

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FAIRFAX COUNTY WATER AUTHORITY,)

Plaintiff,)

v.)

CITY OF FALLS CHURCH,)

Defendant.)

CL-2008-16114

ORDER

THIS MATTER came before the Court on Defendant City of Falls Church's Motion for Leave to Amend Its Answer to Include Its Counterclaim and Third Party Claim. Upon consideration of the Motion, the parties' legal memoranda and oral arguments, and for the reasons stated from the bench, it is hereby

ORDERED that:

① THE MOTION FOR LEAVE TO AMEND IS GRANTED AND THE THIRD PARTY COMPLAINT AND COUNTERCLAIM ARE DEEMED FILED AS OF MAY 22, 2009, THE COURT FINDING THAT THE COUNTY AND BOARD OF SUPERVISORS ARE NECESSARY PARTIES UNDER RULE 3:12 WITH REGARD TO COUNTS I, II AND IV OF THE FIRST AMENDMENT COMPLAINT.

② IF THE COUNTY AND BOARD OF SUPERVISORS SEEK A CONTINUANCE OF THE TRIAL DATE, THEY ~~ARE~~ ARE ENTITLED TO ONE, WITHOUT PREJUDICE TO FAIRFAX WATER'S FILING A MOTION FOR SEVERANCE AS TO COUNT I.

③ THE COUNTY AND BOARD OF SUPERVISORS SHALL ELECT TO BE JOINED EITHER AS AN INVOLUNTARILY PLAINTIFF, OR DEFENDANT.

Dated: May 22, 2009

Heslie Alden by eke
Judge, Fairfax County Circuit Court

SEEN AND OBJECTED TO FOR ALL REASONS WRITTEN ANY ORAL, AND BECAUSE
RULE 3:12 DOES NOT APPLY TO ALLOW A 3D PARTY COMING IN. AND ALSO BECAUSE
THE CITY FAILED TO SEEK TO JOIN THE
3D PARTY TIMELY AFTER FILING THE
1st Amended Complaint.

Stuart A. Raphael
Stuart A. Raphael (VSB No. 30380)
Jill M. Dennis (VSB No. 43466)
Patricia M. Moody (VSB No. 73229)
HUNTON & WILLIAMS LLP
1751 Pinnacle Drive, Suite 1700
McLean, Virginia 22102
(703) 714-7400 (telephone)
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SEEN AND objected to in respect of the special appearance
by the County of Fairfax and
the Board of Supervisors of
Fairfax County.

Alexander Y. Thomas
Alexander Y. Thomas (VSB No. 36170)
Richard D. Holzheimer (VSB No. 40803)
Brent R. Gary (VSB No. 66592)
REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Virginia 22042
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SEEN AND OBJECTED TO, by special appearance for all
of the reasons stated in the oppositions of the County, the
Board, and ~~the Board~~ argument by counsel for Fairfax
Water and counsel for the County and Board and
because Rule 3:13, the County and the Board cannot
be added as a third party.

Cynthia Frantz
Senior Ass. Co. Atty

A COPY TESTE:
JOHN T. FREY, CLERK

BY: Patty B. Whelden
Deputy Clerk

Date: 5/22/09
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia