

1 HONORABLE RICARDO S. MARTINEZ

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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 CITY OF ISSAQUAH, a municipal
10 corporation,

Plaintiff,

11 v.

12 ORA TALUS 90, LLC, a Delaware limited
13 liability company; and RESMARK EQUITY
14 PARTNERS, LLC, a Delaware limited liability
company, et al.

15 Defendants.

16 ORA TALUS 90, LLC, a Delaware limited
17 liability company; and RESMARK EQUITY
18 PARTNERS, LLC, a Delaware limited liability
company,

19 Third-Party Plaintiffs,

20 v.

21 TERRA TALUS LLC, a Washington limited
liability company; ELEMENT RESIDENTIAL
22 INC., a Washington corporation; JOSHUA
FREED, an individual; TERRA
23 ASSOCIATES, INC., a Washington
corporation; J.R. HAYES & SONS, INC., a
24 Washington corporation; TALUS
MANAGEMENT SERVICES LLC, a
25 Washington limited liability company; and
TALUS 7&8, LLC, a Washington limited
liability company,

26 Third-Party Defendants.

Case No.: 18-cv-00910 RSM

STIPULATION AND ORDER OF DISMISSAL
OF CLAIMS BY ORA TALUS 90, LLC,
RESMARK EQUITY PARTNERS, LLC,
TALUS 7 & 8 INVESTMENT, LLC AND
TALUS MANAGEMENT SERVICES, LLC

**NOTED ON MOTION CALENDAR:
June 28, 2021**

STIPULATION AND ORDER OF DISMISSAL OF CLAIMS BY ORA
TALUS 90, LLC, RESMARK EQUITY PARTNERS, LLC, TALUS 7
& 8 INVESTMENT, LLC AND TALUS MANAGEMENT SERVICES,
LLC- 1
(Case No. 18-cv-00910 RSM)

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I. STIPULATION

1. In its *First Amended Third Party Complaint* (Docket #34 (“First Am. Comp.”), ORA Talus 90, LLC and Resmark Equity Partners, LLC and their subrogated insurers (hereinafter collectively “ORA Talus”) brought claims against Talus Management Services, LLC (“TMS”) and Talus 7&8 Investment, LLC (“Talus 7/8”) arising out of a landslide that occurred on ORA Talus’ property. Specifically, these claims were set forth in ORA Talus’s First Am. Comp. Third Claim for Relief for Common Law Indemnity and Fourth Claim of Relief for Negligent Damage to Real Property;

2. In its *Third-Party Defendants Answer, Affirmative Defenses, Cross-Claims, and Counter-claims, to the Third-Party Plaintiffs’ First Amended Complaint* (“Third-Party Defendants Response”)(Docket #39)), TMS and Talus 7/8 brought claims against ORA Talus. Specifically, these claims were set forth in the Third Party Defendants Response First Counterclaim of JR Hayes and Talus 7/8 Against ORA Talus for Public and Private Nuisance; First Counterclaim of Talus 7/8 for Public and Private Nuisance; First Counterclaim of JR Hayes and Talus 7/8 for Common Law Indemnity; First Counterclaim of Talus 7/8 for Public and Private Nuisance; Second Counterclaim of JR Hayes and Talus 7/8 for Negligence; Sixth Crossclaim of Talus 7/8 for Breach of Contract; and Third Counterclaim of JR Hayes and Talus 7/8 for Declaratory Judgment;

3. The parties hereto have agreed to resolve these claims as against each other without prejudice or other effect on their respective claims against other parties that are contained in the same claims for relief and with each party bearing its own fees and costs;

4. TMS has a pending summary judgment motion against ORA Talus. JR Hayes and Talus 7/8 also have a pending summary judgment motion that includes requests for relief against ORA Talus. The TMS summary judgment motion is withdrawn as moot. The JR Hayes/Talus 7/8 summary judgment is partially withdrawn as moot only as it relates to the claims of ORA Talus against Talus 7/8.

1 5. Based on the foregoing, the parties respectfully request that the Court enter an order
2 of dismissal with prejudice, the effect of which will be the dismissal of all of ORA Talus's claims
3 for relief only against TMS and Talus 7/8 and the dismissal of all of TMS's and Talus 7/8's claims
4 for relief only against ORA Talus.

5 DATED this 28th day of June, 2021.

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15 Management Services LLC

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1 **ORDER**

2 Based on the above stipulation of the parties, the Court orders as follows:

3 1. Talus Management Services, LLC's motion for summary judgment is withdrawn as
4 moot. The JR Hayes & Sons, Inc./Talus 7&8 Investment, LLC motion for summary judgment is
5 partially withdrawn as moot only as it relates to the claims of ORA Talus 90, LLC and Resmark
6 Equity Partners, LLC against Talus 7&8 Investment, LLC.

7 2. The Court dismisses the ORA Talus 90, LLC's and Resmark Equity Partners, LLC's
8 claims for relief only as against Talus Management Services, LLC and Talus 7&8 Investment, LLC.
9 The Court also dismisses Talus Management Services, LLC's and Talus 7&8 Investment, LLC's
10 claims for relief only as against ORA Talus 90, LLC and Resmark Equity Partners, LLC. The
11 dismissals are with prejudice as to the dismissed parties only and are without prejudice or other effect
12 on the respective claims alleged by the dismissed parties against other parties, not being dismissed
13 here, that are contained in the same claims for relief and with each party bearing its own costs.

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15 DATED this 29th day of June, 2021.

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18 **RICARDO S. MARTINEZ**
19 **CHIEF UNITED STATES DISTRICT JUDGE**

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22 Presented by:

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24 **HARRIGAN LEYH FARMER & THOMSEN LLP**

25
26 By: s/Arthur W. Harrigan, Jr.

By: s/Tyler L. Farmer

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