



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: YEARGER AIRPORT LITIGATION

CIVIL ACTION NO. 16-C-7000

THIS DOCUMENT APPLIES TO:

**CENTRAL WEST VIRGINIA REGIONAL
AIRPORT AUTHORITY, INC.**

v.

TRIAD ENGINEERING, INC., et al.

Civil Action No. 15-C-1022 KAN

**ORDER DENYING DEFENDANT, CINCINNATI INSURANCE
COMPANY'S MOTION FOR SUMMARY JUDGMENT**

The Presiding Judges have reviewed and maturely considered *Defendant, Cincinnati Insurance Company's Motion for Summary Judgment* (Transaction ID 60275758) and accompanying Memorandum of Law; the *Responses* of Central West Virginia Regional Airport Authority ("Airport Authority") (Transaction ID 60431485), Defendant Triad Engineering, Inc. ("Triad") (Transaction ID 60431632), and Defendant Westfield Insurance Company ("Westfield") (Transaction ID 60425705); and the *Reply* in support of Cincinnati's motion (Transaction ID 60468970). The Presiding Judges find the facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument.

Having conferred with one another to insure uniformity of their decision, as contemplated by Rule 26.07(a) of the West Virginia Trial Court Rules, the Presiding Judges unanimously **ORDER, ADJUGE** and **DECREE** that Cincinnati Insurance Company's motion is **DENIED** as premature. Discovery is ongoing and the facts leading up to the catastrophic failure of the Runway 5 Engineered Material Arresting System ("EMAS") area must be developed before insurance coverage determinations can be made. Plaintiff's expert reports are not due until July 15, 2017, and Defendants' expert reports are not due until September 15, 2017. Consequently,

the parties have not had a full and fair opportunity to develop the facts necessary to determine coverage under the insurance policies at issue. The Presiding Judges will schedule briefing of dispositive motions at the conclusion of discovery.

It is so **ORDERED**.

ENTER: April 14, 2017.

/s/ John A. Hutchison
Lead Presiding Judge
Yeager Airport Litigation