

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

ANDREW ROSS and SUSAN GERARD,

Plaintiffs,

vs.

No. 1:16-cv-01121 PJK/SMV

HECTOR BALDERAS, JR., ROBERT GARCIA, SARAH MICHAEL SINGLETON, FRANCIS J. MATHEW, RAYMOND Z. ORTIZ, DAVID K. THOMPSON, JENNIFER ATTREP, T. GLENN ELLINGTON, SYLVIA LAMAR, DONITA OLYMPIA SENA, DONNA BEVACQUA-YOUNG, PAT CASADOS, FRANK SEDILLO, WILLIAM PACHECO, ANTONIO GUTIERREZ, ANNA MONTOYA, JUDAH BEN MONTANO, A. ARROYO, E. MONTIJO, MICHELLE PORTILLO, STEPHEN T. PACHECO, JANE GAGNE, JOYCE BUSTOS, LYNN PICKARD, PAMELA REYNOLDS, ROBIN MARTINEZ, ROBERT RICHARDS, BRENDA WALL, AUDREY MONTOYA, and ALLSTATE INSURANCE, INC.,

Defendants.

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PAMELA REYNOLDS and ROBERT RICHARDS,

Counter-Claimants,

vs.

ANDREW ROSS and SUSAN GERARD,

Counter-Defendants.

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ORDER ON RULE 60(B)(3) MOTION FOR RECONSIDERATION OF ORDER  
GRANTING ROBERT RICHARDS'S ATTORNEY'S FEES

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THIS MATTER comes on for consideration of Plaintiff Andrew Ross's Rule 60(b)(3) Motion for Reconsideration of Order Granting Robert Richards Attorney Fees filed November 13, 2017. Doc. 285. Upon consideration thereof, the Motion is not well taken and should be denied.

Plaintiff Andrew Ross urges the court to relieve him from paying Defendant Richards's attorney's fees as awarded in the amended judgment of October 2, 2017. Doc. 269; see also Doc. 268. There is no basis for granting the motion; Mr. Ross's claim that others have committed crimes against him or Ms. Gerard fall far short of the clear and convincing evidence of fraud, misrepresentation, or misconduct by the opposing party that is required under Fed. R. Civ. P. 60(b)(3). See Zurich N. Am. v. Matrix Serv., Inc., 426 F.3d 1281, 1290 (10th Cir. 2005). Moreover, adverse legal rulings are not a proper basis for asserting fraud.

Mr. Richards has requested that Mr. Ross be placed under filing restrictions and be ordered to undergo a neuropsychological evaluation, which could lead to a commitment proceeding or appointment of a guardian ad litem. He also seeks attorney's fees and costs

subsequent to the order granting him fees. This matter is concluding and the court declines to order such relief.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, and DECREED that Plaintiff Andrew Ross's Rule 60(b)(3) Motion for Reconsideration of Order Granting Robert Richards Attorney Fees filed November 13, 2017 (Doc. 285), is denied.

DATED this 1st day of December 2017, at Santa Fe, New Mexico.

/s/ Paul Kelly, Jr.  
United States Circuit Judge  
Sitting by Designation