

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

IN RE:

FIBRANT, LLC, *et al.*,

Debtors.

Chapter 11

Case No. 18-10274 (SDB)

(Jointly Administered)

FIBRANT, LLC, EVERGREEN NYLON
RECYCLING LLC, FIBRANT SOUTH CENTER,
LLC, GEORGIA MONOMERS COMPANY, LLC,
CHEMICAINVEST HOLDING, B.V., and
AUGUSTA LIQUIDATIONS, LLC,

Plaintiffs,

v.

ACE PROPERTY & CASUALTY INSURANCE
COMPANY, a corporation, UNITED STATES FIRE
INSURANCE COMPANY, a corporation,
CENTURY INDEMNITY COMPANY, a
corporation, ADMIRAL INSURANCE COMPANY,
a corporation, MT. MCKINLEY INSURANCE
COMPANY, a corporation, COLUMBIA
CASUALTY COMPANY, a corporation,
CONTINENTAL CASUALTY COMPANY, a
corporation, THE CONTINENTAL INSURANCE
COMPANY, a corporation, CERTAIN
UNDERWRITERS AT LLOYD'S, LONDON, a
corporation, CERTAIN LONDON MARKET
COMPANIES, corporations, STARR INDEMNITY
& LIABILITY COMPANY, a corporation,
BERKSHIRE HATHAWAY SPECIALTY
INSURANCE COMPANY, a corporation, FIRST
STATE INSURANCE COMPANY, a corporation,
ALBA GENERAL INSURANCE COMPANY
LIMITED, a corporation, THE DOMINION
INSURANCE COMPANY LIMITED, a corporation,
EXCESS INS. CO. TO HFPI LTD., a corporation,
ASSICURAZIONI GENERALI SPA, a corporation,
HELVETIA ACCIDENT SWISS INSURANCE

Adversary Proceeding

No. 19-01016 (SDB)



COMPANY LIMITED, a corporation, LONDON AND EDINBURGH GENERAL INSURANCE COMPANY LIMITED, a corporation, RIVER THAMES INSURANCE COMPANY LIMITED, a corporation, STRONGHOLD INSURANCE COMPANY LIMITED, a corporation, HARPER INSURANCE LTD., a corporation, ARGONAUT NORTHWEST INSURANCE COMPANY, a corporation, DELTA-LLOYD NON-LIFE INSURANCE COMPANY LIMITED, a corporation, NATIONAL CASUALTY COMPANY, a corporation, NATIONAL CASUALTY COMPANY OF AMERICA LIMITED, a corporation, NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, a corporation, LEXINGTON INSURANCE COMPANY, a corporation, THE NORTH RIVER INSURANCE COMPANY, a corporation, HOME INSURANCE COMPANY, a corporation, ALLSTATE INSURANCE, a corporation, PROTECTIVE NATIONAL INSURANCE COMPANY, a corporation, ZURICH INTERNATIONAL, a corporation, LIBERTY MUTUAL, a corporation,

Defendants.

(AMENDED) JOINT STIPULATED REQUEST TO STAY CASE

PENDING CONCLUSION OF MEDIATION

This adversary proceeding is a declaratory judgment action in which the Plaintiffs seek a determination regarding coverage under certain historic insurance policies for funding of past and ongoing environmental liabilities. The parties believe that mediation may provide an efficient course of action for potentially resolving the insurance claims. Therefore, Plaintiffs and the Defendant Insurers¹ jointly request a stay of this action, *Fibrant, LLC, et al. v. ACE Property and Casualty Insurance Company, et. al.*, Bankr. S.D. Ga. No. 19-01016 (SDB), while they pursue

¹ As these terms are defined in the Complaint for Declaratory Judgment, *see* Dkt. 1.

mediation. The parties are in the process of exchanging documents, selecting a mediator, and securing a date and time for a mediation, which will take place as soon as reasonably practicable.

If granted, a temporary stay in this case will provide the parties an opportunity to pursue a mediated settlement, while avoiding substantial future litigation expenses and consuming this Court's time and resources. Accordingly, and subject to the Court's approval, the parties, through their attorneys of record, hereby stipulate as follows:

1. The parties jointly agree, and respectfully request for good cause, that the Court stay the present action pending completion of mediation;
2. All deadlines in this action (including, without limitation, deadlines to file or respond to pleadings, motions and discovery requests, deadlines to make any mandatory disclosures under Fed. R. Civ. P. 26(a)(1) or any equivalent under the Federal Rules of Bankruptcy Procedure, deadlines to prepare or file any joint discovery plan or scheduling order) shall be tolled through the 30th day following notice by either all Plaintiffs or all Defendant Insurers to the Court that the mediation discussions were not successful, that the stay should be terminated, and asking to set a hearing for entry into an appropriate scheduling order;
3. The time period during which the matter is stayed and deadlines extended pursuant to this Joint Stipulation shall not be used, cited or relied upon by any party in opposing any cause of action, claim, defense or other form of relief (including, without limitation, any motion to withdraw the reference, motion to abstain, or motion to join additional parties);

4. The time period during which the matter is stayed and deadlines extended pursuant to this Joint Stipulation shall be excluded from any calculation of prejudgment interest; and
5. For each Defendant Insurer, entering into this Joint Stipulation and agreeing to stay proceedings will be without prejudice to dispute jurisdiction for this action.

Date: October 9, 2019

Respectfully submitted,

s/ Matthew Levin

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Market Companies (The Edinburgh Assurance
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Limited; Accident & Casualty Insurance Company of*

Winterthur (No. 2A/C); Accident & Casualty Insurance Company of Winterthur (No. 3A/C); New London Reinsurance Company Limited; and The Scottish Lion Insurance Company Limited); Starr Indemnity & Liability Company, formerly known as Republic Insurance Company; and Berkshire Hathaway Specialty Insurance Company, formerly known as Stonewall Insurance Company

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CERTIFICATE OF SERVICE

I hereby certify that I have on this day electronically file the foregoing (**AMENDED**) **JOINT STIPULATED REQUEST TO STAY CASE PENDING CONCLUSION OF MEDIATION** with the Clerk of the Court using the CM/ECF system, which will automatically send electronic mail notification of such filing to all attorneys of record.

Date: October 9, 2019

s/ Brook B. Roberts _____

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COMPANY, a corporation, UNITED STATES FIRE
INSURANCE COMPANY, a corporation,
CENTURY INDEMNITY COMPANY, a
corporation, ADMIRAL INSURANCE COMPANY,
a corporation, MT. MCKINLEY INSURANCE

Adversary Proceeding

No. 19-01016 (SDB)

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Defendants.

ORDER GRANTING JOINT STIPULATED REQUEST

TO STAY CASE PENDING CONCLUSION OF MEDIATION

On October 3, 2019, Plaintiffs and Defendant Insurers filed a stipulation stating that the parties are pursuing mediation of all disputes at issue in this action of *Fibrant, LLC, et al. v. ACE Property and Casualty Insurance Company, et. al.*, Bankr. S.D. Ga. No. 19-01016 (SDB), and requesting that the Court stay the action pending the conclusion of mediation.

Based on the foregoing and for good cause appearing, IT IS HEREBY ORDERED THAT:

1. The present action is hereby stayed pending the completion of the parties' mediation;
2. All deadlines in this matter shall be tolled through the 30th day following notice by either all Plaintiffs or all Defendant Insurers to the Court that the mediation was not successful and that the stay should be terminated;
3. The time period during which the matter is stayed and deadlines extended pursuant to this Order shall not be used, cited or relied upon by any party in opposing any cause of action, claim, defense or other relief (including, without limitation, any motion to withdraw the reference, motion to abstain, or motion to join additional parties);
4. The time period during which the matter is stayed and deadlines extended pursuant to this Order shall be excluded from any computation of prejudgment interest;
5. This order is without prejudice to any Defendant Insurer's ability to dispute jurisdiction for this action;
6. The parties shall file an initial joint status report on December 16, 2019 informing the Court of their progress and shall file a follow-up joint report every 90 days thereafter, pending further order of Court;

7. The parties shall promptly file a stipulation of dismissal under Fed. R. Civ. P. Rule 41(a)(1)(A)(ii) in the event mediation successfully resolves all their disputes; and
8. In the event mediation does not resolve all the parties' disputes, the parties shall promptly file a joint notice that the mediation was not successful and to terminate the stay with the Court and a request to set a hearing for entry into an appropriate scheduling order.

[END OF DOCUMENT]

Prepared and Presented by:

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Casualty Insurance Company of Winterthur (No. 2A/C); Accident & Casualty Insurance*

Company of Winterthur (No. 3A/C); New London Reinsurance Company Limited; and The Scottish Lion Insurance Company Limited); Starr Indemnity & Liability Company, formerly known as Republic Insurance Company; and Berkshire Hathaway Specialty Insurance Company, formerly known as Stonewall Insurance Company

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