

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

EMERGE ENERGY SERVICES LP, *et al.*,¹

Reorganized Debtors.

)
) Chapter 11
)
) Case No. 19-11563 (KBO)
)
) (Jointly Administered)
)
) **Hearing Date: June 4, 2020 at 10:00 a.m. (ET)**
Related Docket Nos. 838, 840

**DECLARATION OF HUGH K. MURTAGH IN SUPPORT OF
REORGANIZED DEBTORS' REPLY IN SUPPORT OF
THE REORGANIZED DEBTORS' MOTION FOR ENTRY OF AN ORDER
(I) CLOSING SUBSIDIARY CHAPTER 11 CASES AND
(II) GRANTING RELATED RELIEF**

Under 28 U.S.C. § 1764, Hugh K. Murtagh declares as follows under the penalty of perjury:

1. I am a lawyer associated with Latham & Watkins LLP, counsel to the Reorganized Debtors. I am authorized to submit this declaration on behalf of the Reorganized Debtors in support of the *Reorganized Debtors' Reply in Support of the Reorganized Debtors' Motion for Entry of an Order (I) Closing Subsidiary Chapter 11 Cases and (II) Granting Related Relief* [Docket No. 838] (the "Motion") and specifically to correct the record before this Court subsequent to the filing by Pownall Services LLC ("Pownall") of its *Limited Objection to Debtors' Motion for Entry of a Final Decree (I) Closing the Subsidiary Cases and (II) Granting Related Relief* [Docket No. 840] (the "Objection").

2. Pownall filed its Objection several hours after having participated in a conference call with counsel to the Reorganized Debtors and the mediator during which *all parties* agreed

¹ The Reorganized Debtors in these cases, along with the last four digits of each Reorganized Debtor's federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Reorganized Debtors' address is 6500 West Freeway, Suite 800, Fort Worth, Texas 76116.



on a process, and a tentative date, for concluding the mediation. Reorganized Debtors' counsel informed the mediator that counsel was amenable to the process, and tentative date, subject to client approval. (Debtors' counsel confirmed client agreement via email on May 27, 2020.)

3. Counsel for the Reorganized Debtors had been in frequent contact with Pownall and the other lien claimants prior to said call regarding the prospects for mediation, and reiterating the Reorganized Debtors' preference to adjourn mediation until it could be conducted in person. Sample emails can be made available to the Court upon request, but this point should be uncontested. At no point did the Debtors ever suggest that they refused to mediate; rather, they simply stated a preference for mediating in person once the risks of COVID were reduced.

4. Pownall never raised any of its putative concerns with the Reorganized Debtors prior to filing the Objection. Pownall did not seek any comfort language in the order to address potential prejudice in closing of subsidiary cases (while the parent case remains open). Pownall then rejected the Reorganized Debtors' offer, after having received the Objection, to consider such language. Again, sample emails can be made available upon request, but the point should be uncontested.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 1st day of June, 2020

/s/ Hugh K. Murtagh
Hugh K. Murtagh