

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior District Judge Richard P. Matsch

Civil Action No. 13-cv-02219-RPM

ATIGUN, INC.,

Plaintiff,

v.

PREMIER OILFIELD EQUIPMENT COMPANY, A Delaware corporation;  
TIGER OILFIELD TANK COMPANY, LLC, f/k/a DELTA OILFIELD TANK CO., LLC,  
a Colorado Limited Liability Company;  
HY-TECH TRUCK & TRAILER MANUFACTURING, LLC, a Colorado Limited Liability  
Company;  
ALTIRA TECHNOLOGY FUND V, L.P., a Delaware limited partnership;  
TRIPLE S IRREVOCABLE TRUST FUND;  
GARY HARMS, JR., and  
CINDY HARMS,

Defendants.

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ORDER FOR HEARING

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A hearing will be scheduled on Defendants Triple S Irrevokable Trust Fund's and Cindy Harms' motion for summary judgment (dkt. #79) and Defendant Premier Oil Company's renewed motion to compel (dkt. #99). At the hearing, counsel should be prepared to respond to the following questions:

1. For the purpose of determining whether complete diversity exists, what is the citizenship of Tiger Oilfield Tank Company, LLC and Hy-Tech Truck & Trailer Manufacturing, LLC? *See Siloam Springs Hotel, L.L.C v. Century Surety Co.*, 781 F.3d 1233, 1238 (10th Cir. 2015) (For purposes of diversity jurisdiction, the citizenship of a limited liability company is

determined by reference to the citizenship of each and every one of its members.) *See also Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567, 570–71 (2004) (Subject-matter jurisdiction in diversity cases depends on the state of facts that existed at the time of filing.)

2. For the purpose of determining whether complete diversity exists, what is the citizenship of Defendant Altira Technology V, L.P? *See Carden v. Arkoma Assocs.*, 494 U.S. 185 (1990) (A federal court must look to the citizenship of a partnership's limited and general partners to determine whether there is complete diversity.)

3. For the purpose of determining whether complete diversity exists, are defendants Gary Harms and Cindy Harms citizens, as well as residents, of Colorado? *See Siloam Springs Hotel*, 781 F.3d at 1239 (“An individual's residence is not equivalent to his domicile and it is domicile that is relevant for determining citizenship.”)

4. For the purpose of determining whether complete diversity exists, what is the citizenship of the Triple S Irrevokable Trust Fund? *See ConAgra Foods, Inc. v. Americold Logistics, LLC*, 776 F.3d 1175 (10th Cir. 2015), *cert. granted* 136 S.Ct. 27, 84 U.S.L.W. 3139 (Oct. 1, 2015) (No. 14-1382).

5. With respect to the plaintiff’s claims against the Triple S Irrevokable Trust Fund, what is the role of the Trustee? Is there any conflict between Justin Heideman’s capacity as the Trustee of the Triple S Irrevokable Trust Fund and his role as defense counsel for the Trust, Gary Harms, Cindy Harms, Tiger Oilfield Tank Company, LLC, and Hy-Tech Truck & Trailer Manufacturing, LLC.?

6. At or before the hearing, plaintiff's counsel shall submit a complete copy of the Asset Purchase Agreement dated March 16, 2012, described in the Third Amended Complaint at ¶¶ 49 -55, and ¶¶ 113- 116.

Counsel will be contacted by the court's secretary Ginger Wentz to set a date and time for the hearing.

Dated: November 13, 2015

BY THE COURT:

s/Richard P. Matsch

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Richard P. Matsch, Senior Judge