATED *** REASON: ORDER GRANTING MOTION ENTERED ON 12/3/20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Emmanuel Pastor

Represented By
Gary S Saunders

Joint Debtor(s):

Razel Pastor

Represented By
Gary S Saunders

Movant(s):

CARRINGTON MORTGAGE

Represented By
Christopher Giacinto
Diana Torres-Brito
Julian T Cotton

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:20-10033 Edward Dwayne Lott

Chapter 13

#7.00 CONT. Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 11512 Bell Tower Drive, Fontana, CA 92337

MOVANT: NATIONSTAR MORTGAGE LLC

From: 11/17/20

EH__

(Tele. appr. Robert Chen, rep. Debtor)

Docket 34

***** VACATED *** REASON: ORDER GRANTING MOTION ENTERED
12/1/20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edward Dwayne Lott

Represented By
Raj T Wadhvani

Movant(s):

U.S. Bank National Association, not

Represented By
Nancy L Lee

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:20-12151 Armando Guzman

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 29351 Summerset Drive, Menifee, CA 92586

MOVANT: FREEDOM MORTGAGE CORPORATION

EH__

(Tele. appr. Dane Exnowski, rep. moving party Freedom Mortgage Corporation)

Docket 41

Tentative Ruling:

12/15/2020

Service: Proper

Opposition: None

For the reasons set forth in the motion, the Court is inclined to:

- GRANT relief from stay pursuant to 11 U.S.C. § 362(d)(1)
- GRANT waiver of Rule 4001(a)(3) stay
- GRANT request under ¶ 2
- DENY alternative request under ¶ 13 as moot

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Armando Guzman

Represented By
Daniel King

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CONT... Armando Guzman

Chapter 13

Movant(s):

Freedom Mortgage Corporation

Represented By
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:20-12194 Claudia P. Contreras

Chapter 13

#9.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 49072 Pluma Verde Place, Coachella, CA 92236

MOVANT: HSBC BANK USA

From 10/20/20,12/1/20

EH__

Docket 38

***** VACATED *** REASON: ORDER ENTERED 12/11/20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Claudia P. Contreras

Represented By
Daniel C Sever

Movant(s):

HSBC Bank USA, N.A.

Represented By
Sean C Ferry

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:18-11520 Kiia Chree Wilson

Chapter 13

#9.10 CONT. Debtor's Motion for Relief from order entered as a result of fraud, misrepresentation, or misconduct by an opposing party, reinstatement of the protective order of April 17, 2020, and for attorney's fees

From: 12/3/20

EH__

(Tele. appr. Gordon Dayton, rep. Debtor)

(Tele. appr. Nancy Lee, rep. creditor, Rushmore Loan Management Services, LLC)

Docket 84

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kiia Chree Wilson

Represented By
Gordon L Dayton

Movant(s):

Kiia Chree Wilson

Represented By
Gordon L Dayton

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#10.00 Claimant, Netrova, Inc.'s Motion for Allowance of and Directing Payment of Administrative Claim

EH__

(Tele. appr. Marc Lieberman, rep. John Larson)

(Tele. appr. Debbie Perez, rep. Trustee, David Goodrich)

Docket 509

Tentative Ruling:

12/15/2020

BACKGROUND

On May 11, 2016, Allied Injury Management, Inc. ("Debtor") filed a Chapter 11 voluntary petition. On December 5, 2016, the Court entered an order appointing David Goodrich as Chapter 11 Trustee.

On November 20, 2020, Netrova, Inc. ("Creditor") filed a motion for allowance and payment of an administrative claim. Creditor's claim is related to information technology services provided to Debtor between December 2016 and October 2017.

On December 1, 2020, Trustee filed a response to Creditor's motion. Trustee's response does not oppose Creditor's request for an administrative claim in the amount of \$12,904.33, but, instead, Trustee asserts that the claim should not be paid at the instant time because the estate may be administratively insolvent. The response also states that: "Trustee believes that he has reached an agreement with Netrova on this

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CONT... Allied Injury Management, Inc.

Chapter 11

issue, and that Netrova will agree to drop the portion of the Motion requesting an order requiring immediate payment of its administrative claim, provided that the administrative claim is allowed in the requested amount." [Dkt. No. 512, pg. 2, lines 8-11].

DISCUSSION

11 U.S.C. § 503(b)(1)(A) provides:

(b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including –

(1) (A) the actual, necessary costs and expenses of preserving the estate

The Ninth Circuit test for § 503(b)(1)(A) is that the expense "(1) arose from a transaction with the debtor-in-possession as opposed to the preceding entity (or, alternatively, that the claimant gave consideration to the debtor-in-possession); and (2) directly and substantially benefitted the estate." *In re Dak Indus.*, 66 F.3d 1091, 1094 (9th Cir. 1995).

Here, Creditor asserts that it provided postpetition information services at the request of Debtor and, later, Trustee. Furthermore, Creditor asserts that "Debtor and the Estate required these services to continue and maintain its business operations." As a result, and noting the lack of opposition and Trustee's explicit support for the allowance of Creditor's requested administrative claim, the Court is inclined to allow an administrative claim in the amount of \$12,904.33

The Court agrees, however, that immediate payment of Creditor's claim is not

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appropriate at this time, given Trustee's assertion that "it appears that this estate is administratively insolvent." Therefore, because Creditor may be required to later disgorge payment to allow for pro rata distribution to administrative claimants, the Court is not inclined to direct payment at this time.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of allowing Netrova, Inc. an administrative claim in the amount of \$12,904.33.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:17-15816 Integrated Wealth Management Inc and Anthony Pisano

Chapter 11

#11.00 CONT Post Confirmation Status Conference

From: 10/23/18, 4/10/19, 10/9/19, 4/22/20, 8/25/20

EH__

(Tele. appr. Robert Opera, rep. Debtor)

Docket 277

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

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6:18-10155 Jose De Jesus Hernandez

Chapter 11

#12.00 CONT re POST Status Conference re Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 10/23/18, 11/27/18, 1/29/19, 3/5/19, 6/11/19, 8/20/19, 10/29/19, 1/28/20, 2/4/20, 3/31/20, 4/21/20, 8/25/20, 11/17/20

Also #13 & #13.1

EH__

(Tele. appr. Eric Bensamochan, rep. Debtor)

Docket 96

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

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6:18-10155 Jose De Jesus Hernandez

Chapter 11

#13.00 CONT. Debtor's Motion for Entry of Final Decree (Federal Bankruptcy Rule 3022)

From: 10/13/20, 11/24/20, 12/01/20

Also #12 & #13.1

EH__

(Tele. appr. Eric Bensamochan, rep. Debtor)

Docket 253

Tentative Ruling:

10/13/2020

Service: Proper

Opposition: None

Fed. R. Bankr. P. 3022 states:

After an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case.

The Advisory Committee Notes provide that "entry of a final decree closing a chapter 11 case should not be delayed solely because the payments required by the plan have not been completed." The factors to consider are:

(1) whether the order confirming the plan has become final, (2) whether deposits required by the plan have been distributed, (3) whether the property proposed by the plan to be transferred has been transferred, (4) whether the debtor or the successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan, (5) whether

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Chapter 11

payments under the plan have commenced, and (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.

Fed. R. Bankr. P. 3022 advisory committee's note (1991).

Here, the order confirming Debtor's plan is final. Debtor has sold the property located at 3095 Ocelot Circle, Corona, CA and begun making plan payments. Debtor asserts he will complete his plan payments with the funds from the proceeds of sale and the income currently generated by his business, Carla's Café. There are no remaining contested or adversary matters to be resolved.

The Court, having reviewed the motion and finding Debtor's evidence sufficient, is inclined to GRANT the motion for entry of final decree.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

Movant(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

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6:18-10155 Jose De Jesus Hernandez

Chapter 11

#13.10 Application for Compensation Final Fee Application for Eric Bensamochan, Debtor's Attorney, Period: 5/12/2018 to 11/12/2020, Fee: \$37,600.00, Expenses: \$31.00

Also #12 & #13

EH__

(Tele. appr. Eric Bensamochan, rep. Debtor)

Docket 260

Tentative Ruling:

12/15/2020

BACKGROUND

On January 9, 2018, Jose de Jesus Hernandez ("Debtor") filed a Chapter 11 voluntary petition. On February 7, 2020, the Court entered an order approving Debtor's second amended disclosure statement. On April 23, 2020, the Court entered an order approving Debtor's second amended Chapter 11 plan.

On February 2, 2018, the Court entered an order approving the employment of Eric Bensamochan ("Counsel") as counsel for Debtor. On June 7, 2018, Counsel was awarded \$26,476.50 in fees and expenses for services provided through May 11, 2018.

On November 12, 2020, Counsel filed a final fee application, requesting an additional

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\$37,631 in fees and expenses.

Chapter 11

DISCUSSION

The Court applies 11 U.S.C. § 330(a) to its review of Counsel's application for compensation. 11 U.S.C. § 330 provides:

11 U.S.C. § 330(a)(1)-(6) provides:

(a)(1) After notice to the parties in interest and the United States Trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, a consumer privacy ombudsman appointed under section 332, an examiner, an ombudsman appointed under section 333, or a professional person employed under section 327 or 1103 –

(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, ombudsman, professional person, or attorney and by any paraprofessional person employed by any such person; and

(B) reimbursement for actual, necessary expenses.

(2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate, or any other party in interest, award compensation that is less than the amount of compensation that is requested.

(3) In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including –

(A) the time spent on such services;

(B) the rates charged for such services;

(C) whether the services were necessary to the administration of, or beneficial at the time at which the

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Chapter 11

service was rendered toward the completion of, a case under this title;

(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

(4)(A) Except as provided in subparagraph (B), the court shall not allow compensation for –

(i) unnecessary duplication of services; or

(ii) services that were not –

(I) reasonably likely to benefit the debtor’s estate; or

(II) necessary to the administration of the case. . . .

(5) The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section 331, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate.

(6) Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.

More specifically, when examining an application for compensation, the Court should consider the following questions:

First, were the services authorized? Second, were the services necessary or beneficial to the administration of the estate at the time they were rendered? Third, are the services adequately documented? Fourth, are the fees requested reasonable, taking into consideration the

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factors set forth in § 330(a)(3)? Finally, in making this determination, the court must take into consideration whether the professional exercised reasonable billing judgment. As stated in *In re Riverside-Linden Inv. Co.*, 925 F.2d 320, 321 (9th Cir. 1991), "when a cost benefit analysis indicates that the only parties who will likely benefit from a service are the trustee and his professionals," the service is unwarranted and a court does not abuse its discretion in denying fees for those services.

In re Mednet, 251 B.R. 103, 1089-09 (B.A.P. 9th Cir. 2003) (citation and footnote omitted).

Here, the Court notes that no party has opposed Counsel's application for compensation, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h). The Court, having review the application for compensation, finds that the services provided were: (1) authorized; (2) necessary or beneficial to the administration of the estate; (3) adequately documented; and (4) generally reasonable pursuant to the standards of § 330(a)(3).

TENTATIVE RULING

The Court is inclined to APPROVE the application in its entirety, awarding Counsel \$37,600 in fees and \$31 in costs.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jose De Jesus Hernandez

Represented By
Eric Bensamochan

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Chapter 11

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6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#14.00 Motion by Brutzkus Gubner for First and Final Fee Application, Special Counsel, Period: 5/8/2019 to 11/18/2020, Fee: \$1,500,000.00 Expenses: \$26,160.98

Also #15 & 16

EH__

(Tele. appr. Joshua Franklin, rep. Bruce Gordon and Oscar Brambila)

(Tele. appr. David Goodrich, rep. Debtor)

(Tele. appr. Michael Leboff, rep. Maria Lozzano)

(Tele., appr. Yaniv Newman, rep. Furman L. Beckman, G. Ptasinski)

(Tele. appr. Jolene, Tanner, rep. United States of America)

(Tele. appr. David Wood, rep. Creditor Committee)

(Tele. appr. Jason Komorsky, rep. interested party, Visiting Nurse Association of the Inland Counties)

Docket 857

Tentative Ruling:

12/15/2020

BACKGROUND

On August 15, 2018, Visiting Nurse Association of the Inland Counties ("Debtor"), a not-for-profit home health services organization in the Inland Empire, filed a Chapter

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CONT... Visiting Nurse Association of the Inland Counties Chapter 11

11 voluntary petition. Debtor's disclosure statement was approved by Court order entered September 17, 2020. Debtor's Chapter 11 plan was confirmed after a hearing held on November 17, 2020.

On May 16, 2019, Debtor filed an application to employ Brutzkus Gubner ("Applicant") as special litigation counsel. The pertinent terms of the compensation arrangement provided that Applicant would receive: (a) 1/3 of any gross recovery obtained prior to the filing of a complaint; (b) 40% of any gross recovery obtained after the filing of a complaint but more sixty days before trial; or (c) 50% of and gross recovery obtained within sixty days of trial. The application also provided that Applicant would receive actual and necessary costs and expenses. On June 12, 2019, the Court set a hearing on the application. On June 18, 2019, Applicant filed a supplemental application. After a hearing held on June 26, 2019, the Court approved the application on June 27, 2019.

On July 14, 2020, Applicant filed a complaint against a variety of former offices and directors of Debtor for breach of fiduciary duty. Subsequently, the parties to the adversary proceeding engaged in mediation with former judge Jay Gandhi. The parties ultimately agreed to a settlement, which contained a cash payment to Debtor in the amount of \$3.75 million. A continued hearing on the underlying settlement agreement is set for hearing at the same time as the instant application.

On December 2, 2020, the Court approved a stipulation between Applicant, the IRS, and the Committee of Creditors Holding Unsecured Claims (the "Committee") that provided the IRS and the Committee an additional two days to object to the application. On December 3, 2020, the parties filed another stipulation. While this second stipulation has not been approved by the Court, the stipulation provides that Applicant would reduce its requested fees by \$150,000 (from \$1.5 million to \$1.35 million) and that that carve-out would be divided equally between priority unsecured creditors and general unsecured creditors.

DISCUSSION

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11 U.S.C. § 328(a) provides:

The trustee, or a committee appointed under section 1102 of this title, with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. Notwithstanding such terms and conditions, the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.

Applicant points out that Ninth Circuit authority has stated: "There is no question that a bankruptcy court may not conduct a § 330 inquiry into the reasonableness of the fees and their benefit to the estate if the court already has approved the professional's employment under 11 U.S.C. § 328." *In re B.U.M. Intern., Inc.*, 229 F.3d 824, 829 (9th Cir. 2000). While there is not extensive caselaw detailing the § 328 standard, the Second Circuit has stated the following:

Under section 328(a), a pre-approved fee arrangement may only be altered if proven "to have been improvident in light of developments not capable of being anticipated at the time" of the pre-approval. Surprisingly few cases have construed this language, but those that have make it evident that it is a high hurdle to clear. According to the Fifth Circuit, section 328(a) requires "the bankruptcy court . . . to determine whether developments, which made the approved fee plan improvident, had been incapable of anticipation at the time the award was approved." *See In re Barron*, 325 F.3d 690, 693 (5th Cir. 2003). For example, simply because the size and scope of a settlement had not actually been anticipated, it does not follow that it was incapable of anticipation. Similarly, the fact that contingency fees may appear

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excessive in retrospect is not a ground to reduce them because early success by counsel is always a possibility capable of being anticipated.

In re Smart World Tech., LLC, 552 F.3d 228, 234-35 (2nd Cir. 2009) (citation, emphasis, and quotation omitted).

Here, the Court has not been presented with any evidence that the terms pre-approved by the Court are "improvident" based upon developments "incapable of anticipation at the time" the Court approved the terms.

The Court notes that the instant applications does not comply with a variety of the local rule provisions regarding professional fee applications, namely Local Rule 2016-1(a)(1)(D), (H), and (K). The Court notes that while the requirements of Local Rule 2016-1(a)(1)(E)-(G) do not apply to contingency fee arrangements, the remainder of Local Rule 2016-1(a) is still applicable.

TENTATIVE RULING

The Court is inclined to APPROVE the application as modified by the stipulation filed on December 3, 2020 as docket number 879.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
Beth Gaschen

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Visiting Nurse Association of the Inland Counties

Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

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6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#15.00 CONT. Debtor's Motion for Approval of Global Settlement and Release Between Debtor, Greg Del Gado, Bruce Gordon, Stuart Furman, Lois Beckman, Gema Ptasinski, Mary Anne Benzakein, Mike Rusnak, Maria Lozzano, Karen Emery, Jean Kryger, Oscar Brambila, Markel American Insurance Company and Allied World Specialty Insurance Company

Also #14 & #16

EH__

(Tele. appr. Joshua Franklin, rep. Bruce Gordon and Oscar Brambila)

(Tele. appr. David Goodrich, rep. Debtor)

(Tele. appr. Michael Leboff, rep. Maria Lozzano)

(Tele., appr. Yaniv Newman, rep. Furman L. Beckman, G. Ptasinski)

(Tele. appr. Jolene, Tanner, rep. United States of America)

(Tele. appr. David Wood, rep. Creditor Committee)

(Tele. appr. Jason Komorsky, rep. interested party, Visiting Nurse Association of the Inland Counties)

Docket 816

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Visiting Nurse Association of the

Represented By

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David M Goodrich
Beth Gaschen
Jennifer Vicente
Ryan W Beall
Steven T Gubner
Jason B Komorsky

Movant(s):

Visiting Nurse Association of the

Represented By
David M Goodrich
David M Goodrich
Beth Gaschen
Beth Gaschen
Jennifer Vicente
Jennifer Vicente
Ryan W Beall
Ryan W Beall
Steven T Gubner
Steven T Gubner
Jason B Komorsky
Jason B Komorsky

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6:18-16908 Visiting Nurse Association of the Inland Counties

Chapter 11

#16.00 CONT. Debtor's Motion For Good Faith Determination Regarding Global Settlement And Release Between Debtor, Greg Del Gado, Bruce Gordon, Stuart Furman, Lois Beckman, Gema Ptasinski, Mary Anne Benzakein, Mike Rusnak, Maria Lozzano, Karen Emery, Jean Kryger, Oscar Brambila, Markel American Insurance Company And Allied World Specialty Insurance Company [Cal. Civ. Proc. Code § 877.6]

From: 12/1/20

Also #14 & #15

EH__

(Tele. appr. Joshua Franklin, rep. Bruce Gordon and Oscar Brambila)

(Tele. appr. David Goodrich, rep. Debtor)

(Tele. appr. Michael Leboff, rep. Maria Lozzano)

(Tele.,. appr. Yaniv Newman, rep. Furman L. Beckman, G. Ptasinski)

(Tele. appr. Jolene, Tanner, rep. United States of America)

(Tele. appr. David Wood, rep. Creditor Committee)

(Tele. appr. Jason Komorsky, rep. interested party, Visiting Nurse Association of the Inland Counties)

Docket 822

Tentative Ruling:

- NONE LISTED -

Party Information

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CONT... Visiting Nurse Association of the Inland Counties

Chapter 11

Debtor(s):

Visiting Nurse Association of the

Represented By

David M Goodrich

Beth Gaschen

Jennifer Vicente

Ryan W Beall

Steven T Gubner

Jason B Komorsky

Movant(s):

Visiting Nurse Association of the

Represented By

David M Goodrich

David M Goodrich

Beth Gaschen

Beth Gaschen

Jennifer Vicente

Jennifer Vicente

Ryan W Beall

Ryan W Beall

Steven T Gubner

Steven T Gubner

Jason B Komorsky

Jason B Komorsky

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6:19-21185 Sunyeah Group Corporation

Chapter 11

#17.00 CONT Order (1) Setting Scheduling Hearing And Case Management Conference And (2) Requiring Status Report

From: 2/4/20, 5/5/20, 8/18/20

EH__

Docket 3

***** VACATED *** REASON: CASE DISMISSED ON 12/1/20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sunyeah Group Corporation

Represented By
David B Golubchik
Jeffrey S Kwong

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6:20-14172 Ryan Estates, LLC

Chapter 11

**#18.00 CONT Motion to Dismiss Involuntary Case
(Re Bad Faith and Sanctions)
Case Dismissed re 12(b)(6)**

From: 8/18/20, 8/25/20, 10/20/20

Also #20 & #21

EH ____

**(Tele. appr. Raymond Aver, rep. creditor, Jayshree Shah, Mary J. Hilyard,
Sandhya Gandhi and Niki Alexander Shetty)**

(Tele. appr. Sevan Gorginian, rep. Debtor, Ryan Estates, LLC)

(Tele. appr. Robert Jenkins, creditor (LISTEN ONLY))

(Tele. appr. Satish (Niki-Alexander) Shetty, real party in Interest)

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Estates, LLC

Represented By
Sevan Gorginian

Movant(s):

Ryan Estates, LLC

Represented By

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CONT... Ryan Estates, LLC

Sevan Gorginian

Chapter 11

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6:20-14172 Ryan Estates, LLC

Chapter 11

#19.00 CONT Status Conference RE: [1] Chapter 11 Involuntary Petition
Against: Jayshree Shah, Mary J. Hilyard, Sandhya Gandhi, Niki Alexander Shetty

From: 8/18/20, 8/25/20

Also #14

EH ____

(Tele. appr. Raymond Aver, rep. creditor, Jayshree Shah, Mary J. Hilyard, Sandhya Gandhi and Niki Alexander Shetty)

(Tele. appr. Sevan Gorginian, rep. Debtor, Ryan Estates, LLC)

(Tele. appr. Robert Jenkins, creditor (LISTEN ONLY))

(Tele. appr. Satish (Niki-Alexander) Shetty, real party in Interest)

Docket 1

***** VACATED *** REASON: ORDER DISMISSING CASE ENTERED
ON 9/18/20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Estates, LLC

Represented By
Sevan Gorginian

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6:20-14172 Ryan Estates, LLC

Chapter 11

#20.00 Debtor's Motion for an Order Pursuant to 11 U.S.C. § 303(i) for Damages, Punitive Damages, Costs and Attorney's Fees Related to Motion to Dismiss [Dkt. No. 12] and Order Granting in Part Alleged Debtor's Motion to Dismiss Involuntary Case [Dkt. No. 45]

Also #18 & #21

EH__

(Tele. appr. Raymond Aver, rep. creditor, Jayshree Shah, Mary J. Hilyard, Sandhya Gandhi and Niki Alexander Shetty)

(Tele. appr. Sevan Gorginian, rep. Debtor, Ryan Estates, LLC)

(Tele. appr. Robert Jenkins, creditor (LISTEN ONLY))

(Tele. appr. Satish (Niki-Alexander) Shetty, real party in Interest)

Docket 51

Tentative Ruling:

12/15/2020

BACKGROUND

On June 16, 2020, Jayshree Shah, Mary Hilyard, Sandhya Gandhi, and Niki Alexander Shetty (collectively, "Petitioning Creditors"; individually, "Shah," "Hilyard,"

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"Gandhi," and "Shetty") filed an involuntary Chapter 7 petition against Ryan Estates, LLC ("Debtor"). On July 10, 2020, Charulatta Patel ("Patel"). On July 17, 2020, Debtor filed a motion to dismiss. On August 4, 2020, Petitioning Creditors filed their opposition to the motion to dismiss. On August 14, 2020, Gary Warnick ("Warnick") and Sunkara Survivors Trust ("Sunkara") (collectively with Patel and Warnick, the "Joined Creditors"). On August 25, 2020, the Court held a hearing on the motion; the Court dismissed the case pursuant to order entered September 18, 2020, with the parties to further brief the issue of damages under 11 U.S.C. § 303.

On October 31, 2020, Debtor filed its motion for damages. Debtor requested \$22,905.75 in attorney's fees, \$500,000 in actual damages, and punitive damages against Petitioning Creditors and counsel. Debtor specifically requested that damages be apportioned 60% against Petitioning Creditor's Counsel/Shetty and 40% against the remaining Petitioning Creditors. On November 23, 2020, the Court extended the deadline for the remaining pleadings to be filed.

On November 25, 2020, Shetty, on his own behalf, filed an opposition, as well as a motion for leave to file an oversized brief, and a supporting declaration and request for judicial notice. Shetty's opposition also purported to serve as a motion to reconsider the order dismissing the bankruptcy case, but Shetty did not clearly attempt to set it for hearing. Additionally, the Court notes that the motion, insofar as the Court were to construe the opposition as a motion, was untimely under Local Rule 9013-1(d). Furthermore, the Court notes that Shetty's opposition, with supporting documentation, was 2099 pages in length, and, for the reasons stated in the discussions section, *infra*, the Court is inclined to strike the pleadings filed by Shetty.

That same day, Petitioning Creditors filed their opposition, motions to strike the (unsigned) declarations of Aasim Akhtar ("Akhtar") and Srinivas Karthik ("Karthik"), and evidentiary objections to the declaration of Rao Daluvoy ("Daluvoy").

On December 1 and 2, Debtor filed replies to the oppositions of Shetty and Petitioning Creditors, and an opposition to the evidentiary declaration filed by Petitioning Creditors. On December 7, 2020, Shetty filed a second pleading. It is not clear what this pleading should be characterized, although the Court notes that the first sentence

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of the pleading reads "Niki-Alexander Shetty, as Managing member of Ryan Estates, LLC and party in interest was not previously represented by counsel in any proceedings," a clearly inaccurate statement that serves as a transition to the Court's analysis.

DISCUSSION

As a preliminary matter, the Court is inclined to strike the pleadings filed by Shetty, specifically docket numbers 55, 57-59, and 74. Specifically, as Shetty is aware, docket number 59 is oversized and not in compliance with the Court Manual guidelines for filed documents. While Shetty did file a motion for leave to file an oversized brief pursuant to Local Rule 9013-2(b), he did not follow the proper procedures for obtaining that leave prior to filing the voluminous docket number 59. Additionally, docket number 74 is an unauthorized pleading not authorized by the Court.

More fundamentally, however, a party cannot have multiple sources of representation filing overlapping pleadings. *See, e.g., Epley v. Califro*, 59 Cal. 2d 849, 854 ("The attorney of record has the exclusive right to appear in court for his client and neither the party himself nor another attorney should be recognized by the court in the conduct or disposition of the case."). Therefore, Shetty still being represented by Raymond Aver, the Court will strike the pleadings filed by Shetty on his own behalf.

Regarding Petitioning Creditor's requests to strike the declarations of Akhtar and Karthik, the Court denies those requests as moot because Debtor already withdrew those declarations, and the corresponding damages requests, in the reply filed December 2, 2020. Regarding Petitioning Creditor's evidentiary objections to the declaration of Daluvoy, the Court is inclined to make the following rulings:

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Paragraph 4	SUSTAIN as to first sentence on the grounds of lack of foundation and personal knowledge, OVERRULE as to the second and third sentences
Paragraph 5	SUSTAIN as the first and third sentences on the grounds of lack of foundation and personal knowledge, OVERRULE as to the second sentence
Paragraph 6	SUSTAIN on the grounds of lack of foundation and personal knowledge
Paragraph 7	SUSTAIN on the grounds of lack of foundation and personal knowledge. The Court also notes that the first sentence is either simply a legal conclusion or is incoherent.
Paragraph 8	SUSTAIN as to the first through third, seventh, ninth, and eleventh through fourteenth sentences on the grounds of lack of foundation and personal knowledge, or because the sentences offer legal conclusions not appropriate for a declaration, OVERRULE as to the remaining sentences.
Paragraph 9	SUSTAIN on the grounds of lack of foundation and personal knowledge.
Paragraph 15	OVERRULE
Paragraph 16	SUSTAIN on the grounds of lack of foundation and personal knowledge. The Court notes that the second sentences does not actually contain any substantive allegation.
Paragraph 17	OVERRULE

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Paragraph 18	OVERRULE
Paragraph 20	OVERRULE
Paragraph 21	SUSTAIN on the grounds of lack of foundation and personal knowledge.
Paragraph 22	SUSTAIN on the grounds that the paragraph lacks relevance.
Paragraph 23	SUSTAIN on the grounds that the paragraph lacks relevance,
Paragraph 24	SUSTAIN on the grounds that the paragraph lacks relevance.
Paragraph 25	SUSTAIN on the grounds that the paragraph lacks relevance.

I. Legal Standard

11 U.S.C. § 303(i) states:

- (i) If the court dismissed a petition under this section other than on consent of all petitioners and the debtor, and if the debtor does not waive the right to judgment under this subsection, the court may grant judgment –
- (1) against the petitioners and in favor of the debtor for –
 - (A) costs; or
 - (B) a reasonable attorney’s fee; or
 - (2) against any petitioner that filed the petition in bad faith, for –
 - (A) any damages proximately caused by such filing; or
 - (B) punitive damages

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The Ninth Circuit has determined that a totality of the circumstances test applies when confronted with a motion for damages pursuant to § 303(i):

Although the totality of the circumstances test can be somewhat amorphous, the bankruptcy court, where relevant, should consider the following factors before awarding attorney's fees and costs under § 303(i): (1) the merits of the involuntary petition, (2) the role of any improper conduct on the part of the alleged debtor, (3) the reasonableness of the actions taken by the petitioning creditors, and (4) the motivation and objectives behind filing the petition.

Higgins v. Vortex Fishing Sys., Inc., 379 F.3d 701, 707 (9th Cir. 2004) (quotations omitted) (stating also that "[a]lthough definitive in most cases, this list is not exhaustive, and a bankruptcy court may, in its discretion, choose to consider other material factors it deems relevant."). It is "the petitioning creditors' burden to establish, under the totality of the circumstances, that factors exist which overcome the presumption that Debtor should receive fees and costs." *In re C & C Jewelry Mfg., Inc.*, 373 Fed. Appx. 775 (9th Cir. 2010); *see also In re S. Cal. Sunbelt Developers, Inc.*, 608 F.3d 456, 462 (9th Cir. 2010) ("§303(i)(1) creates a *presumption* in favor of an award of attorney's fees"); *Sofris v. Maple-Whitworth, Inc.*, 556 F.3d 642 (9th Cir. 2009) (upon dismissal of involuntary petition, presumption arises in favor of debtor for fees and costs; burden is on petitioning creditor(s) to rebut based on totality of the circumstances).

Here, Petitioning Creditors do not really present an argument that the first factor weighs in their favor. As is acknowledged, "California law require[s] a writing in order to be able to enforce a promise by a third party to answer for the debts of another," [Dkt. No. 60, pg. 11] and, as such, the involuntary petition clearly lacked merit. Regarding the remaining factors, however, Petitioning Creditors argue that they did not realize their debts were not enforceable against Debtor, and that "Daluvoy was intimately involved in defrauding numerous innocent people." [Dkt. No. 60, pg. 10].

Regarding the remaining factors, however, the Court finds that the totality of the circumstances weigh in favor of an award of damages against Shetty, but not against Shah, Patel, Gandhi, Hilyard, Warnick, or Sunkara. Specifically, the Court notes that the declarations filed in support of the opposition make clear that Shetty organized and directed the filing of the instant involuntary petition. Shetty, who holds himself out as someone who has "a post graduate degree in law" who has "represented [himself] in various legal matters before the trial and appellate courts in the State of California," could have, in his role as managing member of Debtor, if properly executed, caused Debtor to assume the liabilities of Daluvoy. Given this background,

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the Court finds that it is reasonable for the other Petitioning Creditors to have relied on Shetty's statements to the effect that they held a cognizable claim against Debtor. Furthermore, the Court notes that there is nothing in the record that suggests an improper motivation or objective as it relates to any of the Petitioning Creditors other than Shetty. Regarding Shetty, the Court concludes that the presumption of an award of damages and costs has not been rebutted. Specifically, while the record before the Court is muddled and replete with accusations against the other side, it appears here that: (a) there was no credible basis for Shetty's filing of the instant involuntary petition; or (b) the involuntary petition lacked merit based on Shetty's error, which the Court will not deem reasonable since it appears Shetty assumed responsibility for managing that aspect of Debtor. In either case, Shetty has failed to rebut the presumption.

The Court addresses improper conduct on the part of Debtor in the section on punitive damages, *infra*.

Regarding the request for damages to be assessed against Petitioning Creditor's counsel, Raymond Aver ("Counsel"), the Court notes that the caselaw is not uniform in allowing § 303(i) damages to be assessed against counsel. *Compare In re Exchange Network Corp.*, 92 B.R. 479, 480 (D. Colo. 1988) ("Although the language of § 303(i) (1) does not explicitly permit a Court to award attorneys fees against counsel for petitioners, it implicitly permits such action. It is well settled in the Tenth Circuit that when a trial [c]ourt is considering the imposition of sanctions in the more general discovery or trial context, the Court must make an effort to determine where the fault lies, and then impose sanctions accordingly.") *with Matter of Ramsden*, 17 B.R. 59, 61 (Bankr. N.D. Ga. 1981) ("The Court finds no authority to assess the costs and damages against the attorney whose acts of omission and commission caused these frivolous actions to be filed and heard.").

Counsel essentially concedes that he was not aware of the California Civil Code section that requires that an agreement to answer for the debtor of another must be in writing. Nevertheless, given the role of Shetty in this case and in the management of Debtor, and his representations that he is experienced in the areas of law and business, the Court does not conclude that primary fault lies with Counsel. Instead, based upon the record in this case, the Court assesses fault as follows:

75% damages attributable to Shetty
25% damages attributable to Counsel

In reaching this allocation of culpability, the Court attributes responsibility to Counsel for filing the involuntary without sufficient investigation as to the legal obligations of Debtor. The Court assigns greater liability, however, to Shetty, in a multiple of three,

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for his more significant role in directing the involuntary filing, and given his greater knowledge of the Debtor's obligations as a manager of Debtor, having failed to prepare adequate documentation to effectuate Debtor's obligations.

II. Amount of Damages

Debtor's reply brief has revised the request for actual damages to: (1) \$22,905.75 (plus \$7,000 since accrued) for legal fees; (2) \$3,268 for transfer tax fees; and (3) \$50,000 for lost wages for Daluvoy.

The parties disagree about whether Dr. Daluvoy has standing to request an award of actual costs under 11 U.S.C. § 303(i). While the Court acknowledges that § 303(i)(2) does not contain the limiting language "in favor of the debtor" that is contained in § 303(i)(1), the Ninth Circuit has foreclosed the possibility of non-debtor parties recovering damages under § 303(i). Specifically, the Ninth Circuit recently stated the following:

In *In re Miles*, we considered whether third parties may seek damages under § 303(i). *See Miles v. Okun (In re Miles)*, 430 F.3d 1083, 1093-94 (9th Cir. 2005). Specifically, we examined two interpretations of standing to seek § 303(i) damages: Either the presence of the phrase "in favor of the debtor" in § 303(i)(1) (regarding costs and attorney's fees) limits standing to collect all § 303(i) damages to the debtor, or the omission of that phrase from § 303(i)(2) (regarding other damages for bad faith filings) allows persons other than the debtor to collect damages for bad faith filings, but not costs and attorney's fees. *See id.* at 1093. In evaluating those competing interpretations, we considered legislative history, relevant caselaw, and public policy to determine the proper reading of the statute. *See id.* With those factors in mind, we concluded that § 303(i) limits standing to recover statutory damages resulting from an involuntary bankruptcy proceeding to the debtor. Those same factors compel a similar result here.

Matter of 8Speed8, Inc., 921 F.3d 1193, 1195 (9th Cir. 2019) (citation omitted). This Ninth Circuit ruling came over a dissent that noted that "parties with a close relationship to a debtor . . . have been allowed to collect damages and fees." *Id.* at 1198. Specifically, the dissent pointed out that entities with an ownership interest in the debtor have, in some circumstances and jurisdictions, obtained damages under § 303(i). *See id.* Nevertheless, as the dissent acknowledges, the majority's prohibition

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on damages being sought by a non-debtor "is absolute, regardless of how closely related the third party is to the debtor." *Id.* at 1196. Therefore, Dr. Daluvoy's request for damages is not cognizable under § 303(i).

Regarding Debtor's request for \$29,905.75 in attorney fees, Petitioning Creditors argue that: (a) one of the invoices is not authenticated; and (b) there is no evidence that Debtor paid the attorney fees requested. The Court does not agree with the former argument because there is no requirement under § 303 for billing records that establish a § 330 reasonableness requirement to be submitted to the Court. Nevertheless, the Court is inclined to decline to award costs relating to the representation by Jonathan T. Tasker because Mr. Tasker was not counsel of record to Debtor, there is no evidence establishing what services Mr. Tasker performed, and Mr. Tasker's own billing invoice identifies Daluvoy, rather than Debtor, as the client. Regarding the amounts requested by Sevan Gorginian, however, the Court disagrees with Petitioning Creditor that Debtor needs to provide evidence that the fees were paid. Whether the amount has been paid, or is owing and to be paid, the attorney's fees incurred would constitute damages incurred by Debtor. The Court, having reviewed the fees requested and finding no clear objection as reasonableness raised by Petitioning Creditor, is inclined to award \$27,408 in fees, with 75% awarded against Shetty and 25% awarded against Counsel. *See, e.g., In re Wavelenth, Inc.*, 61 B.R. 614, 621 (B.A.P. 9th Cir. 1986) ("Unlike fee awards under 11 U.S.C. § 330, the statute, rules, and case law interpreting § 303 have not delineated clear standards for finding whether a particular fee is justified. At a minimum, however, compensation should be reasonable. Any award should also be based on detailed accounts of services rendered. Although the type of fee application used for § 330 awards is not requisite, the records submitted in a § 303(i) setting should clearly identify the nature of work performed, its relevance to the defense to the involuntary petition, and the time expended.").

Regarding the \$3,268 relating to a transfer tax fees, the Court notes that the explanation why this cost was caused by the filing of this petition simply lacks merit. Paragraph 17 of Daluvoy's declaration indicates that transfer occurred because of the ongoing dispute between Shetty and Daluvoy, and the attached exhibit indicates that the transfer took place long before the instant involuntary petition was filed. As such, the Court will not award this cost.

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III. Punitive Damages

Debtor finally requests punitive damages. A prerequisite to an award of punitive damages under § 303(i) is a bad faith finding by the Court. "The Bankruptcy Code does not define 'bad faith' for purposes of awarding punitive damages under § 303(i)." *In re Wavelength, Inc.*, 61 B.R. 614, 619 (B.A.P. 9th Cir. 1986). Bad faith is recognized when a petition is "ill-advised or motivated by spite, malice or a desire to embarrass the debtor." *Id.* "Bad faith should be measured by an objective test that asks what a reasonable person would have believed." *Id.* At 620. "Punitive damages are appropriately awarded in response to particularly egregious conduct or a purely frivolous filing." *In re Mundo Custom Homes*, 179 B.R. 566, 571 (Bankr. N.D. Ill. 1995).

Here, given the evidence submitted to the Court during the course of the proceedings, including the declarations submitted in support of the pleadings related to this motion, Dr. Daluvoy's uncontested liability for significant amounts of investment funds entrusted to him, Shetty's role in managing Debtor and his general litigiousness,¹ and the murky and highly contested evidentiary record regarding the acts of Daluvoy and Shetty, the Court concludes that Shetty organized the filing of the instant involuntary petition as part of an escalating legal and business dispute with Daluvoy. While the tone of the pleadings filed by Shetty implies that he likely was "motivated by spite, malice or a desire to embarrass the debtor," the Court is also of the firm impression that Daluvoy, individually or in connection with Debtor, may also have engaged in some improper conduct², and that the instant filing may not have been "purely frivolous." Therefore, and noting that Shetty's failure to execute proper paperwork is the proximate cause of the failure of the instant filing, while it is somewhat of a close call, the Court is inclined to decline an award of punitive damages at this time.

TENTATIVE RULING

The Court is inclined to GRANT the motion to the extent of awarding Debtor \$27,408 in actual damages, with 75% assessed against Shetty and 25% assessed against Counsel.

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 15, 2020

Hearing Room 303

2:00 PM

CONT... Ryan Estates, LLC

Chapter 11

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Ryan Estates, LLC

Represented By
Sevan Gorginian

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Tuesday, December 15, 2020

Hearing Room 303

2:00 PM

6:20-14172 Ryan Estates, LLC

Chapter 11

#21.00 Motion for leave to file oversized brief in support of managing member and petitioning creditor Niki-Alexander Shetty's Opposition to Motion for an order pursuant to 11 U.S.C. §303(i) for damages, punitive damages, costs and attorney fees and motion to reconsider dismissal of bankruptcy petition

Also 18 & 20

EH__

(Tele. appr. Raymond Aver, rep. creditor, Jayshree Shah, Mary J. Hilyard, Sandhya Gandhi and Niki Alexander Shetty)

(Tele. appr. Sevan Gorginian, rep. Debtor, Ryan Estates, LLC)

(Tele. appr. Robert Jenkins, creditor (LISTEN ONLY))

(Tele. appr. Raymond Aver, rep. creditor, Jayshree Shah, Mary J. Hilyard, Sandhya Gandhi and Niki Alexander Shetty)

(Tele. appr. Sevan Gorginian, rep. Debtor, Ryan Estates, LLC)

(Tele. appr. Robert Jenkins, creditor (LISTEN ONLY))

(Tele. appr. Satish (Niki-Alexander) Shetty, real party in Interest)

Docket 55

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, December 15, 2020

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CONT... Ryan Estates, LLC

Chapter 11

Party Information

Debtor(s):

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