

Docketed 03/31/2025

NORFOLK, ss. COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT
Civil Action No. 2182CV01044

MARINA BAY RESIDENCES, LLC,
Plaintiff,

v.

CUBE 3 STUDIO, LLC, Defendant, and, CALLAHAN, INC., Defendant/Third-
Party Plaintiff,

v.

SHAWNLEE CONSTRUCTION LLC, WELLESLEY ROOFING, INC., d/b/a
BOSTON ROOFING, OPTILINE ENTERPRISES, LLC, and BASF
CORPORATION,
Third-Party Defendants,

and

EXTERIOR DESIGNS, INC.,
Third-Party Defendant/Fourth-Party Plaintiff,

v.

COPPOLA CONSTRUCTION & REMODELING CORP., FASADEx DESIGNS,
LLC, IMPERIAL HAMMER CONTRACTING, LLC, PROFESSIONAL
WATERPROOFING & CAULKING, LLC, TIM CAREY, HARVEY
INDUSTRIES, INC., PLYCEM USA LLC, RIVERSIDE CONSTRUCTION,
EMPIRE REMODELING, INC., WHITE CAP SUPPLY HOLDINGS, LLC,
successor-in-interest to and/or f/k/a KENSEAL CONSTRUCTION PRODUCTS
CORPORATION, and FRY REGLET CORPORATION,
Fourth-Party Defendants,

HARVEY INDUSTRIES, INC.
Fifth-Party Plaintiff,

v.

ELEMENTIA USA, INC.; and ALLURA USA,
Fifth-Party Defendants.

April 30, 2025
Motion is Allowed;
Deadlines are extended
as listed on Page 2 of this
Motion. *(Leighton, J.)*
Att: Mr. L. Kelly
for Clerk

**MARINA BAY RESIDENCES, CALLAHAN, AND CUBE 3 STUDIO, LLC'S EMERGENCY ASSENTED-TO
JOINT MOTION TO EXTEND TRACKING ORDER DEADLINES AND SET A SCHEDULING CONFERENCE**

This is a motion to extend deadlines and to set a scheduling conference to reschedule the
Final Trial Conference and Trial. Due to the upcoming deadlines and the necessity of scheduling
a four-week trial, the Motion is filed on an emergency basis.

This is a case in which there has been a high degree of cooperation among the parties to timely complete discovery of the complex construction defect claims and defenses that have been asserted that now include multiple third- and fourth-party claims, counterclaims, and crossclaims. Finding common dates for depositions of the many case witnesses, some of whose depositions have lasted multiple days, and counsel for 17 parties takes a high degree of coordination. To date, the parties have conducted depositions of 16 witnesses across 18 days, with seven more depositions to be completed or scheduled. Once depositions are completed, the parties will be exchanging expert reports.

The parties participated in mediation in December, which was unsuccessful (the mediation was continued from an earlier date at the mediator's request). The parties have since agreed on a different mediator and anticipate conducting two days of mediation on May 27 and 28. The parties also anticipate dispositive motion practice on at least some of the various claims in the case.

It has been apparent for some time that additional time in the case schedule is necessary to accommodate all that still needs to be accomplished. The parties are hopeful that they can complete the remaining depositions by the end of May/end of June at the latest. It would then make sense to adjust the other case deadlines proportionally, according to the following chart:

EVENT	CURRENT DATE	REQUESTED DATE
Fact Discovery	February 28, 2025	June 30, 2025
Plaintiff Expert Designations	March 31, 2025	July 31, 2025
Defendants' Expert Designations	April 21, 2025	August 29, 2025
Third-Party Expert Designations	May 12, 2025	September 30, 2025
Fourth-and Fifth Party Expert Designations	June 2, 2025	October 31, 2025
Summary Judgment Motions Served By	July 8, 2025	November 28, 2025
Summary Judgment Motions Filed By	August 8, 2025	December 31, 2025

However, such an adjustment of case deadlines would push the schedule past the October 21, 2025 final trial conference, and the anticipated four-week jury trial set to begin on November 3, necessitating moving those dates. The parties understand that the Court has availability in 2026 to move the trial date. To make sure that the new date fits with all parties' schedules, the moving parties request that the Court set a scheduling conference as soon as a date is available for the purpose of picking new dates for the final trial conference and for the trial. Because of the number of parties and the location of some counsel outside of Boston, the moving parties suggest the conference be held via videoconference.

The moving parties have reached out to counsel to all the other parties. The following parties have assented to the motion without joining it: BASF, C&K Roofing, Inc., Coppola Construction, Elementia USA, Inc., Plycem USA LLC, Empire Remodeling, Inc., Exterior Designs, Inc., Fasadex Designs, Fry Reglet, Harvey Industries, Optiline Enterprises, Professional Waterproofing & Caulking, Riverside Construction, Inc., Shawnlee Construction, Tim Carey, Wellesley Roofing, Inc., and White Cap Supply Holdings, LLC. Imperial Hammer Contracting does not appear to be presently represented by counsel, has not participated in the case to date, and therefore were not asked for their position on this motion, but they will be served with a copy of the motion as filed.

For the reasons stated above, the moving parties respectfully request the following:

1. An extension of the fact discovery, expert disclosures, and dispositive motion deadlines in accordance with the above chart; and
2. A scheduling conference with the Court to set new final trial conference and trial dates.

MARINA BAY RESIDENCES, LLC
By Plaintiff's attorney,

/s/ Daniel P. Dain

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CERTIFICATE OF SERVICE

I, Daniel P. Dain, hereby certify that I have served a copy of the foregoing on the following by email and/or mailing same, postage prepaid, this 28th day of March, 2025 to:

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