

DISTRICT COURT, DENVER COUNTY STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202	DATE FILED: August 4, 2022 10:03 PM FILING ID: 18DAD33092749 CASE NUMBER: 2020CV30255
<p>Plaintiff: HARVEY SENDER, AS RECEIVER FOR GARY DRAGUL, GDA REAL ESTATE SERVICES, LLC, AND GDA REAL ESTATE MANAGEMENT, LLC</p> <p>v.</p> <p>Defendants: GARY J. 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.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Defendant Gary J. Dragul</i> Christopher S. Mills, Atty. Reg. No. 42042 Paul L. Vorndran, Atty. Reg. No. 22098 Jones & Keller, P.C. 1675 Broadway, 26th Floor Denver, CO 80202 Phone: 303-573-1600 Email: cmills@joneskeller.com pvorndran@joneskeller.com</p>	<p>Case No. 2020CV30255</p> <p>Courtroom: 414</p>
DEFENDANT GARY J. DRAGUL’S NOTICE OF DESIGNATION OF NON-PARTIES AT FAULT	

Pursuant to C.R.S. § 13-21-111.5(3)(b), Defendant Gary J. Dragul, through counsel, provides notice that the following nonparties may be wholly or partially at fault for the claims alleged by Plaintiff Harvey Sender, as Receiver (“Receiver”) in this action, including for all claims the Receiver asserts on behalf of the entities in receivership or purportedly on behalf of

investors. This designation of nonparties at fault by Mr. Dragul is not a waiver of any defense to the Receiver's claims, or any acknowledgement that the Receiver or any person or entity on whose behalf the Receiver purports to assert the claims has suffered any injuries or damages.

1. Though notice of designation of a nonparty at fault who settled with the Plaintiff is not required under C.R.S. § 13-21-111.5 to consider that nonparty at fault's proportionate liability, *Blatchley v. St. Anthony Summit Med. Ctr.*, 822 F. App'x 663, 669 (10th Cir. 2020), Mr. Dragul hereby invokes C.R.S. § 13-21-111.5 to alert the Parties and the Court that proportionate fault should be allocated to those persons or entities, whether or not formerly parties to the above-entitled action, with whom the Receiver settled, to the extent the claims settled relate in any way to the injuries alleged by the Receiver to the GDA Entities or the investors on whose behalf the Receiver purports to assert claims. Mr. Dragul reserves the right prior to judgment to specifically identify and have fault allocated to such persons or entities.

Mr. Dragul further reserves the right to seek to amend his Nonparty at Fault Designations if and when he learns of additional information, through discovery or otherwise, indicating fault of additional third parties.

Dated this 4th day of August, 2022.

JONES & KELLER, P.C.

s/ Christopher S. Mills

Christopher S. Mills, #42042

Paul L. Vorndran, #22098

*ATTORNEYS FOR DEFENDANT GARY J.
DRAGUL*

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of August, 2022, a true and correct copy of the foregoing **DEFENDANT GARY J. DRAGUL'S NOTICE OF DESIGNATION OF NON-PARTIES AT FAULT** was filed and served via the Colorado Courts E-Filing System upon the following:

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