Novum Energy Trading Inc. v TransMontaigne Operating Co. L.P.

2024 NY Slip Op 31469(U)

April 12, 2024

Supreme Court, New York County

Docket Number: Index No. 655283/2023

Judge: Margaret A. Chan

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 49M

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NOVUM ENERGY TRADING INC.,

Plaintiff,

- v -

TRANSMONTAIGNE OPERATING COMPANY L.P.,

Defendant.

INDEX NO. 655283/2023

MOTION DATE 11/27/2023

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

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HON. MARGARET A. CHAN:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 19, 20, 21, 22, 23, 24, 25, 26, 34, 36, 37, 38, 39, 40

were read on this motion to/for DISMISS.

In this action arising out of a contractual dispute, the complaint of plaintiff Novum Energy Trading Inc. (Novum) alleges two causes of action: (i) declaratory judgment; and, in the alternative, (ii) reformation of contract. In this motion (MS 002), defendant TransMontaigne Operating Company L.P. (TransMontaigne) moves to dismiss Novum's complaint in its entirety. Plaintiff opposes. For the reasons below, TransMontaigne's motion is denied.

Background[1]

This contract in this dispute is a Terminaling Services Agreement between Novum and TransMontaigne dated March 9, 2018, as amended on December 5, 2019 (NYSCEF # 3 – TSA; NYSCEF # 5 – the Second Amendment).[2] Novum is a global supplier of oil and oil products (NYSCEF # 2 – Compl. ¶ 8). Sometime after April 2016, Novum acquired a permit from the Mexican government to import oil and gas into Mexico and, thus, needed a gasoline storage area close to the United States-Mexico border (*id.* ¶ 14). TransMontaigne has oil and gas storage facilities ideally positioned for this purpose, located in Brownsville, Texas (*id.* ¶¶ 9, 12, 13).

The First Three Tanks & The TSA

In late 2017, Novum and TransMontaigne began discussing a project for TransMontaigne to construct three new tanks for gasoline storage at the Port of

[1] The following facts are drawn from Novum's complaint (NYSCEF # 2) and are assumed true for purposes of this motion, unless conclusively contradicted by documentary evidence.

[2] The parties have not submitted a first amendment to the TSA or allege anything suggesting that the first amendment is of relevance to the dispute here.

Brownsville, in exchange for Novum's long-term lease of those tanks (*id.* ¶ 16). On March 9, 2018, Novum and TransMontaigne executed the TSA, under which TransMontaigne would construct three new tanks for Novum to lease at a monthly fee that was allegedly above-market, as the tanks would be built to accommodate Novum's particular needs (*id.* ¶¶ 16, 18-22, 24; NYSCEF # 3).

The TSA is governed by New York law and contained a forum selection clause subjecting both parties to New York courts' jurisdiction (NYSCEF # 3, §§ 22.1, 22.2). The TSA stated that it "may not be amended, modified or waived except by written instrument executed by officers or duly authorized representatives of" Novum and TransMontaigne (*id.* § 20.2). The TSA further provided that it and its attachments were "the entire and exclusive agreement" between Novum and TransMontaigne (*id.* § 20.5).

The TSA referred to the subject tanks thereunder as "the Tanks, as set forth in Section 6 of Attachment A" (NYSCEF # 3 at 5). Section 6 of Attachment A to the TSA included a table chart listing out the three tanks as below:

Tank #	Product	Mode of Receipt into Terminal	Mode of Delivery from Terminal	Shell Capacity In Barrels*	Fill Capacity In Barrels*
TBD	87 Regular	Vessel	Truck or Tank Transfer	176,000	149,600
TBD	93 Premium	Vessel	Truck or Tank Transfer	67,000	56,950
TBD	MTBE	Vessel	Truck or Tank Transfer	67,000	56,950
TOTAL				**310,000**	**263,500**

(*id.*, Attachment A, § 6 – the Chart).

The TSA then defined the lease term of the tanks by referring to the Chart, providing that:

> **Service Term:** The services provided by [TransMontaigne] under this Agreement shall commence on the Initial In-Service Date and shall continue through the date that is five (5) years from the Final In-Service Date (the **"Initial Service Term"**), after which [Novum] will have the option to renew the Service Term ...
>
> The **"Initial In-Service Date"** means the earlier of (i) first day of the Month following written notice from [TransMontaigne] to [Novum] that the first of the Tanks that is planned for construction in section 6(A) of Attachment A is ready for the receipt, handling, storage and delivery of [Novum's] Product or (ii) the date product is received into the Tank. The **"Final In-Service Date"** means the first day of the Month following written notice from [TransMontaigne] to [Novum] that the last of the Tanks that is planned for construction in Section 6(A) of Attachment A is

> ready for the receipt, handling, storage and delivery of [Novum's] Product.

(*id.*, Attachment A, § 4 [emphasis in original]).

Put differently, the TSA subjected Novum to a fixed initial lease term, running from the initial in-service date to five years after the final in-service date (*id.*). After this initial lease term, Novum may extend the lease in its discretion (*id.*).

On March 6, 2019, the final in-service date was triggered as TransMontaigne notified Novum that all three tanks were in-service and ready to accept Novum's product (Compl. ¶ 31). Novum believed that the initial lease term for all three tanks should run from March 6, 2019, to March 8, 2024 (*id.*).[3] These three tanks were later labeled as tank nos. 8101-8103 (*id.*).

The Additional Fourth Tank & The Second Amendment

Around June 2018, Novum and TransMontaigne started discussing adding a fourth gasoline tank to the project (*id.* ¶ 29). On November 8, 2019, Novum and TransMontaigne signed a term sheet regarding the fourth tank (*id.* ¶ 33; NYSCEF # 4 – the Term Sheet). Pursuant to the Term Sheet, TransMontaigne would build this gasoline tank and lease it to Novum for five years commencing "[u]pon notification to [Novum] that [the fourth tank is] ready for service" (NYSCEF # 4).

On December 5, 2019, Novum and TransMontaigne executed the Second Amendment to the TSA, which stated: "[t]he table in Section 6(A) of Attachment A to the [TSA] is deleted in its entirety and replaced with the following:"

Tank #	Product	Mode of Receipt into Terminal	Mode of Delivery from Terminal	Shell Capacity In Barrels*	Fill Capacity In Barrels*
8101	87 Regular	Vessel	Truck, railcar or Tank Transfer	176,000	149,600
8102	93 Premium	Vessel	Truck, railcar or Tank Transfer	67,000	56,950
8103	MTBE	Vessel	Truck, railcar or Tank Transfer	67,000	56,950
TBD	87 Regular	Vessel	Truck, railcar, or Tank Transfer	176,000	158,000
TOTAL				**486,000**	**421,500**

(NYSCEF # 5, § 2.1 – the Revised Chart).

The Second Amendment specified that "[t]he [TSA] is amended only as expressly modified by this Second Amendment. Except as expressly modified by this Second Amendment, the terms of the [TSA] remain unchanged, and the [TSA] is hereby ratified and confirmed by [Novum and TransMontaigne] in all respects" (*id.* § 3.2). On January 18, 2021, TransMontaigne notified Novum that the new tank—later marked as tank no. 8110—came into service (Compl. ¶ 40).

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[3] Of note here, the TSA in its express terms provides that the final in-service date would occur on the first day of the month following March 6, 2019 (i.e., April 1, 2019), rather than on the day of TransMontaigne's notice (i.e., March 6, 2019), as Novum alleges (Compl, ¶ 31).

Tank Leasing Term

According to Novum, the Second Amendment was not intended to change the lease terms of the first three tanks (*id.* ¶¶ 34, 36). And when the Second Amendment was executed in December 2019, it was allegedly both parties' intention that the initial lease term for the first three tanks would remain to be from 2019 to 2024, while the term for the fourth tank would run for a separate five years from the date it became in service, which turned out to be from 2021 to 2026 (*id.*). Novum asserted that the parties' course of dealing between December 2019 and May 2023 reflected such a mutual understanding (*id.* ¶¶ 39-41).

On May 11, 2023, however, TransMontaigne informed Novum that contrary to the previous understanding, the Second Amendment subjected the first three tanks to the same leasing schedule as the fourth tank: meaning, due to the Second Amendment, the initial lease term of the first three tanks was extended from 2024 to 2026 (*id.* ¶ 42). Novum disagreed, alleging that TransMontaigne attempted to bind it to two more years of lease with lease rates favorable to TransMontaigne because the Mexican government had begun rolling back its liberal policy of gasoline import since December 2020, and TransMontaigne would not be able to lease out its storage facilities at such high rates in the future (*id.* ¶¶ 43, 45-46).

Novum commenced this action on October 25, 2023, asserting that under the TSA, the initial five-year lease of the first three tanks ends in 2024. In the alternative, Novum seeks reformation of the TSA based on the parties' mutual mistake on the tank lease terms (*id.* at 17-20).

Discussion

CPLR 3211(a) provides for various grounds under which a party may move for judgment dismissing one or more causes of action, including when a pleading "fails to state a cause of action" (CPLR 3211 [a] [7]) or "a defense is founded upon documentary evidence" (CPLR 3211 [a] [1]). On a motion to dismiss pursuant to CPLR 3211(a) (7), the court "must accept as true the facts as alleged in the complaint and submissions in opposition to the motion, accord plaintiff[] the benefit of every possible favorable inference and determine only whether the facts as alleged fit within any cognizable legal theory" (*Whitebox Concentrated Convertible Arbitrage Partners, L.P. v Superior Well Servs., Inc.*, 20 NY3d 59, 63 [2012]; *accord Pavich v Pavich*, 189 AD3d 548, 549 [1st Dept 2020]). However, "[i]n those circumstances where the legal conclusions and factual allegations are flatly contradicted by documentary evidence they are not presumed to be true or accorded every favorable inference" (*Morgenthow & Latham v Bank of New York Company, Inc.*, 305 AD2d 74, 78 [1st Dept 2003] [internal citation and quotation omitted]). At this stage, whether a plaintiff can ultimately establish its allegations is not taken into consideration when determining a motion to dismiss (*EBC I, Inc. v Goldman, Sachs & Co.*, 5 NY3d 11, 19 [2005]).

First Cause of Action for Declaratory Judgment – CPLR 3211 (a) (1)

TransMontaigne argues that Novum's first cause of action for declaratory judgment should be dismissed under CPLR 3211 (a) (1) because "the plain language of the TSA and the Second Amendment . . . conclusively establishes that Novum's requested contractual interpretation is precluded as a matter of law" (NYSCEF # 20, MOL at 6-11). TransMontaigne asserts that section 4 in the TSA's attachment A clearly defines the start date of the five-year lease period to be the day that "the last of the Tanks that is planned for construction in [the Chart]" became ready for Novum's product (*id.*). Given that the Second Amendment replaced the Chart with the Revised Chart and that the fourth tank added to the Revised Chart was not in service until January 2021, the initial lease term for all tanks leased under the TSA should start in January 2021 (*id.*).

Novum counterargues that TransMontaigne's reading of the TSA is after-the-fact and formalistic, leading to an absurd result that by executing the Second Amendment, Novum agreed to pay TransMontaigne above-market leasing fees for two more years without additional consideration (NYSCEF # 34, MOL at 14-15). To Novum, it is unambiguous that the Second Amendment did not modify the first three tanks' five-year lease term, because that term had started running in March 2019, nine months before the parties executed the Second Amendment in December 2019 (*id.* at 10-11).

Novum finds it instructive that the TSA defines this lease's start date to be the "Final In-Service Date" because "final" has the dictionary meaning of "not to be altered or undone" (*id.* at 12). Novum views the Final In-Service Date as a condition precedent that can only be triggered once – in March 2019 – and then permanently established the five-year term without future alteration (*id.* at 13-14). Novum alternatively argues that should this court reject Novum's position that the TSA is unambiguously in its favor, then the ambiguity in the TSA requires denial of this branch of TransMontaigne's motion under CPLR 3211 (a) (1) (*id.* at 16-18).

TransMontaigne disputes that the "Final In-Service Date" is a condition precedent because the TSA lacks clear language showing that the parties intended to make it a condition (NYSCEF # 36 – Reply at 6). TransMontaigne adds that Novum's argument about it paying above-market leasing fees at most shows that it struck an unfavorable bargain, but not an absurd result (*id.* at 7).

CPLR 3211 (a) (1) allows for dismissal where "a defense is founded upon documentary evidence" (CPLR 3211 [a] [1]). A CPLR 3211 (a) (1) dismissal is warranted only if "documentary evidence submitted *conclusively* establishes a defense to the asserted claims as a matter of law" (*Goldman v Metro. Life Ins. Co.*, 5 NY3d 561, 571 [2005] [emphasis added]). Such documentary evidence must be "essentially undeniable" (*Amsterdam Hosp. Group, LLC v Marshall-Alan Assoc., Inc.*, 120 AD3d 431, 432 [1st Dept 2014]; *see Acquista v New York Life Ins. Co.*, 285 AD2d 73, 76 [1st Dept 2001] [dismissal under CPLR 3211 [a] [1] may result "only

when it has been shown that a material fact as claimed by the pleader is not a fact at all and no significant dispute exists regarding it"]).

Where a written agreement such as a contract or a lease unambiguously contradicts allegations in a complaint as a matter of law, the contract may constitute documentary evidence warranting a dismissal of claims under CPLR 3211(a) (1) (*see 150 Broadway N.Y. Assoc., L.P. v Bodner*, 14 AD3d 1 [1st Dept 2004]; *see also Seaman v Schulte Roth & Zabel LLP*, 176 AD3d 538, 539 [1st Dept 2019]). This is because "the interpretation of an unambiguous contract is a question of law for the court, and the provisions of the contract delineating the rights of the parties prevail over the allegations set forth in the complaint" (*Sterling Fifth Assoc. v Carpentille Corp., Inc.*, 9 AD3d 261, 261-62 [1st Dept 2004]).

That said, dismissal under CPLR 3211 (a) (1) is not warranted if the contract at issue is ambiguous and cannot "conclusively" or "utterly" refute allegations in the complaint (*Henick-Lane, Inc. v 616 First Ave. LLC*, 214 AD3d 435, 436 [1st Dept 2023]; *see Upfront Megatainment, Inc. v Thiam*, 215 AD3d 576, 578 [1st Dept 2023]). "A contract is ambiguous if the provisions in controversy are reasonably or fairly susceptible of different interpretations or may have two or more different meanings" (*New York City Off-Track Betting Corp. v Safe Factory Outlet, Inc.*, 28 AD3d 175, 177 [1st Dept 2006]). The existence of contractual ambiguity is "detected claim by claim," through exanimation of the entire contract and consideration of "the circumstances under which [the contract] was executed" (*Triax Capital Advisors, LLC v Rutter*, 83 AD3d 490, 493 [1st Dept 2011]). "[E]xtrinsic evidence cannot be used to create an ambiguity when the contract itself is clear" (*Reiff v Reiff*, 40 AD3d 346, 347 [1st Dept 2007]). Ambiguities in a contract "cannot be resolved on a pre-answer motion to dismiss" (*CSC Holdings, LLC v Samsung Elecs. Am., Inc.*, 192 AD3d 556 [1st Dept 2021]).

Under these standards, the branch of TransMontaigne's motion seeking to dismiss Novum's claim for declaratory judgment under CPLR 3211 (a) (1) is denied. The TSA and the Second Amendment – when considered in light of the circumstances surrounding their execution – present ambiguities as to the term "Final In-Service Date." This term defined the start date of the tanks' five-year lease to be the day that "the last of the Tanks that is planned for construction in [the Chart]" became ready for Novum's product (NYSCEF # 3, Attachment A, § 4). The three tanks under the TSA had the Final In-Service Date in March 2019 – prior to the execution of the Second Amendment, which came about when the parties agreed to a fourth tank. However, substituting the Chart with the Revised Chart in the Second Amendment may mean that the fourth tank becomes "the last of the Tanks that is planned for construction in [the Revised Chart]". (Compl. ¶ 31).

In a counterfactual hypothetical where the Second Amendment became effective before the event triggering the "Final In-Service Date" occurred, the TSA and the Second Amendment might be unambiguous. But under the circumstances here, ambiguities exist as to whether the "Final In-Service Date" was reset nine months after it had been established (*see Triax Capital Advisors, LLC*, 83 AD3d at

493; *see also Broder v Cablevision Sys. Corp.*, 418 F3d 187, 197 [2d Cir 2005] ["a contract may be ambiguous when applied to one set of facts but not another"]).

Further, not only did the Second Amendment make no mention of the term "Final In-Service Date," but it specified that "*the terms of the [TSA] remain unchanged*" unless they were "*expressly modified* by this Second Amendment" (NYSCEF # 5, § 3.2 [emphasis added]). In light of this provision, it is not clear whether the Second Amendment intended to effect any changes to the meaning of the term "Final In-Service Date," which had been set pursuant to the terms of the TSA nine months before the Second Amendment was executed. If the interpretation proffered by TransMontaigne were adopted, the Second Amendment would apply retroactively to reset a pre-established date, although the Second Amendment never expressly stated that it would have such a retroactive effect. This is inconsistent with the Second Amendment's express terms that it amended the TSA only "as expressly modified" and that the TSA is otherwise "ratified and confirmed by [TransMontaigne and Novum] in all respect" (NYSCEF # 5, § 3.2; *see Carpentieri v 1438 S. Park Ave. Co., LLC*, 215 AD3d 1236, 1238 [4th Dept 2023] [defendants failed to establish as a matter of law that the contract at issue applied retroactively because the contract did not state that]).

As such, under the circumstances surrounding this contractual dispute, the TSA and the Second Amendment are ambiguous rather than "essentially undeniable" (*Amsterdam Hosp. Group, LLC,* 120 AD3d at 432). Therefore, they are not documentary evidence that can conclusively and utterly refute Novum's contract interpretation as alleged in the complaint (*see Henick-Lane, Inc.,* 214 AD3d at 436). Because ambiguities as to the meaning of the term "Final In-Service Date" cannot be resolved on a pre-answer motion to dismiss, TransMontaigne's motion to dismiss Novum's first cause of action under CPLR 3211 (a) (1) is denied (*see CSC Holdings, LLC v Samsung Elecs. Am., Inc.*, 192 AD3d 556 [1st Dept 2021]).

Second Cause of Action for Reformation and Mutual Mistake – CPLR 3211 (a) (7)

According to Novum, neither party intended the Second Amendment to change the lease term of the first three tanks, and if the Second Amendment mistakenly extended such term in conflict with the parties' true intention, the TSA and the Second Amendment should be reformed accordingly (Compl. ¶¶ 57-64).

But according to TransMontaigne, Novum's mutual mistake claim fails because (i) Novum did not plead with the required particularity as to why the parties would intend the lease term of the first three tanks to remain the same and yet include contract terms "directly to the contrary" of their allegedly true intention, (ii) Novum did not explain why this alleged mistake is material enough to justify reformation, and (iii) the parties' communications evidencing a mutual mistake that existed after the Second Amendment was executed "are all irrelevant" because the mistake must be made during – not after – the execution of the Second Amendment (NYSCEF # 20 at 11-13).

In response, Novum disputes that the terms in the Second Amendment are directly contrary to the alleged mutual mistake (NYSCEF # 34 at 19-20). Novum adds that the alleged mistake is material because "the duration of a lease is a material term" (*id.* at 21). Lastly, Novum argues that post-execution documents can be evidence of the parties' intention when they made the contract (*id.* at 22).

At the stage of a motion to dismiss, "a claim predicated on mutual mistake must be pleaded with the requisite particularity necessitated under CPLR 3016 (b)" (*Simkin v Blank*, 19 NY3d 46, 52 [2012]; CPLR 3016 [b] ["[w]here a cause of action . . . is based upon . . . mistake . . . the circumstances constituting the wrong shall be stated in detail"]). Under New York law, an agreement may be subject to reformation based on a mutual mistake by the parties (*Simkin*, 19 NY3d at 52; *see Greater New York Mut. Ins. Co. v United States Underwriters Ins. Co.*, 36 AD3d 441, 443 [1st Dept 2007]). The premise underlying the doctrine of mutual mistake is that "the agreement as expressed, in some material respect, does not represent the meeting of the minds of the parties" (*Simkin*, 19 NY3d at 52-53). "A claim of mutual mistake is stated where the allegations indicate that the parties have reached an oral agreement and, unknown to either, the signed writing does not express that agreement" (*106 Spring St. Owner LLC v Workspace, Inc.*, 188 AD3d 588, 589 [1st Dept 2020]). "The mutual mistake must exist at the time the contract is entered into and must be substantial"—meaning, the mistake must be "so material that . . . it goes to the foundation of the agreement" (*Simkin*, 19 NY3d at 52).

Applying these principles, the branch of TransMontaigne's motion seeking to dismiss Novum's claim for mutual mistake pursuant to CPLR 3211 (a) (7) is denied. First, Novum has pleaded the alleged mistake with the required particularity under CPLR 3016 (b). The allegations in the complaint describe the circumstances and the content of the alleged mistake in detail. The complaint alleges that Novum and TransMontaigne signed the Term Sheet a month before signing the Second Amendment (Compl. ¶ 33). The sole concern of the Term Sheet was the fourth tank, as the sheet made no mention of the first three tanks (*id.*). The complaint further alleges that "*at the time of the parties' eventual agreement*, both parties understood and intended . . . the Fourth Tank [to] be on a completely different schedule than the schedule for the Initial Three Tanks" (*id.* ¶ 34 [emphasis added]).

According to Novum, after the execution of the Second Amendment, the parties' communications – including emails from TransMontaigne's director of business development – indicated their mutual understanding that the fourth tank was on a different lease term (*id.* ¶ 40). Novum alleges with specificity when and why TransMontaigne switched its position on the tank lease term (*id.* ¶¶ 39, 42, 45). Based on the complaint, TransMontaigne attempted to re-interpret the TSA and the Second Amendment in May 2023, three years after making the amendment in 2019, because the Mexican government changed its gasoline import policy in 2021 (*id.*). These allegations sufficiently demonstrate the circumstances giving rise to the mutual mistake and "the particulars of the actual agreement intended by the parties" (*Friedland Realty, Inc. v 416 W, LLC*, 120 AD3d 1185, 1187 [2d Dept 2014];

see also 313-315 W. 125th St. L.L.C. v Arch Specialty Ins. Co., 138 AD3d 601, 602 [1st Dept 2016]).

Next, TransMontaigne's argument that the alleged mistake is not material also fails. A misunderstanding that "pervade[ed] the entire transaction" is substantial mutual mistake (*see In re Drayton*, 127 AD3d 526, 529 [1st Dept 2015]). Here, taken Novum's allegations as true, Novum and TransMontaigne's communications before and after execution of the Second Amendment demonstrate that both parties had a misunderstanding of the Second Amendment's effect on the lease term of the first three tanks throughout the entire transaction, which even continued for three more years after the transaction (Compl. ¶¶ 33, 34, 40). Such pervaded misunderstanding goes to the foundation of the Novum and TransMontaigne's agreement. Further, lease duration is a material term of commercial leases (*see 180 Water St. Assoc., L.P. v Lehman Bros. Holdings, Inc.*, 7 AD3d 316, 317 [1st Dept 2004]). Therefore, the alleged mutual mistake on the lease term is material to the TSA and the Second Amendment.

Finally, TransMontaigne's assertion that post-execution communications are irrelevant to a claim of mutual mistake is rejected. The First Department has consistently held that the parties' pattern of performance "subsequent to the date of the [contract]" constitutes "strong evidence of mutual mistake" (*Gramercy 222 Residents Corp. v Gramercy Realty Assoc.*, 209 AD2d 181, 181 [1st Dept 1994]). The First Department makes clear that although "[h]ow the parties perform a contract necessarily is manifested after execution of the contract . . . their performance is highly probative of their state of mind at the time the contract was signed" (*Gulf Ins. Co. v Transatlantic Reins. Co.*, 69 AD3d 71, 85 [1st Dept 2009]). Here, Novum has incorporated in the complaint many post-execution communications between the parties to support its allegations that both parties intended the fourth tank to run on a different leasing schedule upon the signing of the Second Amendment (Compl. ¶¶ 40, 63). These alleged post execution communications are directly relevant to Novum's claim for mutual mistake.

Accordingly, the branch of TransMontaigne's motion to dismiss Novum's second cause of action for reformation based on mutual mistake is denied.

Conclusion

In view of the above, it is hereby

ORDERED that defendant TransMontaigne Operating Company L.P.'s motion to dismiss the complaint of plaintiff Novum Energy Trading Inc. (MS 002) is denied; and it is further

ORDERED that within 30 days of the e-filing of this order, defendant shall file an answer to the complaint; and it is further

ORDERED that a preliminary conference shall be held via Microsoft Teams on May 29, 2024, at 3:30 p.m. or at such other time that the parties shall set with the court's law clerk.

04/12/2024
DATE

MARGARET A. CHAN, J.S.C.

CHECK ONE:	[ ]	CASE DISPOSED		[X]	NON-FINAL DISPOSITION		
	[ ]	GRANTED	[X] DENIED	[ ]	GRANTED IN PART	[ ]	OTHER
APPLICATION:	[ ]	SETTLE ORDER		[ ]	SUBMIT ORDER		
CHECK IF APPROPRIATE:	[ ]	INCLUDES TRANSFER/REASSIGN		[ ]	FIDUCIARY APPOINTMENT	[ ]	REFERENCE