

DISTRICT COURT, DENVER COUNTY  
STATE OF COLORADO  
Denver District Court  
1437 Bannock St.  
Denver, CO 80202

DATE FILED: September 6, 2022 11:31 AM  
FILING ID: 137E1153E57A7  
CASE NUMBER: 2020CV30255

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

v.

**Defendants:** GARY J. DRAGUL, an individual; BENJAMIN KAHN, an individual; THE CONUNDRUM GROUP, LLP, a Colorado Limited Liability Company; SUSAN MARKUSCH, an individual; MARLIN S. HERSHEY, an individual; PERFORMANCE HOLDINGS, INC., a Florida Corporation; OLSON REAL ESTATE SERVICES, LLC, a Colorado Limited Liability Company; JOHN AND JANE DOES 1-10; and XYZ CORPORATIONS 1-10.

**Attorneys for Defendants Susan Markusch and Olson Real Estate Services, LLC:**

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▲ COURT USE ONLY ▲

Case No.: 2020CV30255

Courtroom: 414

**MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANTS  
SUSAN MARKUSCH AND OLSON REAL ESTATE SERVICES, LLC  
WITH CLIENT CONSENT**

Pursuant to C.R.C.P. 121(2)(b), E. Job Seese, formerly of the law firm Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C. (“Hall Estill”) hereby respectfully moves to withdraw as counsel of record for Defendants Susan Markusch and Olson Real Estate Services, LLC (hereafter collectively “Markusch”) in the above-referenced action, with the clients’ consent.

Joshua Kirk McGill appears in this matter as counsel for Markusch for the limited purpose of filing this Motion.

**Certificate of Conferral/Compliance with C.R.C.P. 121 § 1-15(8)**

Counsel for Markusch certifies that they conferred with counsel for all parties on September 6, 2022. Counsel for the Plaintiff stated in an email that the Plaintiff opposes the 60-day stay requested herein.

**BACKGROUND AND MOTION**

1. The undersigned counsel appears in this matter for the limited purpose of filing this Motion.

2. Markusch will be provided, and the other Parties will be served, a copy of this Motion.

3. E. Job Seese, counsel for Markusch, has left his employment with Hall Estill for another firm, and that firm cannot represent Markusch due to a conflict.

4. The undersigned has informed Markusch that Hall Estill desires to withdraw as counsel for Clients in this matter due to the departure of Mr. Seese and irreconcilable differences between Markusch and Hall Estill concurrent to that separation. Hall Estill is accordingly unable to represent Markusch consistent with the obligations of its attorneys under the Colorado Rules of Professional Conduct. Hall Estill can provide further information regarding these irreconcilable differences to the Court in an *ex parte* proceeding (to protect Markusch's rights and privileges) should the Court so desire.

5. Markusch consents to the withdrawal.

6. Mr. Seese consents to the withdrawal.

7. Hall Estill has provided (or provides herein) all requisite notices under the Rules of Professional Conduct and Rules of Civil Procedure to Markusch.

8. Accordingly, the undersigned respectfully moves the Court on behalf of Hall Estill for leave to withdraw from this action as counsel of record and to be removed from the list of counsel receiving notifications.

9. Pursuant to C.R.C.P. 121 § 1-1(2)(b), undersigned counsel provides the following advisements to Markusch:

- a. This Court retains jurisdiction of this action;
- b. Markusch has the burden of keeping this Court, and the other parties to this action, informed where notices, pleadings, or other papers may be served;
- c. Markusch has the obligation to prepare for any other hearing and/or hire other counsel to prepare for these hearings;
- d. If Markusch fails or refuses to comply with all court rules and orders, they may suffer possible dismissal, default, or other sanctions;
- e. There are current deadlines pending in relation to this case, which have

been communicated to Markusch, as follows:

- Trial management conference – 28 days before trial
- Expert witness disclosures – 1/30/23
- Dispositive Motions – 6/27/22
- Discovery cutoff – 3/20/23
- Complete Alternative Dispute Resolution – 8/1/22
- Certificate of completion of ADR – 8/8/22
- Witness and exhibits lists – 8/15/22
- Pretrial Motions - 8/22/22

- Trial Briefs 9/12/22
- Pre-Trial Conference 3/31/2023
- Trial Date, 5/08/23-6/02/23
- Other deadlines may arise and after withdrawal of counsel, Markusch is responsible for meeting such deadlines and complying with them;
- Markusch or the other parties to this case, have the right to object to the Motion to Withdraw within 14 days after its service;
- As an entity, Olson Real Estate Services, LLC must be represented by counsel in any court proceeding unless it is a closely held entity and first complies with C.R.S. § 13-1-127.

f. Markusch’s last-known address, telephone number, and email are:

Defendant	Address	Email
Susan Markusch	6321 S. Geneva Circle, Englewood, CO 80111	<a href="mailto:susan@glre.group">susan@glre.group</a>
Olson Real Estate Services, LLC.	6321 S. Geneva Circle, Englewood, CO 80111	<a href="mailto:susan@glre.group">susan@glre.group</a>

10. Undersigned counsel respectfully requests a sixty (60) day stay of all proceedings in this matter related to Markusch while Markusch seeks to retain replacement legal counsel.

**CONCLUSION**

WHEREFORE, Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C. hereby respectfully requests that the Court enter an order: (i) granting this Motion, (ii) permitting E. Job Seese (and the undersigned) to withdraw as counsel of record for Markusch, (iii) removing Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C’s attorneys from the list of counsel receiving notifications relating to this case and (iv) for such other and further relief as the Court deems just and proper.

Respectfully submitted September 6, 2022.

**Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.**

By: */s/ J. Kirk McGill*  
Joshua Kirk McGill, Esq. #53413

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the date above the undersigned filed the forgoing with the Court and served via the Colorado Court E-filing system to all active counsel of record.

By: /s/ J. Kirk McGill  
Joshua Kirk McGill