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

GUY M. DOMAI,

Plaintiff,

v.

**AMERICAN EXPRESS TRAVEL
RELATED SERVICES; JEFF SHANE, an
individual; KRIS HAUSER, an individual;
STEVE TUTTLE, an individual; KEN
CHENAULT, an individual; MARIANNE
STEINKE, an individual; and AL PECK,
an individual;**

Defendant.

**MEMORANDUM DECISION
AND ORDER DENYING
MOTION TO SET ASIDE
ORDER OF DISMISSAL**

Case No. 2:15-cv-542

Judge Clark Waddoups

Before the court is Plaintiff Guy M. Domai's Motion to Set Aside Order of Dismissal (ECF No. 33). While the Motion does not state the relief Plaintiff seeks, the title of the Motion indicates that Plaintiff seeks relief from the Court's October 18, 2016 Order (ECF No. 29) adopting the Report and Recommendation of Magistrate Judge Paul M. Warner (ECF No. 24) and dismissing Plaintiff's action. The court therefore interprets the Motion as a motion requesting relief from a judgment or order and analyzes the same under Rule 60 of the Federal Rules of Civil Procedure.

As such, in order to obtain the relief he seeks, Plaintiff must demonstrate: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or

discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.” FED. R. CIV. P. 60(b). Plaintiff’s motion, even when read liberally, fails to address any of these factors.

Rather, Plaintiff indicates that his Motion merely serves as an introduction and that he intends to submit additional evidence to the court and will “proceed with the motions once the evidence is received by the court.” (ECF No. 33 at 2). Plaintiff’s Motion was filed over two years ago, and he has not submitted any evidence, other pleadings, or otherwise proceeded with his Motion, or this action, since it was filed. Given the ambiguous nature of the relief Plaintiff seeks, paired with Plaintiff’s failure to prosecute his Motion, Plaintiff presents no issues for the court to analyze and no questions for it to consider. As such, Plaintiff’s Motion to Set Aside Order of Dismissal (ECF No. 33) is **DENIED**.

SO ORDERED this 17th day of December, 2019.

BY THE COURT:



Clark Waddoups
United States District Judge