**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF LOUISIANA**

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| **JOSHUA AKEEM, ET AL.**  **Plaintiffs**  ***versus***  **DASMEN RESIDENTIAL, LLC, ET AL.**  **Defendants** | **CIVIL ACTION**  **NO. 2:19-13650**  **C/W NOS. 19-13673; 19-13705; 19-14634; 19-636; 19-14637; 20-187**  ***\*ALL CASES\****  **SECTION M (3)**  **JUDGE: BARRY W. ASHE**  **MAG: JUDGE DANA M. DOUGLAS** |

**CASE MANAGEMENT ORDER NO. 1**

**(INITIAL CASE MANAGEMENT ORDER)**

Plaintiffs, Joshua Akeem, et al., and Defendants, RH East Lake, LLC, RH Chenault Creek, LLC, RH Lakewind East, LLC, RH Copper Creek, LLC, RH Windrun, LLC, RH New Orleans Holdings, LLC, Dasmen Residential Mgmt., LLC, Eastlake Development, L.L.C., KFK Group, Inc., KFK Development, L.L.C., and Wilshire Insurance Company, (collectively, the “Parties”) have conferred and present this Case Management Order No. 1 to the Court for approval.

This Court, having considered the joint submission of the Parties for entry of the Proposed Case Management Order, and having conducted a status conference/hearing on January 21, 2022, enters this Case Management Order No. 1, pursuant to Rule 16 of the Federal Rules of Civil Procedure:

1. **Pretrial Consolidation**

It is the obligation of Defendants to identify all cases known to them that have been filed in any venue/jurisdiction alleging harm from ruin of the building structures of the subject properties [Hidden Lakes/Laguna Run; Lakewind East/Laguna Reserve; Copper Creek/Laguna Creek; Chenault Creek/Carmel Brooks], breach of lease contract, negligence as to RH Entities and Dasmen, and injuries derived therefrom within the next one hundred and twenty (120) days or by May 21, 2021.

1. **Master Docket and File**

The Clerk of Court will maintain a master docket and case file under the style, “Joshua Akeem, et al. versus Dasmen Residential, LLC, et al., Master File Number NO. 2:19-CV-13650-BWA-DMD AND CONSOLIDATED CASES. All orders, pleadings, motions, and other documents will, when filed and docketed in the master case file, be deemed filed and docketed in each individual case to the extent applicable.

1. **Captions; Separate Filing**

Orders, pleadings, motions, and other documents will bear a caption similar to that of this Order. If generally applicable to all consolidated actions, they shall include in their caption the notation that they relate to “ALL CASES” and be filed and docketed only in the master file. Documents intended to apply only to particular cases will indicate their caption and the case number of the case(s) to which they apply. However, such filings will nevertheless be filed and maintained in the master file.

(c) **Discovery Requests and Responses**

Pursuant to Fed. R. Civ. P. 5(d), discovery requests and responses will not be filed with the court except when specifically ordered by the Court or to the extent offered in connection with a motion.

1. **Organization of Counsel**
2. **Plaintiffs**

To act on behalf of Plaintiffs with the responsibilities prescribed below. The Court designates -

1. **Plaintiffs’ Liaison Counsel:** Walter Leger, Jr.

LEGER & SHAW

935 Gravier Street, Suite 2150

New Orleans, Louisiana 70112

Telephone: (504) 588-9043

Plaintiffs’ liaison counsel shall:

1. maintain and distribute to co-counsel and to defendants’ liaison counsel an up-to-date

service list;

1. receive and, as appropriate, distribute to co-counsel orders from the court [and

documents from opposing parties and counsel];

1. maintain and make available to co-counsel at reasonable hours a complete file of all documents served by or upon each party [except such documents as may be available at a document depository]; and (d) establish and maintain a document depository [see section 40.261].
2. **Plaintiffs’ Lead Counsel:** Suzette Bagneris

The Bagneris Firm, LLC

1929 Jackson Avenue

New Orleans, Louisiana 70113

Telephone: (504) 810-3995

It is ORDERED:

1. Plaintiffs’ lead counsel shall be generally responsible for coordinating the activities of plaintiffs during pretrial proceedings and shall:

(a) determine (after such consultation with other members of Plaintiffs’ Steering Committee and other co-counsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of the Plaintiffs on all matters arising during pretrial proceedings;

(b) coordinate the initiation and conduct of discovery on behalf of Plaintiffs consistent with the requirements of Fed. R. Civ. P. 26, including the preparation of joint interrogatories, request for admissions, and requests for production of documents, and the examination of witnesses in depositions;

(c) conduct settlement negotiations on behalf of Plaintiffs, but not enter binding agreements except to the extent expressly authorized;

(d) delegate specific tasks to other counsel or committees of counsel, as authorized by the Court, in a manner to ensure that pretrial preparation for the Plaintiffs is conducted efficiently and effectively;

(e) enter into stipulations with opposing counsel as necessary for the conduct of the litigation;

(f) prepare and distribute periodic status reports to the Parties;

(g) maintain adequate time and disbursement records covering services as lead counsel;

(h) monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided; and

(i) perform such other duties as may be incidental to proper coordination of Plaintiffs’ pretrial activities or authorized by further order of the Court. Counsel for Plaintiffs who disagree with lead counsel (or those acting on behalf of lead counsel) or who have individual or divergent positions may present written and oral arguments, conduct examinations of deponents, and otherwise act separately on behalf of their clients as appropriate, provided that in doing so they do not repeat arguments, questions, or actions of lead counsel, and provided that they inform opposing counsel in writing in advance of any such acts.

1. **Plaintiffs’ Steering Committee**

The Court has designated the following attorneys to serve on Plaintiffs’ Steering Committee: [for the Court to designate depending upon who files lawsuits]

Devonn Jarrett

JARRETT LAW GROUP, LLC

643 Magazine Street, Suite 301-A

New Orleans, Louisiana 70130

Telephone: 1-833-554-6653

It is ORDERED:

The other members of plaintiffs’ steering committee shall from time to time consult with plaintiffs’ lead and liaison counsel in coordinating the plaintiffs’ pretrial activities and in planning for trial.

1. **Defendants’ Liaison Counsel :** Emily E. Eagan

Gieger, Laborde & Laperouse, LLC

701 Poydras Street, Suite 4800

New Orleans, Louisiana 70139

Telephone: (504) 561-0400

Defendants’ liaison counsel shall:

1. maintain and distribute to co-counsel and to Plaintiffs’ liaison counsel an up-to-date service list for named Defendants as appropriate;
2. receive and distribute to co-counsel orders from the Court and documents from opposing parties and counsel as appropriate;
3. maintain and make available to co-counsel at reasonable hours a complete file of all documents served by or upon each party [except such documents as may be available at a document depository or those produced subject to a claim of privilege or other means of preserving confidentiality];
4. establish and maintain a document depository [see section 40.261]; and
5. call meetings of co-counsel for the purpose of coordinating discovery, presentations at pretrial conferences, and other pretrial activities.
6. **Privileges Preserved**

All communications among Plaintiffs’ counsel or among Defendants’ counsel shall be privileged and shall not be taken as a waiver of any other privilege or protection to which they would otherwise be entitled.

(c) **Reimbursement**

If agreement cannot be reached on a method for periodically reimbursing attorneys for expenses incurred and paying them for services rendered as lead or liaison counsel, the matter will be presented to the Court for resolution. Counsel for the Parties may submit briefs, memoranda, and/or arguments to the Court to assist in its determination.

(d) **Time Records**

Counsel who anticipate seeking an award of attorney fees from the Court shall comply with the directives regarding the maintenance and filing of contemporaneous records reflecting the services performed and the expenses incurred.

It is ORDERED:

1. **Maintenance of Contemporaneous Records**

All counsel shall keep a daily record of their time spent and expenses incurred in connection with this litigation, indicating with specificity the hours, location, and particular activity (such as “conducted deposition of A.B.”). Such daily records shall provide the dates of their creation in order to maintain their reliability and encourage counsel to create records contemporaneously with, or within a reasonable time after, the date of time was spent or expenses were incurred. The failure to maintain such records will be grounds for denying court-awarded attorney fees, as will an insufficient description of the activity (such as “research” or “review of correspondence”).

1. **Filing**

By the fifteenth day of each month, each firm that may seek an award (or approval) of a fee by the Court shall file with lead counsel [or a budget/record/compensation committee established by lead counsel and the court] a report summarizing, according to each separate activity, the time and expenses spent by its members or associates during the preceding month (and the ordinary billing rates of those individual attorneys in effect during the month) and the accumulated total of the firm’s time, hourly rates, and expenses to date.

1. **Service of Documents**
2. **Orders**

A copy of each Order of the Court will be provided to Plaintiffs’ liaison counsel and Defendants’ liaison counsel via the Court’s electronic-filing and case management system for distribution, as appropriate, to other co-counsel and parties.

1. **Pleadings, Motions, and Other Documents**

Plaintiffs’ liaison counsel and Defendants’ liaison counsel will be provided, via the Court’s electronic-filing and case management system, with copies of each pleading, motion, or other document filed by a party.

1. **Status Conferences**

(a) **Regularly Scheduled Conferences**

The Court will convene a telephone status conference in this litigation on the \_\_\_\_ day of each month, subject to the Court’s calendar. Except for emergencies, motions should not be brought for hearing at any time other than a regularly scheduled status conference. Liaison counsel shall confer at least seven (7) days prior to the status conference, develop an agenda, and disseminate it to all known counsel of record at least three (3) days prior to the conference. Liaison/Lead counsel for the parties shall (1) confer at least three (3) days before each scheduled conference and attempt to resolve outstanding disputes and (2) provide the court at least two (2) days prior to the hearing a joint letter listing all motions and other matters the Parties anticipate addressing at the conference. Parties should make every effort not to notice depositions for days on which status conferences are scheduled, and no deposition shall go forward on such days without prior leave of court.

1. **Telephone Conferences**

Telephone conferences may be scheduled at the Court’s discretion by prior arrangement through the Court’s chambers, if all necessary Parties are available and receive at least 24 hours’ notice.

1. **Refinement of Issues**
2. **General Briefing Requirements**

Briefs or memoranda in support of, or in opposition to, any motions, as well as any reply briefs or memoranda, are subject to the requirements of Local Rule 7.7. Reply briefs may not be filed without leave of court.

1. **Pleadings**
2. No Amendment of Pleadings may be made after **Tuesday,** **March 5, 2022,** and no additional parties may be joined as Plaintiff, defendant, or third-party defendant after **Tuesday,** **March 5, 2022.**
3. Each defendant shall have until **Friday,** **April 1, 2022** to file responsive pleadings.
4. Answers to any cross-claims or counterclaims shall be filed by **Monday,** **May 2, 2022.**
5. **Production of Investigation Materials from Third Parties**

Production of investigation materials from third-parties begins on a rolling basis on **Wednesday,** **February 1, 2022.** There is no need to issue duplicative requests for third party materials if same has already been issued in this case.

Production of investigation materials from third-parties must be completed no later than **Monday,** **October 3, 2022.**

1. **Exchange of Preliminary Fact Witnesses**

The parties shall exchange a list of Preliminary Fact Witnesses by **Monday, June 6, 2022.**

1. **Exchange of Expert Witnesses**

The parties shall exchange a list of Expert Witnesses and their Curricula Vitae by **Monday, July 11, 2022.**

1. **Exchange of Initial Expert Witness Reports**

The parties shall exchange initial expert witness reports by no later than **Tuesday, August 1, 2022.** The parties reserve the right to serve rebuttal reports pursuant to this Order.

1. **Exchange of Rebuttal Reports**

The parties shall exchange rebuttal reports from expert witnesses on **Monday, September 5, 2022.**

1. **Summary Judgment**

Motions for summary judgment shall be filed and served in sufficient time to permit hearing thereon no later than **Thursday, December 15, 2022.** Motions for summary judgment and oppositions to motions for summary judgment shall be filed in compliance with Local Rules 56.1 and 56.2, requiring parties to file a short and concise statement of material facts as to which there does or does not exist a genuine issue to be tried. Additionally, each party shall make specific reference to record evidence supporting its statement of material facts. Citations to record evidence shall indicate, whenever applicable, an exhibit reference, page reference, and record document number reference. Record evidence not specifically referred to by the parties may not be considered by the Court.

Motions filed in violation of this Order will not be considered unless good cause is shown.

1. **Discovery**
2. **Approval of Expedited Discovery**

Permission to take expedited discovery of a plaintiff and a plaintiff’s health care provider is granted if all of the following conditions are present: (1) plaintiff or a member of plaintiff’s family is terminally ill; (2) there is an urgent need to record and preserve the testimony because of the gravity of the illness; and (3) [if applicable] plaintiff has completed the Plaintiff Fact Sheet and provided the medical authorizations required by the fact sheet and defendants have had an opportunity to conduct a reasonable amount of informal discovery prior to the taking of any deposition.

1. **Schedule**
2. **Plaintiff Fact Sheets**

Each plaintiff whose case has been transferred to this Court as of March 1, 2022, shall have sixty (60) days or until May 1, 2022 to complete and serve upon Defendants a Plaintiff Fact Sheet and an authorization for the release of medical records. Counsel shall meet and confer on an electronic format for completion of a Fact Sheet.

1. **Production of Plaintiffs’ Personal Information and Tenant Files**

On or before March 1, 2022, all Flight I Trial Plaintiffs shall provide Defendants, in writing, their (1) full legal names, (2) dates of birth, (3) dates of tenancy (*i.e.,* day, month, and year to day, month, and year) at the subject apartment complex, and (4) apartment unit number(s).

Within thirty (30) days of receipt of the above information, the Defendants shall produce, to the extent not previously produced during this litigation, all file materials contained in tenant files pertaining to the Flight I Trial Plaintiffs.

1. **Interrogatories and Request for Production of Documents**

Counsel shall, to the extent possible, combine their interrogatories to any party into a single set of questions applicable to all Plaintiffs. The Parties’ use of interrogatories is governed by Federal Rule of Civil Procedure 33. Pursuant to Rule 26(e)(2), the parties must promptly amend answers to interrogatories made during the course of this litigation to provide complete additional or corrective information.

1. **Deposition Schedule**

**(a) Depositions of Plaintiffs in Flight I**

The Flight I Plaintiffs shall be deposed throughout the **Month of June, 2022**, at dates and times agreed upon by the parties. Within ten (10) days of the execution of this CMO, all counsel are to provide Walter Leger’s Office with available dates for participation in same. The Parties agree that individual notices of deposition are unnecessary and that one notice of deposition identifying the Plaintiffs and their corresponding deposition dates, times, and locations satisfies the notice requirement under federal law.

**(b)\_ Corporate Depositions**

By **May 1, 2022**, Plaintiffs shall issue 30(b)(6) Notices of Deposition, including all deposition topics, to Defendants. All objections to the notices shall be made in writing and served upon Plaintiffs’ Counsel no later than fifteen (15) days prior to the scheduled deposition date.

Plaintiffs’ Shall Conduct the 30(b)(6) deposition of the Defendants within the following designated times:

Dasmen and the RH Defendants **July 11, 2022 – July 15, 2022**[[1]](#footnote-1)

The “Eastlake Defendants” **July 25, 2022 – July 29, 2022[[2]](#footnote-2)**

The “Triangle Defendants” **August 1, 2022 – August 5, 2022[[3]](#footnote-3)**

1. **Health Care Providers’ Depositions**

The depositions of Flight I Plaintiffs’ healthcare providers, to the extent requested, shall occur throughout the **Month of** **September, 2022,** at dates and times agreed upon by the parties. Within ten (10) days of the execution of this CMO, all counsel are to provide Walter Leger’s Office with available dates for participation in same.

On request, Plaintiffs’ counsel agrees to contact Plaintiffs’ healthcare providers to obtain their availability and arrange their depositions.

1. **Depositions of Fact Witnesses**

The depositions of any and all fact witnesses who have been identified by the parties shall occur throughout the **Month of October, 2022,** at dates and times agreed upon by the parties. Within ten (10) days of the execution of this CMO, all counsel are to provide Walter Leger’s Office with available dates for participation in same. The close of fact witness discovery shall be **Monday, October 31, 2022** absent agreement of the Parties or Court Order upon a written motion with good cause shown.

1. **Depositions of Expert Witnesses**

The depositions of any and all experts who have been identified by the parties shall be deposed throughout the **Month of November, 2022,** at dates and times agreed upon by the parties. Within ten (10) days of the execution of this CMO, all counsel are to provide Walter Leger’s Office with available dates for participation in same. The close of expert discovery shall be **Wednesday, November 30, 2022** absent agreement of the Parties or Court Order upon a written motion with good cause shown.

1. **Confidentiality Order**

It is ORDERED that the following provisions shall govern claims of confidentiality in these proceedings:

1. Review of the confidential documents and information by counsel, experts, or consultants for the litigants in the litigation shall not waive the confidentiality of the documents or objections to production.
2. The inadvertent, unintentional, or in camera disclosure of a confidential document and information shall not generally be deemed a waiver, in whole or in part, of any party’s claims of confidentiality.
3. Only documents containing trade secrets, special formulas, company security matters, customer lists, financial data, third-party tenant information (and/or other confidential, non-public personal information precluded from disclosure under statutory or regulatory law), projected sales data, production data, matters relating to mergers and acquisitions, and data which touch upon the topic of price may be designated confidential, provided such documents have not previously been disclosed by the producing party to anyone except those in its employment or those retained by it. Such documents or parts thereof will be designated after review by an attorney for the producing party by stamping the word confidential on each page.
4. Documents designated confidential shall be shown only to the attorneys, the parties, parties’ experts, actual or proposed witnesses, and other persons whom the attorneys deem necessary to review the documents for the prosecution or defense of this lawsuit. Each person who is permitted to see confidential documents shall first be shown a copy of this order and shall further be advised of the obligation to honor the confidentiality designation. The parties agree that any discovery material produced in this litigation shall be used strictly during this litigation.
5. If any third party to this action subpoenas and/or moves to compel any non-producing party(ies) to produce discovery materials expressly designated as confidential before or after the conclusion to this case, the non-producing party(ies) shall immediately notify counsel for the producing party that the subpoena has been served and/or that the motion to compel has been filed and give the producing party an opportunity to file a motion to quash the subpoena and/or oppose the motion to compel. Thereafter, the producing party shall assume full responsibility for preserving the confidential nature of the subpoenaed discovery materials. In addition, if any non-producing party(ies) are ultimately ordered to produce confidential discovery materials, notice and, if available, a copy of the order compelling disclosure shall immediately be given to counsel for the producing party.
6. If a party believes that a document designated or sought to be designated confidential by the producing party does not warrant such designation, the party shall first make a good-faith effort to resolve such a dispute with opposing counsel. In the event that such a dispute cannot be resolved by the parties, either party may apply by written motion to the court or special master for a determination as to whether the designation is appropriate. The burden rests on the party seeking confidentiality to demonstrate that such designation is proper. The confidential status of such materials made subject of the dispute shall be maintained until the Court enters a final ruling thereon.
7. At the time of deposition or within 10 days after receipt of the deposition transcript, a party may designate as confidential specific portions of the transcript which contain confidential matters under the standards set forth in paragraph (a) above. This designation shall be in writing and served upon all counsel with specific citation to the page(s) and line number(s) for all such confidential designations. No objection shall be interposed at a deposition that an answer would elicit confidential information. Transcripts will be treated as confidential for this 10-day period. Any portions of a transcript designated confidential shall thereafter be treated as confidential in accordance with this order. In filing materials with the court in pretrial proceedings, counsel shall file under seal only those specific documents and that deposition testimony designated confidential, and only those specific portions of briefs, applications, and other filings that contain verbatim confidential data, or that set forth the substance of such confidential information. Treatment of confidential materials at trial of this matter will be addressed in the joint pre-trial order to be submitted to the court in advance of trial.
8. In any application to the court or referred to or permitted by this order, the court or special master may exercise discretion in determining whether the prevailing party in such a dispute may recover the costs incurred by it and, if so, the amount to be awarded.
9. Within thirty (30) days after the conclusion of this litigation, the producing party must serve on all parties, experts, and consultants, through their counsel of record/retaining counsel, a written request that all materials designated as confidential be surrendered, returned, or destroyed. Within sixty (60) days of service, the non-producing party(ies), experts, and/or consultants must surrender, return, or destroy the requested designated documents. Once compliance with the request is completed, counsel for the non-producing party(ies), experts, and/or consultants shall certify in writing (deliverable to counsel for the producing party) that all such designated discovery materials in their possession have been surrendered, returned, or destroyed, and that all such designated discovery materials maintained in electronic form have been permanently erased and removed from the electronic device on which they were stored. Certification of compliance may be made via email.
10. **Documents**

Counsel shall, to the extent possible, coordinate and consolidate their requests for production and examination of documents to eliminate duplicative requests from the same party in this proceeding or in similar proceedings in other courts. No party shall request documents available to it at a document depository or from its own liaison counsel. To the extent a party requests documents from a party who knows that said documents are within the possession of the requesting party, it is permissible for the would-be producing party to state that objection in response to the document request. Should the requesting party not be in possession of the requested documents, the requesting party must notify the producing party in writing within fifteen (15) days of receipt of the written objection that such documents are not in its possession. Notwithstanding any meritorious objection the producing party may have to producing the requested documents, the producing party shall produce the requested documents within fifteen (15) days of receipt of the requesting party’s written notification that the requested documents are not in its possession.

A party who, relying on any privilege or on the work product doctrine, does not produce requested documents in response to a request for production of documents or a subpoena must state that it is invoking a privilege and must specify which privilege or doctrine it is invoking. The party shall produce, contemporaneous with its responses, a privilege log in accordance with Fed. R. Civ. P. 26(b)(5)(A).

1. **Deposition Guidelines**

It is ORDERED that:

Depositions be conducted in accordance with the following rules:

1. **Cooperation**

Counsel are expected to cooperate with, and be courteous to, each other and deponents.

1. **Stipulations**

Unless contrary to an order of the court, the parties (and when appropriate, a nonparty witness) may stipulate in any suitable writing to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for the extension of discovery cutoffs set by the court are not valid, however, until approved by the court.

1. **Scheduling**

All depositions in this litigation may be cross-noticed in any related action pending in state court. Absent extraordinary circumstances, counsel shall consult in advance with opposing counsel and unrepresented-proposed deponents in an effort to schedule depositions at mutually convenient times and places. That some counsel may be unavailable shall not, however, in view of the number of attorneys involved in this litigation, be grounds for deferring or postponing a deposition if another attorney from the same firm or who represents a party with similar interests is able to attend.

Scheduling should take into account:

1. the availability of documents from among those produced by the parties and third parties,
2. the schedules of the deponents, counsel, and parties;
3. the objective of avoiding the need to subject any person to repeated depositions, and
4. the need to preserve relevant testimony.
5. **Location**

The location of depositions should be as consistent as possible within each city so that any videotape, videoconferencing, or other equipment can be left in place. Given the number of parties and counsel, counsel are encouraged to confer and make arrangements for depositions to occur at available third-party locations suitable to provide a venue for optimal participation of the parties and their counsel. If counsel insists that a deposition of a party or third-party be conducted at counsel’s office, then counsel is required to have sufficient seating and space for all participating and non-participating counsel, the deponent, and the court reporter. Should counsel be unable to make such arrangements, then third-party locations are preferred if other counsel are unable to accommodate.

To the extent possible, depositions of witnesses residing locally shall occur in person. However, the parties are reminded to adhere to court, local, and federal rules and guidelines relating to Covid-19. The parties are further reminded to consider the location of other witnesses and the appropriateness of virtual depositions as an alternative to in-person depositions.

**5**. **Attendance**

1. **Who May Be Present**

Depositions may be attended by counsel of record, members and employees of their firms, the parties or their representatives, and counsel for the deponent. Experts retained by the parties in connection with this litigation may attend depositions of other experts only. In the event counsel seeks to have an individual not addressed in this paragraph attend a deposition, counsel must receive the consent of opposing counsel or obtain approval from the court in advance of the deposition. An unresolved dispute regarding attendance of a certain individual at a deposition will not constitute grounds to postpone a scheduled deposition.

1. **Unnecessary Attendance**

Unnecessary attendance by counsel is discouraged.

1. **Notice of Intent to Attend a Deposition**

To allow counsel to make arrangements for adequate deposition space, counsel who intend to attend a deposition noticed in the above-captioned litigation should advise counsel for the noticing party at least three days prior to the deposition, if feasible, of the names of each attendee.

7. **Conduct of Depositions**

1. **Examination**

Each side should ordinarily designate one attorney to conduct the principal examination of the deponent, and examination by other attorneys shall be limited to matters not previously covered. Counsel should cooperate so examinations by multiple attorneys do not exceed the allotted time, which will be established by consent of the parties or, by default, federal law.

1. **Transmittal of Copies**

Copies of deposition transcripts will be transmitted by the designated court reporter to all counsel requesting copies. Payment of transcript fees will be the responsibility of the requesting party. The noticing party is responsible for assuring that all exhibits attached to a deposition are clearly identified on the record during the deposition, marked appropriately, and provided to the court reporter during the deposition or within a reasonable time thereafter. To the extent any deposition exhibits are not contained in the document depository at the time of the deposition, the party attaching the exhibit during the deposition is responsible for submitting the exhibit to the document depository and to liaison counsel within ten (10) days of the conclusion of the deposition.

1. **Objections and Directions Not to Answer**

Counsel shall comply with Fed. R. Civ. P. 30(d)(1). All objections, except those relating to form and foundation, are preserved.

(d) **Continuation of Deposition.**

If a deposition is not finished on Friday of a deposition week, it will continue on the following Monday, subject to the availability of the witness. If the witness is unavailable, it will resume on a newly noticed date.

**7. Documents**

**(a) Production of Documents**

Production of documents by a deponent in connection with its deposition will be governed by Fed. R. Civ. P. 30.

1. **Special Agreements**

All parties shall be under a continuing duty to make prompt disclosure to the court (and, unless excused by the court for good cause shown, to other parties) of the existence and terms of all agreements and understandings, formal or informal, absolute or conditional, settling or limiting their rights or liabilities in this litigation. This obligation includes not only settlements, but also such matters as “loan receipt” and “Mary Carter” agreements, and insurance, indemnification, contribution, and damage sharing agreements.

1. **Dispositive Motions and Daubert Motions**

All pretrial motions, including dispositive motions and motions *in limine* regarding the admissibility of expert testimony, shall be filed and served in sufficient time to permit hearing thereon no later than **Thursday, December 15, 2022**.

1. **Other Pretrial Motions**

All other motions *in limine* shall be filed by **Thursday, December 29, 2022** and responses thereto shall be filed by **Thursday, January 5, 2023**.

1. **Pretrial Order and Other Pretrial Submissions and Deadlines**

The parties agree to incorporate and adhere to the Court’s Pretrial Notice previously issued in this case, including all requirements and deadlines, with respect to pretrial conduct and submissions. *See* R. Doc. 134-1.

1. **Flight I Trial and Pretrial Conference**

Subject to further order of the court, the parties are directed to be ready for trial on all issues by **February 2023.**

The final pre-trial conference for the Flight I trial shall be held on **Friday, January 14, 2023 at 9:00 a.m.** At the pretrial conference, counsel must be fully authorized and prepared to discuss settlement possibilities with the Court. Counsel are urged to discuss the possibility of settlement with each other thoroughly before undertaking the extensive labor of preparing the proposed pretrial order.

The attorneys who will try the case must attend the pretrial conference unless, prior to the conference, the Court grants permission for other counsel to attend. These attorneys will familiarize themselves with the pretrial rules and will come to the conference with full authority to accomplish the purpose of Rule 16 of the Federal Rules of Civil Procedure. Pretrial conferences will not be continued except for good cause shown in a written motion presented sufficiently in advance of the conference for opposing counsel to be notified.

Failure on the part of counsel to appear at the conference may result in sanctions, including but not limited to, *sua sponte* dismissal of the suit, assessment of costs and attorney fees, default, or other appropriate sanctions.

**The Flight I trial shall commence before a jury on Monday, January 16, 2023 at 9:00 a.m. and is anticipated to last until February 11, 2023.[[4]](#footnote-4)**

1. **Flight I Trial Issues**
2. Liability;
3. General Causation;
4. Specific Causation; and
5. The Individual Damages of the Following Plaintiffs:

**[LAGUNA RUN]**

1. Joshua Akeem, Viola Allen, John Allen
2. Brandy Wilson, individually and on behalf of Jadyn Homes (minor) and Jamar Holmes (minor)
3. Janice Morgan Wilson
4. Laquinta Carter, individually and on behalf of Robert Spears (minor), Bobby Spears (minor) and Darrellnay Carter (minor)
5. Dareranica Duplessis, individually and on behalf of Honesty Washington (minor)
6. Andrea Riley, individually and on behalf of Kurt Riley (minor) and Reginae Riley

(minor), Herbert Riley, Aaliyah Riley

1. Angela Woodson
2. Ashley Brown, individually and on behalf of Amari Early (minor), Zayden Powell (minor)
3. Dakota Blunt, individually and on behalf of Ke’mon Blunt (minor) and Ka’mille Blunt (minor)
4. Cathy Harris and Willard Harris
5. Penny Johnson
6. Porsha Brooks, individually and on behalf of Major Foster (minor)
7. Rochelle Mitchell, individually and on behalf of Anthony Mitchell (minor), Ava Thompson (minor), and Emoni Mitchell (minor)
8. Wenonah Cutler, individually and on behalf of Allilah Hull (minor), Jamier Hull (minor), Osirus Cutler (minor) and Ausure Cutler
9. Trichell Sorrell, individually and on behalf of Lay’sha Sorrell (minor), Lalia Mosely (minor), Leah Rodrigue (minor) and Legend Sorrell (minor)
10. Tyheasha Crumedy
11. Kesha Simmons, individually and on behalf of Laila Alonzo (minor), Bella Randolph (minor) and Kaleb Randolph (minor)
12. Johnshane Powell
13. Kawanna Kitt, individually and on behalf of Damian Pichon, Jr. (minor), Ke’Ayra Smith (minor) Tayla McDermott (minor), Deron Kitt
14. Paula Lang, individually and on behalf of Raheem Blackwell (minor) and Ja’Mirel Lynch (minor)
15. Katrina Millner, individually and on behalf of Malaysia Millner (minor)
16. Terrance Wilson
17. Lakecha Paschall and Dequan Paschall
18. Keishoun Patterson
19. Mary Patterson, James Patterson, Kerry Patterson, individually and on behalf of Jamiaya Patterson (minor), Jamiran Patterson (minor) and Gonzalo Patterson (minor)
20. **Settlement**

The parties reserve the right to petition the Court for a settlement conference at any time. However, the parties must attend a settlement conference with the assigned magistrate judge. Counsel for the Plaintiffs must contact the assigned magistrate judge six weeks prior to the pretrial conference date for the purpose of scheduling a settlement conference, which should be held within two weeks prior to the pretrial conference. This requirement will not be excused as a result of the appointment of a Special Master, should the parties petition the Court for same. At a minimum, the parties are required to schedule a settlement conference with the assigned magistrate judge as provided herein to brief the Court on the status of settlement discussions in the event court intervention might facilitate settlement.

15. **Modification of Case Management Order No. 1**

This Order may be modified or amended by mutual agreement of the parties, provided that any such modification has no effect on the schedule for pretrial filings or trial dates. Otherwise, any party may seek modification of this Order upon timely motion filed in compliance with the Local Rules and upon a showing of good cause.

16. **Motions for Extensions**

Parties seeking extensions of dates set out in this Order should seek them in a timely fashion, through written motion to be discussed during periodic status conferences with the Court, before the relevant deadline passes.

17. **Additional Case Management Orders**

Within sixty (60) days of the conclusion of the Flight One Trial, the parties shall confect Case Management Order No. 2 and submit same to the Court for approval.

The terms set forth above are as defined in this Case Management Order, entered by the Court in this case.

New Orleans, Louisiana, this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**BARRY W. ASHE**

**UNITED STATES DISTRICT JUDGE**

1. The “RH Defendants” are defendants RH East Lake, LLC (“RH East Lake”), RH Chenault Creek, LLC (“Chenault Creek”), RH Lakewind East, LLC (“Lakewind East”), RH Copper Creek, LLC (“Copper Creek), RH Windrun, LLC (“Windrun”), and RH New Orleans Holdings, LLC (“NOLA Holdings”). [↑](#footnote-ref-1)
2. The “Eastlake Defendants” are defendants Eastlake Development, LLC (“Eastlake”), KFK Group, Inc. (“KFK Group”) and KFK Development, LLC (“KFK Development”). [↑](#footnote-ref-2)
3. The “Triangle Defendants” are Triangle Real Estate of Gastonia, Inc. (“Triangle”), Southwood Realty Company (“Southwood”), and Lakewind East Apartments (“Lakewind”). [↑](#footnote-ref-3)
4. Mardi Gras 2023 is scheduled on February 21, 2023. [↑](#footnote-ref-4)