IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DIFFERENTIAL DEVELOPMENT-1994, LTD AND DEAN LEE d/b/a PRO CLEANERS,	§	
Plaintiffs,	§	
v.	§	CIVIL ACTION NO. H-05-3375
HARKRIDER DISTRIBUTING CO., *et al.*,	§	
Defendants.	§	

ORDER ON STATUS OF PENDING MOTIONS

In its September 30, 2005 original complaint, plaintiffs Differential Development-1994 Ltd. and Dean Lee named as defendants Harkrider Distribution Co., HP Ventures, Ltd., Gulf States Laundry Machinery Co., and Euro General Construction, Inc. (Docket Entry No. 1). Those defendants, except Harkrider, have been dismissed by notice filed on September 7, 2006 or by motion filed on September 8, 2006. (Docket Entry No. 64 and 68). The plaintiffs' second amended complaint added as a defendant Park Equipment Co., Ltd. (Docket Entry No. 31); plaintiffs filed an unopposed motion to dismiss this defendant on September 8, 2006. (Docket Entry No. 68). The third amended complaint added defendants the City of Houston, CB Richard Ellis, Inc., Mondial Drycleaning Products, Inc., European Holdings, Inc., Safety-Kleen Systems, Inc., and R.R. Street Co. (Docket Entry No. 46). The plaintiffs' notice of dismissal filed on September 7, 2006 dismissed HP Ventures, Ltd., R.R. Street & Co., Mondial Drycleaning Products, and European Holdings, Inc. from the suit. (Docket Entry No. 64). The defendants named in the fourth amended complaint filed on September 7, 2006 are Harkrider Distributing Co., the City of Houston, CB Richard Ellis,

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and Safety-Kleen Systems, Inc. (Docket Entry No. 46). In that complaint, the plaintiffs also eliminated the CERCLA claims previously asserted against CB Richard Ellis, but reasserted the CERCLA claims against Harkrider, Safety-Kleen, and the City of Houston.

The party and pleading changes have made some of the pending motions moot. HP Ventures moved to dismiss; its dismissal from this lawsuit makes that motion moot with respect to HP Ventures. (Docket Entry No. 9). Similarly, the plaintiffs moved to strike HP Ventures's reply brief and HP Ventures moved for leave to file a reply brief; those motions are moot. (Docket Entry Nos. 25 and 28). One other dismissed defendant, Park Equipment Co., filed a motion to dismiss, which is also moot. (Docket Entry No. 36).

The motion to dismiss by Harkrider (Docket Entry Nos. 7 and 12) and CB Richard Ellis (Docket Entry No. 54), remain for decision. CB Richard Ellis previously filed a motion for leave to file supplemental authority; that motion is granted. (Docket Entry No. 62).

Differential Development moved to reset the hearing date. (Docket Entry No. 69). Because a status conference would be useful to clarify the impact of the recent pleading amendments and dismissals and set a scheduling order for the newly added defendants, the motion to reset the date is denied.

SIGNED on September 11, 2006, at Houston, Texas.

Lee H. Rosenthal
United States District Judge