

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior District Judge Richard P. Matsch

Civil Action No. 10-cv-01911-RPM

GLACIER CONSTRUCTION COMPANY, a Colorado corporation,

Plaintiff,

v.

TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA,  
a Connecticut corporation,

Defendant.

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ORDER DENYING PLAINTIFF'S POST JUDGMENT MOTIONS

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On November 29, 2012, judgment entered in favor of the plaintiff in the amount of \$9,142.25, plus post judgment interest at the legal rate and costs upon the filing of a bill of costs within fourteen days of the entry of judgment [#59].

On December 13, 2012, the plaintiff moved to alter or amend the judgment to include prejudgment interest pursuant to Colo. Rev. Stat. § 5-12-102(1)(b), which provides for interest “at the rate of eight percent per annum compounded annually for all moneys or the value of all property after they are wrongfully withheld or after they become due to the date of payment or to the date judgment is entered, whichever first occurs.” Although the plaintiff’s motion does not cite any federal rule of civil procedure, it is construed as a motion pursuant to Fed.R.Civ.P. 59(e). *See, e.g., Capstick v. Allstate Ins. Co.*, 998 F.2d 810, 812-13 (10th Cir.1993) (plaintiff’s post-judgment motion for prejudgment interest correctly construed as a Rule 59(e) motion).

The plaintiff's motion to alter or amend the judgment [#60] is denied because the defendant's response demonstrates there was no wrongful withholding.

The plaintiff's motion for costs [#61], filed December 13, 2012, is denied as moot because costs were taxed by the Clerk on January 8, 2013, in accordance with Fed.R.Civ.P. 54(d), and D.C.COLO.LCivR 54.

Date: January 24, 2013

BY THE COURT:

s/Richard P. Matsch

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Richard P. Matsch, Senior District Judge