

United States Bankruptcy Court
District of Colorado

In re:
Sequoia Voting Systems, Inc.
Debtor

Case No. 14-11360-HRT
Chapter 11

CERTIFICATE OF NOTICE

District/off: 1082-1

User: myhaverk
Form ID: pdf904

Page 1 of 1
Total Noticed: 3

Date Rcvd: Jun 22, 2016

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jun 24, 2016.

db +Sequoia Voting Systems, Inc., 950 Spruce St., Suite 1C, Louisville, CO 80027-1977
cr +Dominion Voting Systems, Inc., Attn: Eric E. Johnson, c/o Sherman & Howard L.L.C.,
633 17th Street, Suite 3000, Denver, CO 80202-3622
cr +Smartmatic Corporation, c/o Locke Lord LLP / Ira S. Greene, Brookfield Place,
200 Vesey Street, 20th Floor, New York, NY 10281-1006, UNITED STATES

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

cr New York State Department of Taxation and Finance
cr* +Dominion Voting Systems Corporation, Attn: Eric E. Johnson, c/o Sherman & Howard L.L.C.,
633 17th Street, Suite 3000, Denver, CO 80202-3622

TOTALS: 1, * 1, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jun 24, 2016

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 22, 2016 at the address(es) listed below:

Brent R. Cohen on behalf of Debtor Sequoia Voting Systems, Inc. bcohen@lrrc.com, jlittle@lrrc.com
Chad S. Caby on behalf of Debtor Sequoia Voting Systems, Inc. ccaby@lrrc.com, kmeans@lrrc.com
Daniel J. Garfield on behalf of Debtor Sequoia Voting Systems, Inc. dgarfield@mcallisterlawoffice.com, dgarfield@mcallisterlawoffice.com
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Ira S Greene on behalf of Creditor Smartmatic Corporation igreene@edwardswildman.com
Leo M. Weiss on behalf of U.S. Trustee US Trustee, 11 Leo.M.Weiss@usdoj.gov
US Trustee, 11 USTPRegion19.DV.ECF@usdoj.gov

TOTAL: 10

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO
Honorable Howard R. Tallman**

In re:)
) **Case No. 10-24238 HRT**
SVS HOLDINGS, INC.,) **Chapter 7**
)
Debtor.)
_____)

In re:) **Case No. 14-11360 HRT**
) **Chapter 11**
SEQUOIA VOTING SYSTEMS, INC.,)
) **Jointly Administered Under**
Debtor.) **Case No. 10-24238 HRT**
_____)

AMENDED ORDER AND NOTICE OF TRIAL PROCEDURES

THIS MATTER came before the Court for a telephonic status conference on June 14, 2016. For the reasons stated on the record on that date and also as noted below, the Court hereby finds and concludes as follows.

Debtor SVS filed its voluntary Chapter 11 petition on June 8, 2010. In October of 2012, the Court converted SVS’s case to one under Chapter 7 and appointed Tom Connolly as Chapter 7 Trustee. Shortly after his appointment, the Trustee filed an adversary proceeding (case number 12-01757-HRT) against Dominion Voting Systems Corporation and Dominion Voting Systems, Inc. (together, “Dominion”), seeking substantive consolidation of Debtor SVS with then-non-debtor Sequoia, and seeking to recover alleged fraudulent transfers from Sequoia to Dominion. As to that adversary proceeding, the reference has been withdrawn to the U.S. District Court, and that matter is currently being held in abeyance.

On February 11, 2014, the Trustee, as President of Sequoia, filed Sequoia’s voluntary Chapter 11 petition. The Court ordered joint administration of the two cases.

On July 18, 2014, Sequoia filed a Chapter 11 plan that proposes substantive consolidation of the bankruptcy estates of Sequoia and SVS and the continued prosecution of the adversary proceeding to recover the alleged fraudulent transfers. Dominion timely filed an objection to confirmation of the Chapter 11 plan.

Because the issue of substantive consolidation was pending before the U.S. District Court, as part of the adversary proceeding, and before this Court, as part of confirmation of Sequoia’s Chapter 11 plan, this Court directed the parties to seek guidance from the U.S. District Court regarding this Court’s authority to determine the issue. By Order entered September 23,

ORDER AND NOTICE OF TRIAL PROCEDURES
Case No. 10-24238 HRT

2015, the U.S. District Court clarified that this Court may proceed to determine issues regarding confirmation of Sequoia's Chapter 11 plan, noting that if this Court confirms a plan that includes substantive consolidation of SVS and Sequoia, the U.S. District Court will treat this Court's confirmation order as proposed findings of fact and conclusions of law with regard to the issue of substantive consolidation in the adversary proceeding.

Following entry of the U.S. District Court's Order, this Court held two status conferences to set a schedule for a hearing on confirmation of Sequoia's Chapter 11 plan. On January 12, 2016, after consultation with the parties about the anticipated length of a confirmation hearing, the Court reserved five business days for the hearing, to begin Monday, June 27, 2016, at 9:00 a.m.

On May 27, 2016, the parties filed a motion asking the Court to conduct a prehearing conference. The Court held the requested conference on June 14, 2016. At that time, the parties advised the Court that they would not likely be able to complete the presentation of evidence during the allotted five business days. Counsel for Dominion estimated that the hearing could take more than ten business days.

The Court is concerned that the underlying dispute between the parties has been pending for at least four years, the specific matter of confirmation has been pending for almost two years, and the matter was set for trial six months ago. The Court is loath to add further delay to these proceedings.

As stated at the June 14 conference, the Court has rescheduled other hearings previously set for July 5 through July 8 in order to provide additional trial dates for this matter. However, the parties have expressed concern that the resulting 8½ trial days will not be sufficient. Accordingly, the Court hereby adopts the following additional procedures in order to ensure that the parties have adequate time to present their evidence.

1. The Court will consider the extension of each hearing day, to begin as early as 8:00 a.m. and to end at 6:00 p.m. or later as needed. The Court will also limit the lunch break to one hour and will reconvene each day at 1:00 p.m., rather than its usual 1:30 p.m. The Court will make a conference room available for the parties to use for lunch breaks.
2. The Court encourages the parties to stipulate to as many facts as possible.
3. The Court expects the parties to proceed expeditiously with the presentation of their evidence. The Court expects the Trustee to complete the presentation of his evidence within 2½ to 3 days, from June 27 to June 29. The Court expects Dominion to complete the presentation of its evidence within 4 to 4½ days, from June 29 to July 6 or 7. The Court expects the Trustee to complete the

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presentation of its rebuttal evidence within 1 to 1½ days. The Court does not intend to allow sur-rebuttal evidence. The Court's estimates are just that, and if the presentations of evidence take less time than estimated, the Court expects each side to proceed without further delay. To that end, each party should be prepared to call its witnesses at any point throughout the trial.

4. As stated at the conference, the Court will allow the parties to designate sections of deposition transcripts that the Court will review after the conclusion of the hearing. The parties shall work together to establish a procedure for the designation of depositions and any objection thereto.
5. To further assist the parties to present their evidence within the allotted time, especially regarding the testimony of certain discrete fact witnesses, the Court will allow direct testimony by sworn declaration, pursuant to the procedures set forth below.

For each fact witness that an attorney calls on behalf of his client's case, the attorney shall prepare one original and one copy for the Court, and one copy for each party to the within action, of a succinct, but complete, written statement of the direct testimony that the witness would be prepared to give as though questions were propounded in the usual fashion. Each statement of fact shall be separate, sequentially numbered, and shall contain only facts that are relevant and material to the contested issue before the Court, avoiding redundancies, hearsay, and other obvious objectionable statements. The statement shall be signed under penalty of perjury by the declarant. Such statements may be referenced as the witnesses' "sworn declaration of fact."

Copies of all sworn declarations of fact shall be furnished to and *received* by the opposing counsel **no later than forty-eight hours prior to the calling of the witness for examination under this Order.**

Sworn declarations of fact shall *not* be filed with the Court. The original of all sworn declarations of fact shall be marked as exhibits and tendered to the Court **at the commencement of the particular examination, and a copy of the sworn declaration of fact shall be marked as an exhibit and submitted to the Court at that time.** If opposing counsel desires to object to any of the sworn statements or portions thereof, he may do so at the time the sworn declaration of each respective witness is offered to the Court. The witness shall then be sworn and asked if the statement correctly states his/her testimony if he/she were asked the appropriate question.

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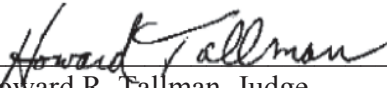
Assuming an affirmative answer, opposing counsel is then free to cross-examine the witness. At the conclusion of cross-examination, the party whose witness is on the stand may conduct oral redirect examination in the usual manner. This procedure does not preclude legitimate rebuttal testimony in the usual manner.

Counsel will not be expected to submit a sworn declaration of fact for an adverse or hostile witness, or for legitimate rebuttal testimony.

6. As noted at the conference, the parties shall submit their closing arguments in writing, pursuant to the schedule set forth in the Minutes of Proceeding.

Dated this 22nd day of June, 2016.

BY THE COURT:



Howard R. Fallman, Judge
United States Bankruptcy Court