

UNPUBLISHED

**UNITED STATES COURT OF APPEALS**  
**FOR THE FOURTH CIRCUIT**

<p>COLUMBIA GAS TRANSMISSION CORPORATION, <i>Plaintiff-Appellant,</i></p> <p style="text-align:center">v.</p> <p>BURDETTE REALTY IMPROVEMENT, INCORPORATED, <i>Defendant-Appellee.</i></p>	}	No. 00-1959
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<p>COLUMBIA GAS TRANSMISSION CORPORATION, <i>Plaintiff-Appellant,</i></p> <p style="text-align:center">v.</p> <p>BURDETTE REALTY IMPROVEMENT, INCORPORATED, <i>Defendant-Appellee.</i></p>	}	No. 02-2370
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Appeals from the United States District Court  
for the Southern District of West Virginia, at Charleston.  
Joseph Robert Goodwin, District Judge.  
(CA-00-387-2)

Submitted: March 31, 2003

Decided: May 12, 2003

Before WILKINS, Chief Judge, MOTZ, Circuit Judge, and  
HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

**COUNSEL**

W. Henry Lawrence, Amy Marie Smith, STEPTOE & JOHNSON, Clarksburg, West Virginia, for Appellant. Benjamin L. Bailey, Brian A. Glasser, Thomas F. Basile, Eric B. Snyder, BAILEY & GLASSER, L.L.P., Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

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**OPINION**

PER CURIAM:

In these consolidated appeals, Columbia Gas Transmission Corp. appeals the district court's order granting Burdette Realty Improvement, Inc.'s motion to dismiss for lack of subject matter jurisdiction on the basis that for purposes of diversity jurisdiction the parties were citizens of the same state (No. 00-1959) and denying the motion for relief from judgment and/or to amend the complaint as of right or by leave of court (No. 02-2370).

We have reviewed the record and the district court's memorandum opinion finding a lack of jurisdiction and find no reversible error. Accordingly, we affirm No. 00-1959 on the reasoning of the district court. *See Columbia Gas v. Burdette Realty*, No. CA-00-387-2 (S.D.W. Va. July 6, 2000).

Because the district court dismissed the case and ordered it stricken from the docket, we find Columbia could not amend the complaint as of right under Rule 15(a) of the Federal Rules of Civil Procedure. We further find the court did not abuse its discretion denying the motion to vacate the judgment under Rule 60(b) of the Federal Rules of Civil Procedure for the purpose of permitting it to amend the complaint with leave of court. *See NOW v. Operation Rescue*, 47 F.3d 667, 669

(4th Cir. 1995) (stating standard of review). Thus, we affirm the order in No. 02-2370.

We affirm the orders and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

*AFFIRMED*