

**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

**FOURTH 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 Fourth 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).

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. Pending Motions

PSA filed a Motion to Dismiss against LP Europe and Quarter Moon asserting lack of personal jurisdiction (Dkt. 99). This motion is fully briefed. PSA has also filed a Motion to Strike several declarations submitted by LP Europe and Quarter Moon in their Objection to PSA's Motion to Dismiss (Dkt. 133). The Motion to Strike has not been fully briefed.

ii. Anticipated Motions

Kirby plans to meet and confer with Quarter Moon, LP Europe, and Rastegar regarding their deficient discovery responses. To the extent that Quarter Moon, LP Europe, and Rastegar continue to refuse to produce documents and answer interrogatories, Kirby anticipates filing a motion to compel.

From Counterclaim Plaintiffs' perspective, the parties have scheduled and rescheduled meet and confer sessions. Plaintiff/Counterclaim Defendants served discovery before a number of defendants were dismissed and the case narrowed considerably. The parties are hopeful that they can resolve these issues in the next two weeks. In additions, Counterclaim-Plaintiffs also have issues with discovery they have received and attorneys eyes only designations under the Protective Order.

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 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 03491. GSL served objections to the first set of document requests on March 27, 2014. GSL has produced documents GSL 00001 to GSL 00515. On April 7, 2014, PSA served objections to first set of document requests.

LP Europe and Quarter Moon served a notice of deposition on Bruce Kirby on February 20, 2014.

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 not produced any documents to date. Quarter Moon served objections and answers to the first set of interrogatories on April 28, 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 has not produced any documents to date. LP Europe served objections and answers to the first set of interrogatories on April 28, 2014.

Kirby served a subpoena for deposition and 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 and scheduled a meet and confer.

i. Depositions Taken by Each Party

None of the parties have taken any depositions as of the filing of this Joint Status Report.

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' have scheduled and plan to participate in mediation with James Hawkins on June 18 and 19.

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,

May 20, 2014

/s/ Wesley W. Whitmyer, Jr. _____
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
Email: Sallentuch@npmlaw.com

ATTORNEY FOR DEFENDANTS
LASERPERFORMANCE (EUROPE) LIMITED,
QUARTER MOON, INCORPORATED

/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
Email: 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
Email: vanderleeden@ip-lawyers.com

ATTORNEYS 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

Email: vanderleeden@ip-lawyers.com

ATTORNEYS FOR COUNTERCLAIM DEFENDANT
GLOBAL SAILING LIMITED

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2014, a copy of foregoing FOURTH 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.

May 20, 2014
Date

/s/ Jessica L. White
Jessica L. White