

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Senior Judge Wiley Y. Daniel**

Civil Action No. 11-cv-03333-WYD-KLM

THE ROBERT W. THOMAS AND ANNE MCDONALD THOMAS REVOCABLE  
TRUST, Trust Domiciled in the State of Washington,

Plaintiff,

v.

INLAND PACIFIC COLORADO, LLC, a Nevada limited liability company;  
FIRST WESTERN TRUST BANK, a Colorado company, and  
WESTMINSTER PROMENADE DEVELOPMENT COMPANY II, LLC, a  
Nevada limited liability company,

Defendants.

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**ORDER**

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THIS MATTER is before the Court on the Stipulation and Proposed Order Regarding Lien Priority and Voluntary Dismissal of First Western Trust Bank ("FWTB") filed on January 22, 2013, by counsel for the Robert W. Thomas and Anne McDonald Thomas Revocable Trust (the "Trust") and FWTB. The Trust and FWTB state in the Stipulation that they wish to resolve all disputes, claims, and controversies between them in this matter. After a careful review of the Stipulation and the file, I conclude that the Stipulation should be approved in its entirety.

I note that the Trust and FWTB stipulate therein pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) to the dismissal with prejudice of FWTB from this lawsuit and stipulate that the FWTB Deed of Trust is prior and superior in lien and right to the Plaintiff Deed of Trust.

Also in the Stipulation, without modification or waiver of any of their respective rights *vis a vis* Defendants Inland Pacific Colorado, LLC (“IPC”), Westminster Promenade Development Company II, LLC (“WPDC”), or Timothy O’Byrne, the Trust and FWTB release each other from any claims relating to this lawsuit, including without limitation any claims for costs or fees incurred in litigating this matter. The Stipulation does not affect any of the Trust’s claims, rights or defenses against Defendants IPC, WPDC, or Timothy O’Byrne, all of which parties remain Defendants in this case as pled in the Amended Complaint.

In conclusion, it is

ORDERED that the Stipulation filed on January 22, 2013 (ECF No. 107) is **APPROVED**, and First Western Trust Bank is **DISMISSED WITH PREJUDICE**. It is

FURTHER ORDERED that First Western Trust Bank’s Motion for Summary Judgment (ECF No. 104) is **DENIED AS MOOT**.

Dated: January 22, 2013

BY THE COURT:

s/ Wiley Y. Daniel  
Wiley Y. Daniel  
Senior United States District Judge