

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

WESTFIELD INSURANCE COMPANY,)	
a foreign corporation,)	
)	
Plaintiff,)	
)	
vs.)	Case No. _____
)	
PATRICK J. COOK, individually,)	
DARLA W. COOK, individually, PAT COOK)	
CONSTRUCTION, INC., a Florida)	
corporation, and TJC PROPERTIES, LLC,)	
a Florida Limited Liability Company,)	
jointly and severally,)	
)	
Defendants.)	
)	
_____)	

COMPLAINT

The Plaintiff, WESTFIELD INSURANCE COMPANY, a foreign corporation, sues the Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, jointly and severally, and alleges:

1. This is an action for damages in an amount in excess of \$15,000.00, exclusive of interest, costs and attorneys' fees.
2. The Plaintiff, WESTFIELD INSURANCE COMPANY, is a foreign corporation, duly qualified to conduct and transact business in the State of Florida, including the providing of bond instruments for public, quasi-public and private works.

3. The Defendant, PATRICK J. COOK, is a citizen and resident of the State of Florida, residing in Manatee County, Florida.

4. The Defendant, DARLA W. COOK, is a citizen and resident of the State of Florida, residing in Manatee County, Florida.

5. The Defendant, PAT COOK CONSTRUCTION, INC., is a corporation organized and existing under the laws of the State of Florida, with its principal place of business in Manatee County, Florida.

6. The Defendant, TJC PROPERTIES, LLC, is a Florida Limited Liability Company, with its principal place of business in Manatee County, Florida.

7. On or about September 23, 2007, the Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, executed and delivered Agreement of Indemnity instrument in favor of the Plaintiff, WESTFIELD INSURANCE COMPANY; and a copy of the said Agreement of Indemnity is attached hereto, incorporated by reference and made a part hereof as Exhibit A.

8. In reliance upon the subject Agreement of Indemnity, Exhibit A, the Plaintiff, WESTFIELD INSURANCE COMPANY, as Surety, executed and delivered multiple bond instruments, wherein the Defendant, PAT COOK CONSTRUCTION, INC., a Florida corporation, is/was Bond Principal, including but not limited to: Payment and Performance Bonds for the Saint Johns County, Florida, school construction projects known as Wards Creek and Timberlin Creek Elementary Schools; Payment and Performance Bonds for the Nassau County, Florida, school

construction project known as Southside Elementary School; Lien Transfer Bond for Claim of Lien of K&L Hauling, Inc.; and Lien Transfer Bonds involving Advanced Engineered Systems Corporation and IES Commercial, Inc., formerly known as Aladdin Ward Electric & Air, Inc.; and the original of the bond instruments are in the possession of the respective named Bond Obligees, with copies of the same already being in the possession of the Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company.

9. The Plaintiff, WESTFIELD INSURANCE COMPANY, as Surety, received multiple and numerous bond claims and lawsuits as a result of having written and provided the subject bond instruments for the Defendant, PAT COOK CONSTRUCTION, INC., as Bond Principal.

10. The Plaintiff, WESTFIELD INSURANCE COMPANY, reasonably, properly and appropriately investigated the said claims and litigation matters; and the Plaintiff, WESTFIELD INSURANCE COMPANY, as Surety and Indemnatee, reasonably, properly and appropriately set and established initial loss reserves in the initial amount of \$600,000.00.

11. By correspondence dated February 22, 2013, the Plaintiff, WESTFIELD INSURANCE COMPANY, made formal written demand for collateral in the aggregate amount of \$600,000.00; and a copy of the said demand letter of February 22, 2013, is attached hereto, incorporated by reference and made a part hereof as Exhibit B.

12. The Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, have materially breached and defaulted upon their obligations under the Agreement of Indemnity, Exhibit A, by failing and/or refusing to deposit and provide collateral as set forth in the Agreement of Indemnity, Exhibit A, and the demand of February 22, 2013, Exhibit B, or in any other amount or sum.

13. As of September 20, 2013, the Plaintiff, WESTFIELD INSURANCE COMPANY, has sustained and incurred losses and loss payments, after reasonable, proper and appropriate investigation, as follows:

- A. \$27,973.94 as settlement of the suit by Tregoning Industries Corporation; and a copy of the check dated March 19, 2013, is attached hereto, incorporated by reference and made a part hereof as Exhibit C.
- B. \$34,000.00 as settlement of the suit by R&B Contracting; and a copy of the check dated April 23, 2013, is attached hereto, incorporated by reference and made a part hereof as Exhibit D.
- C. \$350,000.00 as settlement of the suit by Quality Sheet Metal, Inc.; and a copy of the check dated July 19, 2013, is attached hereto, incorporated by reference and made a part hereof as Exhibit E.
- D. \$31,640.82 as settlement of the suit by McMaster Grassing, LLC; and a copy of the check dated September 3, 2013, is attached hereto, incorporated by reference and made a part hereof as Exhibit F.

14. The Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, jointly and severally, are liable to and owe the Plaintiff, WESTFIELD INSURANCE COMPANY, as Surety and Indemnitee, for the same in the indicated total principal amount of \$443,614.76, together with pre-judgment interest from the date of each payment, pursuant to contract.

15. Subsequent to the establishment of the initial loss reserves of \$600,000.00, the Plaintiff, WESTFIELD INSURANCE COMPANY, has since reasonably, appropriately and properly set and established additional loss reserves in the additional amount of \$32,001.00; and demand for payment of the same is hereby made.

16. As a result of the said claims and suits, the Plaintiff, WESTFIELD INSURANCE COMPANY, has sustained and incurred loss adjusting expenses, costs, expenses and attorneys' fees in the principal amount of \$48,489.83 through August 31, 2013, for all of which the Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, jointly and severally, are liable and responsible pursuant to contract; and demand for payment of the same is hereby made.

17. Based upon the foregoing, the Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, jointly and severally, are also liable to and owe the Plaintiff, WESTFIELD INSURANCE COMPANY, for the principal amount of \$188,386.44 as and for the unused portion of the Reserve which was initially set and established,

which said Reserve has not been paid in whole or in part by the Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, jointly and severally.

18. The Plaintiff, WESTFIELD INSURANCE COMPANY, has complied with all conditions precedent prior to the institution of this action, or the same have otherwise occurred.

19. The Plaintiff, WESTFIELD INSURANCE COMPANY, has engaged the services of the undersigned attorneys and has agreed to pay its attorneys reasonable attorneys' fees for their professional services with regard to this matter, and has and will incur costs and expenses, for all of which the Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, jointly and severally, are liable and responsible pursuant to contract.

WHEREFORE, the Plaintiff, WESTFIELD INSURANCE COMPANY, a foreign corporation, demands judgment for damages against the Defendants, PATRICK J. COOK, individually, DARLA W. COOK, individually, PAT COOK CONSTRUCTION, INC., a Florida corporation, and TJC PROPERTIES, LLC, a Florida Limited Liability Company, jointly and severally, for: the amount of actual loss payments in the principal amount of \$443,614.76, together with pre-judgment interest from the date of each payment and disbursement; loss adjusting expenses, costs and attorneys' fees in the principal amount of \$48,489.83 through August 31, 2013, together

with pre-judgment interest from the date of each disbursement and payment; the principal amount of \$188,386.24 as and for the current unused loss reserves; and together with its costs, expenses and attorneys' fees with regard to this matter.

Robert E. Morris
MORRIS LAW FIRM
245 East Washington Street
Monticello, Florida 32344
(850) 997-0440 – Telephone
(850) 997-2567 – Facsimile
E-Mail: remorrislawfirm@gmail.com

AND

Julie Fox Jones, Esquire
ROBERT E. MORRIS, P.A.
1211 North Westshore Boulevard
Suite 200
Tampa, Florida 33607
(813) 289-0440 – Telephone
(813) 289-7652 – Facsimile
E-Mail: jfoxjones@rempa.com
Attorneys for WESTFIELD INSURANCE
COMPANY

By: _____


ROBERT E. MORRIS, Florida Bar No. 152137

DESIGNATION OF E-MAIL ADDRESSES

WESTFIELD INSURANCE COMPANY, by and through its undersigned attorneys and pursuant to Florida Rule of Judicial Administration 2.516 and Florida Rule of Civil Procedure 3.010, hereby designates its counsel's primary and secondary e-mail addresses in the above-styled cause as follows:

Primary: Robert E. Morris – remorrislawfirm@gmail.com

Secondary: Julie Fox Jones – jfoxjones@rempa.com