

<p>DISTRICT COURT, DENVER COUNTY STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202</p>	<p>DATE FILED: October 23, 2019 8:38 AM FILING ID: 4DAC9FE564D35 CASE NUMBER: 2019CV33374</p>
<p><b>Plaintiff:</b> Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC.</p> <p>v.</p> <p><b>Defendants:</b> Russell Becker, Joseph J. Pierce, and Ken Stoltzfus.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Receiver: Patrick D. Vellone, #15284 Michael T. Gilbert, #15009 Rachel A. Sternlieb, #51404 Jeremy T. Jonsen, #48859 ALLEN VELLONE WOLF HELFRICH &amp; FACTOR P.C. 1600 Stout St., Suite 1100 Denver, Colorado 80202 Phone Number: (303) 534-4499 mgilbert@allen-vellone.com pvellone@allen-vellone.com jjonsen@allen-vellone.com rsternlieb@allen-vellone.com</p>	<p>Case Number: 19CV33374 Division/Courtroom: 269</p>
<p style="text-align: center;"><b>MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANT KEN STOLTZFUS</b></p>	

Plaintiff, Harvey Sender, solely in his capacity as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC (the “Receiver”), pursuant to C.R.C.P. 55(a), asks the Clerk to enter default against Defendant Ken Stoltzfus (“Defendant”).

**I. Certificate regarding conferral pursuant to C.R.C.P. 121, § 1-15(8):**

Defendant has been served with the summons and complaint but has not contacted counsel for the Receiver, entered an appearance, or filed a responsive pleading. Accordingly, no conferral is required.

**II. Request for entry of default**

1. The Receiver filed his Complaint against Defendant, among others, on August 30, 2019.

2. Defendant was served with the Complaint in Pennsylvania on September 11, 2019. *See* Affidavit of Service filed with the Court on September 19, 2019.

3. Pursuant to C.R.C.P. 12(a)(2), Defendant was required to respond to the Complaint within 35 days, by October 16, 2019. To date, Defendant has not contacted the Receiver to request an extension to respond to the Complaint, filed a responsive pleading, or otherwise defended.

4. C.R.C.P. 55(a) provides that, “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter his default.”

5. Because Defendant was properly served and has failed to timely file a responsive pleading, default should enter.

WHEREFORE, the Receiver requests that the Clerk enter default against Defendant Ken Stoltzfus.

Dated: October 23, 2019

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.



By: /s/ Jeremy T. Jonsen

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ATTORNEYS FOR THE PLAINTIFF, AS RECEIVER

**CERTIFICATE OF SERVICE**

I hereby certify that on October 23, 2019, I served a true and correct copy of the foregoing on the Colorado Courts E-Filing system, where no parties or counsel have yet entered an appearance in this case and also mailed the foregoing via certified mail to Ken Stoltzfus, at the address listed below where he was served process.

Ken Stoltzfus (via certified mail)  
3730 Country Lane  
Gordonville, PA 17529



s/ Lisa A. Vos

Allen Vellone Wolf Helfrich & Factor P.C.

**AFFIDAVIT OF SERVICE** FILED: Sep 23 2019 3:38 PM  
FILE NO: DA 2019063604D35  
CASE NUMBER: 19CV33374

State of Colorado

County of Denver

District Court

Case Number: 19CV33374

Plaintiffs:

Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC and GDA Real Estate Management, LLC

vs.

Defendants:

Russell Becker, Joseph J. Peirce, and Ken Stoltzfus

For: Allen Vellone Wolf Helfrich & Factor, PC

Received by Front Range Legal Process Service, Inc. on the 9th day of September, 2019 at 1:28 pm to be served on Ken Stoltzfus, 3730 Country Lane, Gordonville, PA 17529. I, Terry Baumgardner, being duly sworn, depose and say that on the 11<sup>th</sup> day of September, 2019 at 4:29 p.m., executed service by delivering a true copy of the Summons; Complaint; Delay Reduction Order; Civil Coversheet; Exhibits in accordance with state statutes in the manner marked below:

INDIVIDUAL SERVICE: Served the within-named person.

SUBSTITUTE SERVICE: By Serving \_\_\_\_\_ as \_\_\_\_\_

POSTING \_\_\_\_\_

(A) DESCRIPTION ) Age 70 Sex Male Race white Height 6'2" Weight 180 Hair Gray Glasses No

( ) NON SERVICE: See Comments

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Subscribed and Sworn to before me on the 16<sup>th</sup> day of September, 2019 by the affiant who is personally known to me.

[Signature]  
NOTARY PUBLIC  
09/28/2019  
NOTARY EXPIRATION DATE

Commonwealth of Pennsylvania - Notary Seal  
John F. Shinkowsky, Notary Public  
Dauphin County  
My commission expires September 28, 2022  
Commission number 1151303

[Signature]  
PROCESS SERVER # None  
Appointed in accordance with State Statutes

Front Range Legal Process Service, Inc.  
145 W. Swallow Road  
Fort Collins, CO 80525  
(888) 387-3783

Our Job Serial Number: 2019006360