

COLORADO COURT OF APPEALS

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Court of Appeals No.: 07CA2127  
Boulder County District Court No. 06CV360  
Honorable D.D. Mallard, Judge

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Gloria E. Wertz, individually and on behalf of all others similarly situated,

Plaintiff-Appellant,

v.

Travelers Property Casualty Company of America, f/k/a Travelers Indemnity  
Company of Illinois,

Defendant-Appellee.

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JUDGMENT VACATED AND CASE  
REMANDED WITH DIRECTIONS

Division IV  
Opinion by: JUDGE ROY  
Webb and Hawthorne, JJ., concur

**NOT PUBLISHED PURSUANT TO C.A.R. 35(f)**  
Announced: November 20, 2008

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Hill & Robbins, P.C., Robert F. Hill, John H. Evans, Jr., Nathan P. Flynn,  
Denver, Colorado; Evans & McFarland, LLC, J. Luke McFarland, M. Gabriel  
McFarland, Golden, Colorado; McFarland Law Offices, Zachary C. McFarland,  
Thomas D. McFarland, Golden, Colorado, for Plaintiff-Appellant

Montgomery, Kolodny, Amatuzio & Dusbabek, L.L.P., C. Michael Montgomery,  
Erik R. Neusch, Denver, Colorado, for Defendant-Appellee

Roberts Levin Rosenberg, PC, Bradley A. Levin, Denver, Colorado, for Amicus  
Curiae Colorado Trial Lawyers Association

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**HILL & ROBBINS, P.C.**

This division issued its opinion in *Wagner v. Travelers Property Casualty Co.*, \_\_\_ P.3d \_\_\_ (Colo. App. No. 07CA2112, Nov. 13, 2008). While there may be insubstantial and technical differences in the language of the insurance policies at issue, this case springs from the same complaint as *Wagner*; it shares a significant portion of the record with *Wagner*; the motions and briefs filed in the trial court, the trial court's orders, and the appellate briefs are substantively similar; and the cases were argued as one. Indeed, the parties agreed at oral argument that there is no distinction between this case and *Wagner* which would dictate or justify a different analysis or result.

Therefore, as we are persuaded by the rationale and holding of *Wagner*, the summary judgment here is vacated and the case is remanded for further proceedings consistent with the opinions expressed in *Wagner*.

JUDGE WEBB and JUDGE HAWTHORNE concur.