

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

KP ENGINEERING, LP, et al¹

Debtor.

CHAPTER 11

CASE NO. 19-34698 (DRJ)

(Jointly Administered)

JOINT STIPULATION AND ORDER EXTENDING DEADLINE FOR ARCOSA TANK, LLC F/K/A TRINITY CONTAINER TO RESPOND TO THE LIQUIDATION TRUSTEE'S OBJECTION TO CLAIM PURSUANT TO SECTION 502(b) OF THE BANKRUPTCY CODE, RULE 3007 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND THE TERMS OF THE PLAN SEEKING TO DISALLOW AND EXPUNGE CLAIM NUMBER 87 FILED BY ARCOSA TANK, LLC F/K/A TRINITY CONTAINER

Michael D. Warner (the "**Liquidation Trustee**"), solely in his capacity as liquidation trustee for the KP Engineering Liquidation Trust (the "**Trust**") and pursuant to the *Third Amended Joint Chapter 11 Plan of Reorganization of KP Engineering, LP and KP Engineering, LLC²* (the "**Plan**"), confirmed by the Court's *Order Confirming Third Amended Joint Chapter 11 Plan of Reorganization of KP Engineering, LP and KP Engineering, LLC³* (the "**Confirmation Order**"), and that certain *Liquidation Trust Agreement* dated June 22, 2020 (the "**Trust Agreement**"), and Arcosa Tank, LLC f/k/a Trinity Container ("**Arcosa**") (together the Liquidation Trustee and Arcosa are referred to herein as the "**Parties**") respectfully submit this proposed stipulation and agreed order (the "**Stipulation and Order**") extending Arcosa's deadline to respond to the *Liquidation Trustee's Objection to Claim Pursuant to Section 502(b) of the Bankruptcy Code, Rule 3007 of the Federal Rules of Bankruptcy Procedure and the Terms of the Plan Seeking to Disallow*

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are KP Engineering, LP (7785) and KP Engineering, LLC (0294). The location of the Debtors' corporate headquarters and the Debtors' service address is: 5555 Old Jacksonville Hwy., Tyler, TX 75703.

² Dkt. No. 575.

³ *Id.*

and Expunge Claim Number 87 Filed by Arcosa Tank, LLC f/k/a Trinity Container⁴ (the “**Claim Objection**”) for an additional fifteen (15) days, up to and including October 11, 2021.

RECITALS

WHEREAS, on August 23, 2019 (the “**Petition Date**”), KP Engineering, LP and KP Engineering, LLC (together, the “**Debtors**”) filed voluntary petitions for relief under the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas⁵ (the “**Court**”).

WHEREAS, KP Engineering, LP was assigned Case Number 19-34698 and KP Engineering, LLC was assigned Case Number 19-34699.⁶

WHEREAS, the Debtors’ bankruptcy cases were subsequently consolidated for procedural purposes only and have since been jointly administered under Case Number 19-34698⁷ (the “**Bankruptcy Case**”).

WHEREAS, on January 13, 2020, Arcosa filed Proof of Claim No. 87 (the “**Arcosa Claim**”).

WHEREAS, on June 12, 2020, the Court entered the Confirmation Order.⁸

WHEREAS, pursuant to Article IV(F) of the Plan, the Trust was created and effective on the Effective Date.

WHEREAS, pursuant to the Confirmation Order, the Plan, and the Trust Agreement approved by the Confirmation Order, the Liquidation Trustee was appointed to act as trustee of the Trust.

⁴ Dkt. No. 971.

⁵ Case Number 19-34698, Dkt. No. 1; Case Number 19-34699, Dkt. No. 1.

⁶ *Id.*

⁷ Dkt. No. 39.

⁸ Dkt. No. 575.

WHEREAS, on June 23, 2020, the Plan became effective (the “**Effective Date**”).⁹

WHEREAS, Liquidation Trustee filed the Claim Objection on August 27, 2021, therein lodging his objections to the Arcosa Claim.

WHEREAS, Arcosa’s answer/response deadline to the Claim Objection is currently September 26, 2021 (the “**Response Deadline**”).

WHEREAS, the Parties have agreed to a 15-day extension of the Response Deadline, up to and including October 11, 2021.

WHEREAS, by this Stipulation and Order, the Parties hereby agree to the terms set forth herein.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED AND UPON APPROVAL BY THE COURT OF THIS STIPULATION, THE FOLLOWING IS SO ORDERED:

1. Arcosa’s deadline to respond to the Claim Objection is October 11, 2021.
2. Notwithstanding closure of the Bankruptcy Case, whether one or both cases of record are closed, the Court shall maintain sole and exclusive jurisdiction and authority to interpret and enforce this Stipulation and Order, and to resolve any and all disputes related to this Stipulation and Order.
3. The Stipulation and Order represents the Parties’ mutual understandings with regard to the Response Deadline and supersedes all prior agreements regarding such, whether in oral or written form.
4. Nothing herein should be construed so as to affect, by limitation, exclusion or otherwise, either of the Parties’ legal arguments. Instead, this Stipulation and Order shall be

⁹ Dkt. No. 588.

construed only so as to extend the Response Deadline.

5. This Stipulation and Order shall be effective and enforceable immediately upon entry.

IN WITNESS WHEREOF, and in agreement herewith, the Parties have executed and delivered this Stipulation and Order as of the date first set forth below.

Signed:

DAVID R. JONES
CHIEF UNITED STATES
BANKRUPTCY JUDGE

Dated: September 22, 2021

STIPULATED AND AGREED:

/s/ Frances A. Smith
Judith W. Ross, State Bar No. 21010670
Frances A. Smith, State Bar No. 24033084
Ross & Smith, PC
700 N. Pearl Street, Suite 1610
Dallas, Texas 75201
Telephone: 214-377-7879
Facsimile: 214-377-9409
Email: judith.ross@judithwross.com
frances.smith@judithwross.com

Counsel for Arcosa Tank, LLC

/s/ Brooke W. Altazan
STEWART ROBBINS BROWN &
ALTAZAN, LLC
Brooke W. Altazan (TX Bar # 24101002)
baltazan@stewartrobbins.com
Paul Douglas Stewart, Jr.
(La. Bar # 24661, admitted to SDTX)
dstewart@stewartrobbins.com
Baton Rouge, LA 70801-0016
Telephone: (225) 231-9998
Facsimile: (225) 709-9467

*Attorneys for Michael D. Warner,
Liquidation Trustee*