

EXHIBIT A

(CITACION JUDICIAL)

NOTICE TO DEFENDANT: ACE American Insurance Company, a (AVISO AL DEMANDADO): Pennsylvania corporation; and DOBS 1 through 10, inclusive

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE) FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF PLACER

SEP 11 2009

EXECUTIVE OFFICER & CLERK By H. Weathers, Deputy

YOU ARE BEING SUED BY PLAINTIFF: EAST WEST RESORT DEVELOPMENT V, (LO ESTÁ DEMANDANDO EL DEMANDANTE): L.P., a Delaware limited partnership; NORTHSTAR BIG HORN, LLC, a Delaware limited liability company; and NORTHSTAR IRON HORSE, LLC, a Delaware limited liability company

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegerán. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro.

CASE NUMBER: (Número del caso): CV 25791

The name and address of the court is: (El nombre y dirección de la corte es): Superior Court of California, County of Placer 10820 Justice Center Drive P.O. Box 619072 Roseville, CA 95661-9072

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es): Thomas G. Trost, SBN 151961 916/783-6262 916/783-6252 Jason M. Sherman, SBN 232420 Sproull Trost LLP Roseville, CA 95661 N. Weathers

DATE: (Fecha) 9-11-09 Clerk, by (Secretario) Deputy (Adjunto)

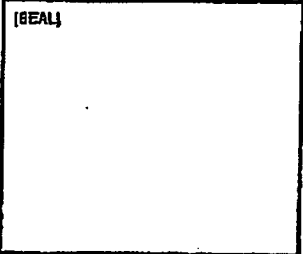
(For proof of service of this summons, use Proof of Service of Summons (form POS-010).) (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant. 2. as the person sued under the fictitious name of (specify):

- 3. on behalf of (specify): ACE American Insurance company a Pennsylvania corporation under: CCP 416.10 (corporation) CCP 416.20 (defunct corporation) CCP 416.40 (association or partnership) other (specify):

- 4. by personal delivery on (date): 5-6-10



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Thomas G. Trost, SBN 151961 Jason M. Sherman, SBN 232420 Sproul Trost LLP 3721 Douglas Boulevard, Suite 300 Roseville, CA 95661 TELEPHONE NO.: 916/783-6262 FAX NO.: 916/783-6252 ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin-bottom: 10px;">FILED</div> SUPERIOR COURT OF CALIFORNIA COUNTY OF PLACER <div style="font-size: 1.5em; font-weight: bold; margin-bottom: 10px;">SEP 11 2009</div> EXECUTIVE OFFICER & CLERK By H. Wonthers, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Placer STREET ADDRESS: 10820 Justice Center Drive MAILING ADDRESS: P.O. Box 619072 CITY AND ZIP CODE: Roseville, CA 95661-9072 BRANCH NAME: Civil	CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold; margin-left: 20px;">\$ CV 25791</div> JUDGE: DEPT:
CASE NAME: EAST WEST RESORT DEVELOPMENT V, L.P. v. ACE AMERICAN INSURANCE COMPANY	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48) Other PIP/D/W (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (46) <input type="checkbox"/> Other PIP/D/W (23) Non-PIP/D/W (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/D/W tort (35) Employment <input type="checkbox"/> Wrongful termination (38) <input type="checkbox"/> Other employment (16)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (05) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input type="checkbox"/> Substantial amount of documentary evidence	d. <input type="checkbox"/> Large number of witnesses e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court f. <input type="checkbox"/> Substantial postjudgment judicial supervision
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3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): **Three**

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case (You may use form CM-015.)

Date: **September 11, 2009**
 Thomas G. Trost, SBN 151961
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CASE NO.

S CV 25791

A CASE MANAGEMENT CONFERENCE HAS BEEN SCHEDULED:

DATE: January 5, 2010

TIME: 10:00 A.M. If your case number starts with "S-CV"

11:00 A.M. If your case number starts with "M-CV"

DEPT: 40 - 10820 Justice Center Drive, Roseville, California

IF YOU DO NOT HAVE AN ATTORNEY, READ THIS:

The judge does not decide whether you win or lose your case at this court date. If you do not file an "Answer," or other "responsive pleading," you will automatically lose this case, usually before this court date. The Answer or responsive pleading must be given to the court clerk within 30 days of the day you received the Summons, along with a filing fee or application for waiver of court fees.

You can get free help filling out your Answer or responsive pleading at the court's Legal Help Center. Call 916-408-6446 or go to the court's website at www.placercourts.org and select "Legal Help Center/Self Help" for information about the Legal Help Center.

INFORMATION ABOUT CASE MANAGEMENT CONFERENCES:

Fifteen calendar days before the Case Management Conference, you must file and serve a completed Case Management Statement (CM-110).

You do not need to come to court for the first Case Management Conference. You can see the court's proposed orders 12 calendar days before the Case Management Conference on the court's website, www.placercourts.org. Select "Tentative Rulings and Calendar Notes", then "Civil CMC." If you do not have Internet access, call the court at 916-408-6000 to get the information.

At the First Case Management Conference, the court will make orders which may include: redesignating the class currently assigned; exempting the case from dispositional time goals; referring the case to arbitration; transferring the case to Limited Jurisdiction; assigning the case to a particular judge for all purposes; assigning a trial date; assigning the case as a short cause trial matter; identifying the case as one which may be protracted; identifying the case as one which may be amenable to early settlement; establishing a discovery cut-off; scheduling the exchange of expert witness information; scheduling a mandatory settlement conference; scheduling a final case management conference; or, other orders to achieve the interests of justice and timely disposition of the case.

The court does not provide a court reporter at Case Management Conferences or Law & Motion hearings. If you want the proceedings reported, you must provide your own court reporter at your own expense.

IF YOU WANT TO APPEAR BY TELEPHONE, YOU MUST CONTACT COURT CALL TOLL FREE, AT 888-882-6878, AT LEAST TWO (2) COURT DAYS PRIOR TO THE APPEARANCE TO ARRANGE FOR THIS. YOU MUST PAY COURT CALL TO USE THIS SERVICE UNLESS YOU HAVE BEEN GRANTED A FEE WAIVER BY THE COURT.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

SEP 11 2009

EXECUTIVE OFFICER & CLERK
By N. Weathers, Deputy

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2 Jason M. Sherman (SBN 232420)
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5 Roseville, California 95661
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7 Facsimile: (916) 783-6252
8
9 Attorneys for East West Resort Development
10 V, L.P.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF PLACER

13 EAST WEST RESORT DEVELOPMENT V, L.P.,
14 a Delaware limited partnership; NORTHSTAR BIG
15 HORN, LLC, a Delaware limited liability
16 company; and NORTHSTAR IRON HORSE, LLC,
17 a Delaware limited liability company;

18 Plaintiffs;

19 v.

20 ACE American Insurance Company, a
21 Pennsylvania corporation; and DOES 1 through
22 10, inclusive;

23 Defendants.

Case No.

§ CV 25791

COMPLAINT FOR:

- 1. Breach of Contract
- 2. Breach of Implied Covenant of Good Faith and Fair Dealing
- 3. Declaratory Relief

[Unlimited Jurisdiction]

BY FAX

24 COMES NOW Plaintiff East West Resort Development V, L.P., and for Complaint against
25 defendants, and each of them, alleges as follows:

26 GENERAL ALLEGATIONS

27 1. Plaintiff East West Resort Development V, L.P. ("East West") is, and at all times herein
28 mentioned was, a Delaware limited partnership and duly authorized transact business and transacting
business in the State of California.

2. Plaintiff Northstar Big Horn, LLC ("Big Horn") is, and at all times herein mentioned was,
a Delaware limited liability company and duly authorized transact business and transacting business in
the State of California.

3. Plaintiff Northstar Iron Horse, LLC ("Iron Horse" and collectively with Big Horn

Case No.

1 "Northstar") is, and at all times herein mentioned was, a Delaware limited liability company and duly
2 authorized transact business and transacting business in the State of California.

3 4. Defendant ACE American Insurance Company ("ACE"), is, and at all times herein
4 mentioned was, a Pennsylvania corporation and authorized to issue and deliver policies of liability in the
5 State of California.

6 5. Defendants Does 1 through 10, inclusive, are individuals, corporations, government
7 agencies, or other businesses of a form unknown, licensed to conduct or conducting business in
8 California. The true names and capacities, whether individual, associate or otherwise, of Does 1 through
9 10, inclusive, are unknown to plaintiffs, who therefore sue said defendants by such fictitious names, and
10 plaintiffs will insert the true names and capacities of Does when they have been ascertained. Defendants,
11 named and fictitious, were the agents, employees and/or servants of the defendants, and each of them,
12 and in doing the things hereinafter mentioned, were acting within the course and scope of said
13 employment and agency.

14 6. The contract(s) hereinafter referred to was performed in, the subject real property is
15 located in, and a substantial amount of the acts and omissions alleged in this complaint occurred in,
16 Placer County, California.

17 **FIRST CAUSE OF ACTION**

18 **(Breach of Contract against ACE and Does 1-10)**

19 7. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1
20 through 6 of the general allegations.

21 8. On or about April 3, 2004, Northstar, as owner, and G.E. Johnson Construction Company,
22 Inc., as contractor, entered into written AIA Document A111 – 1997 Standard Form Agreements for the
23 construction of commercial and residential improvements to real property located in Tahoe, California
24 and known as Northstar Village Phases I & II (the "Project").

25 9. In connection with the Project, In an around May of 2004, Plaintiffs purchased an owner
26 controlled policy of insurance from ACE (the "Policy" or the "OCIP"). The Policy's effective date of
27 coverage began July 1, 2004 and continued through all times relevant herein. Plaintiffs, and each of
28 them, are insured under the Policy. A true and correct copy of the Policy is attached and incorporated as

1 Exhibit A.

2 10. Pursuant to the Policy, ACE agreed to pay plaintiffs, and each of them, for direct physical
3 loss of or damage to covered property caused by or resulting from any covered cause of loss.

4 11. While the Policy was in effect and during the coverage period of the Policy, plaintiffs
5 suffered damage to covered property caused by and/or resulting from a covered cause of loss as those
6 terms are defined in the Policy, including but limited to property damage, economic and investigative
7 damage. Plaintiffs, as insured's under the Policy, have complied with all requirements up and through the
8 material breach by Defendant and plaintiffs have filed the Complaint as now required.

9 12. Plaintiffs, and each of them, have performed all terms, conditions, and obligations under
10 the Policy to be performed on their part, including timely notice and tender of claim, excepting only
11 those that have been waived or excused by ACE's actions or failure of performance.

12 13. Defendants, and each of them, have breached their obligations under the Policy by, *inter*
13 *alia*, refusing and failing to pay and otherwise reimburse plaintiffs for any and all covered loss under the
14 Policy.

15 14. As a direct and proximate result of defendants' breach, plaintiffs have suffered, and will
16 continue to suffer damages in an amount according to proof at trial, but within the jurisdiction of the
17 court.

18 15. Plaintiffs have engaged and retained the above-captioned law firm to commence and
19 prosecute this action, and pursuant to the Policy, plaintiffs are entitled to an award of attorneys' fees in
20 an amount to be determined by the court.

21 WHEREFORE, Plaintiffs pray for judgment as set forth below.

22 **SECOND CAUSE OF ACTION**

23 **(Breach of Implied Covenant of Good Faith and Fair Dealing against ACE and Does 1-10)**

24 16. Plaintiffs re-allege and incorporate the allegations in paragraphs 1 through 16 as though
25 set forth in full.

26 17. In every contract, including the Policy, there is an implied covenant of good faith and fair
27 dealing that no party will do anything that will have the effect of impairing, destroying, or injuring the
28 rights of the other party to receive the benefits of their agreement and each party will do all things

1 reasonably contemplated by the terms of the contract to accomplish its purpose.

2 18. Plaintiffs, and each of them, have performed all terms, conditions, and obligations under
3 the Policy to be performed on their part, including timely notice and tender of claim, excepting only
4 those that have been waived or excused by ACE's actions or failure of performance.

5 19. Defendants, and each of them, breached the implied covenant of good faith and fair
6 dealing in the Policy by, *inter alia*, in bad faith and without justification or reasonable cause denying that
7 plaintiffs' loss is covered under the Policy and further by refusing to pay or reimburse plaintiffs for said
8 loss.

9 20. As a direct and proximate result of defendants bad faith breach of the implied covenant of
10 good faith and fair dealing, plaintiffs have suffered, and will continue to suffer damages in an amount
11 according to proof at trial, but within the jurisdiction of the court. In committing the acts herein
12 described, defendants acted with malice, oppression, and fraud in that defendants, knowing that
13 plaintiffs' loss is covered under the Policy nevertheless deny and refuse to pay and reimburse plaintiffs
14 for said loss, thereby causing injury to plaintiffs, and each of them, and thus an award of exemplary and
15 punitive damages is justified.

16 21. Plaintiffs have engaged and retained the above-captioned law firm to commence and
17 prosecute this action, and pursuant to the Policy, plaintiffs are entitled to an award of attorneys' fees in
18 an amount to be determined by the court.

19 WHEREFORE, Plaintiffs pray for judgment as set forth below.

20 **THIRD CAUSE OF ACTION**

21 **(Declaratory Relief against ACE and Does 1-10)**

22 22. Plaintiffs re-allege and incorporate the allegations in paragraphs 1 through 22 as though
23 set forth in full.

24 23. An actual controversy has arisen and now exists between plaintiffs and defendants
25 regarding their respective rights and duties. Defendants, although in bad faith, contend that plaintiffs'
26 loss is not covered under the Policy. Plaintiffs contend that their loss is covered under the Policy. A
27 judicial declaration is necessary and appropriate at this time under all the circumstances so that the
28 parties may determine their rights and duties under the Policy.

1 WHEREFORE, Cross-Complainants pray for judgment as set forth below.

2 **PRAYER**

3 WHEREFORE, Plaintiffs pray for judgment against defendants, and each of them, as follows:

- 4 1. A declaration by the court that plaintiffs' loss is covered under the Policy;
- 5 2. For damages according to proof at trial;
- 6 3. For exemplary and punitive damages;
- 7 4. For interest thereon at the legal rate;
- 8 5. For costs of suit, including attorney's fees; and
- 9 6. For such other and further relief as the court deems proper.

10 Dated: September 11, 2009

SPROUL TROST, LLP

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13
14 By: 

15 Thomas G. Trost
16 Jason M. Sherman
17 Attorneys for Northstar Big Horn, LLC,
18 Northstar Iron Horse, LLC, and East West
19 Resort Development V, L.P.
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