

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/13/2020

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STARR INDEMNITY & LIABILITY
COMPANY,

Plaintiff,

v.

MARINE ENVIRONMENTAL REMEDIATION
GROUP, LLC,

Defendant.

17 Civ. 9881 (LGS) (HP)

**PLAINTIFF'S NOTICE OF MOTION FOR
PARTIAL SUMMARY JUDGMENT AND
TO DISMISS FOR FAILURE TO STATE A CLAIM**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, the accompanying Statement of Undisputed Material Facts Pursuant to Local Civil Rule 56.1(a) dated April 3, 2019, the accompanying Declaration of Kevin J.B. O'Malley executed on April 3, 2019 and the exhibits thereto, the accompanying Declaration of Russell Brown executed on May 11, 2018 and the exhibits thereto, the Declaration of Lincoln Purdy executed on May 10, 2018 (ECF Doc. 34-4) and the exhibits thereto, the Declaration of Frank Magaraci executed on April 3, 2019, and the pleadings herein, Plaintiff Starr Indemnity & Liability Company will move this Court, before the Honorable Lorna G. Schofield, United States District Judge, United States Court House, 40 Centre Street, Courtroom 1106, New York, New York 10007, as soon as counsel may be heard, for an order

(1) pursuant to Rule 56 of the Federal Rules of Civil Procedure granting summary judgment in favor of Plaintiff Starr Indemnity & Liability Company and against Defendant

Marine Environmental Remediation Group, LLC on the First, Second and Sixth Causes of Action in the Complaint (ECF Doc. 1) and on Count II of the Counterclaims (ECF Doc. 17);

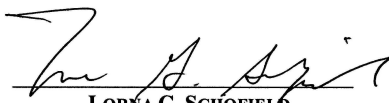
(2) pursuant to Rule 12(c) of the Federal Rules of Civil Procedure dismissing Counts V and VI of the Counterclaims (ECF Doc. 17) for failure to state a plausible claim; and

(3) granting such other and further relief as the Court deems just and proper under the circumstances.

Dated: New York, New York
April 3, 2019

In light of the bankruptcy stay, this motion is DENIED, without prejudice to renewal, if the parties seek to proceed with the motion after the stay is lifted. At that time, Plaintiff shall renew the motion by re-filing a notice of motion, and listing in the notice the corresponding docket numbers for any already-filed supporting briefs and materials. Parties need not re-file the motion's supporting briefs and materials.

Dated: February 13, 2020
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

NICOLETTI HORNIG & SWEENEY
Attorneys for Plaintiff

By: S/ Kevin J.B. O'Malley
Guerric S.D.L. Russell
Terry L. Stoltz
Kevin J.B. O'Malley
Wall Street Plaza
88 Pine Street, Seventh Floor
New York, New York 10005
(212) 220-3830
grussell@nicolettihornig.com
tstoltz@nicolettihornig.com
komalley@nicolettihornig.com