

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
NORTHERN DIVISION

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CLEARFIELD CITY, a Utah Municipal  
corp.,

Plaintiff,

vs.

LYNN A. JENKINS,

Defendant.

MEMORANDUM DECISION AND  
ORDER FINDING MOTION TO  
STAY MOOT AND WARNING  
DEFENDANT AGAINST FURTHER  
FRIVOLOUS FILINGS

Case No. 1:09-CV-184 TS

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On January 12, 2010, this case was remanded to the state court because Defendant had not stated grounds for removal, and, in any event, the removal was untimely. Upon remand, the case file was closed. Since then, Defendant has filed three motions. The first motion, seeking reconsideration, was denied because it did not state grounds for reconsideration. A second motion, a motion to strike the remand motion, was denied as moot. Defendant now seeks to stay all court orders, without specifying which orders, and to remand this case to the Tenth Circuit.

The Court finds that all three post-remand motions are frivolous because they lack

an arguable basis in law or fact. It is not possible under the law for a federal district court to “remand” a case to a federal appellate court such as the Tenth Circuit. If Defendant wishes to further challenge the remand order, he must file a timely Notice of Appeal. However, Defendant is cautioned that under federal law very few types of remand orders are appealable.<sup>1</sup> Defendant should review the statutes cited in the below footnote before considering an appeal.

Because this is Defendant’s third frivolous motion, he is warned that any further frivolous filings may result in sanctions in the form of filing restrictions in this closed case file. It is therefore

ORDERED that Defendant’s Motion to Stay All Court Orders and to Remand to the Tenth Circuit (Docket No. 16) is MOOT.

DATED February 4th, 2010.

BY THE COURT:

  
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TED STEWART  
United States District Judge

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<sup>1</sup>28 U.S.C. §§1447(d) and 1443.