Docket #0125 Date Filed: 4/15/2021

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 # #

United States Bankruptcy Court
Northern District of Texas

MAALT, LP,
Plaintiff

Adv. Proc. No. 20-04064-elm

Sequitur Permian, LLC,
Defendant

CERTIFICATE OF NOTICE

District/off: 0539-4 User: tspelmon
Date Rcvd: Apr 13, 2021 Form ID: pdf023 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 Apr 15, 2021:

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: ustpregion06.ty.ecf@usdoj.gov	Apr 13 2021 21:39:00	US Trustee, Office of the U.S. Trustee, 110 N. College Ave., Suite 300, Tyler, TX 75702-7231
ust	+	Email/Text: ustpregion07.hu.ecf@usdoj.gov	Apr 13 2021 21:39:00	US Trustee, Office of the US Trustee, 515 Rusk Ave, Ste 3516, Houston, TX 77002-2604
ust	+	Email/Text: ustpregion06.da.ecf@usdoj.gov	Apr 13 2021 21:39:00	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: Apr 15, 2021 Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on April 13, 2021 at the address(es) listed below:

Name	Email Address
Dylan Benjamen Russell	on behalf of Defendant Sequitur Permian LLC russell@hooverslovacek.com
Dylan Benjamen Russell	on behalf of 3rd Party Plaintiff 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 3rd Pty Defendant Vista Proppants and Logistics LLC jim.lanter@lanter-law.com
James Lanter	on behalf of Plaintiff MAALT LP jim.lanter@lanter-law.com
James Lanter	on behalf of Counter-Defendant MAALT LP jim.lanter@lanter-law.com
Matthew A. Kornhauser	on behalf of Defendant Sequitur Permian LLC kornhauser@hooverslovacek.com
Paul O. Wickes	on behalf of 3rd Pty Defendant Vista Proppants and Logistics LLC pwickes@wickeslaw.com, gretchen.wickes@wickeslaw.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: 10