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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

IN ADMIRALTY

IN RE: COMPLAINT AND PETITION OF
WILLIAMS SPORTS RENTALS, INC. AS
OWNER OF A CERTAIN 2004 YAMAHA
WAVERUNNER FX 140 FOR
EXONERATION FROM OR LIMITATION
OF LIABILITY

MARIAN LATASHA WILLIS, on behalf of the
Estate of RAESHON WILLIAMS,

Respondent/Counter Claimant,

v.

WILLIAMS SPORTS RENTALS, INC.,

Petitioner/Counter Defendant.

WILLIAMS SPORTS RENTALS, INC.,

*Petitioner, Counter Defendant, and
Third-party Plaintiff,*

v.

THOMAS SMITH, KAI PETRICH,
BERKELEY EXECUTIVES, INC.,
ZIP, INC., and DOES 1-10,

Third-party Defendants.

AND RELATED ACTIONS

) Case No. 2:17-cv-00653-KJM-JDP

) Hon. Kimberly J. Mueller
) Chief United States District Judge

) **STIPULATION TO CONTINUE HEARING
ON WSR'S MOTION TO DISMISS
COUNTER-CLAIMS AND FOR JUDGMENT
ON THE PLEADINGS, OR
ALTERNATIVELY, SUMMARY
JUDGMENT, AS TO THIRD-PARTY
DEFENDANTS THOMAS SMITH &
BERKELEY EXECUTIVES, INC.'S DUTY
TO DEFEND WSR; ORDER**

) Hearing Date: Friday, April 19, 2024
) Hearing Time: 10:00 a.m.
) Hearing Place: Courtroom 3, 15th Floor

1 WHEREAS, on February 23, 2024, WSR filed a Motion to Dismiss Counter-Claims by
2 SMITH and BERKELEY and For Judgment on the Pleadings, or Alternatively, Summary
3 Judgement on the Pleadings, or Alternatively, Summary Judgment (“Motion”) as to Counter
4 Claimants’ Duty to Defend (ECF No. 200) the hearing currently set for April 19, 2024 at 10:00 a.m.

5 WHEREAS, on March 25, 2024, attorneys for SMITH and BERKELEY, and WSR met and
6 conferred regarding WSR’s Motion (ECF No. 200) and the issues raised therein, including: the
7 laws applicable to WSR’s contract and indemnity provisions, particularly in light of provisions in
8 WSR’s agreement favoring California law and the February 21, 2024, release of the Supreme
9 Court’s decision in Great Lakes Insurance SE v. Raiders Retreat Realty Co., LLC, Case No. 22-500
10 (U.S. Feb. 21, 2024).

11 WHEREAS, on March 25, 2024, Ms. Albini, attorney for Third-Party Defendants and
12 Counter-Claimants THOMAS SMITH (“SMITH”) and BERKELEY EXECUTIVES, INC’s
13 (“BERKELEY”), informed Mr. Felder, attorney for WSR, of the passing of her mother, Mr. Felder,
14 agreed to extend Third-Party Defendants and Counter-Claimants THOMAS SMITH (“SMITH”) and
15 BERKELEY EXECUTIVES, INC’s (“BERKELEY”) opposition through extensions is due on
16 April 1, 2024.

17 WHEREAS, on April 1, 2024, Ms. Albini, attorney for Third-Party Defendants and
18 Counter-Claimants THOMAS SMITH (“SMITH”) and BERKELEY EXECUTIVES, INC’s
19 (“BERKELEY”), spoke with Mr. Felder, attorney for WSR, who agreed to continue the April 19,
20 2024 hearing to May 17, 2024, to be heard at the same time as WSR’s Motion for Judgment on the
21 Pleadings, or Alternatively, Summary Judgment, as to Third-Party Defendants Kai Petrich & Zip,
22 Inc.’s Duty to Defend WSR on March 15, 2024 (ECF No. 207).

23 WHEREAS, on March 29, 2024, the Honorable Chief District Judge Kimberly J. Mueller
24 issued an Order Continuing the April 19, 2024 hearing on WSR’s Motion for Judgment on the
25 Pleadings, or Alternatively, Summary Judgment, as to Third-Party Defendants Kai Petrich & Zip,
26 Inc.’s Duty to Defend WSR to May 17, 2024 with PETRICH and SENTINEL filing their
27 Oppositions to WSR's Motion [207], on or before 4/26/2024. WSR shall file its reply brief in
28 support of WSR's Motion [207], on or before 5/6/2024. The Motion shall be heard on 5/17/2024

(ECF No. 211).

WHEREAS, in an effort to promote judicial economy and meet the goals of the Court's meet and confer directives, the parties to this stipulation have agreed to an extension of time to review and brief the choice-of-law issue for this Court.

COMES NOW the parties and stipulate for an Order as follows:

SMITH and BERKELEY's new deadline to file an Opposition to WSR's Motion will be **April 26, 2024.**

WSR shall file its reply brief in support of WSR's Motion (ECF No. 200), on or before **May 6, 2024.**

The Motion shall be heard on **May 17, 2024.**

So Stipulated.

Dated: April 1, 2024

WADE LAW GROUP, A Professional Corporation

By: s/s Dianna L. Albini

DIANNA L. ALBINI

Attorneys for Third-Party Defendants

THOMAS SMITH & BERKELEY EXECUTIVES, INC.

Dated: April 1, 2024

**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**

By: s/s B. Otis Felder

B. Otis Felder

Attorneys for Petitioner, Counter Defendant,
& Third-Party Plaintiff

WILLIAMS SPORTS RENTALS, INC.

ATTESTATION OF PERMISSION TO FILE THIS STIPULATION

Counsel for Third-Party Defendants, THOMAS SMITH and BERKELEY EXECUTIVES, INC., attests that she has been given permission to sign this Stipulation on behalf of Petitioner,

1 Counter Defendant, & Third-Party Plaintiff, WILLIAMS SPORTS RENTALS, INC., by its
2 counsel, B. Otis Felder.

3 Dated: **WADE LAW GROUP, A Professional Corporation**

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5 By: s/s Dianna L. Albini

6 DIANNA L. ALBINI

7 Attorneys for Third-Party Defendants

8 ***THOMAS SMITH & BERKELEY EXECUTIVES, INC.***
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ORDER

Pursuant to the above stipulation and good cause appearing, the court grants the parties' request.

SO ORDERED.

DATED: April 5, 2024.



CHIEF UNITED STATES DISTRICT JUDGE