

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In Re:)	Chapter 11
)	
EMERGE ENERGY SERVICES LP, et al.,)	Case No. 19-11563 (KBO)
)	
)	Jointly Administered
Debtors.)	
)	
)	
SUPERIOR SILICA SANDS LLC, a Texas)	Adv. Proc. No. 20-51052-TMH
limited liability company,)	
)	
Plaintiff,)	
)	
vs.)	
)	
IRON MOUNTAIN TRAP ROCK COMPANY,)	Re: Adv. D.I. 87
a Missouri corporation, and FRED WEBER, INC.,)	
a Delaware corporation.)	
)	
Defendants.)	
)	

**IRON MOUNTAIN TRAP ROCK COMPANY AND FRED WEBER, INC.'S
MOTION TO STRIKE PORTIONS OF
SUPERIOR SILICA SANDS LLC'S REPLY BRIEF**

COME NOW Defendants Iron Mountain Trap Rock Company ("IMTR") and Fred Weber, Inc. ("FWI") (together, "Defendants"), and respectfully move this Court to strike those portions of Plaintiff Superior Silica Sands LLC's ("Superior") Omnibus Opposition to Defendants' Cross-Motion for Summary Judgment and Reply Brief in Support of its Supplemental Motion for Partial Summary Judgment on Its Third Claim for Relief [Adv. D.I. 87] that raise new arguments on reply. In support of their Motion, Defendants respectfully submit the accompanying Memorandum of Law, which is incorporated herein by reference.



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Dated: September 21, 2023

/s/ Scott J. Leonhardt

Scott J. Leonhardt (DE 4885)

Zhao (Ruby) Liu (DE 6436)

THE ROSNER LAW GROUP LLC

824 N. Market Street, Suite 810

Wilmington, Delaware 19801

Tel.: (302) 777-1111

Email: leonhardt@teamrosner.com

liu@teamrosner.com

and

Robert J. Golterman (admitted *pro hac vice*)

John J. Hall (admitted *pro hac vice*)

Oliver H. Thomas (admitted *pro hac vice*)

Sarah A. Milunski (admitted *pro hac vice*)

LEWIS RICE LLC

600 Washington Ave., Suite 2500

St. Louis, MO 63101

Phone: (314) 444-7600

Fax: (314) 612-7822

E-Mail: rgolterman@lewisrice.com

jhall@lewisrice.com

othomas@lewisrice.com

smilunski@lewisrice.com

*Attorneys for Iron Mountain Trap Rock
Company and Fred Weber, Inc.*

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SUPERIOR SILICA SANDS LLC, a Texas)	Adv. Proc. No. 20-51052-TMH
limited liability company,)	
)	
Plaintiff,)	
)	
vs.)	
)	
IRON MOUNTAIN TRAP ROCK COMPANY,)	Re: Adv. D.I. 97
a Missouri corporation, and FRED WEBER, INC.,)	
a Delaware corporation.)	
)	
Defendants.)	
)	

**ORDER GRANTING IRON MOUNTAIN TRAP ROCK COMPANY
AND FRED WEBER, INC.'S MOTION TO STRIKE
PORTIONS OF SUPERIOR SILICA SANDS LLC'S REPLY BRIEF**

UPON CONSIDERATION of Defendants Iron Mountain Trap Rock Company (“IMTR”) and Fred Weber, Inc.’s (“FWI”) (collectively, “Defendants”) Motion to Strike Portions of Superior Silica Sands LLC’s Reply Brief in the above-captioned adversary proceeding (the “Motion”); and the Court having reviewed the Motion and the accompanying Memorandum of Law in Support of the Motion, and the responses thereto, if any; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. The following portions of Superior Silica Sands LLC's Omnibus Opposition to Defendants' Cross-Motion for Summary Judgment and Reply Brief in Support of its Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. 87] are STRICKEN and shall not be considered by the Court in ruling on the Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. 61]:

a. Superior's new argument that Defendants breached the Wet Sand Services Agreement based on its removal of certain equipment in 2019;

b. Superior's new argument that it is entitled to recover bond premiums based on Wis. Stat. § 814.05.

3. This Court shall retain jurisdiction over all matters arising from or related to the interpretation or implementation of this Order.