

DISTRICT COURT, DENVER COUNTY,
STATE OF COLORADO

Court Address:
1437 Bannock Street
Denver, CO 80202

Plaintiffs: HARVEY SENDER, AS
RECEIVER FOR GARY DRAGUL;
GDA REAL ESTATE SERVICES,
LLC; AND GDA REAL ESTATE
MANAGEMENT, LLC

vs.

Defendants: GARY DRAGUL, an
individual; BENJAMIN KAHN, an
individual; THE CONUNDRUM GROUP,
LLP, a Colorado limited liability company;
SUSAN MARKUSCH, an individual;
ALAN C. FOX, an individual; ACF
PROPERTY MANAGEMENT, INC., a
California corporation; MARLIN S.
HERSHEY, an individual; and
PERFORMANCE HOLDINGS, INC., a
Florida corporation; JOHN AND JANE
DOES 1-10; and XYZ CORPORATIONS
1-10

Counsel for Defendants :

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Courtroom: 414

**PARTIALLY UNOPPOSED MOTION OF DEFENDANTS PERFORMANCE
HOLDINGS AND MARLIN HERSHEY FOR EXTENSION OF TIME**

Defendants Performance Holdings, Inc., and Marlin Hershey (collectively “These

Defendants”) , through counsel, respectfully request an extension of time up to and including 31 March 2020 to file a response to the Complaint. In support of this Motion These Defendants state the following.

1. These Defendants were served with summonses and a copy of the Complaint in North Carolina on 4 February 2020. Mr. Hershey operates Performance Holdings out of North Carolina. In short order after being served, These Defendants sought legal counsel here in Colorado. However, due to the expense and uncertainty of hiring counsel so far from his home state, Mr. Hershey and his company were not able to retain the undersigned until yesterday.

2. Under C.R.C.P. 12(a)(2), the response to the Complaint by These Defendants is due today, 10 March 2020. The Complaint is 67 pages long, contains 271 paragraphs, some with sub-parts, and attaches twenty exhibits. The lawsuit involves fourteen claims for relief, three plaintiffs, and eight named defendants, along with twenty as-yet un-named individual and corporate defendants.

3. In short, this case appears complex. As such, undersigned counsel for These Defendants needs adequate time to investigate this matter and to formulate an appropriate response to the Complaint. These Defendants accordingly ask for an extension of twenty-one days from today, up to and including 31 March 2020, within which to respond to the Complaint.

4. Conferral: In conformity with C.R.C.P. 121 § 1-15(8), undersigned counsel for These Defendants communicated with counsel for Plaintiffs regarding the relief requested by this Motion. Ms. Sternlieb, one of the lawyers for Plaintiffs, advised that Plaintiffs did not oppose an extension of time of seven days, up to and including 17 March 2020, for These Defendants to respond to the Complaint, but did oppose a 21-day extension.

5. In response to this position, These Defendants suggest that seven days is not enough time for their new counsel properly to familiarize themselves with all of intricacies of this matter, as is necessary to file an appropriate response to the Complaint. These Defendants also note that this Court, under identical circumstances (*i.e.*, counsel had just been retained), granted the request of Defendant Markusch, without objection from Plaintiffs, for an extra 21 days to respond to the Complaint. These Defendants ask for the same treatment here.

WHEREFORE, These Defendants respectfully urge that this Motion be granted.

Dated this 10th day of March 2020.

Respectfully Submitted

S/Thomas E. Goodreid
Thomas E. Goodreid

CERTIFICATE OF ELECTRONIC FILING

Pursuant to Colorado Rule of Civil Procedure 121 sec. 1-26(7), I hereby certify that an original of this **PARTIALLY UNOPPOSED MOTION OF DEFENDANTS PERFORMANCE HOLDINGS AND MARLIN HERHEY FOR EXTENSION OF TIME** (with original signatures), which was e-filed, is maintained by my office and is available for inspection by other parties or the Court upon request.

S/Thomas E. Goodreid
Thomas E. Goodreid