

FILED

IN THE UNITED STATES DISTRICT COURT **MAY 22 2017**
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

Clerk, U.S. District Court
District Of Montana
Missoula

JAMEISON BEAM,

Plaintiff,

vs.

LARRY PASHA, BEN BOULEY, LT.
HARMON, LEROY KIRKEGARD,
JANE DOE 1, and JOHN AND JANE
DOES 2-20,

Defendants.

CV-15-00086-H-DLC

ORDER

Pending is Plaintiff Jameison Beam's "Motion: Appealing Decision; based on Facts." (Doc. 32.) Mr. Beam argues that the Court issued premature judgments based on false statements. He asks that the judgments be reversed and sanctions imposed. (Doc. 32.) Mr. Beam's filing could be construed as a Rule 59(e) Motion to Alter or Amend a Judgment or as a Rule 60(b) Motion for Relief from Judgment or Order. A motion for reconsideration filed within twenty-eight days of entry of judgment is considered under Federal Rule of Civil Procedure 59(e); a later-filed motion is considered under Rule 60(b). *United States v. Comprehensive Drug Testing, Inc.*, 513 F.3d 1085, 1098 (9th Cir. 2008) (quoting *Am. Ironworks & Erectors, Inc. v. N. Am. Constr. Corp.*, 248 F.3d 892, 898–99 (9th Cir. 2001)).

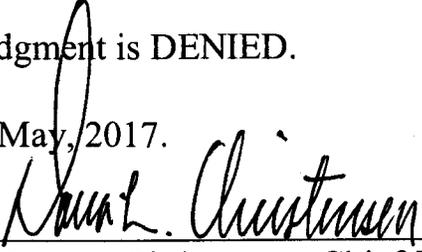
Here, Mr. Beam filed his Motion on May 9, 2017, which was more than twenty-eight days after entry of the June 29, 2016 Judgment (Doc. 19).

Accordingly, the Motion must be construed as a motion for relief from judgment pursuant to Rule 60(b).

The Court has already considered whether the judgment in this case should be vacated pursuant to Rule 60(b). In its February 3, 2017 Order, the Court determined that although summary judgment was improvidently granted, amendment of the judgment was not proper under Rule 60 because Mr. Beam had the opportunity to rebut Defendants' Motion for Summary Judgment and Defendants' conduct did not prevent Mr. Beam from fully and fairly presenting his case. Mr. Beam could have challenged Defendants' misrepresentations of and omission of relevant evidence, but he did not do so. (See February 3, 2017 Order, Doc. 23 at 15-16.)

ACCORDINGLY, IT IS HEREBY ORDERED THAT Mr. Beam's "Motion: Appealing Decision; based on Facts" (Doc. 32) as construed as a Rule 60(b) Motion for Relief from Judgment is DENIED.

DATED this 22nd day of May, 2017.



Dana L. Christensen, Chief Judge
United States District Court