

**UNITED STATES BANKRUPTCY COURT**  
**District of Delaware**  
**824 Market Street, 3rd Floor**  
**Wilmington, DE 19801**

<b>In Re:</b>	)	Bankruptcy Case No.: 19-11563-KBO
Emerge Energy Services LP	)	Bankruptcy Chapter: 11
Debtor	)	
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A-1 Excavating, Inc.	)	
	)	
Plaintiff	)	Adv. Proc. No.: 19-50730-KBO
vs.	)	
Superior Silica Sands LLC et al	)	
Defendant	)	

**ORDER ASSIGNING ADVERSARY PROCEEDING**  
**TO MEDIATION, APPOINTING MEDIATOR, AND SETTING MEDIATION DEADLINES AND TRIAL**  
**DATE**

Pursuant to this Court's Local Rule 9019-5, A-1 Excavating, Inc. , Plaintiff(s) and the above named Defendant(s) (collectively, the "Parties"), are directed to mediation to attempt to resolve disputes by and between the Parties relative to the above-captioned adversary proceeding. Upon the foregoing, it is hereby

**ORDERED** that this matter is scheduled for TBD ; and it is further

**ORDERED** that the above-captioned adversary proceeding is hereby assigned to mediation; and it is further

**ORDERED** that the costs of the mediation shall be paid by the bankruptcy estate, or if there is no bankruptcy estate, by the plaintiff in the adversary proceeding, or as directed by the Court; and it is further

**ORDERED** that:

(a) If the parties have stipulated to entry of this order, , who has been selected by the parties is appointed the mediator in this adversary proceeding; or,

(b) If the parties have not stipulated to entry of this order, the court appoints Ian Connor Bifferato , who is a mediator from the Register of Mediators of the United States Bankruptcy Court for the District of Delaware, as the mediator in this adversary proceeding; and it is further

**ORDERED** that within two (2) business days of receipt of this order the Parties shall e-mail and/or fax the appointed Mediator and indicate whether the case has been settled and provide a contact person's name, telephone number, fax number and e-mail address. Failure to do so will subject the parties to an administrative fee and possible additional sanctions; and it is further

**ORDERED** that if a case has been settled as outlined in the preceding paragraph, the Parties shall notify and file with the Court all relevant settlement documents within (14) fourteen business days of the date the mediator was notified of said settlement. The parties shall file a request for extension of time if additional time is required to prepare and file the necessary settlement documents with the Court. Any such request for extension of time shall be filed within ten business days of the date the mediator was notified of said settlement; and it is further

**ORDERED** that the Parties shall furnish the mediator with copies of such documents and such confidential statement of position as the mediator may request; and it is further

**ORDERED** that within twenty one (21) days of appointment, the mediator shall schedule an initial mediation session; and it is further

**ORDERED** that this mediation shall be conducted in accordance with the Local Rules of the United States Bankruptcy Court of the District of Delaware; and it is further

**ORDERED** that pursuant to Local Rule 9019-5(c)(iii)(A), the Parties and counsel shall attend such mediation sessions as the Mediator shall deem appropriate and necessary at such times and places as the mediator shall determine; and it is further

**ORDERED** that no later than (14) fourteen days following the conclusion of the mediation or 60 days after the entry of this order, whichever is earlier, the mediator shall file and serve on the parties the mediator's certificate of completion or mediation status report. The information provided by the mediator shall not contain any information concerning the merits of the case or confidential communications made during the mediation process; and it is further

**ORDERED** that within one day after the entry of this Order, the attorneys for each of the Parties shall send a copy of this Order to (1) each of the individual Parties that such attorney represents; and/or (2) the principal, officer, director or other person with full settlement authority for each entity that su



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*Karen B. Owens*

Date: 7/2/20

Karen B. Owens  
Bankruptcy Judge

(VAN-416)

Form Revised 03/27/13

## Notice Recipients

District/Off: 0311-1

User: SH

Date Created: 7/2/2020

Case: 19-50730-KBO

Form ID: van416

Total: 8

### Recipients of Notice of Electronic Filing:

aty	David T Queroli	Queroli@rlf.com
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aty	Ian Connor Bifferato	cbifferato@tbfl.legal
aty	Laura Davis Jones	ljones@pszjlaw.com

TOTAL: 4

### Recipients submitted to the BNC (Bankruptcy Noticing Center):

pla	A-1 Excavating, Inc.	P.O. Box 90	Bloomer, WI 54724
dft	Superior Silica Sands LLC	6500 West Freeway	Suite 800 Fort Worth, TX 76116
dft	HPS Investment Partners, LLC	40 West 57th Street	33rd Floor New York, NY 10019
md	Ian Connor Bifferato	The Bifferato Firm	1007 N. Orange Street 4th Floor Wilmington, DE 19801

TOTAL: 4