

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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In re: : Chapter 11
: :
SUPERIOR ENERGY SERVICES, INC., *et al.*,¹ : Case No. 20-35812 (DRJ)
: :
Reorganized Debtors. : (Jointly Administered)
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**REORGANIZED DEBTORS' RESPONSE IN OPPOSITION TO APPELLANTS'
MOTION FOR DIRECT APPEAL TO THE FIFTH CIRCUIT COURT OF APPEALS**
[Relates to Motion at Docket No. 351]

In connection with the voluntary petitions filed by the above-captioned debtors and debtors in possession (collectively, the “**Debtors**” or, after the February 2, 2021 Effective Date, the “**Reorganized Debtors**”) for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “**Court**”), the Reorganized Debtors respectfully file this objection and response (the “**Objection**”)² to the *Motion for Direct Appeal Certification to Fifth Circuit Court of Appeals* filed by Michael Sammons, Elena Sammons, and Stephen Sammons (the “**Sammons**” or “**Appellants**”) on February 22, 2021 [Docket No. 351] (the “**Sammons Appeal Motion**”). In support of this Objection, the Reorganized Debtors respectfully state as follows:

¹ The Reorganized Debtors in these cases, along with the last four digits of each Reorganized Debtor’s federal tax identification number, are: Superior Energy Services, Inc. (9388), SESI, L.L.C. (4124), Superior Energy Services-North America Services, Inc. (5131), Complete Energy Services, Inc. (9295), Warrior Energy Services Corporation (9424), SPN Well Services, Inc. (2682), Pumpco Energy Services, Inc. (7310), 1105 Peters Road, L.L.C. (4198), Connection Technology, L.L.C. (4128), CSI Technologies, LLC (6936), H.B. Rentals, L.C. (7291), International Snubbing Services, L.L.C. (4134), Stabil Drill Specialties, L.L.C. (4138), Superior Energy Services, L.L.C. (4196), Superior Inspection Services, L.L.C. (4991), Wild Well Control, Inc. (3477), and Workstrings International, L.L.C. (0390). The Reorganized Debtors’ address is 1001 Louisiana Street, Suite 2900, Houston, Texas 77002.

² Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the *Memorandum of Law in Support of (I) Approval of Debtors’ Disclosure Statement and (II) Confirmation of First Amended Joint Prepackaged Plan of Reorganization for Superior Energy Services, Inc. and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. 270].



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PRELIMINARY STATEMENT

1. The Court should deny the Appellants' request for this Court to certify their appeal to the Fifth Circuit because the grounds required for certification under 28 U.S.C. § 158(d)(2)(A) are not present in this case. The Appellants assert that only one of the three statutory grounds is present, contending that the case involves a matter of "great public importance." As described in more detail below, this case does not involve a matter of great public importance. Appellants use the guise of entitlement to be heard and fundamental due process, but ignore that the Plan was properly noticed, voted upon by stakeholders, litigated, and confirmed. Appellants had ample opportunity to object and be heard before Confirmation, but they elected not to do so. The fact that Appellants are now unhappy with their treatment under the confirmed and substantially consummated Plan does not entitle them to re-open and re-litigate the Plan. There is no public importance warranting certification. As a result, the Sammons Appeal Motion should be denied.

LEGAL STANDARD

2. Under 28 U.S.C. § 158(d)(2)(A), certification of a direct appeal is required if the bankruptcy court determines that:

- (i) the judgment or order involves a question of law to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court, or involves a matter of public importance;
- (ii) the judgment or order involves a question of law requiring resolution of conflicting decisions; or
- (iii) an immediate appeal from the judgment or order may materially advance the progress of the case or proceeding in which the appeal is taken.³

³ 28 U.S.C. § 158(d)(2)(A).

3. A party requesting certification of direct appeal bears the burden of establishing that one or more of the circumstances set forth in 28 U.S.C. § 158(d)(2)(A) is present.⁴ If the party requesting certification fails to meet its burden, then direct appeal cannot be certified, and the case remains with the district court for determination.⁵

ARGUMENT

4. The only reason asserted by Appellants for certification of their appeal to the Fifth Circuit is that the issues raised involve a “matter of public importance.”⁶ However, the issues raised by Appellants on appeal are garden-variety complaints about the treatment of their claims and do not involve any such matters of public importance justifying direct review by the Fifth Circuit. To get around this, Appellants provide two unsubstantiated reasons for justifying that this appeal involves a matter of public importance: (a) it involves a question regarding whether creditors are entitled to be heard in chapter 11 cases; and (b) it involves a question of due process. While these are certainly important issues, they are wholly absent from this appeal.

5. Courts have set a high bar in assessing whether an issue should be classified as a matter of public importance. Notably, such an issue must “transcend the litigants” to the case and affect the public at large or a vital interest of the community.⁷ This includes “such things as the constitutionality of a provision of title 11, the applicability of nonbankruptcy law to matters arising

⁴ Fed. R. Bankr. P. 8006(f); *Genter v. Reed (In re Genter)*, Civ. Action No. 3:19-CV-01951-E, 2020 WL 3129637, at *4 (N.D. Tex. June 12, 2020).

⁵ Fed. R. Bankr. P. 8006(f)(1); *see, e.g., Faulkner v. Kornman*, No. 10-301, 2012 WL 293230, at *2-*4 (Bankr. S.D. Tex. Jan. 30, 2012).

⁶ Appellants do not assert that the other bases for certification of a direct appeal are present here—nor can they—as the Confirmation Order does not involve a question of law requiring resolution of conflicting decisions, and an immediate appeal would not materially advance the progress of the case, as the bankruptcy case is substantially consummated.

⁷ *In re MPF Holdings U.S. LLC*, 444 B.R. 719 (Bankr. S.D. Tex. 2011)

in a bankruptcy case, the ability to change the venue of a title 11 case to an improper venue or any one of the important provisions governing consumer bankruptcies.”⁸

6. Indeed, the Southern District of Texas in *MPF Holdings* considered a post-confirmation action by a litigation trustee to recover alleged preferential transfers in a heavily-negotiated and confirmed chapter 11 plan of reorganization.⁹ The court determined that public importance was not implicated in the case, acknowledging that while “post-confirmation preservation of causes of action is not a trivial matter of bankruptcy law, it is ultimately just a matter of statutory interpretation and common law analysis.”¹⁰ Here, as in *MPF Holdings*, this is not a case that requires an “in-depth discussion of complex constitutional issues that affect the public as a whole,”¹¹ but is rather an attempt by a group of disgruntled creditors to relitigate confirmation of the Plan despite having notice of the Chapter 11 Cases and Confirmation, as well as every opportunity to appear and be heard prior to Confirmation.

7. Appellants argue that they were not given the opportunity to be heard and were denied discovery before the judgment and that the Court “rubber-stamped a plan which on its face was unconfirmable.” Appellants’ arguments are misplaced. First, their contentions are made by way of conclusory statements insufficient to demonstrate that the case actually implicates a matter of public importance.¹²

⁸ *Id.* at 726 (internal citations omitted).

⁹ *Id.* at 721.

¹⁰ *Id.* at 726.

¹¹ *Id.*

¹² *See In re Genter*, 2020 WL 3129637, at *4 (concluding that, apart from an unsubstantiated conclusory statement, appellants provided no explanation for why the issue presented was a matter of public importance that must be certified for appeal to the Fifth Circuit); *see also Faulkner* 2012 WL 293230, at *4 (same).

8. Second, this Court did not “rubber stamp” the Plan. As this Court is well aware, creditors were not only entitled to be heard in the Debtors’ Chapter 11 Cases, but they *were* heard.

9. On or before the January 12, 2021 Objection Deadline, the Debtors received eight informal comments and eleven formal objections to the Plan. For each, the Debtors either consensually resolved those issues through the inclusion of language in the Confirmation Order, or litigated them before this Court during the January 19, 2021 Confirmation Hearing. Three objectors appeared, argued their Plan objections, submitted evidence, and cross-examined the Debtors’ witnesses. Following such litigation and based on a fulsome evidentiary record, the Court confirmed the Plan over the objections. Moreover, Appellants claim a creditors’ committee should have been appointed. On information and belief, the U.S. Trustee appointed to oversee the Chapter 11 Cases *did* solicit interest from creditors as to whether to appoint a creditors’ committee, as it does in every case. Despite such efforts, creditors expressed insufficient interest in forming a committee, and thus one was never appointed. In any event, the absence of a creditors’ committee never prevented Appellants from raising their own objection and, as explained below, they in fact *did* raise issues with the Debtors prior to confirmation and the Debtors responded by resolving them. Appellants’ recent decision to raise new, untimely issues does not somehow implicate due process.

10. Third, the Plan was not “unconfirmable” and Appellants are not aggrieved. Appellants argue the Plan was unconfirmable because “some creditors received only a 2% cash recovery when under a liquidation scenario they would have received a 19% cash recovery.”¹³ Notably, Appellants do not claim that *they* received a 2% cash recovery. Indeed, Appellants contacted the Debtors twelve days before the Objection Deadline to request to opt out of the cash-

¹³ *Id.*

out option contained in the Plan and seek equity in the Reorganized Debtors. The Debtors acquiesced to Appellants' opt-out request, so it is unclear how Appellants have been aggrieved. Moreover, the Debtors extended the deadline to opt out of the cash-out option for *all* bondholders from January 8, 2021 to January 15, 2021 and provided notice of the extension to the Depository Trust Company ("**DTC**") and to various banks and brokers (nominees) on January 7, 2021.¹⁴ Thus, Appellants lack standing to pursue any such theory because they are not aggrieved and, among other things, their claim is moot. For these same reasons, Appellants' arguments that they were somehow excluded from the process are absurd, as Appellants were in communication with the Debtors as early as December 31, 2020 (19 days before the Confirmation Hearing) about the Plan and their treatment under the Plan. Indeed, the Debtors worked with Appellants to resolve their issues. The only issue now before the Court is Appellants' *new* objection that they filed *after* the Plan was confirmed and went effective, which does not implicate any due process or right to be heard issues.

11. Finally, Appellants' contention that they were "denied their right to pursue necessary and reasonable discovery before judgment or hearing"¹⁵ is blatantly false. Appellants made no such request for discovery prior to entry of the Confirmation Order. The crux of Appellants' argument appears to be that they were not aware that the Company's stock would not be DTC eligible until after entry of the Confirmation Order. However, on January 8, 2021, four days prior to the Plan Objection Deadline, the Debtors filed the Second Plan Supplement, which

¹⁴ See Notice of Cash Opt-Out Election Deadline Extension and Instructions Regarding Cash-Out Election [Docket No. 215].

¹⁵ Sammons Appeal Motion at 1.

expressly stated that “**The Company’s stock *will not be* cleared and settled through DTC.**”¹⁶ Appellants have not claimed that they lacked notice of the publicly filed Second Plan Supplement. Furthermore, they did not object either in writing by the Plan Objection Deadline or at the January 19, 2021 Confirmation Hearing. Thus, Appellants’ claims that they only discovered on January 21, 2021 that their stock in the Reorganized Debtors would not be issued through DTC and that they did not have time to take discovery from the Debtors on this issue are, at best, due to their lack of diligence.

12. In any event, the Debtors were never bound to provide responses to Appellants’ untimely discovery requests because Appellants’ *Motion to Reconsider Order of January 19, 2021 Approving Disclosure Statement and Plan of Reorganization* [Docket 306] was promptly denied by this Court by Order for failing to state a proper basis for relief on February 4, 2021 [Docket No. 323], thereby mooted any discovery requests.

CONCLUSION

13. Accordingly, for the reasons set forth above, the Reorganized Debtors respectfully request that the Court deny the Sammons Appeal Motion and allow this appeal to proceed according to the standard appellate process.

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¹⁶ See *Second Plan Supplement for the Joint Prepackaged Plan of Reorganization for Superior Energy Services, Inc. and Its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. 214] (the “**Second Plan Supplement**”), at 169 (emphasis added).

Signed: March 5, 2021
Houston, Texas

Respectfully Submitted,

/s/ Timothy A. ("Tad") Davidson II

Timothy A. ("Tad") Davidson II (Texas Bar No. 24012503)

Ashley L. Harper (Texas Bar No. 24065272)

Philip M. Guffy (Texas Bar No. 24113705)

HUNTON ANDREWS KURTH LLP

600 Travis Street, Suite 4200

Houston, Texas 77002

Tel: 713-220-4200

Fax: 713-220-4285

Email: TadDavidson@HuntonAK.com

AshleyHarper@HuntonAK.com

PGuffy@HuntonAK.com

-and-

George A. Davis (admitted *pro hac vice*)

Keith A. Simon (admitted *pro hac vice*)

George Klidonas (admitted *pro hac vice*)

LATHAM & WATKINS LLP

885 Third Avenue

New York, New York 10022

Tel: 212-906-1200

Fax: 212-751-4864

Email: george.davis@lw.com

keith.simon@lw.com

george.klidonas@lw.com

Counsel for the Reorganized Debtors

CERTIFICATE OF SERVICE

I certify that on March 5, 2021, a true and correct copy of the foregoing Application was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties registered to receive electronic notices.

/s/ Timothy A. ("Tad") Davidson II

Timothy A. ("Tad") Davidson II

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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In re:	:	Chapter 11
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SUPERIOR ENERGY SERVICES, INC., <i>et al.</i> ¹ ,	:	Case No. 20-35812 (DRJ)
	:	
Reorganized Debtors.	:	(Jointly Administered)

**ORDER DENYING TO APPELLANTS’ MOTION FOR DIRECT APPEAL TO THE
FIFTH CIRCUIT COURT OF APPEALS**

[Relates to Docket No. 351]

Upon Michael Sammons, Elena Sammons, and Stephen Sammons’ *Motion for Direct Appeal Certification to Fifth Circuit Court of Appeals* (the “**Sammons Appeal Motion**”); and the Court having jurisdiction to consider the Sammons Appeal Motion and the relief requested therein; and consideration of the Sammons Appeal Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having reviewed the Sammons Appeal Motion; and the Court having reviewed the Reorganized Debtors’ Objection and Response to the Sammons Appeal Motion, filed timely on March 4, 2021; and after due deliberation,

IT IS HEREBY ORDERED THAT:

1. The Sammons Appeal Motion is DENIED.
2. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

¹ The Reorganized Debtors in these cases, along with the last four digits of each Reorganized Debtor’s federal tax identification number, are: Superior Energy Services, Inc. (9388), SESI, L.L.C. (4124), Superior Energy Services-North America Services, Inc. (5131), Complete Energy Services, Inc. (9295), Warrior Energy Services Corporation (9424), SPN Well Services, Inc. (2682), Pumpco Energy Services, Inc. (7310), 1105 Peters Road, L.L.C. (4198), Connection Technology, L.L.C. (4128), CSI Technologies, LLC (6936), H.B. Rentals, L.C. (7291), International Snubbing Services, L.L.C. (4134), Stabil Drill Specialties, L.L.C. (4138), Superior Energy Services, L.L.C. (4196), Superior Inspection Services, L.L.C. (4991), Wild Well Control, Inc. (3477), and Workstrings International, L.L.C. (0390). The Reorganized Debtors’ address is 1001 Louisiana Street, Suite 2900, Houston, Texas 77002.

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

Signed: _____, 2021

DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE