

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 08-cv-02240-WYD-CBS

CREEKSIDE TOWNHOMES HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

v.

TRAVELERS CASUALTY SURETY COMPANY
d/b/a ST. PAUL TRAVELERS,

Defendant.

ORDER

THIS MATTER is before the Court on Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) [doc. #99], filed September 29, 2009. As an initial matter, I note that attached to the Motion are matters outside the pleadings in the form of an affidavit and exhibits, and in a footnote in the motion, Defendant states the Motion should be converted to a motion for summary judgment.

In regard to Motions for Summary Judgment, my Practice Standards state that:

[t]hese procedures contemplate the filing of a single motion for summary judgment by a party. A party may **NOT** file multiple motions for summary judgment without obtaining permission from the Court. Such permission will only be given in exceptional circumstances.

Upon review of the Motion and the file in this matter, I find that the Motion is a successive motion for summary judgment. Defendant filed a Motion for Summary

Judgment on July 15, 2009 [#63], and has not sought leave to file a second motion for summary judgment. Moreover, the argument raised in the instant Motion, that Plaintiff incorrectly named Travelers Casualty Surety Company as Defendant in this action, was already raised and briefed in connection with Defendant's initial Motion for Summary Judgment. Therefore, it is hereby

ORDERED that Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) [doc. #99], filed September 29, 2009, is **STRICKEN** for failure to comply with my Practice Standards.

Dated: October 2, 2009

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge