

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

IN RE:  KNIGHT ENERGY HOLDINGS, LLC, <i>ET AL.</i> <sup>1</sup>  DEBTORS	CASE NO. 17-51014  (JOINT ADMINISTRATION REQUESTED)  CHAPTER 11  CHIEF JUDGE ROBERT SUMMERHAYS
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**EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS  
AUTHORIZING PAYMENT OF CLAIMS ON ACCOUNT OF MINERAL  
CONTRACTOR LIENS THAT MAY BE FILED AGAINST THE DEBTORS'  
CUSTOMERS AND RELATED RELIEF**

Knight Energy Holdings, LLC; Knight Oil Tools, LLC; Knight Manufacturing, LLC; KDCC, LLC, f/k/a Knight Well Services, LLC; Tri-Drill, LLC; Advanced Safety & Training Management, LLC; Knight Security, LLC; Knight Information Systems, LLC; El Caballero Ranch, Inc.; Rayne Properties, LLC; Knight Aviation, LLC; Knight Research & Development, LLC; Knight Family Enterprises, LLC; HMC Leasing, LLC; and HMC Investments, LLC (collectively, the “Debtors”), as debtors-in-possession, file this *Emergency Motion for Entry of Interim and Final Orders Authorizing Payment of Claims on Account of Mineral Contractor*

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Knight Energy Holdings, LLC (1930) (Case No. 17-51014); Knight Oil Tools, LLC (2667) (Case No. 17-51015); Knight Manufacturing, LLC (0600) (Case No. 17-51016); KDCC, LLC, f/k/a Knight Well Services, LLC (4156) (Case No. 17-51017); Tri-Drill, LLC (4957) (Case No. 17-51018); Advanced Safety & Training Management, LLC, (0510) (Case No. 17-51019); Knight Security, LLC (0923) (Case No. 17-51020); Knight Information Systems, LLC (0000) (Case No. 17-51021); El Caballero Ranch, Inc. (7345) (Case No. 17-51022); Rayne Properties, LLC (0000) (Case No. 17-51023); Knight Aviation, LLC (3329) (Case No. 17-51024); Knight Research & Development, LLC (3760) (Case No. 17-51025); Knight Family Enterprises, LLC (7190) (Case No. 17-51026); HMC Leasing, LLC (0814) (Case No. 17-51027) and HMC Investments, LLC (0000) (Case No. 17-51029). The Debtors' service address is 2272 SE Evangeline Thruway, Lafayette, Louisiana 70508 other than Knight Manufacturing, LLC and Advanced Safety & Training Management, LLC. Knight Manufacturing, LLC's service address is 2810-A Melancon Road, Broussard, Louisiana 70518 and Advanced Safety & Training Management, LLC's service address is 1042 Forum Drive, Broussard, Louisiana 70518.

*Liens that May be Filed Against the Debtors' Customers and Related Relief* (the "Motion") and respectfully represent as follows:

**Jurisdiction and Venue**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The authority for the relief requested herein are sections 105(a) and 363 of title 11 of the United States Code (as amended, the "Bankruptcy Code"), and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

**Background**

4. On this date (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code commencing the above-captioned cases (the "Chapter 11 Cases"). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

5. An official committee of unsecured creditors has yet to be appointed in these Chapter 11 cases. Further, no trustee or examiner has been requested or appointed in any of these Chapter 11 cases.

6. The Debtors have filed with the Court the *Statement of Background Information and Declaration in Support of Debtors' Chapter 11 Petitions and First-Day Motions* (the "First Day Declaration"), which is incorporated by reference in this Motion.

7. The Debtors have filed with the Court the *Debtors' Motion for an Order Authorizing the Debtors to (A) Use Cash Collateral, (B) Obtain Post-Petition Financing, (C) Granting Security Interests and Superpriority Administrative Expense Status to the DIP Agent*

and the DIP Lenders, (D) Granting Adequate Protection to Existing Lienholders, (E) Scheduling a Final Hearing, and (F) Granting Related Relief (the “DIP Motion”) seeking entry of interim and final orders (the “DIP Orders”) which includes a Debtor-proposed 13-week budget (the “Budget”). The terms of the DIP Motion, the DIP Orders, and the Budget are incorporated by reference in this Motion.

### **The Mineral Contractor Claims**

8. In the ordinary course of business, the Debtors engage certain subcontractors for many of the essential materials and services the Debtors depend on to service their customer base. Specifically, the Debtors require certain subcontractors to perform labor or supply materials and machinery essential to the Debtors’ operations. The Debtors obtain such materials and services from various independent contractors and service providers (the “Mineral Contractors”), often on a project-by-project basis without long-term contracts.

9. If the Debtors were to default on any obligation to one of its Mineral Contractors, that Mineral Contractor may likely assert a lien against the property of a customer of the Debtors whose property the Debtors and the Mineral Contractor serviced. That customer may in turn withhold payment to the Debtors in the amount claimed by the Mineral Contractor, or worse, walk away from the Debtors as a customer entirely. By this Motion, the Debtors request authority to pay the Mineral Contractors for any prepetition obligations in an amount not to exceed \$1,050,000 and continue to pay the Mineral Contractors in the ordinary course of business.

10. If the Debtors do not pay the Mineral Contractor Claims on a timely basis, the Mineral Contractors may assert liens on the materials, machinery, and supplies provided to the Debtors or refuse to deliver or release such materials and machinery until their invoices are paid.

Even more significantly, the Mineral Contractors may assert liens on the leaseholds, oil or gas wells, or oil and gas leases of the Debtors' customers for whom they performed subcontracting services. The assertion of liens against the Debtors' customers as a result of not being paid would severely disrupt the Debtors' operations, if not bring operations to a screeching halt. This could potentially cost the Debtors a substantial amount of revenue and future business.

11. Additionally, the Debtors do not operate under long-term contracts with the Mineral Contractors. Instead, the Mineral Contractors submit bids to the Debtors for the price of their services or provision of materials. This practice allows the Debtors to take advantage of the best rates available to perform their completion, well support, and other services; however, it also means that the Mineral Contractors may not have a long-term interest in doing business with the Debtors and may therefore look to exercise their liens for short-term benefit.

12. Accordingly, to maintain access to materials, goods, equipment, services, and most importantly, customers that are critical to the continued viability of the Debtors' business operations, the Debtors seek authority, but not direction, to pay the prepetition Mineral Contractor Claims in an amount not to exceed \$1,050,000 and to continue paying such claims on a postpetition basis in the ordinary course of business.

### **Relief Requested**

13. The Debtors seek entry of an order authorizing, but not directing, the Debtors to pay in the ordinary course of business all undisputed, liquidated, prepetition amounts owing on account of Mineral Contractor Claims (as defined herein) in an amount not to exceed \$1,050,000<sup>2</sup>, and continue paying such claims on a postpetition basis in the ordinary course of

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<sup>2</sup> The Debtors reserve any and all right to seek authority to pay Mineral Contractors for any prepetition obligations over and above \$1,050,000 by separate motion.

business.<sup>3</sup> In addition, the Debtors request that the Court schedule a final hearing to consider approval of this Motion on a final basis.

### **Basis for Relief**

#### **A. Failure to make timely payment of the Mineral Contractor Claims would threaten the Debtor's ability to operate and subject the Debtors' and the Debtors' customers' assets to the perfection of liens.**

14. The relief requested in this Motion is critical to protect the Debtors' business operations. State law in the jurisdictions in which the Debtors operate protect the rights of mineral subcontractors by granting them statutory liens to secure payment for their services – statutory liens which may be filed against the Debtors' customers' property. *See, e.g.*, Tex. Prop. Code Ann. § 56.002; La. Rev. Stat. Ann. § 9:4862.

15. If the Mineral Contractors were able to assert these liens against the assets of the Debtors' or the Debtors' customers, the results would be detrimental to the Debtors and their creditors. It is possible that the Mineral Contractors could assert liens against the land, leasehold, or oil or gas well for which their subcontracting services were provided. Tex. Prop. Code Ann. § 56.003. Therefore, failure to timely pay the Mineral Contractor Claims owing by the Debtors may result in the Mineral Contractors asserting liens against the Debtors' customers' property, which in turn would result in the loss of revenue for the Debtors and their creditors.

16. Courts in this district and other jurisdictions have regularly authorized payments of pre-petition claims under similar circumstances. *See, e.g., In re Rooster Energy, L.L.C., et al.*, 17-50705 (Bankr. W.D. La. June 6, 2017) (court approved payment of pre-petition claims to critical vendors); *In re Harvest Oil & Gas, LLC*, 15-50478 (Bankr. W.D.La. Aug. 24, 2015) (same); *In re Piccadilly Restaurants, LLC, et al.*, 12-51127 (Bankr. W.D.La. Dec. 19, 2012) (same); *In re Louisiana Riverboat Gaming Partnership, et al.*, 12-12013 (Bankr. W.D.La. Aug.

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<sup>3</sup> Debtors reserve the right to pay any prepetition Mineral Contractor Claims through a plan of reorganization.

3, 2012) (same); *In re Linn Energy LLC*, No. 16-60040 (DRJ) (Bankr. S.D. Tex. June 27, 2016) (authorizing debtors to pay certain prepetition claims that may give rise to statutory liens); *In re Midstates Petrol. Co.*, No. 16-32237 (DRJ) (Bankr. S.D. Tex. May 2, 2016) (same); *In re Magnum Hunter Res. Corp.*, No. 15-12533 (KG) (Bankr. D. Del. Jan. 11, 2016) (same); *In re Armstrong World Indus., Inc.*, 29 B.R. 391, 397 (S.D.N.Y. 1983) (authorizing, pursuant to section 363, a contractor to pay prepetition claims of some suppliers who were potential lien claimants, because the payments were necessary for the general contractors to release funds owed to the debtors).

**B. Payment of the Mineral Contractor Claims is a sound exercise of the Debtors' business judgment pursuant to sections 105(a) and 363(b) of the Bankruptcy Code.**

17. Courts in the Fifth Circuit have also recognized that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business' going-concern value. *See, e.g. In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002); *In re Equalnet Commc'ns Corp.*, 258 B.R. 368, 369-79 (Bankr. S.D. Tex. 2000); *see also In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989). In doing so, these courts acknowledge that several legal theories rooted in sections 105(a), 363(b), and 1107(a) of the Bankruptcy Code support the payment of prepetition claims as provided herein.

18. Section 363(b) of the Bankruptcy Code permits a debtor, subject to court approval, to pay prepetition obligations where a sound business purpose exists for doing so. *See Ionosphere Clubs*, 98 B.R. at 175 (noting that section 363(b) provides "broad flexibility" to authorize a debtor to honor prepetition claims where supported by an appropriate business justification. Additionally, under section 1107(a) of the Bankruptcy Code, a debtor-in-possession has, among other things, the "implied duty of the debtor-in-possession to 'protect and preserve

the estate, including an operating business' going-concern value.'" *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. at 497).

19. Moreover, under section 105(a) of the Bankruptcy Code, "the Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the Bankruptcy Code." 11 U.S.C. § 105(a); *In re CoServ, L.L.C.*, 273 B.R. at 497 (finding that sections 105 and 1107 of the Bankruptcy Code provide the authority for a debtor-in-possession to pay prepetition claims); *In re CEI Roofing, Inc.*, 315 B.R. at 56; *In re Mirant Corp.*, 296 B.R. 427 (Bankr. N.D. Tex. 2003). The above-referenced sections of the Bankruptcy Code therefore authorize the postpetition payment of prepetition claims when the payments are critical to preserving the going-concern value of the debtor's estate, as is the case here. *See, e.g., In re CoServ, L.L.C.*, 273 B.R. at 497 ("[I]t is only logical that the bankruptcy court be able to use [s]ection 105(a) of the [Bankruptcy] Code to authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate.").

20. As described more fully above, the Debtors believe that the failure to honor the Mineral Contractor Claims could have significant consequences on the Debtors' business operations. The Mineral Contractors could assert liens against the Debtors' customers' property that would no doubt jeopardize the Debtors' relationship with their customer base.

21. Based on these potentially value-destroying consequences, the Debtors submit that the relief requested herein represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, maximizes the value of their estates, and is therefore justified under sections 105(a) and 363(b) of the Bankruptcy Code.

### **Emergency Consideration**

22. The Debtors respectfully request emergency consideration of this Motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm.” As set forth in this Motion, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors’ operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors’ operations at this critical juncture and imperil the Debtors’ restructuring. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this Motion on an emergency basis.

### **Waiver of Bankruptcy Rule 6004(a) and 6004(h)**

23. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

### **Reservation of Rights**

24. Nothing contained herein or any actions taken pursuant to such relief is intended or should be construed as: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors’ right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion or any order granting the

relief requested by this Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law.

**Subject to DIP Orders**

25. Notwithstanding any provision herein to the contrary, this Motion and all relief sought hereby shall be subject in all respects to the DIP Orders, the Budget, and any other cash collateral order financing orders granted in the Cases.

**Notice**

26. Notice of this Motion has been provided to: (i) the Office of the United States Trustee; (ii) the Debtors and their counsel; (iii) Clearlake Capital Group, L.P. and/or its counsel; (iv) Cantor Fitzgerald Securities and/or its counsel; (v) Whitney National Bank and/or its counsel; (vi) JP Morgan Chase Bank and/or its counsel; (vii) Iberia Bank and/or its counsel; (viii) all other secured creditors, (ix) any party whose interests are directly affected by this specific pleading; (x) those persons who have formally appeared and requested notice and service in these proceedings pursuant to Bankruptcy Rules 2002 and 3017; (xi) counsel for and the members of any official committees appointed by this Court; (xii) the consolidated 30 largest unsecured creditors of the Debtors; and (xiii) all governmental agencies having a regulatory or statutory interest in these cases. No other or further notice need be provided.

**No Prior Request**

27. No prior requests for the relief sought herein have been made to this or any other court

**WHEREFORE**, the Debtors respectfully request entry of granting the relief requested herein and such other relief as is just and proper.

Dated: August 8, 2017

Respectfully submitted,

*/s/ William H. Patrick, III*

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