UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

In re: EL DORADO GAS & OIL, INC. Debtor. THOMAS L. SWAREK Plaintiff, v. MS FACILITIES, LLC Defendant.	Chapter 11 Case No. 23-51715- JAW Adv. Pro. Case No.: 25-06007-JAW

MS FACILITIES 2020 LLC'S MOTION TO DISMISS

Defendant MS Facilities 2020, LLC ("**MSF**")[1], respectfully moves the Court to dismiss the complaint ("**Complaint**") filed by Plaintiff Thomas L. Swarek ("**Swarek**") pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure ("**Rules**"), made applicable to this proceeding by Bankruptcy Rule 7012(b), and on the independent ground that Swarek failed to obtain leave of this Court to assert derivative claims on behalf of the Debtor's estate.

[1] While the Complaint names "MS Facilities, LLC" as the defendant and identifies that entity as the participant in the "Mainstreet Loan," the correct legal name of the participant (and, therefore, the purported defendant in the above-captioned action) is MS Facilities 2020 LLC.

In support of this motion, MSF relies upon and incorporates by reference the accompanying *Memorandum of Law in Support of Motion to Dismiss* filed contemporaneously herewith.

WHEREFORE, MSF respectfully requests that the Court enter an order: (i) dismissing the Complaint in its entirety, with prejudice; and (ii) granting such other and further relief as the Court deems just and proper.

Dated: May 23, 2025

Respectfully Submitted,

GREENBERG TRAURIG, LLP

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—and—

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Attorneys for MS Facilities 2020 LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the *MS Facilities 2020 LLC's Motion to Dismiss* was served on the date of filing upon all counsel of record and pro se parties either via transmission of Notices of Electronic Filing generated by the CM/ECF system or by electronic mail to those parties listed on the service list below on May 23, 2025.

/s/ *Elizabeth R. Hadley*
Elizabeth R. Hadley, Esq.

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