

IN THE CIRCUIT COURT OF POCAHONTAS COUNTY, WEST VIRGINIA

**BLACK BEAR CROSSING TOWN HOUSE
ASSOCIATION, LLC, a West Virginia limited
liability company and on behalf of two (2)
or more unit owners,
Plaintiff,**

v.

**CIVIL ACTION NO. 14-C-32(RR)
(Judge Robert E. Richardson)**

BLACK BEAR CROSSING, LLC, *et al.*

**ANSWER OF TYGARTS VALLEY CONSTRUCTION, INC., TO
COUNTERCLAIM/CROSS-CLAIM BY JD & JT GENERAL CONTRACTORS**

The Defendant Tygarts Valley Construction, Inc., (“TVC”) by and through counsel, without waiving any defenses, responds to **Counterclaim/Cross-Claim by Third-Party Defendant JD & JT General Contractors Limited Liability Company Against All Defendants (Including Those who are Third-Party Plaintiffs) and All Other Third-Party Defendants** (“Cross-Claim of JD & JT General Contractors”) as follows:

First Defense

TVC adopts and incorporates, as if fully re-stated herein, its previously-filed **Answer, Counterclaim, and Cross-Claims of Defendant Tygarts Valley Construction, Inc.**, including all affirmative defenses asserted therein and its **Amended Third-Party Complaint Against First Tracts Real Estate, LLC, David M. Simmons and Peter A. Monico, Individually and as Members of First Tracts Real Estate, LLC; CAS Structural Engineering, Inc., Chapman Technical Group, LTD; Leon G. Mallow Surveying, Inc.; Douglas J. Grimes d/b/a Mill Run Farm; JD & JT General**

Contractors, LLC, and TCC Contracting Services, LLC (“Amended Third-Party Complaint”).

Second Defense

TVC asserts each and every affirmative defense required to be asserted by Rule 8(c) of the West Virginia Rules of Civil Procedure.

Third Defense

TVC denies that JD & JT General Contractors are entitled to indemnification and/or contribution from TVC in this action because the damages alleged in the Amended Complaint, if they occurred, were not caused by any action or inaction of TVC.

Fourth Defense

1. The allegations contained in Paragraph 1 of the Cross-Claim of JD & JT General Contractors refer to the prior pleadings filed in this case without any specific allegations against TVC such that no response is required from TVC. Insofar as Paragraph 1 is deemed to contain allegations of wrongdoing against TVC, those allegations are denied and TVC demands strict proof thereof.

2. TVC denies the allegations contained in Paragraph 2 of the Cross-Claim of JD & JT General Contractors as they relate to TVC and demands strict proof thereof.

3. Paragraph 3 of the Cross-Claim of JD & JT General Contractors is merely a denial by JD & JT General Contractors of the allegations contained in the Amended Third-Party Complaint and does not contain any allegations of wrongdoing against TVC. Insofar as Paragraph 3 is deemed to contain allegations of wrongdoing against TVC, those allegations are denied and TVC demands strict proof thereof.

4. TVC denies the allegations contained in Paragraph 4 of the Cross-Claim as they relate to TVC and demands strict proof thereof.

5. TVC denies the allegations contained in Paragraph 5 of the Cross-Claim as they relate to TVC and demands strict proof thereof.

WHEREFORE, the Defendant Tygarts Valley Construction, Inc., respectfully requests that the **Counterclaim/Cross-Claim by Third-Party Defendant JD & JT General Contractors Limited Liability Company Against All Defendants (Including Those who are Third-Party Plaintiffs) and All Other Third-Party Defendants** filed against it be dismissed with prejudice and that it be awarded its costs and expenses, including attorney's fees incurred in this litigation.

DEFENDANT
TYGARTS VALLEY CONSTRUCTION, INC.
BY COUNSEL

A handwritten signature in black ink, appearing to read 'Teresa J. Dumire', is written over a horizontal line.

Teresa J. Dumire, Esq.
Shannon P. Smith, Esq.
Matthew D. Elshiaty, Esq.
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IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

**HOLLY J. McINTIRE, in her capacity
as the ADMINISTRATRIX of the
ESTATE OF MARKEL J. KOON, and as
Guardian and Next Friend of Morgan L. Koon
minor child of decedent Markel J. Koon,**

Plaintiff,

v.

**CIVIL ACTION NO. 14-C-501-1
(Judge J. Lewis Marks, Jr.)**

**CONSOLIDATION COAL COMPANY,
A Delaware corporation,
ALLIANCE CONSULTING, INC.,
A West Virginia corporation, and
TRIAD ENGINEERING, INC.,
A West Virginia corporation,**

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **Answer of Tygarts Valley Construction, Inc., to Counterclaim/Cross-Claim Filed by JD & JT General Contractors** upon the parties on the 17th day of March, 2015, by mailing a true copy thereof by United States mail, postage prepaid, to the following counsel of record:

Kenneth E. Webb, Jr., Esq.
Patrick C. Timony, Esq.
Bowles Rice LLP
600 Quarrier Street
P.O. Box 1386
Charleston, WV 25325
Counsel for Plaintiff

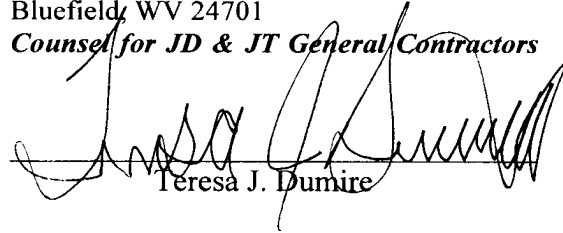
Jane E. Harkins, Esq.
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600 Neville St., Suite 201
Beckley, WV 25801
***Counsel for Black Bear Crossing, LLC,
GKS Development, LLC, Thomas C. Sells,
III, Brian Kreider, and Matthew Glod***

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***Counsel for Defendants GKS Development,
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and Matthew Glod***

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1445 Stewartstown Rd., Suite 200
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***Counsel for Defendant Treve Painter,
Slopeside Construction, Inc., and Tink's
Cottage Care at Snowshoe, LLC***

Jamison Design LLC
c/o Steve Jamison
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Daleville, VA 24083

Lawrence E. Morhous
Brewster, Morhous, Cameron, Caruth,
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PO Box 529
Bluefield, WV 24701
Counsel for JD & JT General Contractors



Teresa J. Dumire

CIRCUIT/FAMILY COURT
POCAHONTAS COUNTY, W.VA.

Filed in this office this the 19th day
of March, 20 15

Connie M. Cass, Clerk

By: Cindy D. Beveridge, Deputy

March 17, 2015

Ms. Connie Carr
Clerk of the Circuit Court
Pocahontas County Courthouse
900 Tenth Avenue
Marlinton, WV 24954

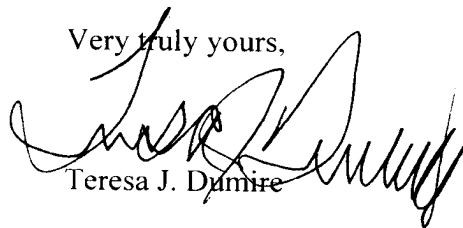
RE: Black Bear Crossing Town House Association, LLC, v.
Black Bear Crossing, LLC, et al.
Civil Action No. 14-C-32(RR)

Dear Ms. Carr:

Enclosed please find the original **Answer of Tygarts Valley Construction, Inc., to Counterclaim/Cross-Claims by JD & JT General Contractors, LLC**, in regard to the above captioned matter. Please mark this document "filed" and place in the appropriate court file.

Thank you for your assistance in this matter.

Very truly yours,



Teresa J. Dumire

TJD/bjn

Enclosures
cc w/ Encl.:

Kenneth E. Webb, Jr., Esq., & Patrick C. Timony, Esq.
Jane E. Harkins, Esq.
Sean C. Workowski, Esq.
Margaret L. Miner, Esq.
Jamison Design, LLC
Lawrence E. Morhous, Esq.
Peter G. Zurbuch, Esq.
William R. Fife, Esq.
Jeffrey D. Van Volkenburg, Esq.
Jason S. Hammond, Esq.
Susan R. Snowden, Esq.

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