

James C. Scott
State Bar No. 24056287.
Jim.scott@kellyhart.com
Elizabeth A. Cuneo
State Bar No. 24100166
Elizabeth.Cuneo@kellyhart.com
Kelly Hart & Hallman LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102
Telephone: (817) 332-2500
Telecopier: (817) 878-9280

Attorneys for ProFrac Services, LLC

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:

**VISTA PROPPANTS AND LOGISTICS,
LLC AND MAALT, LP**

DEBTORS

**LONESTAR PROSPECTS, LTD. D/B/A
VISTA SAND**

PLAINTIFF

v.

PROFRAC SERVICES, LLC

DEFENDANT.

CHAPTER NO.: 11

CASE NO. 20-42002-ELM11

JOINTLY ADMINISTERED

ADVERSARY NO. 21-04013-ELM

JOINT NOTICE TO THE COURT OF PENDING SETTLEMENT NEGOTIATIONS

TO THE HONORABLE UNITED STATES BANKRUPTCY COURT:



Plaintiff Lonestar Prospects, Ltd. d/b/a Vista Sand (“Vista”) and Defendant ProFrac Services, LLC (“ProFrac”) (together, the “Parties”) file this Joint Notice to the Court of Pending Settlement Negotiations, and respectfully alert the Court to the following developments which impact pending deadlines in this matter:

1. On March 15, 2021, Vista filed Plaintiff’s Original Complaint (the “Complaint”), asserting a single claim of breach of contract against ProFrac in connection with the Parties’ alleged obligations under the Master Purchase Agreement for Products and/or Services, as amended (the “Adversary Proceeding”).

2. On March 16, 2021, a summons was issued to ProFrac regarding the Adversary Proceeding.

3. Pursuant to Federal Rules of Bankruptcy Procedure 7012, ProFrac’s deadline to answer or otherwise respond to the Complaint was April 15, 2021. *See* Fed. R. Bankr. P. 7012(a)–(b) (setting forth response deadline and the applicability of Federal Rule of Civil Procedure 12(b)–(i)); *see also* Fed. R. Civ. P. 12(b) (providing that a motion asserting particular defenses “must be made before pleading if a responsive pleading is allowed”).

4. Prior thereto, on April 12, 2021, the Parties filed their Joint Motion to Extend Deadline for Defendant ProFrac Services, LLC to Answer or Otherwise Respond to Plaintiff’s Complaint (Dkt. 6) (the “Motion to Extend”). As set forth therein, the Parties respectfully requested, pursuant to Federal Rule of Bankruptcy Procedure 7012, that the Court extend ProFrac’s deadline to answer or otherwise respond to the Complaint 30 days—i.e., until May 14, 2021. *See* Fed. R. Bankr. P. 7012(a) (“If a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, *except when a different time is prescribed by*

the court.” (emphasis added)); *id.* at 7012(b); *see also* Fed. R. Civ. P. 12(b). The reason for the extension is that the Parties are in the process of negotiating a settlement to resolve this dispute.

5. At the time of this filing, the Motion to Extend is still pending before the Court, and the Parties are still negotiating a settlement agreement to resolve this dispute amicably. The Parties anticipate that they will finalize their settlement within the next 30 days (i.e., by June 11). Accordingly, the Parties respectfully request the Court defer on ruling on the Motion to Extend and permit them time to finalize their settlement. The Parties further respectfully request that the Court refrain from entering the Alternative Scheduling Order referenced in the Court’s March 6, 2021 Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order.

6. Should the Parties not ultimately settle this matter by June 11, they will notify the Court and provide a date certain by which ProFrac will file an answer or otherwise respond to the Complaint. They will also submit a proposed scheduling order for the resolution of this matter.

Respectfully submitted,

/s/ James C. Scott

James C. Scott

State Bar No. 24056287.

Jim.scott@kellyhart.com

Elizabeth A. Cuneo

State Bar No. 24100166

Elizabeth.Cuneo@kellyhart.com

KELLY HART & HALLMAN LLP

201 Main Street, Suite 2500

Fort Worth, Texas 76102

Telephone: (817) 332-2500

Telecopier: (817) 878-9280

ATTORNEYS FOR PROFRAC SERVICES, LLC

/s/Paul Elkins

David J. Drez III

david.drez@wickphillips.com

State Bar No. 24007127

Paul T. Elkins
paul.elkins@wickphillips.com
State Bar No. 24092383
WICK PHILLIPS GOULD & MARTIN LLP
100 Throckmorton Street, Suite 1500
Fort Worth, Texas 76102
Telephone: (817) 332-7788
Telecopier: (817) 332-7789

**ATTORNEYS FOR PLAINTIFF LONESTAR
PROSPECTS LTD. D/B/A VISTA SAND**

CERTIFICATE OF CONFERENCE

I, undersigned counsel, hereby certify that on May 12, 2021 I conferred with counsel for Plaintiff LoneStar Prospects, Ltd. regarding the foregoing via email and counsel indicated Plaintiff is unopposed to the relief sought herein.

/s/ *Elizabeth Cuneo*
Elizabeth A. Cuneo

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that the foregoing was filed with the Court and served via the Court's ECF E-Filing Service System on all parties and/or counsel of record on May 12, 2021.

/s/ *James C. Scott*
James C. Scott