

NOT FOR PUBLICATION

**SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**LENORE DER WEER as Personal Representative of
the ESTATE OF JOHN DER WEER,**

Plaintiff,

v.

SX-2005-cv-274

**HESS OIL VIRGIN ISLANDS CORPORATION;
AMERADA HESS CORPORATION; LITWIN
CORPORATION; RARITAN SUPPLY COMPANY,
Individually and as Successor-in-Interest to BRIDGE
SUPPLY COMPANY; MADSEN & HOWELL, INC.;
UNION PUMP COMPANY; GARLOCK, INC.;
FOSTER WHEELER CORPORATION, Individually
and as Successor-in-Interest to FORTY-EIGHT
INSULATIONS, INC.; 3M a/k/a MINNESOTA
MINING & MANUFACTURING COMPANY;
WESTINGHOUSE ELECTRIC CORPORATION;
INGERSOLL RAND CORPORATION; ALLTITE
GASKET COMPANY; UNIVERSAL OIL
PRODUCTS also known as U.O.P.; CBI COMPANY,
LTD., HARBISON-WALKER REFRACTORIES;
FLUOR DANIEL, Individually and as Successor-in-
Interest to FLUOR ENGINEERS &
CONSTRUCTORS, INC.; FLUOR ENGINEERS &
CONSTRUCTORS, INC.; FLUOR
CORPORATION; A.P. GREEN INDUSTRIES, INC.,
Individually and as Successor-in-Interest to A.P.
GREEN REFRACTORIES COMPANY; TUTHILL
CORPORATION, Individually and as Successor-in-
Interest to COPPUS MURRAY GROUP and/or
COPPUS TURBINES; MOBIL OIL CO.; JOHN
CRANE PACKING CO. also known as CRANE
PACKING COMPANY; and RUBBER & GASKET
CO. OF PUERTO RICO,**

Defendants.

**ACTION FOR WRONGFUL
DEATH**

JURY TRIAL DEMANDED

LITWIN CORPORATION,

Third-Party
Plaintiff,

v.

**ACTION FOR
CONTRIBUTION AND
INDEMNIFICATION**

**VIRGIN ISLANDS INDUSTRIAL MAINTENANCE
CORPORATION; BIGELOW-LIPTAK; RESAL,
INC.; PORTILLA CORPORATION; PARSONS
INFRASTRUCTURE & TECHNOLOGY GROUP.**

JURY TRIAL DEMANDED

INC.; STUBBS-OVERBECK, INC.; RIGGERS &)
ERECTORS INTERNATIONAL, INC.; KELLOGG)
BROWN & ROOT, Individually and as Successor-in-)
Interest to BROWN & ROOT OVERSEAS, INC.;)
THE LUMMUS COMPANY, JOHN DOE 1, JOHN)
DOE 2, JOHN DOE 3, and JOHN DOE 4,)
)
Third-Party)
Defendants.)
)

MEMORANDUM

COMES NOW the Court on *sua sponte* on review of the file and in preparation for the March 6, 2014 final pretrial conference and notes the following issues concerning parties who have failed to appear to date as well as parties that have been dismissed by stipulation.

PROCEDURAL BACKGROUND

Plaintiff Lenore Der Weer filed this wrongful death suit in 2005 in her capacity as the personal representative of the estate of her deceased husband, John Der Weer. She seeks damages for her husband's exposure to asbestos during his employment at the oil refinery on St. Croix between 1966 and 2002. She named as defendants Hess Oil Virgin Islands Corporation and Amerada Hess Corporation (hereinafter "Hess Defendants"), Litwin Corporation, Raritan Supply Company, individually and as successor-in-interest to Bridge Supply Company, Madsen & Howell, Inc., Union Pump Company, Garlock, Inc., Foster Wheeler Corporation, individually and as successor-in-interest to Forty-Eight Insulations, Inc., 3M, Westinghouse Electric Corporation, Ingersoll-Rand Corporation, Alltite Gasket Company, Universal Oil Products, CBI Company, Ltd.,¹ Harbison-Walker Refractories, Fluor Daniel, individually and as successor-in-interest to Fluor Engineers & Constructors, Inc., Fluor Engineers & Constructors, Inc., and Fluor Corporation (hereinafter "Fluor

¹ In a February 18, 2014 Order entered *nunc pro tunc* to November 7, 2005, the Court granted a motion to substitute CBI Company, Ltd. in place of Chicago Bridge & Iron, N.V. as the real party in interest.

Defendants”), A.P. Green Industries, Inc., individually and as successor-in-interest to A.P. Green Refractories Company, Tuthill Corporation, individually and as successor-in-interest to Coppus Murray Group and/or Coppus Turbines, Mobil Oil Company, John Crane Packing Company, and Rubber & Gasket Company of Puerto Rico. The Hess Defendants appeared and filed counterclaims² against Raritan Supply Company, individually and as successor to Bridge Supply Company, against Madsen & Howell, Union Pump Company, Westinghouse Electric Company, Garlock, and Foster Wheeler Corporation, individually and as successor to Forty-Eight Insulations, as well as against 3M, the Fluor Defendants, Tuthill Corporation, individually and as successor to Coppus Murray Group and/or Coppus Turbines, Universal Oil Products, Alltite Gasket Company, John Crane Packing Company, Rubber & Gasket Company, and CBI Company, Ltd. Similarly, Universal Oil Products, Raritan Supply Company, and Tuthill Corporation also appeared and filed counterclaims against the Hess Defendants and Litwin Corporation. Additionally, Litwin Corporation filed a third-party complaint seeking indemnification and contribution from Virgin Islands Maintenance Corporation, Bigelow-Liptak, Resal, Inc., Portilla Corporation, Parsons Infrastructure & Technology Group, Inc.,³ Stubbs-Overbeck, Inc., Riggers & Erectors, Inc., Kellogg Brown & Root, individually and in its capacity as successor-in-interest to Brown & Root Overseas, Inc., the Lummus Company, and four entities captioned as John Does 1 through 4.

After the parties had commenced discovery, Der Weer entered into settlement agreements with eleven Defendants. Stipulated dismissals were filed and granted by the

² Like the other Defendants, the Hess Defendants captioned their claims as crossclaims, (*see generally* Hess Defs. Answer, filed July 18, 2005), which are “claim[s] asserted between codefendants or coplaintiffs in a case.” Black’s Law Dictionary 433 (9th ed. 2009). However, in the Superior Court “[a]ll claims in the nature of recoupment, set-off, cross-action, or any other claim for relief,” are known as counterclaims, Super. Ct. R. 34, and therefore, the Court will refer to all such claims filed by the Defendants as counterclaims throughout this Opinion.

³³ In a February 18, 2014 Order entered *nunc pro tunc* to August 29, 2005, the Court granted a stipulation between to substitute Parsons Infrastructure & Technology Group, Inc. in place of Parsons Corporation as the real party in interest.

Court as to Shell Oil Corporation, (*see* Order entered June 19, 2007), Ingersoll-Rand Corporation, (*see* Order entered Mar. 22, 2010), the Fluor Defendants, (*see* Order entered Sept. 12, 2013), Mobil Oil Company, (*see* Order entered June 19, 2007), CBI Company (*see* Order entered Sept. 12, 2013), Rubber & Gasket Company, (*see* Order entered Mar. 30, 2013), Raritan Supply Company, (*see* Order entered Feb. 18, 2014), and Tuthill Corporation, (*see* Order entered Feb. 18, 2014). Additionally, Foster Wheeler Corporation stated in a February 20, 2013 Notice that “all of the claims filed by the plaintiffs in this case against the Foster Wheeler [C]orporation have been amicably resolved,” which the Court construed as a motion for stipulated dismissal pursuant to Federal Rule of Civil Procedure 41 and granted in a March 5, 2013 Order, dismissing Der Weer’s claims with prejudice.

Given the above, according to the Court’s file, Der Weer’s claims have been dismissed against Shell, Mobil, Rubber & Gasket, Raritan, Tuthill, Foster Wheeler, CBI, the Fluor Defendants, and Ingersoll-Rand. Her claims remain pending against the Hess Defendants, Litwin, Madsen & Howell, Union Pump, Westinghouse Electric, Garlock, 3M, A.P. Green Industries, Universal Oil Products, Alltite Gasket Company, John Crane Packing Company, General Engineering Company, and Harbison-Walker Refractories. Of these Defendants, three have not appeared to date or filed an answer despite having been served. Concerning a fourth Defendant, the Court cannot tell whether it was served because Der Weer failed to file proof of service. Additionally, the Court also notes that certain Third-Party Defendants, which Litwin sued for indemnification and contribution, have failed to appear to date. However, the Court has no record of service upon those Third-Party Defendants. Lastly, the Court finds, for the reasons stated below, that it must amend certain Orders dismissing Der Weer’s claims in order to clarify the extent of those dismissals.

ABSENT DEFENDANTS

To date Westinghouse Electric, A.P. Green Industries, Harbison-Walker, and General Engineering have failed to appear or file an answer. Der Weer served Westinghouse Electric by certified mail in Pittsburgh, Pennsylvania on May 16, 2005, (*see* Proof of Service filed May 23, 2005), A.P. Green Industries by certified mail in Mexico, Missouri on May 16, 2005, (*see* Proof of Service filed May 23, 2005), and Harbison-Walker (hereinafter “Absent Defendants”) by certified mail in Moon Township, Pennsylvania on June 6, 2005, (*see* Proof of Service filed June 27, 2005). These Absent Defendants are technically in default because they have not appeared or filed an answer. *See* Super. Ct. R. 32. However, Der Weer has not moved for entry of default or to voluntarily dismiss her claims against the Absent Defendants. Additionally, the Hess Defendants asserted a counterclaim against one of the Absent Defendants, Westinghouse Electric, which, like Der Weer’s claims against the Absent Defendants, remains pending but without any movement over the nearly nine years since this matter was commenced. Although the Court cannot conclude on the current record that the inactivity as to the Absent Defendants rises to the level of the extreme sanction of dismissal for failure to prosecute, *see Molloy v. Independence Blue Cross*, 56 V.I. 155, 185-87 (2012), the parties must nonetheless take appropriate action to prosecute their claims against these Defendants in advance of trial, particularly since the Court cannot enter judgment by default *sua sponte* but only on motion after default is entered. *See* Super. Ct. R. 47-48.

Additionally, a fourth Defendant, General Engineering, has also not appeared or filed an answer. However, unlike with the Absent Defendants, the Court cannot determine whether this Defendant is technically in default as neither the Court’s file nor its electronic docket reflects whether Der Weer ever served General Engineering. Service in the Superior Court follows the procedures provided in the Federal Rules of Civil Procedure. 4 V.I.C. § 82(c);

Super. Ct. R. 27(b). Pursuant to Federal Rule of Civil Procedure 4(m), Der Weer had 120 days from the date she filed her complaint—or until Saturday, September 3, 2005—to serve all Defendants including General Engineering. If Der Weer did serve General Engineering, proof of service should have been filed. *See* Fed. R. Civ. P. 4(l). If Der Weer did not timely serve General Engineering, the Court will have to dismiss her claims against this Defendant. Fed. R. Civ. P. 4(m). The Court acknowledges that Der Weer may have inadvertently neglected to file proof of service and will grant leave to correct any possible oversight. However, Der Weer is also now on notice that her claims against General Engineer may be subject to dismissal for failure to timely serve. *See Petrucelli v. Bohringer and Ratzinger, GMBH*, 46 F.3d 1298, 1305 (3d Cir. 1995).

Lastly, the Court notes that while Garlock initially appeared and filed an Answer, Garlock subsequently filed a June 25, 2010 Notice stating that it had filed for bankruptcy and then advised the Court that a temporary restraining order was entered by the United States Bankruptcy Court for the Western District of North Carolina, staying prosecutions of any claims against Garlock Sealing Technologies, LLC. That notice was filed nearly four years ago and neither counsel for Garlock nor counsel for Der Weer have subsequently informed the Court of the status of the bankruptcy proceeding or whether the automatic stay imposed by 11 U.S.C. § 362 has since been lifted.

ABSENT THIRD-PARTY DEFENDANTS

In addition to the Absent Defendants, some of the Third-Party Defendants have also failed to appear. Summons issued on July 14, 2005 to Third-Party Defendants Bigelow-Liptak, Kellogg Brown & Root, the Lummus Company, Parsons Infrastructure & Technology Group, Portilla Corporation, Resal, Stubbs-Overbeck, Virgin Islands Industrial Maintenance Corporation, and Riggers & Erectors International. The only proof of service Litwin filed was

for V.I. Industrial Maintenance. However, Bigelow-Liptak, Resal, Parsons Infrastructure & Technology Group, Stubbs-Overbeck, and Riggers & Erectors International appeared and filed answers, thus waiving any objection to service. *See* Fed. R. Civ. P. 12(h). Litwin also voluntarily dismissed against the Lummus Company on January 30, 2006, thereby resolving any concerns regarding service on that Third-Party Defendant. However, according to the Court's file, Litwin did not file proof of service for Portilla Corporation or Kellogg Brown & Root, individually and as successor to Brown & Root Overseas, Inc. (hereinafter "Absent Third-Party Defendants"), and therefore the Court cannot determine whether these Absent Third-Party Defendants were timely served.

Since Litwin filed its Third-Party Complaint on June 13, 2005, it had 120 days—or until Tuesday, October 11, 2005—to serve all Third-Party Defendants. *See DEF v. ABC*, 366 F. App'x 250, 253 (2d Cir. 2010) (discussing service of third-party complaints within the 120 time provided by Rule 4(m); *Hansen v. Cahn*, 05-cv-4993 (DMC), 2007 WL 1118319, *2-3 (D.N.J. Apr. 12, 2007) (unreported) (noting same). If Litwin did timely serve the Absent Third-Party Defendants, then they, like the Absent Defendants, are technically in default as they have not appeared or filed an answer. If Litwin did not timely serve the Absent Third-Party Defendants, however, then Litwin is also now on notice that its claims are subject to dismissal for failure to timely serve. As with *Der Weer*, the Court also grants Litwin leave to file proof of service for the Absent Third-Party Defendants. Assuming they were properly served, Litwin must then take whatever steps it deems proper to prosecute its claims against these Third-Party Defendants prior to this matter coming on for Final Pretrial Conference.

Lastly, to date Litwin has failed to amend its Third-Party Complaint to state the correct names for the fictitious John Doe Defendants. Pursuant to Superior Court Rule 26, Litwin must set forth the true names of Third-Party Defendants John Does 1 through 4. While

Rule 26 allows for the use of fictitious names when a “defendant’s true name is unknown,” “no final judgment shall be entered” until the third-party complaint is “amended to set forth the true name” of the third-party defendant. Because Litwin’s failure to state the true names of Third-Party Defendants John Doe 1 through 4 will preclude the Court from entering final judgment, Litwin must take appropriate steps to amend its Third-Party Complaint prior to this matter coming on for Final Pretrial Conference.

PARTIES DISMISSED BY STIPULATION

As noted above, Der Weer stipulated to dismiss her claims against eleven Defendants, which the Court subsequently granted in multiple orders entered over the course of litigation. However, because those orders did not qualify the scope of the dismissal, the Court must amend certain dismissals as explained below.

Concerning the March 5, 2013 Order dismissing Foster Wheeler Corporation, that Order must be amended to reflect that only Der Weer’s claims were dismissed. Der Weer served Foster Wheeler Corporation by certified mail in Clinton, New Jersey on June 3, 2005. (*See* Proof of Service filed June 29, 2005). Although Foster Wheeler never appeared or filed an answer—and therefore was technically in default—Foster Wheeler nonetheless voluntarily appeared and informed the Court in a February 20, 2013 Notice that “all of the claims filed by the plaintiffs in this case against the Foster Wheeler [C]orporation have been amicably resolved.” By that voluntary appearance the Court acquired jurisdiction over Foster Wheeler—*see* 5 V.I.C. § 115 (“A voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.”)—and Foster Wheeler thereby waived any defenses to service of process. *See* Fed. R. Civ. P. 12(h). However, the February 20, 2013 Notice only referred to Der Weer’s claims as having been amicably resolved, and therefore Foster Wheeler—individually and as successor to Forty-Eight Insulations—remains a party to

this action as to the counterclaims filed against it by the Hess Defendants. Additionally, because Der Weer sued Foster Wheeler individually and as successor to Forty Eight Insulations, the March 5, 2013 Order must also be amended to reflect that the dismissal was in both capacities. Lastly, as neither Der Weer nor Foster Wheeler expressed an intent for the stipulated dismissal to be with prejudice, the March 5, 2013 Order must be amended to reflect that the dismissal is without prejudice. *See* Fed. R. Civ. P. 41(a)(1)(B) (“Unless the notice or stipulation states otherwise, the dismissal is without prejudice.”).

Concerning the March 30, 2013 Order dismissing Der Weer’s claims against Rubber & Gasket Company, that Order must be amended to note that only Der Weer’s claims were dismissed. Because the Hess Defendants also filed counterclaims against this Defendant, Rubber & Gasket Company remains a party to this action as to those counterclaims.

Concerning the September 12, 2013 Order purporting to dismiss Der Weer’s claims against Chicago Bridge & Iron Company, N.V., that Order must be amended for the following reasons. In a February 18, 2014 Order entered *nunc pro tunc* to November 7, 2005, the Court granted a motion to substitute CBI Company, Ltd. for Chicago Bridge & Iron N.V. as the proper party in interest. Because the September 12, 2013 Order states that Der Weer’s claims were dismissed as to Chicago Bridge & Iron Company, N.V.—an entity which according to a July 14, 2005 Affidavit of Phillip K. Asherman never conducted business in the Virgin Islands—the Order must be amended to state the correct party as CBI Company, Ltd. Additionally, the September 12, 2013 Order must also be amended to note that only Der Weer’s claims against CBI Company were dismissed. CBI Company remains a party to this action as to the counterclaims the Hess Defendants filed against it.

Similarly, a second Order entered on September 12, 2013 dismissing Der Weer’s claims against the Fluor Defendants must also be amended to note that only Der Weer’s

claims were dismissed against the Fluor Defendants. As with the other Defendants, because the Hess Defendants filed counterclaims against these Defendants, they remain parties to this action as well. Additionally, because Der Weer sued Fluor Daniel individually and also as successor to Fluor Engineers & Constructors, Inc., the September 12, 2013 Order must also note that her claims were dismissed against Fluor Daniel in both capacities.

For the same reasons, the February 18, 2014 Orders dismissing Raritan Supply Company and Tuthill Corporation must also be amended to note that only Der Weer's claims were dismissed against these Defendants and also that they were dismissed in both their individual capacities as well as their successor capacities. Additionally, as both Raritan Supply Company and Tuthill Corporation filed counterclaims against the Hess Defendants and Litwin Corporation, the February 18, 2014 Orders must also be amended to note that Raritan Supply Company and Tuthill Corporation remain parties to this action as to the counterclaims they filed and to those filed against them by the Hess Defendants.

CONCLUSION

For the reasons stated above, the Court finds that multiple issues remain outstanding regarding the status of the various parties to this action. Additionally, the Court must amend certain Orders dismissing Der Weer's claims against various Defendants to clarify the extent of those dismissals. Accordingly, under separate order of even date, the Court will direct the parties to take appropriate steps to prepare this matter for trial and will amend the dismissal orders as explained above.

ATTEST:

ESTRELLA GEORGE

Acting Clerk of the Court

By:

Court Clerk Supervisor

Dated: 2/21/14

DARRYL DEAN DONOHUE, SR.
Senior Sitting Judge

NOT FOR PUBLICATION

**SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**LENORE DER WEER as Personal Representative of
the ESTATE OF JOHN DER WEER,**

Plaintiff,

v.

**HESS OIL VIRGIN ISLANDS CORPORATION;
AMERADA HESS CORPORATION; LITWIN
CORPORATION; RARITAN SUPPLY COMPANY,
Individually and as Successor-in-Interest to BRIDGE
SUPPLY COMPANY; MADSEN & HOWELL, INC.;
UNION PUMP COMPANY; GARLOCK, INC.;
FOSTER WHEELER CORPORATION, Individually
and as Successor-in-Interest to FORTY-EIGHT
INSULATIONS, INC.; 3M a/k/a MINNESOTA
MINING & MANUFACTURING COMPANY;
WESTINGHOUSE ELECTRIC CORPORATION;
INGERSOLL RAND CORPORATION; ALLTITE
GASKET COMPANY; UNIVERSAL OIL
PRODUCTS also known as U.O.P.; CBI COMPANY,
LTD., HARBISON-WALKER REFRACTORIES;
FLUOR DANIEL, Individually and as Successor-in-
Interest to FLUOR ENGINEERS &
CONSTRUCTORS, INC.; FLUOR ENGINEERS &
CONSTRUCTORS, INC.; FLUOR
CORPORATION; A.P. GREEN INDUSTRIES, INC.,
Individually and as Successor-in-Interest to A.P.
GREEN REFRACTORIES COMPANY; TUTHILL
CORPORATION, Individually and as Successor-in-
Interest to COPPUS MURRAY GROUP and/or
COPPUS TURBINES; MOBIL OIL CO.; JOHN
CRANE PACKING CO. also known as CRANE
PACKING COMPANY; and RUBBER & GASKET
CO. OF PUERTO RICO,**

Defendants.

LITWIN CORPORATION,

Third-Party
Plaintiff,

v.

**VIRGIN ISLANDS INDUSTRIAL MAINTENANCE
CORPORATION; BIGELOW-LIPTAK; RESAL,
INC.; PORTILLA CORPORATION; PARSONS
INFRASTRUCTURE & TECHNOLOGY GROUP.**

SX-2005-cv-274

**ACTION FOR WRONGFUL
DEATH**

JURY TRIAL DEMANDED

**ACTION FOR
CONTRIBUTION AND
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JURY TRIAL DEMANDED

INC.; STUBBS-OVERBECK, INC.; RIGGERS &)
ERECTORS INTERNATIONAL, INC.; KELLOGG)
BROWN & ROOT, Individually and as Successor-in-)
Interest to BROWN & ROOT OVERSEAS, INC.;)
THE LUMMUS COMPANY, JOHN DOE 1, JOHN)
DOE 2, JOHN DOE 3, and JOHN DOE 4,)
)
Third-Party)
Defendants.)
)

ORDER

For the reasons stated in the accompanying Opinion, it is hereby

ORDERED that on or before **March 6, 2014** Plaintiff Lenore Der Weer shall file proof of service for Defendant General Engineering Corporation or face dismissal of her claims against this Defendant for failure to timely serve. It is further

ORDERED that on or before **March 6, 2014** Plaintiff Lenore Der Weer shall inform the Court as to the status of the bankruptcy proceeding involving Defendant Garlock, Inc. and also advise the Court how she wishes to proceed against this Defendant if the bankruptcy stay remains in effect. It is further

ORDERED that Plaintiff Lenore Der Weer shall take appropriate steps to prosecute her claims as to Defendant Westinghouse Electric Company, Defendant A.P. Green Industries, and Defendant Harbison-Walker Refractories—as well as Defendant General Engineering Corporation if timely served—prior to this matter coming on for Final Pretrial Conference on March 6, 2014. It is further

ORDERED that Defendant Amerada Hess Corporation and Defendant Hess Oil Virgin Islands Corporation shall take appropriate steps to prosecute their counterclaim against Defendant Westinghouse Electric Corporation prior to this matter coming on for Final Pretrial Conference on March 6, 2014. It is further

ORDERED that on or before **March 6, 2014** Defendant / Third-Party Plaintiff

Litwin Corporation shall, pursuant to Superior Court Rule 26, amend its Third-Party Complaint to state the true names of the Third-Party Defendants John Does 1 through 4. It is further

ORDERED that on or before **March 6, 2014** Defendant / Third-Party Plaintiff Litwin Corporation shall file proof of service for Third-Party Defendant Portilla Corporation and Third-Party Defendant Kellogg Brown & Root or face dismissal of its claims against these Third-Party Defendants for failure to timely serve. It is further

ORDERED that Defendant / Third-Party Plaintiff Litwin Corporation shall take appropriate steps to prosecute its claims against Third-Party Defendant Portilla Corporation and Third-Party Defendant Kellogg Brown & Root—assuming they were timely served—prior to this matter coming on for Final Pretrial Conference on March 6, 2014. It is further

ORDERED that the March 5, 2013 Order is **AMENDED** to decree that Plaintiff Lenore Der Weer's claims are dismissed without prejudice as to Defendant Foster Wheeler Corporation in its individual capacity and also in its capacity as successor-in-interest to Forty-Eight Insulations, Inc. Defendant Foster Wheeler Corporation remains a party to this matter in both capacities as to the counterclaims filed against it by Defendant Amerada Hess Corporation and Defendant Hess Oil Virgin Islands Corporation. It is further

ORDERED that the March 30, 2013 Order is **AMENDED** to decree that only Plaintiff Lenore Der Weer's claims are dismissed with prejudice against Defendant Rubber & Gasket Company of Puerto Rico. This Defendant remains a party to this matter as to the counterclaims filed against it by Defendant Amerada Hess Corporation and Defendant Hess Oil Virgin Islands Corporation. It is further

ORDERED that the September 12, 2013 Order dismissing Chicago Bridge & Iron Company, N.V. is **AMENDED** to decree that Plaintiff Lenore Der Weer's claims are

dismissed with prejudice against Defendant CBI Company, Ltd. This Defendant remains a party to this matter as to the counterclaims filed against it by Defendant Amerada Hess Corporation and Defendant Hess Oil Virgin Islands Corporation. It is further

ORDERED that the September 12, 2013 Order dismissing the Fluor Daniel, Fluor Engineers & Constructors, Inc., and Fluor Corporation is **AMENDED** to decree that Plaintiff Lenore Der Weer's claims are dismissed with prejudice against Defendant Fluor Daniel in its individual capacity and also in its capacity as successor-in-interest to Fluor Engineers & Constructors, Inc., as well as against Defendant Fluor Engineers & Constructors, Inc. and Defendant Fluor Corporation. These Defendants remain parties to this matter as to the cross claims filed against them by Defendant Amerada Hess Corporation and Defendant Hess Oil Virgin Islands Corporation. It is further

ORDERED that the February 18, 2014 Order dismissing Defendant Raritan Supply Company is **AMENDED** to decree that Plaintiff Lenore Der Weer's claims are dismissed with prejudice against Defendant Raritan Supply Company in its individual capacity and also in its capacity as successor-in-interest to Bridge Supply Company. This Defendant remains a party to this matter as to the counterclaims it filed against Defendant Amerada Hess Corporation, Defendant Hess Oil Virgin Islands Corporation, and Defendant Litwin Corporation as well as the counterclaims filed against it by Defendant Amerada Hess Corporation and Defendant Hess Oil Virgin Islands Corporation. It is further

ORDERED that the February 18, 2014 Order dismissing Defendant Tuthill Corporation is **AMENDED** to decree that Plaintiff Lenore Der Weer's claims are dismissed with prejudice against Defendant Tuthill Corporation in its individual capacity and also in its capacity as successor-in-interest to Coppus Murray Group and/or Coppus Turbines. This Defendant remains a party to this matter as to the counterclaims it filed against the Hess

ORDER

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Defendants and Defendant Litwin Corporation as well as the counterclaims filed against it by the Hess Defendants. It is further

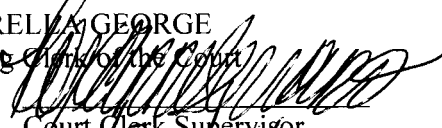
ORDERED that a copy of this Order be served on all counsels of record.

DONE AND SO ORDERED this 21st day of February, 2014.

ATTEST:

ESTRELLA GEORGE

Acting Clerk of the Court

By: 

Court Clerk Supervisor

Dated: 2/21/14



DARRYL DEAN DONOHUE, SR.

Senior Sitting Judge