

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

In re:	§	
	§	Chapter 11
	§	
Barrow Shaver Resources Company LLC, ¹	§	Case No. 24-33353
	§	
Debtor.	§	Related Doc. No: 473
	§	

**DEBTOR’S OBJECTION TO PETITIONING CREDITORS’ JOINDER IN
PROFRAC’S AND CACTUS WELLHEAD’S MOTIONS FOR ENTRY OF AN
ORDER GRANTING ADEQUATE PROTECTION AND SEPARATE MOTION
FOR ENTRY OF AN ORDER GRANTING ADEQUATE PROTECTION**

Barrow Shaver Resources Company LLC (“**BSR**” or the “**Debtor**”), debtor and debtor-in-possession in the above captioned chapter 11 case (the “**Bankruptcy Case**”), hereby files this objection (this “**Objection**”) to the *Joinder in ProFrac’s and Cactus Wellhead’s Motions for Entry of an Order Granting Adequate Protection and Separate Motion for Entry of an Order Granting Adequate Protection* [Docket No. 473]² (the “**Motion**”) filed by Axis Energy Services, LLC (“**Axis**”), DOC Energy Services, LLC (“**DOC Energy**”), Cudd Pressure Control, Inc. (“**Cudd**”),

¹ The last four digits of the Debtor’s federal tax identification number are 0510. The Debtor’s corporate headquarters is located at 977 Pruitt Place, Tyler, TX 75703. All pleadings, as well as additional information related to the administration of the above-captioned bankruptcy case, are accessible free of charge on the case website at the following link: <https://cases.ra.kroll.com/BSR/>.

² References to documents filed or entered in the above-captioned bankruptcy case will be referenced with the prefix “Docket No.” By contrast, references to documents filed or entered in the adversary proceeding captioned as *Plains Marketing, L.P. v. Barrow Shaver Resources Company LLC*, et al., Adv. No. 24-03167 (Bankr. S.D. Tex.) will be referenced with the prefix “Adv. Docket No.” Movants styled their Motion as a combined motion for adequate protection and joinder to *ProFrac Services LLC’s Motion for Entry of An Order Granting Adequate Protection* [Docket No. 425] (the “**ProFrac AP Motion**”) and to *Joinder of ProFrac’s Motion for Entry of an Order Granting Adequate Protection and Separate Motion for Entry of an Order Granting Adequate Protection* [Docket No. 467] (the “**Cactus/Princess Three AP Motion**”). Such posture is impermissible under Rule 9013 of the Federal Rules of Bankruptcy Procedure, which provides that requests for relief shall be made by written “motion”. Nonetheless, the Debtor incorporates by reference its *Objection to ProFrac Services LLC’s Motion for Entry of an Order Granting Adequate Protection* [Docket No. 475], and its *Objection to Joinder of ProFrac’s Motion for Entry of an Order Granting Adequate Protection and Separate Motion for Entry of an Order Granting Adequate Protection* [Docket No. 507] whereby the Debtor demonstrated that ProFrac AP Motion and the Cactus/Princess Three Motion should be denied.

Thru Tubing Solutions, Inc. (“**Thru Tubing**”), Genesis Fluids, LLC (“**Genesis**”), Force Pressure Control, LLC (“**Force**”), and Reliance Well Service, Inc. (“**Reliance**”) (collectively referred to as “**Movants**”). In support of this Objection, the Debtor respectfully states as follows:

PRELIMINARY STATEMENT³

1. Movants’ Motion is the final of three motions for adequate protection filed by purported statutory lienholders in the past few weeks. Like the other motions for adequate protection, this Motion also fails as a matter of law and should be denied.

2. As a threshold matter, the Motion should be denied because it directly contradicts prior rulings of this Court. By their Motion, Movants seek adequate protection for their so-called interest in, among other assets, “cash collateral” resulting from production of the Debtor’s oil and gas operations. In fact, most of their arguments improperly implicate section 363(c)(2) of the Bankruptcy Code, which is only applicable to creditors with cash collateral. But this Court has already ruled against two of the Movants on this very point. The Motion, however, ignores this Court’s prior order in an attempt to gain leverage over the Debtor.

3. For its part, the instant Motion disregards reality and glosses over important facts in asserting that the value of the Debtor’s assets have been “diminishing since the outset of bankruptcy.”⁴ The reality is that the Debtor has taken steps to improve its assets’ value post-petition such as oversight by a prudent operator through the CRO, the various workovers implemented under the direction of the CRO, and the pending resolution of several legal issues through the upcoming mediation. Moreover, Movants consented to a chapter 7 liquidation of the

³ Capitalized terms used in the Preliminary Statement but not otherwise defined have the meaning ascribed to such terms herein.

⁴ Motion, at 2.

Debtor's assets, and the Debtor's ongoing processes will result in a much higher recovery than they anticipated.⁵

4. Moreover, Movants ask for protection yet fail to acknowledge that they have damaged the estate. That is why Axis/Force's request for adequate protection must be offset by the damages it owes to the Debtor's estate, and thus, the Motion should be held in abeyance until this Court rules on the Motion for Stay Pending Appeal. If that is denied, then the Debtor will be able to prosecute the Debtor's Cross-Claim, including but not limited to the Debtor's claim against Axis/Force for its willful and intentional violation of the automatic stay. If the Debtor is successful—which is likely because Axis/Force admitted they enforced their alleged liens post-petition—it would be entitled to over a million dollars in damages. It would inefficient and inequitable to the Debtor's estate for it pay or give some other form of adequate protection to Axis/Force when these entities likely owe the estate over a million of dollars in damages.

5. The Motion must also be denied because Movants have not met their burden to demonstrate that they have interests that are entitled to adequate protection. Specifically, Movants rely entirely on their purported statutory liens and supposed *prima facie* validity of their proofs of claim for their full claim amounts without demonstrating that such claims are, in fact, secured under the Bankruptcy Code. Put simply, the Movants have offered no evidence on the value of their so-called interests. Such approach invites the Court to assume that Movants' liens are fully secured—an approach that has been rejected by the U.S. Supreme Court.

⁵ Indeed, the Debtor's most recent Monthly Operating Report [Docket No. 501] shows a 1/31/2025 ending cash balance of approximately \$9.2 million. Moreover, an additional \$2,504,506.81 is on deposit with the Court's registry pertaining to the interpleader action captioned as *Plains Marketing, L.P. v. Barrow Shaver Resources Co.*, Adv. No. 24-3167.

6. As may be detailed in a forthcoming adversary proceeding or other motion against Movants' proofs of claim and alleged statutory liens,⁶ Movants' proofs of claim **cannot** serve as *prima facie* evidence entitling them to adequate protection because the Movants have not consistently represented that their alleged liens are fully secured. They stated in the Involuntary Petition that their claims are unsecured, yet are now seeking adequate protection on the basis that they have first-priority, fully secured liens. At a hearing before this Court on February 12, 2025, counsel for Movants represented that this inconsistency was due to the Movants filing liens post-petition. This is inaccurate, as a majority of Movants' claims were filed pre-petition. In fact, **only one** of the seven Movants filed **all** of its liens post-petition. Moreover, other discrepancies are present. Reliance did not file a proof of claim for its alleged lien on Stoermer SWD Well No. 1, and DOC Energy and Force both overstated their alleged lien amounts in their filed liens. Movants' inconsistent representation of the secured status and amount of their claims invalidates the *prima facie* validity of their proofs of claim.

7. Along with the multiple adequate protection motions now filed in the Bankruptcy Case, the Motion is premature and nothing more than an improper attempt to gain leverage over the Debtor through aggressive litigation tactics—as the Movants have done since the beginning of the Bankruptcy Case, on multiple fronts. The relief sought in such motions is not supported by applicable law and thus such motions should be denied.

RELEVANT BACKGROUND

A. Bankruptcy Case.

8. On July 23, 2024 (the “**Involuntary Petition Date**”), the Movants filed an involuntary petition under chapter 7 of the Bankruptcy Code against the Debtor (the “**Involuntary**

⁶ The Debtor reserves all rights to object to Movants' proofs of claim.

Petition”) under chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the **“Bankruptcy Code”**). In the Involuntary Petition, the Movants list all of their alleged lien claims as unsecured.⁷

9. On August 19, 2024 (the **“Voluntary Petition Date”**), the Debtor consented to an order for relief by filing its voluntary petition under chapter 11 of the Bankruptcy Code. During the period between the Involuntary Petition Date and the Voluntary Petition Date (the **“Gap Period”**), the Debtor operated its business in the ordinary course of business pursuant to section 303(f) of the Bankruptcy Code. During the Gap Period, James A. Katchadurian was appointed as Chief Restructuring Officer (the **“CRO”**) of the Debtor.

10. The Debtor continues to manage and operate its business as debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. On August 30, 2024, the United States Trustee filed the *United States Trustee’s Notice of Appointment of Committee of Unsecured Creditors* appointing the members of the Official Committee of Unsecured Creditors.⁸

11. The Debtor is an independent oil and natural gas company focused on the exploration, development, production, and acquisition of crude oil and natural gas from properties in Southeast Texas, East Texas, and West Texas. Additional information on the Debtor, its business, and events leading up to the Bankruptcy Case can be found in the *Declaration of James A. Katchadurian in Support of Chapter 11 Petition and First Day Pleadings* [Docket No. 63] (the **“First Day Declaration”**), which is incorporated herein by reference.⁹

⁷ See Docket No. 1, at 3, 5; Stay Pending Appeal Tr. at 11:14–13:12 (Feb. 12, 2025).

⁸ Docket No. 124.

⁹ Capitalized terms used herein but not otherwise defined have the meaning ascribed to such terms in the First Day Declaration.

B. Maintenance and Marketing of the Debtor's Assets.

12. Operating the Hidden Rock Lease requires significant coordination and maintenance to ensure its wells remain online and producing. Through the Debtor's efforts, all of the wells Movants allege liens on are currently online.¹⁰

13. Further, the Debtor has implemented several gas lifts, acid jobs, and other efficient yet inexpensive workovers to not only maintain production of the Debtor's oil and gas assets, but increase it. Pertinent to the Motion, the Debtor has completed the following workovers:

<u>Well</u>	<u>Job</u>	<u>Movant(s)</u>
Grubbs #1	Replacement Of Downhole Pump	Axis
Thornton #1	Rod & Tubing	Force
Hays Glover AW 1H	Perforate, Acidize Well to Bring Online and Save Lease(s)	DOC Energy Genesis
Lantz 1V	Acidize Upper CV Lime	Axis DOC Energy Reliance
Templeton #1	Install Rural Power / Install Artificial Lift	DOC Energy Reliance
Mitchell #1	Install Rural Power / Install Artificial Lift	Axis Force
Forest Well No. 1	Install Rural Power / Install Artificial Lift	Axis Force
Johnson Well No. 1	Install Rural Power / Install Artificial Lift	Axis DOC Energy Reliance
Manning-Kessler	Pumping Unit Installation	Axis Thru Tubing Force
Templeton Bridge	Replace Defective Gas Lift Valves	Axis Force

¹⁰ For clarification, one well Reliance alleges a lien on (but failed to file a proof of claim for), Stoermer SWD Well No. 1, is a disposal well that is not yet completed.

<u>Well</u>	<u>Job</u>	<u>Movant(s)</u>
Hill #1	Workover / Run Slickline / BHP Surveys	DOC Energy Reliance
Wilmeth Wren	Diagnostics	Force
Emma Well No. 1	Workover / Repair Jet Pump Artificial Lift	Axis Force DOC Energy Reliance Genesis
Hays Campbell #1	Location, Road, Lease Maintenance Operations	Force
Moore #1	Workover / Swab + Restore Production	Reliance DOC Energy

14. As the Debtor recently reported at the January 13, 2025 hearing, February 10, 2025 status conference, and the February 20, 2025 status conference the Debtor has focused its efforts, over the last several weeks, on laying the groundwork for a robust sale process and mediation.¹¹

C. The Debtor's Defense of the NETX Litigation Is Maintaining the Value of the Property of its Estate.

15. On August 9, 2024, NETX Acquisitions, LLC ("**NETX**") filed a motion for relief from the automatic stay to pursue an appeal in relation to pre-petition litigation it instituted against the Debtor.¹² On December 30, 2024, NETX and ETX Minerals, LLC ("**ETX**") and collectively with any affiliates of NETX and/or ETX being the "**NETX Parties**") filed another motion for relief from the automatic stay to litigate the remainder of its pre-petition litigation.¹³

¹¹ See also Barrow Shaver Resources Company LLC's *Reply in Support of its Motion for Entry of an Order Extending its Exclusivity Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof* [Docket No. 408].

¹² See Docket No. 30.

¹³ See Docket No. 391.

16. The Debtor is actively defending the NETX Parties' lift-stay motions and continues to strategize how to approach the seven (7) pre-petition state court lawsuits initiated by the NETX Parties in the 5th Judicial District Court in Cass County, Texas against the Debtor alleging that various oil and gas leases of the Debtor extinguished pre-petition (the "**NETX Litigation**"). The Debtor has retained Santoyo Wehmeyer P.C., the Debtor's prepetition counsel in the NETX Litigation, to capitalize on the institutional knowledge and progress made prepetition and to streamline the resolution of these state court lawsuits.

17. Movants allege liens on wells related to the NETX Litigation as follows:

Well Movant(s) Alleges Lien On	Movant(s)	Related NETX Litigation
McFarlane-Alford	Axis Cudd Force	Cause No. 23C149 (McFarlane-Alford)
Templeton-Bridge	Axis Force	Cause No. 22C472 (Templeton-Bridge)
Templeton-Goodson	Axis Force	Cause No. 22C472 (Templeton-Bridge)
Ayers-Keasler	Axis	Cause No. 23C181 (Ayers-Keasler) Cause No. 22C472 (Templeton-Bridge)
Goode-McMahan	Axis Force	Cause No. 23C105 (Goode-McMahan)
Hill-Knowles	Axis	Cause No. 23C106 (Rhyne)
Manning-Kessler	Axis Force	Cause No. 22C326 (Manning-Kessler)
Hays-Glover	DOC Energy Genesis	Cause No. 23C421 (Hays-Glover)
Hill Well No. 1	DOC Energy Reliance	Cause No. 23C106 (Rhyne)
Hays-Campbell	Force	Cause No. 22C326 (Manning-Kessler)
Ayers-Humphrey	Genesis Force	Cause No. 22C472 (Templeton-Bridge)

D. Movants' Proofs of Claim and the Motion.

18. Axis' proofs of claim are numbered 468, 472, 474, 479, 485, 525, 542, 552, 553, 554, 555, 556, 557, 559, 560, 561, 562, 563, 744, 818, and 858.¹⁴ Axis's proofs of claim were signed by Christine Stroud, its general counsel.

19. Axis alleges it provided materials or services for the Debtor on the following wells:

McFarlane-Alford (AW) 1H
Templeton-Bridge (AW) Well No. 1H
Templeton-Goodson (AW) No. 1H
Allen Well No. 1
Emma No. 1
Goode-McMahan No. 1H
Ayers-Keasler (AW) No. 1H Well
Bray No. 1 Well
Diamond No. 1 Well
Grubbs No. 1 Well
Hill-Knowles (AW)
Jenkins No. 1 Well
Lantz No. 1 Well
Manning-Kessler (AW) No. 1H Well
Manning-Foster AW 1
Mitchell No. 1 Well
Paige No. 1 Well
Sturdivant No. 1 Well
Johnson Well No. 1
Forest Well No. 1

20. Axis alleges filing one lien post-petition on December 10, 2024, for \$11,239.33.¹⁵

21. DOC Energy's proofs of claim are numbered 717, 718, 719, 720, 726, 742,¹⁶ 752, and 747. Bobby Gill, its chief financial officer, signed DOC Energy's proofs of claim.

¹⁴ At proof of claim number 858, Axis amended proof of claim number 744 regarding its alleged lien on the Emma No. 1 well.

¹⁵ Motion, at 6.

¹⁶ The Motion incorrectly asserts that DOC Energy filed proof of claim no. 724, which was actually filed by Force.

22. DOC Energy alleges it provided materials or services for the Debtor on the following wells:

Diamond Well No. 1
Emma No. 1
Hays-Glover (AW)
Hill Well No. 1
Johnson Well No. 1
Lantz Well No. 1
Moore Well No. 1
Templeton Well No. 1

23. When comparing the amounts contained in proofs of claim with their filed liens, the filed liens appear to be overstated due to duplication. DOC Energy alleges filing one lien post-petition on August 22, 2024, for \$93,765.89.¹⁷

24. Cudd's proof of claim is numbered 644. Cudd's proof of claim was signed by Alesha Pascual, its manager in credit and collections. Cudd alleges it provided materials or services for the Debtor on the McFarlane-Alford (AW) 1H. Cudd does not allege filing any liens post-petition.

25. Thru Tubing's proofs of claim are numbered 584, 585, and 645. Thru Tubing's proofs of claim were also signed by Alesha Pascual, who also serves as its manager in credit and collections.

26. Thru Tubing alleges it provided materials or services for the Debtor on the following wells:

Manning Kessler (AW) 1H Well
Ayers Humphrey (AW) 1H Well
Manning Foster (AW) 1H Well

¹⁷ *Id.* at 7.

27. Thru Tubing does not allege filing any liens post-petition.¹⁸

28. Genesis' proofs of claim are numbered 709, 731, 758, and 764. Genesis' proofs of claim were signed by Wesley Mahone, its vice president.

29. Genesis alleges it provided materials or services for the Debtor on the following wells:

Hays-Glover (AW) Well No. 1H
Emma Well No. 1
Manning Foster (AW) 1H Well
Ayers-Humphrey (AW) Well No. 1H

30. Genesis does not allege it filed liens post-petition.¹⁹

31. Force's proofs of claim are numbered 713, 721, 722, 724, 725, 727, 732, 745, 746, 748, 749, 750, 751, 753, 754, 755, 757, and 761. Force's proofs of claim were signed by Jeff Achilles, its chief financial officer.

32. Force alleges it provided materials or services for the Debtor on the following wells:

Wilmeth-Wren (AW) Well No. 1H
Manning-Foster (AW) Well No. 1H
Emma No. 1
Ayers-Humphrey (AW) Well No. 1H
Templeton-Goodson (AW) Well No. 1
Goode-McMahan No. 1H
Hays-Campbell (AW) Well No. 1H
Winne Well No. 1
Thornton Well No. 1
Templeton-Bridge (AW) Well No, 1H
Paige Well No. 1
Mitchell Well No. 1
McFarlane-Alford (AW) Well No. 1
Manning-Kessler (AW) No. 1H Well
Forest Well No. 1
Diamond No. 1 Well

¹⁸ *Id.* at 8.

¹⁹ *Id.* at 9.

Ayers-Keasler Well No. 1H
Allen Well No. 1

33. When comparing the amounts contained in proofs of claim with their filed liens, the filed liens appear to be overstated due to duplication. Force alleges it filed eight liens post-petition.²⁰

34. Reliance's related proofs of claim are numbered 639, 642, 662, 663, 668, and 672.²¹ Reliance's proofs of claim were signed by Chris Story, its Vice President.

35. Reliance alleges it provided materials or services for the Debtor on the following wells:

Emma No. 1
Templeton Well No. 1
Moore Well No. 1
Johnson Well No. 1
Lantz Well No. 1
Hill Well No. 1
Stoermer SWD Well No. 1 ²²

36. Reliance alleges it filed all of its liens post-petition.²³

37. Movants' proofs of claim also allege they are fully secured yet leave the amount of the property they assert claims on blank—as they must—because the sale of substantially all of the Debtor's assets has not closed.

²⁰ *Id.* at 10–12.

²¹ Movants incorrectly asserts it filed proof of claim 658. 658 is a proof of claim filed by Fesco, Ltd.

²² Despite alleging a lien based on providing services or materials for this well, a corresponding proof of claim was not filed.

²³ *Id.* at 12–13.

38. Through their proofs of claim and the Motion, Movants generally assert that their alleged liens attach to the property outlined in Chapter 56.003 of the Texas Property Code and production proceeds.²⁴ They also request attorney’s fees, costs, and expenses.²⁵

39. On February 7, 2025, Movants filed the Motion, asserting that the alleged liens entitle them to adequate protection based on the proofs of claims and their lien affidavits alone without any other additional evidence.

E. Interpleader and Axis/Force’s Violation of the Automatic Stay.

40. After the filing of the Involuntary Petition, Axis/Force’s counsel contacted Plains Marketing, L.P. (“**Plains**”), the Debtor’s first purchaser of its oil and gas, asserting that Plains would be at risk for potential liability if it remitted \$2,506,506.81 to the Debtor.²⁶ On August 17, 2024, Plains filed an adversary proceeding against the Debtor and Axis/Force, asserting a complaint for interpleader and seeking to interplead the \$2,506,506.81.²⁷ This was Axis/Force’s attempt to prevent payment to the Debtor after filing an Involuntary Petition against the Debtor.

41. On September 3, 2024, the Bankruptcy Court entered a *Stipulation and Agreed Order*,²⁸ pursuant to which Plains was awarded \$2,000 in fees for filing the Complaint and

²⁴ See *id.* at 17.

²⁵ See addendum to Movants’ proofs of claim.

²⁶ Axis/Force admit they contacted Plains after the Involuntary Petition, but dispute that this was a stay violation. See *Axis Energy Services, LLC and Force Pressure Control, LLC’s Original Answers to the Adversary Complaint for Intervenor Filed by Plains Marketing, L.P.* [Adv. Docket No. 27] (the “**Answer**”). The Answer Provides “[Axis/Force] admit to the averments in paragraph 10 of the [Interpleader] Complaint.” Paragraph 10 of the Interpleader Complaint provides, “Post-petition, Force and Axis, through their counsel, notified PLAINS of their continuing interest in the Withheld Funds and reiterated Plains potential liability if it paid the funds.” [Adv. Docket No. 1, ¶ 10].

²⁷ Adv. Docket No. 1.

²⁸ Adv. Docket No. 19.

depositing the remaining sum of \$2,504,506.81 (“**Withheld Funds**”) into the registry of the Bankruptcy Court.

42. On September 6, 2024, the Debtor filed its Answer and Affirmative Defenses to Complaint for Interpleader and Cross-Claim (“**Debtor’s Cross-Claim**”). The Debtor’s Cross-Claim asserted claims against Axis/Force under Sections 542 and 543 of the Bankruptcy Code on the grounds that Axis/Force have no interest in the Withheld Funds and that the Withheld Funds should be turned over to the Debtor. The Debtor’s Cross-Claim also asserted a claim against Axis/Force for willful and intentional violation of the automatic stay of Section 362 of the Bankruptcy Code on the grounds that Axis/Force contacted Plains to prevent payment to the Debtor, notwithstanding their awareness of the Involuntary Petition.

43. Axis/Force filed their *Original Answers to the Cross-Claim Filed by Barrow Shaver Resources Company, LLC*²⁹ in which they asserted they were entitled to the Withheld Funds as lienholders under Chapters 56 and 67 of the Texas Property Code.³⁰ The Bankruptcy Court held a status conference in the Adversary Proceeding on October 21, 2024. At the status conference, the Bankruptcy Court directed the parties to file cross-motions for summary judgment on the narrow issue of whether a Chapter 56 lien holder has a Chapter 67 interest under the Texas Property Code. The Bankruptcy Court directed that the parties to assume that Axis/Force had a Chapter 56 lien, solely for the purposes of the cross-motions.

44. On December 31, 2024, this Court issued its *Order Granting Debtor’s Cross-Motion for Partial Summary Judgment and Denying Axis and Force’s Motion for Summary*

²⁹ Adv. Docket No. 28.

³⁰ For convenience, Chapters 56 and 67 of the Texas Property Code are referred to simply as “Chapter 56” and “Chapter 67.”

Judgment (“**Order**”), which addressed a single issue: “Does a Chapter 56 mineral lien claimant qualify as an interest owner under the recently enacted Chapter 67?”³¹ This Court concluded that “Chapter 56 lien claimants are not interest owners entitled to the protections of Chapter 67 under the facts presented here” and also determined that Chapter 56 does not allow a lien on production proceeds.³² Axis/Force have appealed the Order and also filed *Axis Energy Services, LLC and Force Pressure Control, LLC’s Motion for Stay Pending Appeal*³³ (the “**Motion for Stay Pending Appeal**”). On February 12, 2025, this Court held a hearing on the Motion for Stay Pending Appeal, which is currently under this Court’s advisement. If the Motion for Stay Pending Appeal is denied, the Debtor may move forward with Debtor’s Cross-Claim, including but not limited to the Debtor’s claim against Axis/Force for its willful and intentional violation of the automatic stay. If the Debtor is successful, it would be entitled to over a million dollars in damages.³⁴

ARGUMENT AND AUTHORITIES

A. **The Motion Should Be Denied Because it Contradicts this Court’s Ruling and Does Not Offset Axis/Force’s Damages to the Estate.**

45. The successive—and, upon information and belief, coordinated—motions for adequate protection raise several concerns.³⁵ While the prior attempts to dismember the Debtor’s estate fail as a matter of law,³⁶ the latest Motion takes this coordinated pressure campaign against

³¹ Order, p. 4.

³² *Id.*, at 8, 15.

³³ Adv. Docket No. 62.

³⁴ This is based on a current estimate, and the Debtor reserves all rights regarding assertion of damages in prosecution of the Debtor’s Cross-Claim.

³⁵ See *In re Ira Haupt & Co.*, 361 F.2d 164, 168 (2d Cir. 1966) (Friendly, J.) (“The conduct of bankruptcy proceedings not only should be right but must seem right.”).

³⁶ See *Debtor’s Objection to ProFrac Services LLC’s Motion for Entry of an Order Granting Adequate Protection* [Docket No. 475] and *Debtor’s Objection to Cactus Wellhead, LLC and Princess Three Operating LLC’s Joinder of*

the Debtor one step further and, in doing so, has run afoul of this Court’s prior ruling directly implicating two of the Movants.

46. By their Motion, Movants seek an Order from this Court compelling the Debtor to adequately protect the Movants’ interests in property that, per the Motion, include “proceeds generated from production from the Debtor’s operations.”³⁷ However, this Court—in an adversary involving Axis and Force³⁸—has already held that (i) statutory liens provided by Chapter 56 of the Texas Property Code do not encumber production proceeds and (ii) neither do liens provided by Chapter 67 apply to Chapter 56 lienholders³⁹ because such arguments are inconsistent with Texas law and the plain language of Chapters 56 and 67.⁴⁰

47. While perhaps the other creditors seeking adequate protection can plead ignorance as to this Court’s ruling on production proceeds, Movants cannot. This means that they wasted the Debtor’s precious resources fully knowing that the basis of their argument is inconsistent with Texas law, and such argument has already been rejected by this Court.⁴¹ This is yet another tactic

ProFrac’s Motion for Entry of an Order Granting Adequate Protection and Separate Motion for Entry of an Order Granting Adequate Protection [Docket No. 507]. These successive (and misguided) attempts fail as a matter of law.

³⁷ Motion at 17, ¶ 38 (last sentence; citing *Abella v. Knight Tools*, 945 S.W.2d 847 (Tex. App.—Houston [1st Dist.] 1997, no writ).

³⁸ *Plains Marketing, L.P. v. Barrow Shaver Resources Company LLC*, et al., Adv. No. 24-03167 (Bankr. S.D. Tex.).

³⁹ See Order at 8, 15.

⁴⁰ Debtor acknowledges that Axis/Force have asked for leave to appeal the Order (notice of appeal filed at Docket No. 61). Yet, that relief has not been granted, and regardless, this Court’s ruling is consistent with Texas law and relies on the **plain statutory text**. See *id.* at 8 (“The **text** of Texas Property Code §56.003 which describes the property subject to a lien does not subject oil and gas proceeds to liens.”) (emphasis added); *In re Hess*, 61 B.R. 977, 978 (Bankr. N.D. Tex. 1986) (“It is settled under Texas law that the holder of a lien on the real estate (including the Minerals) does not have a lien on the Production because it is personal property”) (internal citations omitted); *Wilkins v. Fecht*, 356 S.W.2d 855, 855 (Tex. Civ. App.—San Antonio 1962, writ ref’d) (“The proceeds of the sales of oil produced from a well are not included in the statute and are therefore not reached.”).

⁴¹ Cf. *Comer v. Murphy Oil USA*, 713 F.3d 460, 466 (5th Cir. 2013) (recognizing that, as to final judgments, “a case pending appeal is res judicata and entitled to full faith and credit unless and until reversed on appeal.”); *Fidelity Standard Life Ins. Co. v. First Nat’l Bank & Trust Co.*, 510 F.2d 272, 273 (5th Cir. 1975) (same). Axis, Force, and the Debtor agree that such Order is not a final judgment. See *Axis Energy Services, LLC and Force Pressure Control*,

by Movants to gain an unfair advantage in the Bankruptcy Case to the detriment of other creditors and the Debtor's estate.

48. The Motion further fails to acknowledge that Axis/Force have damaged the Debtor's estate through their stay violations. The Court has taken under its advisement the Motion for Stay Pending Appeal. If that is denied, then the Debtor will be able to prosecute the Debtor's Cross-Claim, including but not limited to the Debtor's claim against Axis/Force for its willful and intentional violation of the automatic stay for its enforcement of its purported liens during the Gap Period. If the Debtor is successful—which is likely because Axis/Force admitted they enforce their alleged liens post-petition—it would be entitled to over a million dollars in damages.

49. Axis/Force's request for adequate protection must be offset by the damages they owe to the Debtor's estate. It would inefficient and inequitable to the Debtor's estate for it pay or give some other form of adequate protection to Axis/Force when these entities likely owe the estate over a million of dollars in damages.

50. Therefore, the Motion, at minimum, should be held in abeyance as to Axis/Force until the Court rules on the Motion for Stay Pending Appeal. If the Motion for Stay Pending Appeal is denied, the Motion should be further held in abeyance until the resolution of the Debtor's Cross-Claim.

LLC Motion for Leave to Appeal Interlocutory Order [Docket No. 60]; *Barrow Shaver Resources Company LLC's Response in Opposition to Axis Energy Services, LLC's and Force Pressure Control, LLC's Motion for Leave to Appeal Interlocutory Order*, Case No. 4:25-cv-00206 [Docket No. 3] (S.D. Tex. 1/27/2025). Even still, the Court has yet to rule on the Motion for Stay Pending Appeal as of the filing of the instant Motion, and the Court's Order should not be so easily disregarded by the Movants.

B. Movants’ Motion Is Legally Deficient and Must be Denied.

i. The Motion Fails to Demonstrate the Extent of Movants’ “Interest” and, Thus, Fails to Satisfy Movants’ Burden Under Section 363(p)(2).

51. Section 363(e) of the Bankruptcy Code provides that—“on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased”—the Bankruptcy Court must prohibit or condition such use, sale or lease of property as is necessary to provide “adequate protection of such interest.”⁴² Section 361 of the Bankruptcy Code, likewise, provides a non-exhaustive list of adequate protection.

52. The U.S. Supreme Court, in *Timbers of Inwood Forest Associates*, resolved a prior circuit split concerning what “interest” must be adequately protected under the Bankruptcy Code.⁴³ Specifically, the Court held that an undersecured creditor is not entitled to interest on its collateral during the pendency of a bankruptcy case.⁴⁴ By doing so, the Court rejected a prior view that the term “interest” as used in section 363(e) and other related provisions included a “secured party’s right (suspended by the bankruptcy stay) to take immediate possession” of the collateral.⁴⁵ As noted by one leading treatise, the Supreme Court, in *Timbers of Inwood Forest Associates*, establishes that “protection for the entire bundle of rights of the entity is not required.”⁴⁶ Indeed, the interest that must be protected is simply the present **value** of the secured claim.⁴⁷

⁴² Bankruptcy Code § 363(e) (emphasis added).

⁴³ 484 U.S. at 368.

⁴⁴ *Id.* at 382.

⁴⁵ *Id.* at 370–71; see 3 Collier on Bankruptcy P 361.02 (16th 2024) (describing circuit split resolved by *Timbers of Inwood Forest Assocs.*).

⁴⁶ 3 Collier on Bankruptcy P 361.02 (16th 2024).

⁴⁷ See *Timbers of Inwood Forest Assocs.*, 484 U.S. at 381 (holding that an undersecured creditor is not entitled to interest as compensation for the creditor’s ability to foreclose on the collateral); *Bank of N.Y. Trust Co. NA v. Pac Lumber Co. (In re Scopac)*, 624 F.3d 274, 282 (5th Cir. 2010) (Jones, C.J.) (“ ... the debtor receives ‘breathing room’ to reorganize, while the present value of a creditor’s interests is protected throughout the reorganization.”); see also

53. While it is the Debtor’s burden to prove that an interest is adequately protected, the Bankruptcy Code makes clear that Movants must demonstrate the validity, priority, and the extent of their alleged interests.⁴⁸ Section 506(a)(1) of the Bankruptcy Code, moreover, makes clear that Movants’ claims, to the extent allowed, are secured only “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[.]”⁴⁹ By extension, a claim is unsecured “to the extent that the value of such creditor’s interest or the amount so such to setoff is less than the amount of such allowed claim.”⁵⁰

54. Following the ProFrac AP Motion’s and the Cactus/Princess Three AP Motion’s lead, Movants also fatally misstep in seeking adequate protection for their entire “claim” without making any showing whether such claim is secured or unsecured under the Bankruptcy Code. Said differently, Movants assume that their “interests” (that must be adequately protected) are their liens.

55. Even more, the Motion ignores that Section 363(p)(2) of the Bankruptcy Code provides that Movants as the parties “asserting an interest in property” have the burden of proof

3 Collier on Bankruptcy P 361.02 (“In effect, protection is required only for the value of an entity’s interest in the property.”). As further discussed below, Courts have determined that a creditor is only entitled to adequate protection prospectively from the time such protection is sought. *See infra*, n.35–39.

⁴⁸ Bankruptcy Code 363(p)(2); *see In re Royal Alice Props., LLC*, 637 B.R. 465, 478 (Bankr. E.D. La. 2021); *Wilmington Trust Co. v. AMR Corp. (In re AMR Corp.)*, 490 B.R. 470, 477 (S.D.N.Y. 2013).

⁴⁹ 11 U.S.C. § 506(a)(1).

⁵⁰ 11 U.S.C. § 506(a)(1). What is more, courts balance the needs of a debtor seeking to reorganize with the requested adequate protection. *See In re Timbers of Inwood Forest Associates, Ltd.*, 808 F.2d 363, 373 (5th Cir. 1987) (“The creditor-protection provisions of the Bankruptcy Code . . . can be made meaningful only by bankruptcy judges who are equally sensitive to the need for creditor protection as to the need for protecting the debtor’s right to reorganize.”); *see also In re Briggs Transp. Co.*, 780 F.2d 1339, 1342 (8th Cir. 1985) (collecting cases); *Marathon Petroleum Co., LLC v. Cohen (In re Delco Oil, Inc.)*, 599 F.3d 1255, 1258 (11th Cir. 2010). In a constitutional sense, a “temporary suspension of lien enforcement breaches no essential property interest of the creditor and is not an unlawful taking under the Fifth Amendment.” *Briggs*, 780 F.2d at 1342.

“on the issue of the validity, priority, or extent of such interest.” The Motion fails to make any showing regarding the value of Movants’ purported collateral. While it is the Debtor’s burden to prove that an interest is adequately protected, such inquiry cannot even begin until Movants sufficiently demonstrate that they do in fact have an “interest” (i.e., a secured claim) as opposed to a general unsecured claim. Without such predicate showing that Movants’ liens are “in the money” secured claims, the “interest” that Movants seek the Debtor to adequately protect is simply Movants’ right—absent the bankruptcy case—to foreclose on their statutory liens under state law. Such approach was rejected by the Supreme Court in *Timbers of Inwood Forest Associates*.

56. As discussed above, while the Motion focuses on the alleged amount of Movants’ asserted claims,⁵¹ Movants makes no showing regarding the extent to which Movants’ claims, if allowed, are secured. Instead, Movants’ proofs of claim have the property value of the collateral supporting their alleged secured claims completely blank.⁵² They also assert a first-priority claim without providing any evidence in the Motion or its proofs of claim.⁵³

57. Despite asserting a first-priority interest, they also assert that “[t]he relative priority of the liens need not be decided by the Court at this point as all secured claims must be protected.”⁵⁴ This is wholly inaccurate. To the extent a lien is not first-priority, there is a chance that higher priority claims assume the entire value of the collateral, resulting in lower priority claims becoming

⁵¹ The Debtor disputes the amount of Movants’ claim.

⁵² See, e.g., *Ill. Dep’t of Revenue v. Hanmi Bank*, 895 F.3d 465, 472 (7th Cir. 2018) (denying adequate protection when requesting creditor provided no valuation evidence of its interest).

⁵³ See Motion, at 16–17.

⁵⁴ *Id.* at 16.

unsecured or at minimum, undersecured. Unsecured claims are not entitled to adequate protection.⁵⁵

58. Further, to describe their alleged collateral they merely cite Chapter 56 of the Texas Property Code.⁵⁶ Movants also incorrectly assert that their alleged Chapter 56 liens entitle them to a lien on production proceeds,⁵⁷ and as this Court has found, that is inconsistent with Texas law.⁵⁸ Last, despite the assertions contained in their proofs of claim and the Motion, under no circumstances are Movants entitled to recover their attorney's fees as part of their claims.⁵⁹

59. Indeed, courts generally resolve adequate protection disputes by comparing the value of the "interest" in the Debtor's property to the purported diminution that has allegedly occurred. For this reason, the Court cannot rule on the purported need for adequate protection until the party asserting such interest sufficiently establishes the validity, priority, and extent of such interest.

⁵⁵ "It is simply not possible to apply the adequate protection payments to the unsecured portion of the indebtedness as that would be an unauthorized transfer under 11 U.S.C. § 549 and in violation of the prohibition against paying unsecured creditors in a reorganization other than through a Plan." *See In re Spacek*, 112 B.R. 162, 165 (Bankr. W.D. Tex. 1990).

⁵⁶ *See id.* at 16–17, ¶ 38.

⁵⁷ *See id.*

⁵⁸ *See supra*, n.40.

⁵⁹ A court **may** deem it equitable and just to award fees to the prevailing party, non-prevailing party, or not award fees at all for a Chapter 56 mineral lien claim. Under Texas Property Code Section 56.041(a), "a claimant must enforce the lien within the same time and in the same manner as a mechanic's, contractor's, or materialman's lien under Chapter 53." Section 53.156 of the Code states that "in any proceeding to foreclose a lien . . . or in any proceeding to declare that any lien or claim is invalid or unenforceable in whole or in part, the court shall award costs and reasonable attorney's fees as are equitable and just." Note, the phrase "as are equitable and just" is also used in Texas Civil Practice and Remedies Code Section 37.009 in declaratory judgment actions, where the court has discretion to award fees if it deems it just. *See Casto Lopez Concrete v. Sage Commer. Grp.*, No. 14-20-00734-CV, 2022 Tex. App. LEXIS 3717, at *9 (Tex. App.—Houston [14th Dist.] June 2, 2022, no pet.) (noting that section 53.156 of the Property Code "by its terms makes the award of attorney's fees discretionary and not automatic, even to a prevailing party . . . [the Code] requires a court to award costs and attorney's fees in an action to foreclose a lien as it deems "equitable and just.") (quotation omitted and emphasis supplied). Likewise, the Texas Supreme Court has held that awarding fees in an equitable and just way is a matter squarely within the trial court's **discretion**. *Bocquet v. Herring*, 972 S.W.2d 19, 21 (Tex. 1998).

60. Movants' Motion, thus, must be denied because it fails to satisfy the minimum threshold requirements of a request for adequate protection as provided by the Supreme Court's standard in *Timbers of Inwood Forest Associates*. The Motion fails to satisfy demonstrate the extent of the Movants' interests and Movants, thus, have failed to satisfy their burden under Section 363(p)(2) of the Bankruptcy Code.

ii. *Movants' Reliance on Their Proofs of Claim Is Procedurally Improper and Their Proofs of Claim Lack Prima Facie Validity.*

61. Through the Motion, Movants are attempting to elevate their claims absent a determination that they have any legal or equitable interest justifying such superior treatment by asserting that the *prima facie* validity of their proofs of claim entitles them to adequate protection.⁶⁰ This is procedurally improper, and such relief must instead be sought through the claims process or an adversary proceeding seeking a declaratory judgment regarding the validity or extent of an interest in property or an equitable interest in property, if any.⁶¹

62. An action that is improperly brought in the form of a contested matter when it should be brought by adversary proceeding should be dismissed.⁶² Accordingly, the Motion should be denied.

⁶⁰ Motion, at 16, ¶ 37.

⁶¹ FED. R. BANKR. P. 7001; see *Matter of Haber Oil Co., Inc.*, 12 F.3d 426, 437 (5th Cir. 1994) (“[I]f Swinehart’s claim against the Haber Oil estate was one seeking an equitable interest in property, such as a constructive trust, rather than a general unsecured claim, it was incumbent on him to file an adversary proceeding in the bankruptcy court.”); *In re Dow Corning Corp.*, 192 B.R. 428 (Bankr. E.D. Mich. 1996) (explaining that a motion to lift the automatic stay was the improper procedural mechanism by which to seek an order compelling the debtor to pay over money or to establish rights in property.).

⁶² See *Matter of Zale Corp.*, 62 F.3d 746, 762–63 (5th Cir. 1995) (overturning a bankruptcy court’s decision to grant injunctive relief by motion rather than requiring the proceeding to be conducted as an adversary proceeding); *Matter of Perkins*, 902 F.2d 1254, 1258 (7th Cir. 1990) (“A turnover proceeding commenced by motion rather than by complaint will be dismissed, and a turnover order entered in an action commenced by motion will be vacated.” (internal citations omitted)); *Matter of Vill. Mobile Homes, Inc.*, 947 F.2d 1282, 1283 (5th Cir. 1991) (“First Gibraltar’s claim for conversion damages is an adversary proceeding . . . to recover money or property . . . As such, the claim

63. Likewise, Movants’ proofs of claim cannot satisfy Movants’ burden under section 363(p). Section 502(a) of the Bankruptcy Code provides, in pertinent part, that “[a] claim or interest, proof of which is filed under section 501 of [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects.” Bankruptcy Rule 3001(f), further, provides that a properly executed and filed proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under § 502(a). However, *prima facie* validity under Bankruptcy Rule 3001(f) “can be overcome by rebuttal evidence”⁶³ “Upon production of this rebuttal evidence, the burden shifts to the claimant to prove its claim by a preponderance of the evidence.”⁶⁴ Despite the shifting burden during the claim objection process, “the ultimate burden of proof always lies with the claimant.”⁶⁵

64. Movants’ proofs of claim lack *prima facie* validity. First, the Movants have not consistently represented that their alleged liens are fully secured. Despite Movants’ alleging through the Motion and their proofs of claims that their alleged liens are fully secured, they stated in the Involuntary Petition that their claims are unsecured. At a hearing before this Court on February 12, 2025, counsel for Movants represented to the Court that this discrepancy was due to the Movants filing liens post-petition.⁶⁶ He explained that the liens were listed as unsecured on the Involuntary Petition because Movants’ liens had yet to be filed, and were filed post-petition.⁶⁷ This

required the filing of a complaint . . . In this setting, we must vacate that portion of the judgment awarding conversion damages.” (internal citations and quotations omitted)).

⁶³ *In re Fidelity Holding Co., Ltd.*, 837 F.2d 696, 698 (5th Cir. 1988).

⁶⁴ *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *In re Fidelity Holding*, 837 F.2d at 698).

⁶⁵ *Id.* (citing *Raleigh v. Ill. Dep’t of Revenue*, 530 U.S. 15 (2000)).

⁶⁶ See Docket No. 1, at 3, 5; Stay Pending Appeal Tr. at 11:14–13:12 (Feb. 12, 2025).

⁶⁷ See *id.*

is inaccurate, as a majority of Movants' claims were filed pre-petition.⁶⁸ In fact, **only one** of the Movants filed **all** of its liens post-petition, Reliance. Of the \$13,412,758.28 collective alleged fully secured claim Movants allege, Reliance only alleges to hold \$4,900,548.03.⁶⁹

65. Second, there are several inconsistencies between some of the Movants' filed liens and their proofs of claim. Reliance did not file a proof of claim for its alleged lien on Stoermer SWD Well No. 1,⁷⁰ and therefore, cannot rely on *prima facie* validity at all to obtain the relief requested in the Motion as to that alleged lien. The Debtor's investigation has also revealed that DOC Energy and Force both overstated their alleged lien amounts in their filed liens due to duplication, and provided a different, lesser amount for their proofs of claim. As may be detailed in a forthcoming adversary proceeding or similar motion, the overstatement of liens can serve as a basis to disqualify them.⁷¹

66. Third, the proofs of claim assert each lien is fully secured but provides no valuation evidence to support such assertion. In fact, the proofs of claim have the property value of the collateral supporting their alleged secured claims completely blank. Therefore, the claims fail on their face to assert a fully alleged claim.

⁶⁸ See *supra*, ¶¶ 20, 23–24, 27, 30, 33, and 36. Axis and DOC Energy allege only one of their liens was filed post-petition. Cudd, Thru Tubing, and Genesis filed no liens post-petition. Force filed eight of its eighteen liens post-petition. Reliance filed all eight of its liens post-petition.

⁶⁹ Motion, at 2, 13.

⁷⁰ Despite alleging a lien based on providing services or materials for this well, a corresponding proof of claim was not filed alleging a well on this lien.

⁷¹ “An owner of land or a leasehold may not be subjected to liability under this chapter greater than the amount agreed to be paid in the contract for furnishing material or performing labor.” See TEX. PROP. CODE § 56.006; see also *PADCO Energy Servs., LLC v. Case Energy Servs., LLC*, 610 B.R. 96, 115 (Bankr. W.D. La. 2019).

67. Due to the inconsistent representation to this Court regarding the secured status of Movants' alleged claims, the inconsistencies in their proofs of claim, and the lack of valuation support in the proofs of claims, the claims lack *prima facie* validity.

68. What is more, Axis's general counsel signed its proofs of claim and, in doing so, waived the attorney client privilege regarding the matters set forth therein.⁷² Prior to any evidentiary hearing on the merits of the Motion, the Debtor reserves the right to depose Axis's counsel regarding such matters either in the context of a 2004 examination, in this contested matter,⁷³ or in the context of a forthcoming adversary proceeding or other motion, to the extent applicable.

C. The Debtor's Ongoing Efforts Are Preserving the Value of Any Interest Claimed by Movants.

69. In seeking an Order from this Court compelling an award of undefined "adequate protection," Movants assume that a diminution in value has occurred and yet fails to specify the precise date upon which the Court should calculate such diminution from.

70. In observance that "[s]ection 363(e) provides that 'on request' the court 'shall prohibit or condition' the use, sale or lease of the collateral as is necessary to provide adequate protection[.]" a significant majority of courts have held that "a secured creditor is entitled to adequate protection only upon motion and only prospectively from the time such protection is sought."⁷⁴ Indeed, the Ninth Circuit Bankruptcy Appellate Panel recognized "a pronounced shift

⁷² See *Schmidt v. Rodriguez (In re Rodriguez)*, Case No. 10-70606, 2013 Bankr. LEXIS 5048, at *20 (Bankr. S.D. Tex. 2013) (Isgur, M.) ("The work product and attorney client privileges are waived as to the facts alleged in the proof of claim."); see also *Duke Invs., Ltd. v. Amegy Bank, N.A. (In re Duke Invs., Ltd.)*, 454 B.R. 414, 417 (Bankr. S.D. Tex.) (Bohm, J.) (discussing whether an attorney becomes a "necessary witness" after signing a proof of claim).

⁷³ FED. R. BANKR. P. 9014.

⁷⁴ *In re Best Prods. Co.*, 138 B.R. 155, 157 (Bankr. S.D.N.Y. 1992), *aff'd* 149 B.R. 346 (S.D.N.Y. 1992); *accord Ahlers v. Norwest Bank Worthington (In re Ahlers)*, 794 F.2d 388 (8th Cir. 1986), *rev'd on other grounds*, 485 U.S. 197 (1988); *In re Metromedia Fiber Network, Inc.*, 290 B.R. 487 (Bankr. S.D.N.Y. 2003); *In re Farmer*, 257 B.R.

away from the rule announced in the early cases that emphasized the date of filing the bankruptcy petition as the starting point for payments. Clearly, the bulk of the cases decided since about 1990 favor beginning adequate protection payments at the time relief is requested by the creditor.”⁷⁵

71. By the same token, the Fifth Circuit, in *Houston Sportsnet Finance, L.L.C. v Houston Astros, L.L.C. (In re Houston Reg'l Sports Network, L.P.)*, recently abandoned a *per se* rule that valuation must be based on when the petition is filed in a chapter 11 cram down context.⁷⁶ Instead, the Fifth Circuit instructed that Courts should follow a “flexible approach to valuation timing that allows the bankruptcy court to take into account the development of the proceedings[.]”⁷⁷ In the plan cramdown context, the Court held that “collateral be valued in light of its proposed use by the reorganized debtor.”⁷⁸

72. In the involuntary bankruptcy context, the Fifth Circuit observed that valuation for purposes of calculating a secured claim under section 506(a) as of the petition date was particularly inappropriate. As noted by the Court in *Houston Reg'l Sports Network, L.P.*:

Section 506(a) requires that the valuation of collateral take into account the proposed use or disposition of that collateral. While the petition date may not be an issue when the parties have an immediate plan of reorganization, such rapid action should not be assumed in involuntary cases. In an involuntary bankruptcy, there may not be

556, 561 (Bankr. D. Mont. 2000); *Agency Servs. v. Keck*, 1999 U.S. Dist. LEXIS 5056, at *5 (N.D. Ill. 1999); *In re Waverly Textile Processing, Inc.*, 214 B.R. 476 (Bankr. E.D. Va. 1997); *In re Walter*, 199 B.R. 390 (Bankr. C.D. Ill. 1996); *In re Cason*, 190 B.R. 917 (Bankr. N.D. Ala. 1995); *In re Dynaco Corp.*, 162 B.R. 389 (Bankr. D.N.H. 1993); *In re Barrett*, 149 B.R. 494 (Bankr. M.D. Ohio 1993); *In re Continental Airlines, Inc.*, 146 B.R. 536 (Bankr. D. Del. 1992); *see also People's Capital & Leasing Corp. v. Big3D, Inc. (In re Big3D, Inc.)*, 438 B.R. 214, 232-233 (B.A.P. 9th Cir. 2010) (majority opinion) (noting that a “significant majority” of cases follow this rule).

⁷⁵ *People's Capital & Leasing Corp. v. Big3D, Inc. (In re Big3D, Inc.)*, 438 B.R. 214, 232-233 (B.A.P. 9th Cir. 2010) (concurring opinion).

⁷⁶ *Houston Sportsnet Finance, L.L.C. v Houston Astros, L.L.C. (In re Houston Reg'l Sports Network, L.P.)*, 886 F.3d 523, 532 (5th Cir. 2018).

⁷⁷ *Id.* at 532.

⁷⁸ *Id.* at 533

any proposed use or disposition of the collateral at the filing of the petition, because the Chapter 11 debtor did not choose to file bankruptcy.⁷⁹

73. Here, any calculation of the diminution of Movants' so-called interests should be calculated based on the date of when Movants filed their Motion, on February 7, 2025 (the "**Motion Filing Date**"). Given the abrupt nature of the occurrence of the Involuntary Petition Date, the Fifth Circuit's guidance that any such valuation should take into account the proposed use or disposition of the collateral, and the passage of time from when Movants filed their Motion,⁸⁰ any calculation of the diminution in Movants' so-called interested should be based on the Motion Filing Date.

i. The Debtor Has Preserved the Value of Any Interest Claimed by Movants Since the Motion Filing Date.

74. As mentioned above, Movants filed their Motion on February 7, 2025 (as previously defined, the Motion Filing Date). Since this date, the Debtor has continued to maintain and operate the wells Movants allege liens on. Moreover, while the relevant workovers completed during this Bankruptcy Case may not have been *initiated* after the Motion Filing Date, constant monitoring and diagnostics is required post-workover. For any given well, complexity accumulates over time meaning that every prior well operation impacts current and future operations. This is because any workover changes the petroleum system of the well, which in turn results in additional maintenance, fine-tuning, diagnostics, troubleshooting, and work that would not have been required pre-workover.

⁷⁹ *Id.* at 531-532.

⁸⁰ *Cf. BMO Harris Bank, N.A. v. Vista Mktg. Grp. (In re Vista Mktg. Grp.)*, 548 B.R. 502, 522 (Bankr. N.D. Ill. 2016) (holding that adequate protection can be waived).

75. Even more, the Debtor's efforts to market and sell the assets have been amply disclosed. While the Debtor has not yet been in a position to seek approval of bid procedures, the Debtor has ongoing negotiations with multiple parties about serving as a stalking horse bidder in a competitive auction and mediation with the NETX Parties. Upon the closing of any sale, all perfected and valid liens will attach to the sale proceeds. This is sufficient adequate protection for lienholders,⁸¹ and overcomes the Motion's complaints regarding lack of "consent" regarding the sale.⁸²

76. Finally, the Debtor is providing adequate protection in the form of defending the NETX Litigation, which—by extension—has preserved Movants' statutory liens. Absent the Debtor's efforts in the NETX Litigation, the NETX Parties could take the position that Movants' liens are invalid under the Texas Property Code.⁸³ If the Debtor's leases were extinguished pre-petition—which the NETX Litigation alleges and the Debtor adamantly denies—the liens Movants and other similarly situated statutory lienholders claim to hold could be extinguished.

⁸¹ See *In re Winn's Stores*, 177 B.R. 253, 258 (Bankr. W.D. Tex. 1995) ("Winn's has offered a lien on the proceeds of liquidation sales which were held in its variety stores pursuant to prior orders of this Court. Winn's offer of adequate protection meets its burden on the adequate protection issue"); Sen. Rep. No. 95-989, 95th Cong., 2d Sess. 56 (1978) ("Sale under this subsection is subject to the adequate protection requirement. Most often, **adequate protection in connection with a sale free and clear of other interests will be to have those interests attach to the proceeds of the sale.**") (emphasis added); *In re Lady H Coal Co.*, 199 B.R. 595, 605 (S.D. W. Va.), *aff'd*, 99 F.3d 573 (4th Cir. 1996), cert. denied, 520 U.S. 1118 (1997) ("The well established rule that sales within a bankruptcy proceeding occur free and clear of any interest is founded upon the principle that good faith purchasers receive clean title to the property and that any claims against the property attach to the proceeds."); *In re M. Paoella & Sons, Inc.*, 161 B.R. 107, 124 (E.D. Pa. 1993), *aff'd*, 37 F.3d 1487 (3d Cir. 1994).

⁸² See Motion, at 17. All of Movants' arguments regarding "consent" under section 363(c)(2) of the Bankruptcy Code are inapplicable because they do not have cash collateral. While Movants' argument has nothing to do with the instant Motion, consent is only portion of section 363(f) of the Bankruptcy Code, which is written in the disjunctive. 11 U.S.C. § 363(f). Therefore, the Debtor must only meet one condition of 363(f) to sell Movants alleged collateral.

⁸³ See TEX. PROP. CODE § 56.044 (titled "Forfeiture of Leasehold") (providing, in relevant part, that "Forfeiture of a leasehold **does not** impair a lien on **material, machinery, supplies, or an improvement** located on the leasehold if: (1) the lien attached to the property before the leasehold was forfeited; (2) the property is not permanently attached to the land; and (3) the lienholder pays the owner of the land the damages caused to the land by removal of the property." (emphasis added)). The NETX Parties could take the position that, by implication, any property not specifically mentioned in this provision is impaired if a lease is forfeited. The Debtor reserves all rights regarding such position.

ii. *Alternatively, the Debtor Has Preserved the Value of Any Interest Claimed by Movants Since the Petition Dates.*

77. If the Court were to apply the minority rule of calculating any diminishment based on the petition date, then ample evidence exists (and will be presented at any hearing on the Motion) that there has been no diminution in the value of any interest asserted by Movants since the Involuntary Petition Date and/or the Voluntary Petition Date (collectively, the “**Petition Dates**”).⁸⁴

78. First, section 506(a) specifies that any valuation as of this date must take into account the “proposed disposition or use of such property.”⁸⁵ At the time of the Involuntary Petition Date and, likewise, the Voluntary Petition Date, it is safe to assume that the value of any interest that Movants had in the Debtor’s property was substantially lower than it is today. Prior to the appointment of the Debtor’s CRO, the Debtor faced a number of operational and legal challenges—all of which would affect the value of any interest possessed by Movants at either of the Petition Dates. Moreover, Movants consented to a chapter 7 liquidation of the Debtor’s assets; the Debtor’s ongoing processes will result in a much higher recovery than they anticipated.

79. Second, the Debtor had maintained and prudently operated the wells Movants allege interests in since the Petition Dates. Further, the Debtor has employed and continues to implement effective workovers to not only maintain the Debtor’s assets, but increase oil and gas production..⁸⁶ Even more, the Debtor has taken a number of steps in these bankruptcy cases to improve (if not enhance) any interest that Movants may have. First, the Debtor’s obtained the

⁸⁴ *But see Houston Reg’l Sports Network, L.P.*, 886 F.3d at 531-32 (recognizing how using the petition date to value collateral to determine if a claim is secured or unsecured under Bankruptcy Code § 506(a) is inappropriate in an involuntary bankruptcy context).

⁸⁵ *See id.*

⁸⁶ *See supra*, ¶¶ 12–13.

Court’s authority to effectuate a “stand still” arrangement with the working interest owners through the Court’s entry of its *Final Order (I) Authorizing the Debtor to Pay or Apply Payments Attributable to Mineral Interests in the Ordinary Course and (II) Granting Related Relief* [Docket No. 237] (the “**Final Mineral Interest Payment Order**”). Absent such relief, the Debtor’s bankruptcy estate—and by extension any interest that Movants may claim—would have become embroiled in litigation that would have depleted the Debtor’s resources and ability to maintain production.⁸⁷ As it relates to Movants’ claims for adequate protection, the risks that were mitigated by the Court’s entry of the Final Mineral Interest Payment Order existed prior to its entry and prior to each of the Petition Dates.

80. Third, the Motion asserts that a diminution of the value has occurred due to a “failure to report information affecting the collateral” and that the Debtor failed “to report assets that are no longer a part of the Debtor’s estate.”⁸⁸ The Motion provides no facts that support such serious accusations. The Debtor has been nothing but upfront with the Court and its creditors regarding ownership of the Debtor’s assets. Indeed, one of the first actions taken by the Debtor—under the direction of the CRO—was to disclose the existence of the working interest owners by filing the JOA into the record and seeking relief from the Court regarding making mineral payments to such parties. This decision was made in the CRO’s capacity as an independent fiduciary to inject badly needed transparency into the Bankruptcy Case after the hostility that led

⁸⁷ Final Mineral Hearing Tr. 118:17–19 (The Court commenting “that it’s in the best interest of the estate based on the evidence that you should be allowed to make those payments”) (Sept. 23, 2024).

⁸⁸ Motion, at 20.

to the filing of the Involuntary Petition.⁸⁹ Seeking to take advantage of these enhanced disclosures, however, Movants rely on them (out of context) to seek adequate protection.

81. Finally, the Debtor's ongoing efforts in (a) advancing a sale and mediation process aimed at producing a value-maximizing transaction and (b) defending the NETX Litigation have vastly enhanced the value of any interest that Movants may claim. Movants assert that due to the pacing of this case, they are entitled to adequate protection.⁹⁰ It is understood that, in involuntary chapter 11 cases, debtors typically do not file their plans until eight months or over a year after they were forced into bankruptcy due to the unplanned manner in which such debtors ultimately sought bankruptcy protection.⁹¹ Here, the Debtor's sale and mediation process is underway and the Debtor is on track to file its plan according to a timeline that is typical of comparable cases.

82. As explained throughout this Objection, adequate protection is only appropriate where a secured creditor can show a diminution in the value of its interest in collateral.⁹² Movants have not demonstrated that their alleged interests in the Debtor's property is subject to dissipation or diminution such that adequate protection is warranted. To this point, Movants only assert: "The

⁸⁹ The Debtor made similar disclosures in Stipulation and Agreed Order by and Among the Debtor and Certain Insiders [Docket No. 247], and gained consent to sell working interests in the Debtor's assets.

⁹⁰ See Motion, at 2–3.

⁹¹ See *Black Elk Energy Offshore Operations, LLC*, Case No. 15-34297 (Bankr. S.D. Tex.) [Docket Nos. 1 and 767] (the involuntary petition was filed on August 11, 2015, and the plan was filed on April 12, 2016, during the extended exclusivity period); *Northstar Offshore Group, LLC*, Case No. 16-34028 (Bankr. N.D. Tex.) [Docket Nos. 1 and 851] (the involuntary petition was filed on August 12, 2016, and the plan was filed on September 13, 2017, during the extended exclusivity period); *In re the Alieria Companies Inc. d/b/a Alieria Healthcare, Inc., et al.*, Case No. 21-11548-JTD (Bankr. D. Del.) [Docket Nos. 1 and 454] (the involuntary petition date was filed on December 3, 2021, and the debtors' plan was filed May 15, 2023 during the extended exclusivity period).

⁹² See *In re Poissant*, 405 B.R. 267, 272 (Bankr. N.D. Ohio 2009) (citing *United Savings Association of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 370 (1988)) ("[I]f the secured property is declining in value . . . then the creditor is entitled to adequate protection."); *In re Hardrock Hdd*, 569 B.R. 443, 450 *In re Pine Lake Vill. Apartment Co.*, 19 B.R. 819, 824 (Bankr. S.D.N.Y 1982) ("Neither the legislative history nor the Code indicate that Congress intended the concept of **adequate protection to go beyond the scope of protecting the secured claim holder from a diminution in the value of the collateral securing the debt.**") (emphasis added).

significant operational and administrative expenses being paid and accrued in this case have **likely** resulted, and will continue to result, in material diminution in the value of the Debtor's operations, Movant's Collateral."⁹³ Further they consistently tie diminution to use of production proceeds⁹⁴—which is not their collateral. For these reasons alone, the Motion should be denied.

83. As explained above, the Debtor can show evidence that the opposite is true—the Debtor's employees and professionals have taken deliberate steps to ensure the value in the Debtor's property is maintained. Further, the Debtor continues to operate and maintain its wells to ensure the value of Movants' alleged interests are preserved. Accordingly, the Motion should be denied because Movants have not shown there is a diminution in value of their alleged collateral.

iii. *Administrative Fees Are Higher in this Case Because Creditors—such as Movants—Continue to Take Steps to Disadvantage Other Similarly-Situated Creditors.*

84. Movants asserts that due to the administrative fees in this case, they are entitled to adequate protection. As explained above, high administrative fees are not a basis for receiving adequate protection. Moreover, the administrative costs result from the Debtor defending various creditor-initiated adversary proceedings and contested matters—such as the Motion. These proceedings have not only unnecessarily increased administrative expenses, but also hindered the Debtor from closing a value-maximizing transaction on an as expedited timeline as the Debtor projected.

⁹³ See Motion, at 3, ¶ 3.

⁹⁴ See *id.* at 20.

85. Such proceedings include, among others: (a) the NETX Parties' two lift stay motions regarding their seven pre-petition lawsuits against the Debtor;⁹⁵ (b) the six cases removed by the NETX Parties to the Eastern District of Texas;⁹⁶ and (c) the Interpleader proceeding freezing over \$2 million of the Debtor's funds. The Interpleader is further complicated by an appeal.⁹⁷ All of these proceedings have required substantial work on behalf of the Debtor's professionals.⁹⁸

86. Moreover, the foregoing are only outward-facing proceedings, and do not credit the major consensus building the Debtor's professionals have done inwardly with the various parties that make up the complicated web that is this Bankruptcy Case. The Debtor has been engaged with parties in interest since the beginning of the Bankruptcy Case, and continues to do so as the sale, mediation, and plan process progresses.

RESERVATION OF RIGHTS

87. This Objection is based upon the Debtor's investigation to date, which has been limited by the time constraints imposed by the filing of the Motion. The Debtor's investigation is ongoing, and it reserves its right to amend and supplement this Objection as additional information is discovered.

WHEREFORE, the Debtor respectfully requests that the Court deny the Motion, and further grant the Debtor such relief as may be just and proper.

⁹⁵ See Docket Nos. 30, 391.

⁹⁶ On November 15, 2024, the NETX Parties removed six (6) cases to the United States District Court for the Eastern District of Texas (the "**Removed Cases**"). The Honorable Rodney Gilstrap currently presides over the Removed Cases and their case numbers are as follows: 24-00934-JRG; 24-00935-JRG; 24-00936-JRG; 24-00937-JRG; 24-00938-JRG; 24-00939-JRG. The NETX Parties' actions in removing the Removed Cases, undermines their position in the Motion. On December 27, 2024, the Debtor filed motions to change venue to the District Court for the Southern District of Texas in all the Removed Cases.

⁹⁷ See *id.*, Docket No. 67.

⁹⁸ Exclusivity Motion Tr. 20:21–21:5 (Jan. 13, 2025).

Dated: February 28, 2025

Respectfully Submitted,
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CERTIFICATE OF SERVICE

I certify that on February 28, 2025, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties required to receive service pursuant to the Bankruptcy Rules.

/s/ Sean T. Wilson
Sean T. Wilson

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS (HOUSTON)

IN RE: . Case No. 24-33353
BARROW-SHAVER RESOURCES . Chapter 11
COMPANY, LLC, .
Debtors. . 515 Rusk Street
Houston, TX 77002
Monday, September 23, 2024
1:00 p.m.

TRANSCRIPT OF EVIDENTIARY HEARING BEFORE
THE HONORABLE ALFREDO PEREZ
UNITED STATES BANKRUPTCY COURT JUDGE

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1 (Proceedings commence at 1:00 p.m.)

2 THE COURT: Okay. Good afternoon. It is Monday,
3 September 23rd. We're here for the one o'clock docket.
4 Barrow-Shaver Resources Company.

5 Mr. Wilson?

6 MR. WILSON: Thank you, Your Honor. For the record,
7 Sean Wilson with Jones Walker, proposed counsel for the debtor.
8 With me in the courtroom is my colleague, Mr. Joseph Bain,
9 Ms. Elizabeth De Leon, and the company's Chief Restructuring
10 Officer, Mr. James Katchadurian, who's somewhere in the
11 gallery.

12 Your Honor, we're here today on the debtor's mineral
13 motion, which is Docket Number 61. We filed an agenda at
14 Docket Number 196, and it lists basically those responses that
15 we believe are contested, and those that we believe may not be
16 fully resolved, but may be resolved subject to a proposed final
17 order.

18 I do have some good news, Your Honor. We have
19 resolved some objections, but that leaves about approximately
20 three objections outstanding, and that's going to be the
21 petitioning creditor's limited objection, which can be found at
22 Docket Number 82; the supplemental objection by the petitioning
23 creditors, which is at Docket Number 146; Matthew Weber
24 objection, which is at Docket Number 143; and the ProFrac
25 objection, which can be found at Docket Number 147. And then,

1 last but not least, the data log joinder, which can be found at
2 Docket Number 193.

3 Your Honor, if it's okay with you, the way that I've
4 discussed briefly with the parties in court, and my apologies
5 to Mr. Phillips, who I can see on the screen, we plan to
6 proceed as follows, subject to Mr. Phillips' objection, because
7 I didn't discuss with him, that the parties would each make
8 their opening arguments, those in support of the mineral motion
9 going first, and then followed by those opposing the mineral
10 motion going second.

11 After that, we would proceed with the evidence,
12 introduce our exhibits, and then have Mr. Katchadurian on the
13 side and proceed on the merits of that. So if that's okay with
14 you, Your Honor, that's the way we'd like to proceed.

15 THE COURT: That's fine with me.

16 MR. WILSON: With that, Your Honor, I'm going to
17 first give openings to my colleague, Mr. Joseph Bain, followed
18 by the next, you know, people in support of the motion.

19 MR. BAIN: Good afternoon, Your Honor. For the
20 record, Joe Bain on behalf of the proposed counsel to the
21 debtor and debtor-in-possession. Your Honor, last Friday we
22 filed a fairly substantive reply in support of our motion. And
23 a -- as you'll notice, ProFrac filed a surreply just recently.
24 I think --

25 THE COURT: I've read them both.



1 MR. BAIN: I would assume so, Your Honor. And I won't
2 regurgitate what's in both of those pleadings. For purposes of
3 today, I think it's important to get to the evidence. I think
4 that's really what is at issue here, so I'll just be very
5 brief.

6 I think there's three things that I would note ahead
7 of what you'll see in the evidence. The first is that this
8 case is fairly unique. It's got a unique posture. An
9 involuntary bankruptcy case that was converted to Chapter 11
10 with the CRO coming in basically, excuse me, brand new, with no
11 preexisting relationships. It's obviously unique for purposes
12 of this motion. This is, as Your Honor knows from your
13 background, this is a motion that's frequently granted as a
14 matter of course for oil and gas companies. It makes common
15 sense oil and gas companies need to pay mineral interest
16 holders.

17 The second thing I would note, Your Honor, getting to
18 that, is the mineral interest title issue. A lot of conjecture
19 has been placed on what this is, what the debtor should do
20 about it, and what this Court should do about it. These are
21 all causes of action. The causes of action, avoidance actions,
22 or declaratory judgment actions that the debtor has the purview
23 in order to pursue or to not pursue, subject, of course, to the
24 checks that exist, you know, through derivative standing and
25 also through your Court's judgment.



1 But in order for this case to be successful at this
2 juncture, it's important, as you'll see from the evidence, that
3 the CRO be given a little bit of room here to navigate in order
4 to pursue what we've described in our papers as a value-
5 maximizing transaction.

6 And, Your Honor, the third thing I would note that
7 you'll see in the evidence is that it makes absolutely no sense
8 for the debtor to go forward into just blowing up this case
9 with litigation. You'll hear testimony about how the debtor
10 has been able to move very nimbly to get to where we are. We
11 don't have a DIP order, and that's by design, because there are
12 obviously some issues out there with regards to insiders that
13 we need to scrutinize and to look at.

14 We've also been able to begin a marketing process
15 where we've heard very good -- obviously, we won't be able to
16 get into the specifics because we don't want to spoil that
17 process. But the debtor, as guided by the CRO, has made the
18 decision in his business judgment that we should focus
19 initially on this transaction.

20 And so with that, Your Honor, I'll of course come
21 back for closing arguments after you've heard the testimony,
22 but those are the three things I would point out that you'll
23 see today. Unless you have any questions for me.

24 THE COURT: No questions at this time. Thank you.

25 MR. BAIN: Thank you, Your Honor.



1 MR. JOHNSON: Good afternoon, Your Honor. Shane
2 Johnson from Porter Hedges on behalf of Middleton Oil Company
3 LLC. We filed a statement in support at Docket Number 187.

4 And first start to with a little background,
5 Middleton Oil is a working interest owner in the Lone Star
6 prospect, and that's pursuant to an exploration agreement with
7 the debtor. It's also pursuant to four assignments and bills
8 of sale with third-party non-debtors. And there's also a JOA
9 with the debtor that was originally dated December 1st, 2017,
10 that was executed by Middleton Oil on August 31st, 2021.

11 And prior to the involuntary petition, Middleton Oil
12 had been paid its working interest revenue in the ordinary
13 course of business since it first acquired its working interest
14 in 2021, and Middleton Oil is current on its JIBs. And so I
15 think it's important to say at the outset what this hearing is
16 actually doing. And I think with respect to the working
17 interest owners, you can look at Paragraph 5, the proposed
18 order, and it's that the Court would grant the debtor the
19 authority to pay the working interest revenues if the working
20 interest owners are current on their JIBs. And I think the
21 basis for that is the JOAs that the working interest owners
22 have with the debtor.

23 And so I think the debtor is going to be able to
24 establish that the payments they're proposing are ordinary
25 course payments that have -- are going to be made post-



1 petition, the same way they were made for years pre-petition.
2 And they have a binding contractual agreement in the form of
3 JOA that requires them to turn over funds that are for the
4 working interest owners.

5 So I think you can look at what will happen if the
6 motion is not granted to test the debtor's business judgment.
7 And I think what will happen is that there will be litigation
8 over this issue, that it will -- excuse me, Your Honor -- that
9 that litigation is not just an empty threat, it's actually real
10 from the working interest holders' perspective. I can say that
11 Middleton Oil is not going to sit by and let defaults occur
12 under the JOA, not going to sit by and let revenue that it
13 believes it's the true owner of be spent in some way. And so
14 it would have to come back to this Court with some motion,
15 maybe a motion to compel performance under the JOA, application
16 for admin expenses, could take various forms.

17 But the working interest owners are going to be in a
18 position where they have to do something to assert their rights
19 if they don't receive the working interest revenue. And I
20 think it's pretty clear that if you don't comply with an
21 agreement post-petition that requires turnover of revenue, that
22 that leads to admin expenses. It also, under the JOAs, would
23 lead to lien rights.

24 And if that's not enough, there's also default
25 interest that would accrue under the JOA that could lead to



1 potential motions for relief from stay to change the operator
2 based on defaults. So there's a whole host of things that
3 could happen, and likely some of them will happen if this
4 motion is not granted.

5 So in summary, Your Honor, Middleton Oil has a valid
6 working interest. It's been recognized by the debtor for
7 years, it's been paid on that working interest for years, and
8 it believes that the debtor should be allowed to continue
9 paying that working interest revenue in the ordinary course
10 during the pendency of this case. Thank you, Your Honor.

11 THE COURT: Thank you.

12 MR. LIPPMAN: Good afternoon, Your Honor. Kevin
13 Lippmann with Munsch Hardt appearing on behalf of BMW
14 Investments, LP, another working interest owner.

15 Your Honor, my client acquired its working interests
16 pursuant to an assignment and bill of sale that's dated
17 May 1st, 2023. There is actually a document that does evidence
18 the assignments of its interest. It owns approximately a
19 6 percent interest in the leases. It's also a party to the
20 JOAs and the exploration agreements.

21 Like the Middleton client, my client is current on
22 all JIBs. It's honored its commitments. And since it's
23 acquired its interest, the debtors have recognized it and has
24 paid its share of the productions, and on account of its
25 working interest that it owns.



1 I won't belabor of the arguments that are being made
2 by the parties, but we believe it's the debtor's motion that
3 they're seeking, and the relief they're seeking is completely
4 appropriate with respect to those working interest owners.
5 They are not insiders and have satisfied their obligations
6 under the applicable documents. Thank you, Your Honor.

7 MR. CHAMBERLAIN: Good afternoon, Your Honor. Jarrod
8 Martin, Chamberlain Hrdlicka for S One Royalty Properties,
9 another nonoperating working interest owner. We filed a
10 joinder to the Middleton objection and are supportive of the
11 debtor's efforts to pay the nonoperating working interests.

12 The only thing I would add is it's not just
13 litigation that would ensue if the payments were not made. I
14 don't believe the JOAs would obligate the nonoperating working
15 interest owners to continue to pay their joint interest
16 billings if they're not receiving corresponding revenue, which
17 I believe is a basis for the debtor's business judgment in
18 making these payments, because otherwise there could be a cash
19 flow issue for the debtor.

20 MR. HOLMES: Good afternoon, Your Honor. Stephen
21 Holmes with Cavazos Hendricks on behalf of Journeys End
22 Petroleum and Pondegrossa Trust, two working interest owners
23 that collectively own about 8 percent. They acquired those
24 interests in December 2017, and signed the joint operating
25 agreement that's been referenced here today, as well as their



1 exploration agreements setting forth their rights and
2 obligations, as well as the debtor's, and their percentage
3 ownerships. They, like the other parties you've heard from
4 already, are current on their JIB payments, and prior to the
5 bankruptcy, received payments in the ordinary course of
6 business, consistent with what the debtor is requesting today.
7 And I support -- my clients support the relief requested by the
8 debtor, for the reasons that you've already heard, as a valid
9 exercise of its business judgment and ordinary course payments.

10 There are binding contractual obligations that the
11 debtor has to make those payments. And as you've heard from
12 Mr. Johnson in particular, those agreements give the working
13 interest owners certain rights that they could exercise in the
14 event that payments are not made as requested by the debtor.

15 The arguments that have been raised by the objecting
16 parties, respectfully, are not ripe for determination today.
17 The validity of lien positions are matters that are required to
18 be determined by an adversary proceeding. That's not pending
19 before the Court. This is, respectfully, a first day motion
20 that will enable the debtor to continue its business operations
21 in the ordinary course.

22 And the legal arguments that have been raised in the
23 pleadings, I know Your Honor has read them, and so I won't
24 belabor them unless you have questions for me or for any of us.
25 But there are documents in the public records that evidence



1 these ownership interests. Those place the parties on notice,
2 specifically inquiry notice. The documents that are referenced
3 satisfy the statute of frauds, and the objecting parties, as
4 nonparties to the agreements, do not have standing to raise the
5 statute of frauds as an excuse not to permit these payments.

6 And so, for those reasons, Your Honor, we submit that
7 the debtor's motion should be granted.

8 THE COURT: Thank you. Mr. English?

9 MR. ENGLISH: Good afternoon, Your Honor.

10 THE COURT: Good afternoon.

11 MR. ENGLISH: Eric English from Porter Hedges. I
12 represent an ad hoc group of investors in two non-debtor
13 drilling partnerships, BSR Lone Star Drilling Fund I LP and
14 BSR Lone Star Opportunity Zone Fund LP. Our client group has
15 grown significantly in the past couple of weeks. We have about
16 40 investors right now in the group. Between these two
17 partnerships, retail investors have contributed over
18 \$40 million. Those funds were to basically fund the costs of
19 developing oil and gas properties, and in return the funds own
20 wellbore interests.

21 We've mostly been in the background up until now, but
22 we did file a limited objection to the motion. We asked for
23 and we've now received some clarification that the funds will
24 be included in payments made on account of the motion. We were
25 being paid proceeds of production pre-petition. There's no



1 reason that should not continue now. So we support the
2 debtor's motion and their efforts to maintain the status quo.

3 I would mention that, although our group has been
4 largely in the background, there are a couple of issues that we
5 are watching very closely and for which we may be coming to the
6 Court in the near term. One of them involves the potential
7 sale of the debtor's assets, and exactly which assets are going
8 to be the subject of that request. The funds do own their own
9 assets, and there'll be a question of whether they're to be
10 included in a sale or not. Not ripe for today. I just bring
11 it up.

12 We've also asked for a number of documents from the
13 debtors. Thus far we haven't received them. We'll decide
14 whether to seek formal relief on that point or not, but just
15 wanted to make you aware that there are some things that you
16 may be seeing us again.

17 THE COURT: Thank you.

18 MR. ENGLISH: Thank you.

19 MR. CURRY: Thank you, Your Honor. Good afternoon.
20 David Curry from Okin Adams on behalf of TLB Corp, one of the
21 joint owners of the debtor.

22 Your Honor, we did file a limited objection to the
23 motion in that, and I think that you heard this concern raised
24 as a reason why the motion should be granted, which is that,
25 you know, on the one hand, we have the debtor here telling us



1 that they don't need a DIP loan. On the other hand, there is
2 an option where the debtor is using somebody else's money in
3 order to not have to have a DIP loan. And of course that would
4 mean without certain protections that you would expect.

5 We have resolved our objection, and the debtor has
6 agreed to include language in the order that provides an
7 accounting for the funds that are being withheld but being
8 used. That will make it easier and transparent for folks to
9 the extent that they assert claims.

10 That said, our client recognizes the concern
11 regarding insider issues, and we did not object to any working
12 interest revenue being offset against any outstanding JIBs that
13 were owed by our client. We think that that's a good solution
14 going forward.

15 And as the debtors have said, you know, this case
16 could easily spiral into just a morass of litigation that's
17 really not in the best interest of anyone. These are assets
18 that need to be operated in order to maximize value, I think we
19 all recognize that issue, and the best way to do that is to
20 maintain the status quo in the debtor's ordinary course of
21 business.

22 So with our limited objection having been resolved,
23 we are in support of the motion.

24 THE COURT: Thank you.

25 MR. BEATTY: Your Honor, Max Beatty on behalf of



1 SOS-LMC, the Scott Shaver Trust No. 2 and Mr. Shaver. I would
2 just reiterate some of the comments made by Mr. Curry.

3 We did file a limited objection. Those objections
4 have been resolved based on agreement with the debtor. And we
5 believe that the matter should proceed to allow for the sale of
6 assets and maximizing the estate for all the creditors and all
7 interested parties involved.

8 MS. PERRY: Good afternoon, Your Honor. Kristen
9 Perry with the law firm of Faegre Drinker Biddle & Reith,
10 proposed counsel to the Official Committee of Unsecured
11 Creditors. I am joined via GoTo Meeting by my colleague Rich
12 Bernard. And in the courtroom with me today is Paul Jansen of
13 Riveron, proposed financial advisor to the Committee.

14 As Your Honor is aware, the Committee filed a
15 reservation of rights last week at Docket Number 184 in
16 response to the debtor's request to pay mineral interests.
17 Since that time we have had multiple productive conversations
18 with debtor's counsel. We have received additional diligence
19 in response to our requests, and we have negotiated language in
20 the proposed order that makes the Committee comfortable and
21 supportive of Your Honor granting the debtor's request to pay
22 mineral interests and according with the final proposed order.

23 THE COURT: Thank you. All right. Anyone else in
24 favor?

25 All right. Let me start with Mr. Phillips.



1 MR. PHILLIPS: Good afternoon, Your Honor. Louis M.
2 Phillips, Kelly Hardt, along with my colleague Katherine T.
3 Hopkins. And we also have logged in, Your Honor, Mr. Andrew M.
4 Carty from Brown Rudnick who, along with his partner Mr. Short,
5 will be seeking pro hac status as necessary to appear on behalf
6 of ProFrac.

7 We've taken the position in our papers that we
8 have -- first of all, we start with the public records doctrine
9 and we start with the statute of frauds. I've heard people
10 don't have standing to bring that up. We have lien claims,
11 Your Honor. We have priority claims. We have lien claims that
12 we think could affect the purported interest of the alleged
13 working interest owners. We don't think this is a situation
14 where we have a set of clearly delineated working interest
15 owners. We have some that the debtor says they won't pay, some
16 that the debtor says are not ident -- are not documented.

17 We have been finding out in dribs and drabs about
18 executed JOA. But the first JOA that we were provided was an
19 unexecuted JOA, which we don't think puts parties -- third
20 parties on notice of the JOA. That would be -- that would
21 carry the day on inquiry notice with respect to the ownership
22 interest.

23 We have proposed in our reply -- and I apologize,
24 Your Honor. It's the first time I'm appearing before you. I'm
25 appearing from my office, not at my choice, because I have



1 COVID. I look very well for having COVID, and I'm at the tail
2 end of it, but I still have COVID.

3 But what we have proposed is we don't necessarily
4 object to the ability of the debtor to either offset revenue
5 against JIBs to pay the JIBs or to reimburse or reimburse the
6 payment of JIBs pending final resolution of ownership issues
7 and priority issues.

8 What we do have a concern about is sending out money
9 over -- in excess over and above the amount paid by the JIBs,
10 and we think an escrow of that money would facilitate the
11 maintenance of the real status quo, which is we're now in
12 bankruptcy. So no one wants to replicate the status quo
13 pre-bankruptcy, because the status quo got the debtor into
14 bankruptcy.

15 What we want to do is protect all rights and the
16 status that existed and was created as of the petition date,
17 which allows us to provide -- get information about who really
18 owns things and about whether or not we're really on notice or
19 the estate's really on notice of these ownership interests.

20 So our -- we also looked at the proposed final order,
21 and there's some things in here where -- Paragraph 2 of the
22 proposed final order, "Any payments actually made by the debtor
23 pursuant to this final order, such as payments being authorized
24 or payments that need to be authorized are deemed authorized,
25 provided that any authorized payment may be avoided, one, if



1 such authorized payment is made under false pretenses." None
2 of these payments, I don't think, are being made under false
3 pretenses, right? The debtor is making payments that it says
4 it owes and that it owed pre-petition. And the Court is aware
5 that owing payments pre-petition and owing those same payments
6 post-petition can be a very different matter.

7 And so what we're proposing is a form of order that
8 preserves the status quo and any and all parties' rights to an
9 adversary proceeding process to determine the priority of
10 interest, the existence of interest, the perfection of
11 interest, the priority of liens with respect to such interests,
12 because while we hear a lot of money, a lot of talk about if we
13 have to make payments to these working interest owners, there's
14 not a lot of talk about how payments have to be made to the
15 people who actually did the work that the debtor's relying upon
16 to generate collection of hydrocarbons out of the ground, the
17 lienholders. And we are one of those lienholders.

18 And I recognize that I'm standing on the railroad
19 track right now, given the 18 cars and the caboose that just
20 appeared in support of this motion. But we think it's untoward
21 to have any type of suggestion that there's any type of final
22 approval. And at the same time, we think it's inappropriate
23 for the Court to act like the ordinary course of business on
24 unrecorded interest, unrecorded assignments, a JOA, that first
25 version of which we got was unsigned, is in any way, shape, or



1 form approving or adjudicating issues that are not ripe. We
2 agree that it's not ripe, but we want to maintain our ability
3 to go back and not have to chase people if we are right and
4 they are wrong.

5 So our proposal with respect to the continuation is
6 that, if the parties make their JIB pay -- or bills, AFEs, or
7 JIBs, make those JIB payments, those payments can be reimbursed
8 through the netting of production or repayment by the debtor if
9 the timing doesn't work from a production versus JIB
10 standpoint, but any overage should be escrowed pending a final
11 determination by this Court, not on the debtor, that the
12 interests are in fact perfected, interests are in fact binding,
13 interests are in fact in priority over lien claims that may or
14 may not preexist. But we know that there are some that we very
15 well like might preexist.

16 So we put our positions in papers, and we think our
17 resolution pretty well resolves things. Let them do what they
18 want to do. Just escrow any overage, don't allow reimbursement
19 or netting or payment of pre-petition amounts, certainly not
20 payments to anybody who's not making any payments of JIBs and
21 AFEs, and preclude payments to insiders pending further order
22 of the Court and the ability to develop an evidentiary record.

23 THE COURT: Thank you.

24 Ms. Whitworth, you're on the phone. Do you have a
25 position on this or --



1 MS. WHITWORTH: Good afternoon, Judge Perez. Jana
2 Whitworth for the U.S. Trustee. Now, Your Honor, I'm filling
3 in for Mr. Russ today. He had a scheduling conflict and he
4 instructed me to take good notes and let you know that the
5 U.S. Trustee does not have a position.

6 THE COURT: Okay. All right. Thank you.

7 MS. WHITWORTH: Thank you, Judge.

8 THE COURT: All right. In the courtroom?

9 MR. HAMM: Thank you, Your Honor. Blake Hamm from
10 Mehaffy Weber. I believe the debtors referred to my clients as
11 the Mehaffy Weber Claimants or objectors. They are three
12 service providers, Baker Hughes, Princess Three, and Cactus
13 Wellhead, who provided pre-petition -- contracted for
14 pre-petition materials and services to the debtor in
15 support -- almost entirely in support of their operations in
16 this Hidden Rock field. They have lien rights. They may be
17 fully secured. They may be unsecured creditors.

18 THE COURT: Let me ask you a question. Are they
19 still performing any services currently?

20 MR. HAMM: Not to my knowledge, Your Honor.

21 THE COURT: Okay.

22 MR. HAMM: Not to my knowledge. I can follow up and
23 ask.

24 THE COURT: I don't want to be in a situation where
25 we end up being administratively insolvent, so --



1 MR. HAMM: Yes, Your Honor, understood. From my
2 client's perspective, what the debtor is asking for is
3 extraordinary. From our perspective, we understand from prior
4 testimony that there may be \$60 million worth of unpaid vendor
5 debt. Yet for reasons unknown to us, the debtor is asking the
6 Court to prefer pre-petitioned investors, and would like to pay
7 them instead of us. We simply don't think that's how the
8 bankruptcy code works.

9 We also believe that the debtors and the alleged
10 working interest owners are relying on two cases to get to this
11 point, but stretching them far beyond their bounds. One is
12 this case that they've all cited with respect to inquiry
13 notice.

14 We agree that this is not for the Court to decide
15 today. But just so the Court knows, you know, we're familiar
16 with the case, we think they've taken it beyond the bounds. We
17 don't know why.

18 What we do know, we do know that the debtor has at
19 least a 97.3-ish percent record title interest in these
20 properties. One of the documents that has been used in
21 exhibits is a Carr assignment, and there's three of them. They
22 go back and forth between the debtor and Carr, and in the end
23 it equates to about 2.667 percent record interest per Carr.
24 Everything else of record is in the debtor's name. Why these
25 other people did not record their assignments, we don't know.



1 The other case we think that the debtor is relying on
2 beyond its bounds is the CoServ case. That was a critical
3 vendor case, asking permission for vendors to provide materials
4 and services to the debtor, not to pay pre-petition investors,
5 a completely different situation.

6 Largely, I agree with Mr. Phillips' proposal that if
7 we're truly trying to maintain the status quo, then let's do
8 that while this very important issue, one that the debtor
9 admits exists, is resolved either through litigation or perhaps
10 more -- better by mediation or settlement. But until that's
11 reserved, I agree that allowing the debtor -- there's really no
12 difference, from our perspective, with the netting.

13 If the debtor owned all the, you know, 97 percent of
14 the working interests, then it would be taking those proceeds
15 and applying them to operations. If it's netting, you know,
16 kind of the same thing, as long as the ownership interests
17 aren't being adjudicated now.

18 We do -- I do think there is another issue, it seems
19 like the gist, and that has to do with these overriding royalty
20 interests. So as I understand the debtor's argument, it's that
21 we rely on payments from the alleged working interest owners to
22 fund our operations. Now, we don't know how much of that is
23 netted, how much of those are being made to pay directly, but
24 working interests, by definition, are cost-bearing interests.
25 Overriding royalties are not. They're simply non-cost-bearing



1 interests carved out of the working interest and given to
2 someone, we still don't know who, for whatever they gave for
3 those. We just don't know.

4 So we don't understand how paying those individuals
5 who haven't been identified could benefit the estate at all,
6 but otherwise largely agree with Mr. Phillips' proposal. Thank
7 you, Your Honor.

8 THE COURT: Thank you.

9 MR. PHILLIPS: Your Honor, if I might, one more
10 thing. We have not voiced objection to payment of any royalty
11 claims, so I wanted to be clear on that if I was not

12 THE COURT: And I believe that the interim order
13 permitted the payment of the royalty claims, it permitted the
14 payment of the JIBs subject to any set off of any amount owed,
15 and it did permit a small amount of overrides during the
16 interim period. So that was what was allowed. So the netting
17 had already occurred before any payments were made in the
18 interim order.

19 MR. HAMM: Thank you, Your Honor.

20 MR. SMITH: Good afternoon, Judge Perez. Connor
21 Smith with Dore Rothberg Law. In the courtroom is my esteemed
22 partner, Ms. Lisa Rothberg, here as well. We represent the
23 petitioning creditors in this case, and I think we've made a
24 pretty good amount of progress today, Your Honor, with the
25 amount of agreement that this should be resolved in an



1 adversary proceeding. I think every party, Mr. Bain,
2 Mr. Johnson, everybody has essentially agreed that these need
3 to be settled or resolved through an adversary proceeding. So
4 I think we're one step closer, Your Honor.

5 The issue really comes to a point, though, as
6 Mr. Hamm said, in Paragraph 2 of the proposed order, they do
7 seek to pay these payments now without receiving or resolving
8 any decision on this issue that everybody agreed needs to be
9 litigated. And so that really points to the fact that the
10 debtors have conceded that there are statute of fraud issues.
11 We don't know who, we don't know which one that showed up here
12 and said we want to be paid today, we don't know which one of
13 those yet really is subject to that admission of statute of
14 frauds, but it exists.

15 And despite that, the debtor still wants to make
16 payments without any ability to resolve what happens if the
17 petitioning creditors, if the objecting parties are correct.
18 What happens if those interests truly aren't valid assignments?

19 And so, Your Honor, the other aspect, as Mr. Hamm
20 talked about, was the inquiry notice. We agree and
21 we'll -- I'll not belabor the point, but we do believe that
22 that is taken out of context and we believe that a case is
23 taken too far, and that the purported assignments don't assign
24 what they are intended or were -- are alleged to be assigning.

25 So for these reasons, Your Honor, we do ask that this



1 Court deny this motion at this point in time, and maybe at
2 another, subsequent time later, we come back and we resolve
3 this with a proposed agreement. But today we ask that this
4 Court put a pause on this. Thank you.

5 THE COURT: Anyone else wish to be heard? All right,
6 let's proceed with the evidence.

7 MR. WILSON: Thank you, Your Honor. For the record
8 again, Sean Wilson with Jones Walker, proposed counsel for the
9 debtor. Your Honor, as I mentioned, I think we would like to
10 handle our side of trying to move that in first, and then the
11 other side in terms of just trying to housekeep this --

12 THE COURT: Okay.

13 MR. WILSON: -- and keep it straightforward. So,
14 Your Honor, the debtor filed its witness and exhibit list, and
15 it proposes to move into evidence its exhibits, which can be
16 found at Docket Number 63-1. I'll pause there to see if anyone
17 has any objection.

18 THE COURT: So 63-1 is --

19 MR. WILSON: My apologies, Your Honor. Let me -- I'd
20 like to move in first, the joint operating agreement, which is
21 Debtor's Exhibit Number 3 and Number 6, which is Docket
22 Number 170-2. And then Docket -- oh.

23 MR. BAIN: 177-3. Is that --

24 MR. WILSON: 177-3, yes.

25 THE COURT: 177?



1 MR. WILSON: Dash 3.

2 THE COURT: Got it.

3 MR. WILSON: Your Honor, my witness and exhibit list
4 is actually Docket Number 200. We filed and amended this
5 today.

6 THE COURT: That's kind of what I thought.

7 MR. WILSON: My apologies.

8 THE COURT: All right. Which ones do you want to
9 move into evidence?

10 MR. WILSON: The first is going to be Exhibit
11 Number 3, which is the joint operating agreement dated
12 December 1st, 2017. That is Docket Number 170-2.

13 THE COURT: So then Exhibit 3 is 170-2. Okay. Any
14 objection to the admission of the JOA dated December 1st, 2017?

15 MR. HAMM: And -- I'm sorry, Your Honor, Blake Hamm
16 from Mehaffy Weber. Which version are we -- there are several
17 versions of the JOA dated December 1st, 2017.

18 THE COURT: I don't know which version, so --

19 MR. WILSON: It's the one attached to our witness and
20 exhibit list at Docket Number 200. So that's 177-3.

21 MR. HAMM: Okay. That -- I apologize. They must
22 have filed that while I was driving into town.

23 MR. WILSON: That was filed initially on our last
24 witnesses and exhibit list. Let me see this. Thank you. So
25 to make everything a little bit clearer, so our initial witness



1 and exhibit list attached five exhibits to it.

2 THE COURT: Right. And then Exhibit Number 6 is the
3 one --

4 MR. WILSON: Correct.

5 THE COURT: -- that you want to get in, which is at
6 200-1 Exhibit 6.

7 MR. WILSON: Correct. So I'm trying to get the joint
8 operating agreement that we initially filed plus the signature
9 pages, correct.

10 THE COURT: Okay. So then it would be 170-2, which
11 is the original agreement filed, and then the signature pages,
12 which is at 200-1. Is that right?

13 MR. WILSON: Your Honor, it's Docket Number 177-3,
14 which is the joint operating agreement.

15 THE COURT: 177?

16 MR. WILSON: And then for the signature pages, it's
17 Docket Number 200-1.

18 THE COURT: Okay. So the offer is for Exhibit -- a
19 combined exhibit, and it's 177-3, which is a form of model
20 operating agreement dated December 1, 2017, and the signature
21 pages, which are found at 200 -- Exhibit 200-1. That's the
22 offer.

23 MR. WILSON: That's the first exhibit, correct.

24 THE COURT: Okay. Anyone have any objection to that?

25 MR. HAMM: No objection for purposes of today's



1 hearing, Your Honor.

2 THE COURT: Okay. Thank you. That'll be admitted.

3 (ECF Number 200-1 in evidence)

4 MR. WILSON: Thank you, Your Honor. The second is
5 going to be the Carr Resources assignment, which can be found
6 at Docket Number 177-4.

7 THE COURT: Okay. Does anyone have any objection to
8 the admission of Exhibit 177-4?

9 MR. PHILLIPS: No objection as to authenticity, Your
10 Honor.

11 THE COURT: All right. That will be admitted.

12 (ECF Number 177-4 in evidence)

13 MR. WILSON: Those are the exhibits currently for the
14 debtor. I'll let my colleague stand up and -- that support the
15 motion.

16 MR. BAIN: Was there --

17 MR. JOHNSON: Good afternoon, Your Honor. Shane
18 Johnson from Porter Hedges again on behalf of Middleton Oil
19 Company.

20 THE COURT: All right.

21 MR. JOHNSON: Middleton Oil filed its witness and
22 exhibit lists at Docket Number 170, and we'd like to move in
23 Docket Number 170-1, which is the same JOA that you just
24 admitted, but it has the signature page of Middleton Oil
25 Company.



1 THE COURT: Okay. Why don't you put all your
2 exhibits --

3 MR. JOHNSON: Okay. Apologies, Your Honor. And then
4 170-2, which has an updated Exhibit A to that same JOA. Those
5 are our two exhibits, Your Honor.

6 THE COURT: All right. Does anyone have any
7 objection to the admission of the two exhibits found at Docket
8 Number 170-1 and Docket 170-2?

9 MR. PHILLIPS: No, Your Honor.

10 THE COURT: Okay. They'll be admitted.

11 (ECF Numbers 170-1 and 170-2 in evidence)

12 MR. JOHNSON: Thank you, Your Honor.

13 THE COURT: I think there's one more person.

14 MR. LIPPMAN: Your Honor, Kevin Lippman, Munsch
15 Hardt, appearing on behalf of BMW Investments LP. We filed our
16 exhibit list at Docket Number 180 and identified one specific
17 exhibit. It's the assignment and bill of sale by and between
18 Borough Shaver Resources Company and my client, BMW
19 Investments. It's at Docket Number 180-1, and I'd move for the
20 admissions of it.

21 THE COURT: Does anybody have any objection to the
22 admission of Docket 180-1?

23 MR. WILSON: No, Your Honor.

24 THE COURT: Okay. That will be admitted.

25 (ECF Number 180-1 in evidence)



1 MR. LIPPMAN: Thank you, Your Honor.

2 MR. HOLMES: Your Honor, Steven Holmes on behalf of
3 Journeys End Petroleum and Pondegrossa Trust. We filed our
4 witness and exhibit list at Docket Number 176 and would like to
5 request the admission of Exhibit 176-3 -- no, strike that, 4 --
6 which is our Exhibit D. It's the same operating agreement with
7 my client's signatures affixed.

8 THE COURT: Okay. Is that it?

9 MR. HOLMES: No.

10 THE COURT: Okay.

11 MR. HOLMES: Is that admitted, Your Honor?

12 THE COURT: Yeah. I mean, it's -- we've already
13 admitted it, so I'm going to go ahead and admit it.

14 (ECF Number 176-4 in evidence)

15 MR. HOLMES: Okay. Thank you. Would also request
16 the admission of Exhibits 176-6 and 7, which are the two most
17 recent JIB statements that my clients have received from the
18 debtor.

19 THE COURT: Any objection to that?

20 MR. WILSON: No, Your Honor.

21 MR. PHILLIPS: No, Your Honor.

22 THE COURT: They'll be admitted.

23 (ECF Numbers 176-6 and 176-7 in evidence)

24 MR. HOLMES: Thank you, Your Honor. And finally, I
25 would move for the admission of Exhibits 176-8 and 10, which



1 are two additional Carr assignments that were filed of public
2 record. And I have the certified copies here as well of the
3 originals, Your Honor. The debtor moved for the admission of
4 the other one, and that's already been admitted.

5 THE COURT: Any objection to those two other Carr
6 assignments?

7 MR. WILSON: No, Your Honor.

8 MR. PHILLIPS: No, Your Honor.

9 THE COURT: Okay. They'll be admitted.

10 MR. HOLMES: Thank you, Your Honor.

11 THE COURT: So that's Exhibits 176-8 and 176-10.

12 MR. HOLMES: Correct.

13 (ECF Numbers 176-8 and 176-10 in evidence)

14 THE COURT: Thank you.

15 MR. MARTIN: Good afternoon, Your Honor. Jarrod
16 Martin for S One Royalty Properties, LLC. Similar to others,
17 I'd move to admit Exhibit 171-1, which is the joint operating
18 agreement with the S One Royalty signature line.

19 THE COURT: Okay. It's the same operating agreement.
20 I'm just going to go ahead and admit it.

21 (ECF Number 171-1 in evidence)

22 MR. MARTIN: That's all I have for now, Your Honor.
23 Thank you.

24 THE COURT: All right. Any other exhibits?

25 (Counsel confer)



1 MR. HAMM: Yes, Your Honor. The dangers of
2 bringing --

3 THE COURT: Your exhibits at 179?

4 MR. HAMM: Right. No one said anything about the
5 dangers of bringing non-file-stamped copies of my exhibits. My
6 clients have attached copies of excerpts of their lien
7 affidavits, Docket 179, and we would request those be admitted.

8 THE COURT: Okay. So it's 179-1, 179-2, 179-3,
9 179-4, 179-5, 179-6, 179-7, 179-8, 179-9, 179-10. And I think
10 through --

11 MR. HAMM: It should be through 23.

12 THE COURT: Through 23. Okay.

13 MR. HAMM: It should be 23 separate exhibits.

14 THE COURT: Okay. Yes. So it's 179-1 through
15 179-23.

16 MR. HAMM: Yes, Your Honor. Thank you. Apologies.

17 THE COURT: Any objection?

18 MR. WILSON: No objection.

19 THE COURT: All right.

20 MR. MARTIN: Your Honor?

21 THE COURT: So 179-1 --

22 MR. SMITH: Your Honor, sorry. We would not object
23 to them being admitted to show that they were filed, but with
24 the usual caveat that they're not being admitted to prove
25 anything stated therein.



1 MR. HAMM: Of course, Your Honor.

2 THE COURT: Understood. Okay. All right. With that
3 caveat, they will be admitted.

4 (ECF Numbers 179-1 through 179-23 in evidence)

5 THE COURT: All right. Any further evidentiary --

6 MR. PHILLIPS: Your Honor, Louis M. Phillips on
7 behalf of ProFrac. We have at Document 174 the mineral lien
8 affidavits, and they are at 174-1 through 174-5. It had to be
9 uploaded in batches, Your Honor, but that's our collection of
10 lien affidavits.

11 THE COURT: All right. Any objection with the same
12 caveat?

13 MR. WILSON: No. And with the extra caveat that,
14 just for today's purposes only.

15 THE COURT: Right.

16 MR. WILSON: Correct.

17 THE COURT: Obviously. Okay. So Exhibits 174-1 to
18 174-5 will be admitted with the two caveats for today's
19 purposes.

20 (ECF Numbers 174-1 through 174-5 in evidence)

21 MR. WILSON: All right. Your Honor, I do have paper
22 copies if you're interested.

23 THE COURT: I'm trying not to do that. Okay.

24 MR. WILSON: You can say no. I'm not going to take
25 offense to it.



1 THE COURT: Yeah.

2 MR. WILSON: Your Honor, the debtor I would like to
3 call Mr. James Katchadurian.

4 THE COURT: Yeah. And so just to give everybody a
5 little bit of what I'm thinking, I really would like to focus
6 on three distinct periods. One is the period for the interim
7 order, which I think is done. You know, that was i
8 mediate irreparable harm, and I already made that finding.

9 The second period is the pre-petition period. And
10 obviously, because of the way the JIB billing works, you're at
11 least two months behind, maybe sometimes more -- you know, more
12 than two months behind. So I want to focus on the pre-petition
13 period, and then I want to focus on the post-petition period,
14 if you will, to whatever extent. I'm not sure this motion
15 covers the post-petition period, but to whatever extent it is,
16 and if you could focus the testimony on those, really the
17 second and the third periods, I'd appreciate that.

18 MR. WILSON: Yeah. Understood, Your Honor. The
19 debtor would like to call Mr. James Katchadurian, Chief
20 Restructuring Officer.

21 THE COURT: I think you're going to have to turn on
22 that camera. Good afternoon. Would you raise your right hand,
23 please.

24 MR. KATCHADURIAN: Good afternoon.

25 THE COURT: Good afternoon. Would you raise your



1 right hand, please.

2 JAMES KATCHADURIAN, DEBTOR'S WITNESS, SWORN

3 THE COURT: Thank you.

4 MR. WILSON: Your Honor, may I approach?

5 THE COURT: Yeah, absolutely.

6 DIRECT EXAMINATION

7 BY MR. WILSON:

8 Q All right. Mr. Katchadurian, at this point, I think
9 everyone knows your name, but for the record, can you please
10 state your name.

11 A James Katchadurian.

12 Q Mr. Katchadurian, where do you work?

13 A I am a partner at CR3 Partners. We are a national
14 turnaround restructuring firm.

15 Q Before we get into the matters of this case, I want to
16 know a little bit more about your education and your
17 background. Can you walk us first through your educational
18 background.

19 A I went to Syracuse University undergrad. I'm a fellow of
20 INSOL International, and I've been working in turnaround and
21 restructuring for 25-plus years.

22 Q All right. At CR3 Partners, have you worked on oil and
23 gas bankruptcy cases before?

24 A I have.

25 Q Which ones?



1 A I've worked on the Northstar Offshore case, where I was
2 Chief Restructuring Officer, as well as Sklar Exploration,
3 where I was also the CRO.

4 Q All right. Can you briefly describe the Northstar
5 bankruptcy case.

6 A I can. The Northstar case was an offshore oil and gas
7 venture which had an involuntary filed against it, later
8 converted to a voluntary case. We ran a 363 process, sold
9 assets to a third party, and I'm now managing the liquidating
10 trust.

11 Q All right. Now, let's kind of talk about this case, in
12 particular your role. Mr. Katchadurian, are you the Chief
13 Restructuring Officer of the debtor?

14 A I am.

15 Q When did you get involved with the debtor?

16 A In July of this year.

17 Q Before you got involved, did you have any connections with
18 Mr. Scott Shaver?

19 A I did not.

20 Q How about Ms. Linda Barrow, any connections?

21 A None at all.

22 Q What about SOS-LMC, any connections?

23 A No.

24 Q How about TLB Corp, any connections?

25 A No.



1 Q All right. And as Chief Restructuring Officer, what do
2 you view your role in terms of whose interests you are here to
3 protect?

4 A I'm here to maximize value for all creditors.

5 Q Do you view your role as protecting any individual party?

6 A No.

7 Q Is your role to do Scott Shaver's bidding in this case?

8 A Absolutely not.

9 Q What about Ms. Linda Barrow's bidding?

10 A No.

11 Q The working interest?

12 A No.

13 Q How about the Unsecured Creditors Committee?

14 A No.

15 Q The statutory lien creditors?

16 A No.

17 Q What about the petitioning creditors?

18 A No.

19 Q All right. Let's talk a little bit more about the
20 petitioning creditors for a moment. Prior to filing the
21 voluntary petition, did the chief -- or did you talk to the
22 petitioning creditors at that time?

23 A We did.

24 Q Generally, what did the petitioning creditors want the
25 debtor to do in this case?



1 A I believe they wanted us to sell the debtor's assets to
2 give themselves a recovery.

3 Q Is that the best interest of the estate at this time?

4 A No. My responsibility as CRO is to act on behalf of all
5 creditors.

6 Q All right. And do you have a fiduciary duty to maximize
7 value of the estate?

8 A I do.

9 Q All right. Now let's talk about the matters at this
10 hearing, the mineral motion. First let's set the stage. When
11 you first got involved with the debtor, how were the debtor's
12 books and records?

13 A The oil and gas records are in a system called Wolfepack.
14 Wolfepack, the records in Wolfepack are in good shape. The
15 debtor's general financial reporting function is nearly
16 nonexistent.

17 Q Prior to filing the voluntary petition, did you and your
18 team notice anything about the debtor's books and records
19 regarding the working interest?

20 A The fact that there -- all but one was unrecorded.

21 Q What about the debtor's overriding royalty interest?

22 A the same situation occurred, all but one was unrecorded.

23 Q Did the debtor disclose these issues with the Court and
24 with creditors?

25 A We did indeed.



1 Q Was that done at your direction?

2 A Yes.

3 Q Why did you do that?

4 A We wanted to make sure we were transparent and open with
5 all constituents.

6 Q Now, prior to filing the voluntary petition date, was it
7 in the ordinary course of the debtor's business to make these
8 payments to the working interest owners?

9 A Yes, of course.

10 Q What about the overriding royalty interest owners?

11 A Yes.

12 Q All right. Now let's talk about the motion and the
13 debtor's plans with the working interest owners first.
14 Generally, what's the debtor's plans with the working interest
15 owners?

16 A The plan is to -- to pay non-insiders, those people who
17 are, you know, up to date on their JIBs and AFEs and are in
18 general compliance with the -- the JOA. That's the general
19 plan, yes.

20 Q You mentioned non-insiders. What about the in -- or the
21 restricted people? What about those?

22 A The restricted people are not to be paid at this time.

23 Q Understood. Have you looked into whether the working
24 interest owners, the nonrestricted people, paid consideration
25 for their working interest?



1 A It's still under review, but it's part of our ongoing
2 diligence process to determine whether we should be paying
3 people or not.

4 Q Have you examined the working interest owners on a
5 conveyance-by-conveyance basis?

6 A That's correct.

7 Q What's the status of that investigation?

8 A It's ongoing.

9 Q Now, as Chief Restructuring Officer, are you going to
10 investigate those purported conveyance documents to the working
11 interest owners?

12 A Yes, we will.

13 Q Will you be in consultation with the Committee regarding
14 that investigation?

15 A Absolutely.

16 Q Are you going to exercise fiduciary duty to determine
17 whether or not to make those payments?

18 A I will.

19 Q Now, let's talk about those three periods of time that the
20 Judge just mentioned. For July production, when is that going
21 to be paid, or should have been paid?

22 A It would be in August.

23 Q Whatever -- what happened to that August production?

24 A So --

25 Q Let me rephrase. Whatever happened to that July



1 production that was supposed to be paid in August?

2 A Two of the statutory lien claimants had filed a lien
3 notice with Plains Marketing and approximately two and a half
4 million dollars was withheld from the debtor.

5 Q Now, that covered periods that were prior to the petition
6 date, correct?

7 A Correct.

8 Q Did it also straddle the gap period?

9 A It did.

10 Q All right. Now, that's one bucket that we're looking at.
11 What about this second bucket, the August production, what is
12 happening with August production at this time?

13 A So typical -- typically, August production will be paid in
14 the third week of September. It's ordinary course for the
15 marketing company to pay the operator in the third week of the
16 following month in which the hydrocarbons are generated and
17 sold into the market.

18 Q And so -- and the voluntary petition date was August 19th,
19 correct?

20 A Correct.

21 Q And from that point forward, it was post-petition from
22 August 19th to the end of August, correct?

23 A That's correct.

24 Q All right. Now, let's talk about some of the objections
25 that we received on this mineral motion. Are you aware that



1 certain statutory lien creditors have filed objections to this
2 mineral motion?

3 A Yes, I'm generally aware.

4 Q Generally, factually, what do those objections say?

5 A That the debtor should not be paying working interest to
6 to owners or their -- their revenue or any sort of over -- ORRI
7 whatsoever.

8 Q Does those objections suggest the debtors should try to
9 avoid this working interest owners?

10 A Yes.

11 MR. SMITH: Objection. Calls for a legal conclusion.

12 THE COURT: I think it's leading, so I'll sustain it.

13 MR. SMITH: Fair enough.

14 BY MR. WILSON:

15 Q What else do those objections state?

16 A That, you know, the debtor's assets should be sold for the
17 benefit of unsecured creditors, and that, you know, we should
18 be reviewing conveyances and the like.

19 Q Do those objections also request the debtor to assert
20 litigation against the working interest owners?

21 MR. SMITH: Objection. Leading.

22 THE COURT: Yeah, why don't you rephrase?

23 BY MR. WILSON:

24 Q What else do those objections state?

25 A The objections state that the debtor should be litigating



1 at this point.

2 Q All right. Now, approximately how many working interest
3 parties are there?

4 A In excess of 250.

5 Q Approximately how many of those interests are recorded?

6 A One.

7 Q Does the State have limited resources to pursue that
8 litigation at this time?

9 A We do.

10 Q Would that litigation be expensive?

11 A Very expensive.

12 Q Would the --

13 MR. SMITH: Objection. Calls for speculation.

14 THE COURT: Why don't you lay the foundation. I
15 think it's probably within his knowledge.

16 MR. WILSON: Yes, Your Honor.

17 BY MR. WILSON:

18 Q Mr. Katchadurian, you've been Chief Restructuring Officer
19 in other bankruptcy cases, correct?

20 A I have.

21 Q In those bankruptcy cases, were there litigation?

22 A There was.

23 Q Was there some in the Northstar bankruptcy case?

24 A There certainly was.

25 Q Was there some in the Sklar bankruptcy case?



1 A Yes.

2 Q Now, I'm going to ask the question again. Would that
3 litigation against the working interest owners be expensive?

4 A Yes, I believe.

5 MR. SMITH: Objection. Still speculation.

6 MR. WILSON: Your Honor, I believe I established a
7 foundation. He --

8 THE COURT: Yeah, I'm going to overrule the objection
9 at this time. I think he -- based on his personal knowledge,
10 he can make that business decision that he thinks it would be
11 expensive.

12 BY MR. WILSON:

13 Q Now, we've heard today some of the working interest owners
14 would contest that litigation. Do you believe that the
15 working -- other working interest owners would contest that
16 litigation if we -- the debtor were to initiate that?

17 A Yes, I do.

18 Q Why do you believe that?

19 A Not only have I heard it from counsel in this courtroom
20 today, but I've heard it in the past from other working
21 interest owners who want to make sure that their revenue is
22 paid to them.

23 Q Now, have the working interest owners asserted arguments
24 that their interests should be recognized?

25 A Yes.



1 Q Actually what is that argument?

2 A The debtor's books and records through Wolfepack evidence
3 the working interest owners' ownership as well as division of
4 interests, as well as the assignment that's been filed in --
5 with the Cass County Tax Department.

6 Q Got it. Now, and to be clear, does the debtor fully
7 believe this argument at this time?

8 A The debtor is investigating all arguments and -- and will
9 continue to do so.

10 Q Now, you have a witness and exhibit book in front of you.
11 Can you please turn to the Carr Resources exhibit, which is --
12 should be Tab Number 4.

13 A I've got it.

14 Q Do you recognize this exhibit?

15 A I do.

16 Q What is this exhibit?

17 A It's an assignment of interest from Barrow-Shaver
18 Resources Company, LLC to Carr.

19 Q Where was this assignment recorded?

20 A In -- on the third page, it shows a stamp that it was
21 recorded in Cass County.

22 Q Is Cass County one of the counties that make up the Hidden
23 Rock field?

24 A It is.

25 Q Is the Hidden Rock field one of the most valuable assets



1 of the debtor's estate at this time?

2 A Yes.

3 Q All right. Now let's look at Paragraph 2 of the
4 assignment. Is that assignment subject to any terms or
5 conditions in another document?

6 A It is. It's subject to the JOA dated December 1, 2017, as
7 well as the exploration agreement.

8 Q All right. Let's now look at Debtor's Exhibit Number --
9 well, in your book, Tab Number 3, and that's Docket
10 Number 170-2.

11 A I've got it.

12 Q Do you recognize this document?

13 A I do.

14 Q What is this document?

15 A It's the JOA.

16 Q Now, can you page -- please turn to Page 29 of 51 at the
17 very top. That's the Bates label -- not Bates label, the ECF
18 numbers on it.

19 A I've got it.

20 Q I'm not there yet, though.

21 MR. HAMM: Your Honor, just a brief objection or
22 perhaps a question. What is the docket number that you're
23 looking at there?

24 THE COURT: 170-2 is at the very top.

25 MR. HAMM: I believe the admitted exhibits were 177-3



1 and 200-1.

2 THE COURT: The JOA was admitted at 173-3.

3 (Counsel confer)

4 MR. WILSON: Your Honor, this is 170-2. This is
5 actually Middleton Oil's exhibit that you did admit separately.

6 THE COURT: All right. 170-2.

7 MR. HAMM: Thank you.

8 MR. WILSON: My apologies.

9 BY MR. WILSON:

10 Q Now, Page 19 of -- you're on Page 29 of 51, just to make
11 sure we're all on the same page, correct?

12 A Yes, sir.

13 Q What does this page reflect?

14 A It reflects percentages of interest to the various parties
15 subject to the agreement.

16 Q All right. Now, at this time, is it in the best interest
17 of the debtor's estate to initiate litigation against the
18 working interest owners?

19 A No, I don't believe it is.

20 Q Why is that?

21 A At this time, I think the best use of the debtor's
22 resources is to run an expeditious sale process so that we can
23 maintain the status quo in the short term and maximize the
24 asset value of Hidden Rock.

25 Q Now, we've talked about litigating against the working



1 interests. Let's just talk about simply not paying them. Now,
2 is the debtor the operator in Hidden Rock field?

3 A It is.

4 Q As operator, does the debtor have monthly lease operating
5 expenses?

6 A It does.

7 Q Does the debtor issue joint interest billing to its
8 working interest owners on behalf of those lease operating
9 expenses?

10 A It does.

11 Q If the debtor stopped paying the working interest owners,
12 would the working interest stop paying their JIBs?

13 A I believe they would.

14 Q How do you know that?

15 A It's been stated today, and I think it's fairly logical
16 that if the working interest owners don't get their revenue,
17 they're not going to pay for the operating expenses of the
18 field.

19 Q Now, what else would happen if the debtor stopped paying
20 its working interests their share of revenue?

21 A Based on my previous experience, I believe that it would
22 send a signal to the market, and I think that the -- the asset
23 would not be seen as being as valuable. It would create chaos,
24 it would create a lot of litigation, and there would definitely
25 be a diminution of value.



1 Q You were in the courtroom today when Mr. Johnson got up
2 here and made his opening statement, correct?

3 A I was.

4 Q Now, do you believe his client would litigate against the
5 estate if we stopped paying its working interest owners?

6 A I believe Mr. Johnson to be a man of his word, yes.

7 Q Do you believe other working interest owners would also
8 start litigating against the estate if it stopped paying its
9 working interest owners?

10 A Yes.

11 Q Would that lead to administrative claims?

12 A It would certainly lead to a lot of administrative claims.

13 Q Would it cause the debtor harm?

14 A It could cause the debtor to be administratively
15 insolvent, certainly.

16 Q Now, is it critical to make these payments to maintain the
17 going concern of the debtor?

18 A Yes, I believe it is.

19 Q Now, why is that?

20 A I think again, for the reasons we stated before, we're
21 trying to run an orderly process. We're trying to maximize
22 value. We've had several parties be very interested in this
23 property, and we want to be able to -- to generate as much
24 proceeds as we could from Hidden Rock to be able to satisfy as
25 many claimants as we possibly can through this process.



1 Q Has the Committee been in consultation with the debtor
2 regarding this final proposed order?

3 A It has.

4 Q Does the Committee believe that this final proposed order
5 is in the best interest of -- well --

6 MR. HAMM: Well, objection. Form.

7 MR. WILSON: Let me rephrase.

8 MR. HAMM: Objection. Speculation. Sorry.

9 MR. WILSON: Let me rephrase.

10 BY MR. WILSON:

11 Q Is the Committee resolved with this final proposed order?

12 A I understand they are, yes.

13 Q All right. Now, we've been talking about working
14 interest. Let's switch gears and talk about the overriding
15 royalty interest. To begin, is the -- does the debtor plan on
16 paying the overriding royalty interest to any restricted
17 person?

18 A No, it does not.

19 Q What about non-restrictive persons?

20 A Yes. We intend to investigate those conveyances and pay
21 if appropriate.

22 Q Now, as -- you mentioned investigation. If you were to
23 find a conveyance document was wrong, are you going to exercise
24 your fiduciary duty to determine whether to make that payment?

25 A Absolutely.



1 Q Are you going to be in consultation with the Committee
2 regarding those payments?

3 A I certainly will.

4 Q At this time, do you believe it is in the estate's
5 interests to pay those overriding royalty interests if they're
6 a valid conveyance?

7 A To non-insiders, yes.

8 MR. WILSON: Your Honor, can I have one moment?

9 THE COURT: Yes.

10 BY MR. WILSON:

11 Q Now, let's go back to the interim order, one of the time
12 periods that we talked about. Under that interim order, have
13 royalty interests been paid?

14 A Yes.

15 Q Have working interests been paid under that interim order?

16 A They have not.

17 Q How about overriding royalty interests, have those been
18 paid under the interim order?

19 A No.

20 MR. WILSON: All right. At this time, Your Honor,
21 I'll pass the witness.

22 THE COURT: Thank you. Cross-examination or -- we've
23 been going for about an hour, so do you all want to take a
24 break before you cross-examine or go ahead and go?

25 MR. CURRY: I'm fine to go, Your Honor.



1 THE COURT: Okay. Let's go.

2 MR. CURRY: If Mr. Katchadurian is.

3 THE COURT: Oh, he can handle it. Don't worry.

4 MR. CURRY: Your Honor, just point of order.

5 THE COURT: Oh, that's right. I --

6 MR. CURRY: Do you want to switch to cross-exam --

7 THE COURT: No, I --

8 MR. CURRY: Okay.

9 THE COURT: My apology. This is what you have to put
10 up with a new judge, so come on up.

11 MR. CURRY: That's fine.

12 THE COURT: I thought Mr. Wilson had done such a good
13 job, you know.

14 MR. CURRY: He covered almost everything. Your
15 Honor. David Curry, on behalf of TLB Corp.

16 DIRECT EXAMINATION

17 BY MR. CURRY:

18 Q Mr. Katchadurian, during Mr. Wilson's direct there, you
19 looked at an assignment that was recorded in -- that was the
20 Cass assignment?

21 A Carr Resources.

22 Q Carr filed in Cass County, correct?

23 A Yes, sir.

24 Q And Mr. Wilson asked you about the reference in that
25 document to a joint operating agreement, but that document also



1 references an exploration agreement, correct?

2 A Correct.

3 MR. SMITH: Objection. Leading.

4 MR. CURRY: It's foundation about what's in the
5 document, Your Honor?

6 THE COURT: Yeah. I -- the document's in evidence,
7 So he could just ask him, does it say this --

8 MR. SMITH: Sure. Sure.

9 THE COURT: -- and it'd be the same effect, so I'm
10 going to overrule the objection.

11 BY MR. CURRY:

12 Q And, Mr. Katchadurian, have you had a chance to review the
13 expiration agreement?

14 A Generally, yes.

15 Q And do you recall, as you sit here today, whether or not
16 the expiration agreement mentions or reserves overriding
17 royalty interests?

18 MR. SMITH: Objection, Your Honor. The exploration
19 agreement hasn't been admitted into evidence and hasn't been
20 presented to any party here, as far as I know.

21 THE COURT: I think that's a valid objection.

22 MR. CURRY: I haven't asked him yet whether or not --

23 MR. SMITH: Then best evidence --

24 MR. CURRY: -- those are --

25 MR. SMITH: -- best evidence rule.



1 MR. CURRY: -- that those are -- we have not yet --
2 well, Your Honor, if we want to rule on the motion to seal that
3 was filed with the expiration agreement, happy to go through
4 that, but --

5 THE COURT: The ex -- that's right, there is a
6 pending motion to seal. What document is that?

7 MR. CURRY: The issue here, Your Honor, is just
8 whether or not Mr. Katchadurian is aware of the reference in
9 the document at this point. We're not asking him to testify as
10 to whether or not --

11 THE COURT: Or what it says.

12 MR. CURRY: -- or what it says.

13 THE COURT: Yeah, I'm going to let him ask that
14 foundational question.

15 BY MR. CURRY:

16 Q And so, Mr. Katchadurian, as we sat here today, are you
17 aware of whether or not the expiration agreement references
18 certain overriding royalty interests to be reserved pursuant to
19 the expiration agreement?

20 A I believe it does, yes.

21 Q And as to the joint operating agreement, is that executed
22 agreement something readily available upon request from the
23 debtors?

24 A Yes, I believe it is.

25 Q And how about the expiration agreement?



1 A I don't believe it is.

2 Q You don't believe the debtor is able to produce a copy of
3 it?

4 A The debtor can certainly produce a copy. Sorry.

5 Q Okay. And so would you agree then that a third-party
6 purchaser conducting reasonable due diligence on these assets
7 would have access to the joint operating agreement and the
8 expiration agreement?

9 MR. HAMM: Objection. Speculation, Your Honor.

10 UNIDENTIFIED: Objection. Speculation. Relevance,
11 Your Honor.

12 MR. PHILLIPS: Speculation (indiscernible).

13 MR. CURRY: Actually, it's not speculating. He just
14 said that it's readily available in the debtor's books and
15 records --

16 MR. HAMM: Your Honor, perhaps he could lay a
17 foundation that he interviewed Mr. Shavers about what he would
18 have done pre-petition.

19 THE COURT: Yeah, I'm going to sustain. I'm going to
20 sustain the objection. I think he's testified that the joint
21 operating agreement was readily available. He was a little bit
22 more equivocal about whether the exploration agreement was
23 generally available as opposed to being available, and I think
24 I understand his testimony.

25 MR. CURRY: Okay. As long as -- I think you said



1 what my point was, Your Honor. That's all I have.

2 THE COURT: Okay. Anyone in favor want to cross --
3 or direct, I guess?

4 All right. Cross.

5 MR. HAMM: Thank you, Your Honor. Blake Hamm for the
6 Mehaffy Weber creditors. I do need to make a correction. You
7 had asked earlier if one of our clients was still providing
8 services to the debtor. I've been informed that one is. It's
9 Princess Three, apparently in the Hidden Rock field.

10 THE WITNESS: That's correct.

11 THE COURT: Okay.

12 MR. HAMM: Very good.

13 CROSS-EXAMINATION

14 BY MR. HAMM:

15 Q Mr. Katchadurian, you have, in the course of your direct,
16 referenced a potential sale. Is that correct?

17 A Yes, sir.

18 Q Okay. What is the debtor trying to sell?

19 A The 44 percent interest in the Hidden Rock field, at a
20 minimum.

21 Q What does that mean at a minimum? What else could the
22 debtor sell?

23 A Well, I think it's got rights to sell forfeited interests
24 under the JOA, and there's other non-Hidden Rock assets.

25 Q So within the Hidden Rock field, it's your testimony that



1 the debtor may have litigation rights against other parties to
2 obtain interest that the debtor may have assigned to them. Is
3 that what you're saying?

4 A I don't believe there are litigation rights, no.

5 Q Now, how would the debtor then obtain these for -- what
6 forfeited rights are you talking about?

7 A There's certain non-consent rights that the debtor may
8 have rights to under the JOA.

9 Q Whose rights?

10 A I'm sorry?

11 Q Which alleged interest owners are you talking about that
12 may have forfeited their rights under the December 2017 JOA?

13 A I don't have them off the top of my head. There's
14 hundreds of interest owners.

15 Q So how many people signed this December 1st, 2017, JOA?

16 A Eighteen.

17 Q Eighteen?

18 A Something like that.

19 Q I thought you just said there were hundreds of interests.

20 A There are hundreds of interests. The retail funds have
21 250 interests on their own.

22 Q Okay. So you're saying the investors and the retail funds
23 own working interests in the properties?

24 A No.

25 Q Is that your position?



1 A No.

2 Q Okay. So how many working interest owners does the debtor
3 believe there are?

4 A I don't know.

5 Q Okay. You don't know. And why is it you don't know?

6 A (No audible response.)

7 Q Let's back up. Let's take a look -- so one version of the
8 December 2017 JOA that you were looking at before was in a
9 notebook you had, I believe, right, at Docket 170-2? Do you
10 still have that in front of you, sir?

11 A I do.

12 Q Okay. So could you please turn to Page 29 of 51. Are you
13 there?

14 A Yes.

15 Q Okay. So just to try to get our hands around it, under
16 Paragraph 3 entitled Percentages or Fractional Interests of
17 Parties to this Agreement and Addresses for Notification
18 Purposes, there are 19 parties listed. Is that right?

19 A Twenty, I believe.

20 Q Twenty? Whether it's 19 or 20, is the list contained here
21 at Pages 29 and 30 of Docket 170-2, does this list comprise the
22 complete list of entities whom the debtor believes own working
23 interests in the Hidden Rock field?

24 A I believe the top of the Page 29 says the list --

25 Exhibit A is amended on July 20th, 2023.



1 Q Okay. So let me ask the question again. Is the list
2 we're looking at here on Page 29 and 30 have all -- does it
3 list all the working interests the debtor believes own interest
4 in the Hidden Rock field, yes or no?

5 A I don't know.

6 Q You don't know? Why don't you know?

7 A I think that those interests may have changed since July
8 of 2023.

9 Q How would those interests have changed?

10 A People could have certainly bought and sold interests in
11 that time period.

12 Q Okay. Does the debtor know if anyone's bought and sold
13 any of these interests that are listed?

14 A I don't know.

15 Q You don't know. Okay. Now, is it the debtor's position
16 that this JOA creates an assignment of a working interest in
17 any way?

18 MR. WILSON: Objection, Your Honor. That's calling
19 for a legal conclusion.

20 THE COURT: Well, he can tell if that's the debtor's
21 position or he doesn't know.

22 THE WITNESS: I don't know.

23 BY MR. HAMM:

24 Q Okay. Well, let's go to Page 6 of 51 of this JOA, and
25 we're going to look at Article 3. I believe it's --



1 A I'm sorry, what page did you say?

2 Q Yeah, it's Page 6 of 51 --

3 A Okay.

4 Q -- of the agreement. There's an Article 3, interests of
5 parties, and if you look --

6 A What line is it? Sorry.

7 Q Starting at Page 29.

8 A I know, but there's line numbers on the exhibit. What
9 line --

10 Q Right. Starting on Line 29.

11 A Thank you.

12 Q Okay. It's the paragraph starting on Line 29 and going
13 through 31. Could you read that, please?

14 MR. WILSON: Objection, Your Honor. The document
15 speaks for itself.

16 THE COURT: Well, he hasn't asked him question yet.

17 MR. WILSON: He did ask can you read it.

18 BY MR. HAMM:

19 Q Do you agree with me that this document states nothing
20 contained in this Article 3(b) shall be deemed an assignment or
21 cross-assignment of interest covered, and in the event -- you
22 know, covered hereby --

23 MR. WILSON: Objection, Your Honor.

24 BY MR. HAMM:

25 Q Do you agree that --



1 MR. WILSON: The document speaks for itself. It's
2 already in evidence.

3 THE COURT: I agree with that. Objection sustained.

4 MR. HAMM: Thank you, Your Honor.

5 BY MR. HAMM:

6 Q Okay. So you would agree, then, that this document --
7 this JOA is not an assignment of interests, right?

8 MR. WILSON: Objection, Your Honor. Calls for a
9 legal conclusion.

10 THE COURT: He can answer whether he agrees or if he
11 doesn't know. I mean, I don't -- I'm not -- I don't think it
12 calls for a legal conclusion.

13 MR. WILSON: All right.

14 THE WITNESS: I don't know.

15 BY MR. HAMM:

16 Q Don't know. Okay. So what is the debtor-in-possession
17 using then to determine who it believes own the working
18 interests in the Hidden Rock field? What records is the debtor
19 relying on for that?

20 A It's relying on the system of record, Wolfepack, as well
21 as division of interest orders that exist today.

22 Q Okay. So the debtor is relying on Wolfepack, internal
23 accounting software, and division of interest orders. Is that
24 right?

25 A At a minimum, yes.



1 Q Okay. And I believe if you turn the tab to Page 4, you
2 looked at the -- earlier on your direct, you looked at the
3 memorandum of assignment dated May 1st, 2023, assigning
4 interests from Carr into the debtor. Is that right? Do you
5 recall looking at that document?

6 A I do.

7 Q Okay. Do you recall being asked questions about the
8 second paragraph in that document?

9 A I do.

10 Q Okay. Does the second paragraph of that document
11 reference Wolfepack software or division orders?

12 A No.

13 Q No. Okay. And I believe earlier you testified that there
14 was one recorded document of assignment of interest in the
15 Hidden Rock field, and that's -- well, there are three
16 different documents, but they all relate to this one Carr
17 Resources assignment, right?

18 A Yes.

19 Q That's the only -- those are the only assignments of
20 record in the Texas property records of Cass County, right?

21 A Yes.

22 Q Okay.

23 A Well, I don't know that, but I know that this assignment
24 exists.

25 Q So this recorded assignment exists. Have you seen any



1 recorded assignments related to interests owned by the other
2 alleged working interest owners that we're talking about today?

3 A I have not.

4 Q Do you know why none of those parties recorded assignments
5 of their working interest in the real property records?

6 A I do not.

7 Q Do you know why the debtor chose not to do that?

8 A I do not.

9 Q Does -- who -- let me -- I'm going to switch -- shift
10 gears. Who are the overriding royalty interest owners that the
11 debtor is asking the Court permission to pay?

12 A There are geologists and other such non-insiders that were
13 involved in the discovery of the field that we're currently
14 investigating to see if they're -- they're valid. And again, I
15 believe the debtor's asking for the authority to pay if they
16 pass muster and -- you know, post our investigation.

17 Q Can you identify who those people are now?

18 A Off the top of my head, no, sir.

19 Q Okay. And what records would you look at to be able to
20 identify who those people are?

21 A I'd be --

22 Q I'm sorry, let me be specific for the record. I'm sorry.
23 What would you look at -- what would the debtor-in-possession
24 look at to determine who the overriding royalty interest owners
25 in the Hidden Rock field are? I'm sorry.



1 A I'd look at any -- any sort of paper or, you know,
2 contractual grants of those ORRIs and the -- and the debtor's
3 books and records to establish that.

4 Q How does it benefit the debtor to pay these overriding
5 royalty interest owners? What benefit would the
6 debtor-in-possession obtain from doing that?

7 A Well, I believe that, you know, paying working interest
8 owners as well as the ORRI holders will establish -- well, I
9 take -- sorry, one second. I believe that keeping the status
10 quo has a certain value in terms of the marketability of the
11 asset. I believe that paying people that we're contractually
12 obligated to pay will cause a lack of litigation to occur, as
13 well as lack of admin claims, and to the extent possible,
14 continue the debtor's business as a going concern as best as
15 possible, and it excludes all the insiders as defined in the
16 motion.

17 Q Thank you. And do you agree with me that the debtor was
18 contractually obligated to pay certain amounts to my clients?

19 MR. WILSON: Objection, Your Honor. Legal
20 conclusion.

21 THE COURT: I think that's a legitimate question, so
22 I'm going to overrule it.

23 THE WITNESS: Yeah. I don't know what the particular
24 purchase order or MSA or whatever said specifically, but
25 generally speaking the debtor is responsible to pay amounts to



1 vendors it contracts with, yes.

2 BY MR. HAMM:

3 Q So why would the debtor, at this point in time, seek to
4 prefer paying the overriding royalty interest owners to, say,
5 my clients?

6 A I think the debtor is trying to preserve going concern
7 value and maximize value to all creditors.

8 Q Okay. So let's talk about that, maximizing value. I
9 believe earlier you testified -- correct me if I'm wrong, of
10 course. Is it a correct summation of your prior testimony that
11 the debtor is looking at putting together a sale of that
12 portion of the working interests in the Hidden Rock field that
13 the debtor believes are owned by insiders of the debtor? Is
14 that right?

15 MR. WILSON: Objection. That mischaracterizes his
16 testimony.

17 BY MR. HAMM:

18 Q I will -- please tell me what it is the debtor's trying --
19 looking to sell then.

20 A I believe the debtor is trying to sell the approximately
21 44 percent working interest that is owned by the insiders, yes.

22 Q Okay. Do you believe that that 44 percent working
23 interest is valuable?

24 A I do.

25 Q All right. Would a 97 percent working interest be more



1 | valuable than a 44 percent?

2 | A Yes.

3 | Q Okay. Well, and you agree, of course, that there are
4 | issues with the alleged interests owned by the unrecorded
5 | working interest owners, potential legal issues, right?

6 | A I'm not going to draw a legal conclusion.

7 | Q Okay. I believe you had made some reference to that in
8 | your declarations to the Court, correct, that there was a
9 | mineral interest issue, mineral title interest issue?

10 | A Correct, that it's currently being investigated.

11 | Q Currently being investigated. Okay. So there's at least
12 | a potential issue. Why wouldn't the debtor try to recover as
13 | much of the working interest as it could in this valuable field
14 | to maximize the value of its property to sell? Why wouldn't it
15 | do that?

16 | A Because the debtor -- it's my business judgment that the
17 | debtor shouldn't be litigating with many parties that are
18 | subject -- that are part of the JOA, and inviting that
19 | litigation right now is not the right timing. I think it's the
20 | right timing to launch a sale process which value -- maximizes
21 | value for all creditors. And then subsequent to that, you
22 | know, you can litigate. We have lots of options to go down
23 | many different paths after that point in time, but to litigate
24 | today is -- would be a complete mistake.

25 | Q Okay. So what work -- so the debtor doesn't own any --



1 according to the debtor-in-possession, does -- let me ask
2 again. According to the debtor-in-possession, does the debtor
3 actually own any working interest in the Hidden Rock field?

4 A It does.

5 Q What interest does the debtor own?

6 A It owns the 44 percent.

7 Q Okay. Was the debtor listed on the JOA that we just
8 looked at as an interest owner?

9 A I don't know. I didn't look at that.

10 Q Okay. Let's go back and look at it. It is again
11 Docket 170-2, Pages 29 and 30.

12 A Yeah. Barrow-Shaver Resources is not listed, no.

13 Q Okay. So the debtor's not even listed on this document as
14 an interest owner, right?

15 A That is correct.

16 Q But the debtor-in-possession believes that it owns a
17 44 percent interest, right?

18 A That's correct.

19 Q So this document is completely incorrect, right?

20 A That is not correct.

21 Q Well, it's not -- it doesn't correctly reflect the
22 interest you say are owned, correct?

23 A (No audible response.)

24 Q Let me rephrase. What document would you have my clients
25 look at to determine who owns what in this field?



1 A I don't know.

2 Q Thank you. Let's turn the page a little bit. So the --
3 in the reply -- I don't know if you've had an opportunity to
4 review the reply the debtors filed -- the debtor filed on
5 Friday. Have you seen that?

6 A I have.

7 Q Okay. Well, I generally saw three reasons that the debtor
8 is asking the Court to approve these payments. Number one was
9 that the debtor is a substantial risk of loss of leases and JIB
10 revenues if the Court did not grant the motion. Do you -- were
11 you aware of that?

12 A I don't have the reply in front of me.

13 Q Okay.

14 A I'm generally aware.

15 Q Well, if the debtor simply obtained the production revenue
16 and paid for operating expenses, how would not paying these
17 alleged working interest owners affect JIB revenue?

18 A I'm sorry, could you ask that again?

19 Q Sure. So JIB revenues, the debtor is currently netting
20 all these alleged interest owners, right?

21 MR. BAIN: Objection, Your Honor. That
22 mischaracterizes his testimony.

23 THE COURT: Okay. Sustained again.

24 BY MR. HAMM:

25 Q Is the debtor netting these alleged interest owners for



1 JIB revenue?

2 A The debtor is netting interest owners that aren't current
3 in their JIBs. That's correct.

4 Q Okay. What JIB -- specifically, what JIB revenue would
5 the debtor not obtain if the Court denied this motion?

6 A Could you rephrase that?

7 Q Yes. So the debtor has alleged that if the Court does not
8 grant this motion, it will lose out on JIB revenue. Okay?
9 Assume that with me, okay? So I'm asking you what JIB revenue
10 would the debtor not receive specifically if the Court denied
11 this motion?

12 A Well, it's my belief that working interest owners wouldn't
13 pay their JIBs if they're not getting their revenue.

14 Q Do -- and within the Hidden Rock field, does the
15 production currently cover the amount of operating expenses?

16 A During certain periods, yes.

17 Q Okay. And hypothetically, if the debtor owned
18 97.3 percent of the working interests in the Hidden Rock field,
19 would it currently be able to use the resulting production
20 proceeds to cover related expenses?

21 A In theory. We'd have to look at it certainly.

22 Q Okay. Another reason that the debtor has asked the Court
23 to grant this motion is because it says a window exists to
24 facilitate a value-maximizing transaction. Were you aware that
25 the debtor said that?



1 A Again, I don't have the reply in front of me, so --

2 Q Okay. Is the debtor currently negotiating a sale with
3 anyone of interest in the Hidden Rock field?

4 MR. BAIN: Objection, Your Honor, we're subject to
5 multiple confidentiality agreements. He can answer that
6 generally, but I don't want to get into anything specific.

7 THE COURT: Understood. So with that caution, you
8 may answer.

9 THE WITNESS: Yes. We're in general discussions with
10 multiple parties.

11 BY MR. HAMM:

12 Q Okay. And is Barrow-Shaver Production, LLC, has that
13 entity consented to allow the debtor to sell its interest in
14 this field, whatever that may be?

15 A Discussions are ongoing.

16 Q Okay. So no.

17 MR. BAIN: Your Honor?

18 MR. HAMM: Can you explain --

19 MR. BAIN: Your Honor, just real quick, object to the
20 sidebar from counsel because it --

21 MR. HAMM: Withdrawn.

22 MR. BAIN: -- does not reflect what the witness said.

23 MR. HAMM: Withdrawn.

24 THE COURT: Thank you. I wondered what that was.

25 MR. HAMM: It was nothing.



1 BY MR. HAMM:

2 Q Could you explain with any specificity how denying this
3 motion would affect the debtor's ability to consummate these
4 potential sales?

5 A I believe that in in order for us to have a value-
6 maximizing transaction here, that having a -- number one, not
7 litigating with multiple parties while trying to sell the asset
8 would be beneficial. I think, second of all, any purchaser
9 would put a discount on the asset if there was any sort of
10 cloud on the 44 percent. And I think that anybody looking at
11 this property will be, you know, scared off by, you know, sort
12 of a lack of normalcy, call it, in terms of paying working
13 interest owners that are not insiders.

14 Q Has anyone told you that?

15 A Yes.

16 Q Who?

17 MR. BAIN: Objection, Your Honor. We're subject to
18 multiple confidentialities. Revealing a name would be in
19 breach of that, and I don't think it's relevant to the
20 discussion at this point.

21 THE COURT: Is that the case? Would you be revealing
22 a name that would be subject to a discussion?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right. I'm going to sustain the
25 objection.



1 BY MR. HAMM:

2 Q Can you -- and I'm not -- I don't want you -- I'm not
3 trying to bait you into breaching confidentiality agreements,
4 but would it be possible for you to advise whether or not these
5 parties are, in fact, some of the alleged interest owners
6 themselves? Can you say that?

7 THE COURT: Yeah, I'm going to sustain that, so why
8 don't you --

9 MR. HAMM: Okay.

10 THE COURT: -- move on. There's not that many
11 alleged interest owners, as you've pointed out.

12 MR. HAMM: Yeah, well, we don't know. All right,
13 Your Honor. Pass the witness. Thank you.

14 THE COURT: All right. Any further cross?

15 MR. PHILLIPS: Your Honor, Louis Phillips. Just a
16 few, please.

17 THE COURT: Okay.

18 CROSS-EXAMINATION

19 BY MR. PHILLIPS:

20 Q You mentioned early on in your testimony that I believe I
21 heard that there was a certain category of records and
22 reporting that had problems. Does that -- do I remember that
23 correct?

24 A I believe what I said was that the system of record were
25 oil and gas accounting called Wolfepack was in good order; that



1 general financial statements of the debtor was not.

2 Q Okay. Why would that be?

3 A Just I believe that they have a very, very small
4 accounting team, and they're not able to produce what I would
5 consider a standard P&L, which has, you know, minimal relevance
6 for an oil and gas company generally. But it's not your
7 typical, you know, profit and loss statement you may see in a
8 manufacturing company or another sort of company.

9 Q Have you determined the consideration paid for the
10 supposed working interest?

11 A No, we're still reviewing.

12 Q And would you complete the review of the consideration
13 paid before you made any payments to working interest owned?

14 A Yes. We'd want to be comfortable that all that we -- you
15 know, we go through the exercise of verifying people's working
16 interests and making sure that they're in full compliance with
17 the JOA and that their JIBs are paid and AFEs are paid. And
18 then, you know, with that caveat, we would go ahead and execute
19 a payment to non-insiders.

20 Q All right. Now, but you didn't answer my question. I was
21 talking about the original consideration paid for their
22 interest. Are you going to verify that before you pay them?

23 A I mean, we're investigating everything to do with working
24 interest owners, you know, just generally, so yes, that is part
25 of that.



1 Q So the answer to the question is yes?

2 MR. BAIN: Your Honor, asked and answered. He's said
3 it two or three times.

4 THE COURT: Yeah, sustained.

5 BY MR. PHILLIPS:

6 Q Do you know of any problem that the debtor would have
7 providing lien creditors who ask for notice prior to your
8 decision, based on your investigations, to make payments to the
9 working interest owners?

10 A I think that that would be very burdensome from an
11 administrative perspective. We have a very small accounting
12 team.

13 Q How about -- how about if you've got three people who
14 wanted to hear about it, or one?

15 A I'm sure if you made a reasonable request through counsel,
16 we could try to accommodate you.

17 Q Now, if you are proposing to sell 44 percent, that means
18 you are not in any way -- let me rephrase. I'm sorry. I
19 didn't mean to put words in your mouth. Are you, as part of
20 your investigation, trying to determine whether or not it might
21 be appropriate to sell 100 percent of the working interest
22 given that they're undivided rather than 44 percent?

23 A I think we're trying to do this sequentially and get
24 agreement to settle to 44 percent before we proceed further.

25 Q And if you get agreement to sell the 44 percent, what



1 would be the process by which you would make your determination
2 about questioning or challenging the working interest owners to
3 get a price for that percentage.

4 MR. BAIN: Objection to form, if you can get it less
5 compound.

6 THE COURT: Yeah. Can you just rephrase,
7 Mr. Phillips?

8 MR. PHILLIPS: Certainly. I'm sorry, Your Honor.

9 BY MR. PHILLIPS:

10 Q What mechanisms would you consider to evaluate the value
11 of the debtor challenging the 56 percent ownership interest for
12 purposes of selling that yourself?

13 A I don't think we've come to any sort of conclusion there
14 yet.

15 Q And if you get a sale for the 44 and don't have a
16 mechanism in place for the 56, how would you ever get back to
17 analyzing the 56 within the sale process?

18 MR. BAIN: Objection, Your Honor. Speculation at
19 this point. He's asking a lot of assumptions.

20 THE COURT: Yeah, I'm going to sustain that. I think
21 he said that they hadn't really thought about it.

22 MR. PHILLIPS: Okay.

23 BY MR. PHILLIPS:

24 Q And isn't it true that, given all of this, your suggestion
25 that now is not the time to litigate isn't really the real



1 situation on the ground? You don't ever plan to litigate, do
2 you?

3 MR. BAIN: Objection, Your Honor. That
4 mischaracterizes his testimony.

5 THE COURT: Well, the last question is -- he can
6 answer the last question.

7 THE WITNESS: Would you mind re-asking your question?

8 MR. PHILLIPS: Withdrawn.

9 THE COURT: Thank you.

10 BY MR. PHILLIPS:

11 Q Have you made any investigation into the -- no, withdrawn
12 (indiscernible). Do you have -- have you made any --drawn any
13 conclusions from your investigation about what was paid by the
14 holders of -- the alleged holders of the overriding royalty
15 interest?

16 A We have not concluded our investigation yet.

17 Q Now, if, as I think you specified, the production would
18 cover operating expenses, is there any amount that the
19 production -- current state of production, any amount of
20 expenses, either capital or otherwise, that production wouldn't
21 cover?

22 MR. BAIN: Objection, Your Honor. The first partners
23 characterizes his testimony.

24 THE COURT: Yeah. I believe he said that the
25 production would cover it at times and not at other times.



1 That's what he said.

2 BY MR. PHILLIPS:

3 Q Okay. What times wouldn't it cover?

4 A I mean --

5 Q Wouldn't production cover it?

6 A I mean, oil fields are -- wells are notoriously in need of
7 maintenance and other CapEx that's not, you know, drill capital
8 just to maintain production and to continue to do that. You
9 know, those CapEx expenditures happen periodically, and during
10 those periods you wouldn't cover it.

11 Q And when is the last time that happened?

12 A It happens -- it could happen any month. You don't know
13 when a well needs maintenance or needs a workover or needs
14 further work, so it's a bit unpredictable. But at the same
15 token, you know, I know we are working hard to maintain
16 production and keep the value of the fields as high as possible
17 during hopefully a marketing process that will commence
18 shortly.

19 Q Did you -- have you been involved in any type of marketing
20 process prior to the bankruptcy filing?

21 A For this debtor?

22 Q Yes. Yes.

23 A No, sir.

24 Q Do you know why not?

25 A I'm sorry.



1 Q Do you know why not?

2 MR. BAIN: Your Honor --

3 BY MR. PHILLIPS:

4 Q Do you don't know why the (indiscernible)?

5 A I thought you said --

6 Q I'm sorry?

7 A I thought you asked the question if I had been involved in
8 a marketing process before now.

9 Q Okay. And you say no because you haven't been involved
10 before now, right?

11 A Correct, sir.

12 Q And do you know if the debtor was involved in any kind of
13 marketing process before the bankruptcy case?

14 A I -- I believe that principals of the debtor
15 pre-involuntary had marketed the assets before, yes.

16 Q Do you know for how long?

17 A I do not.

18 Q And do you know if any of those marketing efforts came to
19 fruition?

20 MR. BAIN: Objection, Your Honor. To the extent
21 that's going to reveal confidential information, I'm going to
22 request that the witness refrain from -- he can talk about it
23 generally.

24 THE WITNESS: No, I'm not aware.

25 BY MR. PHILLIPS:



1 Q All right. Do you know -- if you don't -- do you know
2 whether -- why would this harm any process or harm the debtors
3 if any JIBs or AFEs get netted or paid out of production but
4 any overage gets retained in escrow?

5 MR. BAIN: Objection. Your Honor, this question has
6 been asked in a variety of different ways. He's answered it a
7 couple times.

8 THE COURT: I believe that's correct.

9 MR. PHILLIPS: I don't believe it's ever been.

10 THE COURT: Well, I believe he said that it was in --

11 MR. PHILLIPS: I think (indiscernible).

12 THE COURT: Well, I think it was answered. I mean,
13 but, Mr. Katchadurian, why don't you answer it again, because I
14 do believe it was answered.

15 THE WITNESS: Would you mind re-asking your question?

16 BY MR. PHILLIPS:

17 Q What would be the harm to the process that you are -- that
18 you say you are going to commence or you're looking into
19 commencing if the debtor held production over and above the
20 amount of AFEs and JIBs pending resolution of ownership
21 disputes?

22 A Well, I think --

23 Q In other words, you do that and everybody gets paid.

24 A In my mind, there's -- it's a twofold issue. One is I
25 think that I want to stay in compliance with the JOA and make



1 | sure that we're not creating administrative claims and wasting
2 | estate resources by the nonpayment triggering litigation and
3 | other sort of noise in a sale process. In my experience, any
4 | sort of cloud on a sale process will diminish value. And I
5 | think if you -- if there is an issue, then any potential
6 | purchaser may look to take a discount on the value of Hidden
7 | Rock, and I don't think that benefits creditors generally.

8 | MR. PHILLIPS: All right, Your Honor. No further
9 | questions.

10 | THE COURT: All right. Any further cross-
11 | examination?

12 | CROSS-EXAMINATION

13 | BY MR. SMITH:

14 | Q Mr. Katchadurian, my name is Connor Smith with Dore
15 | Rothberg Law. We represent the petitioning creditors in this
16 | case. I just wanted to briefly go back, kind of highlight some
17 | of the comments you made, specifically stating with you began
18 | your investigation at the end of July of this year. Is that
19 | correct?

20 | A We got involved in the matter after the involuntary was
21 | filed and, you know, we started to stabilize operations, first
22 | and foremost.

23 | Q And that began with an investigation into the debtor's
24 | assets, finances, et cetera?

25 | A Sorry, I was just saying that we -- we went to establish



1 and stabilize operations first, and then we started looking
2 into the debtor's books and records, yes.

3 Q And your investigation has continued to present day,
4 correct?

5 A Correct.

6 Q You have not presented a timetable of when that
7 investigation would end to this Court to any other party,
8 correct?

9 A That is correct.

10 Q And today you don't know when it could conclude, correct?

11 A That is correct.

12 Q You have reviewed the proposed order filed this morning,
13 correct?

14 A I have.

15 Q And you're familiar with its contents?

16 A Yes.

17 Q And you believe that this is the best form to advance the
18 interests of the debtor?

19 A Yes.

20 Q That includes you believe it's necessary to pay -- let me
21 strike that. I'll maybe come back to that.

22 Going back up to your declaration, I believe you stated
23 that -- in your declaration, that there is in existence the
24 mineral interest title issue. Is that correct?

25 A Correct.



1 Q And that includes -- that mineral interest title issue
2 includes interests that are not properly documented or not
3 properly recorded, correct?

4 A Correct.

5 Q In your investigation of who you were intending to pay
6 under the proposed order, you stated that you would make sure
7 that no wrong payments were paid. Is that correct?

8 MR. BAIN: Objection. I'm not sure if that
9 characterizes his testimony. Can you rephrase the question?

10 MR. SMITH: I'm pretty sure he stated that we won't
11 pay the wrong people or make the wrong payments.

12 THE COURT: It's not -- you can ask him what he said,
13 but that's not how I remember it, but go ahead.

14 THE WITNESS: Yeah. I mean, we would always endeavor
15 not to pay the wrong people. I mean, we're going to do a
16 proper investigation and be confident that the people we're
17 paying are not insiders.

18 BY MR. SMITH:

19 Q And that includes the reviewing and investigating --

20 MR. BAIN: Your Honor, if we can ask for a decorum of
21 question. Let him finish the answer, let him (indiscernible).

22 THE COURT: Let him finish the answer.

23 MR. SMITH: Yes, Your Honor.

24 BY MR. SMITH:

25 Q Please continue then.



1 A No. We do not and are not -- or never have, you know,
2 willingly paid somebody incorrectly. We want to make sure
3 they're properly documented, they're in compliance, and
4 they're -- they've paid everything they owed to the debtor
5 before we issue a payment to them.

6 Q And your review of the contracts, the documents, would
7 first begin with, as you said, the interest being properly
8 documented. Is that correct?

9 A I would probably start with the system of record and look
10 to see what documentary evidence supported that system of
11 record.

12 MR. SMITH: Objection. Non-responsive. Your Honor,
13 I'm asking for a correct/incorrect answer here.

14 MR. BAIN: Your Honor, I think he was answering the
15 question, but he didn't like (indiscernible).

16 THE COURT: Why don't you rephrase the question and
17 let him answer.

18 BY MR. SMITH:

19 Q Your review of the invest - or your investigation into the
20 debtor's documentation would also include ensuring that you
21 would not, or the debtor would not pay an interest that is not
22 properly documented. Correct?

23 A We would not pay an interest that we didn't believe was
24 accurate, yes.

25 Q Despite the fact in your first day declarations, you state



1 that there is significant documented and/or not properly
2 recorded issues related to these mineral interests.

3 MR. BAIN: Your Honor, I'm not sure that's anything
4 inconsistent with what he's been testifying and is in his
5 declaration. I'm not sure if that's what he's trying to
6 impeach. I just don't understand the question.

7 THE COURT: Okay. Just rephrase the question because
8 I'm not sure it was a question. I thought it was more a
9 statement.

10 MR. SMITH: Yes, Your Honor.

11 BY MR. SMITH:

12 Q The mineral interest title issue covers interests that are
13 not properly documented and not properly recorded.
14 Nevertheless, you intend to pay only the properly documented
15 interests, correct?

16 A I believe the issue is around not being recorded. The
17 debtors have got books and records that show what people's
18 working interests are.

19 Q And you did not then tend then to say that that -- or let
20 me rephrase. But you did state that there are not properly
21 documented interests, correct?

22 A I did not say that.

23 MR. BAIN: Your Honor, if he's reading from a
24 document, it would help to actually present it in front of
25 Mr. Katchadurian.



1 MR. SMITH: May I approach the witness?

2 THE COURT: Sure.

3 MR. SMITH: Give me one second, Your Honor.

4 (Counsel confer)

5 THE COURT: Paragraph 26 of your declaration, Page 8
6 of Exhibit 1 in front of you.

7 BY MR. SMITH:

8 Q Okay. We can move on from this. So in the process of
9 your investigation that you don't have a timeline to, you
10 expect to be able to identify who is properly documented versus
11 who is not properly documented, and you are confident that, in
12 doing so, that you will pay only the properly documented
13 people, correct?

14 MR. BAIN: Objection, Your Honor. This is kind of
15 kind of vague in terms of the document (indiscernible) what's
16 proper and what's not. He needs to be specific on it
17 (indiscernible).

18 MR. SMITH: This is his language from his first day
19 declarations and his testimony. So to the extent that he
20 understands what not documented and documented would be, we
21 need to kind of flesh that out.

22 MR. CURRY: Your Honor, TLB joins in. There's
23 clear -- and I'm not sure if it's intentional or not, but
24 there's the talking past each other, because the witness has
25 testified that from the totality of the review, they would



1 confirm who to make payments to. Counsel, on the other hand,
2 has taken one aspect of that review and continues to ask so if
3 this one thing isn't met, are you not going to pay, but he's
4 never laid the foundation to get there.

5 In other words, if this one thing is absent, then
6 does that mean that you could never be comfortable that the
7 interest is owned? He never laid that foundation. He's just
8 assuming that that's been testified.

9 MR. SMITH: Your Honor, this again just is his
10 testimony regarding the documented versus not documented issue.
11 And if he can't testify as to how he makes that decision, which
12 we're getting to, then it's going to be a very difficult
13 decision for him to identify who to pay and who not to pay.

14 MR. CURRY: And he has testified to that, that he
15 would review the books and records, the course of conduct, and
16 the available documents and make a determination after that.

17 THE COURT: Well, why don't you ask them the direct
18 question what's your process to determine who to pay. I think
19 that's what you're getting to. Just ask him the direct
20 question.

21 MR. SMITH: Sure.

22 BY MR. SMITH:

23 Q What is your process in determining who to pay?

24 A We're going to look at the books and records, divisions of
25 interest, and other documentary evidence to determine who's got



1 a valid working interest, and then do the financial analysis
2 around the fact that has this interest holder, is -- are they
3 in compliance with the JOA or do they owe JIBs, do they owe
4 anything on AFEs, and then after that body of analysis is done,
5 we would determine that a specific working interest holder is
6 in compliance and is eligible to be paid.

7 Q And your review starts with determining who has a valid
8 interest, correct?

9 A Based on the books and records and documentation of the
10 debtor, yes.

11 Q And that would review -- include the review of either
12 contractual assignments or sales of real property, correct?

13 A Yeah, I don't know. I mean, I testified in the past that
14 I am going to look at the full body of the debtor's books and
15 records to determine whether somebody's got a valid interest or
16 not.

17 Q And if a party does not have a valid contract for sale or
18 other conveyance document, that would be an improper party to
19 pay, in your opinion?

20 A I didn't say that.

21 MR. BAIN: Objection, Your Honor.

22 THE COURT: He answered the question.

23 BY MR. SMITH:

24 Q So if a party -- you've identified a party that -- in your
25 opinion, that did not have a properly documented conveyance or



1 transfer of real property interest, then you would find it
2 possible to still pay it?

3 A I'm going to look at the debtor's books and records and
4 determine whether that -- that working interest owner has --
5 has an interest, and then go through the analysis I just
6 described a couple of times.

7 Q And if -- sorry, go ahead.

8 A No, no, please.

9 Q And if the debtor makes a payment based off of your
10 recommendation, and subsequently it is identified as being a
11 payment on an invalid interest, how do you propose the debtor
12 rectifies that situation?

13 MR. BAIN: Objection, Your Honor. This calls for
14 speculation.

15 MR. SMITH: Your Honor, he is the Chief Restructuring
16 Officer and he's testifying that he's going to make this right.
17 We want to know what happens if it's wrong.

18 MR. BAIN: He's assuming a couple of things. One,
19 the payment is made. Two, that it was made to someone
20 improper. At that time, a course of action needs to be done,
21 legal or not. It also calls for a legal conclusion. So right
22 now we're speculating to the facts that haven't occurred yet,
23 which is by its definition speculation.

24 THE COURT: I'm going to suspect the objection.

25 MR. SMITH: No further questions, Your Honor.



1 THE COURT: Thank you. Any further cross or --

2 MR. WILSON: Your Honor, for redirect? For the
3 record, Sean Wilson, proposed counsel for the debtor.

4 REDIRECT EXAMINATION

5 BY MR. WILSON:

6 Q Mr. Katchadurian, let's start with some of the questions
7 you were asked by Mr. Blake -- or Mr. Holmes, sorry.

8 MR. WILSON: And, Your Honor, may I approach? This
9 as a witness and exhibit list by Mr. Holmes.

10 THE COURT: Okay, sure.

11 BY MR. WILSON:

12 Q Do you recall being asked Mr. Holmes of whether or not the
13 joint operating agreement listed the debtor as having an
14 interest in Hidden Rock field?

15 A Yes.

16 Q All right. I'm looking at Docket Number 176-4. Could you
17 please turn to Page 26 and 27 of that document.

18 A I'm there.

19 Q At the very top, do you see a date on that?

20 A I do, December 1, 2017.

21 Q Is this the joint operating agreement?

22 A Yes, it seems to be.

23 Q And it's dated December 1, 2017, correct?

24 A Correct.

25 Q That's the first date of the joint operating agreement,



1 right?

2 A Yes.

3 Q All right. I want you to look at Page 27. At the very
4 bottom of Page 27, does the debtor shown an interest -- does
5 the debtor have an interest in the -- listed there?

6 A Shows Barrow-Shaver Resources Company.

7 Q All right. What's that interest amount?

8 A Fifty percent.

9 Q All right. Now, you were asked several questions about
10 overriding royalty interest. Let's talk about that. To bring
11 us back to square one, Mr. Katchadurian, you're the Chief
12 Restructuring Officer of this debtor, correct?

13 A Yes.

14 Q All right. As Chief Restructuring Officer, are you going
15 to engage a process in terms of which payments were going to be
16 made to which overriding royalty interest owners?

17 A Yes.

18 Q Are you going to look at the document that purports to
19 give them a contractual right?

20 A Yes.

21 Q Are you going to discern if that contractor will -- if
22 that document is proper or not proper?

23 A Yes.

24 Q Are you going to look at course of dealings between the
25 parties pre-petition and post-petition?



1 A I am.

2 Q Are you going to look at litigation costs to determine if
3 it's in the best interest of the estate to pursue to either pay
4 or to litigate?

5 A I will.

6 Q Are you going to determine the impact on the sale of
7 whether or not that's going to impact a potential discount or
8 not?

9 A Yes.

10 Q All right. And are you going to exercise your fiduciary
11 duty in consultation with the Committee in determining whether
12 or not to pay an overriding royalty interest?

13 A Yes.

14 Q All right. And just to be clear, we're not paying
15 restricted people or restricted persons as defined in the final
16 order on overriding royalty interest, correct?

17 A That's correct.

18 Q And the same with working interests. Nothing goes to
19 restricted persons at this time. Is that correct?

20 A Correct.

21 Q Now, we're not saying we're not going -- is the debtor
22 under your direction saying that we're not going to ever
23 litigate against these parties?

24 A No.

25 Q We're -- at this time, is it in the best interest of the



1 | estate to pursue a sales transaction?

2 | A That is correct.

3 | Q Would litigating against these parties right now be a
4 | distraction to the debtor?

5 | A Absolutely.

6 | Q Would it be a drain on limited estate resources?

7 | A Yes, it would.

8 | Q Would it cause harm in the sale process?

9 | A Yes, I believe it would.

10 | Q Mr. Katchadurian, we've been talking about a sale for some
11 | time. Do you imagine a sale happening this year?

12 | A Yes.

13 | Q So what time period are we looking at? Two months? Three
14 | months?

15 | A We've already commenced starting to talk to bankers. I
16 | think within -- with the advice of the bankers, as soon as
17 | practicable. Usually 90 days is not unreasonable.

18 | Q Now, we've been talking about overriding royalty interest.
19 | Let's talk about your review of the working interest. Are you
20 | going to look at the course of dealings between the parties
21 | pre-petition?

22 | A I am.

23 | Q All right. Are you going to look at the actual document
24 | in determining whether to make a payment?

25 | A Yes.



1 Q Are you going to look at to whether or not that working
2 interest could be consideration?

3 A Yes.

4 Q Does the proposed final order give you authority but not
5 direction as to make those payments?

6 A That is correct.

7 Q Are you going to look at your fiduciary duty in
8 determining whether that payment is in the best interest of the
9 estate before doing so?

10 A Yes.

11 Q Are you going to be in consultation with the Committee
12 before doing so?

13 A I will.

14 Q Are you going to assess litigation risk on both sides?

15 A I will.

16 Q Mr. Katchadurian, we've been talking also about -- strike
17 that.

18 MR. WILSON: Your Honor, one moment? Pass the
19 witness for redirect.

20 MR. SMITH: Brief recross?

21 THE COURT: Sure.

22 MR. CURRY: Hang on. Couple of redirect, Your Honor.
23 David Curry.

24 REDIRECT EXAMINATION

25 BY MR. CURRY:



1 Q Mr. Katchadurian, so there's been a lot of questions about
2 evaluating litigation costs and litigation risk, but have you
3 had a chance to look at what happens if you win?

4 A Not really, no.

5 Q Well, I think opposing counsel referenced one point, which
6 was that all of the JIBs that are currently being netted
7 wouldn't actually be owed, right, because it would just be a
8 cost of the debtor. So what about damages claims that could
9 come in for money? And I'm not asking if you've evaluated.
10 I'm just asking if you agree that there could be damages
11 asserted against the debtor that would arise as a result of a
12 successful avoidance action.

13 A Yes.

14 Q And as you sit here today, you don't know the -- you
15 haven't evaluated the quantum of those. Is that correct?

16 A That is correct.

17 Q And so is that something also that is -- needs to be taken
18 into consideration as a fiduciary of the estate, whether or not
19 the resulting claims would potentially be greater than the
20 value recovered to the estate?

21 A Yes.

22 Q And of course that's an unsecured claim potentially, so
23 secured creditors wouldn't have as much of a concern about
24 that, would they?

25 A No, they wouldn't.



1 Q And have you done a valuation of the debtor's assets yet?

2 A No, I have not.

3 Q So as we sit here today, you're not providing any
4 testimony as to solvency, correct?

5 A That's correct.

6 Q And so just to clarify one thing that you said, you said
7 earlier that you had a fiduciary obligation to all creditors.
8 But given where we are, isn't it more accurate to say you have
9 a fiduciary obligation to all parties in interest -- all
10 creditors and interest holders?

11 A That is correct.

12 MR. CURRY: That's it. Thank you, Your Honor.

13 THE COURT: Okay. Go ahead.

14 RECROSS-EXAMINATION

15 BY MR. SMITH:

16 Q Just a few questions about the overriding royalty interest
17 questions you were asked on redirect, Mr. Katchadurian. Are
18 those -- are you familiar with what an executory contract in
19 bankruptcy is?

20 A Yes, sir.

21 Q Are the agreements with the overriding royalty interest
22 owners that you're talking about executory in nature.

23 MR. WILSON: Object, Your Honor. This is --

24 THE COURT: I think it calls for a legal conclusion.

25 BY MR. SMITH:



1 Q Do the overriding royalty interest owners that we're
2 talking about paying, is there anything left on their side of
3 the agreement to do?

4 MR. BAIN: Objection, Your Honor. We're talking
5 about documents that are not admitted into evidence right now.

6 THE COURT: Generally speaking, I mean, I understand
7 what an override is.

8 MR. SMITH: Okay. Thank you, Your Honor.

9 THE COURT: It just goes one way.

10 MR. SMITH: Okay. Right. Thank you.

11 THE COURT: There's no cost (indiscernible).

12 MR. SMITH: Right. Moving on.

13 BY MR. SMITH:

14 Q Okay. So just paying these overriding royalty interest
15 owners would be just money out the door, right? There's not
16 getting anything back from them, correct?

17 A They're the non-insider royal -- I'm sorry, you said
18 override or --

19 Q Yes, sir. Overriding royalty interest owners.

20 A Many of the folks that are getting these ORRIs are
21 geologists and other people that continue to do work for the
22 debtor, and therefore, you know, part of their I think general
23 consideration is this ORRI as part of the discovery. That's
24 typically how these things are done.

25 Q Okay. So are --



1 A But there is a -- people continue to work for
2 Barrow-Shaver Resources that are contributing, you know, their
3 expertise and knowledge in exchange for, you know, this ORRI as
4 part of the consideration.

5 Q And can you name any of those people?

6 A Off the top of my head, no.

7 Q Okay. And I believe you explained earlier that part of
8 the process for determining whether or not the debtor was going
9 to pay any of these overriding royalty interest owners was that
10 it was going to look at the pre-petition contract documents and
11 see if those contracts were valid, right?

12 A That's correct.

13 Q Okay. Would the debtor give the same consideration to my
14 clients who provided vendor services pre-petition? In other
15 words, pay them if those contracts appear valid?

16 MR. BAIN: Objection, Your Honor. This is more or
17 less argumentum at this point.

18 MR. SMITH: I don't --

19 THE COURT: What's the relevancy. You have a claim,
20 pre-petition claim.

21 MR. SMITH: Right. The relevance is that the debtor
22 is seeking to prefer certain pre-petition creditors to others.

23 THE COURT: Okay. I'm going to overruled -- I'm
24 going to sustain the objection.

25 MR. SMITH: Okay, Your Honor. Thank you, sir. All



1 right. Thank you.

2 MR. PHILLIPS: Your Honor, if I could ask one
3 question --

4 THE COURT: Sure.

5 MR. PHILLIPS: -- given that we have brief redirect
6 and recross and redirect.

7 RECROSS-EXAMINATION

8 BY MR. PHILLIPS:

9 Q Has the debtor -- have you or the debtor or anybody
10 involved with the debtor given any thought whatsoever to
11 providing adequate protection for lienholder creditors?

12 A No.

13 MR. PHILLIPS: Thank you. No further question, Your
14 Honor.

15 THE COURT: Okay. Any further questions for
16 Mr. Katchadurian?

17 All right. You may step down, sir.

18 THE WITNESS: Thank you.

19 (Witness excused)

20 THE COURT: All right. Any -- Mr. Wilson, any
21 further questions? Any further testimony?

22 MR. WILSON: The debtor is going to rest in terms of
23 its evidence at this point, unless --

24 THE COURT: Well, no, I'm just going to go -- I just
25 asked you. Anyone else in support of the motion want any



1 further testimony? Anyone objecting have any more testimony?

2 MR. PHILLIPS: No, Your Honor. We (indiscernible)
3 our lean claim, and that's our evidentiary submission.

4 THE COURT: Okay. All right. Let's take a -- it's
5 3:18. Let's come back at 3:30. I'll hear very short closing
6 argument and then will be prepared to rule.

7 MR. WILSON: Thank you, Your Honor.

8 THE COURT: Thank you.

9 (Recess taken at 3:18 p.m.)

10 (Proceedings resumed at 3:28 p.m.)

11 THE COURT: Go ahead and be seated, please. Let's
12 give Mr. Phillips a minute. There he is. Okay, good. All
13 right.

14 MR. BAIN: Your Honor, for the record, Joe Bain with
15 Jones Walker, proposed counsel to the debtor and debtors-in-
16 possession. Your Honor, how did we get here? And I think it's
17 important to note this, and as Your Honor asked for, I'll keep
18 my comments very brief, but this is not your typical Chapter 11
19 case where you have months to plan. You have possibly a
20 prepack or, you know, an RSA or something in place.

21 This whole -- the reason why we're in front of you,
22 Your Honor, is because on July 23rd, there was an involuntary
23 filing. Approximately one month later, on October -- on
24 August 19th, the debtor effectively converted the case to 11
25 and designated it as a complex Chapter 11 case.



1 This is very much a free-fall case. Even more so,
2 it's a free-fall case with imperfect information. And as
3 Mr. Katchadurian testified to, the debtor is frantically
4 scrambling to try and put something together that preserves
5 value and tries to pay off as many people as possible, and
6 that's really what the purpose of this motion is here.

7 I think you heard ample testimony that
8 Mr. Katchadurian considers himself to be an independent
9 fiduciary. He's been in the mark -- he's been in restructuring
10 for over 20 years. And in the evidence, we have the joint
11 consent that was signed with the participating parties, giving
12 him broad discretion. This happened again on August 19th,
13 2024.

14 The first decision that the debtor made was to
15 disclose the mineral interest payment issue, as we've called it
16 in our pleadings. They didn't hide behind -- we didn't hide
17 behind a challenge period. We didn't wait for somebody else to
18 find it. We came to this court and said, Judge, here's an
19 issue that has developed. Here's our proposal for managing it
20 and this is our proposal for handling it.

21 And, quite frankly, maybe we should have. And I say
22 that in the circumstances of there's a lot of internal debate
23 about how to handle that. And we reverted to -- and under
24 Mr. Katchadurian's direction we reverted to we just have to --
25 you have to come open with it.



1 This is an imperfect situation. Quite frankly, there
2 are a lot of creditors that are reasonably -- you know, one
3 would reasonably expect are upset because they haven't been
4 paid, and quite frankly that's what led to this. So the
5 debtor's first decision with regards to this court was, Judge,
6 here's where we are.

7 Now, a lot of the objecting parties, and I'm going to
8 be very careful to limit my color, if you will, because I think
9 a lot of what's going on here is people are getting caught up
10 with where we are and where we want to go, and I completely
11 respect that. And I was just talking to some of the lawyers
12 out there that we're happy to provide reasonable requests for
13 information. We're just still getting caught up, because
14 again, as Mr. Katchadurian testified to, the first focus was on
15 normalizing operations and the second step was where are we
16 going with this.

17 But the objecting creditors did take certain
18 disclosures that we made, and now they're trying to create
19 hold-up value. Some of what they've said is very -- we can
20 understand and we'd be happy to have a dialogue with them about
21 what payments are being made and why. But when looking at it
22 against the background of a Chapter 11 case, and in looking at
23 what the law provides, really what they're asking for is they
24 want certain avoidance actions to be pursued now as opposed to
25 sometime in the future.



1 And I will tell you, Your Honor, the strategy of the
2 debtors, quite frankly, is to look at the sale that might be
3 out there. Mr. Katchadurian testified to it may close before
4 the end of this year. And of course we can't provide that much
5 information in a year, but as I can see, many people are online
6 watching. We think that there's a lot of value here. And our
7 goal with this motion is to give Mr. Katchadurian enough
8 discretion so that he can maintain the going concern value so
9 we can see what value we get there.

10 Now, depending on how that goes, we reserve the right
11 to litigate this thing. You saw evidence that at some point,
12 BSR did have this property and it was later transferred to BSP.
13 I'm going to assume that Mr. Curry is going to jump up and down
14 when I say our position on this. I'll hesitate going there.
15 But there are a number of issues at play right now, a number of
16 conversations that are happening, and we're trying to be as
17 transparent and open as we possibly can.

18 But when you look at the context and what the courts
19 have provided in similar contexts, I just go back to Judge
20 Jernigan's decision in Reed v. Cooper, and I think that was a
21 Chapter 7 case, and a lot of that holding was based off of the
22 fact that it was an independent fiduciary. And in this case,
23 you have the same dynamic, if you will. He did not have --
24 Mr. Katchadurian did not have a preexisting relationship with
25 the debtor or the creditors. He's looking at this and he's



1 trying to be as neutral as possible.

2 And it's funny, sitting here on this podium, it's
3 like if I say one thing, I'm going to make this side mad, and
4 if I say another thing, I'm going to make that side mad, which
5 makes me feel like I'm doing my job. And why I look at the
6 Cooper decision, and Judge Jernigan talked about how it's
7 important to allow an independent fiduciary to provide a
8 gatekeeping function to avoid a creditor from hijacking the
9 case.

10 And even more so, and I say this with all due respect
11 to the creditors who are objecting, I think you've seen here
12 today what the problem is -- what the challenge is with this
13 posture of this motion. We're having many trials on several
14 different issues out here that nobody -- we're just not there.
15 Eventually there might be an adversary proceeding -- excuse me,
16 Your Honor -- but we're just not there.

17 So, Your Honor, recognizing that that's a Chapter 7
18 case, you know, Chapter 11, we have the Committee and we have
19 LWE, which says if there is a cause of action, that for some
20 reason, if there is a conflict that develops, then the
21 Committee will be fully informed of what's going on. If there
22 is a situation where we can't pursue something because of some
23 insider issue, which doesn't exist right now, but let's just
24 pontificate months from now, if the Committee doesn't agree
25 with the way that we're treating it, LWE allows them to come to



1 this court and pursue it in our stead.

2 So based on that, Your Honor, if we're given -- if
3 the debtor and his professionals are given an opportunity, I
4 think that there is a chance that this could have a material
5 recovery. But the way to get there is to allow
6 Mr. Katchadurian to have the discretion -- excuse me. Can I
7 get a sip of water?

8 THE COURT: Sure, absolutely.

9 MR. BAIN: You know, the enemy of this case is going
10 to be admin fees. And I say this as somebody who -- it's
11 against my own best interests. But if we can back-end the
12 litigation in this case as much as possible while preserving
13 people's rights and really focusing on a transaction, and
14 again, if the transaction doesn't -- it doesn't work out, we'll
15 be back in front of you and I'll be litigating with, you know,
16 pick your attorney. But we're just not there.

17 Right now we're in a position where this was a
18 free-fall bankruptcy, even worse than a free-fall bankruptcy.
19 We're doing the best we can to get our arms wrapped around
20 these various issues. All we're asking for is the discretion
21 to allow Mr. Katchadurian as an independent fiduciary to make
22 the day-to-day decisions so he's not having to come here and
23 having many trials on these issues every time we want to make a
24 payment.

25 So with that, Your Honor, unless you have any



1 questions for me.

2 THE COURT: No, nothing.

3 MR. BAIN: Thank you.

4 THE COURT: All right. Anyone else in favor of the
5 motion want to make any brief remarks?

6 Okay. Who's going to argue against it?

7 MR. HAMM: Thank you, Your Honor. Blake Hamm for the
8 Mehaffy Weber creditors. We appreciate Mr. Bain's position.
9 He was thrown into a tough spot. There is a debtor, as he
10 said, with a lot of issues. Insider transactions, 100 percent
11 record title interest that it may have assigned out to other
12 people, \$60 million in vendor debt, 40 million in unpaid joint
13 interest billings. These are things that we've heard
14 throughout the case, and it is problematic and we do understand
15 that, and we appreciate -- and we were surprised as creditors
16 by a number of things.

17 One of the things we were surprised by was the fact
18 that Mr. Katchadurian and these debtors were so up front about
19 this mineral title issue. There are too many cases where it's
20 hide the ball on issues like that, and it was appreciated, but
21 that doesn't mean that it's okay. That doesn't mean that my
22 clients were acceptive of a proposition to pay unrecorded
23 alleged working interest owners ahead of them in the bankruptcy
24 case.

25 And that's why we objected. And understanding that



1 there's this big issue, we think that Mr. Phillips' proposal is
2 a great way to go. It would allow the debtor to pay for its
3 operating expenses by netting JIBs. If there are any payments
4 owed to these disputed interests over and above that, just
5 suspend them, maintain them in a segregated account, and we can
6 settle that or we'll litigate it in the future. But it would
7 allow the debtor to operate and it would maintain the status
8 quo ahead of this potential litigation and allow the debtor to
9 proceed with its sale process.

10 We agreed, let's get to it, right, as long as it's an
11 open marketing process, and we know Mr. Bain and his crew will
12 do a good job. But really the bottom line is that the relief
13 they're requesting isn't supported. The evidence before the
14 Court is that Mr. Katchadurian is doing his best, but he still
15 can't name who these overriding royalty interest owners are.
16 He can't identify the working interest owners.

17 The different versions of this joint operating
18 agreement that have been put before the Court list different
19 interests at different times. There's just no evidence before
20 the Court that paying any specific one of them is necessary,
21 that it's a necessity for the debtor to operate, and that's
22 what's required under the case law that they cited in the
23 CoServ case, which I'm not even sure applies, given that that's
24 a critical vendor case. But even in that case, the Court took
25 a very distinct view on a vendor-by-vendor basis, and it



1 allowed some payments to vendors, disallowed others, but the
2 evidence was there on a vendor-by-vendor basis. The evidence
3 simply hasn't been put before the Court again.

4 So for these reasons, Your Honor, we respectfully
5 request that the Court maybe grant this motion in part. We
6 don't think there's any reason put forth to pay any of the
7 unnamed overriding royalty interest owners. And with respect
8 to the working interest owners alleged, let's let the debtor
9 continue to net, let's escrow the proceeds, and then let's
10 resolve it later. Thank you, Your Honor.

11 THE COURT: Anyone else? Mr. Phillips?

12 MR. PHILLIPS: Yes, Your Honor. Thank you very much.
13 Number one, it's fine to involve the Committee, but we have no
14 idea. We say there's material value here. There's -- we
15 understand there's no universe of value suggested to the Court,
16 but we know how these cases often turn out. The Committee is
17 behind the lienholders. The Committee represents unsecured
18 creditors, many of which could be lienholders. But we're
19 hopeful that the lienholders will get paid, and if they do,
20 they'll get paid first before the unsecured creditors.

21 We want to be included in the process of determining
22 who gets paid. And I've got to say that the CRO said I don't
23 know. I think honestly, more than any CRO I've heard in
24 cumulative experience, he doesn't know much, fine, but we want
25 to know when he -- if he doesn't know much, then he's going to



1 be learning about the same things that we're complaining about,
2 and we would like to be included.

3 Secondly, in a particular matter, we are not -- we
4 are not suggesting and have not suggested that there be any
5 kind of litigation up front. In fact, we're suggesting a
6 resolution that is an escrow process that provides the
7 post-bankruptcy status quo as opposed to the pre-bankruptcy
8 status quo, which would result in tens of hundreds of
9 millions -- or tens of millions of dollars of indebtedness it
10 can't pay, unreported interest, undocumented interest, insider
11 claims, et cetera, et cetera.

12 So we want a new status quo. We want the status quo
13 to be under your supervision, and the status quo can be
14 maintained. The JIBs and AFEs can be paid, if necessary, over
15 and above production, because the testimony is that the
16 production will cover, unless it won't, and there was no
17 testimony that it hasn't. Although we're owed -- the debtor
18 owes millions and millions of dollars, we don't know why, other
19 than the debtor can't provide financial statements, which I now
20 hear from the CRO, interestingly, is not important in an oil
21 and gas case. I always kind of thought it was important in any
22 bankruptcy case.

23 But we are not suggesting that they -- that debtor
24 pursues litigation right now. And we also slightly resent the
25 description of our position as seeking hold-up value. We're



1 unsecured creditors. We provided the work that was done by the
2 debtor to do the debtor's business, and now we're -- it's
3 suggested that we're hanging on in an attempt to do hold-up
4 value? We can't hold up anything. We can't hold up and get
5 paid to walk away from (indiscernible). We're not looking for
6 that. We're looking for an escrow process that preserves the
7 status quo.

8 So with that, we would like to be included in the
9 process that was described extensively by the CRO about how the
10 investigation is going to come up with a determination about
11 who gets paid and when, and the component parts of that
12 investigation, we'd like to know what the result of that
13 investigation is before payments are made, because apparently
14 no investigation is complete. So there's no payments to be
15 made until the investigations are complete, and we have no
16 timeline on that whatsoever.

17 If the Committee gets notice, there's no harm in
18 giving us the same notice. And if the debtor is worried about
19 a mini trial, that's a problem for the debtor. If the debtor
20 gives us sufficient information, then we'll have sufficient
21 information. But what I heard today, and I think what the
22 Court heard today -- I hope I'm right -- is that the debtor's
23 not in a position to pay anybody.

24 No investigation has really even started. The
25 investigation will be done. The investigation will be looked



1 at. These component parts will be analyzed. So that's still
2 got to be the case, and we want to participate in the decision
3 making, or at least be provided with the decision making
4 process and the information that was utilized in the
5 calculation that generates a decision in the future about who
6 to pay.

7 And finally we re-urge our escrow proposal because
8 what we are hearing here, Judge, is a lot of conclusory stuff
9 about interrupting sale process. You've been involved in this
10 for decades. You know that no bankruptcy sale process is
11 smooth and without litigation and without warts. And this is
12 not a unique case in any way, shape, or form, except that this
13 free-fall is a seven-year situation where the debtor has been
14 operating without recorded working interest.

15 So is it a free-fall? Maybe, but it's not of our
16 making. We tried our best to do services for the debtor and
17 they quit paying us. So we think that with these tweaks, we
18 would like -- we would like the language in any proposed order
19 that the Court issues not to have some type of made-up standard
20 of get back of payments improvidently made such that it only
21 can be clawed back if the payments were made under false
22 pretenses. That's a no -- that's unnecessary limitation and is
23 designed to make sure that there are no -- there is no ability
24 of any party, the estate, a subsequent trustee, a lienholder,
25 or anybody to get any money back.



1 So my escrow proposal would preclude the necessity of
2 even having to worry about it, because the people who are
3 putting up money are going to get their money paid back. No
4 fallback. We're fine with that. Thank you.

5 THE COURT: All right. Anything further?

6 MR. SMITH: Judge Perez, today we've heard a lot of
7 evidence, and I think the most objected -- the most used
8 objection was speculation. And that is because, as
9 Mr. Katchadurian talked about, he doesn't know when his
10 investigation is going to conclude. He doesn't know how far he
11 needs to go. He doesn't understand exactly all the issues that
12 are at play, despite disclosing that there are issues related
13 to the documented interests that he's seeking to pay or that
14 he's recommending the debtor pay.

15 And so because this is so speculative, we do believe
16 this is a premature request from the debtors to pay all of
17 these people. At one point, the number was 250. At another
18 point, it was 18. That number Mr. Katchadurian did not know
19 himself, and so at this point it is speculative. It is
20 premature. And Mr. Bain even said at some point we may need to
21 come back here in front of you to litigate this. If that were
22 to happen under the current form of order, however much
23 payments happened between today and that speculated time would
24 be lost. It would be gone. There's no claw-back provision.
25 There's no accountability. There's no safety measure to ensure



1 that if that is litigated and it was determined to be an
2 incorrect payment, there's no recoup. There's no way to
3 redress that wrongful payment.

4 And so -- and all of this is underscored by the
5 unilateral decision making of Mr. Katchadurian in his capacity
6 as Chief Restructuring Officer. He testified that he would
7 make sure nothing was paid incorrectly. He would analyze the
8 documents to make sure that they were valid assignments. He
9 would utilize his expertise in judging property rights that
10 would be better served, in our opinion, under Bankruptcy
11 Rule 7001 in an adversary proceeding.

12 Whether today, tomorrow, or in Mr. Bain's timeline,
13 that would be fine. But it is a unilateral decision making
14 process that we did not consent to give to Mr. Katchadurian in
15 deciding who has a legally valid assignment of real property
16 rights under Texas oil and gas law.

17 And so, Your Honor, we would echo that an escrow plan
18 or that some safeguard would be implemented into any final
19 order such that if a final determination is made that certain
20 interests were invalid, that there would be an ability to
21 protect the estate, to protect maximization of the estate, and
22 be able to bring those payments back into the estate. In that
23 situation, Your Honor, perhaps we would find middle ground
24 there and we could come up with a quick resolution to get to a
25 sale, to get to the end of this case, to find the desired



1 ending.

2 But until then, Your Honor, in this current form, we
3 just can't approve this, this current form. So for these
4 reasons, Your Honor, we ask that this Court consider the escrow
5 offering and otherwise deny the motion. Thank you.

6 THE COURT: Thank you. All right. Anything further
7 from anyone? Okay. I have a couple of questions. The amount
8 that was paid in by claims, that is still in escrow, correct?

9 UNIDENTIFIED: Yes, Your Honor.

10 MR. WILSON: Sean Wilson for the debtor. Yes, that's
11 correct.

12 THE COURT: Okay. All right. That's all.

13 MR. WILSON: Oh.

14 THE COURT: That answered my question. All right.
15 So before me is the motion to pay the pre-petition mineral
16 claims that was filed. And I really want to look at this in
17 three buckets. The first bucket was the amounts covered under
18 my interim order. And under my interim order, the testimony --
19 the uncontradicted testimony is that the royalty payments were
20 paid, but that no ORRIs or working interests have been paid.

21 And the way that my interim order functioned was, to
22 the extent that they wanted to pay working interest, they had
23 to be current on all their JIBs, and otherwise the JIBs would
24 be upset, would be offset. So that's kind of bucket number
25 one. The second bucket is the non-interim order pre-filing



1 amounts. And then the third bucket is amounts to be paid
2 post-petition.

3 With respect to the amounts paid post-petition, I
4 think that's an ordinary course feature. I don't believe that
5 this order actually does anything to affect the debtor's
6 discretion to make those payments in the ordinary course. I
7 mean, clearly those payments were made in the ordinary course
8 before. So after -- anything after August 19th, you know,
9 Mr. Katchadurian, in the exercise of his fiduciary duty, in
10 consultation with counsel, will obviously make a determination
11 whether the payments of those amounts are appropriate.

12 So this order really focuses on the ORRIs and the
13 JIBs that are not covered by my interim order that occurred --
14 that were incurred or would be payable or would have accrued on
15 a pre-petition basis. And in the ordinary course of business,
16 these types of orders are routinely entered in cases.
17 Obviously, this is not a routine case. There's lots of
18 different issues.

19 I am prepared to allow the debtor to make those
20 payments under the conditions that they've indicated they would
21 make. And obviously they were -- they met what they said to
22 some extent by not having paid any of the ORRIs or working
23 interest in excess of the amounts owed up to date. So I take
24 the uncontroverted testimony from Mr. Katchadurian at his word
25 that they're going to make a thorough investigation until --



1 you know, before they pay.

2 Having said that, I don't believe that the form of
3 order should put the pre-petition creditors in any better
4 position than a post-petition creditor would be. So to the
5 extent that the debtor would have, you know, potential 549, you
6 know, rights against a post-petition creditor, they should have
7 the same 549 rights against a pre-petition creditor. That has
8 absolutely nothing to do with whether the payment should be
9 made or not made.

10 I believe that the testimony -- and I agree with
11 Mr. Phillips on many things, and that is, you know, the fact
12 that we have -- you know, the promise of the sale
13 doesn't -- you know, to get from a promise of a sale to a sale,
14 there's a lot of wood to chop, so I fully understand that. I'm
15 not doing under any -- I'm not making my ruling under any
16 illusion, but I am focused on the fact that, when you look at
17 the case, and you're looking at this one period of time, and I
18 believe that it's in the best interest of the estate based on
19 the evidence that you should be allowed to make those payments.

20 I don't want to put those payments in any better
21 position than the payments that the debtor is making
22 post-petition in the ordinary course of business.

23 And then, Mr. Bain, I leave it to you to have
24 discussions with Mr. Louis [sic] about involving him in the
25 process in some respects. And I think that you should be able



1 to -- or counsel for any other parties, you should be able to
2 do that and come back to me.

3 But in my mind, I -- and my ruling is that, based on
4 the evidence, on the limited issue that I'm considering, which
5 is the pre-petition amounts, I don't think we should treat
6 those any different than we're treating the post-petition
7 amounts, and I'm going to approve the relief sought. I think
8 there's a couple of things that need to be tweaked in the
9 order. I don't want to immunize any payment that wouldn't
10 otherwise be immunized on a post-petition basis.

11 So anyone -- any questions anyone has with respect to
12 that?

13 MR. BAIN: Your Honor, just -- are you specifically
14 referring -- I want to make sure we're following. Paragraph 2,
15 is that the one?

16 THE COURT: Yeah, exactly. Yeah. Paragraph -- I
17 mean, if you look at the very end on -- at the very end that,
18 you know, to the extent that -- to the extent -- to some
19 extent, there is at least the amount that was trapped
20 pre-petition, the two and a half million or so, that actually
21 serves as an escrow, if you will, for these amounts. And then
22 the amounts that went out under the interim order were only the
23 royalties. I don't think anybody disputes anything relating to
24 the royalty.

25 But as it relates to the ORRIs and the JIBs,



1 obviously I still want you to net to the extent anybody owes
2 them, but just you're making them in the ordinary course. And
3 now you're in bankruptcy, and under bankruptcy, you would have
4 549 rights. I don't -- I'm authorizing the debtor to do it.
5 I'm not necessarily ruling on the creditor's right to the
6 payment. I'm authorizing you to do it.

7 MR. BAIN: Okay.

8 THE COURT: Because that's -- you know, maybe at some
9 point that will be before me, but it's not before me today.

10 MR. BAIN: May I have a second just to confer.

11 THE COURT: Sure.

12 (Counsel confer)

13 MR. WILSON: Judge, in terms of your second bucket,
14 in terms of the pre-filing amounts --

15 THE COURT: right.

16 MR. WILSON: -- we straddled because August 19th was
17 the order relief date, so 19 days were gap; 11 or 12, depending
18 on that month, are post. I just want to make sure we're
19 authorized to make the gap too, as well?

20 THE COURT: Yes, the -- well, you're not
21 authorized -- with respect to any amounts incurred after the
22 19th, it's -- you're in the ordinary course and you're
23 performing. I don't -- you don't need my authority to do that.

24 MR. WILSON: My question is on the 19 days in the
25 gap, are we authorized but not directed to actually make those



1 payments?

2 THE COURT: Yes, you are.

3 MR. WILSON: Thank you.

4 THE COURT: Yes, the debtor is authorized but not
5 directed. Absolutely, yeah. And I'm sorry if that wasn't
6 clear.

7 MR. WILSON: It probably was. I'm just slow, so
8 that's my fault.

9 MR. BAIN: Your Honor, how -- in terms of getting to
10 an order, how can we be helpful to the Court?

11 THE COURT: Well, I'm prepared to live with this form
12 of order. I just think that Paragraph 2 needs to be tweaked a
13 little bit. I can certainly tweak it. And then with respect
14 to the -- you know, the consultation rights, I think you need
15 to have a conversation with Mr. Phillips and Mr. Hamm and the
16 petitioning creditors and, you know, figure out a way to do
17 that.

18 And if we need a further, you know, discussion about
19 that, I'm happy to have that. But I think we should -- you
20 should at least have that conversation first.

21 MR. BAIN: And one more second to confer?

22 (Counsel confer)

23 MR. CURRY: Your Honor, Dave Curry. Mr. Bain was
24 asking me about -- I had asked for some language to be switched
25 in the order, but I think we can address it by a comment on the



1 record, which is that the way the order currently reads, it
2 says no payments will be made to restricted parties, and we
3 will offset against parties who we can pay to the extent we
4 need to.

5 But we wanted to make it clear that they are able to
6 offset income against restricted persons. It's just that
7 they're not able to make payment, and the ordering of it left
8 open in argument, but as long as we correct that --

9 THE COURT: That's the way I understood it.

10 MR. CURRY: Okay.

11 THE COURT: So you are able to offset, but you can't
12 actually make the payment.

13 MR. CURRY: Thank you, Your Honor.

14 THE COURT: So to some extent, that's Mr. Phillips'
15 escrow.

16 MR. CURRY: Right.

17 MR. BAIN: Your Honor, we're happy to propose another
18 proposed order. Or if you'd prefer to just take Paragraph 2
19 and adjust that, whatever we can do.

20 THE COURT: Why don't you go ahead? Why don't you go
21 ahead and circulate it, and I'll consider it as quickly as you
22 can get it.

23 MR. BAIN: Okay. Thank you very much.

24 THE COURT: Thanks. All right. Anything further?

25 MR. PHILLIPS: And, Judge, we would like time -- can



1 we review the form of order before it's submitted to the Court?

2 THE COURT: Absolutely, yes.

3 MR. BAIN: Your Honor, that's it. So, Your Honor,
4 we've been in contact with your chambers and we soon will be in
5 contact with the Committee. We do anticipate filing a critical
6 vendor motion in the very near term, and there's going to be a
7 hearing on Thursday. Other than that, that concludes today's
8 agenda on today's hearing.

9 THE COURT: I suspect you're going to want to pay
10 Mr. Hamm's client, right?

11 MR. BAIN: He would like that, but --

12 MR. HAMM: I'll take it, Judge.

13 THE COURT: Yeah, but that's why I asked about them.
14 Are they still doing work?

15 MR. BAIN: If there's any other questions, Your
16 Honor --

17 THE COURT: No, no, I just wanted to hear that about
18 that. All right.

19 MR. BAIN: Thank you.

20 MR. WILSON: Thank you.

21 MR. CURRY: Thank you, Your Honor.

22 THE COURT: You may be excused.

23 MR. PHILLIPS: Thank you, Judge.

24 (Proceedings concluded at 4:03 p.m.)
25



C E R T I F I C A T I O N

I, Ilene Watson, court-approved transcriber, hereby
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter.



ILENE WATSON, AAERT NO. 447

DATE: September 25, 2024

ACCESS TRANSCRIPTS, LLC

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

IN RE: § CASE NO. 24-33353-11
§ HOUSTON, TEXAS
BARROW SHAVER RESOURCES § MONDAY,
COMPANY, LLC, ET AL, § JANUARY 13, 2025
DEBTORS. § 1:01 P.M. TO 1:34 P.M.

PLAINS MARKETING, LP, ET AL § CASE NO. 24-AP-3167
§ HOUSTON, TEXAS
VERSUS § MONDAY,
§ JANUARY 13, 2025
BARROW SHAVER RESOURCES §
COMPANY, LLC, ET AL § 1:01 P.M. TO 1:34 P.M.

MOTION TO EXTEND EXCLUSIVITY PERIOD
AND STATUS CONFERENCE (VIA ZOOM)

BEFORE THE HONORABLE ALFREDO R. PEREZ
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES: SEE NEXT PAGE

ELECTRONIC RECORDING OFFICER: AKEITA HOUSE

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(Please also see Electronic Appearances.)

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(None offered.)

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COURT'S RULING:

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STATUS CONFERENCE:

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1 **HOUSTON, TEXAS; MONDAY, JANUARY 13, 2025; 1:01 P.M.**

2 THE COURT: All right. Good afternoon. It's
3 1:00 o'clock on Monday, January 13th. This is Judge Perez.
4 We're here for the 1:00 o'clock Docket.

5 We have two matters, a Status Conference in Case
6 Number 24-03167, the Plains Marketing adversary proceeding
7 and then we also have the motion to extend exclusivity in
8 Case Number 24-33353. Both matters relate to Barrow Shaver
9 Resources.

10 Why don't I get the appearances of counsel in the
11 courtroom and then on the line?

12 MR. WILSON: All right. Good morning, Your Honor.
13 Sean Wilson with Jones Walker, counsel for the Debtor. With
14 me in the courtroom are my colleagues, Mr. Joseph Bain,
15 Ms. Elizabeth De Leon, and the company's Chief Restructuring
16 Officer, James Katchadurian.

17 THE COURT: Thank you.

18 MR. SMITH: Good morning, Judge Perez. Connor
19 Smith with Dori Rothberg Law. With me in the courtroom is
20 Lisa Rothberg. We are here with the petitioning creditors,
21 as well as Access in Force individually for the Status
22 Conference.

23 THE COURT: Thank you.

24 MR. BERNARD: Hello, Your Honor. Richard Bernard
25 and Kristin Perry of Faegre Drink on behalf of the Creditors

1 Committee.

2 THE COURT: Good morning.

3 MR. HALGREN: Good afternoon, Your Honor. Chris
4 Halgren and Elias Yazbeck here from McGinnis Lochridge on
5 behalf of ETX Minerals.

6 THE COURT: Thank you.

7 MR. MARTIN: Good afternoon, Your Honor. Jarrod
8 Martin for the Ad Hoc Group of Non-operating Working
9 Interest Owners.

10 MR. JOHNSON: Good afternoon, Your Honor. Shane
11 Johnson from Porter Hedges on behalf of Middleton Oil
12 Company, a working interest owner.

13 THE COURT: Thank you.

14 All right. Let's take appearances on the line and
15 if everyone would mute their lines? We had a dog trying to
16 make an appearance there a minute ago, but so go ahead.

17 Mr. Rothberg?

18 MR. ROTHBERG: Yes, good morning, Your Honor. Ed
19 Rothberg for the same parties that Mr. Connor Smith
20 mentioned.

21 THE COURT: Thank you.

22 Anyone else?

23 MR. CLARKSON: Your Honor, this is Edward Clarkson
24 for Linda Barrow.

25 MR. RUFF: Good afternoon, Your Honor. Jayson

1 Ruff for the US Trustee.

2 MR. VOLKMER: Good afternoon, Your Honor.
3 Christopher Volkmer on behalf of Journeys End Petroleum and
4 Pondegrossa Trust.

5 THE COURT: Okay. All right. So which matter
6 should we take up first? Which one is going to be shorter?

7 MR. WILSON: Your Honor, again for the Record,
8 Sean Wilson, Jones Walker for the Debtor.

9 I'm going to propose that we handle the
10 exclusivity motion first. I do have a couple of updates
11 since we filed our reply last Friday.

12 ETX, in our belief, was the only remaining
13 outstanding objection. And of course, the Debtor met and
14 conferred with ETX outside the courtroom and I believe we
15 have some form of resolution.

16 ETX's counsel, you know, obviously we disagree
17 with what each other has put in their papers. And as a
18 means of resolution, I'm going to invite Mr. Halgren up here
19 to, you know, kind of make his disputes known and then we
20 can, you know -- other than that, ETX's resolution is --
21 objection is resolved.

22 Now it's the Debtors' belief that the Petitioning
23 Creditor's objection is also resolved. As we've noted,
24 they've only filed a joinder to the Committee's objection.
25 And since the Committee's objection has been resolved, we

1 believe that it also necessarily resolves the Petitioning
2 Creditors. They disagree with that, so I'm going to give
3 them a little bit of time, but we would need some guidance
4 on what you believe actually is resolved, considering that
5 they only joined, they're not part of their own independent.

6 So with that, Your Honor, I believe that's the
7 quickest way to get through one of these issues, or one of
8 these matters.

9 THE COURT: Okay, I think that they did join, but
10 they also raised at least one or two other issues. And so I
11 think we need to talk about the other couple of issues that
12 they raised.

13 MR. WILSON: All right.

14 THE COURT: So what -- if Mr. Halgren wants to
15 talk, let him.

16 MR. HALGREN: Thank you, Your Honor. And I'll be
17 very brief.

18 We learned about the resolution of the Committee's
19 objection, I think when we read the response. So we were
20 not aware of the new deal that the Debtors were open to.

21 I'm not going to belabor the points in our
22 objection. I know Your Honor read it. We do think that
23 those are important issues that the Court should be aware of
24 as we're dealing essentially with just non-Debtor assets
25 being sold and what that means here.

1 What I wanted to address, Your Honor, were the
2 allegations.

3 (Electronic noise interference.)

4 THE COURT: Hold on a second.

5 MR. HALGREN: Yes, sir.

6 (Pause in the proceedings.)

7 THE COURT: All right. I'm getting a lot of
8 feedback, so why don't -- everybody, I'm going to mute it
9 and then hit five star.

10 (Conference muted.)

11 THE COURT: Okay.

12 MR. HALGREN: So Your Honor, again, what I just
13 wanted to briefly address were allegations that were really
14 raised by the Debtors' response that we were somehow being
15 obstructionist or so forth, because we absolutely thought
16 those were unfair.

17 Yes, there is pre-petition litigation. It's
18 stayed. Other than a venue issue that they have raised --
19 that they raised, I mean, there's really nothing happening
20 there. I'm not sure what they expect us to do about it.

21 We have motions to lift stay that were filed early
22 on in this case. We have agreed, and the Court has allowed,
23 several re-settings of those because we were trying to work
24 with the other parties.

25 And the last one, the agreement was that we would

1 meet with the Debtors and other interested parties to try to
2 address the litigation and all these other issues.

3 That meeting has not yet occurred, but we're still
4 open to it, and again, that's something we wanted.

5 We got an email last week that asked we meet with
6 the Committee to discuss other issues. I said sure. They
7 asked that we meet after this hearing today.

8 So then to see in their response, allegations that
9 this Court would see, that we're somehow not working with
10 them or refusing to work with them, we felt was very unfair.
11 I just wanted to clarify that for the Court.

12 But other than that, had we known about the
13 resolution prior to their response, I imagine we would have
14 joined in that.

15 THE COURT: Okay.

16 MR. HALGREN: Thank you, Your Honor.

17 THE COURT: All right.

18 MR. SMITH: Good afternoon, Judge Perez.

19 THE COURT: Yes.

20 MR. SMITH: Thank you for allowing us to present
21 our objection to this exclusivity motion. Primarily it
22 rests on what the Debtors coin as a very limited, small and
23 isolated issue of \$73 million that has yet to be collected
24 by the Debtors. That small issue of \$73 million, Your
25 Honor, has been present since the beginning of the case, has

1 yet to be resolved by the Debtors, and Your Honor, that is
2 the basis of this need for a shorter window of exclusivity
3 granted.

4 We've requested 60 days. We think that's fair.
5 It gives an additional little bit of runway for the Debtors
6 to resolve or come up with an idea of how to resolve that
7 small \$73 million isolated issue.

8 But Your Honor, to this point and to this date,
9 nothing has been presented. So because of that, the 60-day
10 window in our estimation is a better runway for the Debtors
11 to land the Plan and if necessary, they are able to come
12 back and ask for more time. And we can come back here, and
13 we can see what has been done, what hasn't been done. And
14 nobody is harmed by having to come back here and kind of
15 assess the situation.

16 So Your Honor, with that, we do believe that the
17 60-day is appropriate. We do believe that the issues
18 regarding the small issue of \$73 million, but also the title
19 issue regarding the Hidden Rock properties and other
20 properties, remains a lingering issue here, yet to be
21 resolved, yet to have an answer.

22 The Debtors presented in their timeline and I
23 think in their demonstrative, they're going to assert that
24 they can get a closing done by the end of the -- end of
25 March.

1 That is -- in my belief, that's within pretty
2 close to 60 days, so if we need to have a Status Conference,
3 call it a Status Conference on that sale or call it
4 exclusivity extension, we can do that in between now and the
5 actual closing of that sale.

6 So Your Honor, with these points in mind, we'd
7 just say that that 60 -- request the Court set 60-days
8 instead of 120 days or 105 days.

9 THE COURT: Thank you.

10 MR. BERNARD: Hello, Your Honor, Richard Bernard
11 for the Committee again.

12 Exclusivity came up on December 17th. The
13 Committee and the Debtors have agreed for 105-day extension.
14 I guess it's set for one, so timing-wise, we think the
15 105 days is appropriate in this matter.

16 Your Honor, we filed our response and generally we
17 have great and constructive relations with the Debtors'
18 professionals, so everything, you know, on that side has
19 been going well.

20 We know that those professionals have been working
21 very hard on this case since conversion, but a lot of that
22 work has been inward facing, not outward facing to
23 creditors. We are starting to get into that outward facing
24 phase where, you know, the sale process has kicked off.

25 And so, you know, we were comfortable saying --

1 you know, working out our issue with exclusivity with the
2 Debtor, to give a couple extra weeks, sort of post-auction
3 to see if we get a plan. We may need to come back for some
4 additional time, we get it, because of the complexities of
5 the case. And those complexities are really litigation
6 complexities.

7 I mean, the business is pretty simple. You pump
8 oil from the ground, you sell it, generate revenue -- it's
9 the litigation. I mean, you know, we have the Debtors
10 transferring assets to insiders within months of the
11 involuntary filing. We have extensive mineral liens on the
12 wells, which, you know, depending on the activity of those
13 creditors, can divert Debtors' attention from sort of the
14 value maximizing sale process, and you can see it, Your
15 Honor has already ruled on the Plains litigation and you
16 know, that takes time and resources.

17 The main -- and counsel just brought this up --
18 the lease litigation with NETX and ETX, that is a huge
19 overhead and there's seven other actions pending in the -- I
20 believe in the Eastern District of Texas. There's the
21 appeal.

22 Substantively, the Debtors have done well in that
23 litigation, but the Debtors have limited resources. And
24 NETX, ETX, they're not subject to those same constraints.

25 What we see here from our perspective as the

1 creditors in the case, I mean, we can only assume that NETX,
2 ETX, are utilizing their litigation posture and those
3 tactics to chill the sale process because NETX, ETX is a
4 potential purchaser of the assets here. And reaps to be
5 able to potentially buy these assets on the cheap by
6 depressing -- you know, scaring off other potential bidders
7 and depressing a purchase price here.

8 That hurts my clients. Those are the general
9 creditors which stand to benefit from a robust and fair sale
10 process. You know, we think that NETX's litigation strategy
11 has chilled and, I don't want to say scared off bidders, but
12 we're hearing sort of anecdotally that bidders may not want
13 to spend money on diligence because of that litigation
14 overhang, which is very problematic.

15 And we do have some thoughts on how we can sort of
16 level the playing field for the sale process and I'm sure
17 we'll have time to get into that with Your Honor at a more
18 appropriate time, but, you know, we're concerned that this
19 litigation, NETX, ETX lease litigation is potentially
20 tainting our sale process and we're very focused on that --
21 not that we're not focused on a few other major issues going
22 on in the case, but that is really front and center as we
23 enter into the bid procedure -- bid sale process here.

24 Thank you for your time, Your Honor. If you have
25 any questions?

1 THE COURT: No, I'm good.

2 MR. JOHNSON: With that, Your Honor, considering
3 that you saw that the objection, I'll proceed. I'd like to
4 give at least a brief status update on where we are in the
5 sales process, then proceed with the merits and the evidence
6 in this case.

7 THE COURT: Thank you.

8 MR. JOHNSON: All right. Your Honor, in terms of
9 a sale process, the Debtor has retained Chaffe. Chaffe has
10 opened up the marketing process. We have a VDR that went
11 live on January 6th.

12 The Debtors targeted present, you know, sale
13 dates. You know, we have management presentations that are
14 ongoing. The Debtor has targeted to file its bid procedures
15 on January 31st. We have a target bid date for March 5th
16 with an auction on March 12th. And closing on the sale on
17 March 31st.

18 I wanted to note that the Debtors' professionals,
19 as well as the Debtors' employees, worked very hard during
20 this holiday season to get that VDR open and do allow the
21 process to go forward.

22 So I wanted to make that kind of generally status
23 report before we go into the evidence 'cause I do know that
24 there are creditors on the line and they probably want to
25 hear that.

1 So with that, Your Honor, I would like to call
2 Mr. James Katchadurian to the stand and we can proceed.

3 (Pause in the proceedings.)

4 THE COURT: Good afternoon. Please raise your
5 right hand.

6 (Witness sworn.)

7 THE COURT: Okay. You may be seated.

8 Go ahead.

9 DIRECT EXAMINATION

10 BY MR. JOHNSON:

11 Q Mr. Katchadurian, we all know who you are, but for the
12 Record, can you please state your name?

13 A Yes, James Katchadurian, Chief Restructuring Officer of
14 the Debtors.

15 Q Mr. Katchadurian, how long have you been the Chief
16 Restructuring Officer of the Debtor?

17 A Since July of this year.

18 Q Let's talk about the -- yeah, let's talk about the
19 involuntary in this case.

20 How did this company end up in bankruptcy?

21 A An involuntary petition was filed against the Debtors.

22 Q Did the involuntary petition disrupt the Debtors'
23 operations?

24 A It did.

25 Q All right. Once you were appointed as CRO, what steps

1 did you take to stabilize the business?

2 A First thing is to assess the business, assess the
3 staff, connect with the various constituents in the case,
4 understand the asset, and figure out how to best preserve it
5 and create a value maximizing transaction for the future.

6 Q How long did that process take?

7 A It's ongoing.

8 Q Now what steps has the Debtors done to improve
9 operations?

10 A We have really strategically looked at how to continue
11 to maintain and improve production on a strategic basis. We
12 do have limited resources, but we've been able to do some
13 asset jobs, put some gas left in in certain strategic
14 locations, and other sort of normal course operations to
15 maintain the assets.

16 Q Were these operations effective in increasing
17 production?

18 A They are.

19 Q All right. Did these actions take time to do?

20 A They certainly do.

21 Q All right. Mr. Katchadurian, let's talk about the sale
22 process. What is the Debtor trying to sell?

23 A It's trying to sell its assets in Hidden Rock and other
24 fields, as well.

25 Q What has the Debtor done in initiating a sale process?

1 A Well, first and foremost, we gathered a lot of data
2 that support the asset. We retained Chaffe, as of December
3 2024 and we've compiled a Confidential Information
4 Memorandum, a CIM, and a related teaser, developed a buyer's
5 list and populated a VDR with key information that could be
6 used by any potential buyer for diligence.

7 Q You mentioned Chaffe, is Chaffe the Debtors' investment
8 banker?

9 A They are, yes.

10 Q When did the Debtor hire the investment banker?

11 A In December of 2024.

12 Q What has Chaffe done to progress the sale process?

13 A They've used their expertise to help us construct a
14 buyer's list. We've been fortunate. We've had many inbound
15 inquiries as to this asset and it seems to be a lot of
16 interest in the assets themselves.

17 Q You mentioned buyers. I mean, how many people are on
18 the buyer's list from Chaffe?

19 A 104.

20 Q How many confidentiality agreements have you entered
21 into?

22 A As of Friday, ten.

23 Q How many people are in the data room currently?

24 A Ten people. We've received the same number in the data
25 room.

1 Q Mr. Katchadurian, what is a management presentation?

2 A A management presentation is where the Debtors
3 operational professionals sit down with a potential buyer
4 and work through the geology and the operations of any given
5 field, answer their questions, and you know, it's a next
6 step in intelligence.

7 Q Are management presentations ongoing?

8 A They are.

9 Q Mr. Katchadurian, when does the Debtor anticipate to
10 file its sale and bid procedures motion?

11 A By the end of January.

12 Q What's the Debtors' target bid deadline?

13 A Early March.

14 Q What's the Debtors' target auction date?

15 A Mid-March.

16 Q All right. Now let's talk briefly about the Plan
17 process.

18 What progress has the Debtor made in terms of
19 formulating a Plan?

20 A We've spent quite a bit of time talking both to the
21 Committee and the other constituents, working interest
22 owners and vendors to try to formulate a Plan.

23 Q Has the Debtor negotiated with certain parties?

24 A Yes.

25 Q All right. What has the Debtors' professionals done to

1 help progress the Plan process?

2 A Counsel has begun drafting a Plan.

3 Q All right. Now let's talk about some of the issues in
4 this case.

5 Are there issues in this case that may be resolved
6 prior to the filing of the Plan?

7 A Yes.

8 Q Can you name a few of those?

9 A The Plains litigation is certainly one of them. Issues
10 with the leases, which are the property of the Debtor. It
11 comes among the other top priorities here.

12 Q Yeah, let's talk about the Plains adversary for a
13 minute. What is the Plains adversary?

14 A In, I believe, July -- first of all, Plains Marketing
15 is a company that sells the Debtors oil for it. I believe
16 it was the June production that was lienied by petitioning
17 creditors Force and Access, and the money was then conveyed
18 to the Court for safekeeping. Plains was, I believe,
19 dismissed from the adversary and then the Debtor filed
20 cross-claims to be able to get that money.

21 Q All right. Has the Debtor spent time addressing this
22 Plains adversary?

23 A It certainly has. Not only did we spend a lot of time
24 and money on this adversary proceeding, but operationally we
25 didn't have the revenue to distribute to working interest

1 owners and it caused a big systems issue. We had to get the
2 software vendor involved and spent a lot of time and money
3 on accounting and other personnel to try to get royalties
4 calculated and revenue out for subsequent months after this
5 issue came up.

6 Q And Mr. Katchadurian, has the Debtor been negotiating
7 with certain insiders?

8 A It has.

9 Q Are those negotiations ongoing?

10 A They are.

11 Q All right. Now, Mr. Katchadurian, are you familiar
12 with the Debtors motion to extend exclusivity?

13 A I am.

14 Q Based on what we've discussed today, is it necessary
15 for the Court to grant the 105 days in order for the sale
16 process and the Plan process to continue?

17 A Yes. I believe it is.

18 Q Would a 60-day extension be sufficient to accomplish
19 the sale milestones and what we've generally been discussing
20 today?

21 A No.

22 Q All right.

23 MR. JOHNSON: Your Honor, I'll pass the witness.

24 THE COURT: Okay. Cross-examination?

25 MR. SMITH: Once again, Connor Smith, Dore

1 Rothberg Law, for the petitioning creditors.

2 CROSS-EXAMINATION

3 BY MR. SMITH:

4 Q Good afternoon, Mr. Katchadurian.

5 A Good afternoon.

6 Q You testified that you have been the Chief
7 Restructuring Officer since July of 2024; is that correct?

8 A Of June/July, yes. That's about right.

9 Q June and July?

10 A I believe it was June that I was appointed. I don't
11 remember the exact date, to be honest here.

12 Q So assuming June then, starting with June, that would
13 be seven months as the Chief Restructuring Officer; is that
14 correct?

15 A I believe -- I mean, by the calendar, yes. I was
16 appointed at some point in June, I believe, and then yes,
17 it's early January, so six months.

18 Q And it is your testimony that you are familiar with the
19 Debtors' financial status -- yeah, you are familiar with the
20 financial status of the Debtor?

21 A I am.

22 Q Did you review the Debtors' Monthly Operating Report
23 for the month of November that was filed with this Court?

24 A I did.

25 Q Did you approve as stated on that Monthly Operating

1 Report?

2 A Yes, and I signed it.

3 MR. JOHNSON: Your Honor, I'm just going to
4 briefly object; this is outside the Direct. They don't have
5 a Witness and Exhibit List. I think it needs to be limited
6 to what's actually (indiscernible).

7 THE COURT: I think he's got an objection on file,
8 so go ahead.

9 MR. SMITH: Thank you, Your Honor.

10 BY MR. SMITH:

11 Q And on that Monthly Operating Report, you signed off on
12 the fact that there was \$73 million of accounts receivable,
13 correct?

14 A That's correct.

15 Q Are you familiar with the estimate of how much debt the
16 Debtor owes to all of its creditors?

17 A I'm sorry. Could you ask that again?

18 Q Are you familiar with how much debt the Debtor owes to
19 its creditors?

20 A I believe we scheduled about \$75 million in accounts
21 payable.

22 Q Did you say 75 million?

23 A Yes, 75. That's what was scheduled on the Schedules of
24 Assets and Liabilities.

25 Q Do you know -- are you familiar with how much of that

1 is secured?

2 A I know significant numbers of liens have been filed.

3 We're in the midst of a lien analysis. Not precisely, no.

4 Q Are you familiar how much is unsecured?

5 A Again, it would depend on the lien analysis.

6 Q What role will you have with the Debtor in developing
7 the Plan?

8 A I will probably have quite a significant role in
9 developing the Plan.

10 Q Do you sit on the board of directors for the Debtor?

11 A I sit on a Special Committee comprised of Linda Barrow,
12 Prue Verantidy (phonetic), and Scott Shaver and his entity,
13 and I'm the third member of the Special Committee.

14 Q Will that Special Committee have a hand in developing
15 the Plan?

16 A Yes. I'm sure they will.

17 Q Do you manage the day-to-day operations of the Debtor?

18 A I do.

19 Q Would a Plan -- approving a Plan fall under the day-to-
20 day operations?

21 A It falls under my role as Chief Restructuring Officer.

22 Q Would your Special Committee need to conduct a vote to
23 approve the Plan?

24 A I'm not sure. I'm sure we'll come to a consensual
25 resolution of issues with the insiders and we'll be able to

1 propose a Plan.

2 Q Linda Barrow, through her entity, will not have a vote
3 to accept the Plan that has been proposed by the company?

4 A That's not what I said. I said that I'm confident that
5 based on our negotiations and discussions, we'll come to a
6 consensual resolution.

7 Q Does the initiation of an adversary proceeding fall
8 under your purview?

9 A It does.

10 Q Do you have sole discretion in that?

11 A In consultation with counsel, yes. It's my right under
12 the fact that I'm a CRO.

13 MR. SMITH: No further questions.

14 THE COURT: All right. Anything further?

15 MR. JOHNSON: No, Your Honor.

16 THE COURT: Okay. All right. Any -- you may step
17 down, Mr. Katchadurian.

18 THE WITNESS: Thank you.

19 (Witness steps down.)

20 THE COURT: Any further?

21 MR. JOHNSON: No further witnesses, Your Honor.

22 THE COURT: Okay. Mr. Smith?

23 MR. SMITH: Just some closing arguments, Your
24 Honor.

25 THE COURT: Okay. All right. Why don't you?

1 It's your burden.

2 CLOSING ARGUMENTS

3 BY MR. JOHNSON: Your Honor, we have consensus
4 among various creditor groups in this case. We have the
5 Committee, we have ETX, we have working interest, all coming
6 together saying that we need 105 days.

7 We have one creditor, petitioning creditors, who
8 disagree with that. Through this entire process we've been
9 very transparent, trying to literally run the process as
10 Mr. Katchadurian done, sale process is underway, Plan
11 negotiations are underway.

12 There is lots of issues in this case. We believe
13 we have established cause and we request this Court to grant
14 our 105-day exclusivity request.

15 THE COURT: Thank you.

16 CLOSING ARGUMENTS

17 BY MR. SMITH: Judge Perez, the main issue in this
18 case, despite that Mr. Wilson's classification or
19 qualification of the \$73 million is per Mr. Katchadurian's
20 testimony is almost equivalent to the total amount of debt
21 owed.

22 Who knows if we would be here today with a
23 collection of \$73 million against \$75 million of debt? We
24 don't know.

25 What we do know is that this \$73 million,

1 according to Mr. Wilson's writing, is they're taking steps
2 still to identify how to proceed in collecting \$73 million.

3 All the while, fighting two adversaries, not
4 resolving issues regarding title, not resolving issues
5 regarding unrecorded assignments, letting \$73 million sit
6 uncollected, uncontested. And for that reason, Your Honor,
7 we have to assert that 60 days is a necessary runway to
8 allow the Debtor time to get an idea of what steps they're
9 going to take, but not so much time that they can take
10 indefinite amount of time.

11 If they ask another extension, we can handle it
12 there, but it's better in our opinion to give 60 days, ask
13 for a second potentially 60 days, maybe 40 days, maybe
14 100 days at that point in time. But we can resolve that
15 then.

16 A shorter time frame now preserves pressure on the
17 Debtor to resolve \$73 million, which is not the isolated
18 issue Debtors' counsel proposes.

19 So for these reasons, Your Honor, we ask a 60-day
20 extension be granted.

21 Thank you.

22 THE COURT: Anything further?

23 (No audible response.)

24 COURT'S RULING

25 THE COURT: All right. I've obviously reviewed

1 all of the filings before today, as well as the
2 presentations and the argument of counsel and the
3 uncontroverted testimony by the witness.

4 This case came to be as an involuntary with all of
5 the issues that arise in involuntary. There's no
6 pre-petition planning, there was no effort to gain consensus
7 pre-petition, there is no -- there was no -- nothing done
8 that would smooth the process, there was no RSA.

9 I think if it were just that in and of itself, I
10 would grant the extension. Currently before me are the
11 parties, the only two fiduciary parties in the case, the
12 Debtor and the Committee, who are asking for 105-day
13 extension and I think that based on, you know, the proposal
14 -- I mean, this case is complicated and it can get more
15 complicated or less complicated and it's likely going to get
16 more complicated. I understand that.

17 But the effort to try to get this case in a
18 position where we're really arguing about real dollars and
19 what it really means to the various parties, I think it
20 should be the Debtors' focus, and I also think, you know,
21 when you're a Debtor, you kind of get to pick and choose
22 what goes first and what goes second, and unless the Debtor
23 can articulate a business reason for why they're doing what
24 they're going, you know, I think the Bankruptcy Courts
25 generally defer to the Debtors' business judgment.

1 And here, I think the focus has been on trying to
2 create value for the assets, understanding that if those
3 assets have significant complexities, for lack of a better
4 term, but based on the testimony and the arguments of
5 counsel, I'm going to go ahead and grant the motion to
6 extend exclusivity for 105 days.

7 That's not to say that, you know, this is a
8 situation where exclusivity is going to be extended, you
9 know, necessarily in the future. If it is extend, there's
10 going to have to be a significant showing as to, you know,
11 exactly what it -- why it's needed and what is needed.

12 So I'm going to -- where's the order?

13 MR. JOHNSON: Your Honor, if it may be helpful, we
14 filed a revised order. That's Docket Number 408-1.

15 THE COURT: All right.

16 (Pause in the proceedings.)

17 THE COURT: All right. I've signed the Order and
18 it's going to docketing.

19 All right. So the next matter is the Status
20 Conference.

21 MR. JOHNSON: Thank you, Your Honor. For the
22 Record, Sean Wilson with Jones Walker, counsel for the
23 Debtor.

24 Your Honor, after your Court's ruling on the
25 Motion for Summary Judgment, the Debtor reached out to

1 counsel for Access and Forest, asking to let's set up a
2 call, let's discuss next steps.

3 That email was ignored. We know it was ignored
4 because they filed their motion -- their objection to
5 exclusivity thereafter. And after a stern email saying
6 let's talk, we finally then were able to discuss certain
7 things.

8 The Debtors' position is that this adversary needs
9 to move along. As I mentioned at the Rule 16 Conference,
10 the Debtor is incurring damages because of the Force and
11 Access's actions. So we need to proceed with turnover, the
12 stay violation, and quantifying the actual damages.

13 As to the turnover, I believe it's largely
14 uncontested and the Debtors -- I mean, in the enforcement
15 action's Motion for Summary Judgment themselves, they agreed
16 an undisputed fact that the Debtor is a working interest
17 owner. That is Docket Number 42, paragraph 17, and that is
18 under the heading "Undisputed Facts."

19 And counsel for Force and Access will disagree
20 with that. They need to actually come to Your Honor to
21 actually kind of discuss the issues and how we can actually
22 proceed.

23 With that, I will currently yield to Mr. Connor to
24 make his statements. We can then go forward.

25 MR. SMITH: Judge Perez, we did file a notice of

1 appeal, which we took very seriously and we can contemplate
2 it a long time, which understandably did require a
3 significant look at the case, the risks involved, the future
4 of the main case, and the future of the adversary. It was
5 not an easy decision to file the appeal, but on -- but at
6 Document 61 and 62, Your Honor, we did file the notice of
7 appeal and a motion to stay the case.

8 The motion to stay the case is premised on the
9 Southern District in *Mayo v. Walmart* case that when there is
10 an issue of -- novel issue of law and a central issue of law
11 that must be considered that could have dramatic
12 implications on the ultimate litigation at hand, it is
13 better to have the guidance of the appellate court so that
14 ultimate resolution can be achieved in a more efficient
15 manner.

16 And that is what we are seeking here because we do
17 recognize, as Your Honor said at the previous Status
18 Conference in October, that this is a threshold question of
19 law. It's also a novel question of law, undecided.

20 And so with that threshold of law, it is as a
21 Southern District rights, threshold questions of law that
22 have an opportunity to resolve the ultimate question of the
23 case and bring ultimate resolution should be with appellate
24 guidance, because if the Plaintiffs are wrong, the Debtors
25 in this case, the Debtors are wrong in their assertion.

1 And if the Debtors -- the Defendants are correct,
2 then we have the answer to the ultimate resolution of the
3 case. And for those reasons, we think that it is necessary
4 to stay the case for now, until we can have that appellate
5 guidance because that will determine next steps.

6 The Debtor complains and is concerned about waste,
7 about wasted time and wasted efforts. It doesn't make sense
8 to us to continue alleviating all of the secondary issues,
9 the next steps issues as Your Honor put it, without a final
10 resolution to the threshold question that Your Honor stated.

11 And so to preserve the status quo, to preserve
12 everybody's rights and to preserve, I guess, judicial
13 economy, it makes sense to focus on the appeal, obtain
14 appellate guidance and then find out what those next steps
15 are to that question -- to that threshold question.

16 Your Honor, these are -- we filed these today. We
17 have not set this for hearing, so these are not properly
18 before this Court. I understand that I went through these
19 arguments to give this Court an idea of where we are going,
20 but do request that this be properly scheduled and properly
21 set for hearing on these motions.

22 So with that, I'll turn it over.

23 THE COURT: Okay. Committee want to speak?

24 MR. BERNARD: Your Honor, I know we're not a --
25 Richard Bernard again on behalf of the Committee.

1 I know we're not a party to it, but I heard some
2 statements today about the Plains litigation and my
3 understanding was this is not a penultimate issue that's
4 getting take up. This is more of a recovery-type issue
5 because there were funds that were sitting in escrow.
6 Access and Force would still need to prove up the validity
7 of their liens, the extent of their liens.

8 Those are the types of issues that are, you know,
9 ultimately resolve the case. This is sort of a tail end.

10 And they would have the ability to bond -- you
11 know, if they want the funds frozen, we have an order, they
12 have the ability to bond. The rules are the rules. And --
13 but I know this is a Status Conference and --

14 THE COURT: Right.

15 MR. BERNARD: -- those issues can come up.

16 Thank you, Your Honor.

17 MR. SMITH: If I can briefly reply to that?

18 THE COURT: Sure.

19 MR. SMITH: That Your Honor, we did discuss that
20 very point back in October that in order to fully litigate
21 our case, we would need to prove up the Chapter 56 liens and
22 everything that goes in with that.

23 But Your Honor very clearly said that no, we
24 should focus on the threshold issue of whether or not
25 Chapter 56 entitles you to liens under Chapter 67. So that

1 is what Your Honor decided, that is what is before -- is
2 under the notice of appeal, so Your Honor, I just want to
3 clarify that wasn't attempted back then, but I do agree that
4 this is a threshold issue because if Defendants are correct,
5 it does bring an ultimate end to the -- to this litigation.

6 THE COURT: Well, it brings an ultimate end to
7 your ability to freeze the two million. It doesn't bring an
8 ultimate end as to whether you have a lien on the hard
9 assets, but okay.

10 Mr. Wilson?

11 MR. WILSON: You know, I want to -- I don't want
12 to repeat what Mr. Bernard said. A few things, Your Honor,
13 assuming they're right, assuming they have an interest,
14 there's still the stay violation. Post-petition they took
15 actions without going to see you first. That's unresolved.
16 That hasn't been done yet.

17 I'm asking for this Court to let's proceed with
18 turnover, let's proceed with the stay violation, and let's
19 proceed with literally quantifying the stay violations.

20 Not only is the Debtor prejudiced, but there's
21 other working interests that are prejudiced and they're here
22 in this courtroom, they're here on the phone. I think they
23 need a little moment to speak to, as well, because they are
24 ultimately harmed as well in this.

25 So I'll yield the podium for those working

1 interest owners, as well.

2 MR. SMITH: Your Honor, these were not parties to
3 this lawsuit. I would object to their statements being
4 brought in here. This is not a -- this is a two-party
5 litigation.

6 THE COURT: Well, I mean, if they're being
7 prejudiced, I'm going to allow them to speak. If they want
8 to intervene, they can intervene. If not, they're not, but
9 just like I let you cross-examine the witness, I'm going to
10 let them speak.

11 MR. MARTIN: Thank you, Your Honor. Jarrod Martin
12 for the Ad Hoc Group of Non-operating Working Interest
13 Owners.

14 Mr. Wilson is right. We are prejudiced by this
15 litigation not moving forward. As the Debtor is a working
16 interest owner, we're non-operating working interest owner.
17 The longer that those funds are frozen, our clients are not
18 receiving their working interest payments.

19 And as the Court said, there are ways to deal with
20 the appeal including, you know, bonding the appeal. So
21 there's no prejudice to going forward and start pursuing
22 that interlocutory appeal under the rules.

23 Thank you.

24 MR. JOHNSON: Your Honor, Shane Johnson from
25 Porter Hedges, again on behalf of Middleton Oil.

1 My client is in the same position as Mr. Martin's
2 clients. We have been waiting for these funds and the funds
3 are just sitting there, Your Honor. Under the JOA,
4 non-payments of these working interest amounts accrues
5 interest. There's defaults under the JOA, so it's not as if
6 we're being protected by the funds just sitting there, and
7 there are damages that are continuing to accrue, and so I
8 think Your Honor set up at motion for summary judgment
9 process that would enable the issue that was most important
10 to be decided first. Your Honor decided it and so now I
11 think it's time for those funds to come back to the Debtor
12 and be distributed.

13 Thank you, Your Honor.

14 THE COURT: All right. Anything further?

15 MR. SMITH: Your Honor, the Supreme Court of the
16 United States states that there are -- there's a test that
17 we have to go through in order to -- in considering whether
18 or not to grant a motion for stay.

19 THE COURT: And I'm going to have a hearing on
20 that.

21 MR. SMITH: Okay. And that was my next question.

22 THE COURT: Yeah, so here's what we're going to
23 do: I'd like for you both to work with Mr. Laws to come up
24 with a hearing date and at that time we will hear both the
25 motion to stay, as well as the turnover, the stay violation,

1 all of that stuff. Because to some extent they're
2 independent and to some extent -- obviously if I order a
3 stay, then the turnover is probably -- I may still order the
4 turnover, but it will be stayed.

5 So let's get a date, you know, in the next couple
6 of weeks to have a hearing on basically the motion for stay
7 pending appeal, as well as the turnover, the stay violation
8 and everything else that's remaining in your lawsuit.

9 MR. SMITH: Your Honor, at what point are we going
10 to be entitled to discovery under this adversary proceeding?

11 THE COURT: On what issue?

12 MR. SMITH: On issues of stay violation and
13 turnover? Those are -- those were the pled claims in the
14 adversary proceeding and as we filed the response denying
15 those things. So we would like opportunities to conduct
16 discovery related to exactly what acts meant --

17 THE COURT: How long -- how long do you need?

18 MR. SMITH: Your Honor, there would be just one
19 round of discovery, so 30 days, 21 days.

20 THE COURT: Okay. Let's give you 21 days and then
21 let's get that heard and maybe what we need to do is have
22 the motion for stay pending appeal first because we don't
23 have to wait for the discovery on the other things.

24 So let's go ahead and get that motion for stay
25 pending appeal set for hearing and then immediately after

1 that, you know, within, let's say, 30 days, let's have the
2 hearing on the other thing after they conclude their
3 discovery.

4 MR. JOHNSON: Your Honor, so we'll absolutely work
5 with Force and Access. If there is any issues in terms of
6 doing that, we may have a motion for another Status
7 Conference, but I don't anticipate that, and I believe we'll
8 be able to resolve it.

9 THE COURT: I'm here all the time, so you can --
10 any time you want a Status Conference, I'm happy to talk to
11 you.

12 MR. JOHNSON: Perfect.

13 MR. LAWS: Sorry to interrupt, but you have a
14 Status Conference next week.

15 MR. JOHNSON: We can -- let's discuss with counsel
16 and we'll get back with you.

17 THE COURT: Okay.

18 MR. JOHNSON: Thank you, Your Honor.

19 THE COURT: All right. Anything further?

20 MR. JOHNSON: Nothing further, Your Honor.

21 THE COURT: All right. Everyone is excused.

22 (Hearing concluded at 1:34 p.m.)
23
24
25

* * * * *

1 I certify that the foregoing is a correct
2 transcript to the best of my ability from the electronic
3 sound recording of the ZOOM/video/telephonic proceedings in
4 the above-entitled matter.

5 /S/ MARY D. HENRY

6 CERTIFIED BY THE AMERICAN ASSOCIATION OF
7 ELECTRONIC REPORTERS AND TRANSCRIBERS, CET**337
8 JUDICIAL TRANSCRIBERS OF TEXAS, LLC
9 JTT TRANSCRIPT #69523

10 DATE FILED: JANUARY 18, 2025
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I N D E X
2/12/25

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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FOR THE PLAINTIFF:

Chris Boone	27	36	47	--
James Katchadurian	53	64	83	--

EXHIBITSADMITTED

None



1 (Proceedings commence at 9:00 a.m.)

2 THE COURT: All right. Good morning, everyone. It
3 is 9 a.m. This is Judge Perez. It is Wednesday, February
4 12th, 2025, and we're here on the nine o'clock docket, which is
5 Case Number 24-03167, Plains Marketing v. Barrow Shaver
6 Resources, the motion for stay pending appeal.

7 MR. WILSON: Your Honor. For the record, Sean Wilson
8 Jones Walker, counsel for the debtor. In the courtroom are my
9 colleagues, Mr. Joseph Bain, Ms. Elizabeth De Leon, and then
10 somewhere in the gallery or in this office or in the courtroom
11 is Mr. James Katchadurian, the company's CRO.

12 MR. SMITH: Good morning, Judge Perez. Connor Smith
13 for Axis Energy Services LLC and Force Pressure Control LLC.
14 With me in the courtroom are my colleagues, Lisa Rothberg and
15 Laura Crabtree. Along inside -- also inside this courtroom is
16 our chief financial officer, Chris Boone, and in-house counsel,
17 McKenzie Brown.

18 MR. WILSON: Your Honor, if we may, can we just get
19 five minutes so we can just streamline this entire process for
20 Your Honor.

21 THE COURT: Sure.

22 MR. WILSON; Awesome, thank you.

23 ELECTRONIC VOICE: Line unmuted.

24 THE COURT: I will come back and take appearances on
25 online in a minute.



1 UNIDENTIFIED: Thank you, Your Honor.

2 (Pause)

3 THE COURT: All right, we're going to resume. Let me
4 take appearances online. Anyone? Anyone online wish to make
5 an appearance?

6 MR. SMITH: Good morning, Your Honor. Kristen Perry
7 with Faegre Drinker Biddle & Reath on behalf of the unsecured
8 creditors' committee.

9 THE COURT: Thank you, Ms. Perry.

10 Right. Anyone else? All right, Mr. Wilson.

11 MR. WILSON: Thank you. Your Honor, For the record
12 again, Sean Wilson with Jones Walker, counsel for the debtor.
13 Last week at our status conference, Your Honor, we had a motion
14 to quash on file, and we said to continue that motion to quash
15 to today's hearing on the limited item of Request Number 7.
16 Now, the parties haven't resolved their dispute with Request
17 Number 7, so as a housekeeping matter, the way I propose to go
18 about doing this is I'll go first, I'll argue the merits of
19 Request Number 7, what we propose to do in terms of production,
20 and then Mr. Smith is going to request stand up, give his side
21 of the view, and let Your Honor have time to rule on it. We
22 imagine this will take 10, 15 minutes.

23 After that, then we'll do some more housekeeping
24 matters, do openings for the actual motion to stay pending
25 appeal. Mr. Connor will present his witnesses. I will present

1 mine. And then we'll have closing and then proceed as that.

2 THE COURT: Okay. That sounds good.

3 MS. WILSON: All right. So, Your Honor, for Request
4 Number 7, as modified, the debtors have agreed to produce a
5 summarized description of the accounts receivable, listing a
6 range of amounts owed by groups. So, for example, if there's
7 eight people that owe over \$100,000, we would say that eight
8 people owe \$100,000 or more. If it's below 100,000, you know,
9 X amount of people owe that amount. It's listing by groups the
10 accounts receivables. And Force, on the other hand, believes
11 that they want the actual money names and the corresponding
12 amounts owed by each individual owed to the debtor.

13 Your Honor, the underlying motion here is the motion
14 to stay pending appeal. Force's and Axis's main primary
15 argument is that the debtor has opportunity to go proceed
16 against individuals to collect the outstanding AR and therefore
17 they're not harmed by not having Axis to the Court's -- to
18 money in the court's registry at this time.

19 Your Honor, we believe that our way of producing just
20 by groups, insiders owe this amount, this many people owe this
21 amount, without actually listing name accomplishes what Force
22 and Axis are requesting. The reason why this is important,
23 Your Honor is that the debtor is going to be prejudiced with
24 future negotiations with, for example, NETX, with these other
25 insiders, and with other -- these working interest owners if

1 we're disclosing the names and the amounts. We're having
2 ongoing negotiations. We don't want to be known to the public
3 which ones owe exactly which ones. For the purposes that Force
4 and Axis are trying to use for, we believe that our proposed
5 production -- again, the summarize accounts receivable by
6 grouping -- suffices for what they're primarily going to do.
7 So with that, Your Honor, we believe that our proposal is the
8 correct one and now yield the podium so that Mr. Smith can make
9 his argument.

10 THE COURT: How did you -- are these pre- or
11 post-petition accounts receivable?

12 MR. WILSON: These are prepetition.

13 THE COURT: How did you handle it in the statement
14 and schedules?

15 MR. WILSON: They're listed on the statement and
16 schedules as a grouping of, you know, total amount of AR.

17 THE COURT: So you didn't individually list each AR
18 owed?

19 MR. WILSON: I believe there may be an insider one
20 just by insiders, but I'd have to double-check the schedules,
21 Your Honor. I'm not exactly sure.

22 THE COURT: Okay.

23 MR. SMITH: Good morning, Judge Perez. For the
24 record, Connor Smith for Axis Energy Services and Force
25 Pressure Control. Your Honor, Just for the record, I would

1 prefer that the -- my name be addressed as Mr. Smith just to
2 keep the house matter and the record clean.

3 But to the point on the disclosure of the
4 individuals' names and the amounts that they owe, debtor starts
5 their defense by bypassing Rule 45 of the Civil Rules of -- or
6 Federal Rules of Civil Procedure altogether. Debtor goes
7 straight to what they offered, and instead they said this is
8 necessary to protect settlement discussions and other
9 communications and efforts. But none of that is under Rule 45.

10 Rule 45 lists two methods of when to quash: a
11 mandatory provision and a permissive provision. Under the
12 mandatory, it is mandatory to quash a subpoena when it fails to
13 give a reasonable time to respond. Not at issue today. It
14 fails -- the subpoena should or must be quashed if it violates
15 the geographical limitations. Not at issue today. The
16 subpoena should -- must be quashed if it requires disclosure of
17 privileged or other protected information. Your Honor, we
18 agree that if there are the substantive settlement
19 conversations, we do not want those. Any Rule 408 protected
20 communications for settlement, that's fine for them to keep.
21 We're not asking for those. And then lastly is a subpoena must
22 be quashed if the subpoena subjects a person to undue burden.
23 Your Honor, we're not asking for thousands of documents. We're
24 asking for simple names and the amounts that they owe.

25 Your Honor, under Rule 45(d)(3)(B) provides when this

1 Court has discretion to quash a subpoena. That -- this Court
2 has discretion to quash a subpoena when the subpoena requests
3 trade secrets or unretained experts. Neither of those are at
4 issue today. So under the Rules of Civil Procedure, there's
5 nothing here that must be quashed or even may be quashed.
6 Debtors bypass this argument entirely, likely because they
7 recognize that nothing here qualifies under the rule.

8 Your Honor, to the point of the asking for and
9 disrupting settlement negotiations, we again do not ask for any
10 document that would detail progress, the nature, the claims
11 asserted, or anything that would pertain or could qualify under
12 Rule 408. It's just the names and the amounts. We believe
13 that having this information, we can identify the exact issues
14 as to why the debtor claims lack of operational funding.

15 THE COURT: Okay. And tell me how that is helpful to
16 your case.

17 MR. SMITH: Your Honor, they claim in Paragraph 1 of
18 Page 1 on their objection to motion for stay --

19 THE COURT: I understand how they're going to use it,
20 but tell me how it's important to your case.

21 MR. SMITH: If they're going to argue destruction and
22 resort to hyperbole about the -- and --

23 THE COURT: Yeah, but let's not talk about their
24 argument. Why do you need it for your case?

25 MR. SMITH: We need to show that there is reason for

1 -- that aside from Axis and Force, that there is reason that
2 Axis and Force should not be blamed solely for the debtor's
3 lack of operational funding. And so that goes to the element
4 under motion to stay of the third element of not harming any
5 other parties. Your Honor, this motion to stay is not going to
6 harm any other parties because there's significant reason why
7 they can accomplish all of their goals outside of just this
8 \$2.5 million and proceeding with the rest of the claims under
9 this case.

10 THE COURT: Okay. So you're saying you needed -- you
11 need the individual names for the third argument?

12 MR. SMITH: Yes, Your Honor.

13 THE COURT: Okay.

14 MR. SMITH: And, to be clear, that there is a lot of
15 crossover between the second prong and that third prong of --

16 THE COURT: Well, explain to me the second prong
17 because I don't understand that one.

18 MR. SMITH: The second prong is the irrevocable harm
19 of -- or irreparable harm to Axis and Force.

20 THE COURT: Yes. Tell me what that means.

21 MR. SMITH: That argument is going to be based off of
22 the fact that there is only really one shot at any chance of
23 recovery in this case. There's a significant risk that if this
24 case moves forward and that the -- you know, 6 months, 12
25 months down the road, Axis and Force get a reversal of this

1 order, that the underlying liens are, one, muted, but two,
2 unenforceable, three, uncollectible. And so --

3 THE COURT: But then if that's the case, you didn't
4 have a lien.

5 MR. SMITH: Your Honor, if the --

6 THE COURT: So if you didn't have a lien, you
7 wouldn't be entitled to the deposit.

8 MR. SMITH: This is assuming that, Your Honor, that
9 the --

10 THE COURT: No, no, I'm assuming what you said, that
11 you wouldn't have a lien.

12 MR. SMITH: We would have had a lien that attached to
13 funds held in this court.

14 THE COURT: Okay, I have another question. So you
15 all filed a petition, and in your petition, you basically list
16 in the section where it says the amount of your claim above the
17 value of your lien, you listed your whole claim in that.

18 MR. SMITH: Correct.

19 THE COURT: So the way I read that is that you
20 basically alleged in your petition that you were unsecured.

21 MR. SMITH: There are portions of the claim that are
22 unsecured.

23 THE COURT: Well, that's not what the petition says.
24 Whereas in your proofs of claim, you claim that you were fully
25 secured. So I need to understand what position you're taking

1 because you've made two different -- very, very different
2 representations to the Court. If you read -- and I read it
3 carefully, and I may be mistaken, so that's why I wanted to
4 highlight it because, you know, when I was preparing for this,
5 in your petition, you said your -- where it says amount of
6 claim in excess of any lien value, you put your entire claim.
7 Whereas in the proofs of claim, the ones that I've looked at,
8 it basically says you're fully secured.

9 MR. SMITH: Your Honor -- sorry.

10 THE COURT: So I want to -- I need to know which one
11 it is. So --

12 MR. SMITH: Your Honor, the timing of exactly how
13 many liens were filed post-petition, we can provide additional
14 briefing to that issue and exactly how and when each lien was
15 filed, but there is a significant chance that some of those
16 liens were filed post-petition, which is permissible under
17 546(b). And so at that time of the petition, certain claims
18 may have been unsecured but then later became secured under
19 permissible actions of 546(b). So --

20 THE COURT: So before the petition, you didn't have
21 any liens on file?

22 MR. SMITH: Your Honor, for Axis or Force?

23 THE COURT: Yes.

24 MR. SMITH: I believe that there were some.

25 THE COURT: Okay.



1 MR. SMITH: Maybe not every single current lien that
2 is currently held, but if there are additional liens that were
3 filed post-petition, that was solely due under 546(b). If --
4 Your Honor, we can provide more additional briefing if needed
5 on that.

6 THE COURT: No, no. We'll -- I just want to make
7 sure that I understood. And it just seemed very inconsistent.

8 MR. SMITH: Understand, Your Honor. The -- it is --
9 our proofs of claims have been filed timely with as much
10 information as the debtor has requested.

11 THE COURT: Yeah, they're attached. They're Exhibits
12 7 and 8.

13 MR. SMITH: Yes, you, Honor. So, Your Honor, we do
14 believe that the names and the identity of individuals of the
15 account receivable for the insiders will have a significant
16 portion to play today in showing why the debtors and its
17 constituents will not be harmed by the 2.5 remaining in this
18 court's registry and same the rest of the case today.

19 THE COURT: Okay. Anything further, Mr. Wilson?

20 MR. WILSON: No, Your Honor.

21 THE COURT: Okay. Yeah. So what I'm going to do is
22 I'm going to go ahead and order the production of the names for
23 attorneys' eyes only and under seal. So to the extent that we
24 want to use it in connection with the case today, we'll handle
25 it. We'll give it a number, but to the -- so you can give them

1 the names, but again, for attorneys' eyes only under seal. All
2 right.

3 MR. WILSON: Your Honor, if I can explain and produce
4 -- two minutes, please.

5 (Pause)

6 Speaker D: Two copies.

7 MR. WILSON: Your Honor, while they're examining
8 that, next on there, we have some more additional housekeeping,
9 then we'll get into -- make statements. When Mr. Smith is
10 ready, I'll kind of address those.

11 First off, my apologies if I said Connor. It was
12 Mr. Smith.

13 So for additional housekeeping purposes, Your Honor,
14 Force does not have a witness here today. It's only Axis,
15 their CFO and their in-house counsel. To the extent that
16 they're going to use Axis as witness to purport harms on Force,
17 we're going to object. I just want to highlight that for you
18 right now.

19 Second is Exhibit Number 12 listed on the -- what is
20 an exhibit list was supposed to be filed under seal. They've
21 had this document since the mineral motion, and as best we can
22 tell, it has not been filed under seal yet. Pursuant to local
23 rules, they had this time to file it, and they could have filed
24 it by the witness exhibit deadline. So we're a little confused
25 on how that's going to be admitted into evidence when it wasn't

1 complied with the local rules. So I would flag that with Your
2 Honor. I know this is kind of, like, a procedural issue, but
3 at the same time, we're still a little puzzled how this wasn't
4 complied with.

5 Mr. Smith wants to address that. I'll yield the
6 podium.

7 MR. SMITH: Your Honor, if there was any error in not
8 filing it with the witness/exhibit list, that's -- we don't
9 believe that's, to me, going to be harmful today for us not to
10 introduce it. So if we need to strike that, that's totally
11 fine for us.

12 THE COURT: Okay. Well, we'll deal with it when it
13 comes up.

14 MR. SMITH: Thank you, Your Honor.

15 MR. WILSON: Your Honor, I'm happy to go first in
16 terms of opening statements or if -- it's Mr. Smith's motion.

17 THE COURT: It's Mr. Smith's motion, so let him go
18 first.

19 MR. SMITH: Judge Perez, good morning again. For the
20 record, Mr. -- or Connor Smith for Axis Energy Services, Force
21 Pressure Control.

22 Your Honor, as we previously highlighted and just
23 talked about, we have filed a motion to stay this case pending
24 the appeal. And I think it would be helpful to zoom out from
25 this immediate motion and briefly walk through how we got here.

1 Your Honor, the lien claimants in this case, Axis and
2 Force, began working for Barrow Shaver in 2023, and you're
3 going to hear that testimony today. And even before then. The
4 services then were good. Producing wells helped the debtor
5 establish a foothold in East Texas. And at some point, it
6 turned. We're not sure exactly what point, but hopefully that
7 testimony today can shed some light on that. The -- at some
8 point, it turned increasing the trade vendor debt
9 significantly, leading to the necessity of some action.
10 Necessity of some action turned out to be this involuntary
11 bankruptcy. It was with the heavy decision that it was -- that
12 this was done and without -- it was not done recklessly or
13 without thought.

14 But here we are. We have attempted, as best as
15 possible. to work with the debtor before leading into the
16 bankruptcy. There's going to be talk and testimony today of
17 discussions related to those reconciliation efforts that
18 ultimately proved unfruitful. And this involuntary did become
19 necessary when this Court ordered the motion for summary
20 judgment to be filed back in October. The idea was to solidly
21 and completely resolve the Chapter 67 threshold issue, as
22 you've coined it. That threshold issue was intended to be
23 resolved in a way that then expedited the remaining issues of
24 the case. We still believe that's true. Axis and Force still
25 think that the best way forward is to have an ultimate



1 resolution of the Chapter 67 issue. As you will hear from --
2 as you'll hear today from the testimony that this case is
3 expensive, that there have been legal fees incurred by both
4 sides, that there -- that the drafting, the fighting has been
5 intense. And we believe that resolving the Chapter 67 is going
6 to remove any duplicated efforts of additional heavy lifting.

7 So for these reasons, Your Honor, we are asking --
8 these following three reasons are why we're going to be asking
9 for a motion of this Court to grant the motion to stay at the
10 case. The first reason we're going to be talking about today
11 is that Axis and Force may be subject to a risk of irreparable
12 harm. The second point is that the debtor is choosing its own
13 harm. And the third point, you, Honor, is that Axis and Force
14 can satisfy the other two prongs, including a substantial
15 likelihood or substantial claim -- and substantial case to make
16 on appeal, and that this is going to touch on a very public
17 matter related to business, oil and gas in Texas.

18 So, Your Honor, to my first point, the Fifth Circuit
19 has provided some instruction on when it is necessary to grant
20 a motion to stay pending appeal in the case of Enterprises
21 International v. Corporacion Estatal in 1985. This case
22 highlights that if there is a likelihood, a risk that the
23 satisfaction of a judgment is not possible or satisfaction of a
24 claim is not possible, that that risk should be weighted very
25 heavily in granting a stay. The debtors have used this case to

1 highlight that if there's an alternative possibility of
2 recovery, that that destroys the second element to -- that
3 destroys the second element of irrevocable harm -- or
4 irreparable harm. This -- the debtor misuses this because they
5 don't cite that second prong of the Fifth Circuit decision
6 that, yes, while there's an opportunity to have some recovery
7 in this case, it's not likely to be all recovery. In fact, the
8 debtor has now cited multiple different deadlines for at what
9 point they expect a sale of the Hidden Rock assets. January
10 13th, they came before you and testified that, we can do this
11 by March 31st, and we need one 105 days to do that. Now in
12 their pleadings, they're saying six months. Now from this past
13 Monday, they said different timeline. April, they're not sure.
14 They don't know when the sale is going to be conducted and
15 completed. If the sale isn't conducted or completed, what's
16 the likelihood of recovery?

17 But furthermore, if the litigation with NETX is
18 successful for NETX and Rose City and they win the title
19 dispute, does that destroy all opportunity for recovery for
20 lien holders? The debtor has reported \$10 million of cash on
21 hand in lieu and against \$75 million of vendor secured debt.
22 This circuit, under Enterprises International, would say that
23 this presents a significant risk that Axis and Force have a
24 real possibility of not recovering anything in this case.
25 Their only shot may be this \$2.5 million held by this Court,

1 subject to an appeal and reversal of this Court's order on
2 appeal. If that were the case, then this -- then Axis and
3 Force would have a lien under Chapter 67 and would have
4 reestablished rights to the interpled funds.

5 This Court -- or this case does reflect a little bit
6 more in line and can be compared pretty well against the
7 Northern District case from 2020, SR Construction v. Hall Palm
8 Springs, in which case SR Construction, as a Chapter 56 or 53
9 claimant, sought an immediate appeal of an order allowing the
10 sale of a hotel free and clear of all liens when it was just a
11 credit bid sale. The Northern District said a stay is not
12 necessary in this case because you have in your contract a
13 construction bond for your entire claim. Court said, you have
14 a possibility at a recovery, a full recovery under that bond.
15 In that case, the Court says, yeah, you do have an alternate
16 possibility of recovery, recovery being the bond.

17 Your Honor, Axis and Force don't have that luxury.
18 Debtors are in complete control of this case and in complete
19 control of what happens to the sale, what happens to recoveries
20 on unsecured to the secured creditors. They're in control of
21 this case. And as Your Honor has stated, they are also in
22 control of when they file certain lawsuits and how they conduct
23 collection activities on their own account receivable. But
24 that doesn't mean that they should be able to place at the feet
25 of Axis and Force the entire burden of their lack of liquidity

1 when their own insiders have owed the company \$65 million.
2 Yes, the company can choose, yeah, we can go after them at
3 another time. That is within a business judgment rule. We're
4 not going to dispute that. We're not saying that they must do
5 it now. But if they're going to say we need cash to frac a
6 well, then it shouldn't be placed purely at the feet of Axis
7 and Force when their own owners owe the company \$65 million.

8 The debtor states that they can frac a well for
9 \$1.8 million without citing testimony, without citing any
10 authority for that quote. But for the purposes of this next
11 statement, let's assume that's true. If that was true,
12 \$1.8 million gets them one frac job with \$2.5 million. How
13 many frac jobs can they conduct with \$65 million on hand?

14 Your Honor, to my second point, this goes to my
15 second point, that the debtors are choosing now to be harmed by
16 not going after these -- this account receivable. Yes, it is
17 their choice not to collect that debt now, but that is their
18 choice. If they are harmed by their lack of operational
19 liquidity, that's their choice. They could choose today to
20 file lawsuits, to file turnover, to file any number of
21 pleadings that would begin the process or expedite the process,
22 but they have chosen not to do that. That chosen harm, that
23 chosen status is of their own volition.

24 Your Honor, the -- if this Court does not allow this
25 case to be stayed pending the appeal, the -- Axis and Force

1 would be subject to -- and the debtors would be subject to as
2 well -- possible duplicate litigation efforts. Let's say on
3 one hand we continue as we are right now with Axis and Force
4 not having a lien under Chapter 67. We have our clear-cut path
5 forward. We can resolve whether or not the actions taken by
6 Axis and Force constitute a violation of the automatic stay
7 without having Chapter 67 liens. And then we get to the end of
8 the case, we file another appeal, the appeal goes up and it
9 gets reversed, and it turns out Axis and Force do have liens
10 under Chapter 67. Would the debtor be content then to say,
11 you're right, you have Chapter 67 liens and there's no longer a
12 violation of the stay? Unlikely. They haven't settled one
13 aspect of any part of this case except for amongst themselves
14 in the stipulation between insiders. Every other instance has
15 been litigated. And so we expect fully that if the appellate
16 court comes back down after the end of the case and says, no,
17 you do have a lien under Chapter 67, the debtors would go,
18 okay, you still violated the automatic stay. We would need
19 then a second trial, a second round of litigation, to determine
20 whether that was, in fact, violative of the automatic stay or
21 subject to turnover. In essence, there's a possibility here
22 that without this stay and awaiting the appeal, we could be
23 doing this twice.

24 THE COURT: But I don't understand their stay
25 violation argument as you do. Regardless of whether you have a

1 valid Chapter 67 lien, to the extent that there were collection
2 actions taken post-petition, that's the violation of the stay.
3 So it really, in my -- I mean, the way I understand their
4 pleading, it doesn't matter whether you have a valid lien or
5 not a valid lien. It was the fact that you took collections
6 actions post-petition. That's the stay violation. That's the
7 way I understand it.

8 MR. SMITH: Your Honor, that would be incorrect if
9 that was not property of the estate. If the funds were
10 withheld, not property of the estate according to state lien
11 law, then that does not become a violation of the automatic
12 stay.

13 THE COURT: Okay. So this is the first time I'm
14 hearing that. So you're saying that the account receivable
15 payable to the debtor is not property of the estate. That's
16 what you're saying?

17 MR. SMITH: Your Honor, that issue is not currently
18 before us, but we're happy to provide that briefing
19 momentarily. But the -- our answer is yes. Under state lien
20 law, we believe that that property trapped by liens, withheld
21 under liens, would be held for the benefit of the lienholder
22 and not property of the estate at that point.

23 THE COURT: Okay.

24 MR. SMITH: So, Your Honor, the final portion, final
25 point that we're going to be making today is the third point.

1 The testimony is going to show that this touches on a very
2 public matter, whether service companies have liens on the
3 proceeds of production and what that means for the oil and gas
4 industry in Texas. Texas, as you know, heavily relies upon the
5 oil and gas industry. And so under the Fifth Circuit case of
6 Ruiz v. Estelle from 1982, not only is this a concern of public
7 matter, but also the Fifth Circuit says you just need a
8 substantial legal issue with a meritorious [sic passim] case and
9 claim and argument.

10 Under that Fifth Circuit case, we believe that Axis
11 and Force do have a meritorious legal argument that satisfies that
12 last Fifth Circuit prong. There is -- the debtor's going to
13 come up here and say, Your Honor, they need to prove that they
14 have a substantial likelihood of winning. That's not what the
15 Fifth Circuit says. It just says as long as you have a
16 meritorious claim and a meritorious argument that satisfies that
17 first prong of having a substantial -- or having a likelihood
18 of success.

19 So, Your Honor, at that point, I'll turn it over for
20 the debtor if he would like to respond, or otherwise, I'm happy
21 to call our first witness.

22 THE COURT: Mr. Wilson, do you want to respond?

23 MR. WILSON: Your Honor, I have a brief opening, too,
24 and I believe that's kind of the structure we were planning to
25 do it.



1 Your Honor, I have a PowerPoint presentation for my
2 opening. If Ms. Elizabeth de Leon can be given --

3 THE COURT: Can you just turn on your camera, please?
4 I've muted the lines on the phone, so to the extent anyone
5 wants to be added, please hit "five star," and I will join you.

6 MR. WILSON: And, Your Honor, I also have a paper
7 copy of the presentation.

8 THE COURT: Why don't you give it to Mr. --

9 All right. You should be presenter. You can turn
10 off your camera now.

11 MR. WILSON: For the record, Sean Wilson with Jones
12 Walker, counsel for the debtor. Let me -- all right

13 Your Honor, Judge, Force and Axis bear the burden on
14 their motion to lift for safe and appeal, and there's four
15 factors that the Fifth Circuit and courts in the Southern
16 District of Texas have held to that. Those factors are strong
17 showing of likelihood on the merits; representation of a
18 serious legal question; that they will be -- suffer irreparable
19 harm; that the stay will not injure other parties; and the
20 public interest supports a stay.

21 In terms of the first element, Your Honor -- if I
22 could pause so I can.

23 MS. DE LEON: Apologies, this was -- one moment.

24 MR. WILSON: In terms of the third element, if we go
25 to the next slide. Courts have found that when a moving party

1 simply can't -- you know, they simply can't reurge the same
2 arguments they did at the trial court, and which is exactly
3 what they're pleading to show here. That alone should be a
4 basis to find that the first element is not met. But even so,
5 to the lesser standard, Your Honor, Force and Axis must show
6 that there is a serious legal question presented. Even then,
7 all other factors, that the injury -- that other parties won't
8 be injured, the public interest must weigh heavily towards
9 Force and Axis.

10 Now, Judge, on the serious legal question, that has
11 to involve legal issue that has far-reaching implications,
12 involves matters of public concern, or have a broad impact of
13 federal/state relations. The evidence before you -- or will --
14 or that will be before you isn't going to show that this has
15 far-reaching implications in the oil and gas industry. It's
16 not going to show this matter involves public concern nor will
17 have an impact on federal and state relations. So that's the
18 first element, judge, not going to be shown here.

19 As to the second element, the evidence is going to
20 show that Force and Axis will not suffer irreparable harm.
21 They purport to have Chapter 56 liens. I know that there's
22 been some hay about the entire sales process, but we are
23 currently negotiating with NETX, who may be ultimately your
24 purchaser. Any sale transaction that occurs, Chapter 56 liens
25 are going to attach to those proceeds so they're not

1 irreparably harmed. Money damages can solve this.

2 As to the third element, Your Honor, the debtor and
3 other parties will suffer harm if the stay is implemented. The
4 debtor will not have immediate access to that capital, can't
5 make certain operational improvements, can't help fund this
6 case, and can't help turn it to a Chapter 11 plan.

7 Finally, Your Honor, the evidence is going to show
8 that there is no public interest that weighs in favor of Force
9 and Axis. In fact, the public interest is for Chapter 11
10 debtors to administer its estates as efficiently and use the
11 estate proceeds it needs to run those estates to make
12 distributions to creditors. And that's exactly what is going
13 to happen if we have access to those funds. We're going to use
14 those funds to help administer the estate, improve operations,
15 so that ultimately the plan itself can be consummated for the
16 benefit of all stakeholders.

17 Your Honor, with that, I'm happy to yield the podium
18 so that Mr. Connor can --

19 THE COURT: All right.

20 MR. WILSON: -- call has first witness.

21 THE COURT: Thank you.

22 And just -- I'm going to really be focused on the
23 four factors, so if you could limit your evidence just to each
24 of the four factors because I think that's my whole inquiry is
25 applying the factors set forth by the Fifth Circuit.



1 MR. SMITH: Your Honor, at this time, I'd like to
2 call Chris Boone to the stand.

3 THE COURT: Okay, Mr. Boone. Would you raise your
4 right hand?

5 CHRISTOPHER BOONE, AXIS ENERGY'S WITNESS, SWORN

6 THE COURT: Go ahead, Mr. Smith. You may proceed.

7 DIRECT EXAMINATION

8 BY MR. SMITH:

9 Q Can you please state your name for the record?

10 A Full legal name is Christopher Boone.

11 Q How do you spell your name?

12 A C-H-R-I-S-T-O-P-H-E-R B-O-O-N-E.

13 Q What is your educational background?

14 A I attended Washington and Lee University in Virginia,
15 graduated in 1991, B.S. in finance and accounting and a major
16 in Spanish.

17 Q Do you have any postgraduate degrees?

18 A Yes, before graduate school, I took and passed the CPA.
19 Then I went to graduate school -- the American Graduate School
20 of International Management, more commonly known as
21 Thunderbird, received an MBA in international business,
22 graduated in 1992.

23 Q What was your first employment in oil and gas?

24 A I started with a company called LUFKIN Industries. I was
25 employed by them for nearly 21 years. The company had a



1 variety of businesses, of which some at the time were oil and
2 gas equipment manufacturing and service.

3 Q What was your role in that capacity?

4 A I started out as a financial or operations analyst, really
5 the first third of my career turned into -- despite my
6 financial finance background, I was in operations, eventually
7 running manufacturing plants. Really then the second third of
8 my career was I was brought back in to be corporate controller.
9 And approximately the last third, I was chief financial
10 officer.

11 Q Who is your current employer?

12 A Axis Energy Services.

13 Q When did you first join with Axis Energy?

14 A March 1 of '22.

15 Q What is your responsibilities -- or let me -- what is your
16 official title at Axis?

17 A Chief financial officer.

18 Q What is your responsibilities as chief financial officer?

19 A I man -- manage the accounting functions, what we call
20 FP&A, financial planning and analysis. Supply chain also
21 reports to me, as well as treasury and risk functions.

22 Q What is your responsibilities under the -- under treasury?

23 A So we don't have a full time what we call treasurer, so I
24 handle a lot of duties if I had that role filled. So some of
25 it is managing bank relationships and partnership with our

1 sponsors. But a lot of the time is spent in actual cash,
2 forecasting, collections efforts for the company.

3 Q And as part of your collection efforts, what does that
4 entail?

5 A So we have a weekly cadence -- weeklies or biweekly of
6 forecasting our cash collections for the next 13 weeks by
7 customer, as well as going through past-due invoices. I look
8 at all -- every past-due invoices once a week that's over --
9 anything over a day past due, I look at them. We have a
10 meeting with the team to understand why and what actions we
11 need to take to review those, as well as monitoring work we've
12 done that is what we call unbilled status that has not been
13 invoiced yet and why.

14 Q Do you -- at what point in time do you refer any
15 collection efforts for liens?

16 A General -- our general rules is unless we learn
17 information otherwise, once Something gets about 60 days past
18 due, we -- I hand it over to our internal legal group for them
19 to certainly start up process.

20 Q Is that your call alone?

21 A I will certainly -- I turn it over unless the legal group
22 has an objection to something.

23 Q How many people does Axis employ?

24 A Today, we're in the range of 16- to 1700 employees.
25 Probably now closer to 1700.

1 Q Is that spread throughout the United States?

2 A Yes. Texas is certainly the largest, but we're across
3 multiple basins in the U.S.

4 Q Where specifically in Texas?

5 A We're in -- certainly, the Permian is our largest
6 operation, but we're in South Texas and East Texas as well.

7 Q What type of services does Axis provide?

8 A We're typically called a workover company. So workover
9 services is our largest product line. Related to that, we also
10 do plug and abandon work, and then we have other -- some other
11 ancillary services we do, pumping BOP rentals.

12 Q What does -- how does workover help a well produce?

13 A So this is generally maintenance, downhole maintenance on
14 an existing well. So, for example, if a pumping -- a well is
15 on a pumping unit and the downhole pump fails, then you're
16 needing no more production out of that well. So you need to be
17 able to bring in a workover rig, pull the rod string, replace
18 the pump otherwise and get the well back producing again, as an
19 example.

20 Q Estimated, how much money does the debtor owe your client
21 -- or Axis?

22 A So actual invoices, approximately 500,000 excluding
23 interest and legal fees.

24 Q Does Axis need this money?

25 A Axis certainly does -- will not go bankrupt today or not

1 make payroll if we don't have this money today, short-term.

2 Q What is the urgency of trying to -- what is the urgency of
3 collecting this money?

4 A Overall, you know, it is a -- we can't have customers --
5 end of the day, we won't be in business if even a small
6 percentage of our customers' accounts become uncollectible. We
7 end up having to either only work with the most creditworthy
8 customers and cut out certainly a lot of smaller independents
9 out of our -- which, in some cases, we've had to do. We've had
10 much more strict because of, unfortunately, cases like this
11 where we haven't been paid, and we've had to be much stricter
12 on how much credit we can grant for small customers.

13 Q How does nonpayment affect your willingness to lend credit
14 to new companies?

15 A It's -- we almost don't anymore today unless we really
16 understand what their current state is. If there's a startup
17 company, you know, who's backing them, what's their funding?
18 Can we get any references? Most of the time, we don't get
19 financial information. There's no credit history from third
20 parties. So if we do work, it's usually very limited until
21 they can build up a credit history.

22 Q If you were to have a lien on the proceeds of oil and gas
23 sales, would that give you more confidence in providing credit
24 to newer companies?

25 MR. BAIN: Objection. Calls for a legal conclusion.

1 MR. SMITH: Your Honor, he's a CFO. I believe he
2 understands the term "proceeds" and "from the oil and gas
3 sales," as well.

4 THE COURT: Can you rephrase your question? I think
5 you can ask him differently without getting into whether a lien
6 or not.

7 MR. SMITH: Sure.

8 BY MR. SMITH:

9 Q If you had a -- an ability to be paid directly by a
10 purchaser of oil and gas from the production of a well you've
11 worked on, would that give you more confidence in lending money
12 to a new startup company?

13 A It would give us confidence even if it was not a startup
14 company because we can certainly go to the Railroad Commission
15 and understand production off of wells and understand the
16 collectability. Not trying to guess what the well is worth,
17 but understand how much it's producing and give us confidence
18 how much work we'd be willing to do at that well site.

19 Q With more confidence in extending credit, how would that
20 impact your ability to hire more people?

21 A Again, the more you know we're willing to take on, we --
22 gives us the ability to add rigs, add crews, certainly helps
23 the state economy. That can help increase oil production or
24 gas production in the state. That and payroll certainly
25 benefit the state.

1 Q Aside from the money at issue in this current case, are
2 you aware of any sale pending sales that the debtor has
3 currently?

4 MR. BAIN: Objection. Lacks foundation.

5 THE COURT: He's just asking him if he's aware.

6 THE WITNESS: I'm aware there's a sales process, but
7 I'm not aware of any progress or value that they're potentially
8 going to receive.

9 BY MR. SMITH:

10 Q Are you aware if the debtor has submitted any plans to
11 repay Axis?

12 A I'm not aware of a plan of reorganization that's been
13 filed yet.

14 Q Do you know if the debtor has continued to operate the
15 wells that Axis has worked on in East Texas?

16 MR. BAIN: Objection. Lacks foundation.

17 THE COURT: I think he's only asking if he's aware.
18 You can probe as to what -- how he gets his knowledge, but is
19 he aware or not, yes or no?

20 THE WITNESS: I'm surely aware they're still
21 operating wells. I can't say 100 percent I know the specific
22 wells that we have liens on are being actively producing or
23 worked on today.

24 BY MR. SMITH:

25 Q Does Axis perform work in any other states?



1 A Yes.

2 Q Does it perform work in Oklahoma?

3 A Yes.

4 Q What are the collection efforts like in Oklahoma?

5 A Again, we follow the same process for every past-due
6 customer, but I'm not aware we've needed to file a lien on any
7 customer in Oklahoma since -- at least since I've been with the
8 company.

9 Q What about New Mexico?

10 MR. BAIN: Objection, Your Honor. With Oklahoma, I
11 could sort of understand, but, Your Honor, getting back to
12 elements, I don't know what the relevance.

13 What's the relevance?

14 MR. SMITH: The relevance is each of these states
15 have lien laws that allow the service companies a lien on the
16 production proceeds. And so to show that this goes to the
17 public policy on how the entire industry operates and how a
18 service company would operate in these jurisdictions. It
19 touches not on just their -- the legal standard and the
20 meritorious argument, but also public policy. It touches
21 everything about service.

22 THE COURT: I'm going to sustain the objection. I
23 think that's just too far afield. I mean --

24 MR. BAIN: Thank you, Your Honor.

25 THE COURT: Plus, he's not a lawyer testifying as to



1 the law of the states.

2 MR. SMITH: Just a moment, Your Honor.

3 BY MR. SMITH:

4 Q You stated that you knew your collection efforts and you
5 under -- rephrase that.

6 You testified that you handled the collection efforts
7 under the treasury department, right?

8 A I certainly lead the team that works it, yes.

9 Q Did you have any conversations with anybody from Barrow
10 Shaver?

11 A Yes.

12 Q Did you hear of any attempt to pay Axis in that time frame
13 leading up to the bankruptcy?

14 A We did receive payments from Barrow prior to the
15 bankruptcy.

16 Q Did they -- were they trying to pay you in full?

17 A Yes.

18 Q At any point, did anybody tell you about the lawsuit with
19 NETX?

20 A No, certainly not a lawsuit.

21 Q Did anybody from Barrow Shaver discuss the possibility of
22 a dispute on ownership of the leases?

23 A I understood that there was -- later on, I understood that
24 there was a ownership dispute.

25 Q But not in 2023?

1 A I think late '23.

2 Q And to your knowledge, that hasn't been resolved?

3 A As far as I know, no.

4 MR. SMITH: Pass the witness.

5 MR. BAIN: Mr. Boone, can I get you some water?

6 THE WITNESS: No, thank you.

7 CROSS-EXAMINATION

8 BY MR. BAIN:

9 Q Good morning, Mr. Boone. Just for introductions, my name
10 is Joe Bain. I represent Barrow Shaver Resources. If it's all
11 right with you, I'll just refer to Barrow Shaver Resources
12 Company as Barrow Shaver. Does that work?

13 And if I recall correctly, there was a Zoom call early on
14 in the case. I believe you were on it, and I was on it, but
15 other than that, do you recall that?

16 A I know I certainly listened to one of them.

17 Q I just wanted. We haven't had any interaction since then.
18 Thank you.

19 You've been -- In your direct testimony, you mentioned
20 that you've been the CFO of Axis Energy Services since, I think
21 it was, March of 2022. Is that correct?

22 A Correct.

23 Q And CFO stands for chief financial officer. Did I get
24 that right?

25 A Correct.



1 Q And prior to your time at Axis, you were the CFO at NESR?

2 A Correct.

3 Q From 2019 until 2022?

4 A Correct.

5 Q And NSER [sic], if my research is right, National Energy
6 Services Reunited Corp. Is that right?

7 A Correct.

8 Q Thank you. And I understand that you were the interim CFO
9 at Stratum Reservoir for approximately a year before that. Is
10 that right?

11 A Correct.

12 Q And Stratum was divested from Weatherford International in
13 April of 2019.

14 A Right.

15 Q And Weatherford filed for bankruptcy about six months
16 later. Is that right?

17 A Correct.

18 Q And it was in this court? That's okay.

19 A (Indiscernible) got anything to do with the Weatherford
20 bankruptcy.

21 Q Of course, no, that's helpful. Thank you.

22 Prior to that divestiture, though, Stratum Reservoir was
23 part of Weatherford, right?

24 A It was, yes. It was called Weatherford Labs. They were
25 needing to try to raise cash.

1 Q And prior to Stratum, you were the senior vice-president
2 and CFO at Tesco Corporation from 2014 to 2017. Is that right?

3 A Correct.

4 Q And prior to that, you spent a number of years -- I think
5 you began your career at LUFKIN in 1993?

6 A Correct.

7 Q You don't currently work at Force Pressure Control. Is
8 that correct?

9 A No.

10 Q You're not an officer of Force Pressure Control?

11 A I am not.

12 Q You're not a director of Force Pressure Control?

13 A I'm not.

14 Q Who is Jeff -- and I'm going to mispronounce his name --
15 Achilles?

16 A I don't know I've ever met anybody at Force.

17 Q Okay. Well, I'll just represent that he was the CFO, and
18 he signed the proof of claim. Okay, I'll move on to next.

19 Thank you for the transitioning from Force and your job
20 history. Let's talk about Barrow Shaver.

21 As we sit here today, who do you believe is in control of
22 Barrow Shaver?

23 A I'm told it's the chief restructuring officer and, I
24 guess, the board.

25 Q You said "I'm told." Who do you believe is in control?

1 A I mean, that's what I've -- from the calls we've been on
2 and the pleadings I've read, that's -- the CRO is the one in
3 charge.

4 Q Thank you. And do you know what CRO means?

5 A Chief restructuring officer.

6 Q Thank you. Since Mr. Katchadurian was appointed -- and
7 I'll just represent for the record, Mr. Katchadurian is the
8 CRO, and he's sitting right over there. Since Mr. Katchadurian
9 was appointed CRO, you have not had any meetings with
10 Mr. Katchadourian. Is that correct?

11 A That's correct.

12 Q And you haven't met with any of the business advisors
13 comparing Barrow Shaver's business plan?

14 A No.

15 Q Do you know which firm Barrow Shaver retained as its
16 investment banker?

17 A I might have at one time, but I don't remember now.

18 Q I'll represent to you it was Chaffe & Associates.

19 A I didn't know -- I didn't know that then.

20 Q Do you know which firm Barrow Shaver retained as its
21 financial advisor?

22 MR. SMITH: Objection, Your Honor. Relevance. This
23 line of questioning is peculiar.

24 MR. BAIN: I think it just goes to the color of his
25 direct testimony, if he's aware of the case. He testified

1 about the effect and about, you know, what could happen if the
2 relief is not granted here today. I think I'm entitled to test
3 how familiar he is with the bankruptcy case.

4 MR. SMITH: One thing is to say, how familiar are you
5 with the facts of the case? But whether or not you're familiar
6 with who is the investment banker, who is the --

7 THE COURT: But he did testify that he wasn't aware
8 of any process, any sale process, and he wasn't aware of what
9 was going on. And he was told that they didn't -- you know,
10 that as far as he knew, there was nothing going on. So I think
11 it's -- I mean, some latitude as to what he actually is aware
12 of.

13 MR. BAIN: Thank you, Your Honor. I'll move along.

14 BY MR. BAIN:

15 Q Just for the context of my next questions, I'll represent
16 to you that CR3 Partners is a financial advisor.

17 You have not been involved in any discussions regarding
18 the sale process with Chaffe or CR3. Is that correct?

19 A I have not.

20 Q And you haven't been involved in any discussions with the
21 CRO, Chaffe, or CR3 regarding a potential Chapter 11 plan. Is
22 that correct?

23 A I have not.

24 Q And you testified that you -- well, let me not assume
25 things. Are you familiar with NETX Acquisitions LLC?

1 A I have heard of them.

2 Q Are you familiar with ETX Minerals LLC?

3 A I've heard of them.

4 Q Have you had any discussions with Mr. Katchadurian or his
5 team about that litigation and what the prospects are?

6 A No.

7 Q Do you know what a 2004 exam is?

8 A I do not.

9 Q And you certainly didn't ask your lawyers to take a 2004
10 exam.

11 MR. SMITH: Objection. That's attorney-client
12 privilege there.

13 MR. BAIN: That's correct. I can withdraw the
14 question.

15 BY MR. BAIN:

16 Q To the best of your knowledge, your -- Force has not
17 requested to take a 2004 exam in this case?

18 MR. SMITH: Objection.

19 THE COURT: Force or Axis.

20 MR. BAIN: Force or Axis.

21 MR. SMITH: Objection. Same objection, that is.

22 THE COURT: Well, I think the question is -- well,
23 let's hear the question, and we'll have a clear record.

24 BY MR. BAIN:

25 Q To the best of your knowledge, has Force or Axis taken a



1 2004 exam in the bankruptcy case?

2 MR. SMITH: Your Honor, I have to object to that as
3 attorney-client privilege.

4 THE COURT: Whether they've taken it?

5 MR. SMITH: Well, whether he's requested it.

6 THE COURT: I don't think that's the case question.
7 I think question is, are you aware of whether they've taken it.
8 I'll let him answer.

9 THE WITNESS: No, I'm not aware.

10 BY MR. BAIN:

11 Q And Mr. Boone, I think you mentioned that -- the term
12 "FP&A" in your background. Just for the court, what does FP&A
13 mean?

14 A Financial planning and analysis. So it's reviewing
15 operational results and also forecasting and budgeting
16 processes.

17 Q And the FP&A group reports to you?

18 A Correct.

19 Q And I will admit that I'm a former FP&A analyst before I
20 went to law school. Not for the record, but --

21 THE COURT: We won't hold it against you.

22 MR. BAIN: Yeah, please don't.

23 BY MR. BAIN:

24 Q The FPA group prepares forecasts for the company's
25 executive team. Is that right?

1 A In conjunction with operations management and senior
2 management.

3 Q And -- I'm sorry I spoke over you. What was the last
4 thing you said?

5 A I said in conjunction with operations management and
6 senior management.

7 Q And I would think that as being the person in control of
8 the FP&A group, you would insist that your analysts did a lot
9 of homework before they presented that forecast.

10 A Yes.

11 Q And if they didn't do their homework, you wouldn't rely on
12 what they put forward?

13 A I would certainly have questions that I'd like answered.

14 Q Thank you. I'll move on to the next topic.

15 You were in the courtroom this -- earlier when they were
16 talking about -- I think Mr. Smith referred to it as the \$67
17 million AR. I've heard 65. But you heard that?

18 A Yes.

19 Q And you know what I'm talking about when I refer to that?

20 A Yes, I saw it in the bankruptcy filing.

21 Q And accounts receivable stands -- I'm sorry, AR stands for
22 accounts receivable. Did I get that correct?

23 A Correct.

24 Q And you treat that as an asset on the balance sheet?

25 A If it's collectible within one year.

1 Q And I think you said when you were talking about how Axis
2 deals with AR, approaches AR, you said -- and I'm going to
3 repeat what I heard, and then you tell me if I got it wrong --
4 that you -- unless we learn information otherwise, you refer it
5 to legal within 60 days. Did I get that right, generally?

6 A (Indiscernible).

7 Q And when you said "unless we learned information
8 otherwise," you were referring to if there were settlement
9 discussions or something like that?

10 A Either I understand when they're going to pay us or I find
11 out maybe they -- within 30 days, they tell me they're not sure
12 when they can pay us and they accelerate.

13 Q But you let other information inform your -- it's not an
14 automatic 60 days. It's --

15 A Not an automatic set. It's a general rule.

16 Q And just to be clear, you have not been involved in any
17 settlement discussions with Scott Shaver, Linda Barrow,
18 concerning the \$65 million AR. Is that right?

19 A I've not.

20 Q But you -- your position is that the company should pursue
21 this quickly or immediately. Is that correct? Think you
22 testified about that.

23 MR. SMITH: Objection. He did not testify about the
24 -- that the debtor should collect its AR immediately. His
25 testimony didn't go in that direction. It's outside the scope

1 of the direct.

2 THE COURT: I didn't hear him say anything about the
3 AR other than acknowledge that there was AR. I didn't hear any
4 testimony to that effect, and maybe I missed it.

5 MR. BAIN: I -- yeah, I'm trying to remember exactly
6 what he said.

7 MR. SMITH: I would argue --

8 THE COURT: I think that was -- I think that's Mr.
9 Smith's argument, but I haven't heard that from the witness.

10 BY MR. BAIN:

11 Q Mr. Boone, are you aware of a \$65 million AO -- AR that's
12 owed to --

13 THE COURT: I think he testified that he had read the
14 -- reviewed the bankruptcy filings.

15 MR. BAIN: I'm sorry.

16 THE COURT: I think he testified that he --

17 THE WITNESS: I saw it in the original bankruptcy
18 files.

19 THE COURT: Yes. That he saw it in the original
20 bankruptcy filing.

21 MR. BAIN: Where I'm trying to get at, Your Honor,
22 and this is probably something for Mr. Wilson in closing
23 argument is, on the one hand, they say there's a 65 million
24 dollar asset, and on the other hand, they say that they'll be
25 irreparably harmed if they don't have this \$2 million right

1 now.

2 MR. SMITH: To the sidebar --

3 THE COURT: Well, that's argument. That's argument.

4 MR. BAIN: Yeah, I understand.

5 MR. SMITH: Thank you, Your Honor.

6 THE COURT: That's argument.

7 BY MR. BAIN:

8 Q Your Honor -- I'm sorry, Mr. Boone, moving on to the
9 element of where the public interest lies, I think I heard that
10 you received your Bachelor's of Business Administration at
11 Washington and Lee in Lexington, Virginia. Did I get that
12 right?

13 A That's correct.

14 Q And I think you said -- and I don't have the full name of
15 the school, but your MBA was at Thunderbird Global School of
16 Global Management?

17 A Yes. The name changed once or twice since I went there.
18 It's now part of ASU.

19 Q Okay. And if I did my math right, all of your career has
20 been in finance and accounting, right?

21 A As I said, the first part of my career at LUFKIN, I was in
22 operation, running -- involved in manufacturing operations.

23 Q But you've never worked in public policy in oil and gas?

24 A No.

25 Q You haven't -- you don't have any other education about

1 public policy matters in oil and gas?

2 A Just from work experience.

3 Q Have you done any research on public policy in oil and
4 gas?

5 A Again, what I -- other than what I read in our normal
6 trade publications, you know, that comes through.

7 Q And just to -- so I can check the box, you haven't
8 published any articles on public policy.

9 A No.

10 Q All right, thank you.

11 MR. BAIN: Pass the witness.

12 REDIRECT EXAMINATION

13 BY MR. SMITH:

14 Q Mr. Boone, you did testify that Thunderbird has changed
15 names. What was ASU?

16 A Arizona State University.

17 Q And what degree was that for?

18 A It was originally called a Master's in International
19 Management, but later they gave us the ability to change it to
20 MBA, Master's of Business Administration.

21 Q What course load what was that like?

22 A It as the, you know, same traditional MBA classes you
23 would take in any normal MBA program. But, in addition, it --
24 you had a regional focus. You know, for example, I was in
25 Latin America. So you also had to show language fluency, as

1 well as a lot of -- I call that doing business-end type courses
2 that you wouldn't receive in a traditional MBA program.

3 Q Would that program require you to understand foreign
4 countries and how they act, they operate?

5 A Certainly in the region I focused on.

6 Q Did those skills in analyzing foreign cultures assist you
7 in your career?

8 MR. BAIN: Objection, Your Honor. Relevance. I
9 think he provided additional context on my cross-examination,
10 but not sure where he's going with this.

11 THE COURT: Overruled.

12 THE WITNESS: Yes, I -- you know, outside of Axis,
13 other companies I've worked for, LUFKIN, Tesco, Stratum, and
14 NESR were all highly global companies. So that experience, not
15 only working in Latin America, but all over the world,
16 understanding different ways of doing business and cultures was
17 very important.

18 BY MR. SMITH:

19 Q Would that include how oil and gas impacted a local
20 economy?

21 THE WITNESS: Certainly. You know, those are the regions.
22 Whether I was in the Middle East or Argentina or Russia, you
23 know, oil and gas were very important parts of their economies.

24 Q Oil and gas is important in Texas?

25 A Very important.



1 Q Creating jobs is important?

2 A I'd much rather have people employed than unemployed.

3 Q And you believe that with a claim to the proceeds of oil
4 and gas, that that would help create jobs?

5 MR. BAIN: Objection, Your Honor, it's expert
6 testimony. I don't think it's --

7 THE COURT: I'm going to sustain that. That's --
8 BY MR. SMITH:

9 Q Are you aware that the debtor responded to a subpoena for
10 this hearing?

11 A No.

12 Q On account receivable, what does it mean that it should be
13 collectible within a year?

14 A In U.S. GAAP financial terms, an accounts receivable must
15 be collectible within 12 months or it becomes either a
16 long-term receivable or it needs to be reserved as
17 uncollectible.

18 MR. SMITH: Pass the witness or --

19 MR. BAIN: No further questions, Your Honor.

20 THE COURT: Okay. Mr. Smith, stay there because I do
21 have -- I have a couple of questions, so you can object to my
22 questions.

23 MR. SMITH: Thank you, Your Honor.

24 THE COURT: And I'll probably sustain your
25 objections.



1 MR. SMITH: Not that good.

2 THE COURT: So when were these -- when was the work
3 performed?

4 THE WITNESS: Excuse me. Barrow Shaver had been an
5 existing customer with a -- I wouldn't call it a large customer
6 in our East Texas region. We got a request from Barrow Shaver,
7 I believe it was April of '23, asking for us to -- that they
8 had a large drilling program that they wanted to initiate and
9 requesting, you know, a higher credit limit and longer payment
10 terms than normal to perform this work.

11 We did an analysis on that these were oil wells being
12 drilled, not gas because gas prices were very depressed at that
13 time and we wouldn't have done this. But we felt that because
14 they were oil wells, there was -- you know, they would be
15 hopefully profitable at still those commodity prices, as well
16 as if something went south, then hopefully, you know, we would
17 have lien protection on oil wells that had value.

18 THE COURT: All right.

19 THE WITNESS: And started the work in -- that was
20 April. So I don't know, maybe May, you know, April, May,
21 probably May of '23, we started. And by the end of -- into the
22 third quarter or so, probably by then, most of the program
23 finished.

24 THE COURT: And so these receivables have been on the
25 books for more than a year?



1 THE WITNESS: Oh, yes.

2 THE COURT: And so they've been written off.

3 THE WITNESS: Fully reserved on, yes.

4 THE COURT: Fully reserved, okay.

5 And then listen to what I say and object as
6 appropriate because I really don't want to overspend.

7 Are you aware of any other circumstance or situation
8 where Axis has asserted a Chapter 67 -- wait a minute.

9 MR. SMITH: Objection to the legal conclusion.

10 THE COURT: Okay. No, no. Okay. Sustained. That's
11 fine.

12 All right. You may step down. Sorry, I will sustain
13 it, but --

14 (Witness excused)

15 MR. SMITH: Thank you.

16 THE COURT: Okay.

17 MR. SMITH: That's our witnesses, Your Honor, so
18 we'll --

19 THE COURT: Okay. All right.

20 MR. WILSON: Your Honor, I'm going to -- first of
21 all, motion for -- under Rule 7052, rule on -- it's their
22 burden. I don't believe they met their burden on harm,
23 irreparable harm to any other party. And Force isn't even
24 here. If that's all their witnesses, I think that's over.

25 7052(c) is a motion for partial findings on the



1 facts, and these are the facts. Force is not here. They
2 haven't put up anything if that's all their witnesses.

3 MR. SMITH: Your Honor, we do have testimony that
4 this would impact everybody, that this sale does impact
5 everybody. There's no sale pending right now. There's not
6 expected to be one. He -- the witness testified he doesn't
7 know of any. He did testify to the first prong -- or to the
8 second prong of irreparable harm, the fact that this may be
9 their only shot. He testified to the final prong of the public
10 policy matter. Public policy, he testified this creates jobs,
11 that he -- that this impacts oil and gas practice in Texas,
12 that this enables a further development of the oil and gas by
13 extending service companies -- extending credit. I believe
14 that he satisfied those elements, Your Honor. And so this
15 request should be denied.

16 THE COURT: Okay. I think it's a really close call
17 whether to do that. So I'm going to take a break and to allow
18 you to kind of truncate your case, Mr. Wilson, to just address
19 the issues that were raised. Because there were a lot of other
20 issues in the pleadings that I think have now been -- you know,
21 I think that we're limited by the testimony. So a lot of the
22 stuff in the pleadings is now moot because there was no
23 testimony behind it. So I'm going to take about a 15-minute
24 break, and you can truncate your presentation just to that, the
25 issues raised by the movant.



1 THE COURT: Okay. All right. So we're in recess
2 till -- let's come back about in 20 minutes, 10:40. All right.

3 UNIDENTIFIED: Thank you, Your Honor.

4 (Recess taken at 10:21 a.m.)

5 (Proceedings resumed at 10:40 a.m.)

6 THE COURT: Please be seated. All right. Ready to
7 proceed?

8 MR. WILSON: Your Honor, Mr. Katchadurian's using the
9 restroom right now.

10 THE COURT: Okay.

11 MR. WILSON: When he comes back, we'll call him to
12 the stand.

13 (Pause)

14 MR. WILSON: Your Honor, at this time, the debtor
15 would call Mr. Katchadurian to the stand.

16 THE COURT: Okay.

17 MR. KATCHADURIAN: Good afternoon, Your Honor.

18 JAMES KATCHADURIAN, BARROW SHAVER'S WITNESS, SWORN

19 THE COURT: All right. Go ahead, Mr. Wilson.

20 DIRECT EXAMINATION

21 BY MR. WILSON:

22 Q Mr. Katchadurian, I believe we all know who you are. But
23 for the record, can you please state your name and your role
24 with the debtor?

25 A Yes. James Katchadurian, chief restructuring officer,

1 Barrow Shaver Resources.

2 Q Mr. Katchadurian, how long have you been the chief
3 restructuring officer for the debtor?

4 A Since July of 2024.

5 Q Mr. Katchadurian, are you familiar with the debtor's books
6 and records?

7 A I am.

8 Q Are you familiar with the debtor's business?

9 A I am.

10 Q Mr. Katchadurian, were you in the courtroom when Mr. Boone
11 was on the stand?

12 A I was.

13 Q Did you hear his testimony about the AR balance with the
14 debtor being fully reserved?

15 A I did.

16 Q What does fully reserved mean?

17 A It means that you don't count it as an asset on your
18 balance sheet anymore and you don't expect to collect it.

19 Q Okay. Mr. Katchadurian, let's talk about some of the
20 insiders. Now, as of December 31st, on your estimate, how much
21 did the insiders owe to the estate?

22 A Approximately \$67 million.

23 Q Now, has the debtor made any type of demand against the
24 insiders?

25 A Yes.

1 Q Who did it make the demand on?

2 A We've been in settlement discussions with the Barrows, and
3 we've decided to reserve any sort of discussions with
4 Mr. Shaver until, you know, further in the process.

5 Q Why did you reserve further discussion with Mr. Shaver
6 into the process?

7 A Consultation with the Committee. And based on
8 Mr. Shaver's liquidity position, we didn't think those
9 discussions would be fruitful at this time.

10 Q All right. Now, with the Barrows, you've held multiple
11 discussions. Is that right?

12 A Yes.

13 Q About how long have you had those discussions?

14 A How -- sorry? How long have I had those discussions?

15 Q Correct.

16 A Ongoing for the last several months.

17 Q Those settlement -- and I don't want to get into specific
18 settlement discussions, but do those settlement discussions
19 talk about the outstanding AR?

20 A They do.

21 Q Does it talk about certain overriding royalty interests?

22 A Yes.

23 Q Does it talk about a potential settlement where those
24 assets would come back into the estate?

25 A Yes.

1 Q All right. Why hasn't the debtor initiated a lawsuit
2 against those entities -- or persons, as well?

3 A I think we would rather settle with those entities. We're
4 litigating when -- against quite a few different parties, and
5 litigation's expensive. We're trying to be mindful of admin
6 expense in this case.

7 Q Let's switch over to the harm of the debtor. How much
8 money does the debtor currently have in its bank accounts?

9 A About eight and a half million dollars.

10 Q All right. Now, does that account for accrued and unpaid
11 professional fees?

12 A It does not.

13 Q How much are the accrued and unpaid professional fees?

14 A Somewhere in the neighborhood of three and a half to four
15 million dollars.

16 Q Are there any other accrued and unpaid expenses?

17 A Yes. We have accounts payable at the moment on the books
18 of about a million dollars, and we've been doing some strategic
19 workovers, and that's about a million dollars, plus or minus a
20 little bit.

21 Q So collectively, we're looking at below \$4 million after
22 taking into account that accrued and unpaid fees?

23 A That's correct.

24 Q Now, on a monthly basis, how much does the debtor -- come
25 into the debtor's estates, operational wise?

1 A Around \$4 million.

2 Q Now, on a --

3 MR. SMITH: Objection, Your Honor. Assumes facts not
4 in evidence. We have no basis on what pleading he's talking
5 about or what document he's going off of. If he's got monthly
6 operating reports that reflects this amount, that would be
7 helpful for us to see those as well.

8 MR. WILSON: Your --

9 THE COURT: I think this is direct examination. He's
10 the CRO, so he's going to know what the company is doing. If
11 you want to cross-examine him on that, you can do that. This
12 is what he's paid to do.

13 BY MR. WILSON:

14 Q On a monthly basis, how much money leaves the debtor's
15 accounts?

16 A So on an operating basis, we're net operating positive to
17 the tune of, you know, 2- to \$300,000 after taking into account
18 professional fees. We're probably bleeding cash at the level
19 of 2- to 400,000, depending on the month.

20 Q Now, at this current rate, do you expect the debtor to run
21 out of money?

22 A We do.

23 Q When does that happen?

24 A In the June time frame.

25 Q Mr. Katchadurian, you're familiar with appeals processes

1 in bankruptcy, correct?

2 A I am.

3 Q You were recently one in Heartrand (phonetic), one of the
4 cases that you were a CRO. Is that right? How long did that
5 appeal process take?

6 A Close to two years.

7 A Right.

8 Q So if this stay was implemented, we're looking at an
9 appeal process, similar timeline. Is that right?

10 MR. SMITH: Objection. Speculation. Although that
11 particular case may have taken two years, that is no indication
12 that this case may take two years.

13 THE COURT: I -- sustained.

14 MR. SMITH: Thank you, Your Honor.

15 BY MR. WILSON:

16 Q Now, let's talk about ways that the debtor could use this
17 money. Mr. Katchadurian, what would you use as that money if
18 you had the Axis to it right now, the \$2.5 million?

19 A So as part of my role to, you know, sell the assets of the
20 company, we've been trying to look for projects where we can
21 increase production and maintain the wells that we have in
22 place to maximize asset value in a sale. That two and half
23 million dollars could certainly go to additional fracs and
24 other maintenance workover-type activities that would support
25 production and possibly increase production at this time, when

1 we're in the midst of a sale process.

2 Q Approximately how much do these fracs cost?

3 A About --

4 MR. SMITH: Objection, Your Honor, it calls for
5 speculation. Although he is a chief restructuring officer well
6 versed in financial matters, the exact quotes provided by
7 service companies is not in evidence. But also, I'm not sure
8 that he's qualified to give that testimony.

9 THE COURT: I think he can lay a foundation, but I
10 mean, if he's spending the money, I think he can testify as to
11 what it costs.

12 BY MR. WILSON:

13 Q Mr. Katchadurian, you've done fracs in this case, right?

14 A Yes, we have.

15 Q You know the expenses of those fracs already done. Is
16 that right?

17 A Yes, that's correct.

18 Q All right. With that, Your Honor, Mr. Katchadurian, how
19 much do you estimate these fracs to cost?

20 A Depending on the type of operation, they're between 1- and
21 \$300,000 per instance per well.

22 Q Right. Now, if you had that money today, you would
23 implement these fracs. About approximately how much production
24 do you estimate increase on a monthly basis?

25 A I think we could increase production at least 500 barrels

1 a day.

2 Q Now, what would that yield into a monthly cashflow for the
3 debtor?

4 A Conservatively, at oil prices today, about half a million
5 dollars in additional cash flow.

6 Q Gotcha. Now, does the debtor anticipate closing a sale in
7 a Chapter 11 plan?

8 A We do. We're working very hard to get there.

9 Q Now, when does the debtor anticipate closing that sale in
10 Chapter 11?

11 A Certainly within the next several months, you know, up to
12 six.

13 Q Right. So if we're using that six as the benchmark, how
14 much money of extra cash flow could the debtor have if it had
15 money in this case?

16 A An additional \$3 million, approximately.

17 Q Now, is the debtor harmed in other ways if this motion to
18 stay pending appeal is granted?

19 A Yes. I mean, working interest owners generally are
20 harmed.

21 MR. SMITH: Objection, Your Honor. Hearsay. There
22 is not any documentation right now in front of us or other
23 witnesses from those working interests describing their own
24 harm. So he's -- it's hearsay because he's hearing statements
25 out of court going to that particular matter. It's also



1 speculation based off his assumptions of their harm without
2 further evidence or those own -- those individual witnesses
3 from those working interest owners testifying to their harm.

4 THE COURT: Well, I didn't hear that he was
5 testifying what he was told. And, you know, I think he can --
6 I think the question was who else is harmed, and he's giving
7 explanation as to who he thinks is harmed. So why don't you
8 rephrase the question and focus it on his knowledge as opposed
9 to -- and I don't think you asked him, but just in case.

10 BY MR. WILSON:

11 Q Mr. Katchadurian, to your knowledge, who else is harmed if
12 the money keeps in the administrative court?

13 A Certainly. You know, we've been in discussions with a lot
14 of constituents here, including working interest owners, and
15 they certainly feel the pain of not receiving their revenue
16 from August of 2024. You know, the debtor itself could
17 certainly use those funds to conduct operations. As I said,
18 we're litigating against NEXT and others. Having general
19 corporate funds would be very helpful to the debtor at this
20 time when we're living off of cash in the bank.

21 Q All right. Now, let's talk about the lack of harm to
22 Axis. Now, what's -- you were in the -- you heard Mr. Boone's
23 testimony today, correct?

24 A Right.

25 Q Approximately how much was his claim?

1 A About half a million dollars.

2 Q Now, has Axis asserted a claim -- a lien in this matter?

3 A Yes, I believe they have.

4 Q Now, if the debtor is successful with its negotiations and
5 settlement discussions with NETX, would that consummate a sale?

6 A It would.

7 Q Would that sale proceeds attach to liens?

8 A That's my understanding.

9 Q Let's talk about some of the public and private interests
10 here. Mr. Katchadurian, you're the chief restructuring officer
11 of this company, correct?

12 A I am.

13 Q Axis is part of the petitioning creditors group. Is that
14 correct?

15 A Yes.

16 Q Did any of the other petitioning creditors file a Chapter
17 67 lien against these proceeds?

18 A Not to my knowledge.

19 Q Did -- there's other lien creditors out in this case as
20 well, correct?

21 A Yes.

22 Q Did any of those lien creditors also attempt to do what
23 Axis did in this case?

24 A No, Your -- no.

25 Q So this seems to be only hitting a subset of this

1 particular company in this case, the Chapter 67 issue?

2 A Yes.

3 Q Mr. Katchadurian, you've been in settlement -- let me
4 rephrase.

5 Let's talk about the sale process. Mr. Katchadurian, are
6 you currently in settlement discussions with NETX?

7 A I am.

8 Q And I don't want to talk about a number, and I don't want
9 to talk about anything related to that. Did they provide a
10 number to you?

11 A Yes.

12 Q Would that number help pay down liens?

13 A Yes.

14 Q Is NETX and the debtor trying to schedule mediation in
15 this case (indiscernible) that dispute?

16 A They are.

17 Q To your knowledge, does this Chapter 67 issue impact
18 public issues at large?

19 A Not the -- no.

20 Q Does this have to do with any state or federal issues?

21 A No to my knowledge.

22 MR. SMITH: Objection. Calls for legal conclusion.

23 MR. WILSON: Factually.

24 THE COURT: Sustained. Sustained.

25 MR. WILSON: One second, Your Honor. Your Honor,



1 I'll pass the witness.

2 THE COURT: Mr. Smith.

3 CROSS-EXAMINATION

4 BY MR. SMITH:

5 Q Morning, Mr. Katchadurian.

6 A Good morning.

7 Q My name is Connor Smith. I am the attorney for Axis
8 Energy Services and Force Pressure Control. You were at the
9 exclusivity hearing a few weeks ago, correct?

10 A I was.

11 Q And you testified that you could have a sale done by the
12 end of March, correct?

13 A That's -- that was the hope at that point in time, yes.

14 Q You testified that 105 days of extension of exclusivity
15 was necessary to accomplish that sale, correct?

16 A That's correct.

17 Q You testified they would be able to file the sale
18 procedures by January 31st, correct?

19 A That was the hope at that time, yes.

20 Q And you said that 105 days was necessary because you were
21 going to get the sale procedures motion on file by January
22 31st, correct?

23 A I'm sorry, ask that again, please.

24 MR. WILSON: Your Honor, if he has a transcript to
25 put in front of him, I think that'd be helpful to --



1 THE COURT: But he's not trying to impeach him, he's
2 just asking a question, did you testify.

3 BY MR. SMITH:

4 Q Did you testify on January 13th that 105 days was
5 necessary as an extension for the exclusivity period because
6 you were going to get your -- or the debtor's sale procedure
7 motion on file, correct?

8 A Yes.

9 Q You didn't file the sale procedure motion, did you?

10 A We haven't filed it yet, no.

11 Q You're not going to be closing -- the debtor is not going
12 to be closing on a sale by the end of March, is it?

13 A It's probably unlikely at this point.

14 Q Do you agree with the statement that sales need six months
15 to consummate?

16 A I think that's an outside date.

17 Q But possible, correct?

18 A Anything's possible.

19 Q Did you hope to have the sale completed already?

20 A No.

21 Q There was no intention to have the sale done by winter of
22 2024?

23 A When you said "already," I meant -- I'm thinking it's
24 today, but no. I mean I think the sale process takes time.
25 These are not simple assets to sell, and the litigation

1 overhang creates doubt in the buyer's mind.

2 Q And that impacts or increases the difficulty of that sale,
3 correct?

4 A It does, but we've taken certain action to make that sale
5 palatable to a variety of buyers.

6 Q The debtor paying its bills on time since the bankruptcy
7 petition was filed?

8 A It is.

9 Q The debtor has not defaulted post-petition on any payable,
10 has it?

11 A No.

12 Q The debtor is maintaining all of its assets?

13 A It is.

14 Q The Hidden Rock asset has not been harmed in any way?

15 A No.

16 Q How many frac jobs has the debtor completed to date? Let
17 me rephrase that question.

18 Has the debtor complete conducted any frac jobs
19 post-petition?

20 A It has.

21 Q All oil and gas wells produce exactly as predicted,
22 correct?

23 A No.

24 MR. WILSON: Objection, Your Honor. I'm not sure
25 what kind of question that is factually right there. It's kind



1 of vague. It's also speculative.

2 MR. SMITH: Your Honor, he testified earlier that
3 that he needed to frac certain wells that were going to
4 generate an X number -- certain number of cash.

5 THE COURT: I'll let him ask that. Go ahead. I
6 think he responded to your question.

7 MR. SMITH: He did, yeah.

8 BY MR. SMITH:

9 Q There is a volatility that comes with the production of
10 oil and gas, correct?

11 A What do you mean by volatility?

12 Q Some gas wells do not produce as well as other gas wells,
13 correct?

14 A That's correct. And some exceed the prediction. It goes
15 both ways.

16 Q But all you have is predictions, correct?

17 A You have experience in these -- with these wells, with
18 these particular operations, there's a high likelihood that
19 you're going to achieve your goal. And we're very conservative
20 in the way we project.

21 Q In talking with the -- (indiscernible) question. Have you
22 -- do you know if any of the interest owners are testifying
23 today?

24 A Not that I'm aware of.

25 Q Are you aware of any exhibit that any interest owner has

1 filed with this adversary?

2 A Not that I'm aware of, no.

3 Q But you've spoken to those other interest owners?

4 A I speak to working interest owners all the time, yes.

5 Q And they tell you that they're harmed?

6 A Well, they want their money.

7 MR. SMITH: Objection. Nonresponsive.

8 BY MR. SMITH:

9 Q Question was, they tell you that they are harmed?

10 A Yes.

11 Q But you have no other knowledge apart from just their
12 telling, correct?

13 A That's what I've got, yes.

14 Q You sit on the special counsel for the debtor, right?

15 A The special committee, yes.

16 Q Special committee. Is that the same thing as a board of
17 directors?

18 A It's akin to a board of directors in this case.

19 Q Is Scott Shaver on that board?

20 A He is.

21 Q Is Linda Barrow on that board?

22 A She is.

23 Q Are they on that board in their individual capacities?

24 A I believe they're on that board as -- through their
25 various trusts as shareholders of Barrow Shaver.

1 Q And that trust would be the Linda Barrow Trust?

2 A I actually don't recollect which of her trusts is the
3 trust that owns the shareholding within Barrow Shaver.

4 Q You don't recollect the company that owns the board seat
5 on the debtor?

6 A No, not the legal entity, no. They have several trusts,
7 each of them.

8 Q Do you know the entity that Scott Shaver has on the board?

9 A I think it's SOS LLC -- LLC.

10 Q And that company owes the debtor money?

11 A I believe it does, yes.

12 Q And Linda Barrow's trust owes the debtor money?

13 A Yes.

14 Q And your choice is to not pursue board members for amounts
15 owed to the debtor?

16 A That's not what I testified.

17 Q You and the board have elected not to pursue claims
18 against the board members --

19 MR. WILSON: Objection, Your Honor. That's --

20 MR. SMITH: May I finish my question for the record?

21 MR. WILSON: Sure.

22 MR. SMITH: Thank you.

23 BY MR. SMITH:

24 Q You and the board has not -- have chosen not to file
25 lawsuits against the other board members that owe the debtor

1 money, correct?

2 MR. WILSON: Objection, Your Honor. Assumes facts
3 not in evidence.

4 THE COURT: Sustained.

5 BY MR. SMITH:

6 Q Mr. Wilson asked you why the debtor has not filed a
7 lawsuit against Scott Shaver or his entities, correct?

8 A That's correct.

9 Q And your testimony was that you elected to reserve those
10 claims for later date? That's correct?

11 A Correct.

12 Q When I say the word "election," does that -- do you mean
13 you vote?

14 A No. It's in my better -- it's in my business judgment.

15 Q So it's in your business judgment not to file a lawsuit
16 against the other board members?

17 A My business judgment that settlement would be preferable
18 to suing.

19 MR. SMITH: Objection. Nonresponsive. That was a
20 yes-or-no question.

21 MR. WILSON: Your Honor, it's responsive. He doesn't
22 (indiscernible).

23 THE COURT: I agree, it's responsive.

24 BY MR. SMITH:

25 Q It's in your best business judgment to not seek immediate

1 payment from the rest of the board members, correct?

2 A I'm in discussions -- settlement discussions with the
3 Barrows.

4 Q Have you voiced and identified the specific claims to
5 Linda Barrow and her entities?

6 A We've had multiple settlement discussions both with
7 counsel and with the Barrows themselves.

8 Q None of them have produced payments to the debtor?

9 A We're in the midst of settlement discussions. We haven't
10 concluded them yet.

11 Q You testified that you reviewed the liens of Axis Energy
12 Services, correct?

13 MR. WILSON: Objection, Your Honor. That's not his
14 testimony.

15 THE COURT: I didn't remember him talking about
16 reviewing the liens.

17 MR. SMITH: Mr. Wilson asked, how much does Axis owe?
18 About a half-million dollars. And Mr. Wilson followed that
19 question up with a second question of, how do you know that?
20 That's through the liens that they filed.

21 MR. WILSON: That's -- no.

22 THE COURT: I mean, you can ask him, did you review,
23 but let's not assume that he did, because I don't think that's
24 his testimony. You can ask him.

25 BY MR. SMITH:

1 Q You testified that Axis had about half a million dollars
2 in claims, correct?

3 A That's correct.

4 Q Is that because you -- you know that because you reviewed
5 the claims?

6 A I've reviewed accounts payable information, accounts
7 receivable information. I'm sorry, hold on. I reviewed the
8 books and records of the debtor, including its payables, yes.

9 Q You testified that that these liens would then attach to
10 the proceeds of the sale of the property, correct?

11 A That's my --

12 MR. WILSON: Objection, Your Honor. These liens were
13 specific to Axis. His testimony is that liens would attach.
14 He didn't testify if Axis had liens. Purported liens is his
15 testimony.

16 MR. SMITH: Your Honor, he did testify that Axis had
17 liens, which is how they got to the argument that the liens
18 would be attached to the sale of the property. And that's how
19 it goes to their second point. That's how Axis has -- and does
20 not able -- or is not able to prove that second point.

21 THE COURT: I think that point is unremarkable
22 because, to the extent there's a valid lien on what's being
23 sold, under the Bankruptcy Code, it attaches. So I -- I'm not
24 -- that's -- he can testify to it, but I don't know that his
25 testimony is going to make anything different from what I

1 understand to be the law. So I think it's -- I mean, if you
2 have a lien, it attaches. If you don't have a lien, it
3 doesn't. That's simple as that.

4 BY MR. SMITH:

5 Q When the liens in this case, Axis's liens, attach to the
6 property, as you testified, would it attach to 100 percent of
7 the interest in the Hidden Rock field?

8 MR. WILSON: Objection, Your Honor. Calls for legal
9 conclusion, also mischaracterizes his testimony.

10 THE COURT: Sustained. It calls for legal
11 conclusion. Sustained.

12 BY MR. SMITH:

13 Q Is the debtor anticipating selling 100 percent of the
14 Hidden Rock property?

15 A The debtor is going to sell the interest that it actually
16 owns.

17 Q And what is that interest?

18 A Somewhere around 44 to 50 percent of the Hidden Rock
19 fields, on average.

20 Q The debtor has complied with all monthly operating
21 reports, correct?

22 A Correct.

23 Q The debtor has also complied with any other periodic
24 reportings?

25 MR. WILSON: Objection, Your Honor. I'm not sure the



1 relevance of this.

2 THE COURT: What's the relevance?

3 MR. SMITH: The relevance is it has a periodic report
4 that they have not complied with that does go to the ability to
5 collect from certain insiders, which then ties into how the
6 debtor has stayed without full resolution of its account
7 receivable. So it goes to the second point, Your Honor, and
8 the third point that the debtor has -- is choosing to remain
9 low on liquidity operation -- or operational liquidity.

10 MR. WILSON: Your Honor, none of that is in evidence
11 right now. I'm not sure how he's --

12 THE COURT: Yeah, I don't understand. Yeah, I agree.
13 I haven't heard any of that testimony.

14 MR. SMITH: One second, Your Honor.

15 THE COURT: Yeah.

16 MR. SMITH: Your Honor, I'd like to hand the witness
17 Exhibit -- what's been premarked as Exhibit Number 4, Axis and
18 Force's Exhibit Number 4.

19 MR. WILSON: Your Honor, they have closed their
20 evidence. That was when they had the opportunity.

21 MR. SMITH: This is for impeachment purposes, so it
22 goes to exactly what he's been testified.

23 THE COURT: I'm going to allow it. Go ahead.

24 MR. WILSON: If I may just voice my objection for --

25 THE COURT: Sure.

1 MR. WILSON: -- appellate purposes.

2 So, Your Honor, you sustained the objection in terms
3 of 2015. There was no evidence on that. He's trying to now
4 introduce evidence on that when you already sustained the
5 objection in terms of his (indiscernible). So --

6 THE COURT: Yeah, I mean, you need to be within the
7 scope of his direct. But to the extent you think this is
8 impeachment, we'll listen to it and determine whether it's
9 impeachment or not.

10 MR. SMITH: Understood. For the record, this is not
11 -- this is moving away from the 2015 notice. So this is a
12 separate point of cross-examination regarding the debtor's
13 operations and income as he testified on direct.

14 THE COURT: So which exhibit is it premarked?

15 MR. SMITH: Premarked Exhibit 4 for Axis -- for Axis
16 and Force.

17 THE COURT: Monthly operating report for --

18 MR. SMITH: The period ending December 31st, 2024.

19 THE COURT: Okay.

20 (Counsel confer)

21 MR. SMITH: So, Your Honor, I'd like to approach the
22 witness with -- and hand him a copy of this.

23 THE COURT: Yes, please.

24 BY MR. SMITH:

25 Q Mr. Katchadurian, do you recognize this document?

1 A I do.

2 Q What is this document?

3 A It's the monthly operating report for the period ending
4 12/31/24.

5 Q Did you sign your name to the bottom of this page?

6 A Yes, I electronically signed.

7 Q On the second page, Part 2, Subpart A, it states that
8 there are \$72,143,614,000 of account receivable, correct?

9 A Yes.

10 Q And on page -- the attachment -- Page 3 of the attachment,
11 on the back, it states that there is currently \$66.7 million --
12 or as of -- let me rephrase that question.

13 As of this filing, there was \$66,743,698 worth of account
14 receivable from the insiders, correct?

15 A Yes, as of 12/31.

16 Q Post-filing --

17 THE COURT: What page is that?

18 MR. SMITH: That is Page 3 of the attachment towards
19 the back. So --

20 THE COURT: So on the top is what page -- what
21 page --

22 MR. WILSON: Page 3 of 7.

23 MR. SMITH: Page 3 of 7. Believe it was listed as
24 the addendum or extra documents at the bottom of the monthly
25 operating report.

1 THE COURT: Is it your 87-4? I'm having a hard time
2 following it here.

3 MR. SMITH: Yes, I have 84-4, I believe.

4 THE COURT: Okay. Hold on a second.

5 MR. SMITH: Also filed in this case or filed at
6 Document 448 on the main case, but also Docket 83-4 on this
7 case, Your Honor.

8 THE COURT: Do you have an extra copy? I can't find
9 it. I'm sorry.

10 UNIDENTIFIED: Absolutely.

11 THE COURT: 86-4 appears to be that, but it's a
12 12-page document, not a 7-page document.

13 MR. SMITH: That would be correct, Your Honor. The
14 page number is reset at the debtor's exhibit to that monthly
15 operating -- so it does say Page 1 of 12, but I have a
16 copyright right here.

17 THE COURT: Okay, thanks. All right. Okay, I'm
18 sorry. Go ahead, proceed.

19 BY MR. SMITH:

20 Q The insiders on -- as of 12/31, owe an account of
21 \$66,743,698. Is that correct?

22 A Yes.

23 Q Insiders includes the -- according to this definition
24 here, insiders includes principals, owners, their family
25 members, other subsidiaries, affiliates, and -- or their family

1 members, correct?

2 A Yes.

3 Q Would the -- would resolving this account receivable
4 assist the debtor?

5 MR. WILSON: Objection, Your Honor. This entire
6 exhibit has been drawn up for impeachment purposes. I'm not
7 sure what has been impeached, what contradicts his testimony.

8 THE COURT: Yeah, he -- his testimony was that there
9 was 67 million. And what are you trying to impeach? He didn't
10 -- what's the impeachment?

11 MR. SMITH: The impeachment is that the debtor has
12 been operating perfectly fine with -- under this monthly
13 operating report, perfectly fine with -- as reported in this
14 document. So it does go to show that the debtor has been
15 operating as normal. Maybe not as normal, but has been
16 operating financially just perfectly fine. So with this --
17 with the account receivable, he also testified that Axis and
18 Force's 2.5 is necessary but fails to talk about the 65, how
19 that's necessary as well. So --

20 THE COURT: That's argument. That's not impeachment.
21 I mean, he's -- there's no -- he didn't say anything like that,
22 so there's no impeachment. So that's just argument. So kind
23 of try to limit yourself to his direct testimony.

24 MR. WILSON: Your Honor, can I strike moving into
25 this exhibit?

1 It wasn't impeached at all.

2 THE COURT: Yeah. I mean, what was the impeachment?
3 He testified as to the 66, and he testified that it was owed
4 already. So --

5 MR. SMITH: So then the impeachment is that it is
6 against -- or that he says that -- or claims that it's his
7 business judgment that the 2.5 is absolutely necessary.

8 THE COURT: So -- okay. So -- but you haven't asked
9 him anything, so I'm going to go ahead and strike the exhibit.

10 BY MR. SMITH:

11 Q Would the -- would resolving its account receivable assist
12 the debtor and its operations?

13 A Yes.

14 Q Is this expected to be reduced at various capacities?

15 MR. WILSON: Objection. Can you rephrase that? I'm
16 not exactly sure what that means.

17 THE COURT: Yeah. It's sustained. Please rephrase.

18 BY MR. SMITH:

19 Q Does the debtor expect to be able to collect a portion of
20 the account receivable?

21 A So in accordance with the mineral order, we're able to net
22 the insiders' revenue against any outstanding. So, yes, we are
23 collecting at multiple --

24 Q And --

25 A -- mechanism, and we're in settlement negotiations.

1 Q That decision to net, that was conducted by you alone?

2 A There's an order of the Court, the -- what we've been
3 calling the mineral motion, the mineral order, which gives us
4 the ability to net every single working interest owner for
5 amounts accounts receivable outstanding.

6 Q Is it compulsory that the debtor must net first?

7 MR. WILSON: Objection, Your Honor. I'm going to
8 object. It's a legal conclusion on that.

9 THE COURT: Yeah. I think the order speaks for it
10 himself.

11 MR. SMITH: If he's testifying, though, that under
12 the order that he has to net, I want to see what his
13 understanding of the order is to see is he complying with that
14 order because he's netting first as it's compulsory or is there
15 an election there that he thinks he has.

16 THE COURT: I mean, you can ask him whether he's
17 complying with his duties as a CRO, but I, you know -- the
18 order says what it says and they're either compliant or they're
19 not compliant. You know, having known Mr. Katchadurian's, you
20 know, background, I suspect he's complying. But, you know,
21 you're certainly free to ask if he's complying or not.

22 BY MR. SMITH:

23 Q You are complying with the order?

24 A I am.

25 Q What is the most recent accounting of the amounts owed by

1 insiders?

2 MR. SMITH: Objection, Your Honor. It's outside his
3 direct. He didn't testify to that.

4 THE COURT: Well, I mean, you know, he has an answer,
5 he can give it.

6 THE WITNESS: No. I mean, we're in the process of
7 closing the January books, and so the -- yeah, the last MOR on
8 file is 12/31.

9 BY MR. SMITH:

10 Q And that's where it says \$67 million?

11 A Correct.

12 Q Are you aware if the account receivable has increased in
13 the last three or four months of this case?

14 A When you say "the accounts receivable" --

15 Q I specifically mean the accounts receivable owed by
16 insiders.

17 A Yes. We had a situation early on when, due to the fact
18 that we didn't receive our revenue, we couldn't process JIBs
19 for the first two months or so of this case, and therefore we
20 couldn't -- everything was put into suspense until we were able
21 to work out the system issues, WolfePak, the accounting system.
22 And then we took everything out of suspense and processed the
23 JIBs. So I guess, on the books and records, it would have
24 shown an increase in accounts receivable for everybody until we
25 were able to resolve the system issues. That was as a result

1 of this revenue not having been paid in.

2 MR. SMITH: One moment, Your Honor.

3 BY MR. SMITH:

4 Q Your testimony is that the JIBs are -- have now been
5 resolved?

6 MR. WILSON: Objection, Your Honor. Mischaracterizes
7 his testimony.

8 THE COURT: Yeah. Why don't you rephrase the
9 question?

10 BY MR. SMITH:

11 Q Any systematic issues with the JIBs has been resolved?

12 A Yes. After much work with the software vendor and
13 internal accounting people, we're able to finally process JIBs
14 and have been processing, you know, monthly as is normal. But
15 it was a great effort to get there.

16 Q And the debtor has been paying properly under the --
17 paying or netting properly under the mineral interest motion.

18 MR. WILSON: Objection. I believe that's asked and
19 answered. He's complied with the order.

20 THE COURT: I think he did testify he was complying
21 with the order, so sustained.

22 MR. SMITH: Okay. No more further questions.

23 THE COURT: Anything further, Mr. Wilson?

24 MR. WILSON: Few questions just to clarify a few
25 things.

1 REDIRECT EXAMINATION

2 BY MR. WILSON:

3 Q Mr. Katchadurian, just to clarify a couple things about
4 the special committee. I think you mentioned that their trusts
5 were serving as the special committee. Isn't it correct that
6 Scott Shaver and Lyndon Barrow, they're actually sitting on the
7 special committee, not their trusts?

8 MR. SMITH: Objection. Leading.

9 MR. WILSON: Your Honor, I'm trying to clarify
10 certain things that were --

11 THE COURT: Just ask him the question.

12 MR. WILSON: Yeah.

13 BY MR. WILSON:

14 Q Does Linda Barrow sit on the special committee?

15 A Yes.

16 Q Does Scott Shaver sit on the special committee?

17 A Yes.

18 Q Not their trusts, correct?

19 A Correct.

20 MR. WILSON: No further questions, Your Honor.

21 THE COURT: Okay. All right. Anything further,
22 Wilson?

23 MR. WILSON: No, Your Honor.

24 THE COURT: Anything further, Mr. Smith?

25 MR. SMITH: Just closing arguments.



1 THE COURT: Okay. All right. Do you need a minute
2 for closing to -- to get ready for closing arguments or --

3 MR. SMITH: No, I --

4 THE COURT: I mean --

5 MR. SMITH: Just a minute.

6 THE COURT: -- we can come back. I mean, hopefully
7 it'll take about 10 minutes each, so we can come back at --
8 give you 10 minutes to prepare, and then we'll have 10 minutes
9 for you and 10 minutes and we'll be done by noon.

10 MR. WILSON: That works.

11 THE COURT: Okay. Thank you, Mr. Katchadurian.

12 THE WITNESS: Thank you.

13 (Witness excused)

14 (Recess taken at 11:31 a.m.)

15 (Proceedings resumed at 11:40 a.m.)

16 THE COURT: Please be seated. All right, Mr. Smith.

17 Just a second. I think we're having technical
18 difficulties. You were frozen on the screen.

19 MR. SMITH: Got my good side at least.

20 THE COURT: Okay.

21 MR. SMITH: Judge Perez, we have heard a number of
22 testimony -- testimonials regarding operations of the debtor,
23 the current financial status, both good and bad. We've heard
24 testimony regarding Axis's desire to increase its workload,
25 increase its employment, and increase its operations and how a



1 lien on the proceeds of production could accomplish that goal.
2 We also heard testimony regarding the operations of Axis itself
3 and how it benefited the well, benefited the debtor, benefited
4 and enabled the debtor to make and produce oil and gas. We
5 heard testimony that public would be benefited by the increase
6 of oil and gas production and how a lien on the proceeds could
7 accomplish that.

8 This goes to the fourth point of the Fifth Circuit
9 case, Enterprise International v. Corporacion Estatal in 1985.
10 The Fifth Circuit, in that case, highlighted that there are
11 four elements that must be met: meritorious claims with possible
12 success on appeal; irreparable harm to Axis and Force; to the
13 movant for the stay. The third is the -- not the stay -- it
14 wouldn't harm anybody else, it wouldn't harm the rest of the
15 constituents of the case. And the fourth element, which was
16 met, we just talked about, is the public policy concerns.

17 Your Honor, we heard testimony about the public
18 policy, about the lack of a potential sale, the lack of
19 progress on that. We heard testimony that the debtor has
20 missed its self-imposed deadlines. It now seeks an additional
21 six months of unknown timing to get a sale accomplished. Even
22 if that sale were to accomplish, it would only be selling 44
23 percent of the entirety of that estate in the Hidden Rock
24 asset. We heard testimony there's only \$10 million in cash in
25 the bank account. There's testimony enough to show that this

1 may be the best chance Axis and have -- it may be the only
2 chance Axis and have -- Axis and Force may have to collect the
3 amounts that are owed. And under the Fifth Circuit case in
4 Enterprise International, it's not just that there may be some
5 ability to make a monetary recovery, but as SR Construction
6 shows in the Northern District in 2020, that it's whether or
7 not the claimant has an opportunity to recover a full claim.
8 And because there is significant questions here that remain
9 about the ability to recover anything, that this fits squarely
10 in the first -- and for the second and third prong of
11 irreparable harm. There may be irreparable harm if this
12 property gets sold free and clear of liens under Chapter 67.
13 If it's sold without the liens to Chapter 67, that ceases and
14 cuts off any rights to collect proceeds from the debtor because
15 the debtor no longer has that asset. It's off with the new
16 buyer, and those proceeds go to the buyer, not to the
17 satisfaction of a judgment or a claim under 67.

18 So the question then becomes, well, what are those
19 chances of success? And that's what the debtor has argued is,
20 Your Honor, they need to show that they will win, that they
21 have a great chance at winning. But the Fifth Circuit also
22 says that that's not true. They just need to show that they
23 have a meritorious claim, a meritorious ability to show that there's
24 good faith arguments here. And as your debtor has stated in
25 the order that this is a case of first impression. There are



1 good arguments out there, and in fact, there is similar case
2 law in Oklahoma that has cited in the same -- in a similar way.

3 So this is a situation where they have a meritorious
4 good faith argument, and that satisfies the first prong. So
5 we've identified that the first prong is satisfied of having a
6 claim. We've identified that the second prong of irreparable
7 harm is satisfied because there's a lack of recoverability in
8 this case from either untimely sale, either NETX wins their
9 lawsuit and takes ownership of the properties, or that there's
10 just not enough liquidity on -- even on an unsecured basis to
11 pay down debts.

12 The third prong is that the other constituents of the
13 case would not be harmed by this. As the debtor has testified,
14 debtor's testified that they have been paying their JIBs
15 currently. They've testified that they are -- that they are
16 managing those payments and that they are sustaining that. The
17 idea that Axis and Force are solely to be blamed for the lack
18 of operational liquidity is misfounded. As the debtor has
19 testified, Mr. Katchadurian has testified, the debtor is
20 electing not to pursue claims at this time, that they're
21 instead rather negotiating over time but don't have a timetable
22 yet for that recovery. The debtor isn't then -- by nature of
23 that decision, is choosing then how to proceed. And as is
24 their -- allowed, they get the opportunity to choose that.
25 It's the -- the business judgment rule allows them the

1 opportunity to say, okay, you get to make this claim then, this
2 claim then. But that doesn't mean that one creditor, this \$2.5
3 million, is solely responsible for the harm that they've
4 proposed. The debtor's been able to make payments, and if they
5 collected on other elements or other claims, then they would be
6 able to make those for a much, much longer period.

7 As the Fifth Circuit in Enterprise International
8 states that the alternative remedy negates harm. So if debtors
9 have an alternative remedy to address this harm, then that
10 negates their claim for harm, and they testify that they have
11 an alternative remedy. They just are choosing not to do it
12 now. Conversely, Axis and Force don't have that same choice.
13 Axis and Force are tethered to this bankruptcy and to the
14 choices that the debtor makes. If the debtor chooses not to go
15 after this, there's very little that Axis and Force can do
16 right now to compel that choice. So for better or for worse,
17 Your Honor, Axis and Force don't have really an adequate remedy
18 except for what the debtor is able to accomplish. And right
19 now, as it stands today, that is all pending. That is all up
20 in the air with real risks that the debtor tries to minimize,
21 but we have to acknowledge that there is a real possibility
22 that NETX is right and that they are the true owners of these
23 properties.

24 And finally, Your Honor, regarding harm to Axis and
25 Force, but also for the debtor, if this stay is denied, is the

1 possibility that we are forced to a duplicate litigation
2 process. And so that is something that we are seeking to stay
3 and prevent so we're not litigating stay violations twice, one
4 with liens, one without.

5 And finally, Your Honor, the fourth element of the
6 public policy. You heard testimony that the ability to have
7 confidence in extending credit to new upstart companies or to
8 current companies or larger companies would benefit and unlock
9 further the potential Texas has to produce oil and gas. More
10 producers on the ground, more jobs created, more people
11 working. That was the testimony of Chris Boone. Mr. Boone
12 testified that with that confidence, he can do so much more.
13 So this does have a very real public policy element that
14 Mr. Boone has testified to.

15 So, Your Honor, we've gone through every element, and
16 we've touched upon how every element is satisfied and met and
17 the dangers that exist if this case were to move forward at its
18 current standing. So for these reasons, Your Honor, we do ask
19 that this Court grant the motion to stay. Thank you.

20 Thank you.

21 MR. WILSON: Your Honor, Sean Wilson with Jones
22 Walker, counsel for the debtor. I want to first start off with
23 the elements that the movant has to prove. You got to show a
24 strong likelihood on merits or present a serious legal
25 question. You got to show that they're going to suffer

1 reputable harm and that the stay will not injure other parties
2 in the proceeding and that public policy supports stay versus
3 not stay. So I'd like to tackle that one at a time, starting
4 with the harm to the movants.

5 So already, there's no evidence here on Force. They
6 didn't bring a witness. They're out. Axis, when they
7 testified, they've already said that they fully reserved the
8 accounts receivable on here, meaning they've written it off.
9 So it's unlikely that they're suffering harm in that regard.
10 But even then, they purported to have Chapter 56 liens. They
11 have Chapter 56 liens, guess what, they're attached to sale
12 proceeds. It's un rebutted that the CRO is currently
13 negotiating with NETX and that those current negotiations
14 contemplate a sale transaction. The sale transaction or
15 settlement will yield proceeds that will attach to liens.
16 Already, that's monetary recovery. It's not irreparable. They
17 have a way to recover. That right there cuts against their
18 first element.

19 Second is the serious legal question. So even if
20 this is an issue of first impression, serious legal questions
21 are those that present state and public federalism. That's not
22 the case here. This is a private dispute at its core, whether
23 people were paid and whether you have a lien. Right now, we
24 only have Force in this room. No other creditor. No other --
25 sorry, correct. No other creditor, not even the other

1 petitioning creditors. Not even the numerous lienholders in
2 this case, which there are many, filed or attempted to do what
3 Axis did in this case. So already, if we're talking about
4 macro, this micro case right here as a case study can show that
5 no one else is doing this except for this Axis right here.

6 It's unrebutted in terms of harm to the debtor that
7 we need this cash now to do operations. It's unrebutted, even
8 through the recross-examination of Mr. Smith over here that
9 working interests are going to be harmed. So already that
10 tilts against Axis at this time.

11 Now, Your Honor, on public policy concerns, there's
12 one enshrined in the Bankruptcy Code. That's one of fully
13 administering the debtor's estate, providing distributions to
14 creditors, and having access to this capital will help that
15 public policy concern.

16 This isn't a public matter affecting all oil and gas.
17 We only have small creditors here, small number of creditors
18 here are actually asserting this. The only one that stood up
19 in this courtroom and actually showed up to actually assert
20 that right is Axis. Force didn't even come.

21 So with that, Your Honor, we believe that this will
22 -- the stay should not be granted. And then also this entire
23 idea -- I do want to rebut one thing. This automatic stay
24 issue, I don't think we're subject to duplication. Right now,
25 I think we all know what Chestnut, the Fifth Circuit case,

1 says. If it's arguably property of the estate, you've got to
2 go to this Court first to actually proceed with you collection
3 efforts. Otherwise, you risk being tagged. Right now, their
4 pleadings, their answer to the Plains adversary, admit that the
5 debtors are working interest. They admit that there's an
6 interest in the interpled funds.

7 Not before Your Honor, but just to rebut right now
8 we're seeking duplicate efforts, it doesn't matter. Right now,
9 the stay violation is live You need to do it. Even if they
10 have a leave, it's still -- you got to see you first to lift
11 the stay.

12 So with that, Your Honor, we request that you deny
13 their motion to lift stay so we can proceed with this adversary
14 proceeding.

15 THE COURT: All right. Anything? Just quickly.

16 MR. WILSON: Briefly. Very briefly.

17 The debtor cited unrebutted harm, yet also testified
18 that they're able to make JIB payments or net out according to
19 the JIB -- the mineral interest motion. Your Honor, if paying
20 out and netting out is being harmed, then it is not necessarily
21 the harm that we would foresee being qualified as undue harm.
22 They are getting what's owed to them under the mineral interest
23 mode -- mineral interest order. The debtor hasn't missed a
24 payment. They haven't missed a payment. They haven't failed
25 to pay. There's been no allegations that they have breached



1 the order. They're able to make payments. So there is
2 rebutted harm there. There is rebutted testimony.

3 Finally, debtor mischaracterizes the serious legal
4 issue regarding -- the standard -- legal standard of the
5 serious legal issue. It is a situation of whether or not it is
6 a meritorious claim. And meritorious claim of who has a lien under
7 Chapter 67 has -- is a good-faith argument. Your Honor called
8 it case of first impression. And that has the same weight as
9 the Enterprise International from the Fifth Circuit, Your
10 Honor. And so for these reasons, we ask that this Court grant
11 the motion.

12 THE COURT: All right.

13 MR. SMITH: Thank you.

14 THE COURT: All right. Well, thank you very much for
15 the arguments and the hearing. We will -- I'll take it under
16 advisement and issue an order with respect to the motion as
17 soon as we can. Thank you.

18 You can sit down. It'll just take me a minute here.

19 MR. SMITH: Thank you, Your Honor.

20 ELECTRONIC VOICE: Conference unmuted. Conference
21 muted.

22 (Proceedings concluded at 11:58 a.m.)

23 * * * * *

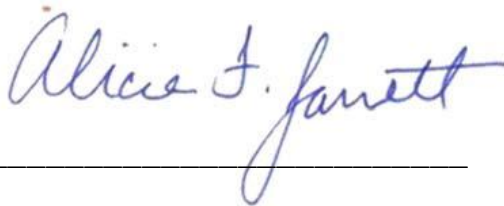
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C E R T I F I C A T I O N

I, Alicia Jarrett, court-approved transcriber, hereby
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter.



ALICIA JARRETT, AAERT NO. 428

DATE: February 18, 2025

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