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

IN RE:	*	
	*	**CASE NO. 17-31646**
MONTCO OFFSHORE, INC., *et al.*,	*	
	*	**Chapter 11**
DEBTORS.	*	
	*	**(Jointly Administered)**
	*	

ALLIANCE ENERGY SERVICES, LLC'S
OBJECTION AND RESPONSE TO DEBTORS' MOTION FOR ENTRY OF AN ORDER ESTIMATING AND TEMPORARILY ALLOWING CLAIMS ASSERTED BY MARITIME LIEN CLAIMANTS FOR PURPOSES OF ALLOWING PLAN CONFIRMATION TO PROCEED

[Related to Doc. 494]

Alliance Energy Services, LLC ("Alliance") respectfully objects and responds to the Debtors' *Motion for Entry of An Order Estimating and Temporarily Allowing Claims Asserted by Maritime Lien Claimants for Purposes of Allowing Plan Confirmation to Proceed* (the "Motion") [Doc. 494] filed by Montco Offshore, Inc. ("MOI") and Montco Oilfield Contractors, LLC ("MOC") and requests that its claims be fully allowed for voting purposes as follows:

INTRODUCTION

Although couched as a Motion to Estimate Claims under section 502(c) arising from a section 502(a) claim objection, the Debtors have not objected to the amount of Alliance's claims and thus have no basis to estimate the amount of Alliance's claims at "0" for purposes of voting on the Plan. Instead, the Debtors request that this Court determine whether Alliance is secured or unsecured. Under section 506(a), this determination may not be made in the context of a section 502(c) hearing as explained herein.

Further, and to the extent this Court reaches the substantive issues raised by the Debtors' Motion, the Debtors have not, and cannot, establish that the value of the MOI Vessels is less than

the Prepetition Secured Debt Obligations as argued on page 3 of the Motion. The Debtors' argument is belied by its own schedules, appraisals, the Seacor Joint Venture Agreement, the Order approving bidding procedures, and the cash collateral order (which paid its secured lender postpetition interest).

Likewise, the Debtor's argument that Alliance's claim is not secured by a maritime lien is unsupported. Alliance's claim in the amount of $7,404,467.81[1] is for the actual plug and abandonment services and equipment that were provided exclusively on, from, and with the MOI Vessels (using the vessels' cranes, equipment, and quarters to place cement into the abandoned wells). The clear mission of the MOI Vessels was to undertake the plug and abandonment work required by the Black Elk contract. Alliance's services and equipment are "necessaries" and secured by the MOI Vessels pursuant to the Commercial Instruments and Maritime Liens Act ("CIMLA"). MOI has admitted in its representatives' depositions that it had no basis to assert that Alliance did not rely on MOI and the MOI vessels for credit. Further, the Debtors' argument that only MOC is liable for the Alliance Claim is easily refuted by the agreement between Alliance, MOC **and** MOI under which MOI is clearly liable for the Alliance charges.

In addition, Alliance requests that this Court deny the Debtors' requested relief and fully allow Alliance's claim for voting purposes because the Debtors' inexplicably failed to produce documents in response to Alliance's document requests (despite requests).

[1] As set forth in its Proof of Claim, Alliance also has an unsecured claim in the amount of $3,755,019.50. Claim No. 156. No objection has been filed as to this claim. Alliance's claims have also been filed against MOC. Claim No. 157. Alliance Offshore, LLC has a claim in the amount of $3,283,662.54 which was filed against MOI and MOC (Claim Nos. 154 and 155)

AUTHORITY & ARGUMENT

A. Debtors' Motion is Procedurally Improper.

On September 22, 2017, MOI commenced Adversary Proceeding No. 17-03402 styled *Montco Offshore, Inc. v. Alliance Energy Services, LLC, et al.* by filing an Original Complaint and Objection to Claims (the "Complaint"). [Adversary Proceeding, Doc. 1][2]. The only cause of action stated in the Complaint is a request that the Court determine the validity, priority and/or extent of the defendants'[3] liens under section 506(a). Complaint, p. 10. On October 10, 2017, as ordered by the Court, the Debtors filed the Motion in the Debtors' main bankruptcy case. In its Motion, the Debtor states that "MOI seeks a declaration regarding the validity, priority and extent of the Maritime Lien Claimants' alleged liens under §506(a) of the Bankruptcy Code."

The Motion concerns the Maritime Lien Claimants' right to vote on the Plan under Bankruptcy Code section 1126(a). Only allowed claims may accept or reject a plan under section 1126(a). Under section 502(a), a claim is allowed unless a party in interest objects. If an objection is filed, the Court must determine the ***amount*** of the claim under section 502(b). Bankruptcy Code section 502(c) requires the Court to estimate for purposes of allowance:

> (1) Any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case; or
>
> (2) Any right to payment arising from a right to an equitable remedy for breach of performance.

Section 502(c) only permits estimation of claims which are contingent, unliquidated or arising from an equitable remedy. The essence of section 502(c) is that "all claims against the debtor be converted into dollar amounts." 4 Collier on Bankruptcy ¶ 502.04[1].

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[2]Alliance filed its Answer to the Complaint in the Adversary Proceeding on October 25, 2017. *See* Adversary Proceeding Doc. 19.

[3]In Addition to Alliance, the other Maritime Lien Claimants are Oceaneering International, Inc., C&G Welding, Inc. and Aqueos Corporation.

While the Complaint uses the term "Objection" in its title, the Complaint does not contain an objection to the amount of Alliance's Maritime Lien Claims. In the Motion, the Debtors state that they "do not presently dispute that each of the Maritime Lien Claimants provided the services alleged in their respective proofs of claim." Motion at ¶ 12. Indeed, Alliance's claims are represented by invoices which have never been disputed by the Debtors. The Debtors have not pled any basis to disallow Alliance's claim. Accordingly, Alliance's claim must be estimated at its full amount, $7,404,467.81, for Plan voting purposes because there is no objection to the amount of its claim under section 502.

In the Motion, the Debtor conflates sections 502 and 506 of the Code. The Debtor alleges in its Motion that the statutory predicate is section 502(c), but the Debtor "seeks a declaration regarding the validity, priority and extent of the Maritime Lien Claimants' alleged liens under §506(a) of the Bankruptcy Code." The Debtor is not entitled to raise this issue in a section 502 claim objection and section 502(c) estimation motion. The value of the Debtor's assets can only be determined in conjunction with its Plan. Section 506(a) provides:

> An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, ***and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest***.

The value of the underlying collateral must be determined "***in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest***" and should not be determined in connection with a motion to estimate (which would be highly prejudicial to other creditors who will not be present at the hearing.).

"Section 506 does not determine the allowance or disallowance of a claim, but rather governs the amount and treatment of secured claims." *In Re Shook*, 278 B.R. 815, 822-23 (9th Cir. BPA 2002). "There is universal agreement that whereas section 506 furnishes a series of useful rules for determining whether and to what extent a claim is secured (and, therefore, entitled to priority), it does not answer the materially different question of whether the claim itself should be allowed or disallowed." *Gencarelli v. UPS Capital Business Credit*, 501 F.3d 1, 5 (1st Cir. 2007) (citing 4 Lawrence P. King et al., *Collier on Bankruptcy* § 506.01, at 506-6 (15th ed. 2007)). The Debtors improperly seek relief that the Court cannot grant at an *estimation* hearing. Thus, the Alliance claim should be allowed in its full amount for voting purposes.

B. The Debtors' Evidence Establishes that the Value of the MOI Vessels Exceeds the Prepetition Secured Debt Obligations

In the Motion, the Debtors argue that the "value of the MOI Vessels is substantially less than the Prepetition Secured Debt Obligations." Motion, p. 6. Additionally, the Debtors state that "[t]he principal amount of the Debtors' consolidated secured debt obligations under the Prepetition Credit Agreement totals approximately $116.6 million (the "Prepetition Secured Debt Obligations")." Motion at ¶ 4. The Disclosure Statement, p. 9, provides that the First Lien Secured Claims shall be allowed in the principal amount of $115,838,650. The Debtors do not explain the discrepancy.

Regardless, the Debtors new position on value is surprising considering the extensive evidence that the value of the MOI Vessels significantly exceeds the Prepetition Secured Debt Obligations.[4] The Joint Venture Contribution and Formation Agreement by and between Seacor LB Holdings LLC and MOI dated August 10, 2017 (which the Debtors have refused to disseminate

[4]The First Lien Secured Claims are secured by all assets of the Debtors, including MOI's six liftboats, as well as significant non-debtor assets, the identity and value of which the Debtors have never disclosed.

to creditors) provides that "MOI Contributed Vessels Value"[5] is $163,359,700. The Debtor' schedules provided a value of $156,290,256.88 for its six vessels[6] and a value of $115,839,650.00 for the other property securing the Prepetition Secured Debt Obligations. Doc. 157, at p. 11, 32. The Debtors have never amended their schedules. *See* Doc. 157, 158. The Debtors also agreed to pay its first lien lenders post-petition interest which concedes that the lender was oversecured.

In fact, the Debtor refused to even qualify a bidder for the MOI vessels who offered less than $143,600.00.[7] **How can the Debtors allege that the MOI Vessels are now worth less than $116 million when they would not even allow a party to participate in an auction unless $143,600.00 was offered?** The Court will recall that the Debtor's original stalking horse procedures did not even allow such cash offers and that this provision was inserted at the Court's direction based upon the testimony from the Debtor's financial advisor as to an appropriate starting bid.

C. Alliance's Maritime Lien Claims Constitute Necessaries Under CIMLA.

Alliance's Maritime Lien Claims qualify as "necessaries" under CIMLA. CIMLA provides that a person providing "necessaries" to a vessel has a maritime lien on the vessel. 46 U.S.C. § 31342(a). The term "necessaries" is defined to "include[] repairs, supplies, towage, and the use of a dry dock or marine railway." *Id.* at § 31301(4). What constitutes "necessaries" is particular to the vessel, and the focus should be on "the apparent want of the vessel, not the character of the thing supplied." *Equilease Corp. v. M/V Sampson*, 793 F.2d 598, 603 (5th Cir.

[5] MOI Contributed Vessels is defined as the six liftboats owned by MOI. See p. 18.
[6] The individual values of the six liftboats are as follows: (1) Myrtle: $3,403,179.86; (2) Kayd: $7,087,581.37; (2) Paul: $13,912,442.07; (4) Caitlin: $13,818,255.08; (5) Robert: $50,093,156.02; (6) the Jill: $67,975,642.48.
[7] Order approving stalking horse bidding procedures, Exhibit 2, p. 12 (Doc. 394).

1986)[8]. "Necessaries" includes "most goods or services that are useful to the vessel, keep her out of danger, ***and enable her to perform, her particular function***." *Id*. (emphasis added).

Courts have construed the term liberally to include "what is reasonably needed ***in the ship's business***". *See Turner v. Neptune Towing & Recovery, Inc.*, 8:09-CV-1071-T-27AEP, 2011 WL 4542265, at *2 (M.D. Fla. Sept. 23, 2011) (emphasis added and citing *Board of Com'rs of Orleans Levee Dist. v. M/V Belle of Orleans*, 535 F.3d 1299, 1314 (11th Cir. 2008)). The Fifth Circuit has explained that necessaries "are the things that a prudent owner would provide to enable a ship ***to perform well the functions for which she has been engaged***." *Equilease Corp.*, 793 F.2d at 603 (emphasis added). "These 'things' can be ***money, labor, skill, and personal services as well as materials***." *Id.*

The purpose of the FMLA, and therefore its successor statute CIMLA, is to encourage private investment in the maritime industry, and courts liberally construe what constitutes "necessaries" to avoid "layering technicalities into [the Act's] interpretation" and thus defeat its purpose. *Equilease Corp*., 793 F.2d at 603. As a result, a multitude of labor, skills, services, and materials have been held to be necessaries justifying the imposition of a maritime lien. For example, the FMLA and CIMLA recognize that crew wages can be preferred maritime liens. *See U.S. v. Huakai*, 768 F. Supp. 2d 832, 840-43 (E. D. Va. 2011) (finding that company that paid crew's wages was properly subrogated to their preferred maritime lien within 46 U.S.C. § 31301); *see also Int'l Paint Co., Inc. v. M/V Mission Viking*, 637 F.2d 382, 385 (5th Cir. 1981) (catering firm's employees that lived aboard ship but were employed and paid by catering firm had a lien

[8] *Equilease Corp.* addressed maritime liens under the Federal Maritime Lien Act ("FMLA"), 46 U.S.C. § 971 *et seq.*, the predecessor statute to the CIMLA. The FMLA did not define "necessaries" and although CIMLA now "enumerates specific kinds of 'necessaries', Congress did not intend to make any substantive changes to the law." *Racal Survey U.S.A., Inc. v. M/V Count Fleet*, 231 F.3d 183, 188 (5th Cir. 2000) (citing H.R. Rep. No. 100-918 (1988)). Accordingly, case law addressing the FMLA "remains persuasive, if not controlling." *Id.*

under FMLA for crew wages that was subrogated to catering firm). Work and services performed on or for the vessel can also be a necessary. *See e.g., Turner*, 2011 WL 4542265, at *5 (upholstery work on vessel); *see also La. Int'l Marine, L.L.C. v. Drilling Rig Atlas Century*, CA C-11-186, 2012 WL 4718558, at *6-7 (S.D. Tex. Aug. 21, 2012) (memo op.) (maritime lien granted to party that merely orchestrated and coordinated the towing voyage as the vessel's agent). Additionally, work, services, and supplies that the vessel needed to complete its assigned task constitute necessaries. *See e.g., Trico Marine Operators, Inc. v. Falcon Drilling Co.*, 116 F.3d 159, 162 (5th Cir. 1997) (company that transported supplies and equipment necessary to sustain crew and operations had lien on vessel).

In *Trico Marine Operators v. Falcon Drilling Co.*, Trico Marine Operators ("Trico") contracted with Century Offshore Management ("Century") who had entered into a contract to do drilling work in the Gulf of Mexico using the Falcon Drilling Company's ("Falcon") FALRIG 18 vessel. 116 F.3d 159, 161 (5th Cir. 1997). Shortly thereafter, Century initiated chapter 11 proceedings and Falcon, the owner of the FALRIG 18, challenged Trico's maritime liens on the vessel. *Id.* In determining whether the supplies and services provided by Trico were "necessaries" the Court explained that the supplies included "drinking water and food for the crew as well as ***drilling equipment and supplies to support the drilling activities conducted by the vessel***", which had been contracted to perform drilling work. *Id.* at 162 (emphasis added). As a result, the Fifth Circuit affirmed the district court's ruling that Trico's services were "essential to sustain the crew and operations" aboard the vessel and were "necessaries" under the statute. *Id.; cf. Superior Derrick Services, LLC v. Lonestar 203*, 547 Fed. Appx. 432, 442 (5th Cir. 2013 (holding that advances for employee's living expenses, including cell phones, hotel lodgings off vessel, and plane tickets to work on the vessel did not constitute necessaries).

A maritime lien for necessaries secures creditors who provide supplies that are necessary to keep the ship going. *See Bibby Offshore Ltd. v. Emas Chiyoda Subsea, Inc.*, 2:17-CV-33, 2017 WL 3220422, at *4 (S.D. Tex. July 28, 2017) (order on motion to vacate). In *Bibby*, the United States District Court for the Southern District of Texas, Magistrate Judge Libby, found that there was "reasonable grounds for concluding that Bibby provided necessary services" to maintain "its maritime lien on certain vessels." *Id.* at *4. In its petition, Bibby claimed it provided diving personnel and engineering work "to perform the necessary installation, tie-in and subsea work that was being performed by [the Contractor] and the [vessel]" so that Bibby's "diving personnel worked in conjunction with the [vessel] such that she could perform her particular function." *Id.* at *2. The Southern District of Texas noted that "one can reasonably infer the services performed by Bibby were in fact necessaries provide to the [vessel] as Bibby alleges" such that without Bibby's "diving personnel, the [vessel] would not have been able to complete its scope of work." *Id.* at *4. As a result, the Court concluded that the Bibby's complaint alleged sufficient facts that if true, showed that Bibby did provide necessaries under CIMLA. *Id.* (finding that the Court was "not making a final decision on whether Bibby provided services which qualify as necessaries", but denying motion to vacate and ordering that the parties be given an extended period of time to conduct discovery to determine the extent of the services provided).

MOI guaranteed the full performance of MOC under the Black Contract. The Debtors entered into this contract to utilize the MOI Vessels. MOI's representative admitted that MOI guaranteed the Black Elk Contract because the Black Elk Trustee "wanted to be sure assets were available to accomplish the contract" and MOI was "guarantying the availability of the vessels to

accomplish that -- that mission yes." [9] MOI's representative admitted that the Black Elk Contract could not have been performed without the MOI Vessels.

MOC chartered the MOI Vessels to complete the plug and abandonment work required under the Black Elk Contract (the "P&A Obligations"). Alliance provided materials that were invaluable to the MOI Vessels' mission to plug and abandon wells. Alliance provided pumps, wireline units, lubricants, various other well access equipment, and the cement needed to P&A a well. Alliance also provided either a 5-man crew (12-hour shift) or a 10-man crew (24-hour shift). This crew consisted of a supervisor, a pump operator, a wireline operator, and two riggers, positions that Debtors did not have, but which were crucial to complete the task at hand. Utilizing the Vessels' crane, equipment, and dormitory, the Alliance crew and equipment performed the P&A Obligations. All of these employees worked on the MOI Vessels to "perform well the functions for which she has been engaged," S*ee Equilease Corp.*, 793 F.2d at 603; *Int'l Paint Co.*, 637 F.2d at 385. The MOI Vessels simply could not have completed the P&A Obligations without Alliance. *See e.g., Trico Marine Operators*, 116 F.3d at 162.

D. Debtors Failed to Meet their Burden to Disprove that Alliance Relied on the Credit of the MOI Vessels.

The Debtors allege that none of the Maritime Lien Creditors "relied on the credit of the MOI Vessels". Motion at ¶ 38. The Debtors' representatives each admitted that they had no basis for this allegation.[10] Alliance will establish that it definitely relied upon the credit of the MOI Vessels. MOC had few physical assets,[11] no employees,[12] and was only established in 2011.

[9] Boudreaux Depo., at p. 97:7-8; 239:9-14; "As I stated, the access and availability of marine assets to facilitate the operational accomplishment of that contract." *Id*. at 21-23.
[10] *Id*. at 238:1-19.
[11] *Id.* at 237:11.
[12] The personnel who act for MOC and MOI are employees of a nondebtor entity, Montco, Inc. Boudreaux Depo. at 243:11-15.

Alliance is owed more than $7 million and would never had extended trade credit to MOC. By contrast, MOI has existed since the 1940s and owns a fleet of valuable vessels. As MOI's representative explained, "the material assets are owned by MOI."[13] Indeed, MOI was a party to the Master Service Contract with Alliance because Alliance would never had extended trade credit to only MOC. Even MOI's representative admitted that the assets and how long a company has been around are factors that are considered in extending trade credit.[14] Of course Alliance relied upon the credit of the MOI Vessels.

Under the FMLA, a "strong presumption" arises that "one furnishing supplies to a vessel acquires a maritime lien, and ***the party attacking this presumption has the burden of establishing that the personal credit of the owner or charterer was solely relied upon***." *Equilease*, 7993 F.3d at 605 (emphasis added). To meet this burden, the party attacking the presumption must produce "evidence" that would permit the inference "that the supplier purposefully intended to forego the [maritime] lien" by "deliberately intend[ing] to look solely to the owner's personal credit" instead of the "valuable privilege afforded it by law." *Id.* at 606. Alliance is entitled to the "strong presumption" afforded under the law to those who provide supplies and other necessaries to a vessel. *Id.* at 605. Notably, Debtors have provided ***no*** evidence rebutting this strong presumption in Alliance's favor.

E. MOI Is Liable for the Alliance Claim

Although MOI's liability for the Alliance Claim is unrelated to Alliance's lien rights on the MOI Vessels, the Debtors' Motion appears to be premised upon the incorrect notion that MOI is somehow not liable for the Alliance Claim. The Debtors acknowledge the existence of the Master Service Contract by and between Montco Offshore, Inc. and Montco Oilfield Contractors,

[13] Boudreaux Depo. at 237:15-16.
[14] *Id.* at 242:21-243:10.

LLC and Alliance Energy Services LLC dated September 28, 2015 (the "MSA") but ignore its terms which render MOI liable for the Alliance claim:

(i) The term "Company" is defined as "MONTCO OFFSHORE, INC. **AND** MONTCO OILFIELD CONTRACTORS, LLC" (emphasis added).

(ii) Article I of the MSA provides "All Work performed or provided, or to be performed or provided, by Contractor for Company shall be subject to the terms and conditions set forth in this Contract and, in the event of a conflict between any provision in this Contract, on the one hand, and any field ticket, Work Order, invoice, statement or any other type of document, on the other hand, the provisions of this Contract shall govern."

(iii) Article III of the MSA provides "Company shall pay to Contractor the full amount, without retainage, of the undisputed portion of all invoices received from Contractor within forty-five (45) days after Company receives such invoices."

The MSA further provides in Article XX, 20.3, that the MSA can only be amended or modified by a written agreement signed by the parties.

The Debtors' claim that only MOC is liable for the Alliance claim appears to be premised on two contentions. First, that Alliance's invoices were sent to MOC rather than MOI. As set forth above, the MSA provides that the terms of the MSA govern with respect to any conflict between an invoice and the MSA. As explained above, Alliance will establish that it would never had extended credit to MOC if MOI had not been liable under the MSA for the charges. Second, the Debtors appear to contend that somehow a Memorandum of Understanding dated February 11, 2016 by and between Montco Oilfield Contractors, Inc. and Alliance Energy Services, LLC and Alliance Industry Holdings, LLC ("MOU") released MOI from its liability under the MSA. Quite simply, the MOU does not purport to release MOI under the MSA, in anyway, and does not amend the MSA in anyway.[15] Even MOI's representative admitted that the MOU "did not take them

[15] Boudreaux Depo. at 231:1-14.

[MOI] off the master service agreement."[16] Instead the MOU addresses Alliance's participation in the funding of a DIP loan in the Black Elk case and MOC's agreement to use Alliance as an exclusive subcontractor to do the Black Elk P&A work. Rather than support the Debtors' argument, the MOU undermines the Debtors' attempt to shield the MOI Vessels from maritime liens. The MOU provides that "[n]othing contained herein shall be deemed to preclude Montco [defined as MOC] from performing work pursuant to the Black Elk P&A with its ***own*** personnel, equipment ***and vessels***." (emphasis added). The Debtors blur corporate lines when obtaining trade credit only to resurrect those lines to avoid payment of trade credit. The Debtors' argument that MOI is not liable for the Alliance claim is directly contradicted by the clear terms of the MSA.

F. Debtors Failed to Produce Documents in Response to Alliance's Discovery Requests Prior to the Depositions of its Corporate Officers

On October 18, 2017, Alliance served its First Set of Interrogatories and Requests for Production of Documents (the "Alliance Discovery Requests"), which were substantially similar to the discovery requests of other Maritime Lien Claimants (the "Aqueos Discovery Requests") previously served on Debtors. When Alliance asked for responses and documents prior to the rescheduled depositions of Messrs. Orgeron and Boudreaux for October 30-31st, Debtors confirmed they would provide this information "as soon as we can."[17]

The Debtors provided their written responses to Alliance's Discovery Requests at 5:07 p.m. on Friday, October 27th (after the close of business on the Friday before the Monday depositions of Messrs. Orgeron and Boudreaux).[18] In their transmittal email, Debtors stated that Alliance

[16] *Id.* at 15-19.
[17] Ex. 12, Oct. 19, 2017 Email Re: Montco Bankruptcy – Alliance's Discovery Requests to Debtors. Exhibit numbers correspond to Alliance's Exhibit List [Doc. 540].
[18] Ex. 13, Oct. 27, 2017 Email Re: Montco – Debtors' Responses to Alliance's Discovery Requests.

would "receive a link to non-confidential documents in a separate email". *Id.*[19] Instead of sending documents, Debtors sent a Non-Disclosure Agreement, which Debtors required Alliance to sign "prior to any confidential information being shared."[20] Alliance promptly requested that Debtors identify what information allegedly was "confidential", and noted that the financial information identified in the NDA was not usually confidential in a bankruptcy proceeding where the Debtors' finances were absolutely in question. *Id.* at p. 2-3. Debtors responded that the information was "non-public confidential business information" without further explanation and did not send Alliance the link to the allegedly non-confidential documents until 3:13 p.m. on Saturday, October 28th.[21] Alliance's follow up request for was ignored. To date, the Debtors have failed to identify what documents are allegedly "confidential" and have failed to produce the unspecified confidential documents.

The depositions of Messrs. Orgeron and Boudreaux took place on October 30-31st and Alliance stated its objection on the record as to the Debtors' failure to produce documents. Alliance still has not been provided with an explanation as to what documents were withheld as "confidential" and why at least the non-confidential documents responsive to the Alliance Discovery Requests have not been produced.

The Debtors cannot substantively seek to take away a party's legal rights in legal proceedings before this Court and at the same time fail to respond to basic discovery requests. The Debtors' actions have prejudiced Alliance in discovery and Alliance's Maritime Lien Claims

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[19] When Alliance accessed the data room that supposedly contained the nonconfidential documents responsive to the requests, the only documents contained therein were 65 documents under a file folder titled "6. Aqueos Discovery Requests", most of which were not responsive to Alliance's Discovery Requests, even though many of Debtors' responses to Alliance's Discovery Request indicated that "Debtors have produced documents responsive to ***this*** Request." When Alliance inquired as to whether there was a separate file for documents responsive to Alliance's Discovery Requests, the Debtors refused to answer.

[20] Ex. 14, Oct. 28th Email Re: Non Disclosure Agreement, at p. 4.

[21] Ex. 19, Oct. 28th Email Re: Data room Access Granted.

should be allowed for voting purposes on this basis alone. The Court should not permit Debtors to withhold relevant information related to Alliance's Maritime Lien Claims at the same time as they are trying to disenfranchise Alliance from the Plan confirmation process by valuing its claims at $0.

PRAYER

WHEREFORE, Alliance Energy Services, LLC prays that the Court allow their claim in its full amount and deny any contrary and other relief sought by the Debtors herein.

Dated: November 3, 2017.

Respectfully submitted,

CARVER, DARDEN, KORETZKY, TESSIER FINN, BLOSSMAN & AREAUX, L.L.C.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 3, 2017, a true and correct copy of this document was filed with the Court using the CM/ECF System, which provided electronic notice to all parties in the bankruptcy case requesting such notice.

/s/ *Brandon T. Darden*
BRANDON T. DARDEN

4825-4699-5027, v. 1