

DISTRICT COURT HUERFANO COUNTY, COLORADO 401 Main St., Suite 304 Walsenburg CO 81089 719-738-1040	▲ COURT USE ONLY ▲
Fortune I, LLC <i>Plaintiff</i> vs. Bear Bottom Investments, Inc. <i>Defendant</i>	
Attorneys for Plaintiff: HANES BARTELS LLC Richard W. Hanes, #1206 Brenda L. Bartels, #17117 102 South Tejon Street, Suite 800 Colorado Springs, CO 80903-2239 Telephone: 719-260-7900 Facsimile: 719-260-7904 e-mail: rwh@hhbcolorado.com	District Court Case No.: Division:
COMPLAINT	

Fortune I, by and through it undersigned attorneys, complains of the defendant and alleges and avers as follows:

Parties

1. Plaintiff, Fortune I, LLC, is a Washington limited liability company with offices in El Paso County, Colorado
2. Defendant, Bear Bottom Investments, Inc., is a Colorado corporation with a principal office at 770 High Street, Denver, Colorado.

Jurisdiction and Venue

3. This court has subject matter jurisdiction over matters involving real property in Huerfano County, Colorado. Venue is proper pursuant to Colorado Rules of Civil Procedure 98(a).

General Allegations

4. Defendant is the owner of real property in Township 27 South, Range 72 West of the 6th P.M, in Huerfano, County, Colorado described as:

Section 25: SW¹/₄NW¹/₄, E¹/₂NW¹/₄, SW¹/₄NE¹/₄
 Section 26: SE¹/₄NW¹/₄, W¹/₂NE¹/₄, SE¹/₄NE¹/₄

hereinafter (“Defendant’s Property”).

5. Plaintiff is the owner of real property in Township 27 South, Range 72 West of the 6th P.M, in Huerfano County, Colorado described as:

Section 26: E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 34: SE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 35: NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$

hereinafter (“Plaintiff’s Property”).

6. The E $\frac{1}{2}$ SW $\frac{1}{4}$ of said section 26 of Plaintiff’s Property is contiguous to the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 26 of Defendant’s Property.

7. For over forty years a visible roadway of twenty feet in width has existed over and across the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 26 of Defendant’s Property, which roadway connects Huerfano County Road 580 with the E $\frac{1}{2}$ SW $\frac{1}{4}$ of said section 26 of Plaintiff’s Property (“Roadway”).

First Claim for Relief
(Prescriptive Easement)

8. Plaintiff incorporates the allegations of paragraphs 1-7 herein.

9. Plaintiff’s and its predecessors’ use of the Roadway has been open and notorious to the extent that the Roadway was known to link Plaintiff’s Property with Huerfano County Road 580 of which Defendant and Defendant’s predecessors in title were well aware. The use of the Roadway has been adverse to that of Defendant in that such use was without the express permission or the necessity therefore, or license of the Defendant or the Defendant’s predecessors in title and was thus inconsistent and contrary to their claims of ownership. Plaintiff’s and its predecessors’ use of the Roadway has continued without effective interruption for more than eighteen years.

10. Plaintiff has established an easement by adverse possession for ingress and egress to Plaintiff’s Property from Huerfano County Road 580.

Second Claim for Relief
(Easement by Necessity)

11. Plaintiff incorporates the allegations of paragraphs 1-7 herein.

12. Both Plaintiff’s and Defendant’s Property were once held as a single parcel.

13. The necessity for an easement for ingress and egress to Plaintiff’s Property existed at the time the unity of ownership was severed.

14. The Roadway constitutes a way of necessity to Plaintiff’s Property, there being no other access to Plaintiff’s Property from a public roadway.

WHEREFORE, Plaintiffs pray for a decree declaring that Plaintiff has a prescriptive easement and an easement by way of necessity over the existing Roadway on the SE¼NW¼ of Section 26 in Township 27 South, Range 72 West of the 6th P.M, in Huerfano County, Colorado and such other relief as the Court deems proper.

HANES BARTELS LLC,

The duly signed original is on file in the office of Hanes & Bartels, LLC

/s/ Richard W. Hanes
Richard W. Hanes, Colorado #1206
102 South Tejon Street, Suite 800
Colorado Springs, CO 80903-2239
Telephone: (719) 260-7900
Fax: (719) 260-7904

Plaintiff's Address:
111 South Tejon Street
Suite 701
Colorado Springs, CO 80903

DISTRICT COURT HUERFANO COUNTY, COLORADO 401 Main St., Suite 304 Walsenburg CO 81089 719-738-1040	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p style="text-align: center;">District Court Case No.:</p> <p style="text-align: center;">Division:</p>
Fortune I, LLC <i>Plaintiff</i> vs. Bear Bottom Investments, Inc. <i>Defendant</i>	
Attorneys for Plaintiff: HANES BARTELS LLC Richard W. Hanes, #1206 Brenda L. Bartels, #17117 102 South Tejon Street, Suite 800 Colorado Springs, CO 80903-2239 Telephone: 719-260-7900 Facsimile: 719-260-7904 e-mail: rwh@hhbcolorado.com	
SUMMONS	

The People of the State of Colorado:

To: Philae C. Dominick, registered agent for Bear Bottom Investments, Inc., 770 High Street, Denver, CO. 80218

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court an answer or other response to the attached Complaint. If service of the Summons and Complaint was made upon you within the State of Colorado, you are required to file your answer or other response within 21 days after such service upon you. If service of the Summons and Complaint was made upon you outside of the State of Colorado, you are required to file your answer or other response within 35 days after such service upon you. Your answer or counterclaim must be accompanied with the applicable filing fee.

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

The following documents are also served with this summons: (i) Complaint (ii) Civil Case Cover Sheet.

Date: August 6, 2012

The duly signed original is on file in the office
of Hanes & Bartels LLC

/s/ Richard W. Hanes
Richard W. Hanes, Attorney for Plaintiffs

**This summons is issued pursuant to Rule 4, CRCP, as amended. A copy of the
compliant must be served with this summons.**