

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

WILLIAM HUBERT LLOYD  
BRANDSTATT,

Plaintiff,

vs.

DR. ANTHONY ENENMOH, C.M.O, *et al.*,

Defendants.

Case No. 1:13-cv-00434-RRB

**ORDER REGARDING  
MOTION AT DOCKET 26**

**I. PENDING MOTION**

On October 28, 2013, Plaintiff William Hubert Lloyd Brandstatt appealed from the dismissal of his complaint.<sup>1</sup> Concurrently with his Notice of Appeal, Brandstatt filed a document entitled Objections to Judges Findings and Recommendations, citing 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 60(b).<sup>2</sup> The Court of Appeals entered an Order holding the appeal in abeyance pending resolution of Brandstatt's Objections.<sup>3</sup>

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<sup>1</sup> Docket 27.

<sup>2</sup> Docket 26.

<sup>3</sup> Docket 31.

## II. STANDARD

Because the motion before this Court was filed within 28 days of the date of entry of judgment, the Court treats it as a motion to alter or amend the judgement under Federal Rule of Civil Procedure 59(e).<sup>4</sup> This Court may grant relief under Rule 59(e) under limited circumstances: (1) an intervening change of controlling authority; (2) new evidence has surfaced; or (3) the previous disposition was clearly erroneous and, if uncorrected, would work a manifest injustice.<sup>5</sup>

## III. DISCUSSION

In his motion Brandstatt argues that, because the Defendants are trained medical practitioners, they are bound by their Hippocratic Oath to provide the most efficacious treatment. Brandstatt contends without citation to authority that the failure to provide the most efficacious treatment constitutes deliberate indifference. As this Court explained in its Dismissal Order, the Hippocratic Oath is not the standard applied under 42 U.S.C. § 1983. Brandstatt offers no new evidence, nor does he advances an argument that the decision of this Court was clearly erroneous and, if uncorrected, would work a manifest injustice.

## IV. ORDER

Because it does not meet the applicable standards for relief, the Objection to Judges Findings and Recommendations at Docket 26, treated as a motion to alter or amend the judgment, is **DENIED**.

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<sup>4</sup> *American Ironworks & Erectors, Inc. v. North Am. Const. Corp.*, 248 F.3d 892, 898–99 (9th Cir. 2001).

<sup>5</sup> *See Circuit City Stores v. Mantor*, 417 F.3d 1060, 1064 (9th Cir. 2005); *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir.1999); *see generally* 11 CHARLES ALAN WRIGHT, ARTHUR R. MILLER & MARY KAY KANE, *FED. PRAC. & PROC. CIV.* § 2810.1 (2d ed.).

The Clerk of the Court is directed to transmit a copy of this Order to the Clerk of the Court for the Ninth Circuit.

**IT IS SO ORDERED** this 16<sup>th</sup> day of December, 2013.

S/ RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE