Docket #0120 Date Filed: 4/13/2021

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 April 13, 2021

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-ELM-11
	§	
	§	Jointly Administered
Debtors.	§	
	§	
MAALT, LP,	§	
	§	
Plaintiff,	§	
v.	§	Adversary No. 20-04064
	§	
SEQUITUR PERMIAN, LLC,	§	
	§	
Defendant/Third-Party Plaintiff,	§	
v.	§	
	§	
VISTA PROPPANTS AND LOGISTICS, LLC,	§	
	§	
	§	
Third-Party Defendant.	§	

ORDER GRANTING IN PART, AND DENYING IN PART, DEFENDANT'S OPPOSED MOTION TO STRIKE PORTIONS OF PLAINTIFF'S SUMMARY-JUDGMENT EVIDENCE

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Before the Court for determination is the *Defendant's Opposed Motion to Strike Portions of Plaintiff's Summary-Judgment Evidence* [Docket No. 66] (the "**Motion**") filed by Defendant Sequitur Permian, LLC (the "**Defendant**"). Pursuant to the Motion, the Defendant requests the Court to strike portions of the Declaration of Robert C. Wright III (the "**Wright Declaration**") submitted by Plaintiff MAALT, LP (the "**Plaintiff**") in support of *Plaintiff's Second Amended Second Motion for Partial Summary Judgment* [Docket No. 60] (the "**Plaintiff's MSJ**"). *See* Docket No. 48-1, Exh. 6 (Maalt 2nd MPSJ 267 – Maalt 2nd MPSJ 271) (Wright Declaration). In support of the Motion, the Defendant has included as attachments to the Motion an appendix [Docket No. 66-1] (the "**Appendix**") and brief in support [Docket No. 66-2] (the "**Brief**"). In opposition to the Motion, Plaintiff MAALT, LP (the "**Plaintiff**") has filed its *Response to Defendant's Motion to Strike Portions of Plaintiff's Summary Judgment Evidence and Supporting Brief* [Docket No. 71] (the "**Response**").

Having now reviewed and considered the Motion, including the supporting Appendix and Brief, and the Response; and the Court having jurisdiction of this adversary proceeding pursuant to 28 U.S.C. §§ 1334 and 157; and venue of the proceeding in the Northern District of Texas being proper pursuant to 28 U.S.C. § 1409; and the proceeding constituting a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B) and (O) inasmuch as the causes of action asserted in the proceeding are intertwined with the claims asserted by the Defendant against the Plaintiff and Third-Party Defendant Vista Proppants and Logistics, LLC (the "**Third-Party Defendant**") in connection with their bankruptcy cases (and the Plaintiff's and the Third-Party Defendant's objections thereto, which have been consolidated with this adversary proceeding for trial, *see* Docket No. 41); and even if partially non-core in nature, the Plaintiff and the Defendant having consented to the Court's entry of a final order or judgment in the proceeding pursuant to 28 U.S.C. § 157(c)(2), *see* Docket Nos. 50 and 53; and for good and sufficient cause shown, it is hereby:

ORDERED, ADJDUGED AND DECREED that the Motion be and is hereby granted in part, and denied in part, as follows:

1. Defendant's request to strike paragraph 3 of the Wright Declaration is DENIED.

2. Defendant's request to strike lines 2-7 of paragraph 4 of the Wright Declaration is DENIED.

3. Defendant's request to strike paragraph 5 of the Wright Declaration is (a) GRANTED with respect to the last sentence of said paragraph due to, among other things, the failure to attach the referenced emails, and (b) otherwise DENIED.

4. Defendant's request to strike lines 1-5 of paragraph 6 of the Wright Declaration is DENIED.

5. Defendant's request to strike lines 5-6 of paragraph 6 of the Wright Declaration is DENIED.

6. Defendant's request to strike lines 6-10 of paragraph 6 of the Wright Declaration is GRANTED.

7. Defendant's request to strike lines 1-3 of paragraph 7 of the Wright Declaration is DENIED.

8. Defendant's request to strike lines 3-5 of paragraph 7 of the Wright Declaration is DENIED.

9. Defendant's request to strike lines 5-8 of paragraph 7 of the Wright Declaration is GRANTED.

10. Defendant's request to strike lines 8-10 of paragraph 7 of the Wright Declaration is GRANTED.

11. Defendant's request to strike lines 10-13 of paragraph 7 of the Wright Declaration is DENIED.

12. Defendant's request to strike lines 13-15 of paragraph 7 of the Wright Declaration is GRANTED based upon, among other things, Plaintiff's acknowledgment that the testimony is cumulative of other summary judgment evidence to which no objection has been lodged.

END OF ORDER # #