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THE HONORABLE ROBERT S. LASNIK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
IN SEATTLE**

BARCELO HOMES, INC., a Washington corporation; BARCELO MADISON PARK, LLC, a Washington limited liability company,

Plaintiffs,

v.

KINSALE INSURANCE COMPANY, a foreign insurance company,

Defendant.

KINSALE INSURANCE COMPANY, a foreign insurance company,

Counterclaim and Third-Party Plaintiff,

v.

BARCELO HOMES, INC., a Washington corporation; BARCELO MADISON PARK, LLC, a Washington limited liability company,

Counterclaim Defendant,

No. 2:20-cv-01719-RSL

STIPULATED MOTION:

(1) TO DISMISS CERTAIN PARTIES;

(2) TO REALIGN REMAINING PARTIES;

(3) TO SUBSTITUTE COUNSEL;
AND

(4) TO STAY LITIGATION

NOTE ON MOTION CALENDAR:
12/23/2021

STIPULATED MOTION - 1

CASE NO. 2:20-cv-01719-RSL

LEATHER LAW GROUP
1848 WESTLAKE AVENUE N, SUITE 100
SEATTLE, WA 98109
P: (206) 467-5444 F: (206) 467-5544

1
2 and

3 TRIBRACH CAPITAL, LLC, a
4 Washington limited liability company;
5 ODESSA CONDOMINIUM OWNERS
6 ASSOCIATION, a Washington
7 corporation; HENRY DAVID
8 KENYON and MEREDITH WILKE
9 KENYON, individuals and marital
10 community; DANIEL LEVINE, an
11 individual.

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13 Third-Party Defendants.

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I. INTRODUCTION

This insurance coverage dispute arose out of two underlying lawsuits: *Odessa Condominium Owners Association, et al. v. Barcelo Madison Park, LLC, et al.*, King County Superior Court Case Number 19-2-14747-4; and *Tribrach Capital v. Barcelo Homes, Inc. et al.*, King County Superior Court Case Number 19-2-19843-5.

The underlying *Odessa* matter has fully settled and there no longer remains any actual and justiciable controversy in this matter regarding the *Odessa* parties. As such, Odessa Condominium Owners Association, Henry David Kenyon, Meredith Wilke Kenyon, Daniel Levine, and Barcelo Madison Park, LLC may be dismissed from this matter.

The underlying *Tribrach* case was resolved by (among other things) Barcelo Homes, Inc. (BHI) assigning its rights against Kinsale to the claimant in that case, Tribrach Capital, LLC, who is represented by Tristan Swanson. Because Mr. Swanson's client now possesses the remaining BHI claims asserted in this lawsuit, the parties seek to have Mr. Swanson substituted in as counsel for BHI. The remaining parties agree that within 30 days after entry of the Court's Order, they will present a stipulated motion and proposed order granting

STIPULATED MOTION - 2

CASE NO. 2:20-cv-01719-RSL

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1 Tribrach leave to file an Amended Complaint pursuant to LCR 15, and providing Kinsale
2 with 30 days to file an Answer thereto.

3 In addition, because the *Tribrach* case was resolved through a consent judgment
4 settlement, the amount of that settlement will be subject to a RCW 4.22.060 Reasonableness
5 Hearing before the King County Superior Court. The remaining parties to this action hereby
6 jointly move for an Order Staying this case so that the parties may direct their efforts to the
7 Reasonableness Hearing, with the exception of the stipulation and proposed order regarding
8 amended pleadings, which the remaining parties will present within 30 days after entry of
9 the Court's Order.

10 II. STIPULATION

11 Based on the foregoing, and in accordance with LCR 15 and LCR 83.2(b)(1), the
12 parties hereby Stipulate and Agree to the following:

13 1. That Odessa Condominium Owners Association, Henry David Kenyon,
14 Meredith Wilke Kenyon, Daniel Levine, and Barcelo Madison Park, LLC should be
15 dismissed from this matter with prejudice and without recovery by or against them.

16 2. That the parties should be realigned to reflect the current matters remaining in
17 dispute. Specifically, Tribrach Capital, LLC should be realigned as the Plaintiff in this
18 matter as the assignee of Barcelo Homes, Inc.

19 3. That Tristan Swanson of Miller Nash LLP should be substituted as counsel
20 for Barcelo Homes, Inc. and that Todd C. Hayes and Harper | Hayes PLLC shall be granted
21 leave to withdraw as counsel for Barcelo Homes, Inc.

22 4. That within 30 days after entry of the Court's Order, the remaining parties
23 shall present a stipulated motion and proposed order granting Tribrach leave to file an

STIPULATED MOTION - 3

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1 Amended Complaint pursuant to LCR 15, and providing Kinsale with 30 days to file an
2 Answer thereto.

3 5. That this matter should be otherwise stayed pending resolution of the
4 Reasonableness Hearing in the *Tribrach* matter. The remaining parties propose that the
5 Court order them to present a joint status report within twenty (20) days of completion of the
6 Reasonableness Hearing.

7 It is so stipulated.

8 DATED this 23rd day of December 2021.

9 HARPER | HAYES PLLC

MILLER NASH LLP

10 By: s/ Todd C. Hayes

By: s/ Tristan Swanson

11 Todd C. Hayes, WSBA No. 26361
12 600 University Street, Suite 2420
13 Seattle, WA 98101
14 206.340.8010
15 todd@harperhayes.com
16 Withdrawing Attorneys for Plaintiffs
17 Barcelo Homes, Inc. and Barcelo
18 Madison Park, LLC

Tristan Swanson, WSBA No. 41934
Carolyn Mount, WSBA No. 55527
Pier 70 2801 Alaskan Way, Suite 300
Seattle, WA 98121
206.624.8300
tristan.swanson@millernash.com
carolyn.mount@millernash.com
Substituting Attorneys for Plaintiff
Barcelo Homes, Inc. and attorneys for
Third-party Defendant Tribach
Capital, LLC

16 LETHER LAW GROUP

RAFEL LAW GROUP PLLC

18 By: s/ Eric J. Neal

By: s/ Anthony L. Rafel

19 Thomas Lether, WSBA No. 18089
20 Eric Neal, WSBA No. 31863
21 1848 Westlake Avenue N. Ste. 100
22 Seattle, WA 98109
23 206.467-5444
tlether@letherlaw.com
eneal@letherlaw.com
Attorneys for Defendant and Third-
Party Plaintiff Kinsale Insurance
Company

Anthony L. Rafel, WSBA No. 13194
4126 E. Madison St. Ste. 202
Seattle, WA 98112
206.838.2660
arafel@rafellawgroup.com
Attorneys for Third-Party Defendants
Odessa Condominium Owners
Association, Henry David and
Meredith Wilke Kenyon, and Daniel
Levine

STIPULATED MOTION - 4

CASE NO. 2:20-cv-01719-RSL

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III. ORDER

The Court has reviewed the above stipulation AND HEREBY ORDERS:

1. That Odessa Condominium Owners Association, Henry David Kenyon, Meredith Wilke Kenyon, Daniel Levine, and Barcelo Madison Park, LLC are hereby DISMISSED from this matter with prejudice and without recovery by or against them.

2. That the parties are hereby realigned to reflect the current matters remaining in dispute. The Plaintiff in this matter shall be Tribrach Capital, LLC, as the assignee of Barcelo Homes, Inc., and the Defendant/Counterclaimant shall be Kinsale Insurance Company.

3. That within 30 days after entry of the Court’s Order, the remaining parties shall present a stipulated motion and proposed order granting Tribrach leave to file an Amended Complaint no later than thirty (30) days after entry of this Order. Kinsale Insurance Company shall file an Answer to Tribrach’s Amended Complaint within thirty (30) days of Tribrach’s filing.

4. That Tristan Swanson of Miller Nash LLP is substituted as counsel for Barcelo Homes, Inc., and that Todd C. Hayes and Harper | Hayes PLLC are hereby granted leave to withdraw as counsel for Barcelo Homes, Inc.

5. That this matter is hereby STAYED pending resolution of the Reasonableness Hearing in the *Tribrach* matter, except as provided in Paragraph 3 of this Order. The remaining parties shall file a joint status report within twenty (20) days of completion of the Reasonableness Hearing.

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DATED this 27th day of December, 2021.



ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE

Presented by:

HARPER | HAYES PLLC

MILLER NASH LLP

By: s/ Todd C. Hayes

Todd C. Hayes, WSBA No. 26361
Withdrawing attorneys for Barcelo
Homes, Inc. and Barcelo Madison
Park, LLC

By: s/ Tristan Swanson

Tristan Swanson, WSBA No. 41934
Substituting Attorneys for Plaintiff
Barcelo Homes, Inc. and attorneys for
Third-party Defendant Tribach
Capital, LLC

LEATHER LAW GROUP

RAFEL LAW GROUP PLLC

By: s/ Eric J. Neal

Thomas Lether, WSBA No. 18089
Eric Neal, WSBA No. 31863
Attorneys for Defendant and Third-
Party Plaintiff Kinsale Insurance
Company

By: s/ Anthony L. Rafel

Anthony L. Rafel, WSBA No. 13194
Attorneys for Third-Party Defendants
Odessa Condominium Owners
Association, Henry David and Meredith
Wilke Kenyon, and Daniel Levine

CERTIFICATE OF SERVICE

The undersigned hereby certifies under the penalty of perjury under the laws of the United States of America that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the following party(ies):

Todd C. Hayes
Harper | Hayes LLC
One Union Square
600 University Street, Suite 2420
Seattle, WA 98101
todd@harperhayes.com

Tristan N. Swanson
Carolyn A. Mount
Miller Nash LLP
Pier 70
2801 Alaskan Way, Suite 300
Seattle, WA 98121
tristan.swanson@millernash.com
carolyn.mount@millernash.com

Anthony Rafel
Rafel Law Group PLLC
4126 E. Madison St., Ste. 202
Seattle, Washington 98112
arafel@rafellawgroup.com

By: ECF First Class Mail

Dated this 23rd day of December, 2021 at Seattle, Washington.

s/ Judy Tustison
Judy Tustison, Paralegal