

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge

Modesto, California

April 17, 2025 at 2:00 p.m.

1. [24-90708-E-11](#) **MCAP LLC**
[CAE-1](#)

**CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
11-21-24 [1]**

Debtor's Atty: Michael Jay Berger

Notes:

Continued from 1/16/25

Operating Reports filed: 2/27/25; 3/20/25

[MJB-3] Debtor's Disclosure Statement Describing Chapter 11 Plan of Liquidation filed 2/19/25 [Dckt 31]

[MJB-3] Debtor's Chapter 11 Liquidating Plan filed 2/19/25 [Dckt 32]

[CAE-1] Debtor's Case Status Conference Report #2 filed 4/3/25 [Dckt 39]; Declaration in support filed 4/3/25 [Dckt 40]

The Status Conference is XXXXXXX
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APRIL 17, 2025 STATUS CONFERENCE

On April 3, 2025, the Debtor in Possession filed an updated Status Conference Statement. The Debtor in Possession reports that a tentative agreement has been reached with respect to the MPCP Loan.

At the Status Conference, XXXXXXX

JANUARY 16, 2025 STATUS CONFERENCE

MCAP LLC, the Debtor in Possession, filed its Status Conference Report on January 2, 2025. Dckt. 19. The Debtor in Possession identifies the Bankruptcy Estates sole significant asset being real

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property located in Modesto, California. The Schedules list Debtor's secured and unsecured claims to total \$1,311,000. The Debtor in Possession anticipates having a proposed plan filed by February 19, 2025.

At the Status Conference, counsel for the Debtor in Possession reported that the Debtor in Possession intends to proceed with the development of the 4 acres of undeveloped property.

After the Status Conference, the court reviewed the Debtor's Schedules. Dckt. 1. The only asset of the Debtor as of the filing of this Bankruptcy Case is the undeveloped real property which Debtor states has a value of \$1,800,000. *Id.* at 9. Debtor states that it has no personal property assets.

Debtor's two main creditors are Monterey Peninsula Capital Partners, Inc., with a claim secured by the real property, which Debtor listed as being (\$1,200,000), and Stanislaus County for an "Unknown" secured property claim on Schedule D. *Id.* at 12. Three creditors with general unsecured claims are listed on Schedule E/F, in amounts stated by Debtor to total (\$111,000). *Id.* at 14.

On the Statement of Financial Affairs Debtor states having no gross income from operation of a business or non-business revenue. *Id.* at 18.

2. [23-90111-E-11](#) **MICHAEL HOFMANN**
[23-9006](#) **CAE-1**
HOFMANN V. HOFMANN ET AL

CONTINUED STATUS CONFERENCE RE:
NOTICE OF REMOVAL
5-14-23 [1](#)

Plaintiff's Atty: Brian S. Haddix
Defendant's Atty: unknown

Adv. Filed: 5/14/23
Answer: none

Nature of Action:
Validity, priority or extent of lien or other interest in property
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Notes:
Continued from 1/30/25. The Plaintiff requested that the Status Conference be continued sixty (60) days to allow for further negotiations.

The Status Conference is XXXXXX

APRIL 17, 2025 STATUS CONFERENCE

April 17, 2025 at 2:00 p.m.
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No updated Status Report has been filed. At the Status Conference, **XXXXXXX**

JANUARY 30, 2025 STATUS CONFERENCE

On January 27, 2025, the Plaintiff-Debtor/Debtor in Possession filed a updated Status Report. Dckt. 44. The Plaintiff reports that the property at issue has been sold and the Parties to this Adversary Proceeding having been meeting to address how this litigation may be resolved. With the December holidays, the meeting were disrupted.

The Plaintiff requests that the Status Conference be continued sixty (60) days to allow for further negotiations.

Counsel for Plaintiff-Debtor reported that Mr. Dreher is working on calculations and that a settlement proposal will be transmitted this week.

The Status Conference is continued to 2:00 p.m. on April 17, 2025.

AUGUST 8, 2024 STATUS CONFERENCE

As of the court's August 7, 2024 review of the Docket, no updated Status Reports had been filed. At the Status Conference, the Parties reported that this litigation has been stayed while the property of the Bankruptcy Estate is sold. To the extent that there are any disputes concerning the division of the proceeds based upon the prior orders of the State Court, then such will be resolved through this Adversary Proceeding or the Contested Matter process in the Bankruptcy Case if no adversary proceeding is required. The Status Conference is continued, again, to 2:00 p.m. on October 31, 2024.

JUNE 6, 2024 STATUS CONFERENCE

As of the court's June 5, 2024 review of the Docket, no updated Status Report has been filed by the Debtor/Debtor in Possession. In the related Bankruptcy Case, 23-90111, a Final Amended Plan was filed. 23-90111; Dckt. 276. No hearing on confirmation of the Final Amended Plan has been set. The order setting the hearing is to be completed by counsel for the debtor/debtor in possession, and lodged with the court. See, EDC Form 6-202, Rev. 1/2023; Order Setting Subchapter V Chapter 11 Status Conference Date; Claims Bar Date; and Other Deadlines, ¶ 4; 23-90111, Dckt. 9.

At the Status Conference, the parties addressed the outstanding Amended Plan, with counsel for the Debtor in Possession stating that the proposed order setting the confirmation hearing would be filed shortly.

The Status Conference is continued to 2:00 p.m. on August 8, 2024.

APRIL 25, 2024 STATUS CONFERENCE

The court's review on April 24, 2024, disclosed that no Updated Status Reports have been filed. Though it was reported at the last Status Conference that an amended plan had been worked out and it was out for signatures, a review of the Bankruptcy Case Docket (23-90111) discloses that no amended plan has been filed in the three months since the prior January 25, 2024 Status Conference.

At the April 25, 2024 Status Conference, the Parties advised the court that upon completion of the sale of the residential property the dispute may be resolved, or at least the issues reduced and the Parties will be able to advise the court on how further proceedings can be effectively conducted for any remaining issues.

The Status Conference is continued to 2:00 p.m. on June 6, 2024.

JANUARY 25, 2024 STATUS CONFERENCE

The court has authorized the sale of the Debtor's interest in the two farmland properties. At the Status Conference, the counsel for the Debtor in Possession reported that an amended plan is being circulated and it is anticipated that this should have the sign-off of all parties shortly.

The Status Conference is continued to 2:00 p.m. on April 25, 2024 .

SEPTEMBER 28, 2023 STATUS CONFERENCE

In the Michael Hoffman Chapter 11 Case, the court is addressing the Debtor in Possession Motion to Confirm the proposed Plan and address the opposition to confirmation.

At the Status Conference, reported that this is still in a "holding pattern" while the Subchapter V Trustee is pursuing a sale of the Property.

The Status Conference is continued to 2:00 p.m. on January 25, 2024.

JULY 13, 2023 STATUS CONFERENCE

On May 14, 2023, the Debtor/Debtor in Possession removed a State Court Action involving substantial interests in real estate, litigated offsets, and the dissolution of common interests of family members. While the State Court litigation has been a long, expensive slog, it appears that in the related Bankruptcy Case, 23-90111, the Debtor/Debtor in Possession, the family member and non-family member opponents, and the Subchapter V Trustee appear to have found a process, using the Bankruptcy Code, to afford all parties in interest their fair "day in court," compliance with orders of the State Court, and preservation of their respective values in the real properties at the center of their dispute and extensive litigation.

The court continues the Status Conference to September 28, 2023, in light of the efforts of the parties to address and resolve these issues without future litigation (or at least greatly reduce the issues to be litigated).

Debtor's Atty: Michael Jay Berger

Notes:

Continued from 1/30/25. Counsel for Romspen reported that there is a potential discovery dispute that may be brought to the court.

Operating Reports filed: 2/27/25; 3/14/25

[ROM-3] Romspen California Mortgage Limited Partnership's Notice of Motion and (1) Motion to Compel Production of Documents; and (2) Request for Attorney's Fees and Costs filed 3/12/25 [Dckt 101]; set for hearing 5/1/25 at 10:30 a.m.

[MJB-4] First Interim Application for Approval of Compensation and Reimbursement of Expenses for General Counsel for Debtor in Possession filed 3/20/25 [Dckt 106]; set for hearing 4/24/25 at 10:30 a.m.

Debtor's Case Status Conference Report #3 filed 4/3/25 [Dckt 112]; Declaration in support filed 4/3/25 [Dckt 113]

The Status Conference is XXXXXXX
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APRIL 17, 2025 STATUS CONFERENCE

The Debtor in Possession filed an updated Status Report on April 3, 2025. Dckt. 112. It is reported that the Debtor in Possession has obtained a Letter of Intent and a commitment to refinance the real property of the Bankruptcy Estate.

At the Status Conference, XXXXXXX

JANUARY 30, 2025 STATUS CONFERENCE

On January 16, 2025, the Debtor in Possession filed an updated Status Conference Report. Dckt. 89. The information includes that Creditor Romspen has been pursuing Rule 2004 discovery in this Case. Monthly Operating Reports have been filed by the Debtor in Possession, the latest being the December 2024 Report that was filed on January 21, 2025. Dckt. 93.

Counsel for the Debtor in Possession reports that while discovery is ongoing, it has not been completed.

Counsel for Romspen reported that there is a potential discovery dispute that may be brought to the court. For this Creditor it appears that the Debtor in Possession is not prosecuting this case.

The Status Conference is continued to 2:00 p.m. on April 17, 2025.

SEPTEMBER 19, 2024 STATUS CONFERENCE

Art Buildings, LLC commenced this voluntary Chapter 11 Case on July 19, 2024. On September 5, 2024, the Debtor in Possession filed its Status Report. Dckt. 44. It identifies this case as a single asset real estate case, with the sole significant asset being real property located in Turlock, California with a value of \$9,500,000. The Debtor in Possession identifies a dispute with respect to the secured claim of Romspen.

On September 9, 2024, Romspen California Mortgage Limited Partnership filed a Motion for the court to determine this to be a single asset real estate case. Dckt. 47.

The Debtor in Possession reports that the Romspen Claim is in dispute, and while the Parties have been working to develop a stipulation resolving the dispute, such has not yet been reached. Absent a stipulation, the Debtor in Possession intends to file an objection to the Romspen Claim.

Review of Schedules

On Schedule A/B Debtor lists having only the Apherstone Road Property as its sole asset, giving it a value of \$9,500,000. Dckt. 26. The Schedules, under penalty of perjury, state that the Debtor had no other assets, not even a file cabinet, desk, computer, or anything. The Debtor had no money and no bank accounts.

At the Status Conference, the Debtor in Possession stipulated to the granting of the Motion to have this Case designated as a single asset real estate case

4. [24-90741-E-11](#) **MID VALLEY NUT COMPANY** **CONTINUED STATUS CONFERENCE RE:**
[CAE-1](#) **INC.** **INVOLUNTARY PETITION**
11-30-24 [\[1\]](#)

Debtor's Atty: Robert G. Harris

Notes:
Continued from 3/13/25

Operating Reports filed: 3/18/25; 3/20/25

U.S. Trustee Report at 341 Meeting lodged: 3/28/25

[BM-3] Debtor's Motion for Authority to Enter Into Subordination, Nondisturbance, and Attornment Agreement, to Use Cash Collateral, and to Grant Adequate Protection filed 3/20/25 [Dckt 60]; Order granting filed 4/7/25 [Dckt 83]

The Status Conference is XXXXXXX
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APRIL 17, 2025 STATUS CONFERENCE

No updated Status Conference Statement has been filed. At the Status Conference, XXXXXXX

MARCH 13, 2025 STATUS CONFERENCE

On November 30, 2025, an Involuntary Chapter 7 Petition was filed by Creditors Suneel Sharma, JS Johal & Sons, Inc., and Karm Bains, holding a combined total of \$167,500 in claims. Dckt. 1. On December 26, 2025, the Debtor filed an Answer to the Involuntary Petition. Dckt. 5. In the Answer the Debtor admits and denies specific allegations, and includes in the Affirmative Defendant a allegation that each of the Petitioning Creditors are ineligible to be such.

On February 7, 2025, an *Ex Parte* Motion to Approve Stipulation for Entry of an Order for Relief Under Chapter 11 was filed. Dckt. 10. The Stipulation between the Debtor and the Petitioning Creditors for the entry of the Order for Relief and Conversion to Chapter 11 is filed at Docket 12.

On February 28, 2025, the Debtor in Possession filed a Status Conference Statement. Dckt. 22. The Debtor in Possession reviews in detail the assets of the Bankruptcy Estate, as well as the claims of the major creditors.

The Debtor in Possession discusses pre-petition efforts to sell property of the Debtor.

The Debtor in Possession also states that due to applicable state law monies from the secured properties can only be used to pay the lien creditors. While that may be the law, if it so be, it would appear

to be financially advantageous to the Bankruptcy Estate and lien creditors that if assets are to be sold, that they be properly marketed and the actual fair market value received.

While stating that California Law, Cal Food & Ag. Code §§ 55631 and 55633, bars the Debtor in Possession from using any of the proceeds from the sale of nuts for any purpose other than paying the producer, the Debtor in Possession does not address Federal Law, such as the Bankruptcy Code relating to the use of cash collateral and reorganization of secured claims through Chapter 11.

At the Status Conference, counsel for the Debtor in Possession reported that motions to sell property and a motion to approve a settlement are being prepared. The target date for the hearing on the Motion to Sell, and possibly other motions, is April 17, 2025.

The court and counsel for the respective Parties discussed the needed transparency in the marketing process for the various properties to be sold. The Parties intend to work and communicate with respect to the sale process so that the commercially reasonable value of the assets sold will be achieved.

The Status Conference is continued to 2:00 p.m. on April 17, 2025.

In light of the other Motion(s) to be set for hearing on April 17, 2025, the court authorizes all motions filed to be set for hearing on April 17, 2025, to be set for hearing at 2:00 p.m. (Specially Set Time), to be conducted in conjunction with the Status Conference in this Case.

5. 24-90343-E-11 CAE-1	MARTINEZ PALLET SERVICES, INC.	CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 6-21-24 [1]
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Debtor's Atty: Gabriel E. Liberman

Notes:

Continued from 2/20/25. Counsel for the Debtor/Debtor in Possession reported that an Amended Plan is being prepared and will be filed and set for a confirmation hearing.

Operating Reports filed: 2/28/25; 3/21/25

The Status Conference is XXXXXXX
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APRIL 17, 2025 STATUS CONFERENCE

The Debtor in Possession filed an updated Status Report on April 16, 2025. Dckt. 133. The Debtor in Possession reports that the course of this case will be taking on a new direction. Real property

securing the First Chatham Bank claim is to be surrendered, and the business operations moved to a smaller leased property.

The Debtor in Possession is actively working to sell personal property assets which are not necessary for the ongoing operations. Additionally, the Debtor in Possession reports new clients being secured.

The U.S. Trustee filed on May 22, 2025, a Motion to Convert or Dismiss this case.

At the Status Conference, **XXXXXXX**

FEBRUARY 20, 2025 STATUS CONFERENCE

On February 14, 2025, the Debtor/Debtor in Possession filed a Withdrawal of Plan Confirmation Hearing. Dckt. 113. The Debtor/Debtor in Possession advises the court that it is “currently working on an amended plan to resolve objections filed against the current plan and anticipates filing an amended plan within 30 days, as the current Plan is not confirmable.” *Id.*

At the Status Conference, counsel for the Debtor/Debtor in Possession reported that an Amended Plan is being prepared and will be filed and set for a confirmation hearing.

The Status Conference is continued to 2:00 p.m. on April 17, 2025.

FINAL RULINGS

6. [19-90003-E-7](#) NATHAN DAMIGO CONTINUED STATUS CONFERENCE RE:
[19-9006](#) CAE-1 COMPLAINT
SINES ET AL V. DAMIGO 1-30-19 [1]

Final Ruling: No appearance at the April 17, 2025 Status Conference is required.

Plaintiff's Atty: Robert L. Eisenbach
Defendant's Atty: Glen Keith Allen; Andrew Allen

Adv. Filed: 1/30/19
Answer: 3/13/25

Amd Cmplt Filed: 4/3/25
Answer: none

Nature of Action:
Dischargeability - willful and malicious injury

Notes:
Continued from 3/13/25

The Status Conference is continued to 10:30 a.m. on June 26, 2025, to be conducted in conjunction with the hearings on cross motions for summary judgment.

APRIL 17, 2025 CONTINUED STATUS CONFERENCE

On April 14, 2025, Plaintiff filed an updated Status Report. Dckt. 85. Plaintiff reports that an Amended Complaint has been filed to reflect the current plaintiffs and the outcome of the Virginia District Court Action and the Amended Judgement entered by that court.

The Parties have conferred and seek to proceed on cross motions for summary judgment, proposing the following schedule:

Filing of Motions for Summary	Judgment May 8, 2025
Deadline to File Oppositions to Motions for Summary Judgment	June 11, 2025

Deadline to File Replies to Motions for
Summary Judgment

June 18, 2025

Hearing on Motions for
Summary Judgment

June 26, 2025 at 10:30 a.m. (PDT)

The Status Conference is continued to 10:30 a.m. on June 26, 2025.

MARCH 13, 2025 CONTINUED STATUS CONFERENCE

On February 3, 2025, the court signed an order authoring Glen K. Allen, Esq. to appear in this Adversary Proceeding Pro Has Vice as counsel for Nathan Damigo. Dckt. 75.

On February 3, 2025, the court signed an order authoring Glen K. Allen, Esq. to appear in this Adversary Proceeding Pro Has Vice as counsel for Nathan Damigo. Dckt. 75.

At the Status Conference, counsel for Plaintiff reported that the final judgment has been entered in the Virginia District Court Action. Plaintiff will be amending the complaint to be consistent with the Final District Court Judgment.

The counsel further discussed that they may be agreeing to present this matter to the court on cross summary judgment motions, there being little facts to have adjudicated in light of the District Court Judgment.

Defendant-Debtor's counsel having just been engaged, the counsel will meet to discuss this Adversary Proceeding, document the amount to be determined nondischargeable, and whether they need to proceed with cross summary judgment motions or can reach a settlement.

The Status conference is continued to 2:00 A.M. on April 17, 2025.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The court having scheduled the April 17, 2025 Continued Status Conference, the Parties having filed a Status Report and requesting that the court set a schedule for filing cross motions for summary judgment, and upon review of the pleadings, and good cause appearing,

IT IS ORDERED that the Status Conference is continued to **10:30 a.m. on June 26, 2025**, to be conducted in conjunction with the hearings on cross motions for summary judgment (in the Sacramento Division Courthouse).

IT IS FURTHER ORDERED that pursuant to the joint request of the Parties, the following schedule is set for filing motions for summary judgment and hearing thereon:

- Filing of Motions for Summary Judgment May 8, 2025
- Deadline to File Oppositions to Motions
for Summary Judgment June 11, 2025
- Deadline to File Replies to Motions for
Summary Judgment June 18, 2025
- Hearing on Motions for
Summary Judgment June 26, 2025 at 10:30 a.m.
(PDT)

All Modesto Division Bankruptcy Cases were Transferred to the Sacramento Division Courthouse as of May 31, 2025, with the Modesto Division Courthouse being closed June 1, 2025.