

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
JUDGE CHRISTINE M. ARGUELLO**

Courtroom Deputy: Valeri P. Barnes
Court Reporter: Darlene Martinez

Date: December 2, 2009

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

Parties:

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
MARSHALL & ILSLEY BANK, a Wisconsin
corporation,

Defendants.

Counsel:

Jay Freedman

Timothy Rastello
William Pope Langdale, III
Jeffrey Lippa
Laura Sixkiller
Mark Wiletsky

Jon Vonder Haar

COURTROOM MINUTES

HEARING: Motions

2:33 p.m. Court in session.

Argument on Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint **(14)**.

Plaintiffs concedes that the Court is bound by the precedent of the Tenth Circuit in *Woodward v. Terracor* that residential lot purchases are not the equivalent of

investment contracts.

ORDER: Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint **(14)** is **taken under advisement.**

DEADLINES/HEARINGS:

Simultaneous briefing as to what link or causation there has to be between the predicate acts and the misrepresentations that were relied upon due **December 3, 2009, 5:00 p.m.**

3:52 p.m. Court in recess/hearing concluded.

Total in-court time: 1:19