

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 08-cv-02112-RPM

RICHARD (Chance) LEOFF,

Plaintiff,

v.

S AND J LAND COMPANY,
a Colorado Limited Liability Company, and
ALPINE BANK, a Colorado Banking Corporation,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION FOR DETERMINATION OF RIGHT TO RECORD
NOTICE OF LIS PENDENS

On June 18, 2009, the plaintiff filed a pleading designated Plaintiff's Motion for Determination of Right to Record Notice of Lis Pendens. In that motion, the Court is asked to determine whether under Colorado law the plaintiff has the right to file a Notice of Lis Pendens in San Miguel County, Colorado based on the Eighth Claim for Relief, seeking injunctive relief to prevent transfer of ownership interest in the condominium project that is the subject matter of this lawsuit. To respond to the motion, the Court would be required to make assumptions concerning the relationship of the parties before issues are fully joined and to issue what amounts to an advisory opinion concerning the law of Colorado as to property rights. That is not the role of this Court. Accordingly, it is

ORDERED that the Motion for Determination of Right to Record Notice of Lis Pendens is denied.

DATED: June 19th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge