



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: YEAGER AIRPORT LITIGATION

CIVIL ACTION NO. 16-C-7000

THIS DOCUMENT APPLIES TO:

**BROTHERHOOD MUTUAL
INSURANCE COMPANY, et al.**

Plaintiffs,

v.

CIVIL ACTION NO. 16-C-293 KAN

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

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART
CENTRAL WEST VIRGINIA REGIONAL AIRPORT AUTHORITY, INC.'S
MOTION TO DISMISS CROSS-CLAIMS BY CAST & BAKER CORPORATION**

The Presiding Judges have reviewed and maturely considered *Defendant Central West Virginia Regional Airport Authority, Inc.'s Motion to Dismiss Cross-Claims by Cast & Baker Corporation* (Transaction ID 60206483) and the *Response of Cast & Baker Corporation to Airport Authority's Motion to Dismiss Cross-Claim Asserted in Brotherhood Matter* (Transaction ID 60452358). 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 motion is GRANTED IN PART and DENIED IN PART.

The Airport Authority's motion to dismiss Cast & Baker Corporation's cross-claim against the Airport Authority, as asserted in *Defendant Cast & Baker Corporation's Answer to Plaintiff's Complaint and Cross-Claim against Central West Virginia Regional Airport Authority, Inc., Triad Engineering, Inc. and Senex Explosives, Inc.* (Transaction ID 60199845) filed in the Brotherhood matter is GRANTED and Cast & Baker Corporation's cross-claim

against the Airport Authority is dismissed as a matter of law, pursuant to W.Va. Code § 29-12A-13(c), which provides that, “[a]ll actions filed against a political subdivision shall be filed in the name of the real party or parties in interest and in no event may any claim be presented or recovery be had under the right of subrogation.” W.Va. Code § 29-12A-13(c)(2016).

To the extent the Airport Authority’s motion to dismiss is directed at Cast & Baker Corporation’s cross-claim against the Airport Authority, as asserted in *Defendant Cast & Baker Corporation’s Answer to the Intervening Complaint Filed by Keystone Apostolic Church and Cross-Claim Against Central West Virginia Regional Airport Authority, Triad Engineering, Inc. and Novel Geo-Environmental, LLC* (Transaction 60379179) the motion is DENIED.

It is so ORDERED.

April 18, 2017

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