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Monday, March 23, 2015

Connie M. Carr, Clerk
Circuit Court of Pocahontas County
900-C 10th Avenue
Marlinton, WV 24854

**Re: Black Bear Crossing, LLC v. CAS Structural Engineering
Pocahontas County, West Virginia
Civil Action No.: 14-C-32
Our File No.: 1670-2**

Dear Ms. Carr:

Please cause the enclosed **"Third-Party Defendant CAS's Structural Engineering, Inc.'s Answer to Counter Claim/Cross-Claim by Third Party Defendant JD & JT General Contractors Limited Liability Company"** to be placed in the appropriate Court file. The attorneys of record have been served with a copy of the same.

If you have any questions, please feel free to call.

Very truly yours,

Jason S. Hammond

JSH/hrb

Enclosure

cc: Teresa J. Dumire
Jane E. Harkins
Margaret Lewis Miner
Lawrence Morhous
Kenneth E. Webb, Jr.
Sean Calvin Workowski
Tink's Cottage Care at Snowshoe, LLC

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2015 MAR 25 P 1:38
CIRCUIT/FAMILY COURT
POCAHONTAS COUNTY, WV

IN THE CIRCUIT COURT OF POCAHONTAS COUNTY, WEST VIRGINIA

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

Plaintiff,

v.

**Civil Action No. 14-C-32(RR)
Honorable Robert E. Richardson**

**BLACK BEAR CROSSING, LLC,
GKS DEVELOPMENT, LLC,
THOMAS C. SELLS, III, BRIAN
KREIDER, MATTHEW GLOD,
JAMISON DESIGN, LLC, TYGARTS
VALLEY CONSTRUCTION, INC.,
SLOPESLIDE CONSTRUCTION, INC.,
TINK'S COTTAGE CARE AT
SNOWSHOE, LLC, and TREVE
PAINTER,**

Defendants,

and

**BLACK BEAR CROSSING, LLC,
GKS DEVELOPMENT, LLC,
THOMAS C. SELLS, III, BRIAN
KREIDER, MATTHEW GLOD,
JAMISON DESIGN, LLC, TYGARTS
VALLEY CONSTRUCTION, INC.,
SLOPESLIDE CONSTRUCTION, INC.,
TINK'S COTTAGE CARE AT
SNOWSHOE, LLC, and TREVE
PAINTER,**

Defendants,

**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, and JD & JT GENERAL
CONTRACTORS, LLC, TCC
CONTRACTING SERVICES, LLC**

Third-Party Defendants.

**THIRD-PARTY DEFENDANT CAS STRUCTURAL ENGINEERING, INC.S' ANSWER
TO COUNTER CLAIM/CROSS-CLAIM BY THIRD-PARTY DEFENDANT JD & JT
GENERAL CONTRACTORS LIMITED LIABILITY COMPANY**

Now comes Third-Party Defendant CAS Structural Engineering, Inc., (hereinafter “CAS”) through counsel, Jason S. Hammond, James W. Marshall, III and the law firm of Bailey & Wyant, PLLC and for its Answer to the Counter Claim/Cross-Claim of Third-Party Defendant JD & JT General Contractors Limited Liability Company states and avers as follows:

FIRST DEFENSE

The Counter Claim/Cross-Claim of Third-Party Defendant JD & JT General Contractors Limited Liability Company fails to state claims upon which relief may be granted and must be dismissed pursuant to *Rule 12 (b)(6) of the West Virginia Rules of Civil Procedure*.

SECOND DEFENSE

In response to the specific allegations set forth in the Counter Claim/Cross-Claim of Third-Party Defendant JD & JT General Contractors Limited Liability Company, Third-Party Defendant CAS responds as follows:

1. Paragraph 1 of the Counter Claim/Cross-Claim does not contain factual allegations against Third-Party Defendant CAS and therefore no response is deemed necessary. CAS incorporates by reference its responses set forth in its Answer to Third-Party Complaint, as well as any and all Affirmative Defenses set forth therein.
2. Third-Party Defendant CAS denies that it caused any damages to the Plaintiff.
3. Third-Party Defendant CAS denies that it caused or contributed to any damages claimed by the Plaintiff.
4. Paragraph 4 of the Counter Claim/Cross-Claim contains legal conclusions to which no response is deemed necessary. To the extent that paragraph 4 of the Counter Claim/Cross-Claim contains factual allegations against Third-Party Defendant CAS, Third-Party Defendant CAS denies any wrongdoing or causing any damages to the Plaintiff.
5. Paragraph 5 of the Counter Claim/Cross-Claim contains legal conclusions to which no response is deemed necessary. To the extent that paragraph 5 of the Counter Claim/Cross-Claim contains factual allegations against Third-Party Defendant CAS, Third-Party Defendant CAS denies the same and demands strict proof thereof.
6. Third-Party Defendant CAS denies that Third-Party Defendant JD & JT General Contractors is entitled to any relief requested in its “WHEREFORE” paragraph and respectfully requests that this Honorable Court dismiss the Counter Claim/Cross-Claim against it and award this Third-Party Defendant its attorney’s fees, costs, and expenses incurred in defending this action, as well as all further relief deemed just and appropriate.

THRID DEFENSE


Third-Party Defendant CAS denies any and all liability regarding this action.

FOURTH DEFENSE

Third-Party Defendant CAS incorporates by reference its Answer and any and all Affirmative Defenses as the same may be applicable to the Counter Claim/Cross-Claim filed by JD & JT General Contractors.

WHEREFORE, Third-Party Defendant CAS Structural Engineering, Inc., respectfully requests that the Counter Claim/Cross-Claim be dismissed, with prejudice, and that Third-Party Defendant CAS Structural Engineering, Inc. be awarded its attorney's fees, cost, and expenses incurred in defending this action, as well as all further relief deemed just and appropriate.

Respectfully submitted,
CAS Structural Engineering, Inc.,
By Counsel,



Jason S. Hammond (WV Bar #8042)
James W. Marshall, III (WV Bar #10677)
BAILEY & WYANT, PLLC
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PAINTER,**

Defendants,

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INC., CHAPMAN TECHNICAL GROUP,**

**LTD. LEON G. MALLOW SURVEYING,
INC., DOUGLAS J. GRIMES d/b/a MILL
RUN FARM, and JD & JT GENERAL
CONTRACTORS, LLC, TCC
CONTRACTING SERVICES, LLC**

Third-Party Defendants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of foregoing **"THIRD-PARTY
DEFENDANT CAS STRUCTURAL ENGINEERING, INC.S' ANSWER TO COUNTER
CLAIM/CROSS-CLAIM BY THIRD-PARTY DEFENDANT JD & JT GENERAL
CONTRACTORS LIMITED LIABILITY COMPANY"** was served upon the following
parties by U.S. Mail on this day, Monday, March 23, 2015 :

Jane E. Harkins
Pullin, Fowler, Flanagan, Brown & Poe, PLLC
600 Neville Street, 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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P. O. Box 1240
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*Co-Counsel for GKS Development, LLC
Thomas C. Sells, III, Brian Kreider, and Mathew Glod*

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Counsel for Tygarts Valley Construction

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Counsel for Plaintiff

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Counsel for Treve Painter
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Tink's Cottage Care at Snowshoe, LLC
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CIRCUIT/FAMILY COURT
POCAHONTAS COUNTY, W.VA.

Filed in this office this the 25th day
of March, 2015
Connie M. Carr, Clerk

By: Cindy D. Beveridge Deputy