

FILED
for Charlottesville
OCT 07 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JULIA C. DUDLEY, CLERK
BY: *Judith M. [Signature]*
DEPUTY CLERK

JACQUELINE M. WHALEN,)

Plaintiff,)

vs.)

JAMES LARRY RUTHERFORD, et al.,)

Defendants,)

Civil Action No. 3:12CV00032

MEMORANDUM OPINION

By: Hon. Glen E. Conrad
Chief United States District Judge

This case was tried to a jury on July 16 - 18, 2013 and, consistent with the jury verdict, judgment was entered against plaintiff on July 26, 2013. Sometime after the trial, plaintiff, by counsel, moved for judgment as a matter of law on one of her claims and for a new trial. That motion was denied by Memorandum Opinion and Order entered October 4, 2013.

The court has now received a *pro se* submission from the plaintiff in which she offers additional evidence. The court has determined to treat this submission as a motion for relief from judgment pursuant to Rule 60(b)(2) of the Federal Rules of Civil Procedure.

Stated succinctly, plaintiff has submitted entries from what appears to be a Deed Book maintained by the Clerk of the Circuit Court for the County of Nelson. Plaintiff believes that these entries impugn the testimony given in a deposition by one of the defendants in this case, in which that defendant denied any awareness, prior to the deposition, of certain property in which the plaintiff had transferred an interest to the witness' husband. Plaintiff believes that this inconsistency in the defendant's testimony justifies relief from judgment.

The court believes that the information provided does not support the conclusion asserted by plaintiff. Based on the court's review of the documents, it appears that the Deed Book entry

was made as a result of a notice of lis pendens filed on behalf of plaintiff by her attorneys, and that the Deed Book entry merely listed certain of the defendants in the underlying case, including the defendant whose testimony the plaintiff now attacks. Thus, the entry in and of itself does not indicate that the defendant had any interest in plaintiff's property, that she was aware of the transfer of interest in the subject real estate to her husband, or that the defendant's deposition answers were otherwise false.

Accordingly, the court finds that the new submission does not justify relief from judgment. Plaintiff's motion shall be denied.

The Clerk is hereby directed to send certified copies of this Memorandum Opinion to plaintiff and to counsel of record for the defendant.

Enter this 7th day of October, 2013.



CHIEF UNITED STATES DISTRICT JUDGE