

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. 61, 76, 80 & 97
a Missouri corporation, and FRED WEBER, INC.,	)	
a Delaware corporation.	)	
	)	
Defendants.	)	
_____	)	

**JOINT NOTICE OF COMPLETION OF BRIEFING ON  
MOTIONS FOR SUMMARY JUDGMENT AND MOTIONS TO STRIKE**

Pursuant to Rule 7007-4 of the Local Rules of Bankruptcy Procedure of the United States Bankruptcy Court for the District of Delaware, Plaintiff Superior Silica Sands LLC (“Plaintiff”) and Defendants Iron Mountain Trap Rock Company and Fred Weber, Inc. (together, “Defendants”), by and through their respective undersigned counsel, hereby notify the Court that briefing has been completed on the following motions:

- (1) *Plaintiff’s Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract* (“Plaintiff’s Supplemental MSJ”) [Adv. D.I. 61; filed 04/13/2023];
- (2) *Defendants’ Cross-Motion for Partial Summary Judgment* (“Defendants’ Cross MSJ”) [Adv. D.I. 80; filed 08/24/2023];
- (3) *Defendants’ Motion to Strike the Declarations of Scott Waughtal* (“Defendants’ Motion to Strike Waughtal Declarations”) [Adv. D.I. 76; filed 08/24/2023]; and



- (4) *Defendants' Motion to Strike Portions of Superior Silica Sands LLC's Reply Brief* ("Defendants' Motion to Strike New Reply Arguments") [Adv. D.I. 97; filed 9/21/2023].

The pleadings relevant to these motions are as follows:

1. First Amended Complaint [Adv. D.I. [14](#); filed 02/25/2021]

**Plaintiff's Supplemental MSJ & Defendants' Cross MSJ**

2. Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [61](#); filed 04/13/2023]

3. Plaintiff's Statement of Undisputed Facts [Adv. D.I. [62](#); filed 04/13/2023]

4. Declaration of Scott Waughtal in Support of Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [63](#) & [64](#); filed 04/13/2023]<sup>1</sup>

5. Declaration of David J. Richardson in Support of Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [65](#); filed 04/13/2023]<sup>2</sup>

6. Plaintiff's Notice of Errata re Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [66](#); filed 04/14/2023]

7. Supplemental Declaration of Scott Waughtal in Support of Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [74](#); filed 08/22/2023]

8. Defendants' Memorandum of Law in Opposition to Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [78](#); filed 08/24/2023]<sup>3</sup>

9. Defendants' Response to Plaintiff's Statement of Undisputed Facts [Adv. D.I. [79](#); filed 08/24/2023]

10. Defendants' Cross-Motion for Partial Summary Judgment [Adv. D.I. [80](#); filed 08/24/2023]

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<sup>1</sup> For the Court's convenience, Exhibits A through PP thereto are separately tabbed in Item No. 23 below and included in separate binders along with all other exhibits.

<sup>2</sup> For the Court's convenience, Exhibits 1 through 40 thereto are separately tabbed in Item No. 24 below and included in separate binders along with all other exhibits.

<sup>3</sup> For the Court's convenience, Exhibits A through R thereto are separately tabbed in Item No. 25 below and included in separate binders along with all other exhibits.

11. Defendants' Memorandum of Law in Support of their Cross-Motion for Partial Summary Judgment [Adv. D.I. [81](#); filed 08/24/2023]

12. Defendants' Omnibus Statement of Additional Undisputed Material Facts [Adv. D.I. [82](#); filed 08/24/2023]

13. Declaration of Robert J. Golterman [Adv. D.I. [84](#); filed 08/24/2023]

14. Plaintiff'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](#); filed 09/14/2023]

15. Plaintiff's Response to Defendants' Omnibus Statement of Additional Undisputed Material Facts [Adv. D.I. [88](#); filed 09/14/2023]

16. Plaintiff's Responsive Statement of Uncontroverted Facts in Opposition to Defendants' Cross-Motion for Summary Judgment [Adv. D.I. [89](#); filed 09/14/2023]

17. Declaration of David J. Richardson in Support of Plaintiff's Omnibus Opposition/Reply Brief re Fed. R. Civ. P. 56(d) [Adv. D.I. [90](#); filed 09/14/2023]

18. Omnibus Declaration of Scott Waughtal in Support of Plaintiff's Opposition to Defendants' Cross-Motion for Summary Judgment and Reply Brief in Support of Supplemental Motion for Partial Summary Judgment on Third Claim for Relief [Adv. D.I. [91](#); filed 09/14/2023] <sup>4</sup>

19. Defendants' Reply in Support of their Cross-Motion for Partial Summary Judgment [Adv. D.I. [95](#); filed 09/21/2023]

20. Defendants' Response to Plaintiff's Responsive Statement of Uncontroverted Facts in Opposition to Defendants' Cross-Motion for Summary Judgment [Adv. D.I. [96](#); filed 09/21/2023]

21. Defendants' Request for Oral Argument [Adv. D.I. [99](#); filed 09/28/2023]

22. Plaintiff's Request for Oral Argument [Adv. D.I. [100](#); filed 09/28/2023]

**Exhibits for both Plaintiff's Supplemental MSJ and Defendants' Cross MSJ**

23. Plaintiff's Exhibits A–PP (to Scott Waughtal's Original Declaration) [Adv. D.I. [63](#) & [64](#); filed 04/13/2023]

24. Plaintiff's Exhibits 1–40 (to David J. Richardson's Original Declaration) [Adv. D.I. [65](#); filed 04/13/2023]

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<sup>4</sup> For the Court's convenience, Exhibits QQ through WW thereto are separately tabbed in Item No. 26 below and included in separate binders along with all other exhibits.

25. Plaintiff's Additional Exhibits A–R (to Scott Waughtal's Supplemental Declaration) [Adv. D.I. [74](#); filed 08/22/2023]

26. Plaintiff's Exhibits QQ–WW (to Scott Waughtal's Omnibus Declaration) [Adv. D.I. [91](#); filed 09/14/2023]

27. Defendants' Exhibits 1–87 [Adv. D.I. [83](#); filed 08/24/2023]

28. Defendants' Exhibits 88–93 [Adv. D.I. [96](#); filed 09/21/2023]

**Defendants' Motion to Strike Waughtal Declarations**

29. Defendants' Motion to Strike the Declarations of Scott Waughtal [Adv. D.I. [76](#); filed 08/24/2023]

30. Defendants' Memorandum of Law in Support of their Motion to Strike the Declarations of Scott Waughtal and Exhibits 1–3 thereto [Adv. D.I. [77](#); filed 08/24/2023]

31. Plaintiff's Opposition to Defendants' Motion to Strike the Declarations of Scott Waughtal [Adv. D.I. [85](#); filed 09/07/2023]

32. Declaration of David J. Richardson in Support of Plaintiff's Opposition to Defendants' Motion to Strike the Declarations of Scott Waughtal and Exhibit 1 thereto [Adv. D.I. [86](#); filed 09/07/2023]

33. Defendants' Reply in Support of their Motion to Strike the Declarations of Scott Waughtal and Exhibit 1 thereto [Adv. D.I. [92](#); filed 09/14/2023]

**Defendants' Motion to Strike New Reply Arguments**

34. Defendants' Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [97](#); filed 09/21/2023]

35. Defendants' Memorandum in Support of their Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [98](#); filed 09/21/2023]

36. Plaintiff's Opposition to Defendants' Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [101](#); filed 10/02/2023]

37. Defendants' Reply in Support of their Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [102](#); filed 10/09/2023]

The aforementioned documents will be delivered to Chambers with this Notice of Completion of Briefing.

Dated: October 23, 2023

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