IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: WELDED CONSTRUCTION, L.P., et al.,[1] Debtors.	Chapter 11 Case No. 18-12378 (CSS) (Jointly Administered)
EARTH PIPELINE SERVICES, INC., Plaintiff, v. COLUMBIA GAS TRANSMISSION, LLC, WELDED CONSTRUCTION, L.P., Defendants.	Adv. Pro. No. 19-50274 (CSS) Adv. Pro. No. 19-50275 (CSS) (Consolidated)
WELDED CONSTRUCTION, L.P., Plaintiff, v. EARTH PIPELINE SERVICES, INC., Defendant.	Adv. Proc. No. 20-50612 (CSS) (Consolidated)

CERTIFICATION OF COUNSEL REGARDING
PROPOSED THIRD AMENDED SCHEDULING ORDER

The undersigned hereby certifies as follows:

1. On or about March 8, 2019, EPS filed a complaint against the above-captioned defendant, CGT, in the Circuit Court of Wetzel County, West Virginia, designated as Civil Action No. 19-C-15 (the "Wetzel County Case").

2. On May 14, 2019, the Wetzel County Case was removed to this Court and redesignated as Adversary Proceeding Number 19-50274.

[1] The Debtors in these chapter 11 cases, along with the four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

3. On or about March 8, 2019, EPS filed a complaint against the above-captioned defendant, CGT, in the Circuit Court of Marshall County, West Virginia, designated as Civil Action No. 19-C-38 (the "Marshall County Case").

4. On May 14, 2019, the Marshall County Case was removed to this Court and redesignated as Adversary Proceeding Number 19-50275.

5. On May 6, 2020 the Court entered the Scheduling Order [Dkt. No. 18] (the "Scheduling Order"), setting discovery, mediation, and pre-trial deadlines, among other things.

6. On May 13, 2020, EPS filed its Amended Complaint for Limited Purpose to Join Welded Construction, L.P. ("Welded" and together with EPS and CGT, the "Parties") as an Additional Defendant [Dkt. No. 13], joining Welded to the consolidated Adversary Proceedings referenced above as a nominal defendant in EPS's mechanic's lien claims against CGT (the "Lien Claim Adversary Proceedings"), pursuant to paragraph 2 of the Scheduling Order.

7. On May 20, 2020, EPS filed its Amended Complaint (the "Amended Complaint") [Dkt. No. 23], adding claims against CGT only in the Lien Claim Adversary Proceedings, pursuant to paragraph 3 of the Scheduling Order.

8. On May 27, 2020, Welded commenced an action against EPS by filing its Complaint and Objections to Proof of Claim Number 592 filed by EPS [Adv. 20-50612, Dkt. No. 1], alleging breach of contract, avoidable transfers, and setoff, and objecting to EPS's proof of claim (the "Welded Adversary Proceeding").

9. Pursuant to paragraph 4 of the Scheduling Order, the Lien Claim Adversary Proceedings and the Welded Adversary Proceeding were consolidated for all purposes into Adv. Proc. No. 19-50274 (the "Adversary Proceeding").

10. On June 3, 2020, CGT filed its Motion to Dismiss the Amended Complaint [Dkt. No. 28], seeking to dismiss EPS's claims in the Amended Complaint.

11. On June 4, 2020, Welded filed Welded's Answer to the Amended Complaint [Dkt. No. 29]. EPS and CGT briefed the motion through mid-July 2020.

12. On June 19, 2020, pursuant to Fed. Rule of Civ. Proc. 26(f) and paragraph 6 of the Scheduling order, Welded, EPS and CGT participated in a discovery conference [Dkt. No. 19].

13. On June 26, 2020, EPS filed the Answer of Earth Pipeline Services, Inc. to Welded's Complaint and Objection to Proof of Claim Number 592 [Adv. 20-50612, Dkt. No. 4].

14. That same day, EPS also filed Plaintiff Earth Pipeline Services, Inc.'s Response and Brief in Opposition to Defendant Columbia Gas Transmission's Motion to Dismiss Plaintiff Earth Pipeline Services, Inc.'s Amended Complaint [Dkt. No. 36].

15. On July 13, 2020, CGT filed Columbia Gas Transmission, LLC's Reply in Support of its Motion to Dismiss [Dkt. No. 42].

16. On September 4, 2020, pursuant to paragraph 9 of the Scheduling Order, the Parties filed a Join Stipulation Regarding Appointment of a Mediator (the "Mediator Stipulation") [Dkt. No. 49], stipulating to the appointment of James S. Green, Sr. Esq., as mediator.

17. On December 1, 2020, the Court entered the Order granting the CGT Motion to Dismiss [Dkt. No. 52] ("December Order"), dismissing with prejudice Count 1 and without prejudice Counts 2 and 3 of the Amended Complaint. The Court granted EPS leave to file a second amended complaint.

18. Subsequent to the Mediator Stipulation, the agreed-upon mediator, Mr. Green, passed away.

19. On December 22, 2020, the Court entered the Amended Scheduling Order [Dkt. No. 53] (the "Amended Scheduling Order"), setting discovery, mediation, and pre-trial deadlines, establishing deadlines for EPS to file its second amended complaint, setting response deadlines thereto, and directing the Parties to file a Stipulation Regarding Appointment of a Replacement Mediator.

20. On January 13, 2021, EPS filed its Second Amended Complaint [Dkt. No. 55].

21. On January 26, 2021, CGT filed Columbia Gas Transmission's Motion to Dismiss Earth Pipeline Services, Inc.'s Second Amended Complaint [Dkt. No. 58]. On January 27, 2021, Welded filed Welded's Answer to Earth Pipeline Services, Inc.'s Second Amended Complaint [Dkt. No. 59]. EPS and CGT briefed this motion through mid-February 2021.

22. On January 27, 2021, Welded filed Welded's Answer to Earth Pipeline Services, Inc.'s Second Amended Complaint [Dkt. No. 59].

23. On February 9, 2021, EPS filed the Response of Plaintiff Earth Pipeline Services, Inc. to Columbia Gas Transmission's Motion to Dismiss Plaintiff Earth Pipeline Services, Inc.'s Second Amended Complaint [Dkt. No. 61].

24. On February 16, 2021, CGT filed Columbia Gas Transmission's Reply in Support of its Motion to Dismiss Earth Pipeline Services, Inc.'s Second Amended Complaint [Dkt. No. 62].

25. On April 23, 2021, the Court entered the Order Approving Joint Stipulation Regarding Appointment of a Replacement Mediator [Dkt. No. 71], approving the selection of Raymond H. Lemisch as replacement mediator (the "Replacement Mediator").

26. On April 26, 2021, the Court entered the Order Assigning Adversary Proceeding to Mediation and Appointment Mediator [Dkt. No. 72].

27. On April 29, 2021, Judge Sontchi heard oral argument on Columbia Gas Transmission's Motion to Dismiss Plaintiff Earth Pipeline Services, Inc.'s Second Amended Complaint.

28. On May 26, 2021, the Parties filed a request that the Court enter the Second Amended Scheduling Order [Dkt. No. 82]. On May 27, 2021, the Court entered the Second Amended Scheduling order [Dkt. No. 83].

29. On July 22, 2021, the Parties engaged in mediation with mediator Raymond Lemisch. The Parties did not resolve their respective claims at the mediation.

30. On August 19, 2021, the Court entered the order denying CGT's Motion to Dismiss EPS's Second Amended Complaint [Dkt. No. 88] ("August Order"). In this Order, the Court *sua sponte* reconsidered its December Order, vacating its prior dismissal with prejudice of EPS's claim for Enforcement of Mechanic's Liens.

31. Given the Court's August Order vacating its December Order's dismissal with prejudice of EPS's claim for Enforcement of Mechanic's Lien, which created new factual and legal issues yet to be explored, as well as the discovery still outstanding, the Parties have negotiated a mutually-satisfactory third amended scheduling order (the "Third Amended Scheduling Order"), and the Parties consent to entry of the Third Amended Scheduling Order. The Parties respectfully submit that cause exists to enter the Third Amended Scheduling Order.

WHEREFORE, CGT respectfully requests that the court enter the Third Amended Scheduling Order attached hereto at its earliest convenience.

Dated: September 3, 2021

ARCHER & GREINER, P.C.

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In re: WELDED CONSTRUCTION, L.P., et al.,[1] Debtors.	Chapter 11 Case No. 18-12378 (CSS) (Jointly Administered)
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WELDED CONSTRUCTION, L.P., Plaintiff, v. EARTH PIPELINE SERVICES, INC., Defendant..	Adv. Proc. No. 20-50612 (CSS) (Consolidated)

THIRD AMENDED SCHEDULING ORDER

Welded Construction, L.P. ("Welded"), Earth Pipeline Services, Inc. ("Earth") and Columbia Gas Transmission, LLC ("CGT" and together with Welded and Earth, the "Parties"), have jointly agreed to an extension of the deadlines set forth in the Court's Second Amended Scheduling Order, and, accordingly and for good cause, are proposing this, the Third Amended Scheduling Order. The Parties hereby jointly submit this Third Amended Scheduling Order and request that the Court approve the following Third Amended Scheduling Order governing discovery, mediation, and related matters in this Adversary Proceeding:

[1] The Debtors in these chapter 11 cases, along with the four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

1. All fact discovery shall be completed by a date no later than December 3, 2021.[2] Each Party shall be entitled to take the oral deposition of up two fact witness (including a corporate representative deposition) within each other Party's control. However, if either CGT or Welded settle with Earth and/or are dismissed from these consolidated proceedings, the party who remains of the two of them will be entitled to take up to four fact witness depositions (including a corporate representative deposition, and inclusive of depositions already conducted) of witnesses within Earth's control.

2. The Parties shall provide expert reports for any issue on which they bear the burden of proof by a date no later than January 7, 2022. The parties shall provide rebuttal expert reports by a date no later than February 7, 2022. All reports shall provide the information required by Fed.R.Civ.P. 26(a)(2)(B). All expert discovery shall be completed, and discovery closed, by a date no later than March 8, 2022.

3. Raymond Lemisch, the Replacement Mediator, shall have through September 30, 2021 to either (a) file the mediator's certificate of completion, or (b) if the mediation is not concluded, file a status report that provides the projected schedule for completion of the mediation.

4. All dispositive motions shall be filed and served by a date no later than fifteen (15) days after the close of all discovery and shall be subject to Rule 7.1.2 of the Local Rules of Civil Practice and Procedure of the United States District Court for the District of Delaware.

5. The Adversary Proceeding is set for trial at a date to be determined. The Court may, in its discretion, schedule a pre-trial conference in addition to the trial.

6. The parties shall comply with the General Order Governing Pre-Trial Procedures in Adversary Proceedings Set for Trial Before Judge Christopher S. Sontchi. The parties shall file,

[2] All time periods set forth in this Third Amended Scheduling Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

no later than three (3) business days prior to the earlier of the date set for (i) pre-trial conference (if one is scheduled) or (ii) trial, a joint pre-trial memorandum approved by all counsel and shall contemporaneously deliver two (2) copies thereof to Judge Sontchi's chambers.

7. The Plaintiff shall immediately notify Chambers upon the settlement, dismissal or other resolution of the Adversary Proceeding subject to this Third Amended Scheduling Order and shall file with the Court appropriate evidence of such resolution as soon thereafter as is feasible. The Parties shall file a status report forty-five (45) days after the date of this Third Amended Scheduling Order forty-five (45) days thereafter, and thirty (30), twenty (20), and ten (10) days prior to trial, setting out the status of the Adversary Proceeding. The Parties shall immediately advise Chambers, in writing, of any occurrence or circumstance, which the Parties believe may suggest or necessitate the adjournment or other modification of the trial setting.

8. Deadlines contained in this Third Amended Scheduling Order may be extended only by the Court and only upon written motion for good cause shown.

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