

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

2017 DEC 11 PM 4:44

CATHY S. GAYSON, 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

**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 Defendants,**

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,
a Pennsylvania corporation,**

Third-Party Defendants,

and

**O.C. CLUSS LUMBER COMPANY, a Pennsylvania
corporation,**

Fourth-Party Plaintiff,

v.

**GAF MATERIALS CORPORATION, a
New Jersey corporation, and FIBERON,
LLC, a North Carolina Limited Liability
Company,**

Fourth-Party Defendants,

and

**SOARING EAGLE DEVELOPMENT
COMPANY, LLC, a West Virginia Limited
Liability Company**

Third-Party Plaintiff.

v.

**The Travelers Indemnity Company of America, a
Connecticut corporation and Travelers Property
and Casualty Company of America,**

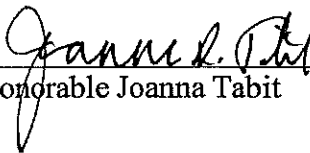
Third-Party Defendant.

ORDER

Pending before the Court is Defendant and Third-Party Plaintiff Soaring Eagle Development Company, LLC's ("SEDC") Motion for Leave to File Amended Third-Party Complaint and Proposed Amended Third-Party Complaint ("Motion") under Rule 14 of the West Virginia Rules of Civil Procedure. No party, except Branch & Associates, Inc., ("Branch") has voiced any concern or objection to the Motion. Branch, which is also a Travelers insured under the same Policies which provide first party coverage to SEDC, has not articulated any basis for its objection. The Court, after reviewing the Motion, Proposed Amended Third-Party Complaint, including the Exhibits thereto, hereby FINDS that the Amended Third-Party Complaint arises from, is related to and derivative of the underlying claims and causes of action. Granting the Motion will also avoid duplicative, circuitous actions and promote judicial economy. Bluefield Sash & Door Co., Inc. v Corte Constr. Co. 158 W. Va. 802, 216 S.E.2d 216 (1975) (overruled on other grounds by Haynes v. City of Nitro, 161 W. Va. 230, 240 S.E.2d 544 (1977)). James

Wm. Moore, et al., Moore's Federal Practice ¶ 14.07(1) at 14-45-46 (1991). Granting the Motion also will not result in undue delay, prejudice to the Plaintiffs, the proposed Third-Parties, or jury confusion. Shamblin v. Nationwide Mutual Ins. Co., 183 W. Va. 585 (1990). WHEREFORE, the Court ORDERS that the Motion be and hereby is GRANTED. The Amended Third-Party Complaint is hereby deemed filed and subject to service on the Third-Party Defendants.

Entered this 11th day of December, 2017.


Honorable Joanna Tabit

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 12
DAY OF Dec 2017
Cathy S. Gatson CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Date: 12/12/17
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 parties
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K. All
Deputy Circuit Clerk