

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00219-PAB-CBS

DOUGLAS A. MAYHEW,
Plaintiff,

v.

CHERRY CREEK MORTGAGE CO., INC., *et al.*,
Defendants.

ORDER STRIKING "FIRST AMENDED COMPLAINT"

Magistrate Judge Craig B. Shaffer

This civil action comes before the court on a purported "First Amended Complaint" ("FAC") (doc. # 116). On October 5, 2009, the court granted Mr. Mayhew's "Motion for Leave and Request for Stay," directing Mr. Mayhew to either file a First Amended Complaint or file a response to all pending Rule 12 motions **on or before October 28, 2009**. (See doc. # 114). The court ordered that no further extensions of time would be permitted. Mr. Mayhew submitted the FAC by facsimile and the Clerk of the Court accepted it for filing on November 3, 2009. The FAC is properly stricken as defective in several ways.

First, the FAC was untimely filed and Mr. Mayhew has not moved for permission or shown good cause to file it out of time. (See D.C. COLO. LCivR 6.1 C. ("all requests for extensions of time must be approved by court order upon motion.")). Second, the FAC is an incomplete document, abruptly ending at paragraph 19 and including no claims for relief. Third, the FAC fails to comply with D.C. COLO. LCivR 10.1 K., as it

does not include a signature block. Fourth, the FAC fails to comply with D.C. COLO. LCivR 11.1 B., as Mr. Mayhew did not sign it; rather a Ms. Newsome submitted and signed the facsimile cover sheet. Fifth, the FAC fails to comply with D.C. COLO. LCivR 5.1 F., as there is no certificate of service. Accordingly,

IT IS ORDERED that the purported "First Amended Complaint" (filed November 3, 2009) (doc. # 116) is STRICKEN without prejudice to the filing of a proper motion seeking permission and demonstrating good cause for the filing of any untimely papers.¹

DATED at Denver, Colorado this 4th day of November, 2009.

BY THE COURT:

s/ Craig B. Shaffer
United States Magistrate Judge

¹ A Magistrate Judge may issue an order that is not dispositive of a claim, defense, or party in the case but otherwise must issue a recommendation. See Fed. R. Civ. P. 72.