

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

U. S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
**ENTERED**  
TAWANA C. MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

In re )

) Chapter 11 Case

MIRANT CORPORATION, et al., )

) Case No. 03-46590(DML)11

Debtors. )

) Jointly Administered

~~PROPOSED~~

SCHEDULING ORDER AND DISCOVERY PLAN



The Court, presented with this Agreed Scheduling Order and Discovery Plan (the "Scheduling Order") in connection with the Motion of Perryville Energy Partners LLC for Allowance and Immediate Payment of Administrative Expense (the "Contested Matter"), the Court having considered the Contested Matter, the statements of counsel regarding the estimated time to prepare for and try the Contested Matter, and having found that the terms and conditions set forth herein are reasonable and appropriate and should be entered, it is hereby:

**ORDERED** that the dates and deadlines herein shall apply in this Contested Matter and hereby expressly replace any and all other dates and deadlines.

1. **Trial Date**: Trial of this Contested Matter will commence on January 28, 2004, at 10:30 a.m. (the "Trial Date").

**GENERAL STRUCTURE OF PRE-TRIAL DEADLINES.**

2. **Settlement Conference**: On December 18, 2003, the parties shall confer to consider the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the Contested Matter. This settlement conference shall take place in Atlanta, Georgia.

3. **Initial Discovery Schedule:** The parties may propound document requests no later than December 4, 2003. (Document requests already served by the Official Unsecured Creditor's Committee need not be reserved.) Each party responding to document requests shall deliver to the propounding party whatever responsive documents it can reasonably produce by no later than December 15, 2003, and shall deliver the balance of responsive documents as soon thereafter as is practicable, in all cases subject to all applicable and legitimate objections. The Reply, defined and described below, may support the need for and thus require additional discovery, in which case, the parties may propound additional document requests after December 4, 2003.

4. **Briefing Schedule:** Perryville Energy Partners LLC shall file its reply brief in support of its Motion for Allowance and Immediate Payment of Administrative Expense no later than January 19, 2004 (the "Reply").

#### **DISCOVERY MATTERS.**

5. **Discovery Cut-Off:** The parties shall complete all discovery no later than Friday, January 23, 2004.

6. **Depositions:** The depositions of (a) Gary Kubick, (b) one of either Jim Gore or Timothy Berrigan (to be designated by Perryville Energy Partners LLC), (c) a person designated by the Debtor to testify on its behalf in response to a notice of deposition served by Perryville Energy Partners LLC pursuant to Federal Rule of Civil Procedure 30(b)(6), and (d) a person designated by Perryville Energy Partners LLC to testify on its behalf in response to a notice of deposition served by the Debtor or by the Official Unsecured Creditor's Committee pursuant to Federal Rule of Civil Procedure 30(b)(6), shall take place on January 13 and 14, 2004. Notices of deposition pursuant to Federal Rule of Civil Procedure 30(b)(6) shall be served

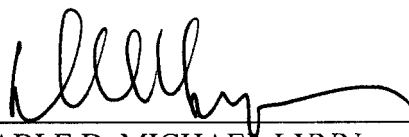
by December 19, 2003. Notices of deposition already served by the Official Unsecured Creditor's Committee need not be reserved. The location of these depositions is subject to agreement by the parties. Additionally, if the Reply raises new matters, as to which the Debtor and the Official Unsecured Creditor's Committee have not had an opportunity to examine the witness of Perryville Energy Partners LLC, the Debtor or the Official Unsecured Creditor's Committee may seek a further deposition of Perryville Energy Partners, LLC. Perryville Energy Partners, LLC reserves its right to oppose such further deposition.

7. **Other Discovery Matters**: The discovery taken in this Contested matter shall be conducted in accordance with the Federal Rules of Civil Procedure, as adopted by the Federal Rules of Bankruptcy Procedure.

**FILINGS FOR TRIAL**

8. **Trial Exhibits**: All exhibits, except impeachment exhibits, shall be marked with exhibit labels and exchanged with opposing counsel no later than three (3) business days prior to the Trial Date. A list of witnesses and exhibits shall also be filed no later than three (3) business days prior to the Trial Date.

SIGNED on this 3<sup>rd</sup> day of December 2003.



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HONORABLE D. MICHAEL LYNN  
UNITED STATES BANKRUPTCY JUDGE