

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

BRUCE KIRBY, INC., and
BRUCE KIRBY

Plaintiffs,

vs.

LASERPERFORMANCE (EUROPE) LIMITED,
QUARTER MOON, INCORPORATED,
KARAYA (JERSEY) LIMITED,
VELUM LIMITED ITM SA (ANTIGUA AND
BARBUDA),
INTERNATIONAL SAILING FEDERATION
LIMITED,
INTERNATIONAL LASER CLASS
ASSOCIATION, and
FARZAD RASTEGAR

Defendants.

LASERPERFORMANCE (EUROPE)
LIMITED, and
QUARTER MOON, INCORPORATED,

Defendants-Counterclaim Plaintiffs,

vs.

BRUCE KIRBY, INC., and
BRUCE KIRBY,

Plaintiffs-Counterclaim Defendants,

and

GLOBAL SAILING LIMITED, and
PERFORMANCE SAILCRAFT PTY. LTD.,

Additional Counterclaim Defendants.

Civil Action No. 3:13-cv-00297-RNC

**THIRD JOINT STATUS REPORT OF COUNSEL
PURSUANT TO SCHEDULING ORDER**

Pursuant to the Scheduling Order of July 29, 2013 (Dkt. 64.), the parties hereby submit the Third Joint Status Report of Counsel to the Court.

A. STATUS OF THE CASE

Plaintiffs Bruce Kirby and Bruce Kirby, Inc. (hereinafter “Kirby” or “Plaintiffs”) filed their First Amended Complaint (Dkt. 23) on April 30, 2013. Defendant International Laser Class Association (hereinafter “ILCA”) filed an Answer (Dkt. 51) on July 2, 2013. On June 12, 2013, Defendants LaserPerformance (Europe) Limited (hereinafter “LP Europe”) and Quarter Moon, Incorporated (hereinafter “Quarter Moon”) filed an Answer and Counterclaims (Dkt. 40) against Kirby and Counterclaim Defendants Global Sailing Limited (hereinafter “GSL”) and Performance Sailcraft PTY. Ltd. (hereinafter “PSA”). Kirby filed an Answer (Dkt. 57) to LP Europe and Quarter Moon’s Counterclaims on July 15, 2013. GSL filed an Answer (Dkt. 88) to LP Europe and Quarter Moon’s Counterclaims on November 4, 2013.

On January 30, 2014, Simon Allentuch appeared on behalf of Rastegar, Quarter Moon, LP Europe, Karaya, and Velum (Dkt. 105). On February 10, 2014, Turner Smith filed a motion to withdraw as counsel for Rastegar, Quarter Moon, LP Europe, Karaya, and Velum (Dkt. 109). This motion was granted on February 11, 2014 (Dkt. 110).

1. Pending or Anticipated Motions

i. Pending Motions

Defendants Karaya (Jersey) Limited (hereinafter “Karaya”) and Velum Limited ITM SA (Antigua and Barbuda) (hereinafter “Velum”) filed motions to dismiss asserting lack of personal jurisdiction and failure to state a claim (Dkt. 38). Defendant Farzad Rastegar (hereinafter “Rastegar”) filed a motion to dismiss for failure to state a claim (Dkt. 39). Defendant International Sailing Federation Limited (hereinafter “ISAF”) filed a Motion to Dismiss asserting a lack of personal jurisdiction and failure to state a claim (Dkt. 63). These motions are fully briefed (Dkts.

38-1, 39-1, 63-1). An oral hearing for all three Motions to Dismiss took place on January 24, 2014, during which the Court took the Motions under advisement (Dkt. 102).

Defendants LP Europe and Quarter Moon filed a Motion for Default against PSA as a counterclaim defendant (Dkt. 86).

PSA filed a response to the Motion for Default (Dkt. 100) as well as a Motion to Dismiss against LP Europe and Quarter Moon asserting lack of personal jurisdiction (Dkt. 99). The Court granted LP Europe and Quarter Moon an extension of time to March 15, 2014 to respond to PSA's Motion to Dismiss (Dkt. 111).

ii. Anticipated Motions

Kirby anticipates filing a motion for leave to amend the First Amended Complaint and add an additional party. Counterclaim plaintiffs will file a motion for limited jurisdictional discovery later this week concerning the pending Motion to Dismiss by PSA.

2. Circumstances Interfering with Scheduling Order

At this time the parties do not anticipate any circumstances that would potentially interfere with the parties' compliance with the Scheduling Order, except the anticipated motion identified above.

3. Statement of Discovery Already Taken

All of the parties except PSA and GSL have submitted Initial Disclosures. None of the parties other than counterclaim plaintiffs have served discovery requests as of the filing of this Joint Status Report.

i. Depositions Taken by Each Party

None of the parties have taken any depositions as of the filing of this Joint Status Report. Counterclaim plaintiffs have noticed the deposition of Bruce Kirby.

ii. Specific Discovery Remaining to be Completed

Since substantially all discovery remains to be completed, the parties have no specific topics of pending discovery to highlight in this Joint Status Report.

B. INTEREST IN REFERRAL FOR SETTLEMENT PURPOSES

On January 24, 2014 in chambers, Judge Chatigny raised the issue of settlement and mediation with the parties. Kirby subsequently organized a teleconference for the parties to discuss mediation options. On February 14, 2014, representatives from Kirby, PSA, GSL, and ISAF participated in the teleconference.

As a result of the discussions during the teleconference, and separate discussions between the parties individually, the various parties' stances on mediation have been ascertained and are listed as follows:

Bruce Kirby and BKI request a referral for mediation and believe that a special master is appropriate given the complexity of the issues in the case. Bruce Kirby and BKI hereby request that the Court order this case to be referred to a special master or a magistrate.

ISAF is willing to enter mediation and is amenable to various forms of mediation including private mediation or mediation before a Magistrate or special master.

ILCA is willing to enter mediation and is amenable to various forms of mediation including private mediation or mediation before a Magistrate or special master.

PSA is willing to enter mediation, but would prefer not to contribute to the expense of a paid mediator in view of its pending Motion to Dismiss (Dkt. 99). PSA is willing to enter mediation with a United States Magistrate Judge.

GSL is willing to enter mediation, but would prefer not to contribute to the expense of a paid mediator. **GSL** is willing to enter mediation with a United States Magistrate Judge.

Quarter Moon and LP Europe believe discovery is required before mediation.

They are willing to mediate before a special master (e.g. Mr. Hawkins) or a private mediator.

Rastegar, Karaya and Velum are not interested in mediation at this time.

C. CONSENT TO TRIAL BEFORE MAGISTRATE JUDGE

The parties have not consented to either a jury trial or a bench trial before a Magistrate Judge.

D. ESTIMATED LENGTH OF TRIAL

The parties estimate that the trial will last two weeks.

Respectfully submitted,

/s/ Wesley W. Whitmyer, Jr.

February 19, 2014

Wesley W. Whitmyer, Jr., ct03509
Andy I. Corea, ct25925
Brian L. Repper, ct28225
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, Connecticut 06905-5619
Telephone: (203) 324-6155
Facsimile: (203) 327-1096
Email: wwhitmyer@ssjr.com; acorea@ssjr.com;
litigation@ssjr.com

ATTORNEYS FOR PLAINTIFFS BRUCE KIRBY AND
BRUCE KIRBY, INC.

/s/ Simon I. Allentuch

Simon I. Allentuch, Esq. (ct21094)
NEUBERT, PEPE & MONTEITH, P.C.
195 Church Street, 13th Floor
New Haven, CT 06510
Tel: (203) 821-2000
Fax: (203)821-2009
Sallentuch@npmlaw.com

ATTORNEY FOR DEFENDANTS
LASERPERFORMANCE (EUROPE) LIMITED,
QUARTER MOON, INCORPORATED,
KARAYA (JERSEY) LIMITED,
VELUM LIMITED ITM SA (ANTIGUA AND
BARBUDA), AND FARZAD RASTEGAR

/s/ Jeffrey Boxer

Judith A. Lockhart
Jeffrey Boxer
CARTER LEDYARD & MILBURN LLP
Two Wall Street
New York, NY 10005
212-732-3200

ATTORNEY FOR DEFENDANT
INTERNATIONAL SAILING FEDERATION LIMITED

/s/ Kevin C. Cain

Kevin C. Cain, Esq. (#550055)
ZIZIK, POWERS, O'CONNELL,
SPAULDING & LAMONTAGNE, P.C.
690 Canton Street, Suite 306
Westwood, MA 02090
(781) 320-5441
kcain@zizikpowers.com

ATTORNEY FOR DEFENDANT
INTERNATIONAL LASER CLASS ASSOCIATION

/s/ Kevin H. Vanderleeden

Kevin H. Vanderleeden, Esq.
John C. Linderman, Esq. (CT Bar No. CT04291)
McCormick, Paulding & Huber, LLP
185 Asylum Street, Cityplace II
Hartford, CT 06103
Tel. (860) 549-5290
Facsimile: (413) 733-4543

ATTORNEY FOR COUNTERCLAIM DEFENDANT
PERFORMANCE SAILCRAFT PTY, LTD.

s/ Kevin H. Vanderleeden

Kevin H. Vanderleeden, Esq.
John C. Linderman, Esq. (CT Bar No. CT04291)
J. Kevin Grogan, Esq. (CT Bar No. CT00331)
McCormick, Paulding & Huber, LLP
185 Asylum Street, Cityplace II
Hartford, CT 06103
Tel. (860) 549-5290
Facsimile: (413) 733-4543

ATTORNEYS FOR COUNTERCLAIM DEFENDANT
GLOBAL SAILING LIMITED

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2014, a copy of foregoing THIRD JOINT STATUS REPORT OF COUNSEL PURSUANT TO SCHEDULING ORDER was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

February 19, 2014
Date

/s/ Joan M. Burnett
Joan M. Burnett