

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

Civil Action No. 11-cv-00968-REB-KLM

KATHLEEN CHYTKA,

Plaintiff,

v.

WRIGHT TREE SERVICE, INC.,

Defendant.

ORDER CONCERNING MOTIONS TO REOPEN

Blackburn, J.

This matter is before me on the following: (1) the **Motion To Add New Exhibit Evidence and Reopen This Case Exhibit 2000A, 2000 B, 2000 C, 2000 D, 2000 E, 2000F 2000G A Pay Stubs from 10-11-2002 and 2-21-2003 and 7-4-2009 [#481]**¹ filed May 26, 2015; and (2) the **Motion To the Court for Status on Motion To Add New Exhibit Evidence and Reopen This Case Exhibit 2000A, 2000 B, 2000 C, 2000 D, 2000 E, 2000F 2000G A Pay Stubs from 10-11-2002 and 2-21-2003 and 7-4-2009. Filed on May 26, 2015. Or allow I Kathleen Chytka my Summery of Judgment Relief. To be Answered by 6-22-2015. [#482]** filed June 18, 2015. I deny both motions.

Ms. Chytka is proceeding *pro se*. Thus, I have construed her pleadings and other filings more liberally and held them to a less stringent standard than formal pleadings

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

drafted by lawyers. **See *Erickson v. Pardus***, 551 U.S. 89, 94 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10th Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991).

On February 15, 2013, I entered an order [#197] granting the motion for summary judgment of the defendant on all claims of the plaintiff, except for her claim of discriminatory failure to train based on gender. The failure to train claim was presented at trial. At the close of all of the evidence, I granted the motion of the defendant, Wright Tree Service, Inc., for entry of judgment as a matter of law under Fed. R. Civ. P. 50(a)(1). *Minutes* [#454], p. 3. The plaintiff, Kathleen Chytka, appealed the summary judgment and Rule 50(a)(1) rulings of the court to the United States Court of Appeals for the Tenth Circuit. The tenth circuit upheld the dismissal of each of the claims of Ms. Chytka. ***Chytka v Wright Tree Service, Inc.***, 2015 WL 1320241, at *1 (10th Cir. 2015).

When a case has been tried to a jury, a new trial may be granted “for any of the reasons for which new trial have heretofore been granted in actions at law in the courts of the United States.” **FED. R. CIV. P.** 59(a)(1). A motion for new trial “is not regarded with favor and should only be granted with great caution.” ***United States v. Kelley***, 929 F.2d 582, 586 (10th Cir. 1991). The decision whether to grant a new trial is committed to the sound discretion of the trial court. ***Id.***

The present motions also could be read as motions to reconsider the rulings of this court dismissing all of the claims of Ms. Chytka. The bases for granting reconsideration are extremely limited:

Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice. Thus, a motion for reconsideration is appropriate where the court has

misapprehended the facts, a party's position, or the controlling law. It is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing.

Servants of the Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000) (citations omitted).

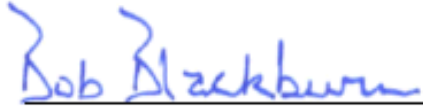
In her present motions, the plaintiff does not present anything which demonstrates a valid basis for granting a new trial or for reconsideration of previous rulings of the court. To the extent the plaintiff purports to present new evidence, she makes no showing that this evidence was previously unavailable in her own records or via discovery in this case. Further, she makes no showing that this purported new evidence in any way would alter the bases for the rulings of this court dismissing all of her claims.

THEREFORE, IT IS ORDERED as follows:

1. That the **Motion To Add New Exhibit Evidence and Reopen This Case Exhibit 2000A, 2000 B, 2000 C, 2000 D, 2000 E, 2000F 2000G A Pay Stubs from 10-11-2002 and 2-21-2003 and 7-4-2009 [#481]** filed May 26, 2015, is denied; and
2. That the **Motion To the Court for Status on Motion To Add New Exhibit Evidence and Reopen This Case Exhibit 2000A, 2000 B, 2000 C, 2000 D, 2000 E, 2000F 2000G A Pay Stubs from 10-11-2002 and 2-21-2003 and 7-4-2009. Filed on May 26, 2015. Or allow I Kathleen Chytka my Summery of Judgment Relief. To be Answered by 6-22-2015. [#482]** filed June 18, 2015, is denied.

Dated September 21, 2015, at Denver, Colorado.

BY THE COURT:

A handwritten signature in blue ink that reads "Bob Blackburn". The signature is written in a cursive style with a horizontal line underneath the name.

Robert E. Blackburn
United States District Judge