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Attorneys for Peter L. Fear, Chapter 7 Successor Trustee

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

In re:

MARIO ALBERTO GUERRA,
Debtor.

Case No. 17-11365-B-7
Chapter 7

DC No.: RWR-3

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

**NOTICE OF HEARING ON TRUSTEE'S MOTION
TO EMPLOY SPECIAL COUNSEL**

**TO: THE DEBTOR, MARIO ALBERTO GUERRA AND HIS ATTORNEY OF
RECORD, JERRY LOWE; AND ALL INTERESTED PARTIES:**

PLEASE TAKE NOTICE that on April 24, 2019, at 9:30 a.m. in Department B,
Courtroom 13 of the United States Bankruptcy Court located at 2500 Tulare Street, Fresno,
California, the undersigned counsel for Peter L. Fear, Chapter 7 Successor Trustee, will seek an
order from the court authorizing employment of special counsel with respect to the prosecution
of a bad faith and/or tortious injury claim against Infinity Insurance, who insured Debtor Mario
Guerra, Bankruptcy Case No. 17-11365, and his employee, Debtor Daniel Canchola, Bankruptcy

1 Case No. 17-11346.

2 The Chapter 7 Trustees seek an order employing Mr. Moeck as special counsel so he may
3 prosecute the bad faith and/or tortious injury action on behalf of both estates. Filed concurrently
4 herewith, as Docket Control No. RWR-2 in both Debtors' bankruptcies referenced above, the
5 Trustees of both estates also seek approval of a motion approve an agreement allowing the
6 estates to share in any settlement pursuant to the terms set forth in the agreement. In the event
7 that no settlement is reached and the action goes to trial then the estates agree that the verdict or
8 decision shall dictate as to what monies shall go to which estate.

9 This motion is being filed pursuant to Local Rule 9014-1(f)(1). Opposition, if any, to the
10 granting of the motion shall be in writing and shall be served and filed with the Clerk of the
11 Court, on the undersigned, and the Chapter 7 Trustees and any other party requesting special
12 notice by the responding party at least fourteen (14) calendar days preceding the date or
13 continued date of the hearing. Opposition, if any, shall be served upon the following:

14 Russell W. Reynolds	Peter L. Fear
15 Attorneys for Peter L. Fear	Chapter 7 Trustee
499 W. Shaw Ave., Ste. 116	P.O. Box 28490
Fresno, California 93704	Fresno, California 93729

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17 Opposition shall be accompanied by evidence establishing its factual allegations. A
18 responding party who has no opposition to the granting of the motion may serve and file a
19 statement to that effect, specifically designating the motion in question. Without good cause, no
20 party shall be heard in opposition to a motion at oral argument if written opposition to the motion
21 has not been timely filed. Failure of the responding party to timely file written opposition may be
22 deemed a waiver of any opposition to the granting of the motion or may result in the imposition
23 of sanctions.

24 UNLESS WRITTEN OPPOSITION AND SUPPORTING EVIDENCE IS FILED WITH
25 THE CLERK AND SERVED ON THE MOVING PARTY, THE COURT MAY RESOLVE
26 THE MATTER WITHOUT ORAL ARGUMENT.

27 This motion will be based on this Notice of Motion, Declaration of Peter L. Fear and
28 Declaration of David Moeck and accompanying exhibits, served and filed herewith, and on all of

1 the records and documents filed in the above-entitled matter and on such oral and documentary
2 evidence as may be presented at the hearing on the motion.

3 PLEASE TAKE NOTICE that you are able to review any tentative ruling or pre-hearing
4 dispositions by checking the court's website at www.caeb.uscourts.gov after 4:00 p.m. the day
5 before the hearing. Parties appearing telephonically must view the pre-hearing dispositions prior
6 to the hearing.

7 To appear at the hearing by telephone, contact Court Call Conference Service at (866)
8 582-6878. *See also* CourtCall.com. The telephone appearance must be arranged twenty-four
9 (24) hours in advance. A Court Call fee applies. Individuals using Court Call are cautioned they
10 do so at their own risk. The hearing will not be rescheduled due to a missed connection.

11 Requests for further information or for copies of the motion and supporting papers should
12 be directed to the undersigned.

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14 Respectfully submitted,

15 COLEMAN & HOROWITT, LLP

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17 Dated: March 28, 2019.

By: /s/ Russell W. Reynolds

RUSSELL W. REYNOLDS
Attorneys for Peter L. Fear, Chapter 7
Trustee