

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Case No. 09-cv-02614-REB-KLM

WILLIAM I. DALZELL,  
DEVON C. PURDY,  
SAM PROPERTIES V, LLC, a Colorado limited liability company,  
GREGORY HALLER, and  
PAMELA HALLER,

Plaintiffs,

v.

TRAILHEAD LODGE AT WILDHORSE MEADOWS, LLC, a Colorado limited liability  
company, and  
RP STEAMBOAT SPRINGS, LLC a Delaware limited liability company,

Defendants.

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**ORDER GRANTING PLAINTIFFS' MOTION TO EXCLUDE**

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**Blackburn, J.**

This matter is before me on the **Plaintiffs' Motion To Exclude New Exhibits** [#139]<sup>1</sup> filed March 2, 2011. The defendants filed a response [#140]. I grant the motion.

The plaintiffs argue that a third affidavit of Brent Pearson and an e-mail string tendered to the court on February 17, 2011, should be excluded from evidence. Shortly before the February 17, 2011, hearing, the plaintiffs obtained certain exhibits via a subpoena (the Subpoenaed Exhibits). The defendants filed a motion [#131] to exclude those documents from evidence, and the court granted the motion. *Order* [#147] filed September 27, 2011. The plaintiffs' Subpoenaed Exhibits have been excluded from

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<sup>1</sup> “[#139]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

evidence.

In their response [#140] to the present motion, the defendants say they obtained the third affidavit of Brent Pearson and the e-mail string tendered to the court on February 17, 2011, in an effort to respond to the plaintiffs' Subpoenaed Exhibits. The defendants argue that if the plaintiffs' Subpoenaed Exhibits are excluded, then consideration of the third affidavit of Brent Pearson and the e-mail string, tendered to the court on February 17, 2011, is moot. Therefore, the court grants the plaintiffs' motion to exclude, and the court will not consider the third affidavit of Brent Pearson and the e-mail string.

**THEREFORE, IT IS ORDERED** as follows:

1. That the **Plaintiffs' Motion To Exclude New Exhibits** [#139] filed March 2, 2011, is **GRANTED**;

2. That the third affidavit of Brent Pearson and the e-mail string, which were tendered to the court on February 17, 2011, are **EXCLUDED** from the exhibits filed by the defendants in support of their opening brief [#125].

Dated March 19, 2012, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge