

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02224-MSK-MJW

STERLING CONSTRUCTION MANAGEMENT, LLC,

Plaintiff,

v.

STEADFAST INSURANCE COMPANY and
CHASE CONTRACTORS, INC.,

Defendants,

AND

CHASE CONTRACTORS, INC.,

Third-Party Plaintiff,

v.

WILLBROS ENGINEERS, INC.,

Third-Party Defendant.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby **ORDERED** that the Plaintiff's Motion to Strike Chase Contractors, Inc.'s Supplemental Non-Party at Fault Designation (**Docket No. 115**) is **granted**, substantially for the reasons stated in the motion. As correctly noted by the plaintiff, the non-party designation is based on the same allegations of negligence that were the bases of the third-party claim against Willbros. Judge Krieger dismissed the tort claims for failure to state a claim. See Docket No. 97, Opinion and Order Granting Motion for Judgment on the Pleadings, which is incorporated by reference. Furthermore, the comparative fault statute does not apply to claims that are premised upon contract. See Trustees of the Colorado Laborers' Health & Welfare Trust Fund v. American Benefit Plan Administrators, Inc., 2005 WL 1661079, *2 (D. Colo. July 14, 2005).

Date: December 1, 2010
