

**BUSINESS COURT DIVISION- WEST VIRGINIA SUPREME COURT OF APPEALS  
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,**

v.

**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;  
EASTCOAST SIDING, INC., a Maryland  
Corporation,**

2018 DEC 14 PM 4:01  
FILED  
CATHY S. GANSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

**CIVIL ACTION NO. 15-C-2202**

**Presiding Judge: Lorenson**

**Resolution Judge: Matish**

936

**Third-Party Defendants,**

**and**

**BRANCH & ASSOCIATES, INC., a  
Virginia corporation,**

**Third-Party Plaintiff,**

**vs.**

**O.C. CLUSS LUMBER COMPANY, a  
Pennsylvania corporation;  
GAF MATERIALS CORPORATION, a New  
Jersey corporation; QUALITY STONE  
VENEER, INC.; MODERN LIGHTNING  
PROTECTION, INC.; JAMES HARDIE  
BUILDING PRODUCTS INC.; and  
FIBERON, LLC,**

**Third-Party Defendants,**

**and**

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

**Fourth-Party Plaintiff,**

**vs.**

**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,**

**vs.**

**THE TRAVELERS INDEMNITY COMPANY  
OF AMERICA, a Connecticut  
corporation; and TRAVELERS PROPERTY  
AND CASUALTY COMPANY OF AMERICA,**

**Third-Party Defendant.**

**ORDER OF DISMISSAL**

NOW COME the Plaintiffs Soaring Eagle Lodge Master Association, Inc., and Soaring Eagle Lodge Association, Inc., by counsel, J. Michael Benninger, and the firm of Benninger Law, and Defendants Soaring Eagle Development Company, LLC, by counsel, John L. MacCorkle, Carrie Dysart, and the firm of MacCorkle Lavender PLLC, and Shawn P. George, and the firm of George & Lorensen, PLLC, and GBBN Architects, Inc., by counsel, Stephen F. Gandee, and the firm of Robinson & McElwee, and Branch & Associates, Inc., by counsel, Edgar Allen Poe, Jr., Anna F. Ballard, Evan S. Olds, and the firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, and Third-Party and Fourth-Party Defendants, Tri-State Roofing & Sheet Metal Company of West Virginia, a/k/a Tri-State Roofing & Sheet Metal Co., by counsel, Robert H. Sweeney, Jr., Michael A. Frye, and the firm of Jenkins, Fenstermaker, PLLC, and Applied Mechanical Systems, Inc., by counsel, Ronald Hatfield, Jr., and the firm of Litchfield Cavo LLP, and Richardson and March Carpentry, LLC, by counsel, Natalie C. Schaefer, Kimberly Bandy, Kayla Reynolds, and the firm of Shuman, McCuskey & Slicer, PLLC, and Eastcoast Siding, Inc., by counsel, Michael P. Markins, Elizabeth Moore, and the firm of Cipriani & Werner, PC, and O.C. Cluss Lumber Company, by counsel Randall L. Trautwein, and the firm of Lamp Bartram Levy Trautwein & Perry, PLLC, and GAF Materials Corporation, by counsel, Michael B. Hissam, Isaac Forman, Rebecca Pomeroy, and the firm of Hissam, Forman, Donovan, Ritchie, and Quality Stone Veneer, Inc., by counsel, Jennifer Mason, and the firm of Dinsmore & Shohi, LLP, and Modern Lightning Protection, Inc., by counsel, Nicholas R. Stuchell, and the Daniels Law Firm, and James Hardie Building Products, Inc., by counsel, John W.

Hays, Michael Victorson, Danielle Waltz, Sarah Phipps, and the firm of Jackson Kelly PLLC, and Fiberon, LLC, by counsel, Webster J. Arceneaux, III, Spencer Elliott, and the firm of Lewis Glasser PLLC, and The Travelers Indemnity Company of America and Travelers Property and Casualty Company of America, by counsel, John A. "Jack" Smith, and the firm of Flaherty, Sensabaugh & Bonasso, PLLC, and hereby represent to the Court that all matters in controversy between the parties have been settled and compromised and that the parties jointly move the Court to dismiss this matter with prejudice as to Defendants, Third-Party Defendants, and Fourth-Party Defendants except for Travelers Indemnity Company of America and Travelers Property and Casualty Company of America, and possibly non-party Zurich. The Court, being advised of the premises herein and finding no objection thereto, hereby **ORDERS** that this action is dismissed, with prejudice, as to Defendants, Third-Party Defendants, and Fourth-Party Defendants, with the parties to bear their own costs and attorneys' fees, except for Travelers Indemnity Company of America and Travelers Property and Casualty Company of America, and possibly non-party Zurich.

The Clerk is directed to send certified copies of this Order to all counsel of record.

Entered this 14 day of DECEMBER, 2018.

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 19 DAY OF DECEMBER 2018  
Cathy S. Gatson CLERK  
 COUNTY OF KANAWHA COUNTY, WEST VIRGINIA



Honorable Michael D. Lorenson

Prepared by:

Anna F. Ballard  
 Edgar Allen Poe, Jr., WV State Bar No. 2924  
 Anna F. Ballard, WV State Bar No. 9511  
 Evan S. Olds, WV State Bar No. 12311  
 Pullin, Fowler, Flanagan, Brown & Poe, PLLC  
 JamesMark Building  
 901 Quarrier Street  
 Counsel for Defendant and Third-Party Plaintiff, Branch & Associates, Inc.

Date: 12/19/18  
 Certified copies sent to:  
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Call  
 Deputy Circuit Clerk

*Judge Hatcher*  
*Sus O.*  
*M. Markers*  
*M. Messam*  
*N. Schaefer*  
*R. Watfield*  
*S. George*  
*S. Gander*  
*M. Benninger*  
*J. MacCoble*  
*J. Hays*  
*M. Victorson*  
*J. Mason*  
*W. Arceneaux*  
*E. Hylitt*  
*E. Poe*  
*J. Smith*

*R. Sweeney*  
*N. Stuckell*  
*P. Traubman*

Agreed to by:

J. Michael Benninger / a. Ballard by permission

J. Michael Benninger, WV State Bar No. 312

Benninger Law PLLC

P.O. Box 623

Morgantown, WV 26507

*Counsel for Plaintiffs, Soaring Eagle Lodge Master Association, Inc., and Soaring Eagle Lodge Association, Inc.*

Carrie Dysart / a. Ballard by permission

John L. MacCorkle, WV State Bar No. 2286

Carrie Dysart, WV State Bar No. 8967

MacCorkle Lavender PLLC

300 Summers Street, Suite 800

Charleston, WV 25301

*Co-Counsel for Defendant, Soaring Eagle Development Company, LLC*

Shawn P. George / a. Ballard by permission

Shawn P. George, WV State Bar No. 1370

George & Lorensen, PLLC

1526 Kanawha Boulevard, East

Charleston, WV 25311

*Co-Counsel for Defendant, Soaring Eagle Development Company, LLC*

Stephen F. Gandee / a. Ballard by permission

Stephen F. Gandee, WV State Bar No. 5204

Robinson & McElwee

P.O. Box 128

140 West Main Street, Suite 300

Clarksburg, WV 26302-0128

*Counsel for Defendant, GBBN Architects, Inc.*

Randall L. Trautwein / a. Ballard by permission

Randall L. Trautwein, WV State Bar No. 3791

Lamp Bartram Levy Trautwein & Perry, PLLC

P. O. Box 2488

Huntington, WV 25725

*Counsel for Third-Party Defendant/Fourth-Party Plaintiff, O.C. Cluss Lumber Company*

Michael A. Frye/a. Ballard by permission

Robert H. Sweeney, Jr., WV State Bar No. 5831

Michael A. Frye, WV State Bar No. 7712

Jenkins, Fenstermaker, PLLC

P. O. Box 2688

Huntington, WV 25726

*Counsel for Third-Party Defendant, Tri State Roofing & Sheet Metal Company of West Virginia*

Natalie C. Schaefer/a. Ballard by permission

Natalie C. Schaefer, WV State Bar No. 9103

Kimberly Bandy, WV State Bar No. 10081

Kayla Reynolds, WV State Bar No. 13268

Shuman, McCuskey & Slicer, PLLC

1411 Virginia Street, East, Suite 200

Charleston, WV 25301

*Counsel for Third-Party Defendant, Richardson and Mareh Carpentry, LLC*

Ronald Hatfield/a. Ballard by permission

Ronald Hatfield, Jr., WV State Bar No. 8552

Litchfield Cavo LLP

99 Cracker Barrel Drive, Suite 100

Barboursville, WV 25504

*Counsel for Third-Party Defendant, Applied Mechanical Systems, Inc.*

Michael P. Markins/a. Ballard by permission

Michael P. Markins, WV State Bar No. 8825

Elizabeth Moore

Cipriani & Werner, PC

Laidley Tower, Suite 900

500 Lee Street, E.

Charleston, WV 25301

*Counsel for Third-Party Defendant, Eastcoast Siding, Inc.*

Isaac Forman/a. Ballard by permission

Michael B. Hissam, WV State Bar No. 11526

Isaac Forman, WV State Bar No. 11668

Rebecca Pomeroy

Hissam, Forman, Donovan, Ritchie

P. O. Box 3983

Charleston, WV 25339

*Counsel for Fourth-Party Defendant, GAF Materials Corporation*

*Spencer P. Elliott / a. Ballard by permission*

Webster J. Arceneaux, III, WV State Bar No. 155  
Spencer Elliott, WV State Bar No. 8064  
Lewis Glasser PLLC  
300 Summers Street, Suite 700  
Charleston, WV 25301  
*Counsel for Third-Party Defendant/Fourth-Party Defendant, Fiberon, LLC*

*Nicholas R. Stuchell / a. Ballard by permission*

Nicholas R. Stuchell, WV State Bar No. 11304  
Daniels Law Firm  
300 Summers Street, Suite 1270  
P. O. Box 1433  
Charleston, WV 25325  
*Counsel for Third-Party Defendant, Modern Lightning Protection, Inc.*

*Michael Victorson / a. Ballard by permission*

Michael Victorson, WV State Bar No. 3868  
Danielle Waltz, WV State Bar No. 10271  
Sarah Phipps, WV State Bar No. 13031  
Jackson Kelly PLLC  
P. O. Box 553  
Charleston, WV 25322  
*Counsel for Third-Party Defendant, James Hardie Building Products, Inc.*

*John A. Jack Smith / a. Ballard by permission*

John A. "Jack" Smith, WV State Bar No. 3470  
Flaherty, Sensabaugh & Bonasso, PLLC  
P. O. Box 3843  
Charleston, WV 25338-3843  
*Counsel for Third-Party Defendant, Travelers Casualty & Surety Company of America; Travelers Indemnity Company; and The Phoenix Insurance Company*

*Jennifer Mason / a. Ballard by permission*

Jennifer Mason, WV State Bar No. 6616  
Dinsmore & Shohl, LLP  
1033 N. Court Street  
Lewisburg, WV 24901  
*Counsel for Third-Party Defendant, Quality Stone Veneer, Inc.*