

DISTRICT COURT, MONTROSE COUNTY, COLORADO
1200 N. Grand Avenue
Montrose, CO 81401

Plaintiffs: JAMES AND PAMELA CARLSON, Individuals; EARL MELVIN BRICKER III and BARBARA BRINKHORST BRICKER, Individuals; DAVID AND CHARLENE CARY, Individuals; TERRENCE AND VERENA FERRIS, Individuals; STEPHEN AND SHARON FISHER, Individuals; LUKE HOFFMAN, Individually; VIRGINIA McGEE, Individually; JOHN SUDMEIER, Individually; JAMES T. WASCHBUSCH AND JOANN WASCHBUSCH in their capacity as Trustees for THE WASCHBUSCH FAMILY TRUST, a Trust; and JOHN G. WITHERSPOON III and KATHI L. WITHERSPOON in their capacity as Trustees for THE WITHERSPOON LIVING TRUST, a Trust.

v.
Defendants: THE BRIDGES AT BLACK CANYON OWNERS ASSOCIATION, INC.; a Colorado nonprofit corporation; BETH FEELY, Individually; and LEW THOMPSON, Individually

▲ COURT USE ONLY ▲

Attorneys for Defendant The Bridges at Black Canyon Owners Association, Inc.:

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Case Number: 2024CV30039

Division: 5 Courtroom:

**DEFENDANT THE BRIDGES AT BLACK CANYON OWNERS ASSOCIATION, INC.'S
ANSWER AND JURY DEMAND TO PLAINTIFFS' COMPLAINT**

Defendants, The Bridges at Black Canyon Owners Association, Inc (“Black Canyon”), by and through her counsel, Stuart D. Morse & Associates, LLC, hereby responds as follows to Plaintiffs’ compliant herein:

INTRODUCTION

1. This paragraph sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

2. This paragraph sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, it is admitted that the Board of Directors of the Association consists of five members, two of whom are Beth Feely and Lew Thompson. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

3. This paragraph sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

4. This paragraph sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

PARTIES

5. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 5, and therefore denies them.

6. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 6, and therefore denies them.

7. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 7, and therefore denies them.

8. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 8, and therefore denies them.

9. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 9, and therefore denies them.

10. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 10, and therefore denies them.

11. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 11, and therefore denies them.

12. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 12, and therefore denies them.

13. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 13, and therefore denies them.

14. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 14, and therefore denies them.

15. Defendant Black Canyon admits the allegations of this paragraph 15.

16. Defendant Black Canyon admits the allegations of this paragraph 16.

17. Defendant Black Canyon admits Lew Thompson is an at-large member of the Board but denied for lack of information or belief any remaining allegations in this paragraph.

GENERAL ALLEGATIONS

18. Defendant Black Canyon admits the allegations in paragraph 18.

19. The allegations contained in Paragraph 19 are references to documents, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

20. The allegations contained in Paragraph 20 are references to documents, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

21. The allegations contained in Paragraph 21 are references to documents, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

22. The allegations contained in Paragraph 22 are references to documents, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

23. Defendant Black Canyon admits the allegations of paragraph 23.

24. The allegations contained in Paragraph 24 are references to documents, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

25. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 25, and therefore denies them.

26. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 26, and therefore denies them.

27. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 27, and therefore denies them.

28. Defendant Black Canyon denies the allegations of paragraph 28, and therefore denies them.

29. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 29, and therefore denies them.

30. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 30, and therefore denies them.

31. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 31, and therefore denies them.

32. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 32, and therefore denies them.

33. The allegations contained in Paragraph 33 are references to documents, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

34. The allegations contained in Paragraph 34 are references to documents, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

35. The allegations contained in Paragraph 35 are references to documents and statutes, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

36. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 36, and therefore denies them.

37. Paragraph 37 contains legal conclusions for which no response is necessary or required. To the extent this paragraph contains allegations that warrant a response, Defendant Black Canyon denies these allegations.

38. Defendant Black Canyon denies the allegation in paragraph 38.

39. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 39 and therefore denies them.

40. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 40 and therefore denies them.

41. Defendant Black Canyon denies the allegations in paragraph 41.

42. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 42 and therefore denies them.

43. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 43 and therefore denies them.

44. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 44.

45. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 45.

46. The allegations contained in Paragraph 46 are references to documents, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

47. The allegations contained in Paragraph 47 are references to statutes, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

48. The allegations contained in Paragraph 48 are references to documents and statutes, the contents of which speak for themselves. To the extent that this paragraph contains allegations that warrant a response, to the extent the allegations are inconsistent with the controlling documents or are otherwise incomplete, the allegations are denied. Any and all remaining allegations in this paragraph are denied for lack of information or belief.

49. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 49 and therefore denies them.

50. Defendant Black Canyon admits the allegations of paragraph 50.

51. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 51 and therefore denies them.

52. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 52 and therefore denies them.

53. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 53 and therefore denies them.

54. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 54 and therefore denies them.

55. Defendant Black Canyon denies the allegations of paragraph 55.

56. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 56 and therefore denies them.

57. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 57 and therefore denies them.

58. Defendant Black Canyon lacks knowledge or information sufficient to admit or deny the allegations of paragraph 58 and therefore denies them.

59. Paragraph 59 sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

60. Paragraph 60 sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

61. Defendant Black Canyon denies the allegations of paragraph 61.

62. Paragraph 62 sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

63. Defendant Black Canyon denies the allegations of paragraph 63.

64. Paragraph 64 sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

65. Paragraph 65 sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

66. Paragraph 66 sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

67. Paragraph 67 sets forth legal conclusions to which no response is required. To the extent that a response is deemed required, the allegations of the paragraph are denied.

68. Defendant Black Canyon denies the allegations of paragraph 68.

**FIRST CLAIM OF RELIEF
(Declaratory Relief)**

69. Defendant Black Canyon incorporates its responses set forth herein.

70. Defendant Black Canyon takes the following positions on the declarations sought by Plaintiffs.

(a-c) Paragraph 70(a-c) sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response Defendant Black Canyon opposes those declarations.

(d) The allegations in paragraph 70(d) are not directed at Defendant Black Canyon, and therefore no response from Defendant Black Canyon is necessary or required. Defendant Black Canyon agrees that board members should disclose conflicts of interests pursuant to Black Canyon policy. Any and all remaining allegations in this paragraph, if any, are denied for lack of information or belief.

(e) Defendant Black Canyon opposes the declaration of paragraph 70(e) as the HOA received a benefit from the maintenance.

(f) The allegations in paragraph 70(f) are not directed at Defendant Black Canyon, and therefore no response from Defendant Black Canyon is necessary or required. Defendant Black Canyon agrees that board members should disclose conflicts of interests pursuant to Black Canyon

policy. Any and all remaining allegations in this paragraph, if any, are denied for lack of information or belief.

(g) Paragraph 70(g) sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response Defendant Black Canyon opposes those declarations.

(h) Paragraph 70(h) sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response Defendant Black Canyon opposes those declarations.

(i). Paragraph 70(i) sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response Defendant Black Canyon opposes those declarations.

(j) Paragraph 70(j) sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response Defendant Black Canyon opposes those declarations.

(k) Paragraph 70(k) sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response Defendant Black Canyon opposes those declarations.

(l) Paragraph 70(l) sets forth an issue that has already been resolved. Any and all remaining allegations in this paragraph, if any, are denied for lack of information or belief.

(m) Paragraph 70(m) sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response Defendant Black Canyon opposes those declarations.

**SECOND CLAIM OF RELIEF
(Breach of Contract)**

71. Defendant Black Canyon incorporates its responses set forth herein.

72. Paragraph 72 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

73. Paragraph 73 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

74. Paragraph 74 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

75. Paragraph 75 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

76. Paragraph 76 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

77. Paragraph 77 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

78. Paragraph 78 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

79. Paragraph 79 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

80. Paragraph 80 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

81. Paragraph 81 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

82. Paragraph 82 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

83. Paragraph 83 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

84. Paragraph 84 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

85. Paragraph 85 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

86. Paragraph 86 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

87. Paragraph 87 sets forth legal conclusions to which no response is required. To the extent these paragraphs require a response, Defendant Black Canyon denies these allegations.

**THIRD CLAIM OF RELIEF
(Breach of Fiduciary Duty Against Feely)**

88. Defendant Black Canyon incorporates its responses set forth herein.

89. The allegations in paragraph 89 are not directed at Defendant Black Canyon, and therefore no response from Defendant Black Canyon is necessary or required. To the extent that a response is necessary or required, Black Canyon denies these allegations.

90. The allegations in paragraph 90 are not directed at Defendant Black Canyon, and therefore no response from Defendant Black Canyon is necessary or required. To the extent that a response is necessary or required, Black Canyon denies these allegations.

91. The allegations in paragraph 91 are not directed at Defendant Black Canyon, and therefore no response from Defendant Black Canyon is necessary or required. To the extent that a response is necessary or required, Black Canyon denies these allegations.

**THIRD CLAIM OF RELIEF
(Breach of Fiduciary Duty Against Thompson)**

92. Defendant Black Canyon incorporates its responses set forth herein.

93. The allegations in paragraph 93 are not directed at Defendant Black Canyon, and therefore no response from Defendant Black Canyon is necessary or required. To the extent that a response is necessary or required, Black Canyon denies these allegations.

94. The allegations in paragraph 94 are not directed at Defendant Black Canyon, and therefore no response from Defendant Black Canyon is necessary or required. To the extent that a response is necessary or required, Black Canyon denies these allegations.

95. The allegations in paragraph 95 are not directed at Defendant Black Canyon, and therefore no response from Defendant Black Canyon is necessary or required. To the extent that a response is necessary or required, Black Canyon denies these allegations.

GENERAL DENIAL

Defendant Black Canyon denies each and every allegation set forth in the complaint not expressly and specifically admitted in this answer.

DEFENSES

1. The complaint, in whole or in part, fails to state a claim upon which relief can be granted.
2. Plaintiffs' claims herein are barred pursuant to the doctrines of release, accord and satisfaction, waiver, and estoppel.
3. Plaintiffs have unclean hands.
4. Plaintiffs' claims must be barred or reduced by the doctrines of quasi-estoppel, estoppel, or promissory estoppel.
5. Plaintiffs' complaint is frivolous and groundless.
6. Plaintiffs have not suffered damages.
7. Plaintiffs' claims are barred by the relevant statute of limitations.

WHEREFORE, having fully answered, Defendant, Black Canyon, requests the Court enter such orders, rulings, and judgments as the Court deems just and proper.

JURY DEMAND

Defendant Black Canyon hereby requests a trial by jury with respect to all issues so triable herein.

Defendant, Black Canyon, by and through its attorneys, Stuart D. Morse & Associates, LLC,

Dated: June 14, 2024

Respectfully submitted,

STUART D. MORSE & ASSOCIATES, LLC

*Original signature on file at the offices of
Stuart D. Morse & Associates, LLC*

By: /s/Konrad R. Schreier
Stuart D. Morse, #16978
Konrad R. Schreier, #55538
Attorneys for Defendant Black Canyon

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2024, a true and correct copy of the foregoing was electronically filed through the Colorado Courts E-Filing System (CCES) and served upon all counsel of record.

/s/ Stephanie Schlote
Stephanie Schlote, Paralegal