

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

In re:

EMERGE ENERGY SERVICES LP,

Reorganized Debtor.¹

Chapter 11

Case No. 19-11563 (KBO)

SUPERIOR SILICA SANDS LLC, a Texas
limited liability company,

Plaintiff,

vs.

IRON MOUNTAIN TRAP ROCK
COMPANY, a Missouri corporation, and
FRED WEBER, INC., a Delaware corporation.

Defendants.

Adv. Proc. No. 20-51052 (TMH)

**NOTICE OF AGENDA OF MATTERS SCHEDULED
FOR HEARING ON MARCH 26, 2024, AT 10:00 AM (ET)**

This proceeding will be conducted in-person in Courtroom 7, 3rd Floor. All counsel and witnesses are expected to attend unless permitted to appear remotely via Zoom.

Please refer to Judge Horan's Chambers Procedures and the Court's website (<http://www.deb.uscourts.gov/ecourt-appearances>) for information on who may participate remotely, the method of allowed participation (video or audio), Judge Horan's expectations of remote participants, and the advance registration requirements.

To attend a hearing remotely, please use the *eCourt Appearances* tool ([available here](#)) or on the Court's website at <http://www.deb.uscourts.gov/ecourt-appearances>. Registration is required by 4:00 p.m. (Eastern Time) the business day before the hearing unless otherwise noticed.

¹ The Reorganized Debtor in this case, along with the last four digits of the Reorganized Debtor's federal tax identification number, is Emerge Energy Services LP (2937). The Reorganized Debtor's address is 6500 West Freeway, Suite 800, Fort Worth, Texas 76116



MATTERS GOING FORWARD

1. Plaintiff's Motion For Summary Judgment on Second Claim for Relief [Adv. D.I. [42](#); filed 08/09/2022]

Objection Deadline: October 7, 2022 at 4:00 p.m. (ET)

Responses Received:

- (a) Defendants' Combined Memorandum of Law in Opposition to Plaintiff's Motion for Partial Summary Judgment and In Support of Their Cross-Motion for Partial Summary Judgment [Adv. D.I. [49](#); filed 10/07/2022]

Related Documents:

- (a) First Amended Complaint [Adv. D.I. [14](#); filed 02/25/2021]
- (b) Plaintiff's Statement of Uncontroverted Facts in Support of its Motion for Summary Judgment on Second Claim for Relief [Adv. D.I. [43](#); filed 08/09/2022]
- (c) Declaration of Scott Waughtal in Support of Plaintiff's Motion for Summary Judgment on Second Claim for Relief [Adv. D.I. [44](#); filed 08/09/2022]
- (d) Defendants' Cross Motion For Summary Judgment [Adv. D.I. [48](#); filed 10/07/2022]
- (e) Defendants' Response to Plaintiff's Statement of Uncontroverted Facts and Statement of Additional Material Facts [Adv. D.I. [50](#); filed 10/07/2022]
- (f) Exhibits to Defendants' Statement of Additional Material Facts [Adv. D.I. [51](#); filed 10/07/2022]
- (g) Plaintiff's Reply Brief in Support of Its Motion for Summary Judgment On Second Claim for Relief, and Opposition to Cross-Motion for Summary Judgment [Adv. D.I. [53](#); filed 10/21/2022]
- (h) Defendants' Reply in Support of Their Cross-Motion for Partial Summary Judgment [Adv. D.I. [55](#); filed 11/04/2022]
- (i) Plaintiff's Request for Oral Argument [Adv. D.I. [56](#); filed 11/10/2022]
- (j) Defendants' Request for Oral Argument [Adv. D.I. [57](#); filed 11/10/2022]
- (k) Notice of Completion of Briefing [Adv. D.I. [58](#); filed 11/15/2022]

Status: This matter will be going forward.

2. Defendants' Cross Motion For Summary Judgment [Adv. D.I. [48](#); filed 10/07/2022]

Objection Deadline: October 21, 2022 at 4:00 p.m. (ET)

Responses Received:

- (a) Plaintiff's Reply Brief in Support of Its Motion for Summary Judgment On Second Claim for Relief, and Opposition to Cross-Motion for Summary Judgment [Adv. D.I. [53](#); filed 10/21/2022]

Related Documents:

- (a) First Amended Complaint [Adv. D.I. [14](#); filed 02/25/2021]
- (b) Plaintiff's Motion For Summary Judgment on Second Claim for Relief [Adv. D.I. [42](#); filed 08/09/2022]
- (c) Plaintiff's Statement of Uncontroverted Facts in Support of its Motion for Summary Judgment on Second Claim for Relief [Adv. D.I. [43](#); filed 08/09/2022]
- (d) Declaration of Scott Waughtal in Support of Plaintiff's Motion for Summary Judgment on Second Claim for Relief [Adv. D.I. [44](#); filed 08/09/2022]
- (e) Defendants' Combined Memorandum of Law in Opposition to Plaintiff's Motion for Partial Summary Judgment and In Support of Their Cross-Motion for Partial Summary Judgment [Adv. D.I. [49](#); filed 10/07/2022]
- (f) Defendants' Response to Plaintiff's Statement of Uncontroverted Facts and Statement of Additional Material Facts [Adv. D.I. [50](#); filed 10/07/2022]
- (g) Exhibits to Defendants' Statement of Additional Material Facts [Adv. D.I. [51](#); filed 10/07/2022]
- (h) Defendants' Reply in Support of Their Cross-Motion for Partial Summary Judgment [Adv. D.I. [55](#); filed 11/04/2022]
- (i) Plaintiff's Request for Oral Argument [Adv. D.I. [56](#); filed 11/10/2022]
- (j) Defendants' Request for Oral Argument [Adv. D.I. [57](#); filed 11/10/2022]
- (k) Notice of Completion of Briefing [Adv. D.I. [58](#); filed 11/15/2022]

Status: This matter will be going forward.

- 3. 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]

Objection Deadline: August 24, 2023 at 4:00 p.m. (ET)

Responses Received:

- (a) Defendants' Memorandum of Law in Opposition to Plaintiff's Motion for Partial Summary Judgment [Adv. D.I. [78](#); filed 08/24/2023]

Related Documents:

- (a) First Amended Complaint [Adv. D.I. [14](#); filed 02/25/2021]
- (b) Plaintiff's Statement of Uncontroverted Facts in Support of its Motion for Partial Summary Judgment on Third Claim for Relief [Adv. D.I. [62](#); filed 04/13/2023]
- (c) Declaration of Scott Waughtal in Support of Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [63](#) & [64](#); filed 04/13/2023]
- (d) Declaration of David J. Richardson in Support of Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [65](#); filed 04/13/2023]
- (e) 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]
- (f) Supplemental Declaration of Scott Waughtal in Support of Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [74](#); filed 08/22/2023]
- (g) Defendants' Motion to Strike the Declarations of Scott Waughtal [Adv. D.I. [76](#); filed 08/24/2023]
- (h) 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]
- (i) Defendants' Response to Plaintiff's Statement of Uncontroverted Facts in Support of its Motion for Partial Summary Judgment on Third Claim for Relief [Adv. D.I. [79](#); filed 08/24/2023]
- (j) Defendants' Cross-Motion for Partial Summary Judgment [Adv. D.I. [80](#); filed 08/24/2023]
- (k) Defendants' Memorandum of Law in Support of Their Cross-Motion for Partial Summary Judgment [Adv. D.I. [81](#); filed on 08/24/2023]
- (l) Defendants' Omnibus Statement of Additional Undisputed Material Facts [Adv. D.I. [82](#); filed 08/24/2023]
- (m) Exhibits to Defendants' Omnibus Statement of Additional Undisputed Material Facts [Adv. D.I. [83](#); filed on 08/24/2023]

- (n) Declaration of Robert J. Golterman [Adv. D.I. [84](#); filed 08/24/2023]
- (o) Plaintiff's Opposition to Defendants' Motion to Strike the Declarations of Scott Waughtal [Adv. D.I. [85](#); filed 09/07/2023]
- (p) 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]
- (q) 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]
- (r) Plaintiff's Response to Defendants' Omnibus Statement of Additional Undisputed Material Facts [Adv. D.I. [88](#); filed 09/14/2023]
- (s) Plaintiff's Responsive Statement of Uncontroverted Facts in Opposition to Defendants' Cross-Motion for Summary Judgment [Adv. D.I. [89](#); filed 09/14/2023]
- (t) 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]
- (u) 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]
- (v) 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]
- (w) Defendants' Reply in Support of their Cross-Motion for Partial Summary Judgment [Adv. D.I. [95](#); filed 09/21/2023]
- (x) 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]
- (y) Defendants' Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [97](#); filed 09/21/2023]
- (z) Defendants' Memorandum in Support of their Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [98](#); filed 09/21/2023]
- (aa) Defendants' Request for Oral Argument [Adv. D.I. [99](#); filed 09/28/2023]
- (bb) Plaintiff's Request for Oral Argument [Adv. D.I. [100](#); filed 09/28/2023]

- (cc) Plaintiff's Opposition to Defendants' Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [101](#); filed 10/02/2023]
- (dd) Defendants' Reply Memorandum in Support of their Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [102](#); filed 10/09/2023]
- (ee) Notice of Completion of Briefing [Adv. D.I. [103](#); filed 10/23/2023]
- (ff) Plaintiff's Motion for Leave to File Supplemental Declaration of Scott Waughtal Regarding Updated Damages [Adv. D.I. [109](#); filed 03/04/2024]
- (gg) Defendants' Memorandum of Law in Opposition to Plaintiff's Motion for Leave to File Supplemental Declaration of Scott Waughtal [Adv. D.I. [110](#); filed 03/18/2024]
- (hh) Plaintiff's Reply in Support of Plaintiff's Motion for Leave to File Supplemental Declaration of Scott Waughtal Regarding Updated Damages [Adv. D.I. [111](#); filed 03/19/2023]

Status: This matter will be going forward.

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

Objection Deadline: September 14, 2023 at 4:00 p.m. (ET)

Responses Received:

- (a) 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]

Related Documents:

- (a) First Amended Complaint [Adv. D.I. [14](#); filed 02/25/2021]
- (b) 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]
- (c) Plaintiff's Statement of Uncontroverted Facts in Support of its Motion for Partial Summary Judgment on Third Claim for Relief [Adv. D.I. [62](#); filed 04/13/2023]
- (d) Declaration of Scott Waughtal in Support of Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [63](#) & [64](#); filed 04/13/2023]

- (e) Declaration of David J. Richardson in Support of Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [65](#); filed 04/13/2023]
- (f) 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]
- (g) Supplemental Declaration of Scott Waughtal in Support of Plaintiff's Supplemental Motion for Partial Summary Judgment on Third Claim for Relief for Breach of Contract [Adv. D.I. [74](#); filed 08/22/2023]
- (h) Defendants' Motion to Strike the Declarations of Scott Waughtal [Adv. D.I. [76](#); filed 08/24/2023]
- (i) 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]
- (j) Defendants' Memorandum of Law in Opposition to Plaintiff's Supplemental Motion for Partial Summary Judgment [Adv. D.I. [78](#); filed 08/24/2023]
- (k) Defendants' Response to Plaintiff's Statement of Undisputed Facts [Adv. D.I. [79](#); filed 08/24/2023]
- (l) Defendants' Cross-Motion for Partial Summary Judgment [Adv. D.I. [80](#); filed 08/24/2023]
- (m) Defendants' Memorandum of Law in Support of their Cross-Motion for Partial Summary Judgment [Adv. D.I. [81](#); filed 08/24/2023]
- (n) Defendants' Omnibus Statement of Additional Undisputed Material Facts [Adv. D.I. [82](#); filed 08/24/2023]
- (o) Exhibits to Defendants' Omnibus Statement of Additional Undisputed Material Facts [Adv. D.I. [83](#); filed 08/24/2023]
- (p) Declaration of Robert J. Golterman [Adv. D.I. [84](#); filed 08/24/2023]
- (q) Plaintiff's Opposition to Defendants' Motion to Strike the Declarations of Scott Waughtal [Adv. D.I. [85](#); filed 09/07/2023]
- (r) 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]
- (s) Plaintiff's Response to Defendants' Omnibus Statement of Additional Undisputed Material Facts [Adv. D.I. [88](#); filed 09/14/2023]

- (t) Plaintiff's Responsive Statement of Uncontroverted Facts in Opposition to Defendants' Cross-Motion for Summary Judgment [Adv. D.I. [89](#); filed 09/14/2023]
- (u) 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]
- (v) 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]
- (w) 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]
- (x) Defendants' Reply in Support of their Cross-Motion for Partial Summary Judgment [Adv. D.I. [95](#); filed 09/21/2023]
- (y) 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]
- (z) Defendants' Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [97](#); filed 09/21/2023]
- (aa) Defendants' Memorandum in Support of their Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [98](#); filed 09/21/2023]
- (bb) Defendants' Request for Oral Argument [Adv. D.I. [99](#); filed 09/28/2023]
- (cc) Plaintiff's Request for Oral Argument [Adv. D.I. [100](#); filed 09/28/2023]
- (dd) Plaintiff's Opposition to Defendants' Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [101](#); filed 10/02/2023]
- (ee) Defendants' Reply Memorandum in Support of their Motion to Strike Portions of Plaintiff's Reply Brief [Adv. D.I. [102](#); filed 10/09/2023]
- (ff) Notice of Completion of Briefing [Adv. D.I. [103](#); filed 10/23/2023]
- (gg) Plaintiff's Motion for Leave to File Supplemental Declaration of Scott Waughtal Regarding Updated Damages [Adv. D.I. [109](#); filed 03/04/2024]
- (hh) Defendants' Memorandum of Law in Opposition to Plaintiff's Motion for Leave to File Supplemental Declaration of Scott Waughtal [Adv. D.I. [110](#); filed 03/18/2024]

- (ii) Plaintiff's Reply in Support of Plaintiff's Motion for Leave to File Supplemental Declaration of Scott Waughtal Regarding Updated Damages [Adv. D.I. [111](#); filed 03/19/2023]

Status: This matter will be going forward.

Dated: March 21, 2024
Wilmington, Delaware

BAKER & HOSTETLER LLP

/s/ Jeffrey J. Lyons

Jeffrey J. Lyons (#6437)
1201 North Market Street, Suite 1407
Wilmington, DE 19801-1147
(302) 468-7088
jjlyons@bakerlaw.com

David J. Richardson [*pro hac vice*]
11601 Wilshire Boulevard, Suite 1400
Los Angeles, CA 90025
(310) 442-8858
drichardson@bakerlaw.com

Jorian L. Rose [*pro hac vice*]
45 Rockefeller Plaza
New York, NY 10111
(212) 589-4681
jrose@bakerlaw.com

Attorneys for Superior Silica Sands LLC