

<b>DISTRICT COURT, ARCHULETA COUNTY, COLORADO</b> <b>Address:</b> 46 Eaton Drive, Suite 1 Pagosa Springs, CO 81147 <b>Telephone:</b> (970) 264-8160	DATE FILED: May 30, 2019 12:29 PM FILING ID: F5C4BCF59E2C4 CASE NUMBER: 2019CV30051
Plaintiff: <b>SAN JUAN RIVER RESORT PROPERTY OWNERS ASSOCIATION, INC.</b>  v.  Defendants: <b>LAWYERS TITLE OF PUEBLO, INC., FIDELITY NATIONAL TITLE COMPANY, SAN JUAN RIVER RESORT INC., D. ALLEN GARDNER, JAMES E. STEPHENS, and FRANK E. GRIFFITTS</b>	<p style="text-align: center;"><b>⚠COURT USE ONLY⚠</b></p>
Attorney for Plaintiffs:  Josh W. Mack, #37858 Goldman, Nicholson & Mack, P.C. 679 E. 2 <sup>nd</sup> Avenue, Suite C P.O. Box 2270 Durango, CO 81302 Phone Number: (970) 259-8747 Fax Number: (970) 259-8790 E-mail: mack@gnm-law.com	Case Number:   Division      Courtroom
<b>COMPLAINT TO QUIET TITLE</b>	

**COMES NOW** Plaintiff San Juan River Resort Property Owners Association, Inc. through counsel, Goldman, Nicholson & Mack, P.C., by Josh W. Mack, and brings this action against Lawyers Title of Pueblo, Inc., Fidelity National Title Company, San Juan River Resort, Inc., D. Allen Gardner, James E. Stephens, and Frank E. Griffiths (“Defendants”); and in support of this Complaint to Quiet Title, state and allege as follows:

**FACTS**

1. San Juan River Resort No. 2 is a residential subdivision located in Lots 3 and 6 of Section 22, the N/2 NW/4 of Section 27, NE/4 NE/4 of Section 28, Township 36 North, Range 1 West N.M.P.M.

2. Plaintiff San Juan River Resort Property Owners Association, Inc. (“Association”) is a Colorado nonprofit corporation established pursuant to the Protective Covenants of San Juan River Resort No. 2.

3. Defendants D. Allen Gardner, James E. Stephens and Frank E. Griffiths executed the Plat of San Juan River Resort Subdivision No. 2 (“Original Plat”), which was recorded in the records of the Archuleta County Clerk and Recorder (“County Records”) on July 6, 1970 at Reception No. 73324.

4. H.C. Carmody, Inc., executed a Warranty Deed which conveyed Lots 3 and 6 of Section 22, the N/2 NW/4 of Section 27, NE/4 NE/4 of Section 28, Township 36 North, Range 1 West N.M.P.M. to the Defendant Lawyers Title of Pueblo, Inc., Trustee, which was recorded in the County Records on December 29, 1970 at Reception No. 73909. Upon information and belief, Defendant Lawyers Title of Pueblo, Inc. was acting as Trustee for Defendants D. Allen Gardner, James E. Stephens and Frank E. Griffiths.

5. Defendants D. Allen Gardner, James E. Stephens and Frank E. Griffiths executed an Amended Plat of San Juan River Resort Subdivision No. 2 (“Amended Plat”), which was recorded in the County Records on May 4, 1971 at Reception No. 74360.

6. Defendants D. Allen Gardner, James E. Stephens and Frank E. Griffiths executed a Deed which conveyed Lots 3 and 6 of Section 22, the N/2 NW/4 of Section 27, NE/4 NE/4 of Section 28, Township 36 North, Range 1 West N.M.P.M. to San Juan River Resort, Inc., which was recorded in the County Records on October 15, 1971 at Reception No. 75018.

7. Defendants D. Allen Gardner, James E. Stephens and Frank E. Griffiths recorded the Second Amended Plat of San Juan River Resort Subdivision Unit No. 2 (“Second Amended Plat”) in the County Records on February 10, 1975 at Reception No. 82578, “to correct some small errors in the originally filed plat”. Upon information and belief, the grantors made amendments to the Amended Plat and re-recorded it as a Second Amended Plat. A true and correct copy of the Second Amended Plat is attached hereto as Exhibit A.

8. Defendant Lawyers Title of Pueblo, Inc., as Trustee, executed Amended Dedication of Plats of San Juan River Resort Subdivision Unit No. 2. (“Amended Dedication”), which was recorded in the County Records on March 4, 1976 at Reception No. 84929. The Amended Dedication claimed ownership of property in San Juan River Resort Subdivision No. 2, and confirmed and ratified the Plats recorded at Reception Nos. 73324 and 74360.

9. On July 3, 1978, San Juan River Resort, Inc. recorded the Protective Covenants for San Juan River Resort Units I and II (“Protective Covenants”) in the County Records at Reception No. 91789. The Protective Covenants established the Association for the purpose of promoting and enhancing the community welfare of its members.

10. On January 15, 1991, San Juan River Resort, Inc. recorded the Declaration of Amended Protective Covenants for San Juan River Resort Units I and II (“Amended Protective Covenants”) in the County Records at Reception No. 0177071. The Amended Protective Covenants provided that the Association shall have all powers that belong to it by operation of

law, and that funds accumulated as a result of charges levied by the Association shall be used exclusively for the purposes of promoting recreation, health, safety and welfare of the members of the Association.

11. San Juan River Resort, Inc. subsequently conveyed title to all numbered lots that it owned and many common areas described in the Second Amended Plat to the Association.

12. The Second Amended Plat includes an area labelled "San Juan River" which includes both the San Juan River and areas which are typically not inundated by the river, subject to fluctuations in river flow. No conveyance subsequent to the Second Amended Plat includes the "San Juan River" area.

### **PARTIES, VENUE, AND JURISDICTION**

13. Defendants D. Allen Gardner, James E. Stephens and Frank E. Griffiths are proper parties to this action because each signed individually as grantors of the San Juan River Ranch No. 2 Plats.

14. Defendant Lawyers Title of Pueblo, Inc. is a proper Defendant because it held title to the land platted as San Juan River Ranch No. 2 at the time of platting, and executed the Amended Dedication, which confirmed and ratified the previously recorded plats.

15. First National Title Company is a proper defendant because upon information and belief, it assumed the business of Lawyers Title of Pueblo, Inc. following the dissolution of Lawyers Title of Pueblo, Inc.

16. San Juan River Resort, Inc. is a proper defendant because Defendants D. Allen Gardner, James E. Stephens and Frank E. Griffiths conveyed their interests in Lots 3 and 6 of Section 22, the N/2 NW/4 of Section 27, NE/4 NE/4 of Section 28, Township 36 North, Range 1 West N.M.P.M. to San Juan River Resort, Inc.

17. Venue is proper in this Court pursuant to C.R.C.P. Rule 98(a) because it affects real property located within Archuleta, Colorado.

18. The Court has jurisdiction over this action pursuant to C.R.S. § 13-1-124(1)(c) because this action concerns the ownership, use, or possession of real property in Colorado.

19. The Court has jurisdiction over the subject matter at issue because this is a civil action for equitable relief. Colo. Const. Art. VI, §9(1).

### **CLAIM FOR RELIEF (Quiet Title)**

Plaintiff incorporates paragraphs 1 through 19 above as if fully set forth herein, and further alleges as follows:

20. The Defendants, who played various roles in the development of San Juan River Ranch No. 2 did not intend to retain ownership of the area labelled as "San Juan River" on the Second Amended Plat, but rather to dedicate the area to the Association for the use and enjoyment of members of the Association.

21. Plaintiff requests an order decreeing that it is the owner of the following described property ("Subject Property"):

All that land underlying the San Juan River as it appears on the Second Amended Plat of San Juan River Resort Subdivision Unit No. 2, filed February 10, 1975, as Reception No. 82575, in the office of the Clerk and Recorder, Archuleta County, Colorado.

**WHEREFORE**, Plaintiff San Juan River Resort Property Owners Association respectfully requests:

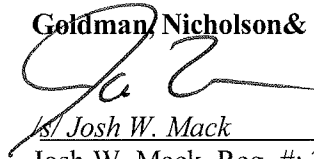
A. A complete adjudication of the rights of all parties to this action with respect to the Subject Property, for a decree determining that the Defendants and each of them have no interest, estate, or claim of any kind whatsoever in the said real property thereto, quieting the title of the Plaintiff in and to the Subject Property and adjudging that Plaintiff is the owners and entitled to possession of the Subject Property;

B. An award to Plaintiff of its reasonable attorney's fees and costs, including expert witness fees, incurred in prosecuting this action; and

C. Such other relief as this Court may deem just and proper.

**RESPECTFULLY SUBMITTED** this 30th day of May, 2019.

**Goldman, Nicholson & Mack, P.C.**



*/s/ Josh W. Mack*

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