

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. WHITSITT,  
Plaintiff,  
v.  
PATRICIO ENTERPRISES, et al.,  
Defendants.

No. 2:13-CV-00118-KJM-GGH

ORDER

On March 31, 2015, the court issued an order adopting Judge Hollows’ findings and recommendations in part and granting the motion to dismiss, and judgment was entered the same day. *See* Judgment, ECF No. 54; Order Mar. 31, 2015, ECF No. 53; Findings & Recommendations, ECF No. 45. Plaintiff William Whitsitt has filed a notice of his intent to file a motion for reconsideration. ECF No. 55, *as amended*, ECF No. 58. Mr. Whitsitt requested “(30) additional days to file and serve post-judgment motions” and requested the court “grant briefing schedule and hearing date to hear post-judgment motions.” *Id.* at 1 (capitalization altered). Mr. Whitsitt also has filed a notice of appeal. ECF No. 56.

The court concludes it retains jurisdiction for purposes of this order. *See Tidwell v. Spearman*, No. 11-00489, 2015 WL 507448, at \*1 (E.D. Cal. Feb. 6, 2015) (citing Fed. R. App. P. 4(a)(4) and *Miller v. Marriott Int’l, Inc.*, 300 F.3d 1061, 1064 (9th Cir. 2002)). “A motion to

1 alter or amend a judgment [under Federal Rule of Civil Procedure 59(e)] must be filed no later  
2 than 28 days after the entry of the judgment.” Fed. R. Civ. P. 59(e). “A court must not extend the  
3 time to act” under Rule 59(e). Nevertheless, “[a] motion under Rule 60(b) must be made within a  
4 reasonable time—and for reasons (1), (2), and (3) [of Rule 60(b)] no more than a year after the  
5 entry of the judgment or order or the date of the proceeding.” Fed. R. Civ. P. 60(c)(1).

6 Because Mr. Whitsitt has not filed a motion, the court cannot determine the  
7 reasonableness of its timing and will therefore disregard the notice of motion at ECF No. 58.

8 IT IS SO ORDERED.

9 DATED: May 14, 2015.

10  
11   
12 \_\_\_\_\_  
13 UNITED STATES DISTRICT JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28