

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 07-cv-00040-REB-BNB

MARK DUHALL,

Plaintiff,

v.

LENNAR FAMILY OF BUILDERS,

Defendant.

ORDER DENYING MOTIONS FOR POST-JUDGMENT RELIEF

Blackburn, J.

This matter is before me on two motions filed by the plaintiff, which are captioned as follows: (1) **To the Chief Judge, Wiley Daniel: Plaintiff's Unacceptable Motion of Judge Blackburn's Adoption (sic) of the United States Magistrate Judge's Recommendation and Plaintiff States that this is an Unfair Judgment and Plaintiff (sic) Calls for the Original Trial Date To Be Reinstated** [#158]¹ filed August 14, 2009; and (2) **To the Chief Judge, Wiley Daniel, Plaintiff's Last Motion of Warning to the Court in Regards to Correction it's (sic) Corruption Deeds Before Going Public - Including the Midia (sic) and the President of the United States, and To File a Law Suit Against the Federal Court** [#162] filed August 21, 2009.

The plaintiff is acting *pro se*. Therefore, I have construed his filings generously

¹ "[#158]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

and with the leniency due *pro se* litigants. **See *Erickson v. Pardus***, 551 U.S. 89, ____, 127 S. Ct. 2197, 2200 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10th Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991). Reading the plaintiff's two motions generously, I construe them as motions for post-judgment relief under FED. R. CIV. P. 59(e) or 60(b).

Generally, the filing of a notice of appeal divests the district court of jurisdiction over the issues on appeal. ***Lancaster v. Independent School Dist. No. 5***, 149 F.3d 1228, 1237 (10th Cir. 1998). However, in limited circumstances a district court may deny a motion under Rules 59(e) or 60(b) on the merits even after the filing of a notice of appeal. ***Warren v. American Bankers Ins. of Florida***, 507 F.3d 1239, 1244 (10th Cir. 2007) (Rule 59(e) motion); ***W.N.J. v. Yocom***, 257 F.3d 1171, 1172 - 73 n. 1 (10th Cir. 2001); ***Aldrich Enterprises, Inc. v. U.S.***, 938 F.2d 1134, 1143 (10th Cir.1991) (60(b)(2) motion).

“(A) Rule 59(e) motion is normally granted only to correct manifest errors of law or to present newly discovered evidence.” ***Jennings v. Rivers***, 394 F.3d 850, 854 (10th Cir.2005) (internal quotation omitted). In his present motions, the plaintiff has demonstrated neither a manifest error of law nor the need to present newly discovered evidence. Rule 60(b) lists six bases on which a party may seek relief from a final judgment. Having considered the plaintiff's motions, I find that he has not cited or circumstantiated any valid grounds to for relief from judgment under Rule 60(b).

THEREFORE, IT IS ORDERED as follows:

1. That the plaintiff's motion captioned as **To the Chief Judge, Wiley Daniel: Plaintiff's Unacceptable Motion of Judge Blackburn's Adoption (sic) of the United States Magistrate Judge's Recommendation and Plaintiff States that this is**

an Unfair Judgment and Plaintiff (sic) Calls for the Original Trial Date To Be Reinstated [#158] filed August 14, 2009, is **DENIED**; and

2. That the plaintiff's motion captioned as **To the Chief Judge, Wiley Daniel, Plaintiff's Last Motion of Warning to the Court in Regards to Correction it's Corruption Deeds Before Going Public - Including the Midia (sic) and the President of the United States, and To File a Law Suit Against the Federal Court** [#162] filed August 21, 2009, is **DENIED**.

Dated November 3, 2009, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge