

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

IN RE:	:	Chapter 11
	:	
NUVERRA ENVIRONMENTAL SOLUTIONS, INC., et al.,	:	Case No. 17-10949 (KJC)
	:	
Debtors.	:	(Jointly Administered)
<hr style="border: 0.5px solid black;"/>		
DAVID HARGREAVES,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 17-1024-RGA
	:	
NUVERRA ENVIRONMENTAL SOLUTIONS, INC., et al.,	:	
	:	
Appellees.	:	

RECOMMENDATION

At Wilmington this **12th** day of **September, 2017**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process. Prior attempts among the parties to resolve this matter have been unsuccessful.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. Since the parties are in agreement that this matter should be withdrawn from mandatory mediation, no objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1 are anticipated.

The parties are unable to agree on a propose briefing schedule. The issue on which disagreement exists is whether dispositive motions and merits briefing should proceed simultaneously, as requested by Appellant, or whether merits briefing should occur only after dispositive motions are ruled upon, as requested by Appellees.

Appellant's proposed briefing schedule:

Opening Briefs	Later of October 16, 2017 and 30 days from entry of the District Court's scheduling order
Responses	30 days after filing of the opening briefs
Replies	20 days after filing of the responses.

Appellees' proposed briefing schedule:

Dispositive Motions	Later of October 16, 2017 and 30 days from entry of the District Court's scheduling order
Response	30 days after the filing of dispositive motions
Reply	20 days after filing of the response to the dispositive motion

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
Chief U.S. Magistrate Judge Mary Pat Thyng