

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:)	Chapter 11
)	Case No. 19-12269 (CSS)
MTE Holdings LLC., et al.,)	(Jointly Administered)
)	
Debtors.)	Reference Docket No.: 1895
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ORDER

Upon consideration of L.F. Manufacturing Inc.’s Motion for Relief from the Automatic Stay [D.I. 1895] filed on January 19, 2021 (the “Motion”); the Court having reviewed the Motion and the objections thereto; the Court having heard the statements of counsel and parties in interest regarding the Motion at a hearing before the Court by Zoom on March 29, 2021 (the “Hearing”); the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (iii) notice of the Motion and the Hearing were sufficient notice under the circumstances; and (iv) the Court has judicial power to enter a final order.

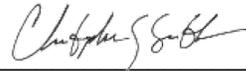
IT IS HEREBY ORDERED THAT:

1. The Motion is **DENIED** for the reasons set forth below.
2. Movant seeks to remove from Debtors’ property certain Tanks that Movant furnished for Debtors at Debtors’ request. [D.I. 1895 p. 2 ¶ 8].
3. This Court examines three factors to determine whether to grant relief for cause: “(1) whether any great prejudice to either the bankrupt estate or the debtor will result from a lifting of the automatic stay; (2) whether the hardship to the non-bankrupt

party by maintenance of the automatic stay considerably outweighs the hardship to the debtor; and (3) the probability of the creditor prevailing on the merits.” [*In re Energy Future Holdings Corp.*, 533 B.R. 106, 117 (Bankr. D. Del. 2015)].

4. Movant seeks this relief based solely on its constitutional lien claim. [D.I. 2047 at 27-28:21-1]. Texas grants self-executing constitutional liens to “material men . . . upon the buildings and articles made or repaired by them for the value of their labor done thereon, or material furnished therefor” [Tex. Const. art. 16 § 37].
5. Claimant has no likelihood of succeeding on the merits of a constitutional law claim it is not entitled to. An unchallenged Texas Supreme Court decision, *Oil Field Salvage Co. v. Simon*, found that Tex. Const. art. 16 § 37 is unavailable where, as here [Compare Tex. Prop. Code § 56.001 with D.I. 1895 p. 2 ¶6], a materialman furnished materials to be used for mineral activities. [See 168 S.W.2d 848 (Tex. 1943)].
6. Furthermore, even if Movant had a constitutional lien, which it does not, the claim, like all of Movant’s claims, would still be junior to the Administrative Agent’s liens (and thus unlikely to win on the merits) because (i) Movant is a Statutory Lien Claimant, defined as a creditor holding a statutory lien pursuant to Chapters 53 or 56 of Title 5 of the Texas Property Code [D.I. 1029 p. 5 ¶11], (ii) Statutory Lien Claimants (not the particular type of claim) who fail to timely file an adversary proceeding are deemed junior to the Administrative Agent’s liens. [D.I. 1150 p. 7 ¶4], and (iii) Movant holds a statutory lien and failed to timely file an adversary proceeding. For this same reason, a motion for relief from stay under Movant’s statutory lien would also be unlikely to win on the merits.

7. Granting the Motion for the statutory or constitutional lien would result in great prejudice to the estate because it is undisputed that the tanks are required and necessary for the Debtors' production and operations [D.I. 1992 at ¶6].
8. The hardship to the Movant would not outweigh the hardship to the estate because (i) the Movant has no constitutional lien, (ii) any claim the Movant has is junior to the Administrative Agent, and (iii) the automatic stay in bankruptcy, in and of itself, is not a hardship.
9. The three stay relief factors weigh against granting the Motion. The Motion is denied.



Christopher S. Sontchi, Chief Judge
United States Bankruptcy Court

Dated: April 9, 2021