

**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-JAM

**FIFTH 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 Fifth 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. PSA is filing its answer to the Counterclaims on August 22, 2014.

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).

On February 27, 2014, the Court granted Karaya and Velum’s motion to dismiss for lack of personal jurisdiction. On February 27, 2014, the Court granted Farzad Rastegar’s motion to dismiss without prejudice for failure to state a claim. On February 27, 2014, the Court granted ISAF’s motion to dismiss for lack of personal jurisdiction.

1. Pending or Anticipated Motions

i. Anticipated Motions

Kirby, Quarter Moon, LP Europe, and Rastegar have scheduled an in-person discovery conference with the Court on September 3, 2014 to address Quarter Moon, LP Europe's, and Rastegar's outstanding discovery responses. GSL plans on attending the September 3, 2014 conference to address Quarter Moon and LP Europe's outstanding discovery responses. PSA intends to re-file its Motion to Dismiss asserting lack of personal jurisdiction (Dkt. 99) prior to the November 24, 2014 deadline for dispositive motions. Quarter Moon and LP Europe have produced and are still in the process of producing documents to PSA/GSL.

2. Scheduling Order

On August 6, 2014, the Court granted the parties joint motion for an extension of the case schedule. In view of this Order the case schedule is as follows:

EVENT	DEADLINE
Disclosure of Opening Expert Reports	Friday November 7, 2014
<i>Deposition on Opening Expert Report*</i>	Thursday, December 4, 2014
Disclosure of Rebuttal Expert Reports	Thursday, December 4, 2014
<i>Deposition on Rebuttal Expert Report*</i>	Thursday, December 4, 2014
Close of All Discovery	Friday, December 19, 2014
Filing of Dispositive Motions	Monday, November 24, 2014
Joint Trial Memorandum	The later of: (1) 30 days after a decision on all dispositive motions or (2) Monday, December 15, 2014
<i>Deadline to Serve Damage Analysis*</i>	Friday, November 21, 2014
Trial Ready Date	30 days after submission of Joint Trial Memorandum

* These dates are pursuant to party stipulation in view of Court's extension of the case schedule.

3. 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 discovery issues identified above.

4. Statement of Discovery Already Taken

All of the parties except PSA have served Initial Disclosures.

LP Europe and Quarter Moon served a first set of document requests on Kirby, PSA and GSL on February 20, 2014. Kirby served objections to the first set of document requests on March 24, 2014. Kirby has produced documents BKI 00001 to BKI 07576. GSL served objections to the first set of document requests on March 27, 2014. GSL has produced documents GSL 00001 to GSL 01787. On April 7, 2014, PSA served objections to first set of document requests.

Kirby served a first set of interrogatories and a first set of document requests on Quarter Moon on February 24, 2014. Quarter Moon served objections to the first set of document requests on April 28, 2014. Quarter Moon has produced some documents but a substantial portion of the discovery requests remain in dispute.

It is defendants' position that the requests were so broad that they would require production of nearly every document in defendants' care, custody or control despite the fact that the case is, in reality, fairly narrow. Plaintiff has radically limited the scope of its discovery after multiple meet and confer meetings. Because counsel was on vacation, the parties have not finalized the scope of the documents to be produced but they are in the process of doing so.

Quarter Moon served objections and answers to the first set of interrogatories on April 28, 2014. Counsel for Kirby and Quarter Moon are scheduled to attend an in-person discovery conference with the Court on September 3, 2014.

Kirby served a first set of interrogatories and a first set of document requests on LP Europe on February 24, 2014. LP Europe served objections to the first set of document requests on April 28, 2014. LP Europe produced some documents but a substantial portion of the discovery requests remain in dispute..

It is defendants' position that the requests were so broad that they would require production of nearly every document in defendants' care, custody or control despite the fact that the case is, in reality, fairly narrow. Plaintiff has radically limited the scope of its discovery after multiple meet and confer meetings . Because counsel was on vacation, the parties have not finalized the scope of the documents to be produced but they are in the process of doing so.

LP Europe served objections and answers to the first set of interrogatories on April 28, 2014. Counsel for Kirby and LP Europe are scheduled to attend an in-person discovery conference with the Court on September 3, 2014.

Kirby served a subpoena for the production of document on Rastegar on March 18, 2014. Rastegar has not produced any documents in response to the subpoena. Rastegar has objected to the discovery requests.

It is Rastegar's position that the requests were so broad that they would require Rastegar to produce every tax document he has ever filed, since his youth (for example) and that many of the documents requested have nothing to do with the litigation. Plaintiff has radically limited the scope of its discovery after multiple meet and confer meetings . Because counsel was on vacation, the parties have not finalized the scope of the documents to be produced but they are in the process of doing so. Counsel for Kirby and Rastegar are scheduled to attend an in-person discovery conference with the Court on September 3, 2014.

GSL served a first set of interrogatories on LP Europe and Quarter Moon on June 6, 2014. LP Europe served objections and answers to the first set of interrogatories on July 21, 2014.

GSL served a first set of document requests on LP Europe and Quarter Moon on July 1, 2014. LP Europe and Quarter Moon have not produced any documents to date. Counterclaim plaintiff is in the process of producing documents.

GSL served a second set of document request on LP Europe and Quarter Moon on July 7, 2014. LP Europe and Quarter Moon have not produced any documents to date. Counterclaim plaintiff is in the process of producing documents.

i. Depositions Taken by Each Party

LP Europe and Quarter Moon served a notice of deposition on Bruce Kirby on February 20, 2014 and deposed Bruce Kirby pursuant to the Notice on June 13, 2014.

Kirby served a deposition subpoena on Rastegar on March 18, 2014. Kirby has postponed this deposition pending the production of documents by LP Europe, QMI, and Rastegar.

Kirby served a Notice of Rule 30(b)(6) Deposition on LP Europe on May 23, 2014. LP Europe has not identified witnesses or otherwise responded to this notice. Kirby has postponed this deposition pending the production of documents by LP Europe, QMI, and Rastegar and the identification of witness(es) by LP Europe.

Kirby served a Notice of Rule 30(b)(6) Deposition on QMI on May 23, 2014. QMI has not identified witnesses or otherwise responded to this notice. Kirby has postponed this deposition pending the production of documents by LP Europe, QMI, and Rastegar and the identification of witness(es) by QMI.

As part of their meet and confer, the parties have also had discussions whether these 30(b)(6) depositions are necessary and plan to revisit the issue after the depositions of Kia, Crane and Rastegar are completed.

GSL served a Notice of Deposition of Bahman Kia on June 26, 2014. GSL has postponed this deposition.

GSL served a Notice of Deposition of William Crane on June 26, 2014. GSL has postponed this deposition.

GSL served a Notice of Deposition of Farzad Rastegar on June 26, 2014. GSL has postponed this deposition.

Kirby served a Notice of Deposition of Bahman Kia on July 9, 2014. Kirby has postponed this deposition pending the production of documents by LP Europe, QMI, and Rastegar.

Kirby served a Notice of Deposition of William Crane on July 9, 2014. Kirby has postponed this deposition pending the production of documents by LP Europe, QMI, and Rastegar.

ii. Specific Discovery Remaining to be Completed

Since substantial 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

The parties attended mediation on June 18 and 19. The parties currently do not have interest in further referral for settlement purposes.

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,

August 22, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2014, a copy of foregoing FIFTH 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.

August 22, 2014
Date

/s/ Joan M. Burnett
Joan M. Burnett