

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS**

**ALBERT A. KLUTNICK,
BARBARA J. KLUTNICK,
Plaintiffs,**

v.

**JUDGE MARY P. GORMAN,
U.S. Bankruptcy Court for the
Central District of Illinois,
Defendant.**

No. 10 - CV - 3164 DRH

ORDER

HERNDON, District Judge:

Before the Court is plaintiffs' motion for relief from judgment (titled "Notice for Intent to File Complaint for Abuse of Process and Complaint for Loss of Profit: Motion to Set Aside Illegal Orders of the United States Bankruptcy Court for the Central District of Illinois") (Doc. 9). This case was originally opened last year when plaintiffs appealed the decision in their bankruptcy case (Case No. 85-70982). They moved to either appeal or set aside the bankruptcy court's decision pursuant to FEDERAL RULE OF CIVIL PROCEDURE 60(b)(4) (Docs. 1 & 3). The Court denied the RULE 60(b) motion for failure to state a claim on which relief may be granted, 28 U.S.C. § 1915(e)(2)(B)(ii); and dismissed the appeal as untimely (Text Order, July 14, 2010). The case was closed and judgment entered in favor of Bankruptcy Judge Mary P. Gorman (Doc. 4).

Plaintiffs then filed a motion for reconsideration and an addendum (Docs. 5 & 6). Citing RULE 59(e), the Court denied both, finding no manifest errors of law or fact and that plaintiffs had presented no newly discovered evidence (Text Order, August 5, 2010). The case was closed.

Plaintiffs filed another motion for reconsideration and a motion to set aside judgment (Docs. 7 & 8). Both motions were denied because the Court could find no basis for rehearing or to set aside its prior orders (Text Order, September 15, 2010).

Now plaintiffs have filed yet another motion for relief from judgment (Doc. 9). This motion adds as defendants James J. Klutnick; Bankruptcy Judge Larry Lessen; and district judges Michael P. McCuskey, Jeanne E. Scott, and Richard Mills. Because this motion names Chief Judge Michael P. McCuskey as a defendant, he recused himself and reassigned the case to Judge Michael M. Mihm (Text Order January 10, 2011). Judge Mihm also recused himself and forwarded the file to the Southern District of Illinois for reassignment (Doc. 11).

Plaintiffs' latest motion asks for a writ of mandamus and for relief from judgment under RULE 60(b)(4). They seek a ruling that the previous orders rendered by Bankruptcy Judge Gorman and this Court are void. Fundamentally, they argue that in a separate bankruptcy case in 1986, the court did not have jurisdiction because the plaintiff in that case lacked standing. Therefore they assert that Judge Gorman should have vacated the earlier judgment. They also claim that Chief Judge McCuskey violated their constitutional rights because he should not have allowed the Judge Gorman's decision to stand.

To say plaintiffs have raised their lack-of-jurisdiction argument repeatedly is putting it mildly. They argued it on direct appeal of the 1986 bankruptcy case (Doc. 9-1, pp. 1-2). Then plaintiff Barbara Klutnick argued it in another bankruptcy action concerning the 1986 case (Doc. 9-1, pp. 1-2), which she appealed to the district court and to the Seventh Circuit. *In the Matter of Albert A. Klutnick*, No. 92-1699, 1993 WL 228094 (7th Cir. June 25, 1993), *cert. denied* 511 U.S. 1047. And they argued it in the bankruptcy case before Judge Gorman and in their numerous motions here (Docs. 1, 5, 6, 7, 8). Suffice it to say, there is no legal basis for plaintiff's current motion.

Accordingly, the motion for relief of judgment (Doc. 9) is hereby **DENIED**.

IT IS SO ORDERED.

Signed this 19th day of May, 2011.

/s/ DavidRHerndon
District Judge
United States District Court