

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 13-cv-01179-REB-MJW

THE WEITZ COMPANY, LLC,
BAKER CONCRETE CONSTRUCTION, INC.,
LAFARGE WEST, INC., and
BASE VILLAGE OWNER, LLC,

Plaintiffs,

v.

CAPITOL PEAK LODGE CONDOMINIUM ASSOCIATION, INC.,

Defendant.

FINAL JUDGMENT

This **Final Judgment** is entered pursuant to Fed. R. Civ. P. 58(a) and in accordance with the **Order Adopting Recommendation of the United States Magistrate Judge** [#49] entered by Judge Robert E. Blackburn on November 22, 2013, which order is incorporated herein by this reference.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation on Defendant's Motion To Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) (Docket No. 22)** [#47], filed October 31 2013, is **APPROVED AND ADOPTED** as an order of this court;

2. That **Defendant's Motion To Dismiss Pursuant to Rule 12(b)(1) and 12(b)(6)** [#22], filed June 24, 2013, is **GRANTED IN PART** and **DENIED AS MOOT IN PART** as follows:

a. That the motion is **GRANTED** to the extent it seeks to dismiss this case

based on lack of subject matter jurisdiction in this court; and

b. That in all other respects, the motion is **DENIED AS MOOT**;

3. That plaintiff's claims in this matter are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction in this court;

3. That **JUDGMENT WITHOUT PREJUDICE IS ENTERED** on behalf of defendant, Capitol Peak Lodge Condominium Association, Inc., a Colorado nonprofit corporation, against plaintiffs, The Weitz Company, LLC, an Iowa limited liability company; Baker Concrete Construction, Inc., an Ohio corporation; LaFarge West, Inc., a Delaware corporation; and Base Village Owner, LLC, a Delaware limited liability company, jointly and severally, on all claims for relief and causes of action; and

4. That the defendant is **AWARDED** its costs to be taxed by the Clerk of the Court pursuant to Fed.R.Civ.P. 54(d)(1) and D.C.COLO.LCivR 54.1.

DATED at Denver, Colorado, this 22nd day of November 2013.

FOR THE COURT:

Jeffrey P. Colwell, Clerk

By: s/Kathleen Finney
Kathleen Finney
Deputy Clerk