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MARTINSBURG, WV 25404

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REPLY TO: Beckley
SENDERS E-MAIL: jharkins@pffwv.com
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March 23, 2015

Connie Carr
Pocahontas County Circuit Court
900-C 10th Avenue
Marlinton, WV 24954

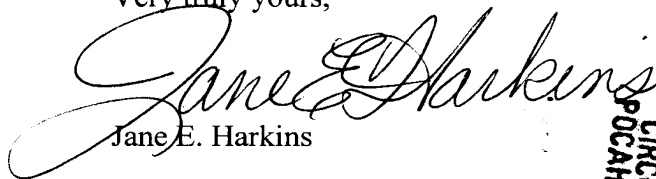
RE: ***Black Bear Crossing Town House Assoc v Black Bear Crossing LLC et al***
Civil Action No. 14-C-32(RR)

Dear Ms. Carr:

Enclosed you will find an original as well as a copy of our *Answer of Defendants Black Bear Crossing, LLC; ETAL, to Counterclaim/Cross-Claim by Third Party Defendant JD & JT General Contractors, LLC Against All Defendants (Including Those Who Are Third-Party Plaintiffs) and All Other Third-Party Defendants*. We ask that you please stamp the copy FILED and return to our office. All counsel of record have been served with copies.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,


Jane E. Harkins

JEH/smr

Enclosure(s)

cc: Sean Workowski, Esquire
Teresa Dumire, Esquire
Margaret Miner, Esquire
Kenneth Webb, Esquire

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2015 MAR 25 P 1:40
CIRCUIT/FAMILY COURT
POCAHONTAS COUNTY, WV

Lawrence Morhous, Esquire
Jason Hammond, Esquire
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Peter G. Zurbuch, Esquire
Susan Snowden, Esquire
Shawn C. Gillespie, Esquire
Leon G. Mallow
Jamison Design, LCC
Thomas Sells
Brian Kreider
Matthew Glod
Kristi Elliot (FC14-34)

RESPONSIVE PLEADING
Case Information Statement
(Two copies to be filed with pleading)

PLAINTIFF: BLACK BEAR CROSSING TOWNHOUSE ASSOCIATION, LLC

CASE NUMBER: 13-C-710-H

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

[X] **Answer to Counterclaim/Cross-Claim of JD & JT General Contractors, LLC filed by Defendant Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider and Matthew Glod on 03/23/15.**

Attorney Name: Jane E. Harkins (WV State Bar #5951)
Firm: Pullin, Fowler, Flanagan, Brown & Poe, PLLC
Address: 600 Neville Street, Suite 201
Beckley, WV 25801
&
Sean C. Workowski (WV State Bar #8871)
Frith, Anderson & Peake, PC
29 Franklin Road, Box 1240
Roanoke, Virginia, 24006-1240

Telephone: 304-254-9300 – Jane E. Harkins

Dated: 03/23/15

Representing ☐ Plaintiff

☒ Defendant - Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider and Matthew Glod

☐ Other (Identify) - _____


Signature

RESPONSIVE PLEADING
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Attorney Name: Jane E. Harkins (WV State Bar #5951)
Firm: Pullin, Fowler, Flanagan, Brown & Poe, PLLC
Address: 600 Neville Street, Suite 201
Beckley, WV 25801
&
Sean C. Workowski (WV State Bar #8871)
Frith, Anderson & Peake, PC
29 Franklin Road, Box 1240
Roanoke, Virginia, 24006-1240

Telephone: 304-254-9300 – Jane E. Harkins

Dated: 03/23/15

Representing ☐ Plaintiff

☒ Defendant - Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider and Matthew Glod

☐ Other (Identify) - _____


Signature

THE CIRCUIT COURT OF POCAHONTAS COUNTY, WEST VIRGINIA

**BLACK BEAR CROSSING TOWNHOUSE
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

**BLACK BEAR CROSSING, LLC,
a terminated West Virginia limited liability
company; GKS DEVELOPMENT, LLC a
foreign corporation; THOMAS C. SELLS,
III; BRIAN KREIDER; MATTHEW
GLOD; JAMISON DESIGN, LLC, a foreign
Corporation; TYGARTS VALLEY
CONSTRUCTION, INC., a West Virginia
corporation, SLOPESIDE
CONSTRUCTION, INC., a terminated West
Virginia corporation, TINK'S COTTAGE
CARE AT SNOWSHOE, LLC, a West
Virginia limited liability company, and
TREVE PAINTER,**

Defendants,

(and)

**BLACK BEAR CROSSING, LLC,
a terminated West Virginia limited liability
company; GKS DEVELOPMENT, LLC, a
foreign corporation; and TYGARTS
VALLEY CONSTRUCTION, INC.,**

Third-Party Plaintiffs,

v.

**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,**

Third-Party Defendants.

**ANSWER OF DEFENDANTS BLACK BEAR CROSSING, LLC; *ETAL*,
TO COUNTERCLAIM/CROSS-CLAIM BY THIRD-PARTY DEFENDANT
JD & JT GENERAL CONTRACTORS, LLC AGAINST
ALL DEFENDANTS (INCLUDING THOSE WHO ARE THIRD-PARTY
PLAINTIFFS) AND ALL OTHER THIRD-PARTY DEFENDANTS**

Now come Third-Party Plaintiffs, Black Bear Crossing; LLC; and GKS Development, LLC, and Defendants Thomas C. Sells, III; Brian Kreider, and Matthew Glod (collectively, “the BBC LLC Defendants”), by and through their counsel, Jane E. Harkins and Sean C. Workowski, without waiving any defenses, and file their Answer to the Counterclaim/Cross-Claim of Third-Party Defendant JD & JT General Contractors, LLC Against All Defendants (Including Those Who Are Third-Party Plaintiffs) And All Other Third-Party Defendants (“JD & JT’S Counterclaim/Cross-Claim”) served upon them, stating the following:

First Defense

The BBC LLC Defendants adopt and incorporate, as if fully re-stated herein, their previously filed Answer to the Plaintiff’s Complaint and Amended Complaint, including all Affirmative Defenses asserted therein.

Second Defense

The BBC LLC Defendants assert each and every affirmative defense required to be asserted by Rule 8(c) of the West Virginia Rules of Civil Procedure.

Third Defense

The BBC LLC Defendants deny that JD & JT is entitled to (1) judgment in its favor against the BBC LLC Defendants, (2) legal fees, expenses, and costs assessed against the BBC LLC Defendants, or (3) indemnification and/or contribution from the BBC LLC Defendants.

Fourth Defense

1. Paragraph 1 of JD & JT's Counterclaim/Cross-Claim asserts no allegations that need to be admitted or denied. To the extent a response is otherwise required, these allegations are denied by the BBC LLC Defendants.

2-5. The BBC LLC Defendants deny the allegations set forth in Paragraph Nos. 2 through 5 of JD & JT's Counterclaim/Cross-Claim.

6. The BBC LLC Defendants reserve the right to amend this Answer to JD & JT's Counterclaim/Cross-Claim.

7. The BBC LLC Defendants deny all allegations in JD & JT's Counterclaim/Cross-Claim not expressly admitted herein.

WHEREFORE, the BBC LLC Defendants request that JD & JT's Counterclaim/Cross-Claim filed against them be dismissed with prejudice and that they be awarded their costs and expenses, including attorney's fees incurred in this litigation.

**BLACK BEAR CROSSING, LLC; GKS
DEVELOPMENT, LLC; THOMAS C. SELLS,
III; BRIAN KREIDER AND MATTHEW
GLOD,**

By Counsel

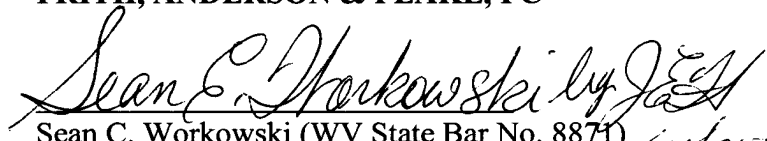
**PULLIN, FOWLER, FLANAGAN,
BROWN & POE, PLLC**


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*Counsel for Black Bear Crossing, LLC; GKS Development, LLC;
Thomas C. Sells, III; Brian Kreider, and Matthew Glod*

And

FRITH, ANDERSON & PEAKE, PC


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*Co-Counsel for GKS Development, LLC;
Thomas C. Sells, III; Brian Kreider, and Matthew Glod*

THE CIRCUIT COURT OF POCAHONTAS COUNTY, WEST VIRGINIA

**BLACK BEAR CROSSING TOWNHOUSE
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

**BLACK BEAR CROSSING, LLC,
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foreign corporation; THOMAS C. SELLS,
III; BRIAN KREIDER; MATTHEW
GLOD; JAMISON DESIGN, LLC, a foreign
Corporation; TYGARTS VALLEY
CONSTRUCTION, INC., a West Virginia
corporation, SLOPESIDE
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TREVE PAINTER,**

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(and)

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INC., CHAPMAN TECHNICAL GROUP,
LTD, LEON G. MALLOW SURVEYING,**

**INC., DOUGLAS J. GRIMES d/b/a MILL
RUN FARM, JD & JT GENERAL
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Third-Party Defendants.

**ANSWER OF DEFENDANTS BLACK BEAR CROSSING, LLC; *ETAL*,
TO COUNTERCLAIM/CROSS-CLAIM BY THIRD-PARTY DEFENDANT
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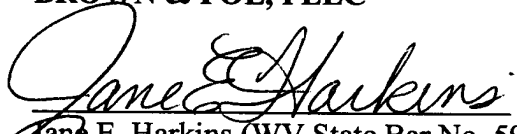
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WHEREFORE, the BBC LLC Defendants request that JD & JT's Counterclaim/Cross-Claim filed against them be dismissed with prejudice and that they be awarded their costs and expenses, including attorney's fees incurred in this litigation.

**BLACK BEAR CROSSING, LLC; GKS
DEVELOPMENT, LLC; THOMAS C. SELLS,
III; BRIAN KREIDER AND MATTHEW
GLOD,**

By Counsel

**PULLIN, FOWLER, FLANAGAN,
BROWN & POE, PLLC**



Jane E. Harkins (WV State Bar No. 5951)

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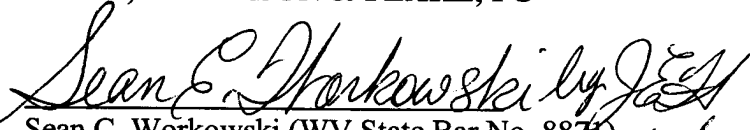
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*Counsel for Black Bear Crossing, LLC; GKS Development, LLC;
Thomas C. Sells, III; Brian Kreider, and Matthew Glod*

And

FRITH, ANDERSON & PEAKE, PC



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Co-Counsel for GKS Development, LLC;

Thomas C. Sells, III; Brian Kreider, and Matthew Glod

IN THE CIRCUIT COURT OF POCAHONTAS COUNTY, WEST VIRGINIA

**BLACK BEAR CROSSING TOWN
HOUSE ASSOCIATION, LLC,**

Plaintiff,

v.

CIVIL ACTION NO.: 14-C-32(RR)

BLACK BEAR CROSSING, LLC, *etal.*

Defendants.

CERTIFICATE OF SERVICE

The undersigned, counsel of record for Defendants/Third-Party Plaintiffs, Black Bear Crossing, LLC; GKS Development, LLC; Thomas C. Sells, III; Brian Kreider, and Matthew Glod, hereby certifies on this 23rd day of March, 2015, she served a true copy of the "**ANSWER OF DEFENDANTS BLACK BEAR CROSSING, LLC; *ETAL.*, TO COUNTERCLAIM/ CROSS-CLAIM BY THIRD-PARTY DEFENDANT JD& JT GENERAL CONTRACTORS, LLC AGAINST ALL DEFENDANTS (INCLUDING THOSE WHO ARE THIRD-PARTY PLAINTIFFS) AND ALL OTHER THIRD-PARTY DEFENDANTS**" upon the following person(s) by depositing same in the U.S. Mail, first class postage prepaid, so addressed:

Kenneth E. Webb, Jr., Esq.
Bowles, Rice, McDavid, Graff & Love, PLLC
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Charleston, WV 25325-1386
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Morgantown, West Virginia 26505
Counsel for Tygarts Valley

Margaret L. Miner, Esq.
Shuman McCuskey & Slicer, PLLC
1445 Stewartstown Road, Suite 200
Morgantown, West Virginia 26505
Counsel for Treve Painter, Slopeside, Tink's

Jamison Design LLC, *Defendant*
c/o Steve Jamison
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Daleville, Virginia 24083

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Counsel for Chapman Technical Group

Peter G. Zurbuch, Esq.
P.O. Box 1819
Elkins, WV 26241-1819
Counsel for Douglas Grimes

Leon G. Mallow Surveying, Inc., *Third-Party Defendant*
c/o Leon G. Mallow
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Montrose, WV 26283

Shawn C. Gillespie, Esq.
Kesner & Kesner, PLLC
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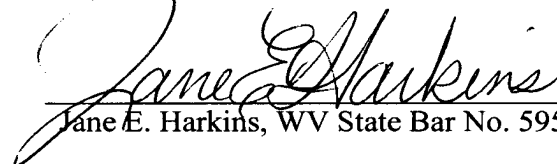
Pursuant to Rule 4(b) of the W.Va. Rules of Civil Procedure, as the address of the following party is not known, same is being left with the Clerk of the Court:

TCC Contracting, LLC, *Third-Party Defendant*

CIRCUIT/FAMILY COURT
POCAHONTAS COUNTY, W.VA.

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

By: Candy D. Beverage, Deputy


Jane E. Harkins, WV State Bar No. 5951

**PULLIN, FOWLER, FLANAGAN,
BROWN & POE, PLLC**

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