

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 11-cv-01107-MSK-CBS

BLUE ARCHITECTS, P.C., a Colorado corporation;
DAVIS PARTNERSHIP, P.C., a Colorado corporation;
GLOBAL ENGINEERING GROUP, LLC; a Colorado limited liability company; and
OUELLETTE & ASSOCIATES, INC., a Colorado corporation,

Plaintiffs,

v.

EVEREST MARIN, L.P., a Colorado limited partnership;
ANA MARIA PETERS-RUDDICK in her capacity as the ARAPAHOE COUNTY PUBLIC
TRUSTEE;
FEDERAL DEPOSIT INSURANCE CORPORATION, as RECEIVER for First Tier Bank;
BOHANNAN HUSTON, INC., a New Mexico corporation;
WINSLOW CRANE SERVICE CO., a Colorado corporation;
INTERIOR DEMOLITION SPECIALISTS, INC., a Colorado corporation;
OVERHEAD DOOR COMPANY OF DENVER, INC., a Colorado corporation;
D.H. RUGGLES & ASSOCIATES, P.C., a Colorado corporation;
JVA, INC., a Colorado corporation;
PROJECT ONE INTEGRATED SERVICES, LLC, a Colorado limited liability company;
BROWNSTEIN HYATT FARBER & SCHRECK, LLP, a Colorado limited liability partnership;
MILENDER WHITE CONSTRUCTION CO., a Colorado corporation; and
BUILDING CONSULTANTS

Defendants.

**ORDER TO DISMISS WITH PREJUDICE
AND RELEASE OF LIS PENDENS**

THIS MATTER comes before the Court on Plaintiffs Blue Architects, P.C.'s ("Blue"), Davis Partnership, P.C.'s ("Davis"), Global Engineering Group, LLC's ("Global"), Ouellette & Associates, Inc.'s ("Ouellette") (Blue, Davis, Global and Ouellette may hereinafter be collectively referred to as "Plaintiffs"), and Defendants D. H. Ruggles & Associates, P.C.'s ("Ruggles"), JVA, Inc.'s ("JVA"), and the Federal Deposit Insurance Corporation's, as Receiver

for FirstTier Bank (“FDIC-R”) (jointly the “Parties”), *Stipulated Motion to Dismiss With Prejudice and Release of Lis Pendens* (“*Stipulated Motion*”) (#163), and the parties having waived a hearing on said *Stipulated Motion*, the Court finds no hearing is necessary. This Court accepts and approves the *Stipulated Motion* of said parties and enters the following findings, conclusions, and Order:

1. Plaintiffs brought this action against the Defendants, including FirstTier Bank, on December 3, 2009, by filing Case No. 2009CV2670, in the District Court for the County of Arapahoe, (the “State Court Action”).

2. FirstTier Bank was closed by the Colorado Division of Banking and Defendant FDIC was appointed as receiver for FirstTier Bank on January 28, 2011. Defendant FDIC-R was substituted as the defendant in place of FirstTier Bank in this action.

3. On April 26, 2011, the State Court Action was removed to the United States District Court for the District of Colorado, Civil Action No. 11-CV-1107-MSK-CBS (“Federal Action”).

4. On December 3, 2009, the Plaintiffs recorded a Lis Pendens in the real property records of Arapahoe County, Colorado, at Reception No. B9131135 (“Plaintiffs Lis Pendens”).

5. On December 23, 2009, JVA recorded a Lis Pendens in the real property records of Arapahoe County, Colorado, at Reception No. B9138907 (“JVA Lis Pendens”).

6. On January 13, 2010, Ruggles recorded a Lis Pendens in the real property records of Arapahoe County, Colorado, at Reception No. D0003893 (“Ruggles Lis Pendens”).

7. The Parties have entered into a Settlement Agreement that provides for a full settlement of all claims in this matter.

8. The Parties have now performed the applicable terms and provisions of their

Settlement Agreement required for dismissal with prejudice of this action, and all claims of in this action, with each party to pay its own attorney fees and costs incurred herein pursuant to the terms of the Settlement Agreement.

9. As an additional requirement of the Settlement Agreement, the Plaintiffs Lis Pendens, the JVA Lis Pendens, and the Ruggles Lis Pendens, are to be released and discharged as to the following Real Property owned of record by Defendant FDIC-R, as receiver for FirstTier Bank, to wit (“Real Property”):

LOT 1, GREENWOOD PLAZA, FOURTH FILING, AMENDED PLAT, RECORDED NOVEMBER 16, 1973, IN PLAT BOOK 25, AT PAGE 68, AT RECEPTION NO. 1392693, COUNTY OF ARAPAHOE, STATE OF COLORADO, EXCEPT THAT PORTION CONVEYED TO THE CITY OF GREENWOOD VILLAGE BY INSTRUMENT RECORDED JULY 18, 1985, IN BOOK 4493, AT PAGE 483.

Commonly known as: 5555 Greenwood Plaza Blvd., Greenwood Village, CO 80111.

10. All other named Defendants in this Action having or purporting to have an interest in the subject matter of this case have either had default judgment entered against them by Order of the Court, have entered into prior settlements, or have withdrawn their respective claims relating to such interests in the Real Property, including but not limited to deeds of trust and mechanic’s liens.

ORDERS that the *Stipulated Motion* is hereby **GRANTED** and: (i) the Federal Action, together with all claims in that action, is hereby **DISMISSED WITH PREJUDICE**; (ii) the Plaintiffs Lis Pendens, the JVA Lis Pendens, and the Ruggles Lis Pendens are hereby released and discharged, and are no longer in affect with respect to the Real Property; (iii) this Order is a final judgment order as to the matters set forth herein, and, as such, shall be appealable only as a separate judgment from and after the date of entry; and (iv) each party shall pay its own attorney

fees and costs.

DATED this 26th day of October, 2012.

BY THE COURT:

Marcia S. Krieger

Marcia S. Krieger
United States District Judge