

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 07-cv-01479-BNB-MJW

DR. PAUL A. MITCHELL, M.D.,

Plaintiff,

v.

ROCKY MOUNTAIN CANCER CENTERS, LLP,

Defendant.

ORDER

This matter arises on **Plaintiff's Notice to File for Writ of Mandamus for Failure of Magistrate Judge Boland to Recuse Himself** [Doc. # 90, filed 6/17/2009] (the "Motion"). I previously denied a motion by the plaintiff seeking my recusal. See Order [Doc. # 88, filed June 16, 2009]. Although the purpose of the present Motion is not entirely clear and because Dr. Mitchell is proceeding pro se, out of an abundance of caution I have liberally construed the Motion as a request to reconsider the Order denying disqualification.

The Federal Rules of Civil Procedure do not expressly authorize a motion for reconsideration. An order, "however designated, which adjudicates fewer than all claims or rights and liabilities of fewer than all the parties . . . is subject to revision at any time before entry of judgment adjudicating all the claims and the rights and liabilities of all parties."

Raytheon Constructors, Inc. v. Asarco, Inc., 368 F.3d 1214, 1217 (10th Cir. 2003)(quoting Fed. R. Civ. P. 54(b)).

Motions for reconsideration serve specific purposes and are not a mechanism merely to reargue, potentially interminably, matters previously presented and decided. To the contrary:

The court has the opportunity upon a motion for reconsideration to correct manifest errors of law or fact and to review newly discovered evidence. Appropriate circumstances for a motion to reconsider are where the court has obviously misapprehended a party's position, the facts or the law, or mistakenly has decided issues outside of those the parties presented for determination. It is inappropriate for the movant to advance new arguments or supporting facts which were otherwise available for presentation when the original . . . motion was briefed.

Pizza Management, Inc. v. Pizza Hut, Inc., 1989 WL 89937 *1 (D. Kan. July 19, 1989)(internal quotations and citations omitted).

The Motion is an inappropriate reargument of issues already decided. None of the factors justifying reconsideration is present. The Motion does nothing to alter my reasoning in denying the earlier motion to recuse. Accordingly, for the reasons stated in the Order dated June 16, 2009 [Doc. # 88]:

IT IS ORDERED that the Motion is DENIED.

Dated June 22, 2009.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge