

OCT 15 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: MICHAEL BOYAJIAN; LAYLA
BOYAJIAN,

Debtors,

LOEFF & VAN DER PLOEG,

Plaintiff - Appellee,

and

MAJOR DUNE, INC., Assignee of
Plaintiff,

Movant,

v.

SHAHROKH ORDOUBADI,

Defendant - Appellant,

and

MICHAEL BOYAJIAN,

Defendant,

No. 09-56718

D.C. No. 2:96-cv-05737-GHK

MEMORANDUM*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

In re: MICHAEL BOYAJIAN; LAYLA
BOYAJIAN,

Debtors,

SHAHROKH ORDOUBADI,

Defendant - Appellant - Cross-
Appellee,

v.

MAYOR DUNE, INC., Assignee of
Plaintiff,

Movant - Appellee - Cross-
Appellant,

and

LOEFF & VAN DER PLOEG,

Plaintiff - Appellee,

and

MICHAEL BOYAJIAN,

Defendant.

No. 09-56738

D.C. No. 2:96-cv-05737-GHK

In re: SHAKROKH SHAWN
ORDOUBADI,

Debtor,

No. 09-56759

D.C. No. 2:97-cv-03914-GHK

LOEFF & VAN DER PLOEG,

Plaintiff,

MAYOR DUNE, INC., assignee of record
of plaintiff/judgment creditor Loeff & Van
Der Ploeg,

Movant - Appellant.,

v.

SHAKROKH SHAWN ORDOUBADI,

Defendant - Appellee.

LOEFF VAN DER PLOEG,
Plaintiff,

No. 09-56760

D.C. No. 2:97-cv-03913-GHK-
BQR

SHAHROKH ORDOUBADI; KAVEH
KARL SHOWRAI; MICHAEL
BOYAJIAN,

Defendants - Appellees,

v.

MAYOR DUNE, INC., Judgment
Creditors,

Movant - Appellant.

Appeal from the United States District Court
for the Central District of California
George H. King, Chief District Judge, Presiding

Submitted October 9, 2012**
Pasadena, California

Before: TROTT, KLEINFELD, and McKEOWN, Circuit Judges.

Shahrokh Ordoubadi appeals the district court's rulings that his Motion to Vacate Renewal of Judgment and his Motion for an Order Requiring Mayor Dune to File an Acknowledgment of Satisfaction of Judgment were in substance motions under Federal Rule of Civil Procedure 60(b) and had been unreasonably delayed. Mayor Dune, Inc. cross-appeals the district court's finding that Mayor Dune had not provided notice of the renewed judgment.

District courts have the authority to treat motions seeking relief from a judgment as Rule 60(b) motions regardless of the name the parties give them. See

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Harvest v. Castro, 531 F.3d 737, 745 (9th Cir. 2008) (treating Application to Amend Order Nunc Pro Tunc as a Rule 60(b) motion); Am. Ironworks & Erectors, Inc. v. N. Am. Constr. Corp., 248 F.3d 892, 898-99 (9th Cir. 2001) (construing motion for reconsideration as a Rule 60(b) motion). The district court properly construed Ordoubadi's motions as motions under Rule 60(b).

“Motions for relief from judgment pursuant to Rule 60(b) are addressed to the sound discretion of the district court and will not be reversed absent an abuse of discretion.” Casey v. Albertson's Inc., 362 F.3d 1254, 1257 (9th Cir. 2004). Rule 60(c)(1) states that “[a] motion under Rule 60(b) must be made within a reasonable time.” Fed. R. Civ. P. 60(c)(1). The district court explained that it had already rejected a prior Rule 60(b) motion filed in 2006 as untimely because Ordoubadi had known about the facts underlying the motion as early as September 2004. The years that elapsed between Ordoubadi's first Rule 60(b) motion and his 2009 motions have not improved his case. The district court did not abuse its discretion in concluding that Ordoubadi's motions were untimely.

We affirm the district court's judgment. Because we affirm the district court, we do not reach Mayor Dune's cross appeal.

AFFIRMED.