

Civil Action No. 4:18-cv-4543

John Burke and Joanna Burke
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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

Civil Action No. 4:11-cv-04543

Joanna Burke and John Burke	}	PLAINTIFF'S
		MOTION TO ALTER OR
Plaintiffs,		AMEND THE JUDGMENT
vs.		
Hopkins Law, PLLC, Mark Daniel	}	
Hopkins and Shelley Luan Hopkins,		
Defendants.		

**PLAINTIFF'S MOTION TO ALTER OR AMEND THE JUDGMENT
PURSUANT TO FED. R. CIV. P. 59(e)**

Pursuant to Federal Rule of Civil Procedure 59(e) to alter or amend its judgment entered on March 19, 2020 (Doc. 69). Judicial tradition has strongly affirmed that a court in a civil case should be able to correct a mistake in response to a timely motion for reconsideration, thereby avoiding an unnecessary appeal. It has been recognized by the highest court that Judges make mistakes and thus “the

wisdom of giving district courts the opportunity promptly to correct their own alleged errors.” *United States v. Dieter*, 429 U.S. 6, 8 (1976).

A motion to alter or amend judgment may be granted on grounds including: (1) an intervening change in controlling law; (2) the availability of new evidence not previously available; or (3) the need to correct clear error or manifest injustice. See *In re Benjamin Moore & Co.*, 318 F.3d 626, 629 (5th Cir.2002).

The Court’s judgment was (1) issued despite a proclamation of Gov. Abbott, declaring the State of Texas a disaster (pandemic) but not before cancelling a scheduled pretrial hearing the evening before the judgment was issued (March 17, 2020, see docket notice) and after a continuance was requested by all parties, thus not providing the Burkes a fair opportunity to be heard or for justice to be served (2) the memorandum includes new evidence not previously available and (3) the judgment was based on a clear error of law, and correcting the decision is necessary to prevent manifest injustice.

CONCLUSION & PRAYER

For these reasons, and those further stated in the accompanying Memorandum with Joint Affidavit, the Burkes request this motion be granted and that the Court’s order and judgment signed on March 18, 2020 be amended accordingly.

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RESPECTFULLY submitted this 14th day of April 2020.

I declare under penalty of perjury that the foregoing is true and correct and the certificates that follow are also correct.
(28 U.S.C. § 1746 - U.S. Code.)

/s/ Joana Burke

Joanna Burke / State of Texas
Pro Se

I declare under penalty of perjury that the foregoing is true and correct and the certificates that follow are also correct.
(28 U.S.C. § 1746 - U.S. Code.)

/s/ John Burke

John Burke / State of Texas
Pro Se

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CERTIFICATE OF CONFERENCE

The Burkes' have not conferenced with any of the parties. Any opposition to the MOTION is hereby classified as UNKNOWN.

CERTIFICATE OF SERVICE

We, Joanna Burke and John Burke hereby certify that on April 14th, 2020, we emailed the attached document to the named court personnel who have taken responsibility to answer the Burkes in prior court correspondence.

Heather Carr <Heather_Carr@txs.uscourts.gov>;
Jason Marchand <Jason_Marchand@txs.uscourts.gov>;
Darlene Hansen <Darlene_Hansen@txs.uscourts.gov>;
TXSDdb_Houston_Operation <houston_operation@txs.uscourts.gov>

And also served copies to the following parties, by email:

Mark Hopkins, <mark@hopkinslawtexas.com>;
Shelley Hopkins <shelley@hopkinslawtexas.com>;
Kate Barry <kate@hopkinslawtexas.com>