

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01496-MSK-MEH

WATERSHED LLC, a Republic of Seychelles limited liability company,

Plaintiff,

v.

COLUMBUS LIFE INSURANCE COMPANY, an Ohio corporation,

Defendant.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on March 21, 2011.

Before the Court is Plaintiff's Renewed Motion to Strike Expert Report and Statements Therein Used by Columbus in Support of its Motion for Summary Judgment [filed February 14, 2011; docket #96]. Plaintiff contends that Defendant relies in part for its summary judgment motion on an unsworn statement made by its expert, J. Daniel Perkins, in his Fed. R. Civ. P. 26(a)(2) report, which must be stricken as inadmissible hearsay. However, Perkins confirmed his opinions during his deposition, in a sworn affidavit attached to the summary judgment motion and, most recently, in a sworn affidavit pertaining primarily to the statement challenged in Plaintiff's motion. Because Defendant has cured any portion of the report that may be considered inadmissible hearsay (*see DG&G, Inc. v. FlexSol Packaging Corp.*, 576 F.3d 820, 826 (8th Cir. 2009)), Plaintiff's motion is **denied**.¹

¹In its reply brief, Plaintiff seeks permission from the Court "to complete" Mr. Perkins' deposition." Docket #126 at 2. However, "[a] motion shall not be included in a response or reply to the original motion." D.C. Colo. LCivR 7.1C.