IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	
Noble Supply & Logistics, LLC, *et al.*,	)	Chapter 11
	)	Case No. 26-11369 (CTG)
	)	
Debtors.[1]	)	(Jointly Administered)
	)	
Noble Supply & Logistics, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adv. Proc. No. 26-50885 (CTG)
	)	
	)	
Defense Logistics Agency,	)	Re: Adv. D.I. 1, 3
	)	
Defendant.	)	
	)	

UNITED STATES' CROSS-MOTION FOR SUMMARY JUDGMENT

The United States of America, on behalf of the Defense Logistics Agency ("DLA"), files this cross-motion (the "Cross-Motion") under Federal Rule of Civil Procedure 56(a), made applicable by Bankruptcy Rule 7056, for summary judgment on both counts of the complaint [Adv. D.I. 1] (the "Complaint") filed by Noble Supply & Logistics, LLC ("Noble"): Count I, which seeks turnover, and Count II, which alleges breach of contract. The United States makes this Cross-Motion in the alternative to its motion to dismiss the Complaint [Adv. D.I. 17] (the "Motion to

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Noble Supply & Logistics, LLC (7926); COTS Solutions, LLC (4477); Federal Resources Supply Company, LLC (3636); FRS Holdings, LLC (2327); K.D. Analytical Consulting, LLC (6637); KDA Acquisition, LLC (5870); Noble Defense Corporation (N/A); Noble Equity Holdings, LLC (0851); Noble.com, LLC (4712); Noble Mission Support, LLC (7908); and Tactical & Survival Specialties, LLC (2266).



Dismiss"). The argument is set out in Parts I, II, and IV of the United States' brief in opposition to Noble's motion for partial summary judgment [Adv. D.I. 3] (the "U.S. Brief"), which supports this Cross-Motion as its opening brief under Local Rule 7007-1(a)(i). The governing standards and the grounds for summary judgment are summarized below.

LEGAL STANDARDS

1. **Rule 56.** Summary judgment is appropriate if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986). The court believes the nonmovant's evidence and draws all justifiable inferences in its favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). When both sides move for summary judgment, the court considers each motion on its own. *See Lawrence v. City of Philadelphia*, 527 F.3d 299, 310 (3d Cir. 2008); U.S. Br. ¶ 22.

2. **Jurisdiction and sovereign immunity.** If a court "determines at any time that it lacks subject-matter jurisdiction," it "must dismiss the action." Fed. R. Civ. P. 12(h)(3); Fed. R. Bankr. P. 7012(b). The United States may therefore raise this Court's lack of jurisdiction, and sovereign immunity, which is also jurisdictional, *FDIC v. Meyer*, 510 U.S. 471, 475 (1994), on summary judgment as well as by motion to dismiss. Noble bears the burden of establishing jurisdiction, *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994), and it must identify a waiver of immunity that is "unequivocally expressed in statutory text." *Lane v. Peña*, 518 U.S. 187, 192 (1996). A dismissal for lack of jurisdiction does not operate as an adjudication on the merits. Fed. R. Civ. P. 41(b); Fed. R. Bankr. P. 7041.

STATEMENT REGARDING JURISDICTION, VENUE AND CONSENT

3. Noble alleges that this Court has jurisdiction under 28 U.S.C. §§ 157 and 1334, that this proceeding is core under 28 U.S.C. § 157(b)(2), and that venue is proper in this District under

28 U.S.C. § 1409. Compl. ¶¶ 4–5. The United States disputes that this Court has subject matter jurisdiction over Noble's claims, that Congress waived sovereign immunity for them, and that they are core, for the reasons in Parts I, II, and VII of the U.S. Brief. A federal court "always has jurisdiction to determine its own jurisdiction," *United States v. Ruiz*, 536 U.S. 622, 628 (2002), so this Court may decide this Cross-Motion, which rests first on this Court's lack of jurisdiction and on sovereign immunity.

4. Under Bankruptcy Rule 7012(b) and Local Rule 7012-1, the United States states that it does not consent to the entry of final orders or judgment by this Court in this adversary proceeding, and it does not consent by filing this Cross-Motion. If this Court grants this Cross-Motion and concludes that the proceeding is not core, it should submit proposed findings of fact and conclusions of law to the district court. 28 U.S.C. § 157(c)(1); Fed. R. Bankr. P. 9033; U.S. Br. ¶¶ 59–60.

GROUNDS FOR SUMMARY JUDGMENT

5. **Both counts fail for lack of jurisdiction and sovereign immunity.** Both counts of the Complaint seek payment under two DLA contracts subject to the Contract Disputes Act (the "CDA"). Compl. ¶¶ 16–17, 29, 38, 55; FAR 52.212-4(d). Count II pleads breach of those contracts, and Count I is a contract claim labeled as turnover. The Court of Federal Claims and the boards of contract appeals have exclusive jurisdiction over such claims, and Congress has not waived the United States' sovereign immunity for contract claims in this court. U.S. Br. ¶¶ 23–40. Those grounds rest on the Complaint, the contracts, and the governing statutes, not on any disputed fact. U.S. Br. ¶ 44.

6. **Noble has never submitted a claim to the contracting officer.** The CDA requires that "[e]ach claim by a contractor against the Federal Government relating to a contract shall be

submitted to the contracting officer for a decision." 41 U.S.C. § 7103(a)(1). Noble has not submitted a claim for any amount it seeks here, and it has not appealed DLA's termination notices. Declaration of John S. Cuorato, Jr., filed with the U.S. Brief (the "Cuorato Declaration"), ¶ 7. Noble does not allege otherwise, and its proofs of delivery and spreadsheet submitted with its motion for partial summary judgment are not claims. U.S. Br. ¶ 33. Because Noble has not taken that mandatory step, the United States is entitled to judgment on both counts. U.S. Br. ¶ 44.

7. **Count I also fails because the debts Noble seeks are disputed and unmatured.** Section 542(b) reaches only a debt "that is matured, payable on demand, or payable on order," and a debtor cannot use turnover to liquidate a disputed contract claim. U.S. Br. ¶¶ 25, 42. Noble concedes that DLA has not validated its proofs of delivery for the deliveries at issue and that, as a result, Noble cannot invoice them. Compl. ¶¶ 17, 25, 28; Noble's Opening Brief [Adv. D.I. 4] ("Noble Br.") ¶¶ 28, 58; Declaration of Robert Albergotti [Adv. D.I. 5] ("Albergotti Decl.") ¶ 17. It contends that DLA's terminations of the orders were "ineffective," Noble Br. ¶ 56, while admitting that the orders appear on the spreadsheets attached to DLA's termination notices. Albergotti Decl. ¶ 18. Those admissions establish bona fide disputes over DLA's liability. They also show that the debts have not matured, because payment under the contracts depends on acceptance and a proper invoice. FAR 32.904(b)(1); U.S. Br. ¶¶ 45–47. The only exceptions are five deliveries on fast payment orders, which Noble invoiced on October 2, 2026, and which DLA has scheduled for payment. Cuorato Decl. ¶ 14; U.S. Br. ¶¶ 18, 47. On this ground, the United States seeks judgment on Count I except as to those five deliveries.

8. **No discovery is needed to decide this Cross-Motion.** The facts on which this Cross-Motion rests come from Noble's own Complaint, brief, and declaration, and from the absence of any claim to the contracting officer, a fact within Noble's own knowledge. The United

States therefore needs no discovery to rely on them, and its showing under Rule 56(d) in opposition to Noble's motion does not affect this Cross-Motion. U.S. Br. ¶ 45.

RESERVATION OF RIGHTS

9. By filing this Cross-Motion, the United States does not waive, and expressly preserves, its sovereign immunity, all jurisdictional defenses, including those raised in the Motion to Dismiss and the U.S. Brief, its rights of setoff and recoupment, and its right to seek withdrawal of the reference. If this Court concludes that it lacks jurisdiction over a count or that sovereign immunity bars it, the proper order on that count is the dismissal without prejudice that the Motion to Dismiss requests. Fed. R. Civ. P. 12(h)(3); U.S. Br. ¶ 44.

WHEREFORE, the United States respectfully requests that this Court enter an order, substantially in the form attached as Exhibit A, granting this Cross-Motion and entering judgment for the United States on Counts I and II of the Complaint, or at least on Count I except as to the five deliveries described in paragraph 14 of the Cuorato Declaration, or, to the extent 28 U.S.C. § 157(c)(1) applies, submitting proposed findings of fact and conclusions of law to that effect, and granting such other relief as is just.

Dated: October 21, 2026

Respectfully submitted,

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ORDER GRANTING UNITED STATES' CROSS-MOTION FOR SUMMARY JUDGMENT

Upon the United States' Cross-Motion for Summary Judgment [Adv. D.I. __] (the "Cross-Motion"), the brief filed in support of the Cross-Motion [Adv. D.I. __], and the Motion of Noble Supply & Logistics, LLC for Partial Summary Judgment [Adv. D.I. 3] (the "Motion"); and this Court having considered the Cross-Motion, the Motion, and the papers filed in connection with them; and this Court having found that there is no genuine dispute as to any material fact and that

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the United States is entitled to judgment as a matter of law on Counts I and II of the Complaint; and after due deliberation and good cause appearing, IT IS HEREBY ORDERED THAT:

1. The Cross-Motion is GRANTED.

2. Judgment is entered for the United States on Counts I and II of the Complaint [Adv. D.I. 1].

3. This Order is without prejudice to any claim that Noble Supply & Logistics, LLC may submit under the Contract Disputes Act, 41 U.S.C. §§ 7101–7109, and to any defense of the United States to such a claim.

4. The Motion is DENIED.

5. To the extent this adversary proceeding is not a core proceeding, this Order constitutes this Court's proposed findings of fact and conclusions of law under 28 U.S.C. § 157(c)(1) and Bankruptcy Rule 9033, to be submitted to the District Court.

6. Nothing in this Order waives the sovereign immunity of the United States, its defenses to this Court's jurisdiction, or its rights of setoff and recoupment.