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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNIVERSAL TRADING & INVESTMENT
COMPANY,

Plaintiff,

v.

PETRO MIKOLAYEVICH KIRITCHENKO,
et al.,

Defendants

No. C-99-3073 MMC (EDL)

**ORDER DENYING ADMINISTRATIVE
REQUEST TO SET CONFERENCE**

Before the Court is plaintiff’s administrative request, filed February 6, 2008, to set a conference for the purpose of scheduling “motions for entry of default, contempt, sanctions, attorneys fees and to obtain relief from the Sept. 7, 2007, summary judgment order under FRCP 60(b).” (See Pl.’s Admin. Request at 3:21-23.)

Each of said proposed motions is predicated on plaintiff’s argument, made pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, that the Court’s order filed September 7, 2007 (“September 7, 2007 Summary Judgment Order”), wherein the Court granted summary judgment to defendants, is void. (See id. at 3:18-19.) Plaintiff has appealed the September 7, 2007 Summary Judgment Order. (See Notice of Appeal filed October 15, 2007 at 1:26-27.) The pendency of such appeal divests the district court of jurisdiction to decide plaintiff’s proposed Rule 60(b) motion and related motions. See Visioneering

1 Constr. & Dev. Co. v. United States Fidelity & Guar., 661 F. 2d 119, 124 n. 6 (9th Cir. 1981)
2 (“Once a notice of appeal is filed, jurisdiction is vested in the Court of Appeals, and the trial
3 court thereafter has no power to modify its judgment in the case or proceed further except
4 by leave of the Court of Appeals”); Scott v. Younger, 739 F.2d 1464, 1466 (9th Cir. 1984)
5 (holding “district court did not have jurisdiction to decide the [Rule 60(b)] motion since the
6 case was on appeal”).

7 Accordingly, the Court hereby DENIES plaintiff’s request to set a conference, for the
8 reason plaintiff has failed to show this Court would have jurisdiction to consider the motions
9 plaintiff proposes to schedule at such a conference.

10 **IT IS SO ORDERED.**

11 Dated: February 8, 2008



MAXINE M. CHESNEY
United States District Judge

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