

DISTRICT COURT OF ADAMS COUNTY, STATE OF COLORADO 1100 Judicial Center Drive Brighton, CO 80601	DATE FILED September 27, 2024 4:18 PM FILING ID: 4381E2D663F2D CASE NUMBER: 2023CV30537
<p><i>Plaintiffs: Edie Apke et al, derivatively on behalf of Todd Creek Farms Homeowners' Association, a Colorado nonprofit corporation;</i></p> <p>v.</p> <p><i>Defendants: TODD CREEK FARMS HOMEOWNERS' ASSOCIATION, a Colorado nonprofit corporation; Jason Pardikes, in their official capacity as Director of Todd Creek Farms Homeowners' Association; Wendi Setchfield, in their official capacity as Director of Todd Creek Farms Homeowners' Association; Maryjo Montoya, in their official capacity as Director of Todd Creek Farms Homeowners' Association; Ben Cooper, in their official capacity as Director of Todd Creek Farms Homeowners' Association; Sean Holdren, in their official capacity as Director of Todd Creek Farms Homeowners' Association.</i></p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/>
ROBINSON & HENRY, P.C. Peter L. Towsky, #55556 Boyd A. Rolfson, #40035 1805 Shea Center Drive, #180 Highlands Ranch, CO 80129 P: 303-688-0944 peter@robinsonandhenry.com F: 303-284-2942 boyd@robinsonandhenry.com <i>Attorneys for Plaintiffs</i>	Case Number: 2023CV30537 Division C
AFFIDAVIT OF CHARLIE WUERTZ	

I, Charlie Wuertz, being first duly sworn upon oath, depose and state as follows:

1. I am at least 18 years of age and have actual knowledge of all facts stated in this affidavit.

2. I am a homeowner within the Todd Creek Farms residential community, and I am member of the Todd Creek Farms Homeowners' Association ("TCF HOA"). I am also a named Plaintiff in the above captioned derivative lawsuit.

3. On or about August 26, 2024, I went on the TCF HOA Homeowner web portal and reviewed two insurance policies that the Association had posted and made available to homeowners. One policy was a Management Liability Policy through Intact Insurance Company. The other policy was a Commercial Umbrella Policy through Auto-Owners Insurance Company.

4. I called the phone numbers listed for Auto-Owners Insurance and the listed insurance agent on that policy, JJ Insurance, to ask if a claim had been filed by the TCF HOA related to this lawsuit. No one answered, but I was able to leave a voice message asking for a return call.

5. I then went to the website for JJ Insurance and found a link to request a certificate of insurance. I used the link to make such a request for a certificate of insurance related to the TCF HOA, and later received a certificate of insurance showing three insurance policies for the TCF HOA listed. All three policies listed have an effective date of April 1, 2024, with a policy expiration date of April 1, 2025.

6. I next called the Intact Insurance Company phone number listed on that policy. I received an auto message stating that the number was "no longer in service". I did an internet search for Intact Insurance Company and found a different phone number, which I then called and left a voice message asking for a return call.

7. When I received a return call from someone associated with Intact Insurance, I was asked to provide the name of the insured and a policy number, which I got from the policy I obtained from the TCF HOA web portal. I was then told by the Intact Insurance Representative that I could not be provided any information on the coverage provided under the policy because my name was not on the “authorized” list. I explained that I was a homeowner of the Association, but I was told that didn’t matter. I was referred to the insurance agent, McGowen, Donnelly & Oberheu, LLC.

8. When I called McGowen, Donnelly & Oberheu, LLC the receptionist advised that the previous agent, Cara, was no longer there. I was told she could not provide any information and would leave a message for Kimi Cantwell, the new agent.

9. I received a call from Kimi Cantwell who told me that McGowen, Donnelly & Oberheu, LLC was a wholesale brokerage company, and they do not converse or deal directly with the insured. She also stated that they have an authorized list of contacts, and she would reach out to them and have them call me directly.

10. I next attempted to contact the three insurance companies listed on the certificate of Insurance provided by JJ Insurance, but I was told I had to address any concerns I had to the insurance agent and that I had to follow “the proper process”.

11. With my efforts frustrated, I sent an email to JJ Insurance on August 28, 2024 notifying the agent of this pending lawsuit because the policies provided in the TCF HOA web portal both state that the insurance carriers are required to be notified of any potential claims that may arise under each policy.

FURTHER AFFIANT SAYETH NAUGHT.

Dated this 26th day of September 2024.

Charlie Wuertz

Charlie Wuertz

STATE OF COLORADO)
) ss:
COUNTY OF EL PASO)

BEFORE ME virtually appeared Charlie Wuertz, who upon oath and after first being duly sworn states that the above is true and correct to her best personal knowledge.

Heather K. Jacobson

NOTARY PUBLIC, State of Colorado at Large
My commission expires:

HEATHER K. JACOBSON NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20164015884 MY COMMISSION EXPIRES APR. 26, 2028

Signature Certificate

Reference number: BLUXK-HQBEH-IDBTB-ZE5PD

Signer

Timestamp

Signature

Charlie Wuertz

Email: charliewuertz@comcast.net

Sent: 26 Sep 2024 21:09:07 UTC
Viewed: 26 Sep 2024 21:09:09 UTC
Signed: 26 Sep 2024 21:09:47 UTC

Recipient Verification:

✓Email verified 26 Sep 2024 21:09:09 UTC
✓Knowledge-Based (KBA) 26 Sep 2024 21:07:08 UTC
✓ID Verification 26 Sep 2024 21:07:11 UTC



IP address: 64.79.144.100

Heather Jacobson

Email: heather.jacobson@robinsonandhenry.com

Sent: 26 Sep 2024 21:09:07 UTC
Viewed: 26 Sep 2024 21:10:03 UTC
Signed: 26 Sep 2024 21:10:17 UTC

Recipient Verification:

✓Email verified 26 Sep 2024 21:10:03 UTC



IP address: 50.229.197.154

Location: Castle Rock, United States

Document notarized online using audio-video communication on:
26 Sep 2024 21:10:17 UTC

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