

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 DEFENDANT'S PETITION RE LIS PENDENS

On July 24, 2009, Defendant S & J Land Company, LLC, filed a Petition for Order to Show Cause Why Lis Pendens Should Not Be Declared Invalid seeking relief from a Lis Pendens filed by the plaintiff to permit S & J Land Company to sell units in the subject condominium development and retirement of a construction loan. The plaintiff filed an initial response on July 31, 2009. Defendant S & J Land Company, LLC, filed a reply on August 4, 2009, and the plaintiff filed a pleading called a sur-reply on August 11, 2009.

To grant the relief requested by the subject petition would require this Court to adjudicate the plaintiff's entitlement to injunctive relief. As observed by the Court at the motions hearing held on June 1, 2009, the factual and legal issues presented by the underlying ambiguous Management Agreement are both unusual and vigorously contested. As noted by the plaintiff, an invalid lis pendens is subject to a statutory remedy in Colorado which will be available to S and J Land Company if it ultimately prevails in this litigation.

Because the underlying issues will require a full trial on the merits, it is

ORDERED that the petition to remove lis pendens is denied.

DATED: August 11th, 2009

BY THE COURT:
s/Richard P. Matsch

Richard P. Matsch, Senior Judge