

1 THE HONORABLE JOHN C. COUGHENOUR

2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 WESTERN CHALLENGER, LLC,

CASE NO. C16-0915-JCC

10 Plaintiff,

ORDER

11 v.

12 DNV GL GROUP, *et al.*,

13 Defendants.

14  
15 This matter comes before the Court on Defendant Don Seymour's motion for  
16 appointment of a settlement judge (Dkt. No. 78), Plaintiff's motion for a final judgment on  
17 certain claims (Dkt. No. 80), and Seymour's statement of non-opposition (Dkt. No. 82). Having  
18 thoroughly considered the parties' briefing and the relevant record, the Court DENIES  
19 Seymour's motion (Dkt. No. 78) and GRANTS Plaintiff's motion (Dkt. No. 80) for the reasons  
20 explained herein.

21 The Court has described the underlying facts of this case in previous orders and will not  
22 repeat them here. (*See* Dkt. Nos. 21, 52, 75.) The Court previously dismissed all claims against  
23 Germanischer Lloyd (USA) Inc., Phil Essex, and Moorsom Consulting Group, LLC (collectively  
24 the "GL Defendants"), and all claims against Seymour, to the extent loss-of-use damages are  
25  
26

ORDER  
C16-0915-JCC  
PAGE - 1

1 alleged.<sup>1</sup> (Dkt. No. 75 at 7–12.) Plaintiff’s only surviving claims, excluding loss-of-use damages,  
2 relate to Seymour’s alleged negligent misrepresentation and breach of contract. (Dkt. No. 75 at  
3 12.)

4 Seymour first moved the Court to appoint a settlement judge to assist in resolving the  
5 remaining claims. (Dkt. No. 78.) Plaintiff then moved the Court: (a) to enter a final judgment  
6 pursuant to Federal Rule of Civil Procedure 54(b) for all claims against the GL Defendants and  
7 for the claims against Seymour to the extent loss-of-use damages are alleged, (b) to stay  
8 Plaintiff’s remaining claims against Seymour, and (c) to strike the April 30, 2018 trial date. (Dkt.  
9 No. 80.) Seymour does not oppose Plaintiff’s motion, but asks the Court to prospectively appoint  
10 a settlement judge once a stay on the remaining claims is lifted. (Dkt. No. 82 at 1–2.)

11 The Federal Rules of Civil Procedure authorize the Court to direct an entry of final  
12 judgment when (1) fewer than all of the original claims in an action are resolved and (2) “there is  
13 no just reason for delay.” Fed. R. Civ. P. 54(b). Therefore, the Court first must determine that its  
14 previous order of dismissal represented a final judgment. *Curtiss–Wright Corp. v. General Elec.*  
15 *Co.*, 446 U.S. 1, 7 (1980). The Court must then determine if there is any just reason for delay. *Id.*  
16 So long as an entry of final judgment does not result in “piecemeal appeals” of a case that  
17 “should be reviewed only as [a] single unit[],” the Court is afforded “significant discretion” and  
18 “substantial deference” in making its determination regarding whether entry of judgment is  
19 warranted. *Id.* at 10.

20 As to a final judgment on the claims against the GL Defendants, there is little question  
21 that the Court’s previous dismissal was final. (*See generally* Dkt. No. 75.) Further, there is no  
22 just reason for delaying judgment on those claims. Seymour is the only remaining Defendant,  
23 and the remaining claims against him are unrelated to the claims against the GL Defendants.  
24 Thus, entering final judgment would not result in piecemeal appeals or duplicative litigation.

---

25  
26 <sup>1</sup> The Court also previously dismissed all claims against DNV GL Group, which is a trade  
name for Germanischer Lloyd (USA) Inc. (Dkt. No. 21 at 3.)

1 As to a final judgment on the claims against Seymour, to the extent loss-of-use damages  
2 are alleged, there is also little question that the Court's previous dismissal was final. (Dkt. Nos.  
3 52 at 7, 75 at 9–12.) Further, Plaintiff's remaining claims are not significant and are best  
4 resolved after an appeal of the dismissed claims is complete. (See Dkt. No. 80 at 7–8.) Therefore,  
5 there is no just reason for delay of a final entry of judgment on Plaintiff's claims against  
6 Seymour, to the extent loss-of-use damages are alleged. For the same reasons, the Court finds  
7 that a stay of the remaining claims is warranted. However, the Court will not appoint a settlement  
8 judge for those claims at this time. Once Plaintiff's anticipated appeal is complete, Seymour may  
9 again move for appointment of a settlement judge.

10 For the reasons described above, the Court ORDERS as follows:

- 11 1. Seymour's motion for appointment of a settlement judge (Dkt No. 78) is DENIED.
- 12 2. Plaintiff's motion for entry of a final judgment pursuant to Rule 54(b) (Dkt. No. 80) is  
13 GRANTED. Accordingly,
  - 14 a. The Clerk is DIRECTED to enter final judgment as to all claims against the GL  
15 Defendants and claims against Seymour, to the extent loss-of-use damages are  
16 alleged.
  - 17 b. The remaining claims against Seymour are STAYED until Plaintiff notifies the  
18 Court that it seeks to lift the stay. Plaintiff must provide such notification no later  
19 than fourteen (14) days after the Ninth Circuit Court of Appeals issues a ruling on  
20 Plaintiff's anticipated appeal. If Plaintiff fails to notify the Court within this  
21 period, the stay will become permanent.
  - 22 c. The April 30, 2018 trial date is STRICKEN.
- 23 3. The Clerk is DIRECTED to statistically close the case until such time as counsel notifies  
24 the Clerk that it wishes to re-open the case, in accordance with the above instructions.
- 25 4. The Clerk is further DIRECTED to re-caption the case. Don Seymour is the sole  
26 remaining Defendant.

1 DATED this 5th day of April 2018.

2  
3  
4 

5 John C. Coughenour  
6 UNITED STATES DISTRICT JUDGE  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26