

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN THE MATTER OF GABRIEL
LASALA, AS OWNER OF THE 2016
WORLD CAT MODEL 295CC, FOR
EXONERATION FROM OR LIMITATION
OF LIABILITY

CIVIL ACTION

NO. 18-11057 c/w
18-11138, 19-9706
19-9798, 19-9819

SECTION D (2)

THIS DOCUMENT RELATES TO ALL CASES

ORDER AND REASONS

Before the Court is a Motion to Alter or Amend Judgment filed by Gabriel Lasala.¹ Cantium has filed an opposition and Lasala has filed a reply.² Pursuant to an Order from the Court, Lasala also filed supplemental briefing³ and Cantium, with leave of Court, filed a Supplemental Memorandum in Opposition.⁴ After careful consideration of the parties' memoranda and the applicable law, Lasala's Motion to Alter or Amend Judgment⁵ is **DENIED**.

I. FACTUAL AND PROCEDURAL BACKGROUND

As the factual background of this case has been extensively briefed in numerous pre-trial rulings, the Court limits its recitation of background information to matters relevant to this motion. On April 9, 2021, Lasala filed a Motion for Summary Judgment on Cantium L.L.C's Claims for Contribution and Indemnity.⁶

¹ R. Doc. 320.

² R. Doc. 324 and R. Doc. 329, respectively.

³ R. Doc. 338.

⁴ R. Doc. 341.

⁵ R. Doc. 320.

⁶ R. Doc. 194.

The Court granted that Motion on June 10, 2021.⁷ Following a bench trial of this matter held on June 17-23, 2021, the Court issued its Findings of Fact and Conclusions of Law as well as a Judgment in the matter.⁸

In its motion, Lasala seeks the Court to alter or amend judgment pursuant to Rule 59 and/or Rule 60 regarding Cantium's contribution claim. While not entirely clear which order he is seeking relief from, the thrust of Lasala's motion is that the Court previously granted Lasala's Motion for Summary Judgment denying Cantium's claims for contributions for sums Cantium paid the Pressers to resolve the claims between the Pressers and Cantium.⁹ Lasala then reiterates the same arguments made in his Motion for Summary Judgment, asserting that the agreement entered into between the Pressers and Cantium was a "Mary Carter and was required to be disclosed to the court."¹⁰ Relying on that ruling on the motion for summary judgment, Lasala contends that Cantium is prohibited from receiving contribution. Lasala asserts that, following the trial in this matter, "Cantium expects 'contractual contribution or reimbursement' from the Presser's [sic] award" and this is not allowed under Fifth Circuit precedent.¹¹ Lasala contends that any settlement agreement would have required the Pressers, the settling plaintiffs, to release Lasala, the non-settling defendant. Since the release did not do so, Lasala contends that it is contrary to law and public policy and fairness. Notedly, these are the same arguments made

⁷ R. Doc. 266.

⁸ R. Doc. 305 and R. Doc. 306, respectively.

⁹ R. Doc. 320-1 at p. 1, referencing Order and Reasons, R. Doc. 266.

¹⁰ R. Doc. 320.

¹¹ R. Doc. 320-1 at p.2.

by Lasala in his Motion for Summary Judgment.¹² Cantium opposes Lasala's motion, asserting that Cantium's settlement agreement with the Pressers is valid and enforceable.¹³ Cantium points out that the "buyback provision' of the Agreement does not provide for an impermissible assignment of the Pressers' personal injury claim, nor did it create a 'right to contribution' between Cantium and the Pressers."¹⁴ Instead, Cantium contends that the agreement is an enforceable contractual agreement between Cantium and the Pressers which was fully disclosed to Lasala prior to trial.¹⁵ Cantium argues that its "right to reimbursement from the Pressers is not, however, based on a general maritime law claim for contribution against Lasala. It is a contractual right held by Cantium pursuant to the terms of the Cantium/Pressers Settlement agreement."¹⁶ Cantium also argues that Lasala's motion is untimely under Federal Rule of Civil Procedure 59 and 60. In reply, Lasala "fully admits that it was aware of the settlement document filed with the Court" prior to trial, but argues that Lasala "was not aware that Cantium continued to have a 'contribution' or 'buyback' claim after the Court's Order granting Lasala's motion for summary judgment on the issue.¹⁷ In his reply, Lasala did not fully address Cantium's argument that Lasala's motion was untimely. Therefore, the Court ordered Lasala to provide supplemental briefing on the timeliness of his motion and Lasala timely responded.¹⁸ In his supplemental briefing on the issue of timeliness of

¹² R. Doc. 194.

¹³ R. Doc. 324.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 8.

¹⁷ R. Doc. 329 referencing R. Doc. 266.

¹⁸ R. Doc. 337 and 338, respectively.

the motion, Lasala argues that the clerk of court has not made an “entry of judgment” pursuant to Federal Rule of Civil Procedure 50 and thus “since a judgment has not been entered the 28-day time delay has not commenced and therefore has not elapsed.”¹⁹ Lasala further argues that the motion should be considered under Federal Rule of Civil Procedure 60(b)(2), (5), and (6) since it was filed within a reasonable time after the Court’s judgment.²⁰ Noting that the Fifth Circuit instructs that a court should look to the reason for delay, possible prejudice to the non-moving party, and the interests of finality in determining whether a motion was filed within a reasonable time under Rule 60, Lasala summarily states that the nonmoving parties are not prejudiced and that Lasala’s reason for the delay in filing the motion was that Cantium “did not inform the Court or the parties that they were ignoring or disregarding the Court’s order.”²¹ In response, Cantium disputes that it concealed from Lasala or the Court its intent to enforce the “buyback provision” in its Settlement Agreement.²² In support, Cantium notes that the Settlement Agreement and the Receipt and Release were entered as exhibits at the trial of this matter, without opposition, and Lasala introduced no evidence and raised no arguments that it was not enforceable or should be voided by the Court.²³ Finally, Cantium points out that the Court’s Order on Lasala’s motion for summary judgment²⁴ determined that “Cantium could not receive some of the money it had paid in settlement to the

¹⁹ R. Doc. 338.

²⁰ *Id.*

²¹ *Id.*, referencing the Court’s Order in R. Doc. 266 issued June 10, 2021.

²² R. Doc. 341.

²³ *Id.*, at 2-3.

²⁴ R. Doc. 266.

Pressers from the Presser's [sic] recovery against Lasala under the buyback provision and additionally pursue a contribution claim against Lasala. At no point, however, did the Court rule that the buyback provision was not valid or enforceable, and in fact it is enforceable as a contractual obligation of Cantium's settlement with the Pressers."²⁵

II. LEGAL STANDARD

Motion for New Trial Under Fed. R. Civ. P. 59(a)(2).

Federal Rule of Civil Procedure 59(a)(2) provides that “[a]fter a nonjury trial, the court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment.”²⁶ Rule 59(a) permits the court to grant a new trial in a nonjury action if a new trial might be obtained under similar circumstances in a jury action.²⁷ “A motion for new trial in a nonjury case or a petition for rehearing should be based upon “manifest error of law or mistake of fact, and a judgment should not be set aside except for substantial reasons.”²⁸ Rule 59(b) provides “A motion for a new trial must be filed no later than 28 days after the entry of judgment.”²⁹

Federal Rule of Civil Procedure 60(b) provides that:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

²⁵ *Id.*

²⁶ Fed. Rule Civ. P. 59(a)(2).

²⁷ 11 Charles Alan Wright et al., Federal Practice and Procedure § 2804 (2009).

²⁸ *Id.*

²⁹ Fed. Rule Civ. P. 59(b).

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.³⁰

The Fifth Circuit has made clear that relief under Rule 60(b)(6) is appropriate only in an “extraordinary situation” or “if extraordinary circumstances are present.”³¹ According to the Fifth Circuit, “Clause (6) is a residual clause used to cover unforeseen contingencies; that is, it is a means for accomplishing justice in exceptional circumstances.”³² The decision to grant or deny relief under Rule 60(b) lies within the sound discretion of the district court and will be reversed only for abuse of that discretion.³³

³⁰ Fed. R. Civ. P. 60(b).

³¹ *U.S. ex rel. Garibaldi v. Orleans Parish Sch. Bd.*, 397 F.3d 334, 337 (5th Cir. 2005) (citing *Klapprott v. United States*, 335 U.S. 601, 613, 69 S.Ct. 384, 93 L.Ed. 266 (1949); *Batts v. Tow-Motor Forklift Co.*, 66 F.3d 743, 747-48 (5th Cir. 1995)). See, *Theard v. Dep’t of Civil Service, Louisiana*, Civ. A. No. 10-4165, 2012 WL 6161944, at *7 (E.D. La. Dec. 11, 2012) (citing *Hess v. Cockerell*, 281 F.3d 212, 216 (5th Cir. 2002); *Edwards v. City of Houston*, 78 F.3d 983, 995 (5th Cir. 1996) (en banc)); *May v. Hummingbird Aviation, LLC*, Civ. A. No. 08-1190, 2009 WL 10679749, at *1 (E.D. La. Dec. 16, 2009) (citing *Carter v. Fenner*, 136 F.3d 1000, 1007 (5th Cir. 1998)).

³² *Stipelcovich v. Sand Dollar Marine, Inc.*, 805 F.2d 599, 604-05 (5th Cir. 1986) (citing 7 J. Lucas & J. Moore, *Moore’s Federal Practice* ¶ 60.27[2] at 274 (2d ed. 1985)).

³³ *Hesling v. CSX Transp., Inc.*, 396 F.3d 632, 638 (5th Cir. 2005).

III. ANALYSIS

A. Timeliness of the Motion.

Lasala's motion was filed on January 27, 2022.³⁴ Lasala's initial argument is that his motion is timely under Federal Rule of Civil Procedure 59 as the Clerk's Office has not made an "entry of judgment."³⁵ It is unclear, even after additional briefing, whether Lasala is referring to the Court's ruling on his Motion for Summary Judgment,³⁶ issued on June 10, 2021, or whether Lasala is referring to the Court's Judgment issued following the trial and Findings of Fact and Conclusions of Law, which Judgment was issued October 29, 2021.³⁷ If Lasala is referring to the Court's Order on his Motion for Summary Judgment, he would not be entitled to relief under Rule 59 as that is not a final judgment for Rule 59 purposes. The Court notes that Lasala did not seek reconsideration of that Order.³⁸ Further, since Lasala's motion was filed almost three months after the Court issued its Findings of Fact and Conclusions of Law and Final Judgment following trial in this matter, the motion is untimely under Rule 59 as it relates to the Final Judgment.

Lasala also argues that his motion should be considered under Federal Rule of Civil Procedure 60. While Lasala's supplemental brief addressing the timeliness of his motion is a bit unclear, the Court finds that Lasala has failed to provide any support for Rule 60(b) relief. Indeed, while Lasala asserts that he relies on Rule

³⁴ R. Doc. 320.

³⁵ *Id.*

³⁶ R. Doc. 266.

³⁷ R. Doc. 306.

³⁸ And, as noted further within, Lasala does not appear to be seeking reconsideration but, rather, appears to be seeking something akin to affirmation of a prior Order.

60(b)(2), he also acknowledges that he was fully aware of the Settlement Agreement between Cantium and the Pressers prior to the trial in this matter. Lasala also relies on rule 60(b)(5), yet has not articulated any sufficient reason for relief under this section. The Court next addresses whether Lasala has sought relief under Rule 60(b)(6) within a reasonable time. Again, it is undisputed that Lasala was aware of the Settlement Agreement as it was entered into evidence in the trial in this matter. Lasala has given no sound reason for his delay in filing the motion. This lack of good reason falls in favor of finding that Lasala's motion was not filed within a reasonable time. Further, to the extent that Lasala contends that Cantium, the non-moving party, would not be prejudiced, the Court finds otherwise. The Court's ruling on the motion may have a direct effect on amounts owed by Cantium, which could result in prejudice. This reason, too, falls in favor of finding the motion to be untimely. The Court and the parties also have an interest in the finality of the judgment. With that said, the Court has had before it other motions addressing seeking relief which prompted an Amended Findings of Fact and Conclusions of Law. As such, Lasala's motion alone did not stand in the way of the finality of the trial judgment. While the Court finds no "extraordinary" or "exceptional" circumstances present to warrant relief under Rule 60(b)(6), and thus clearly finds the motion to be untimely, it nevertheless considers the merits of Lasala's motion for reasons set forth below.

B. Merits of the Motion.

The Court begins its analysis with the motion itself. Perplexingly, the entire motion is an almost verbatim regurgitation of much of his Motion for Summary

Judgment, citing the same law and making the same arguments. While styled as a Motion to Alter or Amend Judgment, Lasala, somewhat confusingly, argues that the Court's previous order on Lasala's Motion for Summary Judgment was correct and in accord with Fifth Circuit law. Lasala states, "The Court's Order [R. Doc. 266] as written is not the issue. The issue is Cantium's disregard for the Court's Order and its effect on the future Orders of the Court."³⁹ Lasala then asks the court to "review its prior judgment issued without prejudice and to factor in the existence of an agreement that the Court disallowed as a matter of law."⁴⁰ Thus, it appears that Lasala is either (a) asking the Court to affirm its previous Order on his Motion for Summary Judgment; or (b) to review its previous Order and to factor in the existence of an agreement that the Court disallowed. To the extent that Lasala is seeking some affirmation of the Court's previous Order, the Court simply states that an Order remains in effect unless and until either this Court or a reviewing court rules otherwise. The Court declines to enter some further affirmation of a previous issued Order. To the extent that Lasala is seeking some review and for the Court to factor in some other evidence, the Court further declines to do so. Lasala's own briefing makes clear that he is anticipating some "effect on the future orders of the Court."⁴¹ As such, any order from this Court would be nothing short of anticipatory and violative of this Court's duty to decide "cases or controversies."⁴² In its Opposition, Cantium further confuses the matter by arguing additional grounds regarding why

³⁹ R. Doc. 338 at 4.

⁴⁰ R. Doc. 320-1 at 6.

⁴¹ R. Doc. 338 at 4.

⁴² See, generally, the U.S. Constitution, Article III.

it may have a right to reimbursement. Cantium argues that its “right to reimbursement from the Pressers is not, however, based on a general maritime law claim for contribution against Lasala. It is a contractual right held by Cantium pursuant to the terms of the Cantium/Pressers Settlement agreement.”⁴³ The Court stresses that some future claim or relief is not before the Court, and thus inappropriate for the Court to address.

The Court concludes its analysis by addressing the relief sought by Lasala. Lasala asks that he “be given full credit for the amount previously paid to be credited toward the total amount due.”⁴⁴ Lasala gives no further explanation for the relief sought, and, indeed, the Court is at a loss for the relief sought. To the extent that Lasala is seeking some relief from the Court’s Findings of Fact and Conclusions of Law, Final Judgment, the Court finds it inappropriate to do so. Lasala has provided no legal support for his motion or relief, and thus it is denied.

IV. CONCLUSION

For the foregoing reasons, **IT IS HEREBY ORDERED** that the Motion to Alter or Amend Judgment filed by Gabriel Lasala,⁴⁵ is **DENIED**.

New Orleans, Louisiana, December 7, 2022.


WENDY B. VITTER
United States District Judge

⁴³ *Id.* at 8.

⁴⁴ *Id.*

⁴⁵ R. Doc. 320.