

TOTAL PAGES: 3
 RUSSELL W. REYNOLDS #138075
 COLEMAN & HOROWITT, LLP
 Attorneys at Law
 499 West Shaw, Suite 116
 Fresno, California 93704
 Telephone: (559) 248-4820
 Facsimile: (559) 248-4830
 E-Mail: rreynolds@ch-law.com

Attorneys for James Edward Salven, Chapter 7 Trustee
 and Peter Fear, Chapter 7 Successor Trustee

IN THE UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF CALIFORNIA - FRESNO DIVISION

In re:
 DANIEL M. CANCHOLA,
 Debtor.

Case No. 17-11346-B-7
 Chapter 7
 DC No.: RWR-2
 Date: April 24, 2019
 Time: 9:30 a.m.
 Dept: B
 Ctrm: 13, Fifth Floor
 Location: 2500 Tulare Street
 Fresno, CA
 Judge: Honorable Rene Lastreto

In re:
 MARIO ALBERTO GUERRA,
 Debtor.

Case No. 17-11365-B-7
 Chapter 7
 DC No.: RWR-2
 Date: April 24, 2019
 Time: 9:30 a.m.
 Dept: B
 Ctrm: 13, Fifth Floor
 Location: 2500 Tulare Street
 Fresno, CA
 Judge: Honorable Rene Lastreto

DECLARATION OF PETER L. FEAR IN SUPPORT OF TRUSTEES'
MOTION TO COMPROMISE A CONTROVERSY

I, Peter L. Fear, hereby declare as follows:

1. I am an adult person over the age of eighteen (18), competent to testify about the matter set forth herein. I am the duly appointed, qualified and acting Successor Trustee of the

1 estate of Mario Alberto Guerra. If called upon to testify to the facts set forth in this declaration, I
2 can and would do so. Prior to my appointment as Successor Trustee, Trudi Manfredo served as
3 the acting trustee until her resignation on or about December 26, 2018.

4 2. Mario Alberto Guerra filed a petition for relief under Chapter 7 of the United
5 States Bankruptcy Code on April 12, 2017. I am the duly appointed Chapter 7 Trustee. I have
6 reviewed and analyzed the Debtor's petition, schedules, Statement of Financial Affairs and
7 numerous other documents filed as part of the Debtor's Chapter 7 case. I have used the
8 information learned from these documents and my conversations with my counsel to justify the
9 exercise of my business judgment.

10 3. I learned that prior to filing his petition, Mr. Guerra employed Daniel Canchola
11 who on at least on one occasion drove a truck to deliver produce for Mr. Guerra's produce
12 business. There was a terrible accident that involved the death of one individual and injuries to at
13 least two other individuals.

14 4. Following the automobile accident, a lawsuit was filed against Mr. Guerra and
15 Mr. Canchola. It was learned that the insurance policy on the vehicle had a \$25,000 per
16 occurrence limit. It is believed that a commercial vehicle in California is required to have a
17 \$750,000 minimum liability coverage.

18 5. Prior to the case going to trial, Mr. Guerra and Mr. Canchola filed bankruptcy.
19 The Plaintiffs in the state court litigation filed motions for relief from stay to pursue the case
20 limiting any recovery to the Debtor's insurance. I have been informed and I believe that
21 Plaintiff's counsel demanded the commercial liability limit but the carrier offered only the
22 consumer limit as stated in the policy. Thereafter the insurance carrier entered into an agreement
23 with the Plaintiffs that in the event a bad faith claim was brought and the Plaintiffs prevailed,
24 certain assumptions would be made as to what damage verdicts would be made.

25 6. It is my belief that Mr. Guerra has a bad faith and/or tortious injury claim against
26 the insurance carrier and similarly, Mr. Salven believes that Mr. Canchola has a bad faith and/or
27 tortious injury claim against the insurance carrier. These claims arise out of the same set of facts
28 and the same legal issues apply to both Debtors. We have consulted with counsel familiar and

1 experienced in handling bad-faith and tortious injury cases and have confirmed that Mr.
2 Canchola and Mr. Guerra do not have claims that are adverse to one another and their claims
3 against the insurance company are similarly situated. It is my belief that this claim can be
4 pursued most efficiently by allowing one attorney to handle the bad faith and/or tortious injury
5 claim on behalf of both the estates. Prior to her resignation as acting Trustee, Ms. Manfredo
6 entered into an agreement with Mr. Salven regarding the sharing of any litigation proceeds
7 between the two bankruptcy estates. I have reviewed the terms of the agreement with Mr. Salven
8 and believe that the agreement is in the best interest of the estate.

9 7. It is anticipated that this motion will be heard at the same time as a motion to
10 employ special counsel filed in both Debtors' cases and that all three motions will be approved.

11 I declare under penalty of perjury under the laws of the United States of America that the
12 foregoing is true and correct.

13 Executed this 27th day of March, 2019, at Fresno, California.

14
15 
16 PETER L. FEAR
17
18
19
20
21
22
23
24
25
26
27
28