

**BUSINESS COURT DIVISION – WEST VIRGINIA SUPREME COURT OF APPEALS
IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**

FILED
2017 NOV -9 PM 3:25

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

**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,

v

**CIVIL ACTION NO.: 15-C-2202-KAN
The Honorable Joanna Tabit, Judge**

**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,

and

**SOARING EAGLE DEVELOPMENT
COMPANY, LLC, a West Virginia limited
liability company; and BRANCH &
ASSOCIATES, INC, a Virginia corporation,**

Third-Party Plaintiffs,

v

**TRI-STATE ROOFING & SHEET METAL
COMPANY OF WEST VIRGINIA, a/k/a
TRI-STATE ROOFING & SHEET METAL
CO., a West Virginia corporation;
APPLIED MECHANICAL SYSTEMS, INC.,
an Ohio corporation; RICHARDSON AND
MARCH CARPENTRY, LLC, a West Virginia
limited liability company; and EASTCOAST
SIDING, INC., a Maryland corporation, and
O.C. CLUSS LUMBER COMPANY,**

351-353

Third-Party Defendants,

and

O.C. CLUSS LUMBER COMPANY,

Fourth-Party Plaintiff,

v

GAF MATERIALS CORPORATION,

a New Jersey corporation, and

FIBERON, LLC, a North Carolina

Limited Liability Company,

Fourth-Party Defendants.

ORDER

The above matter came on for hearing before The Honorable Joanna Tabit, Judge, on October 31, 2017. At such hearing GAF Materials Corporation's Motion to Dismiss, O.C. Cluss Lumber Company's Motion for Default Judgment Against GAF Materials Corporation, and the Motion for Partial Summary Judgment of O.C. Cluss Lumber Company with regard to Third-Party Complaint of Branch & Associates, Inc. came on for hearing.

Branch & Associates, Inc. appeared by its counsel, Anna F. Ballard and Evan S. Olds. O.C. Cluss Lumber Company appeared by its counsel, Randall L. Trautwein. GAF Materials Corporation appeared by its counsel, Isaac R. Forman and Michael B. Hissam.

Counsel for O.C. Cluss Lumber Company advised the Court that it was withdrawing its Motion for Default Judgment.

The Court thereupon heard argument of said counsel regarding the remaining pending motions. After hearing such argument the Court denied the motions at this time but gave Branch & Associates, Inc. fifteen days in which to file any amended third-party complaint against O.C.

Cluss Lumber Company and gave O.C. Cluss Lumber Company twenty days in which to file any amended fourth-party complaint against GAF Materials Corporation.

IT IS THEREFORE ORDERED that GAF Materials Corporation's Motion to Dismiss and the Motion for Partial Summary Judgment of O.C. Cluss Lumber Company with regard to Third-Party Complaint of Branch & Associates, Inc. are denied at this time.

IT IS FURTHER ORDERED that Branch & Associates, Inc. shall have fifteen days from the date of such hearing in which to file any amended third-party complaint.

IT IS FURTHER ORDERED that O.C. Cluss Lumber Company shall have twenty days from the date of the hearing in which to file any amended fourth-party complaint.

IT IS FURTHER ORDERED that GAF Materials Corporation shall have thirty days from the entry of this order within which to answer O.C. Cluss Lumber Company's Fourth-Party Complaint. However, if Branch & Associates, Inc. and/or O.C. Cluss Lumber Company file amended pleadings naming GAF Materials Corporation as a defendant, then GAF Materials Corporation shall not be obligated to answer O.C. Cluss Lumber Company's original Fourth-Party Complaint, and shall respond to any amended pleadings as required by the Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Clerk of the Court shall send a certified copy of this Order to counsel of record.

ENTER: *November 9, 2017*

Joanna D. Tabit

The Honorable Joanna Tabit, Judge

11-15-17
Date: _____
Certified copies sent to:
___ counsel of record
___ parties
___ other (specify) _____
By: *R. Trautwein*
___ certified (as to) _____
___ fax _____
___ hand _____
___ interdepartmental (if 3065) _____
Other directives accomplished: _____
Dep. Court Clerk: *Alford*

APPROVED AS TO FORM:

Anna F. Ballard / by BLT w/permission

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