IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RHOADS INDUSTRIES, INC., et al : CIVIL ACTION

.

v. : NO. 15-921

SHORELINE FOUNDATION, INC., et al :

RHOADS INDUSTRIES, INC., et al : CIVIL ACTION

v. : NO. 17-266

.

TRITON MARINE CONSTRUCTION

CORP.

ORDER

AND NOW, this 2nd day of September, 2022 upon consideration of extensive briefing by the parties, it is hereby **ORDERED** that the parties' Motions *in Limine* are, as set out in the attached Memorandum Opinion, **DENIED IN PART** and **GRANTED IN PART** as follows:

- Defendants' Joint Motion to Preclude Testimony Regarding the Use of the Number of Refusal/Hard Hits Relative to the Hammer Manufacturers' Warranties (Dkt. 17-266, Docs. 209, 210) is **DENIED**.
- Defendants' Joint Motion to Preclude Testimony Regarding Whether Defendants Should Have Performed Additional Vibration Area Studies (Dkt. 17-266, Doc. 211) is DENIED.
- Defendants' Joint Motion to Preclude Certain Financial Damages Testimony Regarding Categories of Damages Attributable to Each Sinkhole (Dkt. 17-266, Doc. 212) is **DENIED**.
- 4. Defendants' Joint Motion to Preclude a Claim for Damages Related to Replacement

- and/or Repair of Pumps and Other Equipment (Dkt. 15-921, Doc. 187) is **DENIED**.
- Defendants' Joint Motion to Preclude Lay Testimony Regarding Dry Dock Qualifications for Certifications and the Impact of Sinkholes on the Certification Process (Dkt. 15-921, Doc. 188) is **DENIED**.
- 6. Defendants' Joint Motion to Preclude Additional Evidence Related to the Alleged Assignment Between Plaintiffs and PAID (Dkt. 15-921, Doc. 189) is **DENIED**.
- 7. Defendants' Joint Motion to Limit Plaintiff's Damages Due to Plaintiff's Failure to Mitigate Damages (Dkt. 15-921, Doc. 190) is **DENIED**.
- 8. Defendants' Joint Motion to Limit Plaintiff's Damages to the Lesser of Cost of Repair and the Diminution to the Fair Market Value of the Property (Dkt. 15-921, Doc. 191) is **DENIED**.
- 9. Defendants' Joint Motion to Limit Plaintiff's Damages as to Alleged Loss of Navy Projects (Dkt. 15-921, Doc. 192) is **DENIED**.
- 10. Plaintiff's Motion to Preclude Evidence of the 2021 Navy Project and the October 28,2021 Site Visit (Dkt. 15-921, Doc. 193) is GRANTED.
- 11. Plaintiff's Motion to Preclude Reference to the Opinions of John Vitzthum or Any Representative of DM Consulting (Dkt. 15-921, Doc. 194) is **GRANTED**.
- 12. Plaintiff's Motion to Preclude Evidence of Rhoads' Recovery of Insurance Proceeds from American Home Assurance Company or Hartford Fire Insurance Company (Dkt. 15-921, Doc. 195) is GRANTED SUBJECT TO EXCEPTION.
- 13. Plaintiff's Motion to Preclude Any Reference to the Lawsuits filed by Plaintiffs Against the U.S. Navy and Settlement of Those Lawsuits (Dkt. 15-921, Doc. 196) is **GRANTED**.

- 14. Plaintiff's Motion to Preclude Reference to the Appraisals of Rhoads' Property by Dunkin Real Estate Advisors (Dkt. 15-921, Doc. 197) is GRANTED SUBJECT TO EXCEPTION.
- 15. Plaintiff's Motion to Preclude Defendants from Presenting Arguments or Opinions that Plaintiffs Can Keep Any Verdict and Not Perform Any Repairs to the Property (Dkt. 15-921, Doc. 198) is **GRANTED**.
- 16. Plaintiff's Motion to Preclude Defendants from Presenting Any Argument that Duffield Associates, Inc. and/or HDR Engineering, Inc. Should Be Included on the Verdict Sheet (Dkt. 15-921, Doc. 199) is GRANTED.
- 17. Plaintiff's Motion to Take Judicial Notice of Three Government Documents (Dkt. 15-921, Doc. 200) is **GRANTED**.

BY THE COURT:

/s/ David R. Strawbridge, USMJ DAVID R. STRAWBRIDGE UNITED STATES MAGISTRATE JUDGE