

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02236-RPM

SYNTHES USA, LLC, a Delaware limited liability company,

Plaintiff,

v.

CENTENNIAL REALTY PARTNERS, LLLP,  
a Colorado limited liability limited partnership,  
COLARELLI CONSTRUCTION INC., a Colorado Corporation,  
SIERRA PROPERTIES, INC., a Colorado Corporation,  
STEPHEN G. BACH, an individual,  
STEPHEN F. ELKEN, an individual, and  
MICHAEL HELWEGE, an individual,

Defendants.

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ORDER FOR FILING FIRST AMENDED COMPLAINT AND DISMISSAL OF COUNT XIII

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In this civil action, defendant Colarelli Construction Inc. filed a motion to dismiss Count XIII of the plaintiff's complaint for the failure to state a claim for relief. In response, the plaintiff filed a motion for leave to amend complaint on December 9, 2009, tendering a First Amended Complaint. Defendant Colarelli filed an opposition. Upon review of the proposed amendment it is now

ORDERED that the motion to amend is granted and the first amended complaint tendered therewith is filed. It is

FURTHER ORDERED that what is designated as Count XIII, seeking a declaratory judgment against all defendants is an inappropriate attempt to seek what is essentially an advisory opinion concerning future claims and does not present a justiciable issue. Count XIII of the First Amended Complaint is therefore dismissed and the order granting an extension of time

to respond to the motion to dismiss, entered December 17, 2009, is vacated.

DATED: January 7<sup>th</sup>, 2010

BY THE COURT:

s/Richard P. Matsch

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Richard P. Matsch, Senior District Judge