SO ORDERED,

Judge Jamie A. Wilson
United States Bankruptcy Judge
Date Signed: July 23, 2026

The Order of the Court is set forth below. The docket reflects the date entered.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

IN RE:

EL DORADO GAS & OIL, INC., *et al.*,[1] **CASE NO. 23-51715-JAW**

DEBTORS. **CHAPTER 11**

MEMORANDUM OPINION AND ORDER DENYING MOTION OF THOMAS L. SWAREK, INDIVIDUALLY AND AS PARTY IN INTEREST, FOR EXAMINATION AND PRODUCTION UNDER RULE 2004

There came before the Court for hearing on July 15, 2026[2] (the "Hearing") the following matters filed in the above-referenced bankruptcy case:

- Motion of Thomas L. Swarek, Individually and as Party in Interest, for Examination and Production under Rule 2004 ("2004 Motion") (EDGO Dkt. #1790)[3] filed by Thomas L. Swarek ("Swarek"), acting *pro se*;[4]

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[1] Jointly administered with *In re Hugoton Operating Company, Inc.*, Case No. 23-51139-JAW; *In re Bluestone Natural Resources II – South Texas, LLC*, Case No. 24-50223-JAW; and *In re World Aircraft, Inc.* Case No. 24-50224-JAW.
[2] This matter was previously scheduled for hearing on May 20, 2026. (EDGO Dkt. #1794). That morning, however, Swarek contacted Chambers requesting a continuance, which the Court granted. (EDGO Dkt. #1883). Because of the last-minute continuance, out-of-state counsel had already arrived in Jackson—having expended significant time and expense to be present. The Court reset the hearing for June 12, 2026. (EDGO Dkt. #1865), and then to conserve judicial resources and estate expenses, reset it for July 15, 2026 to be heard with other matters. (EDGO Dkt. #1883).
[3] Citations to the record are as follows: citations to docket entries in the above-referenced lead bankruptcy case are cited as "(EDGO Dkt. #);" citations to docket entries in *First Service Bank v. Thomas L. Swarek*, Case No. 1:24-cv-00020-TBM-RPM (S.D. Miss.) are cited as "(MSL Guaranty Dkt. #)"; and citations to docket entries in adversary proceeding *Thomas L. Sware. v. MS Facilities 2020, LLC*, Case No. 25-06007-JAW are cited as "(MSF 2020 Dkt. #)".
[4] Swarek has appeared *pro se* before this Court on many occasions. He has testified, examined witnesses, and argued his positions. The Court is concerned that some of the language contained in the pleadings filed by Swarek may have been generated by artificial intelligence ("AI"). Swarek confirmed at the Hearing that he is using AI to draft his pleadings. (Hr'g at 10:13 (July 22, 2026)). For future reference, the Court cautions Swarek and other parties against using AI without verification and of the possibility of sanctions for filing unverified AI-generated pleadings. *See Ferris v. Amazon.com Servs., LLC*, 778 F. Supp. 3d 879, 881 (N.D. Miss. 2025) (holding that a *pro se* litigant has the same

- Supplemental Clarification of Requested Rule 2004 Discovery Concerning Electronic Signature Authentication, Participation, Servicing, and Enforcement Authority (the "Supplement") (EDGO Dkt. #1833) filed by Swarek;

- First Service Bank's Objection to the Motion of Thomas L. Swarek, Individually and as a Party in Interest, for Examination and Production under Rule 2004 and Supplemental Clarification ("FSB's Objection") (EDGO Dkt. #1835) filed by First Service Bank ("FSB");

- Chapter 11 Trustee's Limited Objection to Thomas L. Swarek's Motion for Examination and Production under Rule 2004 and Supplemental Clarification of Requested Rule 2004 Discovery Concerning Electronic Signature Authentication, Participation, Servicing, and Enforcement Authority ("Trustee's Objection") (EDGO Dkt. #1837) filed by Dawn M. Ragan (the "Trustee"), the duly appointed chapter 11 trustee for El Dorado Gas & Oil, Inc. ("El Dorado"), and Hugoton Operating Company, Inc. ("Hugoton"), and in that capacity, the independent manager of the debtor Bluestone Natural Resources II – South Texas, LLC ("Bluestone"), and the independent director of the debtor World Aircraft, Inc. ("World Aircraft," and collectively with El Dorado, Hugoton, and Bluestone, the "Debtors");

- Joinder of MS Facilities 2020, LLC to (I) First Service Bank's Objection to the Motion of Thomas L. Swarek, Individually and as a Party in Interest, for Examination and Production under Rule 2004 and Supplemental Clarification, and (II) Chapter 11 Trustee's Limited Objection to Thomas L. Swarek's Motion for Examination and Production under Rule 2004 and Supplemental Clarification of Requested Rule 2004 Discovery Concerning Electronic Signature Authentication, Participation, Servicing, and Enforcement Authority ("MSF's Joinder") (EDGO Dkt. #1845) filed by MS Facilities 2020, LLC ("MSF 2020");

- Reply and Notice of Narrowed Scope Regarding Rule 2004 Motion ("Swarek's Reply") (EDGO Dkt. #1875) filed by Swarek;

- Notice of District Court and Fifth Circuit Rulings Related to Pending Swarek Motions and Request to Deny Motions as Moot ("FSB's Notice of Rulings") (EDGO Dkt. #1888) filed by FSB; and

- Request for Ruling on Narrowed Rule 2004 Production Request, for Clarification of Remaining Rule 2004 Proceedings, and for Leave to Respond if Docket No. 1888 Is Treated as a Motion ("Swarek's Clarification Request") (EDGO Dkt. #1925) filed by Swarek.

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duties under Rule 11 of the Federal Rules of Civil Procedure as an attorney, including the duty "to conduct a reasonable inquiry into the facts or law before filing the lawsuit").

At the Hearing, Swarek appeared *pro se*. FSB was represented by David L. Curry, Jr., who appeared by phone, and Jack A. Crawford, Jr.; the Trustee was represented by R. Michael Bolen, Katherine Hopkins, and Nancy Lee Ribaudo, who appeared by phone; and both Ari Newman and John B. Hutton appeared by phone on behalf of MSF 2020. Abigail Marbury appeared on behalf of the United States Trustee (the "UST").

The Hearing

At the Hearing, Swarek confirmed that he seeks the documents and other information requested in his 2004 Motion to use in other litigation pending against him in the U.S. District Court for the Southern District of Mississippi (the "District Court"). (Hr'g at 10:21 (July 15, 2026)). Notwithstanding the arguments about FSB's claim advanced by Swarek at the Hearing, the Court is extremely familiar with the loan history between El Dorado and FSB and his prior attempts in this Court to attack the validity and/or enforceability of the loan as explained herein.

JURISDICTION

The Court has jurisdiction over the parties to and subject matter of this proceeding pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(A). Notice of the 2004 Motion was proper under the circumstances.

FACTS

The MS Loan

On September 17, 2020, El Dorado, as borrower; FSB, as lender; and Hugoton, World Aircraft, and Swarek, as guarantors; entered into a Term Loan Credit Agreement (the "Loan Agreement") in the principal amount of $50 million (the "MS Loan"). (EDGO Cl. #2). Payment of the MS Loan was guaranteed by Swarek, Hugoton, and World Aircraft. The MS Loan is not the only loan made by FSB to Swarek or one of his many companies but is by far the largest. (EDGO Cl.

#21-29, #31-32).

The MS Loan was made pursuant to the Main Street Lending Program (the "MSL Program"), which was established to support lending to small and medium-sized for-profit firms "that were in sound financial condition before the onset of the COVID-19 pandemic" but whose businesses suffered during the crisis.[5] MSF 2020 was formed as a special purpose vehicle to purchase 95% participations in eligible loans from private lenders, mainly commercial banks. MSF 2020 did not screen or originate these loans but relied on banks to perform these services (here, FSB).

When FSB loaned El Dorado $50 million, FSB and MSF 2020 entered into the "Participation Agreement under the Main Street Lending Program" (the "Participation Agreement"), under which FSB agreed to sell MSF 2020 95% of the MS Loan. FSB retained sole authority to service and enforce the debt, and MSF 2020 paid FSB administrative and servicing fees. In early 2023, El Dorado defaulted under the Loan Agreement.

Debtors' Bankruptcy Cases

Swarek either directly or indirectly owns all of the corporate Debtors, which previously were engaged in the business of operating oil and gas interests and owning related personal property and equipment. Each of the Debtors' bankruptcy cases was initiated by the filing of a voluntary chapter 11 bankruptcy petition in late 2023 or early 2024. Hugoton is a wholly owned subsidiary of El Dorado and filed a chapter 11 petition for relief on August 14, 2023. Next, El Dorado filed on December 23, 2023, Case No. 23-51715-JAW (the "EDGO Case"). Swarek is El Dorado's sole shareholder. (EDGO Dkt. #1162 at 3). On February 22, 2024, Bluestone (Case No. 24-50223-JAW) and World Aircraft (Case No. 24-50224-JAW) filed chapter 11 petitions and were represented to be subsidiaries of EDGO. (No. 24-50223-JAW Dkt. #9; No. 24-50224-JAW Dkt. #9).

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[5] *Main Street Lending Program*, www.federalreserve.gov/monetarypolicy/mainstreetlending.htm (last visited July 23, 2026); *see* 12 U.S.C. § 343(3). The MSL Program accepted loan submissions from July 6, 2020 to January 8, 2021.

After the Debtors conceded pending motions to appoint a chapter 11 trustee, the Trustee was appointed on January 31, 2024 as the trustee of El Dorado's and Hugoton's estates. (EDGO Dkt. #193, #208; No. 23-51139-JAW, Dkt. #193, #196). On May 22, 2024, the Court authorized her to serve as Bluestone's managing member and World Aircraft's independent director. (EDGO Dkt. #455). That same day, by joint motion and in a separate order, the Court approved the joint administration of Hugoton's, Bluestone's and World Aircraft's bankruptcy cases with the El Dorado Case (Case No. 23-51715-JAW) as the lead case. (EDGO Dkt. #456). On August 21, 2025, the Court granted the Trustee's motions to substantively consolidate the Debtors. (EDGO Dkt. #1504-1507).

FSB's Proofs of Claim

FSB filed several proofs of claim in the El Dorado Case. (EDGO Cl. #2, #21-29, #31-32). As to the MS Loan, FSB filed proof of claim #2, alleging a pre-petition debt totaling $53,891,253.17. (EDGO Cl. #2-1). FSB has amended its proof of claim twice and the current amount of the debt, as shown in FSB's second amended proof of claim, is $49,891,253.17 (EDGO Cl. #2-2, #2-3). That reduced amount accounts for a $4 million interim distribution[6] by the Trustee. (EDGO Dkt. #1395).

The Financing Order

When the Trustee first gained control of El Dorado, the estate did not have sufficient cash to maintain business operations or to market and sell its assets. (EDGO Dkt. #329 at 10). On April 15, 2024, the Trustee filed an emergency motion seeking entry of interim and final orders authorizing El Dorado to obtain post-petition financing up to $8,750,000 from FSB and another named

[6] The $4 million distribution to FSB came from the Trustee's sale of assets of the estate.

lender.[7] (EDGO Dkt. #329). On May 24, 2024, the Court entered the Final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral; (II) Granting Liens and Superpriority Administrative Expense Claims; (III) Granting Adequate Protection; (IV) Modifying the Automatic Stay; (V) Scheduling a Final Hearing; and (VI) Granting Related Relief (EDGO Dkt. #463) (the "Financing Order"). The Financing Order determined the amount of EDGO's pre-petition liability with respect to the MS Loan to FSB to be $53,891,253.17:

> As of the El Dorado Petition Date, Debtors and Swarek were liable to, and/or their asserts subject to liens of, the Prepetition Lender, pursuant to the Prepetition MSL Loan Documents, for (a) an aggregate principal amount of not less than $53,891,253.17 in respect of loans made and/or funds borrowed (plus accrued and unpaid interest thereon).

(Financing Order ¶ D(ii) at 7, EDGO Dkt. #463).[8] One of the material terms of the credit facility was El Dorado's agreement to release FSB and MSF 2020 from all existing claims related to the MS Loan:

> [F]or good and valuable consideration, the adequacy of which, as to the Debtors and their estates, is hereby confirmed, each of the Credit Parties (in its own right and, as applicable, on behalf of its respective estate and its estate's respective successors and assigns) hereby unconditionally and irrevocably releases . . . the Released Parties (as defined herein). . . from any and all claims . . . (*including any derivative claims asserted or assertable on behalf of the Debtors, their estates, or such entities' successors or assigns, whether individually or collectively*), whether known [or] unknown . . . including, without limitation, all legal and equitable theories of recovery . . . that exist on the date hereof with respect to the Prepetition MSL Obligation, the Prepetition MSL Liens, and/or the DIP Facility, including, without limitation, (a) *any so-called "lender liability"* or equitable subordination claims or defenses, and (b) any and all "claims" . . . and causes of action arising under the Bankruptcy Code.

(Financing Order ¶ F(viii)-(ix) at 12-13, EDGO Dkt. #463) (emphasis added). "Credit Parties" were defined as the Debtors. "Released Parties" included: (a) FSB; (b) MSF 2020, described as a

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[7] For additional details regarding the final Financing Order hearing held on May 15, 2024, *see* Order Granting MS Facilities 2020, LLC's Motion to Dismiss (MSF 2020 Dkt. #31 at 7-10).

[8] The amount in the Financing Order is the same amount reflected in FSB's original proof of claim. (EDGO Cl. #2).

"participating Prepetition Lender and entity formed in connection with the implementation of the Main Street Lending Program;" and (c) each Related Party. In turn, "Related Party" included "successors and assigns." The release was binding on El Dorado and any party asserting claims on El Dorado's behalf. In an order entered in a related adversary proceeding, the Court specifically ruled that any claims against MSF 2020 related to the MS Loan were released by the Debtors in the Financing Order.[9]

Notwithstanding the Financing Order, Swarek points to other proceedings in other forums to show that a dispute justifying his 2004 Motion remains.

FSB's MSL Guaranty Suit Against Swarek in District Court

To enforce Swarek's guaranty of the MS Loan, FSB sued Swarek in *First Service Bank v. Thomas L. Swarek*, Case No. 1:24-cv-00020-TBM-RPM (the "MSL Guaranty Suit") in District Court. Swarek failed to file a responsive pleading, and an entry of default was entered on February 20, 2024. Swarek, acting *pro se*, moved to set aside the entry of the default, and FSB, in turn, moved for a default judgment. FSB then filed a separate motion for summary judgment on its $54,928,751.83 claim, which Swarek opposed. Swarek admitted that the MS Loan guaranty agreement was an enforceable contract, that he had a duty to pay FSB as a guarantor, and that he violated that duty but argued that FSB, as the owner of only 5% of the MS Loan, lacked standing to sue for the full amount of the debt and also that MSF 2020, the 95% owner, was an "essential missing party." (MSL Guaranty Dkt. #45).

The District Court rejected Swarek's arguments. It found that FSB was both a lender and a servicing agent for MSF 2020 and, therefore, was authorized to sue him for the full amount of the

[9] *See* Order Granting MS Facilities 2020, LLC's Motion to Dismiss (MSF 2020 Dkt. #31 at 21) (finding that "[a]lthough the release names 'MS Facilities, LLC,' it describes that entity as a 'participating Prepetition Lender and entity formed in connection with the implementation of the Main Street Lending Program.' That description can only refer to MSF 2020. At bottom, there is no doubt the Trustee's intent was to release FSB and MSF 2020 as lenders.").

MS Loan. The District Court entered an order: (1) granting summary judgment in favor of FSB in the amount of $54,928,751.83 and (2) in the alternative, denying Swarek's motion to set aside the entry of default and granting FSB's motion for default judgment. (MSL Guaranty Dkt. #45). A judgment against Swarek was entered the next day, July 13, 2024 (the "Guaranty Judgment")[10] (MSL Guaranty Dkt. #47).

Swarek asked the District Court to reconsider its order based on evidence that he believed would prove that El Dorado was entitled to eighteen months of forbearance and a restructuring of the MS Loan. (MSL Guaranty Dkt. #52). This evidence, which he attached to his motion, consisted of 229 pages of print outs of various government websites about the MSL Program and screenshots of news article about Covid-19. On March 5, 2025, the District Court denied Swarek's motion to reconsider, concluding that Swarek should have presented the evidence earlier at the summary judgment stage of the proceedings and, regardless, the evidence failed to show that FSB was obligated to extend the MS Loan. (MSL Guaranty Suit Dkt. #64). On October 3, 2025, the District Court entered a separate order recognizing its prior Guaranty Judgment as final.[11] (MSL Guaranty Dkt. #69); *see* Fed. R. Civ. P. 54(b).

On April 13, 2026, Swarek filed a second motion to reconsider under Rule 60(b) of the Federal Rules of Civil Procedure (the "Rule 60(b) Motion") (MSL Guaranty Dkt. #79) and later a separate motion seeking an "expedited indicative ruling." (MSL Guaranty Dkt. #82). Swarek relies on this Rule 60(b) Motion to support his request for documents in the present 2004 Motion.

Swarek alleged in the Rule 60(b) Motion that FSB had misrepresented the loan closing date; concealed or failed to disclose the true funding structure of the MS Loan; pursued judgment

[10] At this point, the Guaranty Judgment was not final because FSB had also sued World Aircraft, but after World Aircraft filed bankruptcy, those claims were stayed and remained pending.
[11] The District Court entered the order after FSB dismissed its claim against World Aircraft without prejudice.

against him while the true 95% owner of the debt, MSF 2020, was not joined as a party to the lawsuit; submitted an affidavit that contained hearsay, speculation or lacked foundation; and failed to notify him of "viable cure and repayment pathways." (MSL Guaranty Dkt. #79). Swarek asked the District Court to vacate the Guaranty Judgment or, in the alternative, allow him to engage in "limited, targeted discovery" to prove his allegations against FSB.

On June 8, 2026, the District Court denied Swarek's Rule 60(b) Motion as "yet another example of his recent pattern of frivolous filings." (MSL Guaranty Dkt. #88). Specifically, the District Court denied his alternative request for discovery as moot. The resolution of the Rule 60(b) Motion removes the main reason given by Swarek for conducting a Rule 2004 examination.

Swarek's Appeals of Guaranty Judgment & Rule 60(b) Motion

Before the District Court denied his Rule 60(b) Motion, Swarek appealed the Guaranty Judgment to the Fifth Circuit Court of Appeals (the "Guaranty Appeal") (No. 25-60618) on November 3, 2025. More recently, on July 8, 2026, Swarek appealed the Rule 60(b) Motion (Case No. 26-60550).

In the Guaranty Appeal, Swarek filed "a limited protective opening brief" asking the Fifth Circuit to defer "full merits briefing" pending resolution of his Rule 60(b) Motion. (No. 25-60618, Dkt. #27). His brief nevertheless went beyond his request to stay the appeal and included allegations that FSB had "misrepresented or concealed material facts concerning the loan funding date, participation structure, creditor identity, enforcement authority, and the status of MS Facilities LLC." (No. 26-60618, Dkt. #27 at 3). He also filed a Motion to Hold Briefing in Abeyance (No. 25-60618, Dkt. #28), which the Fifth Circuit denied as moot on April 14, 2026. (No. 25-60618, Dkt. #33).

On April 23, 2026, Swarek filed a second Emergency Motion for Stay Pending Appeal (No.

25-60618, Dkt. #35), asking the Fifth Circuit again to stay execution of the Guaranty Judgment, which the Fifth Circuit again denied on May 19, 2026. (No. 25-60618, Dkt. #48). FSB moved the Fifth Circuit to strike Swarek's "limited protective opening" brief. (No. 26-60618, Dkt. #49). In response, Swarek asked for leave to file a corrected brief. (No. 26-60618, Dkt. #51). The Fifth Circuit granted Swarek's request to file a corrected brief. (No. 26-60618, Dkt. #71). Swarek filed a corrected brief on July 15, 2026. (No. 26-60618, Dkt. #81). The appeal remains pending.

FSB's Non-MSL Guaranty Action Filed in District Court

On August 28, 2024, FSB filed a second lawsuit against Swarek in District Court titled *First Service Bank v. Thomas L. Swarek*, Case No. 1:24-cv-00262-TBM-RPM (the "Non-MSL Guaranty Action"). This lawsuit related to eight loans, not including the $50 million MS Loan, totaling more than $13 million made by FSB to Swarek or one of his companies, which are guaranteed by Swarek.[12] (No. 1:24-cv-00262-TBM-RPM, Dkt. #60).

FSB moved for a partial summary judgment against Swarek as a borrower on one loan and as the guarantor of six others. (No. 1:24-cv-00262-TBM-RPM, Dkt. #68). The summary judgment proceedings are currently in the briefing stage. No final judgment has been entered.

On April 13, 2026, Swarek filed a Motion to Stay Sale of Farmland and Related Proceedings, seeking an emergency stay of any "foreclosure, action, or sale of World Ag farmland and related assets." (No. 1:24-cv-00262-TBM-RPM, Dkt. #83). According to Swarek, such relief was warranted to prevent the Trustee from selling certain real property owned by El Dorado's subsidiary, World Ag Investment, Inc. ("World Ag"), while his Rule 60(b) motion remained pending in the separate, unrelated MSL Guaranty Suit. The District Court denied the motion on May 5, 2026.

[12] The Non-MSL Guaranty Action originally included other defendants but FSB's claims against them were either dismissed or severed into a separate lawsuit. (No. 1:24-cv-00262-TBM-RPM, Dkt. #67).

(No. 1:24-cv-00262-TBM-RPM, Dkt. #95).[13]

Swarek's Prior Attempts to Challenge the FSB Debt in Bankruptcy Court

Swarek has not confined his attacks on the validity and/or amount of the MS Loan to the District Court. His allegations against FSB and MSF 2020 are well known to this Court. Swarek, who was represented by counsel at that time, filed a written objection to FSB's Claim #2 (EDGO Dkt. #1219), alleging lender-liability claims against FSB in the El Dorado Case similar to those alleged in the MSL Guaranty Suit. Swarek later voluntarily withdrew that objection. (EDGO Dkt. #1229). Swarek also sued MSF 2020 in an adversary proceeding, *Thomas L. Swarek, Individually and Derivatively on Behalf of El Dorado Gas & Oi, Inc. v. MS Facilities 2020, LLC,* Adv. Pro. 25-06007, repeating the same lender-liability claims against MSF 2020. (MSF 2020 Dkt. #1). Because any potential claims constituted El Dorado's estate property and were under the Trustee's control, Swarek lacked standing. For this reason and because El Dorado had released the claims in the Financing Order, the Court subsequently dismissed the adversary. (MSF 2020 Dkt. #31 at 20-26).

The Extend Stay Order

In the El Dorado Case, Swarek filed an Emergency Motion to Stay Sale of Estate Property and for Injunctive Relief (the "Extend Stay Motion") (EDGO Dkt. #1791). He filed similar emergency motions in the Non-MSL Guaranty Action, the Guaranty Appeal, the related adversary proceeding against Buffington, and the District Court action against World Ag, all seeking an injunction temporarily prohibiting the Trustee from selling certain real property (the "Properties")[14] owned by World Ag, a subsidiary of El Dorado.[15]

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[13] At that time, the District Court had not yet denied the Rule 60(b) Motion in the MSL Guaranty Suit.

[14] The Trustee is the independent director of World Ag by virtue of El Dorado's ownership of the wholly owned subsidiary.

[15] *See* Emergency Motion to Stay Sale of Farmland and Related Proceedings, *First Service Bank v. Swarek*, Case No. 1:24-cv-00262-TBM-RPM (S.D. Miss. Apr. 13, 2026), Dkt. #83; Emergency Motion for Stay Pending Appeal, *First Service Bank v. Swarek*, No. 25-60618 (5th Cir. Apr. 23, 2026), Dkt. #35; Emergency Motion to Preserve Status Quo and Stay any Dispossession, Eviction, Foreclosure, Sale, Transfer, or other Disposition of the Hunting Land, *First*

His stay motions were not clearly written but appeared to allege similar grounds, including "fraud and misrepresentation," "concealment of material evidence," "improper reliance on testimony later contradicted," and "lack of authority of key entities" and contend that the "[j]urisdiction and enforceability of the underlying judgment are in serious dispute." As did the District Court and the Fifth Circuit, this Court denied Swarek's Extend Stay Motion. *See* Order Denying Emergency Motion to Stay Sale of Estate Property and for Injunctive Relief (the "Extend Stay Order") (EDGO Dkt. #1909).

The facts asserted by Swarek in his failed Extend Stay Motion (and in the other unsuccessful motions) underpin his 2004 Motion. Swarek's Motion to Extend Stay sought outright to prevent the sale of the Properties by the Trustee. The 2004 Motion, discussed below, seeks the production of documents that he believes will negate or reduce the debt to FSB, thereby eliminating the Trustee's need to sell the Properties. Both the Extend Stay Motion denied by the Court and the 2004 Motion have one goal: to prevent the Trustee from selling the Properties.

Swarek's 2004 Motion

Swarek filed his 2004 Motion on April 13, 2026, requesting "an order authorizing examination and production under [Rule 2004]." (EDGO Dkt. #1790 at 1). He does not set a date or time for conducting an examination, and he appears to request only the production of documents. He does not direct his document requests to any specific person or entity but appears to request documents from MSF 2020 and FSB.

In general, he seeks documents that might support his attack on the Guaranty Judgment and the amount and/or validity of the MS Loan/FSB claim. He claims, however, that he "does not

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Service Bank v. Buffington (In re El Dorado Gas & Oil, Inc.), Adv. Proc. 26-06007-JAW (Bankr. S.D. Miss. May 1, 2026), Dkt. #34; Emergency Motion to Preserve Status Quo Pending Appeal and Related Proceedings, *First Service Bank v. World Ag Investments Inc.*, Case No. 1:25-cv-00344-TBM-RPM (S.D. Miss. May 1, 2026), Dkt. #69.

seek to relitigate guaranty liability previously adjudicated" and only seeks discovery as "to reconciliation of the asserted claim amount, calculation methodology, and enforcement authority." (EDGO Dkt. #1790 at 2). He wants to examine FSB's method for calculating the amount of its claim. He says that FSB's claim incorrectly "asserts accrued interest exceeding $2.3 million" and he seeks documents to answer questions regarding:

> (a) the actual Funding Date of the loan; (b) the disbursement history and timing of loan proceeds; (c) the method used to calculate accrued interest; (d) the calculation and capitalization of deferred interest; (e) the application and depletion of the $1.6 million interest reserve; (f) the calculation of the Capitalized Loan Amount; (g) the participation structure relating to the reported 95% participation interest; (h) the servicing authority governing acceleration decisions.

(EDGO Dkt. #1790 at 3). He lists at least 21 categories of documents, including: "documents reflecting any written authorization, consent, or approval required or obtained in connection with acceleration of the loan or enforcement actions," "documents reflecting any authorization, consent, approval, or ratification by MS Facilities LLC relating to acceleration, enforcement actions, litigation filings, trustee-related activity, or fee approvals during the period June 1, 2023 through May 2024," "[a]ny corporate resolutions, member consents, officer certifications, governance documents, or similar records executed by MS Facilities, LLC during the period June 1, 2023 through May 2024," "all internal communications among or between [FSB], [MSF 2020], and any agents, servicers, or participants relating to the Debtor's financial condition, ability to cure, restructuring options, or enforcement strategy," and "[w]ithout limiting the foregoing, all documents and communications involving or referencing any proposal, offer, or transaction involving Gentry Beach, or any other potential investor, purchaser, or financing source." (EDGO Dkt. #1790 at 4-6).

Swarek's Supplement

On May 1, 2026, Swarek filed the Supplement (EDGO Dkt. #1833). Its purpose, according to Swarek, is to "clarify, not narrow" his requests in the 2004 Motion "because related proceedings, including *First Service Bank v. World Aircraft, Inc.*, Case No. 1:24-cv-00020-TBM-RPM [the MSL Guaranty Suit], *First Service Bank v. Swarek*, Case No. 1:24-cv-00262 [the Non-MSL Guaranty Action], *First Service Bank v. World AG Investment Inc.*, Case No. 1:25-cv-00344, and related appellate proceedings, *all depend upon the same underlying loan documents*." (EDGO Dkt. #1833 at 1) (emphasis added).[16] He requests "all DocuSign and electronic signature authentication records" as to several documents. (EDGO Dkt. #1833 at 2-3).

FSB's Objection & MSF's Joinder

FSB argues that Swarek has failed to show good cause for the Rule 2004 examination for numerous reasons, including that: (1) it is an improper effort to obtain discovery for separate litigation with no legitimate bankruptcy purpose; (2) it is an impermissible collateral attack on the Guaranty Judgment and an "end run" around the pending Guaranty Appeal; and (3) it is barred by *res judicata* and cannot justify Rule 2004 discovery. (EDGO Dkt. #1835 at 6-10). FSB also claims that Swarek is not a "party in interest" with standing to make the requests and that the requests are overbroad and unduly burdensome and seek privileged and confidential material. (EDGO Dkt. #1835 at 10-12). MSF joins FSB's position and arguments. (EDGO Dkt. #1845).

Trustee's Objection

The Trustee filed the Trustee's Objection arguing that Swarek's 2004 Motion is unclear as to whom the examination and discovery requests are directed. (EDGO Dkt. #1837 at 2). She objects to the requests as being vague, voluminous, unduly burdensome and without temporal limitation. She asserts that the documents are irrelevant because they relate to issues already resolved in the El Dorado Case. (EDGO Dkt. #1837 at 4).

[16] FSB's claims against World Ag and other defendants were dismissed from the Non-MSL Guaranty Action and assigned a new civil action, *First Service Bank v. World AG Investment Inc.*, Case No. 1:25-cv-00344-TBM-RPM. That case was closed on December 1, 2025 (Case No. 25-cv-00344-TBM-RPM, Dkt. #68).

Swarek's Reply

In an attempt to address issues raised in the objections, Swarek filed Swarek's Reply to "clarify[] that the requested discovery is limited to non-privileged documents and information reasonably necessary to reconcile, evaluate, and determine: (a) the amount asserted in Claim No. 2; (b) the ownership and economic interest associated with Claim No. 2; (c) the authority of [FSB] to file and enforce Claim No. 2; and (d) the accounting, credits, payments, proceeds, and calculations underlying the asserted claim amount." (EDGO Dkt. #1875 at 1). He states that he is not pursuing "released estate causes of action" or litigating "generalized lender-liability claims through this Rule 2004 request," but instead is seeking "discovery directly related to reconciliation, evaluation, and administration of Claim No. 2 and its amendments." (EDGO Dkt. #1875 at 2).

FSB's Notice of Rulings

FSB filed FSB's Notice of Pleadings (EDGO Dkt. #1888) to which it attached copies of recent orders entered by the District Court and the Fifth Circuit denying Swarek's motions, as follows:

> (1) The District Court's order denying as "frivolous" Swarek's Emergency Motion to Stay Sale of Farmland and Related Proceedings, *First Service Bank v. Swarek*, Case No. 1:24-cv-00262-TBM-RPM (S.D. Miss. May 5, 2026), Dkt. #95;
>
> (2) The District Court's text order denying as "frivolous" Swarek's Emergency Motion to Preserve Status Quo Pending Appeal and Related Proceedings, *First Service Bank v. World Ag Investments Inc.*, Case No. 1:25-cv-00344-TBM-RPM (S.D. Miss. May 6, 2026);
>
> (3) The Fifth Circuit's order denying Swarek's Emergency Motion for Stay Pending Appeal, *First Service Bank v. Swarek*, No. 25-60618 (5th Cir. May 19, 2026), Dkt. #48; and
>
> (4) The District Court's order denying Swarek's Rule 60(b) Motion in *First Service Bank v. Thomas Swarek*, Case No. 1:24-00020-TBM-RPM (S.D. Miss. June 8, 2026), Dkt. #88.

Based on the above orders, FSB asks the Court to deny the 2004 Motion as moot.

Swarek's Clarification Request

After the Court entered the Extend Stay Order and in response to FSB's Notice of Rulings, Swarek filed Swarek's Clarification Request, expressing confusion about whether the hearing on his 2004 Motion would proceed forward as scheduled. (EDGO Dkt. #1925). He asserts that the Extend Stay Order "did not necessarily" resolve his 2004 Motion. (EDGO Dkt. #1925 at 6). He asks the Court to clarify whether it has already denied his 2004 Motion as moot. He also asks whether the Court will treat FSB's Notice of Ruling as a request for affirmative relief. If so, he seeks leave to file a response to explain why the Rule 2004 Motion, as purportedly narrowed by Swarek's Reply, is not moot.

DISCUSSION

"Bankruptcy Rule 2004 authorizes a court to allow a party in interest to take the oral examination of any person or entity, and to obtain documents incident thereto, if such examination relates to the acts, conduct, property, liabilities or financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate." *In re Orion Healthcorp, Inc.*, 596 B.R. 228, 235 (Bankr. E.D.N.Y. 2019).

A. Is Swarek a Rule 2004 "Party in Interest"?

Examination under Rule 2004 is technically available to "any party in interest." FED. R. BANKR. P. 2004(a). FSB argues that Swarek is not a party in interest authorized to bring the 2004 Motion. (EDGO Dkt. #1835). Swarek implies that he has standing in his individual capacity because he is "a guarantor of the secured obligations asserted in Claim No. 2-1 filed by [FSB]" whose "personal financial exposure is directly affected by the allowance and calculation of the secured claim." (EDGO Dkt. #1790 at 1).

Although Rule 2004 does not define the term "party in interest," § 1109(b)[17] provides some guidance. That statute lists examples of a "party in interest," which include: "the debtor, the trustee, a creditor's committee, an equity holders committee, a creditor, or any indenture trustee." 11 U.S.C. § 1109(b). The list is not intended to be exclusive, and courts generally construe "party in interest" broadly. *Track Ins. Exchange v. Kaiser Gypsum Co*., 602 U.S. 268, 278 (2024) (plain meaning of party in interest in context of plan confirmation "refers to entities that are potentially concerned with or affected by a proceeding").

Swarek is not a debtor or a creditor and does not specifically fall within one of the examples of a "party in interest" under § 1109(b). FSB argues, and the Court agrees, that Swarek cannot rely on § 1109(b) as a personal guarantor of the MS Loan because the Court has already determined that a reduction of his personal liability will not impact the estate. (EDGO Dkt. #1835).

But neither FSB nor Swarek, however, has considered whether Swarek is a party in interest based on his status as El Dorado's sole shareholder. At this juncture, it is unknown whether the El Dorado Case is a surplus case, but if it is, Swarek may be a party in interest entitled to use Rule 2004. *See Okorie v. Citizens Bank (In re Okorie),* Case No. 24-60255, 2024 WL 4471734, at *2 (5th Cir. Oct. 11, 2024) ("[A]n equity interest holder may be a party in interest if 'there exists a possibility that there will be a surplus after payment of claims.'") (citing *Khan v. Xenon Health, LLC (In re Xenon Anesthesia of Tex., PLLC)*, 698 F. App'x 793, 794 (5th Cir. 2017)). Because of this uncertainty that may not be determined until full administration of the estate, the Court does not have sufficient information to resolve the standing issue.

However, the Court need not decide whether Swarek qualifies as a proper movant under Rule 2004 because the Court will deny the relief he seeks on the merits for the multiple overlapping

[17] All statutory references are to the Bankruptcy Code founds at title 11 of the U.S. Code.

reasons as explained below. Therefore, the Court assumes, without deciding, that he qualifies as a party in interest for purposes of its Rule 2004 analysis.

B. Swarek Does Not Identify Who Must Respond to the Document Requests.

As the Trustee points out, neither Swarek's 2004 Motion (EDGO Dkt. #1790) nor his Supplement (EDGO Dkt. #1833) directs the document requests to any specific person or entity.[18] (EDGO Dkt. #1837). In response, Swarek states in Swarek's Reply that the requests are directed solely to FSB, notwithstanding that some of the requests clearly seek documents belonging to MSF 2020. (EDGO Dkt. #1875 ¶ 8). For example, Swarek asks for MSF 2020's Participation Agreement (EDGO Dkt. #1875 ¶ 9(d)) and documents showing the date MSF 2020 funded the $47.5 million participation purchase (EDGO Dkt. #1875 ¶ 9(h)). But in his most recent filing, Swarek contradicts himself. Attached to Swarek's Clarification Request is a Proposed Order that requires documents from both FSB and MSF 2020.. (EDGO Dkt. #1925-1).

The Court could deny the 2004 Motion because of its ambiguity – aggravated by Swarek's own inconsistent statements. *In re McClain Feed Yard, Inc.*, 661 B.R. 136, 142 (Bankr. N.D. Tex. 2024) (holding that a request for "all communications… with or referencing any of the [d]ebtors or the [debtor's affiliates]" was beyond the standard of Rule 2004). The Court chooses instead to proceed under the assumption that the document requests are directed to both FSB and MSF 2020.

C. Swarek's 2004 Motion Violates the "Pending Proceeding Rule."

"[C]ourts have expressed distaste for efforts of parties to utilize [Rule] 2004 examinations to circumvent the restrictions of the [Federal Rules of Civil Procedure] in the context of adversary proceedings or contested matters." *In re Valley Forge Plaza Assocs.*, 109 B.R. 669, 675 (Bankr. E.D. Pa. 1990). This limitation on Rule 2004 examinations is known as the "pending proceeding

[18] In the end, Swarek seems to admit that he does not request any documents from the Trustee. His failure to identify the target of the 2004 Motion caused the Trustee to incur the unnecessary cost of filing the Trustee's Objection.

rule." Its purpose is to prevent parties from using the broad and flexible scope of a Rule 2004 examination to evade the more restrictive discovery framework that governs contested matters and adversary proceedings in bankruptcy court and litigation outside bankruptcy. *In re Washington Mut. Inc*., 408 B.R. 45, 51 (Bankr. D. Del. 2009) (cited by *Helena Agri-Enters., LLC v. Young*, Case No. 4:18-CV-00246, 2019 WL 1810992, at *1 (N.D. Miss. April 24, 2019)).

Swarek admits that his 2004 Motion seeks the discovery of evidence that might support positions he asserts in other litigation – namely the MSL Guaranty Suit and Guaranty Appeal. (EDGO Dkt. #1833 at 2-3, 5). In fact, he plainly says that "[t]he production is necessary because "the judgment in [the MSL Guaranty Suit] is currently challenged by a pending Rule 60(b)(3) motion and related appellate proceedings." (EDGO Dkt. #1833 at 5). At present, his Rule 60(b) Motion is no longer pending and has been denied. Moreover, courts have denied Rule 2004 examinations "where the party requesting the Rule 2004 examination could benefit their pending litigation outside of the bankruptcy court against the proposed Rule 2004 examinee." *In re Washington Mut. Inc*., 408 B.R. at 50 (internal citation omitted). Swarek is attempting to employ Rule 2004 for discovery to use in District Court and not for the purpose of asserting his rights as a party in interest in the El Dorado Case. *In re Enron Corp*., 281 B.R. 836, 842 (Bankr. S.D.N.Y. 2002) (denying 2004 request).

Here, Swarek seeks documents that he believes are relevant to the MSL Guaranty Suit and the Guaranty Appeal, but he makes no attempt to demonstrate the relevance of the documents to any unresolved dispute in the El Dorado Case. "The 2004 examination may only be used for the legitimate purpose of obtaining information relating to 'the acts, conduct, or property or to the liabilities and financial condition of the debtor or to any matter which may affect the administration of the debtor's estate.'" *In re Express One Int'l., Inc.,* 217 B.R. 215, 216 (Bankr. E.D. Tex. 1998) (internal citation omitted). Swarek openly concedes that his requests are related to the other proceedings in the District Court and the Fifth Circuit but does not connect those requests to any proceeding in this Court. "The relevant inquiry is whether the Rule 2004 examination will lead to discovery of evidence related to the pending proceeding or whether the requested examination seeks to discover evidence unrelated to the pending proceeding." *In re Washington Mut., Inc.*, 408 B.R. at 51. The pending proceeding rule prohibits such use. *In re Appalachian Basin Capital LLC*, No. 22-60052, 2022 WL 2111815, at *5 (Bankr. N.D. Ohio June 9, 2022) ("The 'pending proceeding rule' seeks to circumvent use of a 2004 exam as a 'leg up' over the more restrictive discovery procedures."). Swarek must present any challenge to his personal liability, if at all, in the proper pending proceeding in District Court and/or the Fifth Circuit and cannot bring a 2004 request in the El Dorado Case or a related adversary proceeding.

The problem that the pending proceeding rule aims to prevent is illustrated by the similarities of the requests made in Rule 60(b) Motion in the MSL Guaranty Suit and the Rule 2004 Motion. As alternative relief, in the Rule 60(b) Motion, Swarek asked the District Court in his Rule 60(b) Motion to "reopen" the lawsuit to allow him to serve "limited, targeted" document requests to prove his claims against FSB and other litigants. Those requests closely resemble the requests in the Rule 2004 Motion. The District Court has already denied Swarek's document requests as moot. If the Court were to grant Swarek's 2004 Motion, allowing him to badger FSB and MSF 2020 with these requests, FSB and MSF 2020 would be still required to produce documents for Swarek's use in the MSL Guaranty Suit despite the District Court's denial and Swarek's failure to allege a bankruptcy specific purpose for the information he seeks.

D. Swarek's Stated Purpose and Ultimate Goal Are Irrelevant to the Bankruptcy Estate.

A Rule 2004 examination "may relate only to the acts, conduct, or property or the liabilities and financial condition of the *debtor,* or to any matter which may affect the administration of the *debtor's* estate, or to the *debtor's* right to a discharge." FED. R. BANKR. P. 2004(b) (emphasis added). "[A]n examination about matters unrelated to the debtor's affairs or having effect on the administration of his estate is improper." *In re Kearney*, 590 B.R. 913, 921 (Bankr. D.N.M. 2018) (citing *In re Wilcher*, 56 B.R. 428, 433 (Bankr. N.D. Ill. 1985)).

Swarek's stated purpose is to reduce his personal guaranty on the MS Loan. He admits his understanding that the "related proceedings, including *First Service Bank v. World Aircraft, Inc.*, Case No. 1:24-cv-00020-TBM-RPM [the MSL Guaranty Suit], *First Service Bank v. Swarek*, Case No. 1:24-cv-00262 [the Non-MSL Guaranty Action], *First Service Bank v. World AG Investment Inc.*, Case No. 1:25-cv-00344, and related appellate proceedings" are dependent *"upon the same underlying loan documents*." (EDGO Dkt. #1833 at 1) (emphasis added). In his 2004 Motion, he states, "As guarantor, [Swarek's] personal financial exposure is directly affected by the allowance and calculation of the secured claim" and that his requests go to "reconciliation of the claim amount" and to "issues of funding, interest calculation, participation structure, and enforcement authority." (EDGO Dkt. #1790 at 1, 6). He wants to attack the validity of his personal guaranty to FSB and MSF 2020 and other documents that support the MS Loan.[19] But those issues are not before this Court. Swarek's attempt to conduct discovery regarding the amount of FSB's prepetition claim in the El Dorado Case is not permissible because the amount owed by El Dorado has already been conclusively determined in the Financing Order.[20] Any effort by Swarek to conduct

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[19] For example, Swarek specified that the "requested Rule 2004 discovery includes, without limitation, all DocuSign and electronic signature authentication records relating to the Participation Agreement Transaction Specific Terms filed in [the MSL Guaranty Suit]." (EDGO Dkt. #1833 at 2).

[20] The Court has also heard and addressed these same claims at the final hearing on El Dorado's financing motion held on May 15, 2024. At that final hearing, the only unresolved issue was El Dorado's proposed release of claims against FSB and MSF 2020. (Hr'g at 9:57-10:10 (May 15, 2024)). Because of that pending release issue, the Trustee testified that she investigated potential lender liability claims, preference claims, and other claims arising under chapter 5 against FSB and/or MSF 2020 and found none. (Hr'g at 10:56 (May 15, 2024)). The Trustee was cross-examined about the scope of her investigation. Swarek, representing himself, questioned the Trustee about FSB's alleged

discovery to reduce or eliminate his guaranty obligation must be done in a court where that matter is pending – *i.e.*, the District Court and/or the Fifth Circuit.

There is no question that Swarek's ultimate goal is to prevent the Trustee from selling the Properties. He has filed motions in multiple forums trying to halt the Trustee's efforts.[21] All of these motions have been unsuccessful. (EDGO Dkt. #1909). He sees the reduction of El Dorado's debt to FSB as a means to prevent the sale of the Properties by the Trustee.

At bottom, Swarek fails to explain how his requests relate to the Debtors' financial affairs or would affect the administration of the Debtors' estate. Neither Swarek's stated purpose nor his ultimate goal provides a legitimate bankruptcy purpose for the Rule 2004 examination and, as such, the scope of inquiries Swarek proposes is improper and irrelevant to the El Dorado case.

E. Swarek Fails to State Good Cause to Examine FSB or MSF 2020.

When a nondebtor is the target of a Rule 2004 examination and the nondebtor objects, "[t]he party seeking Rule 2004 discovery has the burden to show good cause for the examination it seeks." *In re AOG Entertainment, Inc*, 558 B.R. 98, 108–09 (Bankr. S.D.N.Y. 2016) (citing *Picard v. Marshall (In re Bernard L. Madoff Inv. Secs. LLC)*, Adv. Pro. No. 08–01789, 2014 WL 5486279, at *2 (Bankr. S.D.N.Y. Oct. 30, 2014)); 9 COLLIER ON BANKRUPTCY ¶ 2004.01[6] (16th ed. 2026). FSB and MSF 2020 are nondebtors in this case. (Hr'g at 10:24 (July 15, 2026)). Inquiries "that seek far-reaching information…are inherently more intrusive and present a greater potential for abuse." *In re Kleynerman*, 617 B.R. 122, 128 (Bankr. E.D. Wis. 2020) (citing *In re*

"sweeping" of El Dorado's bank account (Hr'g at 12:58 (May 15, 2024)); MSF 2020's alleged corporate dissolution (Hr'g at 1:07-1:08 (May 15, 2024)); and FSB's standing to collect the full amount of the debt (Hr'g at 1:09 (May 15, 2024)). The Trustee testified that she found no proof that FSB had ever "swept" El Dorado's account and that FSB's enforcement of its rights was authorized by the Loan Agreement and otherwise lawful. (Hr'g at 10:55-10:56 (May 15, 2024)). Swarek testified about his long business relationship with FSB and the origination of the MS Loan. (Hr'g at 3:33 (May 15, 2024)). In the end, the Court concluded that the Trustee had thoroughly evaluated any potential claims and causes of action against MSF 2020 and/or FSB and approved the financing arrangement on a final basis, including the release, with certain modifications. On May 24, 2024, the Court entered the Financing Order.

[21] *See supra* note 15.

Countrywide Home Loans, 384 B.R. 373, 393 (Bankr. W.D. Pa. 2008)); (EDGO Dkt. #1835 at 7). "[T]he level of good cause required to be established…[will vary] depending on the potential intrusiveness involved." *Countrywide Home Loans*, 384 B.R. at 393.

Swarek asserts that good cause exists "because the requested documents directly relate to reconciliation, ownership, execution, authority, funding and enforceability issues associated with Claim No. 2" and, in the next sentence, admits that the requests are "directed toward determining the completeness and execution status of documents relied upon in support of the asserted claim." (EDGO Dkt. # 1875 at 3). In other words, Swarek contends that the requested documents are necessary to attack FSB's claim against El Dorado and to reduce the amount of the Guaranty Judgment with the ultimate goal of preventing the sale of the Properties, which is why he sought to stay the sale in multiple forums.

All of the questions that Swarek wants answered in his 2004 Motion are pointed toward an objection to FSB's claim and are precluded by the Financing Order. (Hr'g at 10:28 (July 15, 2026)). Further, the requests for "[p]ublicly available records that reflect MS Facilities LLC experienced a period of charter cancellation…" was previously addressed and adjudicated by the Court in *Thomas L. Swarek v. MS Facilities 2020, LLC*. (MSF 2020 Dkt. #31 at 21). As such, the requests will not affect the Debtors' estates.

"In analyzing good cause, courts look to the totality of the circumstances." *In re McClain Feed Yard, Inc.*, 661 B.R. 136, 142 (Bankr. N.D. Tex. 2024). "The traditional litmus test for good cause is satisfied if the moving party shows the examination was necessary to establish a claim of the movant, or if denying the examination would cause undue hardship or injustice to the movant." *Id.* (citing *In re Millennium Lab Holdings, II, LLC*, 562 B.R. 614, 627 (Bankr. D. Del. 2016) and *In re Express One Int'l*, 217 B.R. at 217). None of Swarek's 2004 document requests would be necessary to establish a claim of Swarek against El Dorado. Swarek is not a creditor and has not filed a proof of claim in the El Dorado Case.

"Courts weigh whether there is some reasonable basis to examine the material sought. In other words, would denial of production cause undue hardship or injustice to movant?" *In re Kleynerman*, 617 B.R. 122, 127-28 (Bankr. E.D. Wis. 2020) (citing *In re Kearney*, 590 B.R. at 921 and *In re Metiom, Inc*., 318 B.R. 263, 268 (S.D.N.Y. 2004)). Swarek has not shown any undue hardship or injustice that would be caused by the Court's denial of his request for overly broad document production. Again, any challenge to his personal guaranty obligation is not before this Court, and any such related requests should be made where that matter may actually be pending.

F. Swarek's 2004 Motion Unduly Harasses FSB and MSF 2020.

The scope of Rule 2004 "is not limitless…. Examinations under Rule 2004 cannot be used to harass or oppress the party." *Snyder v. Soc'y Bank*, 181 B.R. 40, 41-42 (Bankr. S.D. Tex. 1994) *aff'd*, 52 F.3d 1067 (5th Cir. 1995). "[W]hen the request is placed on a debtor and third-parties for . . . information that is likely to be used for improper (*i.e.*, competitive or harassing) purposes, then a court should be circumspect in granting such a request." *In re Kleynerman*, 617 B.R. at 129. "[S]cope of Rule 2004 examination should not be so broad as to be more disruptive and costly to the party to be examined than beneficial to the party seeking discover." *Countrywide Home Loans*, 384 B.R. at 393 (citing *In re Fearn*, 96 B.R. 135, 138 (Bankr. S.D. Ohio 1989) and *In re Express One International, Inc.*, 217 B.R. 215, 217 (Bankr. E.D. Tex. 1998)). The 2004 Motion casts a wide net, seeking almost every document that possibly touched the MS Loan.

Swarek's requests are unrestrained by prior rulings of this Court – he absolutely seeks a second, third, and fourth bite at the apple with respect to the validity and amount of FSB's claim. The Trustee has not challenged FSB's claim because she agreed to the amount in the Financing

Order. (Hr'g at 10:28 (July 15, 2026)). The District Court specifically labeled these requests as "frivolous," and this Court must agree. (MSL Guaranty Dkt. #88 at 1). As such, the requests are harassing in nature because they relate to claims or defenses that either have been disposed of by this Court and/or precluded by the rulings of the District Court.

G. The Court Exercises Its Discretion to Deny the 2004 Motion

While a request may meet the minimum standards required by Rule 2004(a) and (b), "Rule 2004 uses the verb form 'may' and thereby affords courts discretion to limit (or preclude) examinations as justice requires." *In re Kleynerman*, 617 B.R. at 127-28 (citing *In re Kearney*, 590 B.R. at 921). "As the permissive language of the rule suggests, the Court has the discretion to grant a request for a 2004 examination." *In re Enron Corp*., 281 B.R. at 842 (citing *In re Bd. of Dirs. of Hopewell Int'l Ins., Ltd.,* 258 B.R. 580, 587 (Bankr. S.D.N.Y. 2001)). Given the totality of the circumstances, the Court exercises its discretion to deny the 2004 Motion. *Snyder*, 181 B.R. at 41-42 ("denial of production in light of [Snyder's] primary motive to use in litigation for another cause of action was not an abuse of discretion in light of the specific facts").

CONCLUSION

Swarek's 2004 Motion, if granted, would violate the pending proceeding rule, is not based on any good cause, is unduly harassing, and extends beyond the proper Rule 2004 scope of inquiry. Simply put, there is no need for Rule 2004 discovery in this bankruptcy case because the Court has already determined the pre-petition amount of the debt owed to FSB/MSF 2020 and because the Debtors released any claims against FSB/MSF 2020 regarding the MS Loan. (*See* Financing Order at 7, 12-13, EDGO Dkt. #463). Further, because Swarek has other venues in which to assert his request, he will not suffer any injustice or hardship by the Court's denial that the documents be produced. For these reasons, the Court finds that the 2004 Motion should be denied.

The Court has considered all arguments, and those not specifically addressed would not change the outcome.

IT IS, THEREFORE, ORDERED that the 2004 Motion is denied.

IT IS FURTHER ORDERED that Swarek's Clarification Request is denied as moot.

IT IS FURTHER ORDERED that the FSB's Objection, Trustee's Objection, and MSF 2020's Joinder are sustained.

##END OF ORDER##