



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed November 2, 2020

United States Bankruptcy Judge

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

| | | |
|--|---|--|
| | § | |
| In re | § | Chapter 11 |
| | § | |
| Vista Proppants and Logistics, LLC, et al., | § | Case No. 20-42002-elm11 |
| | § | |
| Debtors. | § | (Jointly Administered) |
| | § | |
| | | |
| MAALT, LP, | § | |
| | § | |
| Plaintiff and Counter-Defendant, | § | |
| | § | Adversary Proceeding No. 20-04064 |
| vs. | § | |
| | § | |
| SEQUITUR PERMIAN, LLC | § | |
| | § | |
| Defendant. | § | |
| | | |

SCHEDULING ORDER IN ADVERSARY PROCEEDING



On October 19, 2020, the Court held a scheduling conference with the parties. Based on the discussions with counsel for the parties and consideration of the proceedings that took place at the state court prior to removal, the Court is of the opinion that this Scheduling Order should be entered.

ACCORDINGLY, it is hereby **ORDERED** that the following dates and deadlines shall apply to this adversary proceeding:

A. Docket Call/Trial. Trial is set before the Honorable Edward L. Morris at 501 W. 10th St., Room 204, Fort Worth, TX 76102 the month of April 2021. Docket Call for this trial will be held on **May 3, 2021 at 1:30 p.m.**, at 501 W. 10th St., Room 204, Fort Worth, TX 76102. Trial will take place on during the month of **May 2021** unless ordered otherwise by the Court.

B. Service by Electronic Means. Pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Bankr. P. 7005, the Parties hereby agree to service of all pleadings and other papers in this case via email transmittal to all counsel of record and the Court's Electronic Case Filing (ECF) system, where applicable.

C. Initial Disclosures. In light of the disclosures made by the Parties in the underlying state court case, no initial disclosures required by Federal Rule of Civil Procedure 26(a)(1).

D. Expert Disclosures. The deadline for making additional case-in-chief expert disclosures shall be **December 31, 2020**. The deadline for making rebuttal expert disclosures is **January 31, 2021**. Experts designated at the state court prior to removal do not have to be re-designated. Any additional experts designated after the date of this order shall be disclosed in the manner required by Federal Rule of Civil Procedure 26(a)(2).

E. Discovery. The deadline for the completion of all fact-based discovery is **February 28, 2021**. The deadline for the completion of all expert depositions is **March 31, 2021**.

F. Dispositive Motions. Unless otherwise permitted by the Court, all dispositive motions other than summary judgment motions must be filed no later than **March 1, 2021**. All dispositive motions shall be heard by no later than **April 16, 2021**.

G. Motions for Summary Judgment. During the status conference held on September 28, 2020, the Court was made aware of the filing of motions for summary judgment at the state court that were not heard or ruled upon prior to the Chapter 11 filing or the removal of the case to this Court. In order to address those motions, the Court sets the following schedule:

1. No later than **November 16, 2020**, the parties shall refile their pending state court motions for summary judgment and any amendments to the motions so that they are docketed on this Court's docket. Responses to the motions shall be filed no later than **December 7, 2020**, and replies shall be filed by **December 21, 2020**. Those motions for summary judgment will be heard by the Court on **January 14, 2021**.
2. As stated by the Court on September 28, 2020, the Court grants leave to the parties to each file one additional motion for summary judgment, respectively, prior to trial. Any such motions shall be filed no later than **March 1, 2021**. The Motions, responses and replies shall be filed in accordance with L.B.R. 7007-1 and 7056-1; provided, however, that any reply shall be filed within 14 days of the date of the response. Those summary judgment motions shall be heard no later than **April 16, 2021**.

H. Statement of Position. No later than November 16, 2020, the parties shall each file a position statement addressing the following: (a) whether each claim asserted by either party is "core" within the provisions of 28 U.S.C. § 157(b)(2); (b) if noncore in nature, whether the party

consents to final judgment by this Court with respect to those particular claims that are asserted to be noncore; (c) whether any jury demand has been made or is being made in relation to any of the claims that are pending; and (d) if there has been a jury demand or is a jury demand in relation to any of those claims, whether the parties consent to the jury trial being handled before this Court.

I. Exhibits. All exhibits, except impeachment exhibits, shall be marked with exhibit labels and exchanged with the opposing party, together with a list of witnesses to be called, no later than **April 19, 2021**. A list of exhibits and witnesses shall also be filed with the Court no later than **April 19, 2021**. All exhibits not objected to in writing prior to the Docket Call shall be admitted into evidence at trial without further proof, except for relevance. Written objections to exhibits will be taken up either at the beginning of, or during the course of, the actual trial, unless otherwise directed by the Court.

J. Joint Pretrial Order. The parties shall file, serve and upload for Court entry a Joint Pretrial Order in compliance with Local Bankruptcy Rule 7016-1 by no later than **April 26, 2021**. All counsel are responsible for preparing the Joint Pretrial Order, which shall contain the following: (a) a summary of the claims and defenses of each party; (b) a statement of stipulated facts; (c) a list of the contested issues of fact; (d) a list of contested issues of law; (e) an estimate of the length of trial; (f) a list of additional matters which would aid in the disposition of this proceeding; and (g) the signature of each attorney.

K. Proposed Findings and Conclusions. Written proposed Finding of Fact and Conclusions of Law shall be filed and served on the opposing party by no later than **April 26, 2021**. Trial briefs addressing contested issues of law shall also be filed and served on the opposing party by no later than **April 26, 2021**.

L. Pretrial Conference. If a party believes a pretrial conference is necessary or would facilitate the resolution of this case, a request can be made at the docket call.

It is hereby further **ORDERED** that this Agreed Scheduling Order shall replace and supersede the Court's *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* entered by the Court on September 8, 2020 [Adv. Doc 4].

End of Order

Respectfully submitted:

By: /s/ James Lanter
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VISTA PROPPANTS AND LOGISTICS, INC.**

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**ATTORNEYS FOR DEFENDANT,
SEQUITUR PERMIAN, LLC**

United States Bankruptcy Court
Northern District of Texas

MAALT, LP,
Plaintiff
Sequitur Permian, LLC,
Defendant

Adv. Proc. No. 20-04064-elm

CERTIFICATE OF NOTICE

District/off: 0539-4
Date Rcvd: Nov 02, 2020

User: swhitaker
Form ID: pdf001

Page 1 of 2
Total Noticed: 4

The following symbols are used throughout this certificate:

Symbol **Definition**

+ Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 04, 2020:

| Recip ID | Recipient Name and Address |
|----------|--|
| ust | + Cheryl Wilcoxson, US Trustee, 1100 Commerce St., Ste. 976, Dallas, TX 75242-0996 |

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

| Recip ID | Notice Type: Email Address | Date/Time | Recipient Name and Address |
|----------|--|----------------------|--|
| ust | + Email/Text: ustpreion06.ty.ecf@usdoj.gov | Nov 02 2020 21:38:00 | US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231 |
| ust | + Email/Text: ustpreion07.hu.ecf@usdoj.gov | Nov 02 2020 21:38:00 | US Trustee, Office of the US Trustee, 515 Rusk Ave, Ste 3516, Houston, TX 77002-2604 |
| ust | + Email/Text: ustpreion06.da.ecf@usdoj.gov | Nov 02 2020 21:38:00 | United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996 |

TOTAL: 3

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

| Recip ID | Bypass Reason | Name and Address |
|----------|---------------|--|
| ust | | Sandra Nixon, U.S. Trustee |
| ust | | mario zavala |
| ust | *+ | US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231 |

TOTAL: 2 Undeliverable, 1 Duplicate, 0 Out of date forwarding address

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Nov 04, 2020

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

District/off: 0539-4

User: swhitaker

Page 2 of 2

Date Rcvd: Nov 02, 2020

Form ID: pdf001

Total Noticed: 4

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 2, 2020 at the address(es) listed below:

| Name | Email Address |
|------------------------|---|
| Dylan Benjamin Russell | on behalf of Defendant Sequitur Permian LLC russell@hooverslovacek.com |
| J. Robert Forshey | on behalf of Defendant Sequitur Permian LLC bforshey@forsheyprostok.com, calendar@forsheyprostok.com;jgonzalez@forsheyprostok.com;lbreedlove@forsheyprostok.com;bforshey@ecf.courtdrive.com;calendar_0573@ecf.courtdrive.com |
| James Lanter | on behalf of Plaintiff MAALT LP jim.lanter@lanter-law.com |
| Melissa A. Haselden | on behalf of Defendant Sequitur Permian LLC Haselden@hooverslovacek.com, haseldenbankruptcy@gmail.com;phelan@hooverslovacek.com,seamster@hooverslovacek.com |
| Paul O. Wickes | on behalf of Plaintiff MAALT LP pwickes@wickeslaw.com, gretchen.wickes@wickeslaw.com |
| Suzanne K. Rosen | on behalf of Defendant Sequitur Permian LLC srosen@forsheyprostok.com, lbreedlove@forsheyprostok.com;calendar@forsheyprostok.com;srosen@ecf.courtdrive.com;calendar_0573@ecf.courtdrive.com |

TOTAL: 6