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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

In Re: Lahaina Wildfire Litigation

1:24-CV-00259-JAO-WRP
(Class Action)

**JOINT STIPULATION BY
ALL PARTIES TO DISMISS**

Trial: None set

**JOINT STIPULATION BY ALL PARTIES TO DISMISS UNDER F.R.C.P.
41(a)(1)(A)(ii)**

The undersigned parties ("Parties"), by and through their respective counsel of record, stipulate as follows:

WHEREAS, on August 2, 2024, the Parties entered into a Term Sheet contemplating a global resolution of all Maui Fires Claims (as defined in the Term Sheet);

WHEREAS, the Term Sheet contemplated that the Parties would further negotiate and memorialize a definitive set of Settlement Agreements (as defined in the Term Sheet) (“Settlement Agreement”);

WHEREAS, the Term Sheet contemplated that the Settlement Agreement would include a class action settlement;

WHEREAS, the State of Hawai‘i, which is a defendant in other Maui Fires litigation and party to the Term Sheet, is not a defendant in this action;

WHEREAS, Plaintiffs intend to file a new state action in the Second Circuit Court of the State of Hawai‘i that will ultimately reflect the agreed-upon settlement class in the Settlement Agreement and will name the State of Hawai‘i as a defendant (the “State Class Action”);

WHEREAS, this pending consolidated class action in federal court is currently stayed;

WHEREAS, the Parties have agreed to dismiss this action without a Court order under Federal Rule of Civil Procedure 41(a)(1)(A)(ii);

WHEREAS, dismissal of this action to effectuate settlement is consistent with the existing stay;

WHEREAS, although the Parties are dismissing this action in light of the proposed class settlement to be filed in State court that will include the State of

Hawai‘i as a party to the settlement, Defendants, Class Plaintiffs¹, and Class Counsel² intend that, in the event that the Settlement Agreement is not effectuated and finally approved, 1) any rights Defendants may have to subsequently remove the State Class Action and, generally, to a federal forum under the Class Action Fairness Act or any other applicable statute, not be prejudiced or in any way impaired by the Parties’ agreement to dismiss this action and allow the class settlement to be effectuated in State court, and; 2) any right Class Plaintiffs may have to object to any subsequent removal or seek remand not be prejudiced or in any way impaired by the Parties’ agreement to dismiss this action and allow the class settlement to be effectuated in State court, except as stated herein;

WHEREAS, under *Smith v. Mylan Inc.*, 761 F.3d 1042 (9th Cir. 2014), timeliness requirements for removal are procedural and, thus, objections to timeliness of removal may be waived by parties;

¹ “Class Plaintiffs” refers to those individual plaintiffs purporting to represent classes in this action, including Nova Burnes; Maui Concierge Aesthetics, LLC; Lani Chadli, individually and as Trustee of the Aotaki Family Irrevocable Trust; Monica I. Eder; Rede S. Eder; Candace Faust; Peter Faust; David Heymes; Kathryn Llamas; Jennifer Lynn McNamee; Chardell Naki; Barret Procell; and Rolland Williams Jr.

² “Class Counsel” refers to all plaintiffs’ counsel of record in this action, including Lexi J. Hazam; Patrick I. Andrews; Nicholas W. Lee; Kelly K. McNabb; Terrance M. Revere; Paul V.K. Smith; Richard E. Wilson; Patrick Kyle Smith; Kenneth S. Kasdan; Christopher K. Hikida; Graham B. LippSmith; MaryBeth LippSmith; Jaclyn L. Anderson; Celene Chan Andrews; Robert A. Curtis; and Alexander Robertson, IV.

WHEREAS, Class Plaintiffs and Class Counsel, as a condition to this stipulation of dismissal, shall waive any timeliness objection to any later removal of the State Class Action in the event that the Settlement Agreement does not become final, but do not intend for Class Plaintiffs and Class Counsel to waive any other basis for objection to later removal;

NOW, THEREFORE, it is hereby stipulated and agreed by and between all Parties to this action, as follows:

1. This action is hereby dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). No fees and/or costs are sought by any party at this time; this dismissal applies to all claims on this case; and all parties who have appeared have signed this stipulation.
2. Class Counsel will file the State Class Action in the Second Circuit Court of the State of Hawai‘i, and it will be identical to the class action currently pending in this Court save for the addition of the State of Hawai‘i as a party defendant, subject to future amendment to conform to the settlement class definition agreed upon by the Parties in the executed Settlement Agreement. Class Counsel agree they will not seek to amend the State Class Action while the settlement is pending without agreement of the Parties.
3. In the event that (i) the Settlement Agreement does not become final and

thus there is no class settlement with all of the Parties in the Second Circuit Court, and (ii) any Defendant thereafter removes the State Class Action to federal court; then Class Plaintiffs and Class Counsel shall not and may not make—and expressly waive and forfeit—any argument for remand:

(x) on the basis that removal is untimely under any applicable legal rule, statutory provision or otherwise, including, but not limited to, 28 U.S.C. §§ 1446(a), 1446(b)(1), 1446(b)(2)(B), 1446(b)(3), 1446(c)(1), 1446(c)(3)(A), 1446(c)(3)(B), 1446(g), and 28 U.S.C. § 1453(b); or

(y) on the basis that Defendants otherwise waived or forfeited their right to remove because of any action they take or have taken to effectuate dismissal of this case or to litigate or negotiate settlement in the State Class Action.

4. Other than as stated in Paragraph 3, Class Plaintiffs and Class Counsel do not waive any other basis to object to removal or argue for remand if (i) the Settlement Agreement does not become final and thus there is no class settlement with all of the Parties in the Second Circuit Court, and (ii) any Defendant thereafter removes the State Class Action to federal court.
5. The Parties understand that Defendants are agreeing to dismissal of the consolidated class action in federal court in reliance on the

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