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COLORADO COURT OF APPEALS

Court of Appeals No.: 07CA2128
Boulder County District Court No. 06CV331
Honorable D.D. Mallard, Judge

Karen Grote, individually and on behalf of all others similarly situated,

Plaintiff-Appellant,

v.

Charter Oak Fire Insurance Company, a Connecticut corporation,

Defendant-Appellee.

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

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.