

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

TREADS USA, LLC, ET AL.)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:08CV00027
)	
BOYD LP I, ET AL.,)	
)	
Defendants.)	

BURKE LP I, ET AL.,)	
)	
Plaintiffs,)	
)	Case No. 1:10CV00038
v.)	Bankr. No. 09-73241
)	A/P No. 10-07021
LUTHER HAROLD BOYD,)	
)	
Defendant.)	

ORDER

Pending before the court are certain motions in these related cases, including a motion by the plaintiffs in both cases seeking summary judgment as to damages. None of the defendants are now represented by counsel. Their former attorneys were relieved of responsibilities in the cases by orders entered November 7, 2013.

A hearing was held on the pending motions on December 5, 2013, at which

time the court heard argument on the motions from counsel for the plaintiffs. Defendant Teresa Colston-Boyd appeared in person and requested additional time to respond to the plaintiffs' motions, based upon her present circumstances. The court took her request under advisement.

A brief recitation of the procedural history of these long-pending cases is appropriate. A fuller history is set forth in the court's opinion in *VFI Associates, LLC v. Lobo Machinery Corp.*, Nos. 1:08CV00014, 1:08CV00027, 1:10CV00038, 2011 WL 4048774 (W.D. Va. Sept. 12, 2011). Summary judgment and default judgment as to liability — including liability for fraud, conversion, civil RICO and RICO conspiracy — was entered in favor of the plaintiffs against defendants Teresa Colston-Boyd, Boyd LP I, Creative Wood Works, Inc. (Case No. 1:08CV00027) and Luther Harold Boyd (Case No. 1:10CV00038) on November 24, 2010. Trial dates as to damages were thereafter scheduled but continued and following the indictment of Mr. and Mrs. Boyd on February 21, 2012, the civil cases were stayed pending resolution of that criminal case.

After their guilty pleas in the criminal case, Mr. and Mrs. Boyd were sentenced on August 29, 2013. Luther Boyd was sentenced to three years imprisonment and Teresa Colston-Boyd was placed on probation for two years and required to serve three months of community confinement (half-way house) as one

of the conditions of her probation. Teresa Colston-Boyd is presently serving her community confinement term. As part of his sentence, Luther Boyd was ordered to pay restitution to VFI Associates, LLC, one of the plaintiffs here, in the amount of \$1,224,284.90.¹

After the sentencing of Mr. and Mrs. Boyd, the stay of these civil cases was lifted and additional motions were filed by the plaintiffs, including a Partial Motion for Summary Judgment, in which judgment for damages is sought in favor of VFI Associates, LLC (now Reconstituted VFI, LLC), Treads USA, LLC, Nicewonder LP I, and Burke LP I against Luther Boyd, Teresa Colston-Boyd, Boyd LP I and Creative Wood Works, Inc.² In addition, the plaintiffs have represented that another defendant, Clinch Mountain Hardwood Flooring, Inc., is no longer under bankruptcy protection and accordingly have moved that the stay as to that defendant be lifted.

Because of the pro se status of the individual defendants and their current penal restrictions, I find that it is appropriate to allow additional time for any

¹ The plaintiffs seek a greater amount of damages against the defendants than were awarded as restitution in the criminal case. No restitution was ordered against Teresa Colston-Boyd in the criminal case because of the nature of her offense of conviction.

² The summary judgment motion is “partial” only because the plaintiffs intend to seek attorneys’ fees once judgment is granted.

responses by them to be filed to the plaintiffs' motions, even though that will prolong these already aged cases.³ Teresa Colston-Boyd's present community confinement is expected to end on January 31, 2014. While Luther Boyd has not requested any extension of time, I find it appropriate to also allow him additional time, since he has only recently reported to prison to begin service of his sentence.⁴

Accordingly, it is **ORDERED** as follows:

1. Teresa Colston-Boyd and Luther Boyd are each granted an extension until March 3, 2014, to file with the court written responses to the pending motions by the plaintiffs;

2. In the event written responses are timely filed, the plaintiffs may file replies thereto within 14 days of service. The pending motions will then be deemed submitted for decision without further briefing or hearing;

3. Plaintiffs' Motion to Amend Motion for Partial Summary Judgment as to Damages and Other Motions to Add Clinch Mountain Hardwood Flooring, Inc.

³ It should be noted that because Luther Boyd and Teresa Colston-Boyd are not licensed lawyers, they cannot respond on behalf of the corporate or partnership defendants, even if they are partners, officers, director, or shareholders of those entities. *See Rowland v. Cal. Men's Colony*, 506 U.S. 194, 201-02 (1993).

⁴ The fact that Luther Boyd is now a prison inmate does not affect his capacity to be sued or require the appointment of a guardian ad litem. *See Buchanan Cnty., Va. v.*

as a Party (Case No. 1:08CV00027, EFC No. 448), is GRANTED and the stay as to that defendant entered April 19, 2011 (Case No. 1:08CV00027, ECF No. 357) is VACATED; and

4. The clerk will send copies of this Order to Teresa Colston-Boyd and Luther Harold Boyd.

ENTER: December 9, 2013

/s/ JAMES P. JONES
United States District Judge