

DISTRICT COURT, EL PASO COUNTY, COLORADO Court Address: 270 S. Tejon, Colorado Springs, CO 80903 Phone Number: (719) 448-7650	EFILED Document CO El Paso County District Court 4th JD Filing Date: Apr 23 2009 4:04PM MDT Filing ID: 24847714 Review Clerk: Sharon Robinson <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Plaintiffs: MICHAEL COLGATE and BARBARA COLGATE vs. Defendants: GOLDEN HILLS HOMEOWNERS ASSOCIATION, a Colorado Nonprofit Corporation, and any and all unknown persons who claim any interest in the subject matter of this action.	Case Number: 08 CV 3403 Division: 13
Debra L. Fortenberry #25114 DEBRA L. FORTENBERRY, P.C. <i>Attorneys for Plaintiffs</i> 660 Southpointe Court, Suite 210 Colorado Springs, CO 80906 Phone Number: (719) 576-4030 FAX Number: (719) 579-9339 E-mail: debra@lawsolutionspc.com	
<p style="text-align: center;">VERIFIED MOTION FOR DEFAULT AS TO DEFENDANT GOLDEN HILLS HOMEOWNERS ASSOCIATION, a Colorado nonprofit Corporation</p>	

Plaintiffs, by and through counsel, Debra L. Fortenberry, P.C., hereby moves this Court for entry of default against defendant, GOLDEN HILLS HOMEOWNERS ASSOCIATION, a Colorado nonprofit Corporation, pursuant to C.R.C.P. 55 (a) and verifies information stated herein in accordance with 121 Sec. 1-14 and in support thereof states as follows:

1. The summons and complaint were served on Golden Hills Homeowners Association, a Colorado nonprofit Corporation on July 12, 2008. (Summons and Return of Service attached hereto as Exhibit 1) and the complaint has been filed with this Court.

2. More than twenty days have passed and no answer or other pleading has been filed by the defendant who is in default.

3. Counsel for the Plaintiffs and Leonard Rieth of the firm Anderson, Dude & Lebel, P.C., attorneys for the Defendant, were previously involved in settlement negotiations. It appears that the parties' settlement negotiations have failed. There currently is no agreement in place extending the time within which to file an Answer to the Complaint and all previous agreements for same have expired several months prior to this date.

4. Venue is proper pursuant to C.R.C.P. 98(a) because this action concerns real property located in El Paso County, Colorado.

5. The Defendant is not a minor, incapacitated person, officer or agency of the State of Colorado or in the military service because it is a corporate entity.

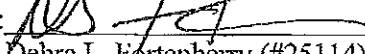
WHEREFORE, Plaintiffs hereby request that this Court's clerk enter a default in favor Plaintiffs and against the above-named defendant.

Dated this 23rd day of April, 2009.

Respectfully submitted,

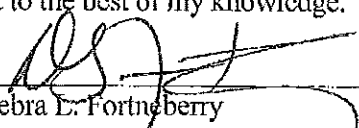
DEBRA L. FORTENBERRY, P.C.

**Debra L. Fortenberry*

By: 
Debra L. Fortenberry (#25114)
Attorney for Plaintiffs

VERIFICATION

I, Debra L. Fortenberry, have read all allegations in the above-stated Motion for Default and affirm that I have personal knowledge of the allegations set forth therein and that all allegations contained therein are true and correct to the best of my knowledge.


Debra L. Fortenberry

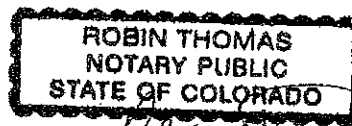
STATE OF COLORADO)
) ss:
COUNTY OF EL PASO)

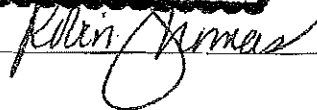
BEFORE ME, the above-signed authority, personally appeared, who after being first duly sworn, stated that she is the person executing the foregoing verification that the facts contained in said pleadings are true and correct to the best of his/her knowledge, information, and belief.

Subscribed and sworn to before me this 23rd day of April, 2009.

Witness my hand and official seal.

My commission expires: 9-10-2009






Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of April, 2009 a true and correct copy of the Verified Motion for Entry of Default as to Defendant Golden Hills Homeowners Association, a Colorado nonprofit Corporation was served via Lexis-Nexis and/or United States mail, first class, postage prepaid addressed to the following:

Leonard Rieth, Esq.
Anderson, Dude & Lebel, P.C.
111 S. Tejon, Suite 400
Colorado Springs, CO 80903

**/s/ Robin Justice-Thomas*


*THE ABOVE AND FOREGOING DOCUMENT WAS FILED AND SERVED THROUGH THE LEXIS-NEXIS FILE & SERVE ELECTRONIC FILING PROCEDURES, UNDER C.R.C.P. 121(e), §1-26.

AS REQUIRED BY THOSE RULES, THE ORIGINAL SIGNED COPY OF THIS PLEADING IS ON FILE WITH DEBRA L. FORTENBERRY, P.C.

ORIGINAL

District Court, El Paso County, Colorado Court Address: 270 S. Tejon Colorado Springs, CO 80906	FILED Document CO El Paso County District Court 4th JD Filing Date: Apr 23 2009 4:04PM MDT Filing ID: 24847714 Review Clerk: Sharon Robinson COURT USE ONLY
Plaintiffs: MICHAEL COLGATE and BARBARA COLGATE v.	Case Number: <u>2008 CV 3103</u> Division: <u>13</u> Courtroom:
DISTRICT COURT CIVIL SUMMONS	

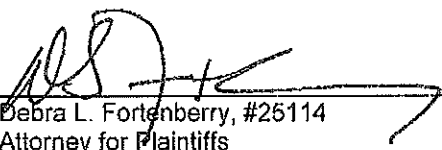
TO THE ABOVE NAMED DEFENDANT: GOLDEN HILLS HOMEOWNERS ASSOCIATION

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court an answer or other response to the attached Complaint. If service of the Summons and Complaint was made upon you within the State of Colorado, you are required to file your answer or other response within 20 days after such service upon you. If service of the Summons and Complaint was made upon you outside of the State of Colorado, you are required to file your answer or other response within 30 days after such service upon you. Your answer or counterclaim must be accompanied with the applicable filing fee.

If you fail to file your answer or other response to the Complaint in writing within the applicable time period, the Court may enter judgment by default against you for the relief demanded in the Complaint without further notice.

Dated: 6.27.08

Clerk of Court/Clerk



 Debra L. Fortenberry, #25114
 Attorney for Plaintiffs
 660 Southpointe Court, Suite 210
 Colorado Springs, CO 80906

Voice: 719.576-4030
Fax: 719.579-9339

This Summons is issued pursuant to Rule 4, C.R.C.P., as amended. A copy of the Complaint must be served with this Summons. This form should not be used where service by publication is desired.



AFFIDAVIT OF SERVICE

State of Colorado)
)ss.
City and County of Denver)

Patsy M Sherrick, the affiant, being duly sworn, says: that affiant is over the age of eighteen years and is not a party to this action; and that affiant has duly served the within by handing and delivering to: David Clark, Treasurer, Golden Hills Homeowners Association a true and correct copy of the within Summons, Complaint (Rule 105) & Notice of Lis Pendens attached thereto; at 6510 Bull Hill Ct, El Paso County, State of Colorado, on July 12th, 2008 at 10:30 A. M.

David Clark being over the age of eighteen years.

Expense of Service

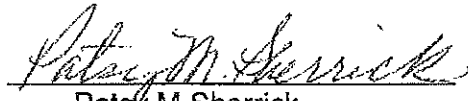
Fee: \$63.00

Case #

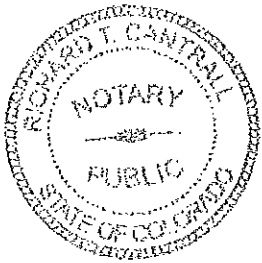
Subscribed and sworn before me this 14th Day of July, 2008.

My Commission expires May 22nd, 2010


Notary Public


Patsy M Sherrick

SEAL



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ORDER GRANTING DEFAULT AS TO DEFENDANT GOLDEN HILLS HOMEOWNERS ASSOCIATION, a Colorado nonprofit Corporation	

THIS MATTER coming before the Court upon Plaintiffs' Verified Motion for Default against GOLDEN HILLS HOMEOWNERS ASSOCIATION, a Colorado nonprofit Corporation, as well as the pleadings in this action, and otherwise being duly advised in the premises;

THE COURT MAKES THE FOLLOWING FINDINGS:

1. This Default is granted in favor of Plaintiffs, MICHAEL COLGATE and BARBARA COLGATE.

3. Defendant was duly served with a summons and complaint in this action and has failed to answer or otherwise respond to the Summons and Complaint within the applicable twenty (20) day period prescribed by C.R.C. P. 12(a);

4. Venue is proper under C.R.C.P. 98, the Defendant is not an agency of the State of Colorado.

THE COURT ORDERS that Default enter against Defendant GOLDEN HILLS HOMEOWNERS ASSOCIATION a Colorado nonprofit Corporation.

DATED this ___ day of _____, 2009.

BY THE COURT:

 District Court Judge