

**ENTERED**

May 23, 2025

Nathan Ochsner, Clerk

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

IN RE:	§	
	§	CASE NO: 20-35561
MULE SKY LLC, <i>et al.</i> ,	§	
Debtors.	§	Jointly Administered
	§	CHAPTER 11

**ORDER REGARDING REORGANIZED DEBTORS' MOTION TO  
ENFORCE SETTLEMENT AGREEMENT AGAINST TERA I PLAINTIFFS**

[RE: ECF No. 1189]

In April 2021, this Court entered an order approving a “Settlement Agreement” between the Debtors and numerous litigation claimants (“**Settlement Order**”).<sup>1</sup> The Reorganized Debtors now seek an order enforcing the Settlement Agreement and enjoining parties, referred to here as “Plaintiffs,” from continuing litigation in the Court of Common Pleas, Belmont County, Ohio (“**TERA Litigation**”). A new trial is scheduled to begin in the Ohio court on June 3, 2025.

The Settlement Agreement resolved pre-Effective Date claims asserted against the Debtors. Causes of action that accrue after the Effective Date were not covered. This Court previously ruled on related lawsuits—involving what is known as the TERA II-IV Plaintiffs. The TERA II-IV litigation was on the verge of its first trial, so this Court permitted an Ohio Federal Court to determine whether certain causes of action accrued after the Effective Date.

The Reorganized Debtors believe the TERA I litigation is different from the other TERA-related lawsuit. An Ohio state jury returned a verdict for the TERA I Plaintiffs in 2021. In that litigation, Plaintiffs argued for present and future damages based on defendants’ prepetition drilling activities. The judgements were later overturned by the Ohio Supreme Court. But the Reorganized Debtors still believe all causes of action accrued pre-Effective Date. The TERA I Plaintiffs disagree. Based on the facts and evidence, the Court agrees with the Reorganized Debtors. Plaintiffs’ claims and causes of action were settled under the Settlement Agreement and the Settlement Order.

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<sup>1</sup> Order Authorizing & Approving Debtors’ Entry Into TERA & Passmore Settlements, Case No. 20-35562, ECF No. 1260.

### **Jurisdiction**

The matters before the Court concern the interpretation of the Settlement Order and the Settlement Agreements. Thus, this Court has jurisdiction to decide whether the claims were settled and whether continuation of the TERA Litigation violates the Settlement Order. *See Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151 (2009).

### **Background**

In April 2019, Plaintiffs started the TERA Litigation in Ohio state court. The TERA Litigation is about whether defendants had rights under oil and gas leases to drill and produce hydrocarbons below the geological formations that Plaintiffs leased to Debtor Gulfport Energy Corporation. Plaintiffs asserted trespass, conversion, and unjust enrichment claims against Debtors Gulfport and Rice Drilling D, LLC.

In November 2020, the Debtors started these bankruptcy cases. Plaintiffs submitted proofs of claim asserting claims for over \$27 million in damages against Gulfport based on state court judgments (which were attached to the proofs of claim).<sup>2</sup> The state court judgments were later reversed by the Ohio Supreme Court.

Plaintiffs entered into the Settlement Agreement with the Debtors around the time of plan confirmation. The key terms are that the Debtors and certain claimants, as defined in the Settlement Agreements, agreed to settle and dismiss with prejudice certain Settled Claims and reserve certain Reserved Claims. Settled Claims and Reserved Claims are defined terms.

Reserved Claims means “Claimants’ forward-looking claims for all damages which accrue on or after the Emergence Date which have been or may be asserted” in the TERA I Litigation.

Settled Claims refers to all claims against the Debtors set forth in the proofs of claim filed by claimants for prepetition amounts allegedly owed to claimants and potential claims that claimants “have or may have brought for pre-petition amounts or Administrative Expenses in the Chapter 11 Cases.” “Administrative Expenses” is a defined term that has no definition. But a fair reading is that it refers to the administrative expense claims referenced in the addenda to the proofs of claim.

The definition of Settled Claims also says that all Settled Claims pre-date the Emergence Date. And Settled Claims do not include Reserved Claims. Two important points here. Settled Claims pre-date the defined term Emergence Date.

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<sup>2</sup> *See* TERA Proofs of Claim, ECF No. 1189-5, 6.

Emergence Date is defined as the plan effective date, which eventually became May 17, 2021. And there is no overlap between a Settled Claim and a Reserved Claim.

A few more important points from the Settlement Agreement:

- Section 1.20 says that “[a]s of the Settlement Effective Date and at all times after, each claimant releases the Settled Claims and shall be deemed to have withdrawn their Proof of Claim, except as stated in the Settlement Agreement.” Settlement Effective Date is a defined term with no definition. But Settlement is defined as the settlement embodied in the Settlement Agreement and Effective Date means the date when certain conditions to the Settlement Agreement had occurred. So the fair reading is that Settlement Effective Date is the same as the defined term Effective Date.
- Section 1.24 says that “the language of all parts of the Settlement Agreement and its exhibits will in all cases be construed as a whole according to its fair meaning, and not strictly for or against any Party.”
- Section 1.28 says that the governing law is Ohio law.
- Section 1.18 says “[u]pon the Bankruptcy Court’s approval of the Settlement Agreement and distribution of the Settlement Funds pursuant to the Settlement Agreement, Gulfport shall have no further obligation to the Claimants or any other person whatsoever as it relates to the Settled Claims.”

In April 2021, this Court authorized the Debtors to enter the Settlement Agreement, and entered an order confirming the Debtors’ chapter 11 plan, which went effective on May 17, 2021.<sup>3</sup>

Following the Ohio Supreme Court overturning the state court judgments, Plaintiffs continue to assert trespass, conversion, and unjust enrichment claims against the debtors. Plaintiffs assert another \$17 million in damages and argue it is based on new accrued causes of action. A trial is set for June 3.

### Analysis

The Settlement Agreement is governed by Ohio law. And “a settlement agreement is a contract, and as such, is enforceable under contract law principles.” *Echols v. Williams*, 267 F. Supp. 2d 865, 867 (S.D. Ohio 2003). Under Ohio law, a court’s role is to “give effect to the intent of the parties.” *Tera, L.L.C. v. Rice Drilling*

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<sup>3</sup> See Notice of Confirmation Order and Occurrence of Effective Date, Case No. 20-35562, ECF No. 1393. This judge took over this case in October 2023.

*D, L.L.C.*, 248 N.E.3d 196, 200, *reconsideration denied*, 238 N.E.3d 127. To do so, courts “examine the contract as a whole and presume that the intent of the parties is reflected in the language of the contract.” *Id.* The “plain and ordinary meaning of the language used” will control unless “another meaning is clearly apparent from the contents of the agreement.” *See id.* at 200–201. If the language of a contract is clear, then courts may not look any further “than the writing itself” to find the parties’ intent. *Id.* at 201. A contract is “unambiguous as a matter of law if it can be given definite legal meaning.” *Id.* “[T]erms in a contract are ambiguous when they are susceptible to more than one reasonable interpretation.” *Id.* Whether “a contract is ambiguous is a question of law” and “resolution of an ambiguous term in a contract is a question of fact.” *Id.* Although there are a few undefined terms, this Court finds that the language in the Settlement Agreements and the Settlement Order is clear and unambiguous.

The Court examines the Settlement Agreement as a whole to give effect to the parties’ intent. *Id.* at 200. Courts “should attempt to harmonize all the provisions [of a contract] rather than produce conflict in them.” *Ottery v. Bland*, 536 N.E.2d 651, 654 (Ohio Ct. App. 1987). The parties intended to have a strict divide between Settled and Reserved Claims. There is no overlap between the two. The Settlement Agreement sorts claims into two buckets—Settled Claims and Reserved Claims. Settled Claims relate to prepetition amounts and administrative claims that pre-date the Emergence Date. Reserved Claims are forward-looking claims for damages that accrue on or after the Emergence Date. There is a strict temporal divide between Settled and Reserved Claims. A claim accruing before the Emergence Date is a Settled Claim. A claim accruing on or after the Emergence Date is a Reserved Claim. And, as described above, Emergence Date is the “Effective Date” of the Plan.

Plaintiffs argue that the 2025 trial involves Reserved Claims only, and that trial instructions provide that they cannot seek damages for pre-Effective Date claims. Plaintiffs, however, cannot overlook the nature of their claims and arguments in the 2021 litigation. Plaintiffs argued that their causes of action and all related damages accrued when the Debtors’ prepetition drilling allegedly destroyed property.<sup>4</sup> According to Plaintiffs in the 2021 litigation, “[w]hen you’ve already destroyed the reservoir you have to have future damages because you can’t produce it.”<sup>5</sup> Plaintiffs’ damages expert also calculated current and future damages based on these claims. And judgments against defendants were awarded damages based on these claims. Thus, there are no forward looking claims for damages.

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<sup>4</sup> TERA I State Litig. Trial Tr., ECF No. 1189-4 at 546:10–20 (arguing defendants were “liable for the full value of the oil and gas damaged and destroyed in the Point Pleasant Formation and other geological formation”).

<sup>5</sup> TERA I State Litig. Trial Tr., ECF No. 1189-4 at 546:10–20.

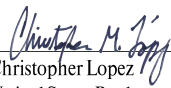
Plaintiffs argued that the prepetition drilling destroyed the relevant property, thus all damages relate to the same instance, and not based on post-Effective Date accrued claims.

The Ohio Supreme Court overturned the judgments. But that doesn't change Plaintiffs' legal theory on the causes of action offered in trial. In the 2025 scheduled trial, Plaintiffs retained the same expert, who again opined that the property at issue was irreparably harmed by the Debtor defendants' prepetition drilling, that the Debtor defendants forever took control of the property for their own benefit, and damages were based on "present value of historical and future production."<sup>6</sup> Plaintiffs again seek current and future damages based on the prepetition event. This amounts to the same legal theories as the 2021 litigation. Plaintiffs say that their expert's 2025 statements about calculating damages based on the same methodology used in 2021 is a "simple mathematical error." But it is not that simple. It amounts to saying one thing in the Ohio state court and another in the Houston bankruptcy court. Plaintiffs' legal arguments prove their causes of action accrued pre-Effective Date and are Settled Claims.

Therefore, it is ORDERED as follows:

1. Plaintiffs are enjoined from taking any further action against any of the Reorganized Debtors, including Gulfport Energy Corporation, with respect to any claim in the TERA Litigation seeking damages for trespass, conversion, and unjust enrichment.
2. As soon as reasonably practicable after the entry of this Order, Plaintiffs are ordered to dismiss with prejudice all claims seeking trespass, conversion, and unjust enrichment damages for wells that were drilled on Plaintiffs' property before the Effective Date.
3. The Reorganized Debtors are authorized to take all actions necessary to carry out the relief granted in this Order in accordance with the Motion.
4. Notwithstanding any applicable Bankruptcy Rule, the terms of this Order shall be immediately effective and enforceable upon its entry.
5. This Court retains exclusive jurisdiction over all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: May 23, 2025

  
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Christopher Lopez  
United States Bankruptcy Judge

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<sup>6</sup> Herzing Report, ECF No. 1189-1 at 5; Herzing Dep., ECF No. 1189-2 at pp. 383–85.

United States Bankruptcy Court  
Southern District of Texas

In re:  
Mule Sky LLC  
Official Committee Of Unsecured Creditor  
Debtors

Case No. 20-35561-cml  
Chapter 11

## CERTIFICATE OF NOTICE

District/off: 0541-4  
Date Rcvd: May 23, 2025

User: ADIuser  
Form ID: pdf002

Page 1 of 2  
Total Noticed: 28

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.
^	Addresses marked '^' were sent via mandatory electronic bankruptcy noticing pursuant to Fed. R. Bank. P. 9036.
#	Addresses marked '#' were identified by the USPS National Change of Address system as requiring an update. While the notice was still deliverable, the notice recipient was advised to update its address with the court immediately.

**Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on May 25, 2025:**

Recip ID	Recipient Name and Address
db	#+ Gator Marine Ivanhoe, Inc., 3001 Quail Springs Rd, Oklahoma City, OK 73134-2640
db	#+ Gator Marine, Inc., 3001 Quail Springs Rd, Oklahoma City, OK 73134-2640
db	#+ Grizzly Holdings, Inc., 3001 Quail Springs Rd, Oklahoma City, OK 73134-2640
db	#+ Gulfport Appalachia, LLC, 3001 Quail Springs Rd, Oklahoma City, OK 73134-2640
db	#+ Gulfport Energy Corporation, 3001 Quail Springs Rd, Oklahoma City, OK 73134-2640
db	#+ Gulfport MidCon, LLC, 3001 Quail Springs Parkway, Oklahoma City, OK 73134-2640
db	#+ Gulfport Midstream Holdings, LLC, 3001 Quail Springs Parkway, Oklahoma City, OK 73134-2640
db	#+ Jaguar Resources LLC, 3001 Quail Springs Parkway, Oklahoma City, OK 73134-2640
db	#+ Mule Sky LLC, 3001 Quail Springs Rd, Oklahoma City, OK 73134-2640
db	#+ Puma Resources, Inc., 3001 Quail Springs Parkway, Oklahoma City, OK 73134-2640
db	#+ Westhawk Minerals LLC, 3001 Quail Springs Parkway, Oklahoma City, OK 73134-2640
aty	+ Jeremy D. Martin, Roetzel & Andress, LPA, 222 South Main Street, Akron, OH 44308-1500
aty	+ Timothy B. Pettorini, Roetzel & Andress, LPA, 222 South Main Street, Akron, OH 44308-1500
cr	+ Adrienne Molden, POB 166518, Little Rock, AK 72216-6518
cr	+ Edgeworth Economics, c/o Padfield & Stout, LLP, Christopher V. Arisco, 420 Throckmorton Street, Suite 1210, Fort Worth, TX 76102 UNITED STATES 76102-3792
cr	+ Elizabeth Allen, Gordon, Arata, Montgomery, Barnett, 400 E. Kaliste Saloom Road, Suite 4200, Lafayette, LA 70508 UNITED STATES 70508-8522
cr	+ Gateway Royalty II, LLC, c/o John Massouh, PO Box 15008, Amarillo, TX 79105-5008
cr	+ Gateway Royalty III, LLC, c/o John Massouh, PO Box 15008, Amarillo, TX 79105-5008
cr	+ Jacqueline Milligan, Gordon, Arata, Montgomery, Barnett, 400 E. Kaliste Saloom Road, Suite 4200, Lafayette, LA 70508 UNITED STATES 70508-8522
cr	+ Mary Lou Waldie, c/o Roetzel & Andress, 222 S. Main St., Suite 400, Akron, OH 44308-1538
cr	+ Paula Milligan, Gordon, Arata, Montgomery, Barnett, 400 E. Kaliste Saloom Road, Suite 4200, Lafayette, LA 70508 UNITED STATES 70508-8522
cr	+ Ray Norris, c/o Roetzel & Andress, 222 S. Main St., Suite 400, Akron, OH 44308-1538
cr	+ Rexel USA Inc., 9 Greenway Plaza, Suite 1000, Houston, TX 77046-0900
cr	+ Velma Neuhart, c/o Roetzel & Andress, 222 S. Main St., Suite 400, Akron, OH 44308-1538

TOTAL: 24

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Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
cr	+ Email/Text: notifications@cstrial.com	May 23 2025 20:04:00	Bradley Broussard, c/o Cain & Skarnulis PLLC, 303 Colorado Street, Suite 2850, Austin, TX 78701-0137
cr	+ Email/Text: lemaster@slollp.com	May 23 2025 20:04:00	Claugus Family Farm, L.P., c/o Streusand Landon Ozburn Lemmon LLP, 1801 S. Mopac Expressway, Suite 320, Austin, TX 78746-9817
cr	+ Email/Text: bankruptcysecretary@tax.ok.gov	May 23 2025 20:04:00	Lorena M. Oklahoma Tax Commission, Oklahoma Tax Commission, PO Box 269056, Oklahoma City, OK 73126-9056

District/off: 0541-4  
Date Rcvd: May 23, 2025

User: ADIuser  
Form ID: pdf002

Page 2 of 2  
Total Noticed: 28

cr ^ MEBN

May 23 2025 19:59:46 Marathon Oil Company, c/o Clay M. Taylor,  
Bonds Ellis Eppich Schafer Jones LLP, 420  
Throckmorton Street, Suite 1000, Fort Worth, TX  
76102-3727

TOTAL: 4

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

Recip ID	Bypass Reason	Name and Address
cr		ARI Fleet LT
intp		Ad Hoc Group of Noteholders
cr		Automotive Rentals, Inc.
intp		Benesch, Friedlander, Coplan & Aronoff LLP
cr		Brad Badeaux
cr		Burlington Resources Oil & Gas Company LP
cr		Continental Resources, Inc.
op		Epiq Corporate Restructuring, LLC
intp		Federal Energy Regulatory Commission
cr		GPOR Distribution Trust
intp		Highlander Sportsman's Club, Inc.
cr		Hills and Hollers Farm LLC
intp		Jackson Walker LLP
pla		Jennifer Kirchner
intp		Josue Cenet
cr		Long Point Energy LLC
cr		Official Committee Of Unsecured Creditors
intp		Ohio Department of Commerce, Bureau of Wage and Ho
cr		Ohio Valley Mall Company
cr		Ohio Valley Place, LLC
intp		Passmore Plaintiffs
cr		Rover Pipeline LLC
cr		Sarah J Hogston
intp		Special Committee of the Board of Directors of Gul
intp		Stefan M. Selig and Andrew C. Kidd, as the Special
intp		Stingray Pressure Pumping LLC
intp		TERAS Plaintiffs
res		Tera I, LLC
cr		Texas Gas Transmission, LLC

TOTAL: 29 Undeliverable, 0 Duplicate, 0 Out of date forwarding address

## NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: May 25, 2025

Signature: /s/Gustava Winters