
SO ORDERED,



A handwritten signature in black ink that reads "Selene D. Maddox".

Judge Selene D. Maddox

United States Bankruptcy Judge

The Order of the Court is set forth below. The case docket reflects the date entered.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

IN RE: EXPRESS GRAIN TERMINALS, LLC¹

CASE NO.: 21-11832-SDM

DEBTOR

CHAPTER 11

**ORDER RESCHEDULING § 557 FINAL DETERMINATION HEARING ON COMMON
LEGAL ISSUES AND OUTLINING PRETRIAL PROCEDURES**

This cause came before the Court for hearing on March 24, 2022, on the Debtor's *Motion for Post-Sale Use of Cash Collateral for Wind Up Purposes* (Dkt. #2546) and the responses and objections thereto; the *Motion to Enforce Protective Order and for an Order to Show Cause* (Dkt. 2579) filed by UMB Bank, N.A., and the response thereto; and the *Motion Pursuant to 11 U.S.C. 105(a) and 363(b) for an Order Approving a Transition Services Agreement and Seeking Approval of Purchase Asset Surcharge Procedures* (Dkt. #2581) filed by UMB Bank, N.A., and the responses thereto. Following hearing on these matters, the Court allowed a brief status conference regarding ongoing settlement negotiations.

During the status conference, several parties expressed to the Court the need for additional time to continue settlement discussions. The parties also express to the Court that, in the event that

¹ The above styled case is being jointly administered with *In re Express Biodiesel, LLC*, Case No. 21-11834-SDM and *In re Express Processing, LLC*, Case No. 21-11835-SDM.

a settlement is not reached, additional time would be necessary to adequately prepare for the Final Determination Hearing scheduled to begin on April 1, 2022.

The Court is aware of the tasks before all parties in this case and their complexity. It is because of this complexity that the Court finds that a reprieve of certain previously set deadlines and hearing dates is necessary. This is both to encourage all parties to continue working toward a settlement and, if a settlement does not come to fruition, to give all parties the right and ability to prepare for the Final Determination Hearing.

It is therefore **ORDERED** that:

1. The live Final Determination Hearing shall begin on **Monday, April 18,² 2022, at 9:00 a.m.³** and shall be held at the Thad Cochran U.S. Courthouse, 703 Hwy 145 North, Aberdeen, Mississippi 39730.

2. A Joint Pretrial Order shall be submitted to the Court via chambers email address (SDM_Chambers@msnb.uscourts.gov) no later than **Tuesday, April 12, 2022, at 10:00 a.m. CST**. The information contained in the Joint Pretrial Order should be consistent with the Court's previous Orders (Dkt. #s 1789 and 1800). In addition to that information, the Joint Pretrial Order shall include proposals from the parties concerning the scheduling of the presentation of the legal issues to be heard at the Final Determination Hearing and the scheduling of witness testimony to

² The Court is aware of the number of potential witnesses and exhibits that will be introduced by the parties in this case and that, because of such a volume, the Final Determination Hearing may continue through May 2, 2022 – the § 557 Deadline that was previously extended in this Court's *Order Extending the Period for Final Disposition of Grain or the Proceeds of Grain Under § 557(f), Rescheduling the Final Determination Hearing on Common Legal Issues, and Outlining Procedures* (Dkt. #2206). However, at this time the Court declines to extend the § 557 Deadline past May 2, 2022.

³ Given the volume of participants in the Final Determination Hearing, the Court encourages all parties and witnesses to be present at the Thad Cochran U.S. Courthouse well in advance of the start of the Final Determination Hearing to assist with the enforcement of security protocols and COVID-19 procedures upon all parties' arrival.

give parameters for appearance of witnesses and to better streamline attendance due to the number of potential witnesses.

3. A telephonic Final Pretrial Conference shall be held on **Thursday, April 14, 2022, at 10:00 a.m. CST.**

4. The Court will not reopen discovery for any reason in connection with the § 557 procedures or in preparation for trial.

5. All other deadlines as may have been previously set and as may have expired remain in effect except as altered by this Order.

6. The procedures set forth in this Order are ordered in all respects, and the Final Determination Hearing shall be conducted in accordance with these procedures:

a. No later than **Friday, April 15, 2022, at 5:00 p.m. CST**, each party must submit all exhibits, as they are designated in the Joint Pretrial Order, to Judge Maddox's Chambers at SDM_Chambers@msnb.uscourts.gov. Exhibits shall also be sent and/or served on all other parties electronically by posting the exhibits to the Interest Data Room. Except for impeachment purposes, no undisclosed exhibits will be considered for admission into evidence.

b. Active participants⁴ shall be physically present at the hearing but must abide by the COVID-19 safety protocols. Per the most recent protocols for reopening courthouses and resuming normal operations, effective on March 1, 2022, for the Northern District of Mississippi, visitors (including attorneys, case participants, or witnesses entering a Northern District Court building, which includes the U.S.

⁴ "Active participants" include participating attorneys and testifying witnesses. Active participants may also include any Interest Holder defending objections to claim.

Bankruptcy Court in Aberdeen, MS) who are not fully vaccinated or decline to provide their vaccination status, **must provide proof of a negative COVID-19 test from no later than the three previous days prior to entering a Northern District Court building**, which includes the United States Bankruptcy Court in Aberdeen, MS.⁵ In addition, masks are required to be worn while in the courthouse and/or courtroom. Any subpoenaed witness or any witness who may be treated as a hostile witness who fails to abide by the proof of vaccination or negative testing protocol is still required to appear if subpoenaed, and the Court shall make accommodations to allow for the subpoenaed/hostile witness to participate in the hearing.

c. Only attorneys will be permitted to bring cellular devices into the courthouse. There will be no exceptions to this rule. While attorneys may also be permitted to bring in laptops, tablets, etc., the Court may allow exceptions for other participating parties or witnesses as to laptops for evidentiary purposes only. The attorney for that participating party or witness must request permission and receive that permission in advance of trial. If advanced permission has not

⁵Participants may present proof of vaccination status electronically (e.g., on their cellular device), so long as their identifying information is clearly ascertainable from the electronic or digital proof of vaccination. Similarly, participants who have not been vaccinated may present proof of a negative COVID-19 test electronically subject to the same condition. Under no circumstances will any party be granted entry without providing either proof of vaccination or proof of negative COVID-19 test as outlined in this Order. The Court encourages the parties and witnesses, **through their attorneys**, to submit their vaccination information or negative test results prior to arriving at the courthouse to ensure efficient entry into the courthouse. Parties are encouraged to submit their vaccination information or negative test results to the chambers email address, SDM_Chambers@msnb.uscourts.gov, **by 5:00 p.m. on April 17, 2022**.

been granted by the Court, the participating parties or witnesses will not be allowed to bring any laptop into the courthouse.

d. Parties that are not active participants may appear telephonically and shall use the following dial-in information: (1) Complete the dial in instructions below at least 5 minutes prior to the time of the hearing; (2) Dial (877) 402-9757, and when prompted, enter Access Code 1558104#; (3) Once you are connected to the call, identify yourself by stating your name; (4) Once your telephonic presence is acknowledged by the courtroom deputy, please mute your phone until further notice from the Court; (5) Do not place the call on hold at any time during the call as this may lead to disturbing noises for the other call participants. Should you experience difficulties connecting to the telephonic hearing, please contact the Clerk's Office at 662-369-2596. Once Court is in session and the trial commences, telephonic participants/attendees will be in "listen mode" only and will be unable to address the Court or any parties.

##END OF ORDER##