

**IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

**GLADE SPRINGS VILLAGE PROPERTY  
OWNERS ASSOCIATION, INC.,  
a West Virginia non-profit corporation,**

**Plaintiff,**

**vs.**

**Civil Action No.: 19-C-357  
Presiding: Judge Dent  
Resolution: Judge Lorensen**

**EMCO GLADE SPRINGS HOSPITALITY, LLC,  
a West Virginia limited liability company;  
ELMER COPPOOLSE, an individual;  
JAMES TERRY MILLER, an individual;  
R. ELAINE BUTLER, an individual; and  
GSR, LLC, a West Virginia limited liability company,**

**Defendants,**

**and**

**EMCO GLADE SPRINGS HOSPITALITY, LLC,  
a West Virginia limited liability company, and  
GSR, LLC, a West Virginia limited liability company,**

**Counterclaim Plaintiffs,**

**vs.**

**Civil Action No.: 19-C-357  
Presiding: Judge Dent  
Resolution: Judge Lorensen**

**GLADE SPRINGS VILLAGE PROPERTY  
OWNERS ASSOCIATION, INC.,  
a West Virginia non-profit corporation**

**Counterclaim Defendant.**

**ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO FILE REPLY**

This matter came before the Court this \_\_\_\_\_ day of March, 2021, upon Plaintiff's Motion for Leave to File Reply With Regard to EMCO and GSR's Response Brief Addressing Collateral Estoppel.

On December 29, 2020, Plaintiff, Glade Springs Village Property Owners Association, Inc. (hereinafter “Plaintiff” or “POA”), filed Plaintiff’s Motion for Summary Judgment to Provide Food and Beverage at The Haven, moving this Court to grant it summary judgment as to unenforceability of the noncompete covenant in the Declaration for Glade Springs Village and the POA’s “unencumbered property right to provide food and beverage services at The Haven and, accordingly, to dissolve the preliminary injunction restraining [the POA] from providing such services. *See* Pl’s Mot., p. 1-2. On January 28, 2021, Defendants, EMCO Glade Springs Hospitality, LLC and GSR, LLC (hereinafter “Defendants” or “the Resort”) filed their Response in Opposition to Plaintiff’s Motion for Summary Judgment to Provide Food and Beverage at The Haven. One of the arguments made was that the POA failed to brief the key issue upon which its Uniform Common Interest Ownership Act argument is based. *See* Def’s Resp., p. 14. Specifically, Defendants averred if the POA argues Judge Burnside’s Orders in another civil action should apply to this litigation, and the UCIOA should apply to Glade Springs, Defendants must be given the opportunity to read and respond to such arguments. *Id.* at 15. Defendants thus requested the Court order further briefing as to the UCIOA’s applicability and Judge Burnside’s Orders applicability. *Id.* at 14-15.

On February 11, 2021, Plaintiff filed its Reply to Defendants’ Response in Opposition to Plaintiff’s Motion for Summary Judgment to Provide Food and Beverage at The Haven. One of the arguments made was that because of the doctrine of collateral estoppel, Defendants are precluded from arguing the UCOIA does not apply to Glade Springs Village, explaining why it believes Judge Burnside’s Orders from another litigation should apply to this case. *See* Reply, p. 5-19.

On February 25, 2021, this Court entered an Order Denying Plaintiff's Motion for Summary Judgment in Part and Ordering Further Briefing, denying the motion in part on the issue of laches/equitable estoppel/acquiesce, and ordering Defendants to file an additional Response brief on the issue of collateral estoppel, giving Defendants an opportunity to read and respond to Plaintiff's Reply argument regarding the same. *See* Ord. 2/25/21. The Order did not contemplate any other replies. On March 12, 2021, Defendants filed EMCO and GSR's Response Brief Addressing Collateral Estoppel, arguing the POA has not satisfied the elements of collateral estoppel in order to apply Judge Burnside's orders to the case at bar. *See* Def's Resp. Brief, p. 2.

On March 17, 2021, Plaintiffs filed the instant Motion for Leave to File Reply With Regard to EMCO and GSR's Response Brief Addressing Collateral Estoppel, requesting leave to file a Response to Defendants' Response Brief filed March 12, 2021.

The Court finds and concludes that it has sufficient information with which to rule on the subject motion for summary judgment and that an additional response from Plaintiff would not aid the decisional process. Accordingly, the Court must deny the Plaintiff's Motion for Leave to File Reply With Regard to EMCO and GSR's Response Brief Addressing Collateral Estoppel.


### **CONCLUSION**

Accordingly, it is hereby ADJUDGED and ORDERED that Plaintiff's Motion for Leave to File Reply With Regard to EMCO and GSR's Response Brief Addressing Collateral Estoppel is hereby DENIED.

The Court notes the objections and exceptions of the parties to any adverse ruling herein. The Clerk shall enter the foregoing and forward attested copies hereof to all counsel, to any *pro*

se parties of record, and to the Business Court Central Office at Business Court Division, 380  
West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

March 19, 2021  
date of entry

  
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JUDGE JENNIFER P. DENT  
JUDGE OF THE WEST VIRGINIA  
BUSINESS COURT DIVISION