

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAPE HAZE INVESTMENTS, LTD., *et al.*,

Plaintiffs,

v.

RICHARD D. EILERS,

Defendant.

Case No. C08-809RSL

ORDER VACATING JUDGMENT
AND VACATING IN PART ORDER
GRANTING MOTION FOR
SUMMARY JUDGMENT;
REOPENING CASE

In light of the January 8, 2010 opinion from the Ninth Circuit Court of Appeals and its February 2, 2010 Mandate, the Court’s February 23, 2009 judgment in this matter is VACATED. The Court also vacates in part its prior order granting plaintiffs’ motion for summary judgment. Pursuant to the order of the Ninth Circuit, genuine issues of material fact remain regarding (1) whether the lenders colluded with Eilers’ business partner, Chris Allender; (2) whether the lenders were entitled to repossess assets not secured by the parties’ original agreements of October 1999; and (3) if the lenders did collude with Allender or if they did impermissibly repossess certain assets, whether such conduct materially increased Eilers’ risk as guarantor.

The Clerk of the Court is directed to reopen this case and to issue an amended case

ORDER VACATING JUDGMENT AND VACATING IN PART ORDER
GRANTING MOTION FOR SUMMARY JUDGMENT; REOPENING CASE - 1

1 schedule with a new trial date.

2

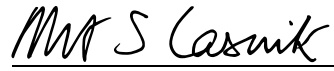
3

DATED this 9th day of February, 2010.

4

5

6



7

Robert S. Lasnik
United States District Judge

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28