



ROBINSON
&McELWEE

PLLC

attorneys at law

STEPHEN F. GANDEE
ATTORNEY AT LAW

POST OFFICE BOX 128
140 WEST MAIN STREET, SUITE 300
CLARKSBURG, WV 26302-0128

TELEPHONE: (304) 326-5313
FAX: (304) 622-5065
E-MAIL: sfg@ramlaw.com

March 28, 2016

*Also licensed in MD

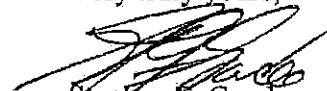
Cathy Gatson, Clerk
Circuit Court of Kanawha County
111 Court Street
Charleston, West Virginia 25301

Re: Soaring Eagle Lodge Master Association,
Inc., et al.
Vs: Soaring Eagle Development Company,
LLC, et al.
Civil Action No. 15-C-2202

Dear Ms. Gatson:

Herewith is **Defendant GBBN Architects, Inc.'s Answer to Amended Complaint**, together with my certificate showing service of the same upon the attorney for plaintiffs, upon the attorneys for defendant Soaring Eagle Development Company, LLC, and upon the defendant Branch & Associates, Inc., by mailing on the 28th day of March, 2016, which we request be filed in the captioned case.

Very truly yours,



Stephen F. Gandee

SFG:dms

Enclosures

xc: J. Michael Benninger, Esquire
Benninger Law
Post Office Box 623
Morgantown, West Virginia 26507

John L. MacCorkle, Esquire
MacCorkle Lavender PLLC
300 Summers Street, Suite 800
Charleston, West Virginia 25301

Shawn P. George, Esquire
George & Lorensen, PLLC
1526 Kanawha Boulevard, East
Charleston, West Virginia 25311

Cathy Gatson, Clerk

March 28, 2016

Page 2

xc: Branch & Associates, Inc.
c/o CT Corporation System
5400 D Big Tyler Road
Charleston, West Virginia 25313

**CIVIL CASE INFORMATION STATEMENT
CIVIL CASES**

In the Circuit Court, Kanawha County, West Virginia

I. CASE STYLE:

Plaintiff(s)

Case # 15-C-2202

**SOARING EAGLE LODGE MASTER
ASSOCIATION, INC. and SOARING
EAGLE LODGE ASSOCIATION, INC.**
c/o J. Michael Benninger, Esquire
Benninger Law
Post Office Box 623

Judge _____

Morgantown, West Virginia 26507

vs.

Defendant(s)

**Days to
Answer**

Type of Service

**SOARING EAGLE DEVELOPMENT
COMPANY, LLC**

c/o John L. MacCorkle, Esquire
MacCorkle Lavender PLLC
300 Summers Street, Suite 800
Charleston, West Virginia 25301

and

c/o Shawn P. George, Esquire
George & Lorensen, PLLC
1526 Kanawha Boulevard, East
Charleston, West Virginia 25311

GBBN ARCHITECTS, INC.

c/o Stephen F. Gandee, Esquire
Robinson & McElwee PLLC
Post Office Box 128
140 West Main Street, Suite 300
Clarksburg, West Virginia 26302-0128

BRANCH & ASSOCIATES, INC.

c/o CT Corporation System
5400 D Big Tyler Road
Charleston, West Virginia 25313
Clarksburg, West Virginia 26302-0128

PLAINTIFFS: SOARING EAGLE LODGE MASTER ASSOCIATION, INC., ET AL. DEFENDANTS: SOARING EAGLE DEVELOPMENT COMPANY, LLC, ET AL.	CIVIL ACTION NO. 15-C-2202
---	-----------------------------------

II. TYPE OF CASE:

TORTS	OTHER	CIVIL
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Adoption	<input type="checkbox"/> Appeal from Magistrate Court
<input type="checkbox"/> Professional Malpractice	<input type="checkbox"/> Contract	<input type="checkbox"/> Petition for Modification of Magistrate Sentence
<input type="checkbox"/> Personal Injury	<input checked="" type="checkbox"/> Real Property	<input type="checkbox"/> Miscellaneous Civil
<input type="checkbox"/> Product Liability	<input type="checkbox"/> Mental Health	<input type="checkbox"/> Other
<input type="checkbox"/> Other Tort	<input type="checkbox"/> Appeal of Administrative Agency	

III. JURY DEMAND: Yes No

CASE WILL BE READY FOR TRIAL BY (MONTH/YEAR): 03/17

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? Yes No

IF YES, PLEASE SPECIFY:

- Wheelchair accessible hearing room and other facilities
- Interpreter or other auxiliary aid for the hearing impaired
- Reader or other auxiliary aid for the visually impaired
- Spokesperson or other auxiliary aid for the speech impaired
- Other: _____

Attorney Name: Stephen F. Gandee

Representing:

Firm: Robinson & McElwee PLLC

Plaintiff Defendant
GBBN Architects, Inc.

Post Office Box 128

Address: 140 West Main Street, Suite 300

Cross-Complainant

Clarksborg, WV 26302-0128

Cross-Defendant

Telephone: (304) 622-5022

Dated: March 28, 2016


Signature

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

SOARING EAGLE LODGE MASTER
ASSOCIATION, INC., a West
Virginia non-profit corporation;
and SOARING EAGLE LODGE
ASSOCIATION, INC., a West
Virginia non-profit corporation,

Plaintiffs,

vs.

Civil Action No. 15-C-2202

SOARING EAGLE DEVELOPMENT
COMPANY, LLC, a West Virginia
limited liability company;
GBBN ARCHITECTS, INC., an Ohio
corporation; and BRANCH &
ASSOCIATES, INC., a Virginia
corporation,

Defendants.

**DEFENDANT GBBN ARCHITECTS, INC.'S
ANSWER TO AMENDED COMPLAINT**

Now comes the defendant GBBN Architects, Inc. (sometimes referred to as "this defendant"), in response to the plaintiffs' Amended Complaint, and states as follows:

First Defense

The Amended Complaint, in its entirety, fails to state a claim against the defendant GBBN Architects, Inc. upon which relief can be granted.

Second Defense

The defendant GBBN Architects, Inc. asserts the affirmative defense of estoppel.

Third Defense

The wrongful conduct, if any, was that of another party, individual, or entity to this action or not named in this action and not the wrongful conduct of the defendant GBBN Architects, Inc.

Fourth Defense

To the extent that plaintiffs' damages and injuries, if any, were proximately caused by any act or omission, such act or omission was not that of this defendant but, rather, were those of a third party over whom this defendant exercised no control and for whom control was not the responsibility of this defendant.

Fifth Defense

In the alternative, the plaintiffs have failed to join a party or parties herein without whom complete relief cannot be accorded.

Sixth Defense

Plaintiffs have failed to mitigate their damages, if any. To the extent there has been a failure to mitigate damages, any recovery must be reduced accordingly.

Seventh Defense

The allegations in the Amended Complaint against the defendant GBBN Architects, Inc. asserting wrongful conduct fail to assert with requisite specificity the facts against this defendant supporting such claims.

Eighth Defense

The defendant GBBN Architects, Inc., at all times material to the plaintiffs' Complaint, took those actions which might reasonably have been expected of a person of ordinary prudence who desired to comply with the law.

Ninth Defense

The defendant GBBN Architects, Inc. is entitled to a dollar-for-dollar credit for any settlements paid prior to judgment, as offset against any adverse verdict returned against it.

Tenth Defense

The defendant GBBN Architects, Inc. hereby preserves each and every defense set forth in Rules 8, 9, and 12 of the West Virginia Rules of Civil Procedure and further reserves the right to raise such additional defenses as may become apparent following the further discovery and factual development of this case.

Eleventh Defense

The defendant GBBN Architects, Inc. asserts the affirmative defenses, including, but not limited to, as discovery reveals appropriate, comparative negligence, contributory negligence, accord and satisfaction, assumption of the risk, discharge, estoppel, fraud,

frustration, modification of contract, nonexistence of basic assumptions of which the alleged contract was made, mutual mistake, ratification of contract, statute of fraud, waiver, and all other defenses which may be applicable and are required to be affirmatively pled under Rule 8(c) of the West Virginia Rules of Civil Procedure.

Twelfth Defense

The defendant GBBN Architects, Inc. reserves unto itself the right to assert such claims, whether it be counterclaims, cross-claims, third-party claims or otherwise, if a sufficient factual basis is developed through continuing investigation and discovery.

Thirteenth Defense

1. In response to the allegations of paragraph 1 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

2. In response to the allegations of paragraph 2 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

3. In response to the allegations of paragraph 3 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

4. In response to the allegations of paragraph 4 of the Amended Complaint, this defendant admits the same.

5. In response to the allegations of paragraph 5 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

6. In response to the allegations of paragraph 6 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

7. In response to the allegations of paragraph 7 of the Amended Complaint, this defendant admits it was the project architect retained by Soaring Eagle Development Company, LLC for the project at issue in this Amended Complaint but denies the remainder of said paragraph and demands strict proof thereof.

8. In response to the allegations of paragraph 8 of the Amended Complaint, upon information and belief, this defendant admits Branch & Associates Inc. was the general contractor with regard to the project at issue in this Amended Complaint. This defendant is without sufficient information to form a belief as to the remainder of the allegations contained in paragraph 8 and, therefore, neither admits nor denies the same but calls for strict proof thereof.

9. In response to the allegations of paragraph 9 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

10. In response to the allegations of paragraph 10 of the Amended Complaint, this defendant admits that its registered architect executed a document titled "Certificate of Completion" and that said "Certificate of Completion" speaks for itself. To the extent the remainder of said paragraph 10 represents legal conclusions, rather than allegations of fact, which does not require a response by way of admission or denial but, to the extent any factual allegation is contained therein against it, such is denied.

11. In response to the allegations of paragraph 11 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

12. In response to the allegations of paragraph 12 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

13. In response to the allegations of paragraph 13 of the Amended Complaint, this defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and, therefore, neither admits nor denies the same but calls for strict proof thereof.

14. In response to the allegations of paragraph 14 of the Amended Complaint, this defendant asserts that said paragraph represents a legal conclusion, rather than an allegation of fact, and, therefore, does not require a response by way of admission or denial but, to the extent any factual allegation is contained therein against it, such is denied.

15. In response to the allegations of paragraph 15 of the Amended Complaint, this defendant asserts that said paragraph represents a legal conclusion, rather than an allegation

of fact, and, therefore, does not require a response by way of admission or denial but, to the extent any factual allegation is contained therein against it, such is denied.

16. In response to the allegations of paragraph 16 of the Amended Complaint, this defendant asserts that said paragraph represents a legal conclusion, rather than an allegation of fact, and, therefore, does not require a response by way of admission or denial but, to the extent any factual allegation is contained therein against it, such is denied.

17. In response to the allegations of paragraph 17 of the Amended Complaint, this defendant asserts that said paragraph is directed at defendant Branch & Associates Inc. To the extent GBBN Architects, Inc. may need to reply, such paragraph represents a legal conclusion, rather than an allegation of fact, and, therefore, does not require a response by way of admission or denial but, to the extent any factual allegation is contained therein against it, such is denied.

18. In response to the allegations of paragraph 18 of the Amended Complaint, this defendant asserts that said paragraph represents a legal conclusion, rather than an allegation of fact, and, therefore, does not require a response by way of admission or denial but, to the extent any factual allegation is contained therein against it, such is denied.

19. In response to the allegations of paragraph 19 of the Amended Complaint, this defendant asserts that said paragraph represents a legal conclusion, rather than an allegation of fact, and, therefore, does not require a response by way of admission or denial but, to the extent any factual allegation is contained therein against it, such is denied.

20. In response to the allegations of paragraph 20 of the Amended Complaint, this defendant asserts that said paragraph represents a legal conclusion, rather than an allegation of fact, and, therefore, does not require a response by way of admission or denial but, to the extent any factual allegation is contained therein against it, such is denied.

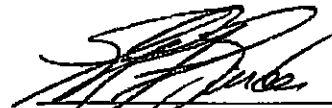
21. This defendant denies any and all allegations contained in said Amended Complaint which have not been specifically admitted herein. To the extent any allegations of fact are contained therein, they are denied and strict proof thereof is demanded.

WHEREFORE, the defendant GBBN Architects, Inc. demands that the Amended Complaint against it be dismissed, with prejudice, and that it has its costs in its behalf expended, including reasonable attorney's fees, together with such other relief as this Court deems appropriate.

THE DEFENDANT GBBN ARCHITECTS, INC. DEMANDS A TRIAL BY JURY.

Dated this 28th day of March, 2016.

ROBINSON & McELWEE PLLC



Stephen F. Gandee
(W. Va. State Bar I.D.: 5204)

Attorney for Defendant GBBN Architects, Inc.

Post Office Box 128
140 West Main Street, Suite 300
Clarksburg, West Virginia 26302-0128
(304) 326-5313

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

SOARING EAGLE LODGE MASTER
ASSOCIATION, INC., a West
Virginia non-profit corporation;
and SOARING EAGLE LODGE
ASSOCIATION, INC., a West
Virginia non-profit corporation,

Plaintiffs,

vs.


Civil Action No. 15-C-2202

SOARING EAGLE DEVELOPMENT
COMPANY, LLC, a West Virginia
limited liability company;
GBBN ARCHITECTS, INC., an Ohio
corporation; and BRANCH &
ASSOCIATES, INC., a Virginia
corporation,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of March, 2016, I served the foregoing Defendant GBBN Architects, Inc.'s Answer to Amended Complaint upon the attorney for plaintiffs, upon the attorneys for defendant Soaring Eagle Development Company, LLC, and upon the defendant Branch & Associates, by depositing true copies thereof in the United States mail, postage prepaid, in envelopes addressed to them at Benninger Law, Post Office Box 623, Morgantown, West Virginia, 26507, at MacCorkle Lavender PLLC, 300 Summers Street, Suite 800, Charleston, West Virginia, 25301, at George & Lorensen, PLLC, 1526 Kanawha Boulevard, East, Charleston, West Virginia, 25311, and c/o CT Corporation System, 5400 D Big Tyler Road, Charleston, West Virginia, 25313, respectively.



Stephen F. Gandee
(W. Va. State Bar I.D.: 5204)