

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; OLSON REAL
ESTATE SERVICES, LLC, a Colorado
limited liability company; JUNIPER
CONSULTING GROUP, LLC, a Colorado
limited liability company; JOHN AND
JANE DOES 1-10; and XYZ
CORPORATIONS 1-10

Counsel for Defendants Performance Holdings, Inc.
and Marlin Hershey:

Thomas E. Goodreid
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Courtroom: 414

**JOINT UNOPPOSED MOTION OF DEFENDANTS FOR EXTENSION OF TIME TO
RESPOND TO RECEIVER'S FIRST AMENDED COMPLAINT**

Defendants Gary Dragul, Benjamin Kahn, The Conundrum Group, LLP, Susan

Markusch, Olson Real Estate Services, LLC, Alan C. Fox, ACF Property Management, Inc., Marlin S. Hershey, and Performance Holdings, Inc. (collectively, “Defendants”) file their Joint Unopposed Motion of Defendants for Extension of Time to Respond to Receiver’s First Amended Complaint and, in support thereof, respectfully set forth as follows:

1. **C.R.C.P. 121, § 1-15(8) CERTIFICATION:** Prior to filing this Motion, Paul M. Grant, counsel for Marlin Hershey and Performance Holdings, Inc., conferred with Michael Gilbert, counsel for the Receiver, on behalf of the Defendants. Mr. Gilbert stated that the Receiver does not oppose the relief requested herein.

2. On June 1, 2020, the Receiver filed his First Amended Complaint. The First Amended Complaint is 127 pages and contains 448 numbered paragraphs and 45 exhibits. In the First Amended Complaint, the Receiver alleges twelve (12) claims against eight Defendants and up to twenty (20) unnamed parties.

3. Pursuant to C.R.C.P. 15(a), Defendants’ deadline to respond to the First Amended Complaint is June 15, 2020. Given the length and factual and legal complexity of the First Amended Complaint, Defendants’ fourteen (14) day response time does not provide Defendants with sufficient time to review the First Amended Complaint and formulate, research, and draft their respective responses thereto. Accordingly, Defendants respectfully request an extension of time of twenty-one (21) days – or up to and until July 6, 2020 – to respond to the First Amended Complaint.

4. C.R.C.P. 6(b) governs requests to enlarge deadlines and provides the Court with broad discretion to extend deadlines if the request for the extension is made prior to the expiration of the prescribed period. C.R.C.P. 6(a) (2020). For the reasons set forth herein, an extension of Defendants’ deadline to respond to the First Amended Complaint is warranted. Additionally, Defendants do not make this request for any dilatory purpose and allowing Defendants an additional three weeks to respond to the First Amended Complaint will not

prejudice the Receiver or the Court.

5. In accordance with C.R.C.P. 121 § 1-11, the undersigned counsel certify that they have served a copy of this Motion upon their respective clients.

Respectfully submitted this 5th day of June 2020.

By: /s/Paul M. Grant
Paul M. Grant

*Attorneys for Performance
Holdings, Inc. and Marlin Hershey*

By: /s/Lucas T. Ritchie
Lucas T. Ritchie

*Attorneys for Alan C. Fox and
ACF Property Management*

By: /s/Thomas F. Quinn
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*Attorneys for Susan Markusch and
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By: /s/John M. Palmeri
John M. Palmeri

*Attorneys for Benjamin Kahn and
The Conundrum Group*

By: /s/Christopher S. Mills
Christopher S. Mills

Attorneys for Gary Dragul

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via Colorado Courts E-Filing on this 5th day of June 2020:

Allen Vellone Wolf Helfrich and Factor PC

Michael Thomas Gilbert
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/s/Paul M. Grant

Paul M. Grant