

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Modesto, California

**June 6, 2024 at 2:00 p.m.**

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1. [24-90207-E-11](#) **PRIORITY MEDICAL SUPPLY, STATUS CONFERENCE RE:**  
[CAE-1](#) **INC. VOLUNTARY PETITION**  
**4-19-24 [1]**

**SUBCHAPTER V**

Debtor's Atty: David C. Johnston

Notes:

[DCJ-1] Application of Debtor in Possession for Authority to Employ Attorney filed 5/20/24 [Dckt 21];  
Order granting filed 5/21/24 [Dckt 24]

[CAE-1] Debtor's Chapter 11 Status Report filed 5/26/24 [Dckt 26]

Trustee Report at 341 Meeting lodged 5/29/24

<b>The Status Conference is continued to 2:00 p.m. on <span style="color: red;">xxxxxxx</span>, 2024.</b>
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**JUNE 6, 2024 STATUS CONFERENCE**

Priority Medical Supply, Inc., the Debtor/Debtor in Possession, commenced this voluntary Subchapter V Case on April 19, 2024. On May 6, 2024 Debtor filed its Schedules and Statement of Financial Affairs. Dckts. 20, 19.

Debtor states having no real property assets, a small inventory, and modest cash in the bank. Schedule A/B; Dckt. 20 at 3-7. Debtor states on Schedule D that it has no creditors with secured claims. *Id.* at 8. The Debtor lists only general unsecured claims on Schedule E/F, with one claim comprising 73% of the total claims.

On May 26, 2024, the Debtor/Debtor in Possession filed a Status Report. Dckt. 26. In it the Debtor/Debtor in Possession provides a summary of the impacts of the COVID-19 pandemic on its business, as well as injuries to key staff.

**June 6, 2024 at 2:00 p.m.**

**- Page 1 of 16 -**

The Debtor/Debtor in Possession focus for the ongoing business is in the area of power scooters, power chairs, and similar products which are covered by Medicare. No significant inventory is required, with the Debtor/Debtor in Possession being able to order products when they are prescribed by a physician. The Debtor/Debtor in Possession does not anticipate any significant litigation or disputes in the prosecution of this Subchapter V Case.

At the Status Conference, **XXXXXXX**

2. [24-90209-E-11](#)      **JEFFREY MCPHEE**  
[CAE-1](#)

**STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
4-21-24 [1]**

**SUBCHAPTER V**

Debtor's Atty: David C. Johnston

Notes:

[DCJ-1] Application of Debtor in Possession for Authority to Employ Attorney filed 5/25/24 [Dckt 19];  
Order granting filed 5/29/24 [Dckt 25]

[CAE-1] Debtor's Chapter 11 Status Report filed 5/26/24 [Dckt 22]

<p><b>The Status Conference is continued to 2:00 p.m. on <b>XXXXXXX</b>, 2024.</b></p>
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Jeffrey McPhee, the Debtor/Debtor in Possession, commenced this voluntary Subchapter V Case on April 21, 2024. The Schedules and Statement of Financial Affairs were filed on May 9, 2024. Dckts. 15, 16. On Schedule A/B Debtor lists a real estate asset of significant value and modest personal property assets. Dckt. 15 at 3-9. These include an account receivable for Debtor's 2023 almond crop that has not been received. With the secured claims listed on Schedule D for which the real property is collateral, there is approximately a 15% equity cushion. The Debtor has claimed an exemption in the unencumbered portion of the value of the real property.

Debtor lists no priority unsecured claims on Schedule E/F, and modest general unsecured claims, except for one (\$6,042,728) judgment claim, which Debtor lists as Contingent, Unliquidated, and Disputed. Schedule E/F; *Id.* at 18. It is not clear to the court how a final judgment is contingent, unliquidated, or disputed. Debtor does assert that he is entitled to credits that were not taken into account when the judgment was entered. Additionally, there are two other co-judgment debtors.

On Schedule I, Debtor lists employment at his business, McPhee Masonry, Inc. *Id.* at 23. While a significant income is shown on Schedule I, on Schedule J, *Id.* at 25-26, Debtor shows a substantial negative monetary cash flow after expenses.

On May 26, 2024, the Debtor/Debtor in Possession filed a Status Report. Dckt. 22. In it the weedy events leading up to the financial situation and Debtor being conned with respect to an investment are outlined. The Debtor/Debtor in Possession does not identify any significant legal issues or disputes to be addressed in the case, and is working with the Subchapter V Trustee to develop a consensual plan.

At the Status Conference, **XXXXXXX**

3 thru 5

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).**

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Local Rule 9014-1(f)(3) Motion—Hearing Required.

Sufficient Notice not Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor's Attorney, attorneys of record who have appeared in the case, parties requesting special notice, and Office of the United States Trustee on May 31, 2024. By the court's calculation, 6 days' notice was provided. The court set the hearing for June 6, 2024. Dckt. 6.

Federal Rules of Bankruptcy Procedure 7004(b)(9) requires service on a debtor and their attorney; service on a debtor's attorney alone is insufficient to require that debtor to answer and defend. *In re Cossio*, 163 B.R. 150, 154 (B.A.P. 9th Cir. 1994)), aff'd, 56 F.3d 70 (9th Cir. 1995); *In re Bloomingdale*, 137 B.R. 351, 354 (Bankr.C.D.Cal.1991); *In re Cole*, 142 B.R. 140, 143 (Bankr. N.D. Tex. 1992); *In re Love*, 242 B.R. 169, 171 (E.D. Tenn. 1999), aff'd, 3 F. App'x 497 (6th Cir. 2001); *In re Hall*, 222 B.R. 275, 277 (Bankr. E.D. Va. 1998). Service here was made solely on Debtor / Debtor in Possession's counsel, Brian Haddix.

The Motion for Authorization to Dispose of certain Personal Property and Motion for Extinguishment of the Interests of Debtor and the Estate in Certain Personal Property was set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(3). Debtor, creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing -----  
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**The Motion for Authorization to Dispose of certain Personal Property and Motion for Extinguishment of the Interests of Debtor and the Estate in Certain Personal Property is XXXXXXX.**

On May 31, 2024, Walter Dahl, the Subchapter V Trustee (“Movant”) filed with this court a Motion for Authorization to Dispose of certain Personal Property and Motion for Extinguishment of the Interests of Debtor and the Estate in Certain Personal Property. Movant states:

1. Movant was authorized to sell the real property commonly known as 13330 Valley Home Road, Oakdale, CA 95361 (“Property”) by this court’s Order entered at Docket 199.
2. Movant was authorized to sell the Property to Patrick and Tracy Cleghorn (“Buyers”) after overbidding took place at the hearing on March 13, 2024. Order, Docket 265.
3. Michael Hofmann (“Debtor/Debtor in Possession”) and his roommate Carol Matthews operated their business, Valley Home Rice Company, LLC (“VHRC”) out of the Property.
4. Debtor/Debtor in Possession have advised Movant that they have moved all of their personal property out of the Property. Mot. 3:10-12, Docket 279.
5. Rural Community Assistance Corporation (“RCAC”) has a perfected lien in much of VHRC’s assets. RCAC has obtained a writ of possession to remove some of its assets.
6. However, some of VHRC’s assets remain on the Property, including a large flatbed trailer (“the flatbed”) and a large John Deere 8820 combine (“the combine”). *Id.* at 3:18-22.
7. Debtor/Debtor in Possession informs Movant that the flatbed and trailer are items of RCAC’s collateral. RCAC has informed Movant that neither the flatbed nor the combine are its collateral. Now those items are idly sitting on the Property, and the Cleghorns do not want to close escrow until those items are removed. *Id.*
8. The following additional items of personal property remain on the Property (the list is not exhaustive):
  - i. various tanks,
  - ii. miscellaneous lumber,
  - iii. miscellaneous steel and other metals,
  - iv. various bins & boxes,
  - v. miscellaneous paints, stains, oils and other liquids,
  - vi. desks and other furniture,
  - vii. disconnected washing machine and other appliances, and
  - viii. various tools, materials & supplies.

*Id.* at 3:23-27.

The Cleghorns do not mind closing escrow if these items of personal property remain on the Property, so long as the flatbed and the combine are removed. *Id.* at 3:27-4:2. The Cleghorns also request assurance that they will not be charged any fees related to claims for the removal, disposal, or retention of any of the remaining items. *Id.*

9. Movant explains that he has requested assistance from Debtor's counsel and from Debtor as to the removal of the flatbed and of the combine, and a waiver and release of claims as to the remaining personal property. Movant has not received the requested assistance from Debtor / Debtor in Possession. *Id.* 4:4-7.
10. Movant is concerned the Cleghorns' loan commitment may expire in the event closing escrow is further delayed, so Movant requests authority from the court to:
  - a. Remove and dispose of the flatbed trailer and the combine pursuant to 11 U.S.C. §§ 363(b)(1) and 105(a), and
  - b. Extinguish the interests of Debtor and the Estate in the other remaining personal property as necessary and appropriate to carry out the sale of the Property pursuant to 11 U.S.C. § 105(a).

Mot. 4:11-19, Docket 279.

## DISCUSSION

11 U.S.C. § 363(b)(1) provides:

(b)

(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

In order for the court to grant authority to use, lease, or sell property of the estate outside the ordinary course of business, the property must be property of the estate. *See In re Groves*, 652 B.R. 104, 114 (B.A.P. 9th Cir. 2023).

11 U.S.C. § 105(a) provides:

(a) The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

The court has held the 11 U.S.C. § 105(a) does not provide the court with a “magic wand” to grant whatever relief it deems necessary; rather, 11 U.S.C. § 105(a) only allows the court to effectuate what is already expressly stated already by statute. This is consistent with the rulings of the United States Supreme Court and the Ninth Circuit Court of Appeals. *See, Law v. Siegel*, 571 U.S. 415, 421 (2014); *In re American Hardwoods*, 885 F.2d 621, 625 (9th Cir. 1989).

The Motion also makes reference to 11 U.S.C. § 363(f), by which the court may authorize the sale of property of the Bankruptcy Estate free and clear of interests of others on specified grounds, including: (3) the interest is a lien and the property is sold for more than the amount of the debt secured by the lien, or (4) such interest is in bona fide dispute. 11 U.S.C. § 363(f)(3), (4).

The Motion makes reference to 11 U.S.C. § 363(h), which allows the Trustee to obtain an order authorizing the sale of property in which the Bankruptcy Estate has a partial interest and the interests of non-debtor co-owner, and then divide the proceeds between the various owners. These provisions parallel California partition law when different persons hold multiple interests in property. Federal Rule of Bankruptcy Procedure 7001(3) requires that a sale pursuant to 11 U.S.C. § 363(h) must be ordered through an adversary proceeding (not the bankruptcy law and motion contested matter practice), unless the various co-owners consent to have it determined through the law and motion practice.

### **The Flatbed and Combine**

These items of personal property are apparently not owned by the Debtor/Debtor in Possession and are not assets of the Bankruptcy Estate. The court has reviewed RCAC’s writ of possession as to its items of collateral owned by VHRC and notes that neither the combine nor the flatbed appear in the list of items the sheriff has been authorized to levy upon. *See* Ex. B 4, Docket 282.

These items are not property of the estate, but the real property on which the items sit is property of the estate. The combine and the flatbed are hindering a sale of the Property as the Cleghorns will not close escrow with these assets remaining on the Property.

With respect to these items, the requested relief is for the court to first authorize pursuant to 11 U.S.C. § 361(b)(1) the “use” of the Flatbed and Combine in the form of the Trustee removing and disposing of the Flatbed and Combine. However, the Flatbed and Combine are not property of the Bankruptcy Estate for which 11 U.S.C. § 363(b)(1) applies, but property of the Debtor’s limited liability company VHRC.

On Schedule A/B Debtor does not list the Flatbed and Combine as assets. Dckt. 32 at 7-14. Debtor does list having a 49% ownership interest in VHRC on Schedule A/B ( ¶ 19). *Id.* at 11. The California Secretary of State lists Valley Home Rice Company, LLC as being in good standing and the agent for service of process is Michael Hoffman, the Debtor in this Bankruptcy Case. <sup>Fn.1.</sup>

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FN. 1. <https://bizfileonline.sos.ca.gov/search/business>  
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While these items are not property of the Bankruptcy Estate, they have been left on the Property of the Bankruptcy Estate by VHRC and are now impairing the value of the Property of the Bankruptcy Estate. The evidence presented is that the Trustee has communicated to the Debtor, the agent identified by the California Secretary of State, and afforded VHRC to remove from the Property of the Estate this Flatbed and Combine that are causing potential financial loss to the Bankruptcy Estate and are damaging the value of property of the Bankruptcy Estate.

In exercising the rights and powers arising under 11 U.S.C. § 363(b)(1) relating to the use and sale of property of the Bankruptcy Estate, the Trustee has requested an order that expressly authorizes the Trustee in his official capacity to remove debris from the Property, such as the Flatbed and Combine from the Property of the Estate being sold so that the Trustee can fully effectuate the sale as provided for in 11 U.S.C. § 363(b)(1) and the Order of this court authorizing the sale of the Property.

Therefore, the court authorizes Movant to remove and dispose of the flatbed and the combine sitting on the Property in order to effectuate the sale.

### **Other Items of Personal Property**

As to the other items of personal property on the Property, Movant has asked the court to “extinguish” Debtor/Debtor in Possession’s interest in them. Movant has not provided the court with authority or law to issue such an order “Extinguishing” rights and interests of the Debtor/Debtor in Possession.

The Bankruptcy Code provides that the court may order the sale of any property of the Bankruptcy Estate (11 U.S.C. § 363) and order that property of the Bankruptcy Estate is abandoned (11 U.S.C. § 554). When property is abandoned, it is generally abandoned to the debtor as being the person who would have the post-bankruptcy ownership interest if the property is not in the bankruptcy estate.

Extinguishment” leaves open questions such as, who owns the items, and extinguish the items and change ownership as to whom? The items of personal property appear to be VHRC’s, not the Debtor / Debtor in Possession’s, and so the court is unsure if Debtor / Debtor in Possession has any rights the court could “extinguish.”

To the extent that these items of trash and debris are Property of the Bankruptcy Estate, the Trustee appears to be seeking an order authorizing the Trustee to dispose of these items, which he concludes are of inconsequential value or burdensome to the estate, and that the Trustee is authorized to is contract with the Buyer to actually do the disposal of the trash and debris.

The evidence presented by the Trustee is that the Debtor, as managing member of VHRC, and in his individual capacity have been afforded the opportunity to remove any of these additional items from the Property of the Bankruptcy Estate and have elected not to so do. The Trustee provides his testimony on this point, stating:

9. Debtor has advised me that he has completed the removal from the Residence (including the garage, the barn/shop and the barn) of all his personal property and all of Carol's personal property which they desire to retain.

Declaration, ¶ 9; Dckt. 281. It appears from this statement that Debtor/Debtor in Possession is consenting to include any remaining items in the sale of the Property by not objecting to their removal.

At the hearing, **XXXXXXX**

With respect to the personal property identified as:

- a. various tanks,
- b. miscellaneous lumber,
- c. miscellaneous steel and other metals,
- d. various bins & boxes,
- e. miscellaneous paints, stains, oils and other liquids,
- f. desks and other furniture,
- g. disconnected washing machine and other appliances, and
- h. various tools, materials & supplies;.

located on the Property of the Bankruptcy Estate being sold to Buyer, the Trustee is requesting that the court clearly authorize the Trustee to remove and dispose of the above property, which appears to be trash and debris, if it is property of the Bankruptcy Estate and to the extent it is trash and debris owned by VHRC, be authorized to dispose of such trash and debris as it impairs the Trustee's ability to close the sale authorized by the court. Additionally, that the authorization to the Trustee includes the Trustee contractually agreeing to have the Buyer dispose of the above trash and debris as part of the sales transaction.

This appears to be a practical approach to addressing the "mess" left on the Property that has been occupied by the Debtor pre-petition and post-petition by the Debtor/Debtor in Possession. Rather than having such trash and debris left on the Property by a third-party derail the sale and the Trustee then having to sue the third-party and its responsible representative(s) for damage (if the trash and debris is not property of the Bankruptcy Estate), the Trustee seeks to just sweep the Property clean of the trash and debris. Again, the Trustee has communicated with the Debtor, the agent for VHRC, about getting the trash and debris removed, and VHRC has not acted to so do.

The court grants the request, ordering that the Trustee, directly or indirectly by Buyer, pursuant to the sales contract has authority to remove the personal property identified above, which the court has characterized as trash and debris, from the Property sold to Buyer. The court does not see a basis for

“extinguishing” the rights of the Bankruptcy Estate and the Debtor/Debtor in Possession. Just as any other trash and debris that is thrown away by the trustee of a bankruptcy estate, this personal property is being thrown away.

At the hearing, **XXXXXXX**

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 Motion for Authorization to Dispose of certain Personal Property and Motion for Extinguishment of the Interests of Debtor and the Estate in Certain Personal Property filed by Walter Dahl, the Subchapter V Trustee (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is **XXXXXXX**.

4. <a href="#"><u>23-90111-E-11</u></a> <b>MICHAEL HOFMANN</b> <a href="#"><u>23-9006</u></a> <b>CAE-1</b> <b>HOFMANN V. HOFMANN ET AL</b>	<b>CONTINUED STATUS CONFERENCE RE:</b> <b>NOTICE OF REMOVAL</b> <b>5-14-23 [1]</b>
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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 4/25/24. The Parties advised the court that upon completion of the sale of the residential property the dispute may be resolved or issues reduced.

<b>The Status Conference is <b>XXXXXXX</b></b>
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## **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, **XXXXXXX**

## **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).

5. [23-90111-E-11](#)      **MICHAEL HOFMANN**      **CONTINUED STATUS CONFERENCE RE:**  
[CAE-1](#)      **VOLUNTARY PETITION**  
3-20-23 [[1](#)]

Debtor’s Atty: Brian S. Haddix

Notes:

Continued from 4/25/24. At the status conference counsel for Debtor/Debtor in Possession reported that the Final Amended Plan has been approved by the parties in interest and filed with the court and an order confirming the final amended plan is being drafted.

#### **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. 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; Dckt. 9.

At the Status Conference, **XXXXXXX**

6. [22-90415-E-7](#)      **JOHN MENDOZA**  
[24-9004](#)      **CAE-1**  
**FARRAR V. MENDOZA ET AL**

**STATUS CONFERENCE RE:**  
**COMPLAINT**  
**3-28-24 [1]**

Plaintiff's Atty: Jeffrey I. Golden

Defendant's Atty:

Peter G. Macaluso [John Pierre Mendoza]

Calvin John Massey [La Estrella Enterprises, LLC; Jenae-Desiree Mendoza]

unknown [Lupe Martin]

Adv. Filed: 3/28/24

Answer: 4/25/24 [La Estrella Enterprises, LLC; Jenae-Desiree Mendoza]

4/30/24 [John Pierre Mendoza]

Nature of Action:

Recovery of money/property - turnover of property

Notes:

Order for La Estrella Enterprises, LLC to File Statement of Corporate Ownership filed 5/17/24 [Dckt 12];  
Statement Regarding Ownership of Corporate Debtor/Party filed 5/22/24 [Dckt 14]

[CAE-1] Status Conference Report [Chp 7 Trustee] filed 5/24/24 [Dckt 15]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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## **JUNE 6, 2024 STATUS CONFERENCE**

### **SUMMARY OF COMPLAINT**

The Complaint filed by Gary Farrar ("Plaintiff-Trustee"), Dckt. 1 , asserts claims for avoidable transfers of property to his minor daughter and to a series of limited liability companies under the Defendant-Debtor's control. The named defendants in this Adversary Proceeding are: (1) John Pierre Mendoza (the Debtor), La Estrella Enterprises, LLC, Lupe Martin, and Jenae-Desiree Mendoza.

The First Cause of Action seeks to recover the transfers as fraudulent conveyances. The Second Cause of Action seeks to impose a constructive trust for the transferred properties. The Third Cause of Action asserts that a resulting trust exists with respect to the properties transferred. The Fourth Cause of Action asserts a claims for unjust enrichment. The Fifth Cause of Action seeks an accounting from La Estrella Enterprises, LLC. The Sixth Cause of Action is for declaratory relief, requesting that "the Court can and should determine what, if any, remedies the Debtor's estate is entitled to receive as a result of the conduct herein, whether that be imposition or recognition of a constructive or resulting trust, monetary

damages, provisional relief or some other remedy.” This does not appear to be a request for declaratory relief, but a court summary of the First Five Causes of Action.

**SUMMARY OF ANSWER  
OF LA ESTRELLA ENTERPRISES, LLC  
AND JEANE-DESIREE MENDOZA**

On April 25, 2024, La Estrella Enterprises, LLC and Jeane-Desiree Mendoz filed their Answer (Co-Defendants Answer”). Dckt. 7. The Co-Defendants Answer admits and denies specific allegations in the Complaint. The Co-Defendants Answer admits the allegations of jurisdiction of this court and that this is a core matter proceeding. Answer, ¶ 7; Dckt. 7. The Co-Defendants Answer also asserts thirteen Affirmative Defenses.

**SUMMARY OF ANSWER OF  
JOHN PIERRE MENDOZA**

On April 30, 2024, Defendant-Debtor John Pierre Mendoza filed his Answer (“Debtor-Answer”) to the Complaint. Dckt. 10. The Debtor-Answer begins with a General Denial of everything alleged in the Complaint. *Id.*; § I. Defendant-Debtor does admit that this bankruptcy court has jurisdiction for the adjudication of this Adversary Proceeding. *Id.*; ¶ 7. The Debtor-Answer then provides specific admissions and denials of the allegations in the Complaint.

**SUMMARY OF ANSWER FILED BY  
LUPE MARTIN**

The court cannot identify an answer having been filed by Lupe Martin on the Docket for this Adversary Proceeding.

**STATUS CONFERENCE STATEMENTS**

Plaintiff-Trustee and Defendants Jenae-Desiree Mendoza and Lupe Martin filed a Joint Status Report on May 24, 2024. Dckt. 15. They request a sixty (60) day discovery period, with additional time to address discovery dispute motions. It is also requested that this Adversary Proceeding be tried in conjunction with Adversary Proceeding 23-9011 - *WVJP 2021-4, LP v. Mendoza*; and 2309020 - *Farrar v. Mendoza*.

Debtor-Defendant John Pierre Mendoza filed his Status Conference Statement on May 31, 2024. Dckt. 21. He request the court set a “pre-trial” (presumably a “pre-trial conference” at which a trial date would be set) within sixty days.

**FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff Chapter 7 Trustee Gary Farrar, “Plaintiff-Trustee, alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Complaint ¶¶ 7, Dckt.1. In the Co-Defendants Answer filed by La Estrella Enterprises, LLC and Jeane-Desiree Mendoz, they admit the allegations of jurisdiction and that this is a core proceeding. Answer ¶ 7; Dckt. 7. In the Debtor-Answer, Defendant John Pierre Mendoza admits the allegations of jurisdiction and that this is a core proceeding. Answer ¶ 7; Dckt.

7. To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.

## ISSUANCE OF PRE-TRIAL SCHEDULING ORDER

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. Plaintiff Chapter 7 Trustee Gary Farrar, “Plaintiff-Trustee, alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Complaint ¶¶ 7, Dckt.1. In the Co-Defendants Answer filed by La Estrella Enterprises, LLC and Jeane-Desiree Mendoz, they admit the allegations of jurisdiction and that this is a core proceeding. Answer ¶ 7; Dckt. 7. In the Debtor-Answer, Defendant John Pierre Mendoza admits the allegations of jurisdiction and that this is a core proceeding. Answer ¶ 7; Dckt. 7. To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.
- b. Initial Disclosures shall be made on or before **xxxxxxx, 2024**.
- c. Expert Witnesses shall be disclosed on or before **xxxxxxx, 2024**, and Rebuttal Expert Witnesses, if any, shall be disclosed on or before **xxxxxxx, 2024**.
- d. Discovery closes, including the hearing of all discovery motions, on **xxxxxxx, 2024**.
- e. Dispositive Motions shall be heard before **xxxxxxx, 2024**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on xxxxxx, 2024**.

# FINAL RULINGS

7. [23-90574-E-7](#) ADENA DUTTER  
[24-9003](#) CAE-1  
DUTTER V. DUTTER

STATUS CONFERENCE RE:  
COMPLAINT  
3-26-24 [\[1\]](#)

ADVERSARY PROCEEDING  
DISMISSED: 05/20/24

**Final Ruling: No appearance at the June 6, 2024 Status Conference is required.**

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Plaintiff's Atty: Pro Se  
Defendant's Atty: unknown

Adv. Filed: 3/26/24  
Answer: none

Nature of Action:  
Dischargeability - other

Notes:  
[RHS-1] Order to Show Cause Why Adversary Proceed Should Not Be Dismissed Without Prejudice filed 4/11/24 [Dckt 7]; Order dismissing adversary proceeding filed 5/20/24 [Dckt 11]

This Adversary Proceeding having been dismissed pursuant to prior order of this court (Dckt. 11), **the Status Conference is concluded and removed from the Calendar.**

**The Clerk of the Court may close this Adversary Proceeding.**