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IN THE

**SUPREME COURT
OF THE
STATE OF IDAHO**

ISC #44583, 44584, 44585
Bonner #CV2009-1810

Valiant Idaho, LLC
Cross-Claimant/Respondent

vs.

**North Idaho Resorts
JV, LLC
VP Incorporated**
Cross-Defendants/Appellants

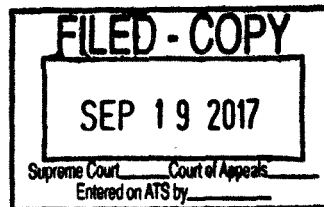
CLERK'S RECORD ON APPEAL

*Appealed from the District Court of the First Judicial District
of the State of Idaho, in and for the County of Bonner*

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44583

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VP, Incorporated's Reply on Motion to Dismiss Third Party Complaint and Response to Motion to Amend Pleadings – filed 11/14/2014.....	Vol. X - 1156
VP's Closing Argument – filed 05/12/2016	Vol. XXXVII - 4535
Wells Fargo's Motion to Dismiss with Prejudice – filed 01/23/2012.....	Vol. II - 298
Withdrawal of Application for Stay - filed 11/22/2016.....	Vol. LX - 7436
Writ of Assistance – filed 03/06/2017	Vol. LXXV - 9361
Writ of Assistance – filed 04/11/2017	Vol. LXXVII - 9635
Writ of Execution – filed 09/21/2016	Vol. LII - 6318
Writ of Execution – filed 10/05/2016.....	Vol. LIV - 6611
Writ of Execution – filed 12/22/2016	Vol. LXI - 7464
Writ of Execution (Continued) – filed 09/21/2016	Vol. LIII - 6396
Writ of Execution (Continued) – filed 10/05/2016.....	Vol. LV - 6667
Writ of Execution (Continued) – filed 10/05/2016.....	Vol. LVI - 6801
Writ of Execution (Continued) – filed 12/22/2016	Vol. LXII - 7594
Writ of Execution Against JV, LLC – filed 01/09/2017.....	Vol. LXVI - 8232
Writ of Execution Against JV, LLC – filed 04/06/2017	Vol. LXXVI - 9448
Writ of Execution Against JV, LLC – filed 10/06/2016	Vol. LVI - 6814
Writ of Execution Against JV, LLC for Boundary County – filed 01/30/2017	Vol. LXVII - 8262
Writ of Execution Against JV, LLC for Boundary County – filed 10/13/2016	Vol. LIX - 7255
Writ of Execution Against JV, LLC for Boundary County (268815) – filed 10/31/2016	Vol. LIX - 7303
Writ of Execution Against North Idaho Resorts, LLC – filed 10/06/2016	Vol. LVI - 6806
Writ of Execution Against North Idaho Resorts, LLC for Boundary County – filed 10/13/2016	Vol. LIX - 7260
Writ of Execution Against North Idaho Resorts, LLC for Boundary County (268813) – filed 10/31/2016	Vol. LIX - 7294
Writ of Execution Against North Idaho Resorts, LLC for Boundary County – filed 11/18/2016	Vol. LX - 7413
Writ of Execution Against VP, Incorporated – filed 10/06/2016	Vol. LVI - 6822
Writ of Execution Against VP, Incorporated for Boundary County – filed 10/13/2016.....	Vol. LIX - 7265
Writ of Execution Against VP, Incorporated for Boundary County – filed 11/18/2016.....	Vol. LX - 7426

Richard L. Stacey, ISB #6800
Jeff R. Sykes, ISB #5058
Chad M. Nicholson, ISB #7506
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
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stacey@lawidaho.com
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Attorneys For Valiant Idaho, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.

Case No. CV-09-1810

DECLARATION OF
JEFF R. SYKES IN SUPPORT
OF VALIANT IDAHO, LLC'S
MOTION FOR ENTRY OF DEFAULT
AGAINST THIRD PARTY DEFENDANT
PEND OREILLE BONNER
DEVELOPMENT HOLDINGS, INC.

Honorable Michael J. Griffin

DECLARATION OF JEFF R. SYKES IN SUPPORT
OF VALIANT IDAHO, LLC'S MOTION FOR ENTRY
OF DEFAULT AGAINST THIRD PARTY DEFENDANT
PEND OREILLE BONNER DEVELOPMENT HOLDINGS, INC. - Page 1
E:\1547 201\PLD\CV-2009-1810\Default-POBD Inc.-Dec of JRS 141001.doc

ORIGINAL

VALIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND OREILLE BONNER DEVELOPMENT
HOLDINGS, INC., a Nevada corporation;
BAR K, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC,
an Idaho limited liability company;
AMY KORENGUT, a married woman;
HLT REAL ESTATE, LLC,
an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO.,
an Idaho limited liability company;
PANHANDLE MANAGEMENT
INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC,
an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of
GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY,
a California corporation;
NETTA SOURCE LLC,
a Missouri limited liability company;
MONTAHENO INVESTMENTS, LLC,
a Nevada limited liability company;
CHARLES W. REEVES and
ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE &
CONTRACTING, INC., an Idaho corporation,

Third Party Defendants.

Pursuant to Rule 7(d) of the Idaho Rules of Civil Procedure and Idaho Code § 9-1406,

Jeff R. Sykes declares as follows:

1. I am an attorney at law duly licensed to practice before this Court, and all Courts in the State of Idaho. I am member of the law firm of McConnell Wagner Sykes & Stacey PLLC, attorneys for Defendant/Counter-Claimant/Cross-Claimant/Third Party Plaintiff Valiant Idaho, LLC ("Valiant"). I make this Declaration in support of the Motion For Entry of Default Against Third Party Defendant Pend Orelle Bonner Development Holdings, Inc. ("POBD Inc.") filed concurrently and upon my personal knowledge.

2. POBD Inc. was and is a Nevada corporation in goodstanding, with its principal place of business in the City of Reno, County of Washoe, State of Nevada.

3. The address most likely to provide notice of said default and default judgment to POBD Inc. is:

PEND ORELLE BONNER DEVELOPMENT HOLDINGS, INC.
c/o CT Corporation System, Registered Agent
921 South Orchard Street, Suite G
Boise, Idaho 83705

PEND ORELLE BONNER DEVELOPMENT HOLDINGS, INC.
59 Damonte Ranch Parkway, No. B353
Reno, Nevada 89521

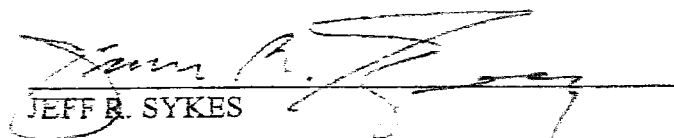
4. POBD Inc. was duly, regularly and personally served with Valiant's Counterclaim, Cross-Claim and Third Party Complaint ("Complaint") on September 10, 2014, as evidenced by the Affidavit of Service on file herein and a copy of which is attached hereto as Exhibit A.

5. The time for POBD Inc. to appear and plead in response to the Complaint has expired, and POBD Inc. has not pled further in any manner.

6. The Complaint filed is, by Idaho Rule of Civil Procedure 8(d), taken as admitted by POBD Inc. for failure to appear and plead further.

I HEREBY CERTIFY AND DECLARE, under penalty of perjury pursuant to the laws of the State of Idaho, that the foregoing is true and correct.

DATED this 1st day of October 2014.


JEFF R. SYKES

CERTIFICATE OF SERVICE

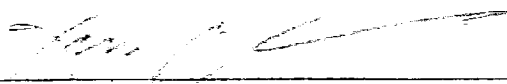
I **HEREBY CERTIFY** that on the 1st day of October 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

<p>Gary I. Amendola, Esq. Amendola Doty & Brumley, PLLC 702 North 4th Street Coeur d'Alene, Idaho 83814 Telephone: 208.664.8225 Facsimile: 208.765.1046 <i>Counsel For T-O Engineers, Inc.</i></p>	<p>[<input checked="" type="checkbox"/>] U.S. Mail [] Hand Delivered [] Facsimile [] Overnight Mail [] Electronic Mail <u>garv@adbattorneys.com</u></p>
<p>Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i></p>	<p>[<input checked="" type="checkbox"/>] U.S. Mail [] Hand Delivered [] Facsimile [] Overnight Mail [] Electronic Mail <u>brucea@elame.com</u></p>
<p>Charles M. Dodson, Esq. Law Office of Charles M. Dodson 1424 Sherman, Suite 300 Coeur d'Alene, Idaho 83814 Telephone: 208.664.1577 Facsimile: 208.666.9211 <i>Counsel For RC Worst & Company</i></p>	<p>[<input checked="" type="checkbox"/>] U.S. Mail [] Hand Delivered [] Facsimile [] Overnight Mail [] Electronic Mail <u>cmdodsonlaw@gmail.com</u></p>
<p>Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.263.6866 Facsimile: 208.263.0400 <i>Counsel For Pensco/Mortgage Fund</i></p>	<p>[<input checked="" type="checkbox"/>] U.S. Mail [] Hand Delivered [] Facsimile [] Overnight Mail [] Electronic Mail <u>bcf@featherstonlaw.com</u></p>
<p>Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For J.V., LLC</i></p>	<p>[<input checked="" type="checkbox"/>] U.S. Mail [] Hand Delivered [] Facsimile [] Overnight Mail [] Electronic Mail <u>garwinney@finneylaw.net</u></p>

<p>John A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For Pucci Construction/ACI Northwest</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail johnfinnev@finneylaw.net</p>
<p>Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated North Idaho Resorts</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail sweeks@jvwlaw.net</p>

With two copies via United States Mail to:

Honorable Michael J. Griffin
 Judge of the Second Judicial District
 Idaho County Courthouse
 320 West Main Street
 Grangeville, Idaho 83530



 Jeff R. Sykes

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

Genesis Golf Builders, Inc., fka National
Golf Builders, Inc.

Plaintiff(s):

AFFIDAVIT OF SERVICE

vs.

Defendant(s):

Case Number: CV-09-1810

Pend Oreille Bonner Development, LLC

For:

McConnell Wagner Sykes & Stacey, PLLC
755 W. Front St., Ste. 200
Boise, ID 83702

STATE OF IDAHO)

)
:ss

COUNTY OF ADA)

Received by TRI-COUNTY PROCESS SERVING LLC on September 10, 2014 to be served on **PEND OREILLE BONNER DEVELOPMENT HOLDINGS, LLC.**

I, Cyprian Murphy, who being duly sworn, depose and say that on Wednesday, September 10, 2014. at 3:22 PM, I:

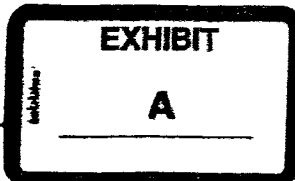
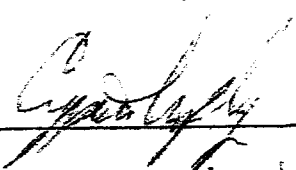
SERVED the within named **Pend Oreille Bonner Development Holdings, LLC** by delivering a true copy of the **Summons on Third Party Complaint, Counterclaim, Cross-Claim and Third Party Complaint for Judicial Foreclosure** to Jinell Lanier, of CT Corporation Service. Registered Agent for Pend Oreille Bonner Development Holdings, LLC, a person authorized to accept service on behalf of Pend Oreille Bonner Development Holdings, LLC. Said service was effected at **921 S. Orchard St., Ste. G, Boise, ID 83705.**

I hereby acknowledge that I am a Process Server in the county in which service was effected. I am over the age of Eighteen years and not a party to the action.

Our Reference Number: 140467

Client Reference: Richard L. Stacey

Subscribed and sworn before me today
Wednesday, September 10, 2014



Notary Public for the State of Idaho
Residing at Boise, Idaho
My Commission Expires on November 20, 2018

TRI-COUNTY PROCESS SERVING LLC
P.O. Box 1224
Boise, ID, 83701
(208) 344-4132

Richard L. Stacey, ISB #6800
Chad M. Nicholson, ISB #7506
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
755 West Front Street, Suite 200
Boise, Idaho 83702
Telephone: 208.489.0100
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stacey@lawidaho.com
nicholson@lawidaho.com

Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

Case No. CV-09-1810

**SUMMONS ON
THIRD PARTY COMPLAINT
BROUGHT BY
THIRD PARTY PLAINTIFF
VALIANT IDAHO, LLC
[Pend Oreille Bonner
Development Holdings, Inc.]**

Honorable Michael J. Griffin

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

VALIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND OREILLE BONNER DEVELOPMENT HOLDINGS, INC., a Nevada corporation;
BAR K, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC, an Idaho limited liability company;
AMY KORENGUT, a married woman;
HLT REAL ESTATE, LLC, an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO., an Idaho limited liability company;
PANHANDLE MANAGEMENT INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC, an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY, a California corporation;
NETTA SOURCE LLC, a Missouri limited liability company;
MONTAHENO INVESTMENTS, LLC, a Nevada limited liability company;
CHARLES W. REEVES and ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE & CONTRACTING, INC., an Idaho corporation,

Third Party Defendants.

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED THIRD PARTY PLAINTIFF. THIS COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN TWENTY (20) DAYS. READ THE INFORMATION BELOW.

TO: PEND OREILLE BONNER DEVELOPMENT HOLDINGS, INC.
c/o CT Corporation System, Registered Agent
921 South Orchard Street, Suite G
Boise, Idaho 83705

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above-designated Court at **215 South First Avenue, Sandpoint, Idaho 83864, 208.265.1445**, within twenty (20) days after service of this Third Party Summons ("Summons") upon you. If you fail to so respond, this Court may enter judgment against you as demanded by the Third Party Plaintiff in its Third Party Complaint ("Complaint").

A copy of the Complaint is served with this Summons. If you wish to seek the advice or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure, and shall also include:

1. The title and number of this case.
2. If your response is an answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to Third Party Plaintiff's attorney, as designated above.

To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named Court.

DATED this ^{3rd}~~20th~~ day of ^{Sept}~~August~~ 2014.

R. ANN DUSTON-SATER
CLERK OF THE DISTRICT COURT

By: 
Deputy Clerk 

STATE OF IDAHO
COUNTY OF BONNER
CLERK OF DISTRICT COURT
BOISE, IDAHO
RECEIVED
OCT 20 2014
10:30 AM

Richard L. Stacey, ISB #6800
Chad M. Nicholson, ISB #7506
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
755 West Front Street, Suite 200
Boise, Idaho 83702
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stacey@lawidaho.com
nicholson@lawidaho.com

Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**MOTION TO SUBSTITUTE
VALIANT IDAHO, LLC IN PLACE OF
MORTGAGE FUND '08 LLC AS THE
REAL PARTY IN INTEREST**

Honorable Michael J. Griffin

Telephonic Hearing:
October 20, 2014 - 9:30 a.m. PDST

ORIGINAL

VALIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND OREILLE BONNER DEVELOPMENT
HOLDINGS, INC., a Nevada corporation;
BAR K, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC,
an Idaho limited liability company;
AMY KORENGUT, a married woman;
HLT REAL ESTATE, LLC,
an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO.,
an Idaho limited liability company;
PANHANDLE MANAGEMENT
INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC,
an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of
GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY,
a California corporation;
NETTA SOURCE LLC,
a Missouri limited liability company;
MONTAHENO INVESTMENTS, LLC,
a Nevada limited liability company;
CHARLES W. REEVES and
ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE &
CONTRACTING, INC., an Idaho corporation,

Third Party Defendants

////

////

MOTION TO SUBSTITUTE VALIANT IDAHO, LLC
IN PLACE OF MORTGAGE FUND '08 LLC AS THE
REAL PARTY IN INTEREST - Page 2

E:\1547-2011 PUDACT\7-2009-1310\MF08-Sub-Mtn 140913.doc

COMES NOW, Defendant/Counter-Claimant/Cross-Claimant/Third Party Plaintiff Valiant Idaho, LLC ("Valiant"), by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and, pursuant to Rules 17(a) and 25(c) of the Idaho Rules of Civil Procedure ("I.R.C.P."), moves this Court for an order substituting Valiant in the place of Mortgage Fund '08 LLC ("MF08") as the real party in interest.

Every civil action must be prosecuted in the name of the real party in interest. I.R.C.P. 17(a). If the original party transfers its interest, the court may, upon motion, order the transferee to be substituted as the real party in interest. I.R.C.P. 25(c).

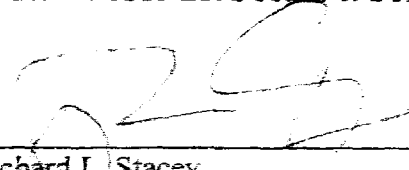
In this case, Valiant entered into an agreement with MF08, whereby Valiant received an assignment of MF08's mortgage, assignment of rents, security agreement and fixture filing. Declaration of Richard L. Stacey in Support of Motion to Substitute [Valiant] in Place of [MF08] as the Real Party in Interest ("Stacey Declaration"), ¶¶ 2-3, Exhibit 1. The claims alleged by Plaintiff Genesis Golf Builders, Inc. ("Plaintiff") and Cross-Claimants R.C. Worst & Company and ACI Northwest, Inc. (collectively, "Cross-Claimants") against MF08 are based upon Plaintiff's and Cross-Claimants' allegations that their respective mechanic's liens have priority over the mortgage that was assigned to Valiant. Thus, Valiant is now the real party in interest with respect to the claims of both Plaintiff and Cross-Claimants.

Based upon the foregoing, the Stacey Declaration and any further evidence that may be presented at the hearing on this motion, Valiant respectfully requests this Court to enter an order substituting Valiant in place of MF08 as the real party in interest.

DATED this 3rd day of October 2014.

McCONNELL WAGNER SYKES & STACEY^{PLLC}

BY:


Richard L. Stacey
Attorneys For Plaintiff Valiant Idaho, LLC

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on the 3rd day of October 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail brucea@eiame.com
Charles M. Dodson, Esq. Law Office of Charles M. Dodson 1424 Sherman, Suite 300 Coeur d' Alene, Idaho 83814 Telephone: 208.664.1577 Facsimile: 208.666.9211 <i>Counsel For RC Worst & Company</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail cmdodsonlaw@gmail.com
Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.263.6866 Facsimile: 208.263.0400 <i>Counsel For Pensco/Mortgage Fund</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail bcf@featherstonlaw.com

<p>Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For J.V., LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>gary.finney@finneylaw.net</u></p>
<p>John A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83854 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For Pucci Construction/ACI Northwest</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>john.finney@finneylaw.net</u></p>
<p>Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>sweeks@jvwlaw.net</u></p>

With two copies via United States Mail to:

Honorable Michael J. Griffin
 Judge of the Second Judicial District
 Idaho County Courthouse
 320 West Main Street
 Grangeville, Idaho 83530



 Richard L. Stacey

STATE OF IDAHO
COUNTY OF BONNER

FILED
OCT 20 2014
CLERK OF DISTRICT COURT

Richard L. Stacey, ISB #6800
Chad M. Nicholson, ISB #7506
McCONNELL WAGNER SYKES & STACEY PLLC
755 West Front Street, Suite 200
Boise, Idaho 83702
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@lawidaho.com
nicholson@lawidaho.com

Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**DECLARATION OF
RICHARD L. STACEY IN SUPPORT OF
MOTION TO SUBSTITUTE
VALIANT IDAHO, LLC IN PLACE OF
MORTGAGE FUND '08 LLC AS THE
REAL PARTY IN INTEREST**

Honorable Michael J. Griffin

Telephonic Hearing:
October 20, 2014 - 9:30 a.m. PDST

ORIGINAL

VALIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND OREILLE BONNER DEVELOPMENT
HOLDINGS, INC., a Nevada corporation;
BAR K, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC,
an Idaho limited liability company;
AMY KORENGUT, a married woman;
HLT REAL ESTATE, LLC,
an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO.,
an Idaho limited liability company;
PANHANDLE MANAGEMENT
INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC,
an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of
GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY,
a California corporation;
NETTA SOURCE LLC,
a Missouri limited liability company;
MONTAHEHO INVESTMENTS, LLC,
a Nevada limited liability company;
CHARLES W. REEVES and
ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE &
CONTRACTING, INC., an Idaho corporation,

Third Party Defendants.

DECLARATION OF RICHARD L. STACEY IN SUPPORT
OF MOTION TO SUBSTITUTE VALIANT IDAHO, LLC
IN PLACE OF MORTGAGE FUND '08 LLC AS THE
REAL PARTY IN INTEREST - Page 2

EN1547201.PLD\CV-2009-181\DMF08-Sub-RLS Dec 1409'08.doc

Pursuant to Rule 7(d) of the Idaho Rules of Civil Procedure and Idaho Code § 9-1406,

Richard L. Stacey declares as follows:

1. I am an attorney at law duly licensed to practice before this Court, and all Courts in the State of Idaho. I am member of the law firm of McConnell Wagner Sykes & Stacey PLLC, attorneys for Valiant Idaho, LLC ("Valiant"). I make this Declaration in support of the Motion to Substitute [Valiant] in Place of Mortgage Fund '08 LLC ["MF08"] as the Real Party In Interest ("Motion") filed concurrently and upon my personal knowledge.

2. As more particularly set forth in the Motion, Valiant entered into an agreement with MF08, whereby Valiant received an assignment of MF08's mortgage, assignment of rents, security agreement and fixture filing.

3. Attached hereto as Exhibit 1 is a true and correct copy of the Assignment of Mortgage, Note & Security Agreement recorded July 16, 2014, as Instrument No. 861843, Records of Bonner County, Idaho.

I HEREBY CERTIFY AND DECLARE, under penalty of perjury pursuant to the laws of the State of Idaho, that the foregoing is true and correct.

DATED this 3rd day of October 2014.



RICHARD L. STACEY

CERTIFICATE OF SERVICE

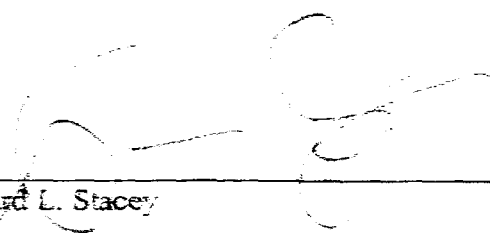
I HEREBY CERTIFY that on the 3rd day of October 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

<p>Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail brucea@ejame.com</p>
<p>Charles M. Dodson, Esq. Law Office of Charles M. Dodson 1424 Sherman, Suite 300 Coeur d'Alene, Idaho 83814 Telephone: 208.664.1577 Facsimile: 208.666.9211 <i>Counsel For RC Worst & Company</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail cmdodsonlaw@gmail.com</p>
<p>Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.263.6866 Facsimile: 208.263.0400 <i>Counsel For Pensco/Mortgage Fund</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail bef@featherstonlaw.com</p>
<p>Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For J.V., LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail garyfinney@finneylaw.net</p>
<p>John A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For Pucci Construction/ACI Northwest</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail johnfinney@finneylaw.net</p>

Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail sweeks@jvwlaw.net
---	---

With two copies via United States Mail to:

Honorable Michael J. Griffin
Judge of the Second Judicial District
Idaho County Courthouse
320 West Main Street
Grangeville, Idaho 83530



Richard L. Stacey

THIS INSTRUMENT FILED FOR RECORD BY
FIRST AMERICAN TITLE COMPANY AS AN
ACCOMMODATION. IT HAS NOT BEEN
EXAMINED AS TO ITS EXECUTION OR AS
TO ITS EFFECT UPON THE TITLE.

Instrument # 861843

BONNER COUNTY, SANDPOINT, IDAHO
7-16-2014 11:10:29 AM No. of Pages: 2
Recorded for: FIRST AMERICAN TITLE SAND
R. ANN DUTSON-SATER Fee: \$15.00
Ex-Office Recorder Deputy
www.idahocounty.org

-PC

Recording requested by
and when recorded mail to:

Valiant Idaho, LLC
c/o William Haberman
916 Greenlawn
Celebration, FL 34747

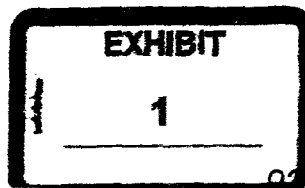
ASSIGNMENT OF MORTGAGE, NOTE & SECURITY AGREEMENT

THIS ASSIGNMENT OF MORTGAGE, NOTE AND SECURITY AGREEMENT
("Assignment") is made by SUSAN L. UECKER AS THE LIQUIDATING TRUSTEE OF THE
MORTGAGE FUND '08 LIQUIDATING TRUST ("Assignor"), in favor of VALIANT IDAHO,
LLC, an Idaho limited liability company ("Assignee"), as follows:

FOR VALUE RECEIVED, Assignor hereby assigns, conveys and transfers to Assignee,
without recourse, representation or warranty of any kind or nature, all of Assignor's right, title,
and interest in and to that certain Mortgage, Assignment of Rents, Security Agreement, and
Fixture Filing dated August 1, 2008, executed by Pend Oreille Bonner Development, LLC, a
Nevada limited liability company, in favor of Mortgage Fund '08, LLC, and recorded on August
6, 2008, in Bonner County, Idaho, as Instrument Nos. 756397, 756398, and 756399.

TOGETHER WITH the note or notes and all other indebtedness secured thereby, and all
of the following items, to the extent any such item exists: (i) all guaranties of the foregoing; (ii)
all other documents and instruments executed in connection therewith; (iii) all title insurance
commitments and title insurance policies therewith, including but not limited to, a certain First
American Title Insurance Company, Loan Policy of Title Insurance, dated August 5, 2008; (iv)
all rights with respect to escrow deposits; (v) all modification, supplements or advances made
in connection with the foregoing; (vi) all monies due and to become due thereon; and, (vii) all
rights accrued or to accrue under the foregoing.

1. The provisions of this Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignee and their successors and assigns.
2. This Assignment is being delivered pursuant to that certain Agreement for Sale of Promissory Note and Assignment of Security Interests dated July 19, 2014, as amended, restated, supplemented or otherwise modified from time to time, between Assignor and Assignee.
3. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent under applicable



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FIRST AMERICAN TITLE COMPANY AS AN
ACCOMMODATION. IT HAS NOT BEEN
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E-RECORDED simplifile

ID: 861843
County: Bonner
Date: 7-16-14 Time: 11:10AM

Recording requested by
and when recorded mail to:

Valiant Idaho, LLC
c/o William Haberman
916 Greenlawn
Celebration, FL 34747

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LLC, an Idaho limited liability company ("Assignee"), as follows:

FOR VALUE RECEIVED, Assignor hereby assigns, conveys and transfers to Assignee,
without recourse, representation or warranty of any kind or nature, all of Assignor's right, title,
and interest in and to that certain Mortgage, Assignment of Rents, Security Agreement, and
Fixture Filing dated August 1, 2008, executed by Pend Oreille Bonner Development, LLC, a
Nevada limited liability company, in favor of Mortgage Fund '08, LLC, and recorded on August
6, 2008, in Bonner County, Idaho, as Instrument Nos. 756397, 756398, and 756399.

TOGETHER WITH the note or notes and all other indebtedness secured thereby, and all
of the following items, to the extent any such item exists: (i) all guaranties of the foregoing; (ii)
all other documents and instruments executed in connection therewith; (iii) all title insurance
commitments and title insurance policies therewith, including but not limited to, a certain First
American Title Insurance Company, Loan Policy of Title Insurance, dated August 8, 2008; (iv)
all rights with respect to escrow deposits; (v) all modification, supplements or advances made
in connection with the foregoing; (vi) all monies due and to become due thereon; and, (vii) all
rights accrued or to accrue under the foregoing.

1. The provisions of this Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignee and their successors and assigns.
2. This Assignment is being delivered pursuant to that certain Agreement for Sale of Promissory Note and Assignment of Security Interests dated July 10, 2014, as amended, restated, supplemented or otherwise modified from time to time, between Assignor and Assignee.
3. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent under applicable

law, the remainder of this Assignment and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

4. This Assignment shall be interpreted, construed and enforced according to the laws of the State of Idaho, in which the real property encumbered by the Mortgage is located.
5. Neither this Assignment nor any provisions hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

AGREED UPON, ACCEPTED BY AND DATED this 07 day of July, 2014.

MORTGAGE FUND '08 LIQUIDATING TRUST

By [Signature]
SUSAN L. UECKER
LIQUIDATING TRUSTEE

STATE OF California
COUNTY OF San Francisco

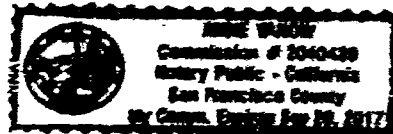
On July 10, 2014, before me Anne Kuo a Notary Public, personally appeared Susan L. Uecker, Liquidating Trustee of the Mortgage Fund '08 Liquidating Trust, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument to the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]

[SEAL]



STATE OF IDAHO
COUNTY OF BONNER
OCT 20 6 57 12 AM
[Handwritten signature]

Richard L. Stacey, ISB #6800
Chad M. Nicholson, ISB #7506
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
755 West Front Street, Suite 200
Boise, Idaho 83702
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@lawidaho.com
nicholson@lawidaho.com

Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company, *et al.*,

Defendants.

Case No. CV-09-1810

**MOTION TO SUBSTITUTE
VALIANT IDAHO, LLC IN PLACE OF
PENSCO TRUST CO. AS THE
REAL PARTY IN INTEREST**

Honorable Michael J. Griffin

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Telephonic Hearing:
October 20, 2014 – 9:30 a.m. PDST

ORIGINAL
941

VALIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND ORELLE BONNER DEVELOPMENT
HOLDINGS, INC., a Nevada corporation;
BARK, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC,
an Idaho limited liability company;
AMY KORENGUT, a married woman;
HLT REAL ESTATE, LLC,
an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO.,
an Idaho limited liability company;
PANHANDLE MANAGEMENT
INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC,
an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of
GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY,
a California corporation;
NETTA SOURCE LLC,
a Missouri limited liability company;
MONTAHEHO INVESTMENTS, LLC,
a Nevada limited liability company;
CHARLES W. REEVES and
ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE &
CONTRACTING, INC., an Idaho corporation,

Third Party Defendants.

////

////

COMES NOW, Defendant/Counter-Claimant/Cross-Claimant/Third Party Plaintiff Valiant Idaho, LLC ("Valiant"), by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and, pursuant to Rules 17(a) and 25(c) of the Idaho Rules of Civil Procedure ("I.R.C.P."), moves this Court for an order substituting Valiant in the place of Pensco Trust Co., Custodian For The Benefit of Barney Ng ("Pensco"), as the real party in interest.

Every civil action must be prosecuted in the name of the real party in interest. I.R.C.P. 17(a). If the original party transfers its interest, the court may, upon motion, order the transferee to be substituted as the real party in interest. I.R.C.P. 25(c).

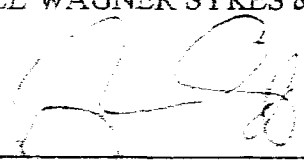
In this case, Valiant entered into an agreement with Pensco, whereby Valiant received an assignment of Pensco's mortgage, assignment of rents, security agreement and fixture filing. Declaration of Richard L. Stacey in Support of Motion to Substitute [Valiant] in Place of [Pensco] as the Real Party in Interest ("Stacey Declaration"), ¶¶ 2-3, Exhibit 1. The claims alleged by Plaintiff Genesis Golf Builders, Inc. ("Plaintiff") and Cross-Claimants R.C. Worst & Company and ACI Northwest, Inc. (collectively, "Cross-Claimants") against Pensco are based upon Plaintiff's and Cross-Claimants' allegations that their respective mechanic's liens have priority over the mortgage that was assigned to Valiant. Thus, Valiant is now the real party in interest with respect to the claims of both Plaintiff and Cross-Claimants.

Based upon the foregoing, the Stacey Declaration and any further evidence that may be presented at the hearing on this motion, Valiant respectfully requests this Court to enter an order substituting Valiant in place of Pensco as the real party in interest.

DATED this 3rd day of October 2014.

McCONNELL WAGNER SYKES & STACEY^{PLLC}

BY:


Richard E. Stacey
Attorneys For Plaintiff Valiant Idaho, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of October 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail brucea@ejame.com
Charles M. Dodson, Esq. Law Office of Charles M. Dodson 1424 Sherman, Suite 300 Coeur d'Alene, Idaho 83814 Telephone: 208.664.1577 Facsimile: 208.666.9211 <i>Counsel For RC Worst & Company</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail cmdodsonlaw@gmail.com
Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.253.6856 Facsimile: 208.253.0400 <i>Counsel For Pensco/Mortgage Fund</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail bcf@featherstonlaw.com

<p>Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For J.V., LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>garyfinney@finneylaw.net</u></p>
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With two copies via United States Mail to:

Honorable Michael J. Griffin
 Judge of the Second Judicial District
 Idaho County Courthouse
 320 West Main Street
 Grangeville, Idaho 83530


 Richard L. Stacey

Richard L. Stacey, ISB #6800
Chad M. Nicholson, ISB #7506
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
755 West Front Street, Suite 200
Boise, Idaho 83702
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@lawidaho.com
nicholson@lawidaho.com

Attorneys For Valiant Idaho, LLC

STATE OF IDAHO
DISTRICT COURT
FIRST JUDICIAL DISTRICT
COUNTY OF BONNER
FILED
OCT 20 2014
MICHAEL J. GRIFFIN

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

Case No. CV-09-1810

DECLARATION OF
RICHARD L. STACEY IN SUPPORT OF
MOTION TO SUBSTITUTE
VALIANT IDAHO, LLC IN PLACE OF
PENSICO TRUST CO. AS THE
REAL PARTY IN INTEREST

Honorable Michael J. Griffin

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.

Telephonic Hearing:

October 20, 2014 - 9:30 a.m. PDST

ORIGINAL

VALIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND OREILLE BONNER DEVELOPMENT
HOLDINGS, INC., a Nevada corporation;
BAR K, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC,
an Idaho limited liability company;
AMY KORENGUT, a married woman;
HLT REAL ESTATE, LLC,
an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO.,
an Idaho limited liability company;
PANHANDLE MANAGEMENT
INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC,
an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of
GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY,
a California corporation;
NETTA SOURCE LLC,
a Missouri limited liability company;
MONTAHENO INVESTMENTS, LLC,
a Nevada limited liability company;
CHARLES W. REEVES and
ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE &
CONTRACTING, INC., an Idaho corporation,

— Third Party Defendants.

////

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Pursuant to Rule 7(d) of the Idaho Rules of Civil Procedure and Idaho Code § 9-1406,

Richard L. Stacey declares as follows:

1. I am an attorney at law duly licensed to practice before this Court, and all Courts in the State of Idaho. I am member of the law firm of McConnell Wagner Sykes & Stacey PLLC, attorneys for Valiant Idaho, LLC ("Valiant"). I make this Declaration in support of the Motion to Substitute [Valiant] in Place of Pensco Trust Co., Custodian For The Benefit of Barney Ng ["Pensco"] as the Real Party In Interest ("Motion") filed concurrently and upon my personal knowledge.

2. As more particularly set forth in the Motion, Valiant entered into an agreement with Pensco, whereby Valiant received an assignment of Pensco's mortgage, assignment of rents, security agreement and fixture filing.

3. Attached hereto as Exhibit 1 is a true and correct copy of the Assignment of Mortgage, Note & Security Agreement recorded July 9, 2014, as Instrument No. 861559, Records of Bonner County, Idaho.

I HEREBY CERTIFY AND DECLARE, under penalty of perjury pursuant to the laws of the State of Idaho, that the foregoing is true and correct.

DATED this 3rd day of October 2014.



RICHARD L. STACEY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of October 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

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	[<input type="checkbox"/>] Hand Delivered
	[<input type="checkbox"/>] Facsimile
	[<input type="checkbox"/>] Overnight Mail
	[<input type="checkbox"/>] Electronic Mail
sweeks@jvwlaw.net	

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320 West Main Street
Grangeville, Idaho 83530

Richard L. Stacey

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FIRST AMERICAN TITLE COMPANY AS AN
ACCOMMODATION. IT HAS NOT BEEN
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TO ITS EFFECT UPON THE TITLE.

Instrument # 861559
BONNER COUNTY, SANDPOINT, IDAHO
7-4-2014 4:27:38 PM No. of Pages: 2
Recorded for: FIRST AMERICAN TITLE SANC
R. ANN OUTSON-SATER Fee: \$15.00
Ex-Officio Recorder Deputy
BONNER COUNTY DEPARTMENT OF MORTGAGE

- 12

Recording requested by
and when recorded mail to:

Valiant Idaho, LLC
c/o William Haberman
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Celebration, FL 34747

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for Barney Ng, and recorded on August 6, 2008, in Bonner County, Idaho, as Instrument Nos.
756394, 756395, and 756396.

TOGETHER WITH the note or notes and all other indebtedness secured thereby, and all
of the following items, to the extent any such item exists: (i) all guaranties of the foregoing; (ii)
all other documents and instruments executed in connection therewith; (iii) all title insurance
commitments and title insurance policies therewith, including but not limited to, First American
Title Insurance Company, Loan Policy of Title Insurance, Policy No. 239217-S dated August 8,
2008; (iv) all rights with respect to escrow deposits; (v) all modification, supplements or
advances made in connection with the foregoing; (vi) all monies due and to become due
thereon; and, (vii) all rights accrued or to accrue under the foregoing.

1. The provisions of this Assignment shall be binding upon and shall inure to the
benefit of Assignor and Assignee and their successors and assigns.
2. This Assignment is being delivered pursuant to that certain Agreement for Sale
of Promissory Note and Assignment of Security Interests dated June 20, 2014, as



amended, restated, supplemented or otherwise modified from time to time, between Assignor and Assignee.

- 3. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent under applicable law, the remainder of this Assignment and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- 4. This Assignment shall be interpreted, construed and enforced according to the laws of the State of Idaho, in which the real property encumbered by the Mortgage is located.
- 5. Neither this Assignment nor any provisions hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

AGREED UPON, ACCEPTED BY AND DATED this 7 day of July, 2014.

PENSCO TRUST CO.,
Custodian for Barney Ng

By: [Signature]

PENSCO Trust Company
Name: By: Dora Gutierrez
Its: Authorized Signatory

STATE OF COLORADO)

COUNTY OF Denver)

The foregoing instrument was acknowledged before me this July 7, 2014 by Dora Gutierrez, authorized signatory of Pensco Trust Co. LLC, a non-depository trust company in limited liability form, organized and existing under and by virtue of the Laws of the State of New Hampshire, on behalf of the company.

WITNESS my hand and official seal.

ROSEANNA RIVERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20124080312
MY COMMISSION EXPIRES DECEMBER 4, 2016

Signature Roseanna Rivera

[SEAL]

Commission Expiration 12-06-16

CLERK
OCT 6 2014 12:55

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF BONNER

Genesis Golf Builders, Inc.,)
Plaintiff,)
v.) CASE NO. CV 2009-1810
Pend Oreille Bonner)
Development, LLC, et al)
Defendants.)

ORDER REGARDING DISQUALIFICATION OF JUDGE

The undersigned Judge voluntarily disqualifies himself from presiding over this case.

The undersigned Judge disqualifies himself for the reason that venue has been changed from Idaho County.

Plaintiff Defendant has moved to disqualify the undersigned Judge under IRCP § 40.

The motion is with cause without cause.
The motion is granted denied.

State Defendant has moved to disqualify the undersigned Judge under ICR § 25.

The motion is with cause without cause.
The motion is granted denied

October 6, 2014
Date

Judge

CERTIFICATE OF MAILING

I hereby certify that true copies of the foregoing Order Regarding Disqualification of Judge were mailed this 7th day of October, 2014, to:

John Finney
Attorney at Law
Old Power House Building
120 East Lake Street, Ste 317
Sandpoint, ID 83864

Gary Finney
Attorney at Law
Old Power House Building
120 East Lake Street, Ste 317
Sandpoint, ID 83864

Susan Weeks
Attorney at Law
1826 Lincoln Way
Coeur d'Alene, ID 83814

Gary Amendola
Attorney at Law
702 N. 4th Street
Coeur d'Alene, ID 83814

Brent Featherston
Attorney at Law
113 S. Second Avenue
Sandpoint, ID 83864

Bruce Anderson
Attorney at Law
320 E. Neider Ave., Ste 102
Coeur d'Alene, ID 83815

Stanley Tharp
Attorney at Law
P.O. Box 1368
Boise, ID 83701

Richard Stacey
Attorney at Law
755 W. Front St., Ste 200
Boise, ID 83702

Charles Dodson
Attorney at Law
1424 Sherman, Ste 300
Coeur d'Alene, ID 83814

R. Allen Dodson Carter
Clerk of the Court
By *[Signature]*
Deputy

Order Regarding Disqualification

Filed October 6, 2014
in Latah County, Idaho
[Signature]
District Judge

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF BONNER**

Genesis Golf Builders, Inc.,
Plaintiff,
v.
Pend Oreille Bonner
Development, LLC, et al
Defendants.

CASE NO. CV 2009-1810

ORDER REGARDING DISQUALIFICATION OF JUDGE

The undersigned Judge voluntarily disqualifies himself ~~herself~~ from presiding over this case.

The undersigned Judge disqualifies himself for the reason that venue has been changed from Idaho County.

Plaintiff Defendant has moved to disqualify the undersigned Judge under IRCP § 40.

The motion is with cause without cause.
The motion is granted denied.

State Defendant has moved to disqualify the undersigned Judge under ICR § 25.

The motion is with cause without cause.
The motion is granted denied

October 6, 2014
Date

[Signature]
Judge

CERTIFICATE OF MAILING

I hereby certify that true copies of the foregoing Order Regarding Disqualification of Judge were mailed this _____ day of October, 2014, to:

John Finney
Attorney at Law
Old Power House Building
120 East Lake Street, Ste 317
Sandpoint, ID 83864

Gary Finney
Attorney at Law
Old Power House Building
120 East Lake Street, Ste 317
Sandpoint, ID 83864

Susan Weeks
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1626 Lincoln Way
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Coeur d'Alene, ID 83814

Brent Featherston
Attorney at Law
113 S. Second Avenue
Sandpoint, ID 83864

Bruce Anderson
Attorney at Law
320 E. Neider Ave., Ste 102
Coeur d'Alene, ID 83815

Stanley Tharp
Attorney at Law
P.O. Box 1368
Boise, ID 83701

Richard Stacey
Attorney at Law
755 W. Front St., Ste 200
Boise, ID 83702

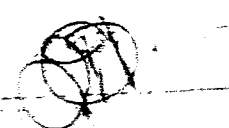
Charles Dodson
Attorney at Law
1424 Sherman, Ste 300
Coeur d'Alene, ID 83814

Clerk of the Court

By _____
Deputy

Order Regarding Disqualification

Susan P. Weeks, ISB #4255
 Melanie Baillie, ISB # 7232
 JAMES, VERNON & WEEKS, PA
 1626 Lincoln Way
 Coeur d'Alene, Idaho 83814
 Telephone: (208) 667-0683
 Facsimile: (208) 664-1684
sweeks@jvwlaw.net
mbaillie@jvwlaw.net

ST...
 COUNTY...
 FILED...
 OCT 6 2014
 CLERK...


Attorneys for Defendants North Idaho Resorts, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC., formerly
 known as National Golf Builders, Inc., a
 Nevada corporation,

Case No. CV 2009-01810

Plaintiff,

VP, INCORPORATED'S MOTION TO
 DISMISS THIRD PARTY COMPLAINT

vs.

PEND OREILLE BONNER
 DEVELOPMENT, LLC, a Nevada limited
 liability company; R.E. LOANS, LLC, a
 California limited liability company; DAN S.
 JACOBSON, an individual; SAGE
 HOLDINGS LLC, an Idaho limited liability
 company; STEVEN G. LAZAR, an individual;
 PENSCO TRUST CO. CUSTODIAN FBO
 BARNEY NG; MORTGAGE FUND '08
 LLC, a Delaware limited liability company;
 VP, INCORPORATED, an Idaho corporation;
 JV L.L.C., an Idaho limited liability company;
 WELLS FARGO FOOTHILL, LLC, a
 Delaware limited liability company;
 INTERSTATE CONCRETE AND ASPHALT
 COMPANY, an Idaho corporation; I-O
 ENGINEERS, INC., fka Toothman-Orton
 Engineering Company, an Idaho corporation;
 PUCCI CONSTRUCTION INC., an Idaho
 corporation; ACI NORTHWEST, INC., an
 Idaho corporation; LUMBERMENS, INC.,
 fka Probuild, a Washington corporation;
 ROBERT PLASTER fka Cedar Etc.; NORTH
 IDAHO RESORTS, LLC, an Idaho limited
 liability company; R.C. WORST &

COMPANY, INC., an Idaho corporation;
DOES I through X,

Defendants.

COMES NOW, Defendant, VP, Incorporated (VP, Inc.) by and through its attorney of record, Susan P. Weeks of the firm James, Vernon & Weeks, P.A., and hereby moves to dismiss the counterclaim filed by Valiant Idaho, LLC (Valiant) against VP Inc. This motion is made by and for the reason that the cross-claim is not properly before the Court in the above matter.

On August 19, 2014, Valiant filed a counterclaim, cross-claim and third party complaint for judicial foreclosure in this matter. On September 19, 2014, this Court entered an order substituting Valiant as the real party in interest for R.E. Loans. On October 1, 2010, R.E.Loans, LLC appeared in this matter and filed an answer to a cross claim brought by ACI Northwest. On April 21, 2011, R.E. Loans filed an answer to complaint.

Rule 13(g) allows a party to file a counter-claim against a coparty. Rule 15 provides if the pleading is an amended and supplemental pleading that a party may amend once as a matter of course at any time before a responsive pleading is served, or, if the pleading is one to which no responsive pleading is permitted, the party may amend at any time within twenty (20) days after it is served. "Otherwise, a party may amend a pleading only by leave of court or by written consent of the adverse party..." In the present matter, Valiant filed a third party suit against third party defendants without leave of Court before it was a party. It also filed a cross-claim against co-defendants, including VP, Inc., without leave of court. Therefore, its pleading is not properly before the Court and should be dismissed.

Oral argument is requested on this motion.

DATED this 6th day of October, 2014.

JAMES, VERNON & WEEKS, P.A.

By: Susan P. Weeks
Susan P. Weeks

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 6th day of October, 2014:

 U.S. Mail, Postage Prepaid
✓ Hand Delivered
 Facsimile: 208-263-8211

Gary A. Finney
FINNEY FINEY & FINNEY, PA
120 E Lake St., Ste. 317
Sandpoint, ID 83864

 U.S. Mail, Postage Prepaid
✓ Hand Delivered
 Facsimile: 509-624-2902

John R. Layman
Patti Jo Foster
Layman Layman & Robinson, PLLP
5431 N Government Way, Suite 101A
Coeur d'Alene, ID 83815

 U.S. Mail, Postage Prepaid
✓ Hand Delivered
 Facsimile: 208-664-5884

Douglas S. Marfice
Ramsden & Lyons, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

 U.S. Mail, Postage Prepaid
✓ Hand Delivered
 Facsimile: 208-667-2150

Bruce A. Anderson
Elsaesser Jarzabek Anderson Marks Elliott &
McHugh, Chtd.
1400 Northwood Ct., Ste. C
Coeur d'Alene, ID 83814

 U.S. Mail, Postage Prepaid
✓ Hand Delivered
 Facsimile: 208-666-9211

Charles M. Dodson
DODSON & RAEON LAW OFFICES
Attorneys at Law
1424 Sherman Avenue, Suite 300
Coeur d'Alene, ID 83814

U.S. Mail, Postage Prepaid
Hand Delivered
Facsimile: 765-1046

Gary I. Amendola
AMENDOLA & DOTY, PLLC
702 N 4th Street
Coeur d'Alene, ID 83814

U.S. Mail, Postage Prepaid
Hand Delivered
Facsimile: 664-4789

Robert Fasnacht
850 W Ironwood Drive, Ste. 101
Coeur d'Alene, ID 83815

U.S. Mail, Postage Prepaid
Hand Delivered
Facsimile: 208-263-0400

Brent C. Featherston
113 S Second Avenue
Sandpoint, ID 83864

U.S. Mail, Postage Prepaid
Hand Delivered
Facsimile: 208-344-8542

Stanley J. Tharp
Peter Ware
EBERLE BERLIN
1111 W Jefferson St., Ste. 530
Boise, ID 83702

U.S. Mail, Postage Prepaid
Hand Delivered
Facsimile: 208-489-0110

Richard Stacey
McConnell Wagner Sykes & Stacey, PLLC
755 West Front St., Ste. 200
Boise, ID 83702

Susan P. Weeks

STATE OF IDAHO
 County of Bonner
 FILED 10-7-14
 AT 9:57 O'Clock P M
 DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

Genesis Golf Builders, Inc.,)	
)	
Plaintiff,)	CASE NO. CV 2009-1810
)	
vs.)	
)	ORDER OF REASSIGNMENT
Pend Oreille Bonner Development)	
LLC, et al.,)	
)	
Defendants.)	

The Honorable Michael Griffin having been disqualified pursuant to Idaho Rule 40(d)(4) in the above matter now,

IT IS HEREBY ORDERED that the above matter is assigned to the Honorable Barbara Buchanan, District Judge, for the disposition of any pending and further proceeding.

IT IS FURTHER ORDERED that the following alternate judges are hereby assigned to preside in this case: Rich Christensen, John T. Mitchell, Lansing L. Haynes, John P. Luster, Benjamin R. Simpson, Fred M. Gibler, Charles W. Hosack, George R. Reinhardt, III, Steve Verby, Jeff Brudie, Carl Kerrick, James Judd.

DATED this 9 day of Oct., 2014.

Lansing L. Haynes

 LANSING L. HAYNES
 Administrative District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 10 day of October 2014, a true and correct copy of the foregoing was sent via facsimile, U.S. Mail, or interoffice mail to the following:

Honorable Barbara Buchanan
Interoffice Mail

John Finney
Gary Finney
Attorney at Law
Old Power House Bldg.
120 East Lake Street, Ste. 317
Sandpoint, ID 83864

Susan Weeks
Attorney at Law
1626 Lincoln Way
Coeur d'Alene, ID 83814

Gary Amendola
Attorney at Law
702 N. 4th Street
Coeur d'Alene, ID 83814

Brent Featherston
Attorney at Law
113 S. Second Avenue
Sandpoint, ID 83864

Bruce Anderson
Attorney at Law
320 E. Neider Ave., Ste. 102
Coeur d'Alene, ID 83815

Stanley Tharp
Attorney at Law
PO Box 1368
Boise, ID 83701

Richard Stacey
Attorney at Law
755 W. Front St., Ste. 200
Boise, ID 83702

Charles Dodson
Attorney at Law
1424 Sherman, Ste. 300
Coeur d'Alene, ID 83814

R. ANN DUTSON-SATER
CLERK OF THE DISTRICT COURT

By 
Deputy Clerk

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

SEP 11 14
CLERK

Genesis Golf Builders, Inc., fka National Golf Builders, Inc.

Plaintiff(s):

AFFIDAVIT OF SERVICE

vs.

Pend Oreille Bonner Development, LLC, et al.

Defendant(s):

Case Number: CV-09-1810

COMES NOW, CHRIS ROWE, being first duly sworn upon oath, and hereby deposes and says: That I am over the age of eighteen (18) years, and not a party to the action or related to any of the parties in the above entitled action. I received a true copy of the **Summons on Third Party Complaint, Counterclaim, Cross-Claim and Third Party Complaint for Judicial Foreclosure** and delivered the same upon **Montaheno Investments, LLC** by delivering to and leaving with Sherry A. Wagner, Registered Agent, a person authorized to accept service on behalf of Montaheno Investments, LLC

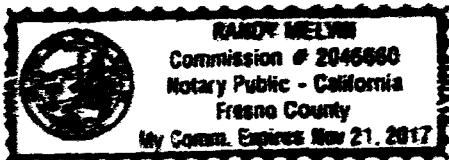
At (Address) 3241 SERENA AVE.

(City, State) CLOVIS, CA (ZIP) 93619

on the 28th day of SEPTEMBER, 2014, at 6:16 o'clock p.m.

County of Fresno)
:ss
State of California)

Subscribed and sworn to before me on this 30 day of September, 2014 before me a Notary Public, the affiant personally appeared, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that they executed the same.



[Signature]
Affiant
[Signature]
NOTARY PUBLIC

Residing at _____
Commission Expires: _____

Our Reference Number: 140475
Client Reference: > Richard L. Stacey

ORIGINAL
965

Richard L. Stacey, ISB #6800
Chad M. Nicholson, ISB #7506
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
755 West Front Street, Suite 200
Boise, Idaho 83702
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@lawidaho.com
nicholson@lawidaho.com

Attorneys For Valiant Idaho, LLC

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

Case No. CV-09-1810

**SUMMONS ON
THIRD PARTY COMPLAINT
BROUGHT BY
THIRD PARTY PLAINTIFF
VALIANT IDAHO, LCC
[Montaheno Investments, LLC]**

Honorable Michael J. Griffin

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

VALIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND OREILLE BONNER DEVELOPMENT HOLDINGS, INC., a Nevada corporation;
BAR K, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC, an Idaho limited liability company;
AMY KORENGUT, a married woman;
HLT REAL ESTATE, LLC, an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO., an Idaho limited liability company;
PANHANDLE MANAGEMENT INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC, an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY, a California corporation;
NETTA SOURCE LLC, a Missouri limited liability company;
MONTAHENO INVESTMENTS, LLC, a Nevada limited liability company;
CHARLES W. REEVES and ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE & CONTRACTING, INC., an Idaho corporation.

Third Party Defendants.

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED THIRD PARTY PLAINTIFF. THIS COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN TWENTY (20) DAYS. READ THE INFORMATION BELOW.

SUMMONS ON THIRD PARTY COMPLAINT BROUGHT
BY THIRD PARTY PLAINTIFF VALIANT IDAHO, LLC

[Moutaheno Investments, LLC] - Page 2
2:10482.002PLD\Summmons-Montaneno 140813.doc

TO: MONTAHENO INVESTMENTS, LLC
c/o Sherry Wagner, Registered Agent
59 Damonte Ranch Parkway B353
Reno, Nevada 89521

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above-designated Court at **215 South First Avenue, Sandpoint, Idaho 83864, 208.265.1445**, within twenty (20) days after service of this Third Party Summons ("Summons") upon you. If you fail to so respond, this Court may enter judgment against you as demanded by the Third Party Plaintiff in its Third Party Complaint ("Complaint").

A copy of the Complaint is served with this Summons. If you wish to seek the advice or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.



An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure, and shall also include:

1. The title and number of this case.
2. If your response is an answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to Third Party Plaintiff's attorney, as designated above.

To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named Court.

DATED this ^{3rd} ~~22~~ day of ^{Sept} ~~August~~ 2014.

R. ANN DUSTON-SATER
CLERK OF THE DISTRICT COURT

By: 
Deputy Clerk 

FILED
CLERK OF DISTRICT COURT
BONNER COUNTY, IDAHO

SEP 21 2014

14-00121-0001

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

Case No. CV-09-1810

ORDER FOR ENTRY OF DEFAULT
AGAINST THIRD PARTY DEFENDANT
PEND OREILLE BONNER
DEVELOPMENT HOLDINGS, INC.

~~Honorable Michael J. Griffin~~

AND ALL RELATED COUNTER,
CROSS AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN
[including Valiant Idaho, LLC's
Counterclaim, Cross-Claim and Third Party
Complaint Filed August 19, 2014].


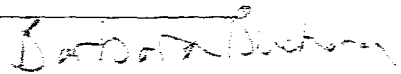
IN THIS ACTION, Third Party Defendant Pend Oreille Bonner Development Holdings, Inc.
("POBD Inc.") having been personally served on September 10, 2014, with Valiant Idaho, LLC's
Counterclaim, Cross-Claim and Third Party Complaint ("Complaint"); and the time for POBD Inc.

ORIGINAL

to have appeared and plead in response to the Complaint has expired and POBD Inc. has not pled further in any manner;

NOW, THEREFORE, IT IS ORDERED AND THIS DOES ORDER, that the default of POBD Inc. be entered herein.

DATED this 21 day of Oct. 2014.


Honorable ~~Michael J. Griffin~~ 
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of October 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Gary I. Amendola, Esq. Amendola Doty & Brumley, PLLC 702 North 4 th Street Coeur d'Alene, Idaho 83814 Telephone: 208.664.8225 Facsimile: 208.765.1046 <i>Counsel For T-O Engineers, Inc.</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail gary@adbattorneys.com
Bruce A. Anderson, Esq. Eisaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail brucea@ejame.com

<p>Charles M. Dodson, Esq. Law Office of Charles M. Dodson 1424 Sherman, Suite 300 Coeur d'Alene, Idaho 83814 Telephone: 208.664.1577 Facsimile: 208.666.9211 <i>Counsel For RC Worst & Company</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail cmddodsonlaw@gmail.com</p>
<p>Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.263.6866 Facsimile: 208.263.0400 <i>Counsel For Pensco/Mortgage Fund</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail bcf@featherstonlaw.com</p>
<p>Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For J.V., LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail garyfinney@finneylaw.net</p>
<p>John A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For Pucci Construction/ACI Northwest</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail johnfinney@finneylaw.net</p>
<p>Richard L. Stacey, Esq. Jeff R. Sykes, Esq. McConnell Wagner Sykes & Stacey PLLC 755 West Front Street, Suite 200 Boise, Idaho 83702 Telephone: 208.489.0100 Facsimile: 208.489.0110 <i>Counsel For Valiant Idaho, LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail stacey@lawidaho.com sykes@lawidaho.com</p>

Susan P. Weeks, Esq.	<input checked="" type="checkbox"/> U.S. Mail
James, Vernon & Weeks, PA	<input type="checkbox"/> Hand Delivered
1525 Lincoln Way	<input type="checkbox"/> Facsimile
Coeur d'Alene, Idaho 83814	<input type="checkbox"/> Overnight Mail
Telephone: 208.667.0683	<input type="checkbox"/> Electronic Mail
Facsimile: 208.664.1684	
<i>Counsel For VP Incorporated/North Idaho Resorts</i>	sweeks@jvwlaw.net

With copies via U.S. Mail to Pend Oreille Bonner Development Holdings, Inc.:

PEND ORELLE BONNER DEVELOPMENT HOLDINGS, INC.
c/o CT Corporation System, Registered Agent
921 South Orchard Street, Suite G
Boise, Idaho 83705

PEND ORELLE BONNER DEVELOPMENT HOLDINGS, INC.
59 Damonte Ranch Parkway, No. B353
Reno, Nevada 89521

PEND ORELLE BONNER DEVELOPMENT HOLDINGS, INC.
151 CLUBHOUSE WAY
SANDPOINT, ID 83864

Clerk of the Court

[Handwritten Signature]
[Handwritten Title]

STATE OF IDAHO
County of Bonner
FILED Oct 22, 2014
AT 9:05 O'CLOCK AM
CLERK, DISTRICT COURT
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

Case No. CV-09-1810

CLERK'S ENTRY OF DEFAULT
AGAINST THIRD PARTY DEFENDANT
PEND OREILLE BONNER
DEVELOPMENT HOLDINGS, INC.

~~Honorable Michael J. Griffin~~

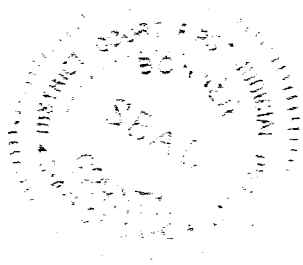
AND ALL RELATED COUNTER,
CROSS AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN
[including Valiant Idaho, LLC's
Counterclaim, Cross-Claim and Third Party
Complaint Filed August 19, 2014].

IN THIS ACTION, Third Party Defendant Pend Oreille Bonner Development Holdings, Inc. ("POBD Inc.") having been personally served with Valiant Idaho, LLC's Counterclaim, Cross-Claim and Third Party Complaint ("Complaint"); and the time for POBD Inc. to have appeared and plead in response to the Complaint has expired and POBD Inc. has not pled further in any manner;

DEFAULT IS HEREBY ENTERED and filed according to law.

WITNESS MY HAND AND SEAL of this Court on the 22 day of Oct 2014.

R. L. Ann Dutton Seiler
CLERK OF THE DISTRICT COURT



[Signature]

Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22 day of October 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Gary I. Amendola, Esq. Amendola Doty & Brumley, PLLC 702 North 4 th Street Coeur d'Alene, Idaho 83814 Telephone: 208.664.8225 Facsimile: 208.765.1046 <i>Counsel For T-O Engineers, Inc.</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail gary@adbattorneys.com
Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d'Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail brucea@ejame.com

<p>Charles M. Dodson, Esq. Law Office of Charles M. Dodson 1424 Sherman, Suite 300 Coeur d'Alene, Idaho 83814 Telephone: 208.664.1577 Facsimile: 208.666.9211 <i>Counsel For RC Worst & Company</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail cmdodsonlaw@gmail.com</p>
<p>Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.263.6856 Facsimile: 208.263.0400 <i>Counsel For Pensco/Mortgage Fund</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail bcf@featherstonlaw.com</p>
<p>Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For J.V., LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail garyfinney@finneylaw.net</p>
<p>John A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263-7712 Facsimile: 208.263-8211 <i>Counsel For Pucci Construction/ACI Northwest</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail johnfinney@finneylaw.net</p>
<p>Richard L. Stacey, Esq. Jeff R. Sykes, Esq. McConnell Wagner Sykes & Stacey PLLC 755 West Front Street, Suite 200 Boise, Idaho 83702 Telephone: 208.489.0100 Facsimile: 208.489.0110 <i>Counsel For Valiant Idaho, LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail stacey@lawidaho.com sykes@lawidaho.com</p>

Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>sweeks@jvwlaw.net</u>
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With copies via U.S. Mail to Pend Oreille Bonner Development Holdings, Inc.:

PEND OREILLE BONNER DEVELOPMENT HOLDINGS, INC.
c/o CT Corporation System, Registered Agent
921 South Orchard Street, Suite G
Boise, Idaho 83705

PEND OREILLE BONNER DEVELOPMENT HOLDINGS, INC.
59 Damonte Ranch Parkway, No. B353
Reno, Nevada 89521

PEND OREILLE BONNER DEVELOPMENT HOLDINGS
INC
151 CLUBHOUSE WAY
SANDPOINT, ID 83864

Clerk of the Court 

Richard L. Stacey, ISB #6800
Jeff R. Sykes, ISB #5058
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
755 West Front Street, Suite 200
Boise, Idaho 83702
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@mwsslawyers.com
sykes@mwsslawyers.com

Attorneys For Valiant Idaho, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.

Case No. CV-09-1810

MOTION FOR LEAVE TO AMEND
ANSWER TO ALLEGE A
COUNTERCLAIM AND CROSS-CLAIM,
AND TO SERVE
THIRD PARTY COMPLAINT

Honorable Barbara A. Buchanan

Hearing:

November 19, 2014 – 11:00 a.m. PST

VALLIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND OREILIE BONNER DEVELOPMENT
HOLDINGS, INC., a Nevada corporation;
BAR K, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC,
an Idaho limited liability company;
AMY KORENGUT, a married woman;
HIT REAL ESTATE, LLC,
an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO.,
an Idaho limited liability company;
PANHANDLE MANAGEMENT
INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC,
an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of
GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY,
a California corporation;
NETTA SOURCE LLC,
a Missouri limited liability company;
MONTAHERO INVESTMENTS, LLC,
a Nevada limited liability company;
CHARLES W. REEVES and
ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE &
CONTRACTING, INC., an Idaho corporation,

Third Party Defendants.

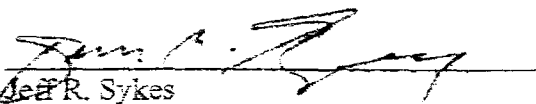
COMES NOW, Defendant/Counter-Claimant/Cross-Claimant/Third Party Plaintiff Valiant Idaho, LLC ("Valiant"), as the successor-in-interest to R.E. Loans, LLC ("R.E. Loans") pursuant to this Court's Order Substituting Valiant Idaho, LLC In Place of R.E. Loans, LLC As the Real Party In Interest entered on August 7, 2014, by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and moves this Court, pursuant to Rule 15(a) of the Idaho Rules of Civil Procedure, for an order granting Valiant leave to amend the Answer to Complaint filed on or about April 19, 2011 by R.E. Loans to allege the counterclaim and cross-claim, as filed by Valiant on August 19, 2014, and, pursuant to Rule 14(a) of the Idaho Rules of Civil Procedure, an order to allow service of the third party complaint, as filed August 19, 2014.

This motion is made and based upon the records and files herein, the Memorandum in Support of Motion For Leave to Amend Answer to Allege A Counterclaim and Cross-Claim, and Serve Third Party Complaint filed concurrently herewith, and Valiant Idaho, LLC's Counterclaim, Cross-Claim and Third Party Complaint For Foreclosure filed August 19, 2014.

DATED this 4th day of November 2014.

McCONNELL WAGNER SYKES & STACEY^{PLLC}

BY:


Jeff R. Sykes
Attorneys For Valiant Idaho, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of November 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

<p>Gary I. Amendola, Esq. Amendola Doty & Brumley, PLLC 702 North 4th Street Coeur d'Alene, Idaho 83814 Telephone: 208.664.8225 Facsimile: 208.765.1046 <i>Counsel For T-O Engineers, Inc.</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>garv@adbattorneys.com</u></p>
<p>Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d'Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>brucea@ejame.com</u></p>
<p>Charles M. Dodson, Esq. Law Office of Charles M. Dodson 1424 Sherman, Suite 300 Coeur d'Alene, Idaho 83814 Telephone: 208.664.1577 Facsimile: 208.666.9211 <i>Counsel For RC Worst & Company</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>cmdodsonlaw@gmail.com</u></p>
<p>Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.263.6866 Facsimile: 208.263.0400 <i>Counsel For Pensco/Mortgage Fund</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>bcf@featherstonlaw.com</u></p>
<p>Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>gar.finney@finneylaw.net</u></p>

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<p>Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail sweeks@jvwlaw.net</p>

With two copies via Federal Express to:

Honorable Barbara A. Buchanan
 Judge of the First Judicial District
 Bonner County Courthouse
 215 South First Avenue
 Sandpoint, Idaho 83864



 Jeff R. Sykes

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Attorneys For Valiant Idaho, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as
NATIONAL GOLF BUILDERS, INC.,
a Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER
DEVELOPMENT, LLC,
a Nevada limited liability company; *et al.*,

Defendants.

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.

Case No. CV-09-1810

MEMORANDUM IN OPPOSITION TO
VP, INCORPORATED'S
MOTION TO DISMISS
THIRD PARTY COMPLAINT OR,
IN THE ALTERNATIVE,
MOTION FOR LEAVE TO AMEND
ANSWER TO ALLEGE A
COUNTERCLAIM AND CROSS-CLAIM,
AND TO SERVE
THIRD PARTY COMPLAINT

Honorable Barbara A. Buchanan

Hearing:

November 19, 2014 – 11:00 a.m. PST

VALIANT IDAHO, LLC,
an Idaho limited liability company,

Third Party Plaintiff,

vs.

PEND OREILLE BONNER DEVELOPMENT
HOLDINGS, INC., a Nevada corporation;
BAR K, INC., a California corporation;
TIMBERLINE INVESTMENTS LLC,
an Idaho limited liability company;
AMY KORENGUT, a married woman;
HLT REAL ESTATE, LLC,
an Idaho limited liability company;
INDEPENDENT MORTGAGE LTD. CO.,
an Idaho limited liability company;
PANHANDLE MANAGEMENT
INCORPORATED, an Idaho corporation;
FREDERICK J. GRANT, an individual;
CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC,
an Arizona limited liability company;
MOUNTAIN WEST BANK, a division of
GLACIER BANK, a Montana corporation;
FIRST AMERICAN TITLE COMPANY,
a California corporation;
NETTA SOURCE LLC,
a Missouri limited liability company;
MONTAHENO INVESTMENTS, LLC,
a Nevada limited liability company;
CHARLES W. REEVES and
ANN B. REEVES, husband and wife;
and C. E. KRAMER CRANE &
CONTRACTING, INC., an Idaho corporation,

Third Party Defendants.

COMES NOW, Defendant/Counter-Claimant Cross-Claimant Third Party Plaintiff Valiant Idaho, LLC ("Valiant"), by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and files its Memorandum in Opposition to VP, Incorporated's ["VP"] Motion to Dismiss Third Party Complaint ("VP's Motion") or, In The Alternative, to Amend Answer to Allege A Counterclaim and Cross-Claim, and to Serve Third Party Complaint ("Opposition").

I.
FACTS

On or about October 13, 2009, Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc. ("Genesis") filed its Complaint in the instant action ("Genesis Complaint"). The Genesis Complaint alleges causes of action for breach of contract against Pend Oreille Bonner Development, LLC ("POBD"). Genesis also alleges claims against all Defendants to foreclose a mechanic's lien; to establish the priority of each named Defendant's interest in the real property at issue; to have all of the named Defendants' interests in the real property declared junior to Genesis's interests; and, to have the real property sold at a sheriff's sale.

Two of the named Defendants were R. E. Loans, LLC ("R.E. Loans") and VP.

On or about August 9, 2010, ACI Northwest, Inc. ("ACI") answered the Genesis Complaint, asserting a counterclaim and cross-claim against all parties. ACI also alleged that its lien against the real property was senior to all the other parties' interest in the real property.

On or about February 24, 2011, R.E. Loans filed a reply to ACI's cross-claim, asserting by affirmative defense that its interest in the real property was senior to ACI's interest in the real property.

On or about April 19, 2011, R.E. Loans filed its Answer to the Genesis Complaint and, by affirmative defense, asserted that its interest in the real property was senior to Genesis's interest.

On or about April 21, 2011, R. C. Worst & Company, Inc. ("RC Worst") filed a counterclaim and cross-claim against all parties and alleged that its lien against the real property was senior to all other parties' interest in the real property and to establish its priority in the real property.

On or about June 3, 2011, R.E. Loans answered RC Worst's cross-claim and asserted, among other things, that its interest in the real property was senior to all parties' respective interest in the real property.

After a bankruptcy stay was lifted, on or about April 25, 2014, R.E. Loans filed a motion for summary judgment against ACI and RC Worst, asserting that its interest in the real property had priority over the alleged interests of ACI and RC Worst.

On or about June 2, 2014, this Court issued an order dismissing RC Worst's claim and/or interest in and to the real property; and, on July 21, 2014, granted R.E. Loans' summary judgment against ACI.

On August 7, 2014, the Court issued an order allowing Valiant to substitute as the real party in interest for R.E. Loans.

On August 19, 2014, Valiant, making its first appearance in the case after being substituted as the real party in interest for R.E. Loans, filed its Counterclaim ["Counterclaim"], Cross-Claim ["Cross-Claim"] and Third Party Complaint ["3rd Party Complaint"] For Judicial Foreclosure (collectively, the Counterclaim, Cross-Claim and 3rd Party Complaint). It is this pleading which is at issue before the Court.

The Counterclaim was personally served upon Genesis on October 3, 2014.

The Cross-Claim was served August 19, 2014, with the exception of:

- a. POBD, which was personally served on September 11, 2014;
- b. RC Worst, whose counsel accepted service on September 23, 2014;
and
- c. VP, whose counsel accepted service on September 12, 2014.

The 3rd Party Complaint has been served upon the following Third Party Defendants:

THIRD PARTY DEFENDANT	SERVICE DATE
Bar K, Inc.	Pending
First American Title Company	09.10.14
Christine Grant and Frederick J. Grant	Pending
HLT Real Estate, LLC	Pending
Independent Mortgage Ltd. Co.	09.24.14
Amy Korengut	09.20.14
C. E. Kramer Crane & Contracting, Inc.	09.18.14
Montaheno Investments LLC	09.28.14
Mountain West Bank	09.17.14
Netta Source LLC	09.17.14
Panhandle Management Incorporated	10.01.14
Pend Oreille Bonner Development Holdings, Inc.	09.10.14
Charles W. Reeves and Ann B. Reeves	09.24.14
Russ Capital Group, LLC	09.22.14
Timberline Investments, LLC	Pending

The following parties have answered the Counterclaim, Cross-Claim and 3rd Party Complaint:

PARTY	ANSWER DATE
ACI Northwest, Inc.	09.29.14
First American Title Company [*counsel for First American has agreed to stipulate as to priority]	*N/A
Dan S. Jacobson	09.12.14
JV, L.L.C.	09.15.14
Steven G. Lazar	09.12.14
Mountain West Bank [*counsel for Mountain West Bank has agreed to stipulate as to priority]	*N/A
North Idaho Resorts, LLC	09.19.14
R. C. Worst & Company, Inc. [*counsel stipulated to entry of judgment in favor of Valiant]	Pending
Sage Holdings, LLC	09.12.14

This case has not yet been set for trial.

On October 6, 2014, VP filed the pending Motion, which appears to assert that Valiant did not obtain leave of Court to file the Cross-Claim against VP or obtain leave of Court to file the Counterclaim under Rule 13(e) of the Idaho Rules of Civil Procedure ("I.R.C.P."), or obtain leave to serve the 3rd Party Complaint under I.R.C.P. 14(a). Neither the Counterclaim nor the 3rd Party Complaint is directed at VP. Thus, it appears that VP only asserts that Valiant's Cross-Claim against VP should be dismissed despite the title of its Motion.

Valiant opposes VP's Motion on the basis that it complied with the I.R.C.P. Nonetheless, in the alternative, if this Court finds that Valiant must obtain leave of court to file and serve the Counterclaim and Cross-Claim, and to serve the 3rd Party Complaint, Valiant moves this Court for an order granting leave to amend R.E. Loans' Answer filed April 19, 2011 to allege the Counterclaim and Cross-Claim, and for leave to serve the 3rd Party Complaint. Valiant respectfully requests that such order be entered retroactively to August 19, 2014 (the date of the original filing of Valiant's Counterclaim, Cross-Claim and 3rd Party Complaint), and to order VP to file an answer within twenty days from entry of the Order consistent with I.R.C.P. 12(a).

II. ARGUMENT

I.R.C.P. 7(a) provides:

There shall be a complaint and an answer; and there shall be a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under Rule 14 and there shall be a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

I.R.C.P. 13(g) provides that a pleading may state a cross-claim against another party in the case, and states, in pertinent part:

A pleading may state as a cross-claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject-matter either of the original action or of a counterclaim therein or relating to any property that is the subject-matter of the original action. . . .

I.R.C.P. 13(a) and 13(b) provide that a counterclaim may be asserted against the original plaintiff.

I.R.C.P. 14(a) provides for third party practice, and states, in pertinent part:

At any time after commencement of the action a defendant as a third-party plaintiff may cause to be served a summons and complaint upon a person not a party to the action who is or may be liable to such third-party plaintiff for all or part of the plaintiff's claim against the third party plaintiff. The third-party plaintiff need not obtain leave to make the service if the third party plaintiff files the third-party complaint not later than 10 days after serving the original answer. Otherwise the third party plaintiff must obtain leave on motion upon notice to all parties to the action. . . .

I.R.C.P. 15(a) provides for amendments and supplements to pleadings, and states, in pertinent part:

A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within twenty (20) days after it is served. Otherwise a party may amend a pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires, . . .

The purposes of I.R.C.P. 15(a) ". . . are to allow claims to be determined on the merits rather than on technicalities, and to make pleadings serve the limited role of providing notice of the nature of the claim and the facts at issue." *Cari H. Christensen Family Trust v. Christensen*, 133 Idaho 866, 871 (1999) (citing *Clark v. Olson*, 110 Idaho 323, 325 (1985)). A motion to amend should be granted where the new claims sought to be inserted into the action are valid claims. See *Black Canyon Racquetball Club, Inc. v. Idaho First National Bank, N.A.*, 119 Idaho 171, 175 (1991).

When considering whether to grant a motion to amend, the trial court should consider factors such as undue delay, bad faith or dilatory motives by the movant, previously failures to cure deficiencies and undue prejudice to the opposing party. *Christensen*, 133 Idaho at 871.

When ruling on a motion to amend, “. . . the trial court may not consider the sufficiency of the evidence supporting the claim sought to be added in determining leave to amend because that is more properly determined at the summary judgment stage.” *Maroun v. Wyreless Systems, Inc.*, 141 Idaho 604, 612 (2005) (citing *Thomas v. Medical Center Physicians P.A.*, 138 Idaho 200, 210 (2002)).

A. Valiant's Filing And Service Of Its Cross-Claim Against VP Complied With The I.R.C.P.

In this case, R.E. Loans filed its reply to ACI's cross-claim on February 4, 2011, its Answer to Genesis's Complaint on or about April 19, 2011, and its answer to RC Worst's cross-claim on June 3, 2011. In each instance, R.E. Loans asserted it had a mortgage/deed of trust against the real property at issue in this case and that its mortgage/deed of trust was senior and in a first security position. Valiant did not substitute-in as the real party in interest for R.E. Loans until August 7, 2014. On August 19, 2014, within twenty days of becoming a party, Valiant filed its Counterclaim, Cross-Claim and 3rd Party Complaint. By way of the acceptance of service, Valiant served VP on September 12, 2014. August 7, 2014 was the first time Valiant entered the case and that was the first date it could file an answer or cross-claim, counterclaim or third party complaint. Under Rule 15(a), Valiant's Cross-Claim and Counterclaim was filed within twenty days of its first appearance in the case and was timely.

VP's Motion to dismiss Valiant's Cross-Claim is nothing more than a complaint regarding timing. VP provides no basis why Valiant's Cross-Claim should not be allowed under I.R.C.P. 13(g), or that Valiant should not be allowed to serve its 3rd Party Complaint under I.R.C.P. 14(a). The claims asserted by Valiant arise from the same foreclosure action originally brought by Genesis and ACI's and RC Worst's respective cross-claims. Valiant seeks to establish the priority of its mortgages against the real property at issue and to foreclose the same. The same facts and issues are common to all Defendants, Cross-Claimants, Cross-Defendants, Counterclaimants and Counter-Defendants. It only makes sense and serves to promote judicial economy that Valiant's claims be adjudicated in this case, as all of the parties claim an interest in the exact same real property.

Moreover, VP cannot establish that it is prejudiced by Valiant's filing and service of the Cross-Claim or the 3rd Party Complaint. Nonetheless, as an alternative to this Opposition to VP's Motion, Valiant moves this Court under I.R.C.P. 15(a) for an order effective August 19, 2014 granting Valiant leave to amend the April 19, 2011 Answer to allege the Counterclaim and Cross-Claim, as asserted in the August 19, 2014 filing, and to order VP to answer the Cross-Claim within twenty (20) days from entry of the order as set forth in I.R.C.P. 12(a).

As is set forth above, there is no just reason to deny Valiant's requested amendment, as amendment of the pleadings should be freely granted. I.R.C.P. 15(a).

B. Valiant's 3rd Party Complaint Was Properly Filed Pursuant To The I.R.C.P.

VP also seems to complain that Valiant's 3rd Party Complaint was filed without leave of Court. Valiant's 3rd Party Complaint, however, is not directed toward VP—only the Cross-Claim is directed at VP. Thus, Valiant questions whether VP has standing to raise the issue. Moreover, VP provides no authority that Valiant was required to obtain leave of Court to file the 3rd Party Complaint in question. To the contrary, I.R.C.P. 14(a) provides that any time after the commencement of an action, a defendant as a third party plaintiff may cause to be served a summons and complaint upon a person not a party to the action. Rule 14(a) further provides that the third party plaintiff need not obtain leave to make service if the third party plaintiff files the third party complaint not later than ten (10) days after serving the original answer. There is no requirement in I.R.C.P. 14(a) that the third party complaint be filed within a certain time after the filing of an answer or any other pleading. The third party plaintiff must only obtain leave to effectuate service of the third party complaint if service will be obtained ten (10) days after the original answer is filed.

Valiant's 3rd Party Complaint was properly filed under the I.R.C.P. Nonetheless, in an abundance of caution, Valiant respectfully requests the Court to issue an order, retroactively to August 19, 2014, allowing service of the 3rd Party Complaint under I.R.C.P. 14(a) and to require each served Third Party Defendant to answer within twenty (20) days following the date of personal service as required by I.R.C.P. 12(a).

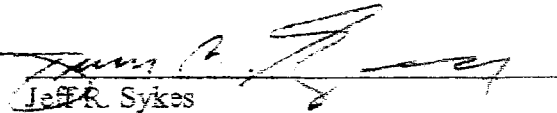
III.
CONCLUSION

Based upon the foregoing law and argument, Valiant respectfully requests this Court to deny VP's Motion or, in the alternative, issue an order granting Valiant leave to amend the April 19, 2011 Answer to assert the Counterclaim and Cross-Claim, and to allow Valiant to serve its 3rd Party Complaint so that all issues in the lawsuit may be fully adjudicated.

DATED this 4th day of November 2014.

McCONNELL WAGNER SYKES & STACEY^{PLLC}

BY:


Jeff R. Sykes

Attorneys For Valiant Idaho, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of November 2014, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

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<p>Charles M. Dodson, Esq. Law Office of Charles M. Dodson 1424 Sherman, Suite 300 Coeur d'Alene, Idaho 83814 Telephone: 208.664.1577 Facsimile: 208.666.9211 <i>Counsel For RC Worst & Company</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>cmdodsonlaw@gmail.com</u></p>
<p>Brent C. Featherston, Esq. Featherston Law Firm, Chtd 113 South Second Avenue Sandpoint, Idaho 83864 Telephone: 208.263.6866 Facsimile: 208.263.0400 <i>Counsel For Pensco/Mortgage Fund</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>bcf@featherstonlaw.com</u></p>

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With two copies via Federal Express to:

Honorable Barbara A. Buchanan
 Judge of the First Judicial District
 Bonner County Courthouse
 215 South First Avenue
 Sandpoint, Idaho 83864



 Jeff B. Sykes

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8 *Attorneys for Plaintiff*

9 **IN THE DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT OF THE**
10 **STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

11 GENESIS GOLF BUILDERS, INC., formerly
12 known as National Golf Builders, Inc., a Nevada
13 Corporation,

14 *Plaintiff*

15 vs.

16 PEND OREILLE BONNER DEVELOPMENT,
17 LLC, and Nevada limited liability company;
18 R. E. LOANS, LLC, a California limited
19 liability; DAN JACOBSON, an individual;
20 SAGE HOLDINGS, LLC, an Idaho limited
21 liability company; STEVEN G. LAZAR, an
22 individual; PENSCO TRUST CO. CUSTODIAN
23 FBO BARNEY NG; MORTGAGE FUND '08,
24 LLC, a Delaware limited liability company; VP,
25 INCORPORATED, an Idaho corporation; JV,
LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a Delaware
limited liability company; INTERSTATE
CONCRETE AND ASPHALT COMPANY, an
Idaho corporation; T-O ENGINEERS, INC., fka
Toothman Orton Engineering Company, an
Idaho corporation; PUCCI CONSTRUCTION,
INC., an Idaho corporation; ACI
NORTHWEST, INC., an Idaho corporation;
LUMBERMENS, INC., dba ProBuild, a
Washington corporation; ROBERT PLASTER
dba Cedar Etc.; NORTH IDAHO RESORTS,
LLC, an Idaho limited liability company; R.C.
WORST & COMPANY, INC., an Idaho

NO. CV-2009-1810

THIRD PARTY DEFENDANT IDAHO
CLUB HOMEOWNER'S
ASSOCIATION, INC.'S MOTION AND
MEMORANDUM TO DISMISS
CLAIM ASSERTED BY THIRD
PARTY PLAINTIFF JV, L.L.C.

1 corporation; DOES 1 through X

2 Defendant(s)

3 AND RELATED CONTERCLAIMS, CROSS-
4 CLAIMS, AND THIRD-PARTY COMPLAINTS

5 GENESIS GOLF BUILDERS, INC., formerly
6 known as NATIONAL GOLF BUILDERS, INC.
7 a Nevada corporation,

8 Plaintiff,

9 v.
10 PEND OREILLE BONNER DEVELOPMENT,
11 LLC, a Nevada limited liability company; et al,

12 Defendants.

13 AND RELATED CONTERCLAIMS, CROSS-
14 CLAIMS, AND THIRD-PARTY COMPLAINTS

15 VALIANT IDAHO, LLC, an Idaho limited
16 liability company,

17 Third-Party Plaintiff,

18 v.

19 PEND OREILLE BONNER DEVELOPMENT
20 HOLDINGS, INC., a Nevada corporation; BAR
21 K, INC., a California corporation; TIMBERLINE
22 INVESTMENTS, LLC, an Idaho limited liability
23 company; AMY KORENGUT, a married
24 woman; HLT REAL ESTATE, LLC, and Idaho
25 limited liability company; INDEPENDENT
MORTGAGE, LTD. CO., an Idaho limited
liability company; PANHANDLE
MANAGEMENT INCORPORATED, an Idaho
corporation; FREDERICK J. GRANT, an
individual; CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC, an Arizona
limited liability company; MOUNTAIN WEST
BANK, a division of GLACIER BANK, a

1 Montana corporation; FIRST AMERICAN
2 TITLE COMPANY, a California corporation;
3 NETTA SOURCE, LLC., a Missouri limited
4 liability company; MONTAHEÑO
5 INVESTMENTS, LLC, a Nevada limited liability
6 company; CHARLES W. REEVES and ANN B.
7 REEVES, husband and wife; C.E. KRAMER
8 CRANE & CONTRACTING, INC., an Idaho
9 corporation,

10 Third-Party Defendants.

11 JV, LLC, an Idaho limited liability company,

12 Defendant and Cross-
13 Claimant against all of the
14 Defendants and Third-Party
15 Plaintiffs,

16 v.

17 VALIANT IDAHO, LLC, an Idaho limited
18 liability company; VP., INC., an Idaho
19 corporation; RICHARD A. VILLELLI, a married
20 man; MARIE VICTORIA VILLELLI, a married
21 woman; VILLELLI ENTERPRISES, INC., a
22 California corporation; RICHARD A. VILLELLI,
23 as TRUSTEE OF THE RICHARD ANTHONY
24 VILLELLI AND MARIE VICTORIA VILLELLI
25 REVOCABLE TRUST; THE IDAHO CLUB
HOMEOWNERS ASSOCIATION, INC., an
Idaho corporation; the entity named in Attorney
Toby McLaughlin's Notice of Unpaid Assessment
as PANHANDLE MANAGEMENT,
INCORPORATED, an Idaho corporation; and
HOLMBERG HOLDINGS, LLC, a California
limited liability company,

Third-Party Defendants.

I. MOTION

The Idaho Club Homeowner's Association, Inc. (hereinafter the "HOA"), a named Third-Party Defendant herein, moves to dismiss the claims of Third-Party Plaintiff JV, L.L.C.

1 (hereinafter "JV") against the HOA, which are set forth in paragraph 102 of JV's "Special
2 Appearance," in which JV seeks a judgment against the HOA for \$5,217.36 that JV claims is
3 incurred in defending an entirely separate lawsuit, that being *The Idaho Club Homeowner's*
4 *Association, Inc. v. Pend Oreille Bonner Development, LLC*, Bonner County Case CV-2011-
5 2288 (hereinafter referred to as the "HOA Suit").

6 It is not appropriate for JV to seek as damages in this case an award of costs and
7 attorney's fees allegedly incurred in defending JV in an entirely separate lawsuit. Such relief
8 must be sought in the action in which those costs and fees were allegedly incurred, i.e., in the
9 HOA suit. In fact, the day after filing its Special Appearance in this matter, JV filed in the HOA
10 Suit a Memorandum of Attorneys' Fees and Costs seeking an award of these \$5,217.36 – the
11 same fees and costs that it is claiming as damages against the HOA in this case. JV has,
12 therefore, asserted in this action the same claim that it has asserted against the same party in
13 another action, thereby seeking double recovery, and creating the potential for inconsistent
14 judicial outcomes of the same matter. JV's claim, therefore, must be dismissed pursuant to Rule
15 12(b)(8) of the Idaho Rules of Civil Procedure.

17 This Motion is supported by the subjoined Memorandum, the Affidavit of Toby
18 McLaughlin, and the records and files herein.

19 II. MEMORANDUM

20 A. Statement of Facts

21 1. On December 20, 2011, the Complaint in *The Idaho Club Homeowner's*
22 *Association, Inc. v. Pend Oreille Bonner Development, LLC, et. al.*, was filed in Bonner County
23 District Court as Case No. CV-2011-2284 (hereinafter the "HOA Suit"). (*McLaughlin Aff.*, ¶ 5).
24
25

1 2. In the HOA Suit, the HOA is seeking a Judgment against Pend Oreille Bonnet
2 Development, LLC, which is the original developer of the Idaho Club (hereinafter "the
3 Developer"), for unpaid homeowners assessments, and a judgment allowing the foreclosure of
4 the HOA's liens. (*Id.* at ¶¶ 5 - 7).

5 3. As a lienholder in the Developer's properties, JV, LLC, was named as a defendant
6 in the HOA Suit (*Id.*), pursuant to Idaho Code § 45-1302, which states:

7 In any suit brought to foreclose a mortgage or lien upon real
8 property or a lien on or security interest in personal property, the
9 plaintiff, cross-complainant or plaintiff in intervention *may make*
10 *as party defendant in the same cause of action, any person*
11 *having, claiming or appearing to have or to claim any title,*
12 *estate, or interest in or to any part of the real or personal*
13 *property involved therein, and the court shall, in addition to*
14 *granting relief in the foreclosure action, determine the title, estate*
15 *or interest of all parties thereto in the same manner and to the same*
16 *extent and effect as in the action to quiet title.*

17 (*emphasis added*).

18 4. JV, LLC, was voluntarily dismissed as a defendant in the HOA Suit on April 18,
19 2014. (*McLaughlin Aff.*, ¶ 8).

20 5. On September 16, 2014, JV filed its Memorandum of Attorney Fees and Costs in
21 the HOA Suit, seeking the recovery of fees and costs of \$5,217.36 allegedly incurred in
22 defending the HOA Suit. (*Id.*, at ¶ 9).

23 6. On September 25, 2014, the HOA filed an Objection to JV, LLC's Memorandum
24 of Attorney's Fees and Costs in the HOA Suit. (*Id.*, at ¶ 10).

25 7. That issue is currently pending before the District Court in the HOA Suit. (*Id.*, at
¶ 11).

 8. On September 15, 2014, JV filed its "Special Appearance Contesting Jurisdiction,
and JV L.L.C.'s Answer to Complaint; and JV, L.L.C.'s Answer to Valiant Idaho, LLC's

1 Counterclaim; Cross-Claim and Third Party Complaint for Judicial Foreclosure; and JV, L.L.C.'s
2 Cross-Claim; and JV, L.L.C.'s Third Party Complaint. (hereinafter the "Special Appearance").

3 9. Paragraph 102 of its Special Appearance contains the only allegation regarding
4 the HOA, in which JV alleges:

5 JV's Mortgage is prior to and superior to the liens and Lis Pendens
6 claimed by the Idaho Club Homeowners Association, Inc. in its
7 action filed in Bonner County Case No. CV-2011-2284, which
8 caused JV to defend and incur \$5,217.36 in attorney fees and costs.
9 JV is entitled to Judgment against the Idaho Club Homeowner's
10 Association quashing its lien(s), assessments, and Lis Pendens and
11 for \$5,217.36 attorney fees and costs and attorney fees and costs of
12 this action.

13 10. JV is, therefore, seeking a judgment in this action against the HOA for attorneys'
14 fees and costs it allegedly incurred defending the HOA Suit.

15 **B. JV Cannot Assert a Claim in this Case which is Pending in Another Lawsuit.**

16 Rule 12(b) of the Idaho Rules of Civil Procedure states, in relevant part:

17 Every defense, in law or fact, to a claim for relief in any pleading,
18 whether a claim, counterclaim, cross-claim or third-party claim,
19 shall be asserted in the responsive pleading thereto if one is
20 required, except that **the following defenses shall be made by
21 motion:** (1) lack of jurisdiction over the subject matter, (2) lack of
22 jurisdiction over the person, (3) improper venue, (4) insufficiency
23 of process, (5) insufficiency of service of process, (6) failure to
24 state a claim upon which relief can be granted, (7) failure to join an
25 indispensable party, (8) *another action pending between the same
parties for the same cause.*

26 JV has asserted herein the same claim that it has asserted in the HOA Suit. It is not only
27 seeking a double recovery of costs to which it has no legitimate claim, it is inviting conflicting
28 decisions by the District Court as to the same issue. The claim must, therefore, be dismissed.

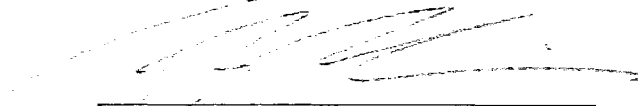
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III. CONCLUSION

For the reasons stated herein, Third Party Plaintiff JV's claim against the HOA for attorney fees and costs allegedly incurred in another lawsuit must be dismissed. Moreover, the HOA should be awarded its legal costs and attorney's fees against JV for having to defend this clearly frivolous claim.

DATED this 3rd day of November, 2014.

BERG & McLAUGHLIN, Chtd.



Toby McLaughlin
Attorneys for the Idaho Club Homeowner's Assoc.

CERTIFICATE OF SERVICE

On November 7, 2014, I caused copies of the foregoing document to be served by the following methods on the parties listed below as follows, which is the last known address for the listed party:

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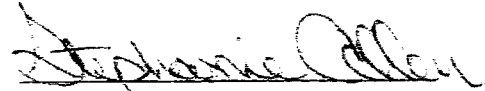
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8 *Attorneys for Plaintiff*

9 **IN THE DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT OF THE**
10 **STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

11 GENESIS GOLF BUILDERS, INC., formerly
12 known as National Golf Builders, Inc., a Nevada
13 Corporation,

14 Plaintiff

15 vs.

16 PEND OREILLE BONNER DEVELOPMENT,
17 LLC, and Nevada limited liability company;
18 R. E. LOANS, LLC, a California limited
19 liability; DAN JACOBSON, an individual;
20 SAGE HOLDINGS, LLC, an Idaho limited
21 liability company; STEVEN G. LAZAR, an
22 individual; PENSCO TRUST CO. CUSTODIAN
23 FBO BARNEY NG; MORTGAGE FUND '08,
24 LLC, a Delaware limited liability company; VP,
25 INCORPORATED, an Idaho corporation; JV,
LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a Delaware
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CONCRETE AND ASPHALT COMPANY, an
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Toothman Orton Engineering Company, an
Idaho corporation; PUCCI CONSTRUCTION,
INC., an Idaho corporation; ACI
NORTHWEST, INC., an Idaho corporation;
LUMBERMENS, INC., dba ProBuild, a
Washington corporation; ROBERT PLASTER
dba Cedar Etc.; NORTH IDAHO RESORTS,
LLC, an Idaho limited liability company; R.C.
WORST & COMPANY, INC., an Idaho

NO. CV-2009-1810

**THIRD PARTY DEFENDANT
PANHANDLE MANAGEMENT,
INCORPORATED'S MOTION AND
MEMORANDUM TO DISMISS
CLAIMS ASSERTED BY THIRD
PARTY PLAINTIFF JV, L.L.C.**

1 corporation; DOES 1 through X.

2 Defendant(s)

3 AND RELATED CONTERCLAIMS, CROSS-
4 CLAIMS, AND THIRD-PARTY COMPLAINTS

5 GENESIS GOLF BUILDERS, INC., formerly
6 known as NATIONAL GOLF BUILDERS, INC.
a Nevada corporation,

7 Plaintiff,

8 v.

9 PEND OREILLE BONNER DEVELOPMENT,
10 LLC, a Nevada limited liability company; et al,

11 Defendants.

12 AND RELATED CONTERCLAIMS, CROSS-
13 CLAIMS, AND THIRD-PARTY COMPLAINTS

14 VALIANT IDAHO, LLC, an Idaho limited
15 liability company,

16 Third-Party Plaintiff,

17 v.

18 PEND OREILLE BONNER DEVELOPMENT
19 HOLDINGS, INC., a Nevada corporation; BAR
20 K, INC., a California corporation; TIMBERLINE
21 INVESTMENTS, LLC, an Idaho limited liability
22 company; AMY KORENGUT, a married
23 woman; HLT REAL ESTATE, LLC, and Idaho
24 limited liability company; INDEPENDENT
25 MORTGAGE, LTD. CO., an Idaho limited
liability company; PANHANDLE
MANAGEMENT INCORPORATED, an Idaho
corporation; FREDERICK J. GRANT, an
individual; CHRISTINE GRANT, an individual;
RUSS CAPITAL GROUP, LLC, an Arizona
limited liability company; MOUNTAIN WEST
BANK, a division of GLACIER BANK, a

1 Montana corporation; FIRST AMERICAN
2 TITLE COMPANY, a California corporation;
3 NETTA SOURCE, LLC., a Missouri limited
4 liability company; MONTAHEÑO
5 INVESTMENTS, LLC, a Nevada limited liability
6 company; CHARLES W. REEVES and ANN B.
7 REEVES, husband and wife; C.E. KRAMER
8 CRANE & CONTRACTING, INC., an Idaho
9 corporation,

10
11 Third-Party Defendants.

12 JV, LLC, an Idaho limited liability company,

13 Defendant and Cross-
14 Claimant against all of the
15 Defendants and Third-Party
16 Plaintiffs,

17 v.

18 VALIANT IDAHO, LLC, an Idaho limited
19 liability company; VP., INC., an Idaho
20 corporation; RICHARD A. VILLELLI, a married
21 man; MARIE VICTORIA VILLELLI, a married
22 woman; VILLELLI ENTERPRISES, INC., a
23 California corporation; RICHARD A. VILLELLI
24 as TRUSTEE OF THE RICHARD ANTHONY
25 VILLELLI AND MARIE VICTORIA VILLELLI
REVOCABLE TRUST; THE IDAHO CLUB
HOMEOWNERS ASSOCIATION, INC., an
Idaho corporation; the entity named in Attorney
Toby McLaughlin's Notice of Unpaid Assessment
as PANHANDLE MANAGEMENT,
INCORPORATED, an Idaho corporation; and
HOLMBERG HOLDINGS, LLC, a California
limited liability company,

Third-Party Defendants.

I. MOTION

PANHANDLE MANAGEMENT, INCORPORATED, (hereinafter "PMI"), a named
Third-Party Defendant herein, moves to dismiss the claims of Third-Party Plaintiff JV, LLC

1 (hereinafter "JV") against PMI, if any are actually asserted against it by Third Party Plaintiff JV,
2 LLC, on the grounds that JV has failed to state a claim against PMI, or, in the alternative, that
3 there is no evidence that PMI has any ownership claim to the property which is the subject of this
4 litigation. This motion is brought pursuant to Rule 12(b) of the Idaho Rules of Civil Procedure,
5 on the grounds that JV, LLC has failed to state a claim against Third Party Defendant PMI.

6 This Motion is supported by the subjoined Memorandum, the Affidavit of D. Toby
7 McLaughlin, and the records and files herein.

8 II. MEMORANDUM

9 A. The Third Party Plaintiff Has Mistakenly Named PMI as a Third Party Defendant

10 While PMI is identified in the caption of JV, LLC's "Special Appearance" as a Third-
11 Party Defendant, *there are no allegations set forth in the body of the pleadings alleging any*
12 *claims against PMI.* Thus, JV has failed to state a claim against it.

13 To the extent that JV is asserting that PMI is claiming an interest in the properties to
14 which JV, LLC, is asserting claims, it is flatly mistaken. PMI is a property management
15 company doing business in Bonner County, Idaho. (*McLaughlin Aff.*, ¶ 1). It is also the
16 managing agent of the Idaho Club Homeowner's Association, Inc. (hereinafter "the HOA"),
17 which is the ownership entity formed by the Declaration of Covenants, Conditions, Restrictions,
18 and Easement for the Idaho Club, recorded on October 6, 2006, in the records of Bonner County,
19 as Instrument number 714739 (hereinafter "CC&R's"). (*Id.* ¶¶ 4-6). PMI is merely an agent of
20 the HOA. (*Id.*)

21 As set forth in Article 8.4, "Assessments" of the CC&R's, the HOA has the authority to
22 secure a lien against the property of any owner within the subdivision who fails to pay that
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1 owner's respective share of assessments. (*Id.* at ¶ 4, Ex. A). To this end, the HOA has
2 occasionally instructed its managing agent, PMI, to record home owner's assessment liens.

3 On June 10, 2009, Idaho Club Homeowner's Association, Inc. through its managing
4 agent, Panhandle Management, Inc., recorded a Notice of Lien in the records of Bonner County,
5 Idaho, as Instrument Number 773652, for unpaid assessments against the lots owned by
6 Defendant Pend Oreille Bonner Development, LLC. (*Id.* at ¶ 7, Ex. D). The claimant expressly
7 identified in the HOA's Notice of Lien it is the Idaho Club Homeowners Association, Inc, not
8 PMI.

9 On November 17, 2009, the HOA, through its managing agent, Panhandle Management,
10 Inc., updated the above named lien by recording another Notice of Lien in the records of Bonner
11 County, Idaho, as Instrument Number 783291, against the lots owned by Defendant Pend Oreille
12 Bonner Development, LLC, for unpaid assessments. (*Id.* at ¶ 8, Ex. E). Again, the claimant
13 identified in the Notice of Lien is the Idaho Club Homeowners Association, Inc, not PMI.
14

15 On September 9, 2010, the HOA recorded an Amended Notice of Lien in the records of
16 Bonner County, Idaho, as Instrument number 798359 against the lots owned by Defendant Pend
17 Oreille Bonner Development, LLC, for additional unpaid assessments. (*Id.* at ¶ 9, Ex. F). PMI is
18 not even named in the Amended Notice of Lien.

19 JV, LLC has mistakenly included PMI as a Third Party Defendant in this suit. PMI has not
20 asserted any ownership interest in the property. Rather, PMI was merely acting as an agent for
21 the HOA. In fact, PMI does not have the legal authority to record HOA liens against the
22 properties at issue in this litigation. Only the HOA has that right, as set forth in the CC&R's.
23 Thus, PMI cannot be a properly named party herein on the basis of the filed HOA liens.
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1 For this reason, the Plaintiffs have failed to state a claim against Third Party Defendant
2 PMI, and such claims must be dismissed.

3 **B. There is No Evidence that PMI has an Ownership Interest in the Real Property.**


4 Aside from the above named liens, there is no evidence, whatsoever, to support a claim by
5 JV, LLC that PMI is asserting a claim in the real property that is the subject of this litigation.
6 Without any evidence to support its claim, the Third Party Plaintiff's claims must be dismissed
7 upon summary judgment for failure of evidence to support its claim. I.R.C.P. 56(e); Verbillis v.
8 Dependable Appliance Co., 107 Idaho 335, 337, (Ct. App. 1984) (When a motion for summary
9 judgment is "supported by a particularized affidavit, the opposing party may not rest upon bare
10 allegations or denials in his pleadings," but must set forth "specific facts" showing a genuine
11 issue.)

12 **III. CONCLUSION**

13 For the reasons stated herein, Third Party Defendant Panhandle Management, Inc.
14 respectfully requests that the Plaintiffs claims against it be dismissed with prejudice, and that it
15 be awarded its fees and costs in having to defend the claim, pursuant to Idaho Code § 13-121.
16

17
18 DATED this 3rd day of November, 2014.

19 BERG & McLAUGHLIN, Chtd.

20
21 
22 Toby McLaughlin
23 Attorneys for the Panhandle Management, Inc.
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CERTIFICATE OF SERVICE

On November 7, 2014, I caused copies of the foregoing document to be served by the following methods on the parties listed below as follows, which is the last known address for the listed party:

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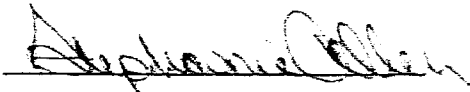
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