

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

December 28, 2009

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RE: Water's Edge Condominium Association, Inc. v. Bunting Construction Corporation
and Bunting Construction Corporation v. Georgia-Pacific Corporation
C.A. No. S09C-06-035(THG)

Dear Counsel:

Upon consideration of the two pleadings and legal submissions, I am denying the Motion to Dismiss filed by Georgia-Pacific Corporation, pursuant to Superior Court Civil Rule 12.

At this time I shall not rule upon the substantive merits of the motion because I am granting Bunting Construction Corporation's Motion to Amend the Third Party Complaint. Without getting into antics with semantics, I note that the third party complaint includes a warranty claim. The amended third party complaint makes the warranty claim more specific.

It is appropriate that an answer be filed and discovery permitted as to Bunting Construction Corporation's claim that discovery will substantiate its position.

Thereafter, I expect there will be a renewal of the positions expressed thus far, but by way of a motion for summary judgment.

Georgia-Pacific Corporation's Motion for Judgment on the Pleadings and to Dismiss For Failure to State A Claim Upon Which Relief Can Be Granted is denied.

Bunting Construction Corporation's Motion to Amend Verified Answer and Third Party Complaint is granted.

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IT IS SO ORDERED.

Very truly yours,

/s/ T. Henley Graves

T. Henley Graves

cc: Prothonotary
Lisa Zwally Brown, Esquire

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