

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Christine M. Arguello**

Civil Action No. 09-cv-00453-CMA-CBS

ALAN C. IVAR, an individual,  
DEBORAH L. IVAR, an individual, and  
CLIFFORD A. BERNSTEIN, an individual,

Plaintiffs,

v.

ELK RIVER PARTNERS, LLC, a Georgia limited liability company,  
DMB REALTY LLC, a Delaware limited liability company, d/b/a Marabou Realty,  
JEFFREY TEMPLE, an individual,  
JOHN HILLENBRAND, an individual, and  
DOES 1-100,

Defendants.

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**ORDER REGARDING PLAINTIFFS' "OBJECTIONS" TO  
DEFENDANTS' REPLY BRIEF**

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This matter is before the Court on Plaintiffs' Objections to Defendant M&I Marshall and Ilsley Bank's Reply Brief (Doc. # 41).

Although titled an "objection," Plaintiff requests this Court to grant affirmative relief by striking material from Defendants' Reply Brief or, in the alternative, allowing Plaintiffs to file a surreply. Plaintiff has not complied with D.C.COLO.LCivR 7.1A, which requires an affirmation that counsel has conferred with opposing counsel prior to filing an objection. Nonetheless, in the interests of judicial economy, the Court will not strike Plaintiffs' "motion." However, the parties are placed on notice that, in the future, the Court expects them to comply with all rules.

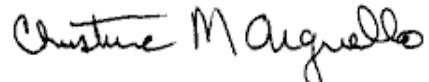
Plaintiffs did not identify what specific material in the Reply Brief they consider to be “new.” The Court, after review of the motion to dismiss, response, and reply, finds nothing in the reply to be inappropriate or appearing to assert any “new factual materials and legal theories.” Therefore, it is

ORDERED that Plaintiff’s Objection is OVERRULED, and the Court will not strike any portion of Defendant’s Reply Brief. It is

FURTHER ORDERED that Plaintiffs shall have seven days, **to and including September 4, 2009**, within which to file a short surreply (five pages or less), limited to addressing the alleged new factual materials and legal theories.

DATED: August 28, 2009

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge