

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FEDERAL DEPOSIT INSURANCE
CORPORATION as receiver for
Silverton Bank, N.A.,

Plaintiff,

v.

TOM A. BRYAN, et al.,

Defendants.

CIVIL ACTION FILE
NO. 1:11-CV-2790-TWT

ORDER

This is an action by the Federal Deposit Insurance Corporation against the officers and directors of a failed bank. It is before the Court on the Motion for Partial Summary Judgment [Doc. 295] of the former directors of Silverton Bank. In this motion, the former directors seek payment of defense fees incurred and indemnification of claims against them by the Federal Deposit Insurance Corporation (“FDIC”) for their alleged errors or omissions in connection with the former directors’ status as board members of the now failed Silverton Bank. Federal has denied coverage, claiming that its policy should be “reformed” to add a “regulatory exclusion,” which exclusion is not contained in Federal’s policy, as issued. Based upon that presently non-existent exclusion, Federal claims that it may deny all

coverage to the former directors because the exclusion applies to actions by “regulators” and the FDIC is a regulator. The complaint in this Action plainly alleges negligent acts and omissions by the former directors in their capacities as such, and Federal’s policy, as written, covers such allegations. Thus, under clear Georgia law, Federal’s duty to advance the former directors’ defense costs incurred in responding to the FDIC’s claims has been triggered. Federal’s effort to reform the policy to include a regulatory exclusion has been defeated. Therefore, the Motion for Partial Summary Judgment [Doc. 295] of the former directors of Silverton Bank is GRANTED.

SO ORDERED, this 18 day of March, 2016.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge