

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

Civil Action No. 10-cv-00174-ZLW

KAT BAILOT,

Plaintiff,

APR 27 2010

GREGORY C. LANGHAM  
CLERK

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v.

STATE OF CO,  
MACHOL AND JOHANNES, LLC, and  
MARINER HEALTH CENTRAL INC., c/o TBT ENTERPRISES INC.

Defendants.

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ORDER DENYING MOTION TO RECONSIDER

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Plaintiff, Kat Bailot, filed *pro se* on March 17, 2010, a "Motion to reopen and amend civil action 10-cv-00174-BNB." Ms. Bailot asks the Court to reconsider the Court's order dismissing this action. The Court must construe the motion liberally because Ms. Bailot is not represented by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons stated below, the motion to reconsider will be denied.

A litigant subject to an adverse judgment who seeks reconsideration by the district court of that adverse judgment may "file either a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b)." *Van Skiver v. United States*, 952 F.2d 1241, 1243 (10th Cir. 1991). A motion to alter or amend the judgment must be filed within twenty-eight days after the judgment is entered. *See* Fed. R. Civ. P. 59(e). The Court will

consider Ms. Bailot's motion to reconsider pursuant to Rule 59(e) because it was filed within twenty-eight days after the judgment was entered in this action on February 24, 2010. **See *Van Skiver***, 952 F.2d at 1243 (stating that motion to reconsider filed within ten-day limit for filing a Rule 59(e) motion under prior version of that rule should be construed as a Rule 59(e) motion).

The three major grounds that justify reconsideration are: (1) an intervening change in controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice. **See *Servants of the Paraclete v. Does***, 204 F.3d 1005, 1012 (10th Cir. 2000).

The Court dismissed the instant action without prejudice for Ms. Bailot's failure within thirty days to file an amended complaint that complied with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Upon consideration of the liberally construed motion to reconsider and the entire file, the Court finds that Ms. Bailot fails to demonstrate some reason why the Court should reconsider and vacate the order to dismiss this action. Ms. Bailot fails to demonstrate the existence of an intervening change in controlling law or new evidence and she fails to convince the Court of any need to correct clear error or prevent manifest injustice. Therefore, the motion to reconsider will be denied. Accordingly, it is

ORDERED that the motion titled "Motion to reopen and amend civil action 10-cv-00174-BNB" that Plaintiff, Kat Bailot, filed *pro se* on March 17, 2010, and which the

Court has treated as a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e), is denied.

DATED: April 27, 2010.

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge, for  
ZITA LEESON WEINSHIENK, Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

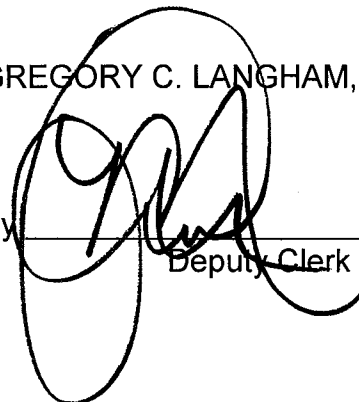
Civil Action No. 10-cv-00174-ZLW

Kat Bailot  
10695 Arapahoe Rd.  
Lafayette, CO 80026

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 4/27/10

GREGORY C. LANGHAM, CLERK

By

A large, stylized handwritten signature in black ink, appearing to read 'G. Langham', is written over a horizontal line.

Deputy Clerk