

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOYCE MARIE MOORE, ET AL.,

CIVIL Action
NO. 65-15556

VERSUS

TANGIPAHOA PARISH SCHOOL BOARD, ET AL.

JUDGE LEMELLE
MAGISTRATE SHUSHAN

PLAINTIFFS' OPPOSITION TO DEFENDANTS'
RULE 59 MOTION FOR NEW TRIAL, ETC.

The defendants have filed a motion for new trial or Rule 59 relief [R. Doc. 853] regarding the court order specifying procedures for hiring in supervisory/administrative positions [R. Doc. 852]. The defendants do no more than rehash arguments that the court previously rejected. There is no merit to the motion and it should be denied.

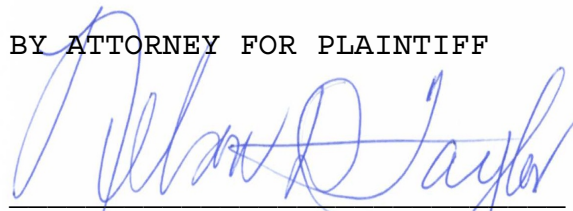
Insofar as it seeks a "new trial" under Rule 59(a), defendants' motion is improper and should be considered as a motion under Rule 59(e). See Harcon Barcie Co. v. D & G Boat Rentals, Inc., 784 F.2d 665, 669-70 (5th Cir.1986) (" '[A]ny motion that draws into question the correctness of a judgment is functionally a motion under Civil Rule 59(e), whatever its label.' " (quoting 9 Moore's Federal Practice ¶ 204.12[1], at 4-67 (1985))).

In general, Rule 59(e) motions to alter or amend judgments are disfavored. See, Southern Constructors Group, Inc. v.

Dynalectric Co., 2 F.3d 606, 611 (5th Cir.1993). Moreover, a Rule 59(e) motion "cannot be used to raise arguments which could, and should, have been made before the judgment issued." Rosenzweig v. Azurix Corp., 332 F.3d 854, 863-64 (5th Cir.2003). A Rule 59(e) motion should not be used to relitigate prior matters that should have been urged earlier or that simply have been resolved to the movant's dissatisfaction." SPE FO Holdings, LLC v. Retif Oil & Fuel, LLC, Civ. A. No. 07-3779, 2008 WL 3285907, at *3 (E.D.La. Aug.6, 2008). A district court may grant a Rule 59 motion in consideration of the following factors: (1) an intervening change in controlling law; (2) the availability of new evidence not previously available; (3) the need to correct a clear error of law or fact; or (4) prevent manifest injustice. In re Benjamin Moore & Co., 318 F.3d 626, 629 (5th Cir.2002); Rosenzweig, 332 F.3d at 863-64

The defendants do no more than reargue what the court has already rejected. They present nothing sufficient to invoke Rule 59 relief. The motion should be denied.

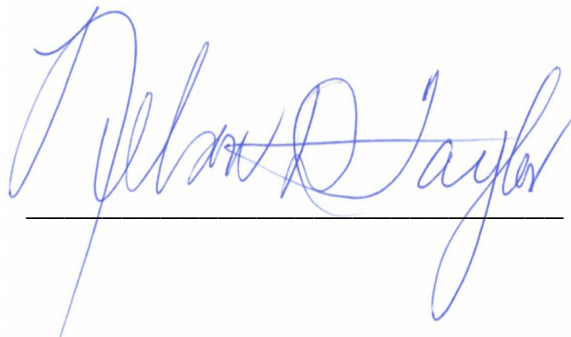
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CERTIFICATE

I hereby certify that on this day, January 5, 2010, I electronically filed the forgoing pleading with the clerk of court using the CM/ECF system which gave notice to all counsel of record.



A handwritten signature in blue ink, appearing to read "Robert D. Taylor", is written over a horizontal line. The signature is stylized and cursive.