UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GARY BEAUMONT,

Plaintiff,

-against-

VANGUARD LOGISTICS SERVICES (USA), INC., POLICE OFFICERS JOHN DOES 1-10, and ABC COMPANIES 1-10,

Defendants.

22-cv-6235 (MKV)

OPINION & ORDER DENYING MOTION TO VACATE

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff Gary Beaumont and Defendant Vanguard Logistics Services (USA), Inc. ("VLS", collectively "the parties") jointly filed a motion to vacate this Court's September 27, 2023 Opinion and Order denying VLS's motion for partial summary judgment [ECF No. 50] and December 1, 2023 Opinion & Order denying VLS's motion for reconsideration [ECF No. 56] (collectively the "Opinions"). The parties represent that their agreement to settle this case is contingent on the Court granting their motion to vacate its Opinions. While the parties acknowledge that vacatur is available only in exceptional circumstances, they argue that such relief is appropriate to facilitate their settlement and conserve judicial resources. However, the parties, particularly VLS, have already litigated this case to the hilt. VLS cannot buy back unfavorable judicial decisions, but it is free to settle the claims against it without vacatur of the Opinions. For the reasons set forth below, the motion to vacate is DENIED.

I. BACKGROUND

The Court assumes familiarity with the background of this case and its previous Opinions. *See Beaumont v. Vanguard Logistics Servs. (USA), Inc.*, No. 22-cv-6235 (MKV), 2023 WL 6294233, at *2 (S.D.N.Y. Sept. 27, 2023) ("*Beaumont I*"), *reconsideration denied*, No. 22-cv-6235

(MKV), 2023 WL 8355437, at *1 (S.D.N.Y. Dec. 1, 2023) ("*Beaumont II*"). The Court therefore discusses only the background relevant to the pending motion. As the Court has previously explained, Beaumont entered into an agreement with VLS to ship certain property, including his motorcycle, from Sydney, Australia to New York by sea. *See Beaumont I*, 2023 WL 6294233, at *1. In connection with that agreement, VLS issued a bill of lading, which contains language about limiting VLS's liability, but the parties have adduced conflicting evidence as to whether Beaumont ever received notice of such limitation of liability. *See id.* at *1–2. There is no dispute, however, that VLS damaged Beaumont's property when a forklift operator dropped a "much larger item" on top of his cargo. *Id.* at *2. Beaumont filed a complaint in state court in New Jersey.

VLS removed the case to the United States District Court for the District of New Jersey on the basis of diversity jurisdiction and maritime jurisdiction [ECF No. 1]. VLS then moved to transfer the case to the Southern District of New York [ECF No. 6]. Beaumont opposed that motion [ECF No. 8]. The New Jersey district court granted the motion by VLS to transfer the case to this District [ECF No. 11].

Beaumont filed an Amended Complaint in this District, which is the operative pleading [ECF No. 18 ("AC")]. In the Amended Complaint, Beaumont asserts claims against VLS for common law negligence, AC ¶¶ 11–18, pursuant to the United States Carriage of Goods by Sea Act ("COGSA"), AC ¶¶ 19–21, for breach of maritime contract, AC ¶¶ 22–25, for liability under "federal maritime common law of bailment," AC ¶¶ 26–30, and under the New Jersey Consumer Fraud Act, AC ¶¶ 31–40.

VLS then filed a motion for partial summary judgment [ECF Nos. 31, 32, 33, 34], arguing that COGSA and the terms of the bill of lading limit any damages to $500 and that COGSA preempts Beaumont's other claims. Beaumont filed an opposition [ECF Nos. 36, 37], and VLS filed a reply [ECF Nos. 38, 39, 40, 41]. The Court denied VLS's motion for summary judgment

because there clearly was a genuine dispute of material fact. *See Beaumont I*, 2023 WL 6294233, at *4. In particular, the parties submitted competing evidence regarding whether Beaumont had notice of the limitation of liability set forth in the bill of lading and, therefore, whether Beaumont had the "fair opportunity" COGSA requires to declare that his motorcycle and other property were worth more than $500. *Id.* at *1–2.

VLS then moved for reconsideration of the Court's Opinion & Order denying its motion for partial summary judgment [ECF No. 51]. The Court denied the motion for reconsideration because VLS "wholly failed" to demonstrate that it was entitled to that "extraordinary remedy." *Beaumont II*, 2023 WL 8355437, at *1–2.

The Court then referred this case to the Magistrate Judge for a settlement conference [ECF Nos. 63]. The Court also set a trial date [ECF No. 64]. The Magistrate Judge later informed the Court that the parties had reached an agreement to settle this case, and the Court entered an Order of dismissal without prejudice to restoring the case to the Court's calendar if the parties filed a motion to restore within 30 days [ECF No. 69].

Thereafter, the parties jointly moved, pursuant to Rule 60(b)(6) of the Federal Rules of Civil Procedure, to vacate the Court's previous Opinions [ECF No. 72 ("Joint Motion")].

II. LEGAL STANDARDS

Vacatur of a court's considered opinion and order is "an 'extraordinary remedy' to be granted only in 'exceptional circumstances.'" *Microsoft Corp. v. Bristol Tech., Inc.*, 250 F.3d 152, 154 (2d Cir. 2001) (quoting *U.S. Bancorp Mortg. Co. v. Bonner Mall P'ship*, 513 U.S. 18, 26, 29 (1994)). A party seeking vacatur has the burden to demonstrate its "equitable entitlement to [that] extraordinary remedy." *Id.* (quoting *Bancorp*, 513 U.S. at 26). The Supreme Court has instructed that "exceptional circumstances do not include the mere fact that [a] settlement agreement provides

for vacatur." *Bancorp*, 513 U.S. at 29. Rather, when a "losing party" agrees to settle, it ordinarily forfeits avenues for relief from the unfavorable decision. *Id*. at 26.

In deciding whether exceptional circumstances exist to justify vacatur, a court must "take account of the public interest." *Bancorp*, 513 U.S. at 26. Judicial decisions "are presumptively correct and valuable to the legal community as a whole. They are not merely the property of private litigants and should stand unless a court concludes that the public interest would be served by a vacatur." *Id.* (internal citation omitted). Courts in this District ordinarily consider four factors in evaluating whether the public interest would be served by vacatur of an order. *See In re Take-Two Interactive Sec. Litig.*, No. 06-cv-803 (SWK), 2008 WL 3884360, at *1 (S.D.N.Y. Aug. 21, 2008). The factors are: (i) the finality of judgments, *see Thai-Lao Lignite Co. v. Gov't of Lao People's Democratic Republic,* 864 F.3d 172, 187 (2d Cir. 2017); (ii) the development of decisional law, *see ATSI Commc'ns, Inc. v. Shaar Fund, Ltd.*, 547 F.3d 109, 114 (2d Cir. 2008); (iii) the conservation of judicial resources, *see Aetna Cas. & Sur. Co. v. Home Ins. Co.*, 882 F. Supp. 1355, 1358 (S.D.N.Y. 1995); and (iv) the deterrence of frivolous disputes, *Take-Two Interactive*, 2008 WL 3884360, at *1.

III. ANALYSIS

The parties have not carried their burden to demonstrate that they are entitled to the extraordinary relief they seek. The parties assert that the public interest in this Court's Opinions is "*strongly outweighed* by the private interest in vacatur." Joint Motion at 3 (emphasis altered). But they fail to substantiate that unmoored assertion. They fail in their brief even to enumerate, let alone analyze, all of the factors the Court must weigh. Based on its own careful analysis, the Court concludes that this case does not present exceptional circumstances that warrant vacatur of not merely one but two prior decisions.

First, the public interest in the finality of judgments clearly weighs against vacatur. The Second Circuit has consistently recognized "the weighty interests served by protecting the finality of judgments." *Thai-Lao Lignite Co.,* 864 F.3d at 187; *see Nemaizer v. Baker*, 793 F.2d 58, 61 (2d Cir. 1986). VLS is unhappy with the Court's decision on summary judgment. It previously requested extraordinary relief in the form of reconsideration [ECF No. 51], and the Court denied that meritless request, *see Beaumont II*, 2023 WL 8355437, at *1–2. Unwilling to accept the Court's unfavorable decisions, VLS now seeks the extraordinary remedy of vacatur of two court orders. But VLS cannot buy back its failed litigation strategy by conditioning settlement on vacatur of this Court's Opinions, which are "not merely the property of [the] litigants" in this case. *Bancorp*, 513 U.S. at 26. Indeed, when a "losing party" agrees to settle, it ordinarily forfeits avenues for relief from unfavorable decisions. *Id*. The Opinions the parties seek to vacate "are presumptively correct and valuable to the legal community as a whole." *Id*. They reflect the Court's considered judgment and, in the interest of finality, they will not "be lightly reopened." *Nemaizer*, 793 F.2d 61 (internal citation omitted).

Turning to the development of decisional law, the parties contend that there is little public interest in the Court's Opinions because the decision denying summary judgment was "fact-specific" and the Court did not decide any "novel issues of law." Joint Motion at 3 (quoting *Viera v. United States*, 595 F. Supp. 3d 1, 3 (S.D.N.Y. 2022)). The Second Circuit has squarely rejected that argument that "the public has no interest" in a "district court's decision [that] does not purport to make new law." *ATSI Commc'ns, Inc.*, 547 F.3d at 114. After all, "district courts do not, by deciding cases, create law; they apply it." *Id.*

Relatedly, the need to deter frivolous disputes strongly weighs against vacatur here. It is true that the Court's decision denying summary judgment turned on a specific factual dispute. But that does not mean the key issue is unlikely "to be revisited with any regularity." *American Home*

Assur. Co. v. Kuehne & Nagel (AG & CO.) KG, No. 06-cv-6389 (JLC), 2010 WL 1946718, at *2 (S.D.N.Y. May 7, 2010) (granting motion to vacate in part because the issue in that case was not "likely to be revisited with any regularity"). On the contrary, *Beaumont I* offers the public guidance on the common question of when a party might be able to obtain summary judgment regarding the limitation of liability under COGSA. And *Beaumont II* offers guidance on when a motion for reconsideration might succeed.

Crucially, VLS could have avoided two rounds of meritless, costly, and unsuccessful motion practice if it had familiarized itself with this Court's publicly-available decisions in *Gulf Island Shipyards, LLC v. Mediterranean Shipping Co.*, 665 F. Supp. 3d 472, 483 (S.D.N.Y. 2023), *reconsideration denied*, No. 22-cv-01018 (MKV), 2023 WL 3847291, at *1 (S.D.N.Y. June 6, 2023). In *Gulf Island Shipyards*, the Court denied the defendant's motion for summary judgment regarding the limitation of liability under COGSA precisely because, as in *Beaumont I*, the parties adduced conflicting evidence whether the plaintiff had notice and a fair opportunity to declare a higher value for its shipment. *See* F. Supp. 3d at 483. The Court then denied a meritless motion for reconsideration of its decision. *See* 2023 WL 3847291, at *1.

The Court's decisions in *Gulf Island Shipyards*, like the Court's decisions in this case, do "not purport to make new law." *ATSI Commc'ns, Inc.*, 547 F.3d at 114. Nevertheless, they are "valuable to the legal community." *Bancorp*, 513 U.S. at 26. They provide guidance on common issues and may thereby deter "frivolous litigation." *Austin v. Ford*, 181 F.R.D. 283, 286 (S.D.N.Y. 1998). If VLS had simply heeded the guidance in publicly-available, but not groundbreaking, prior decisions, it might have chosen to settle this case before litigating the unfavorable decisions it now seeks to vacate as a condition of settlement.

Finally, the Court considers the interest in conserving judicial resources. The parties' argument on this score is unpersuasive because they have already litigated this case to the hilt. As

explained above, the parties have litigated venue, summary judgment, and reconsideration. Their argument for vacatur at this point "ignores the considerable judicial resources that have already been expended in litigating the issues in this case, which resources would be expended for nought if vacatur were ordered." *Aetna Cas. & Sur. Co.*, 882 F. Supp. at 1358.

To be sure, reopening this case could mean expending further resources on a trial and, possibly, an appeal. Trials and appeals are not "exceptional circumstances." *Microsoft Corp.*, 250 F.3d at 154. And, notwithstanding their assertion that "settlement is wholly conditional on this Court's vacatur" of its previous Opinions, Joint Mem. at 2, the parties remain free to settle if they wish to avoid the costs of further litigation.

As the Court noted above, the parties could have settled before litigating two futile motions. If litigants can neutralize unfavorable rulings through settlement, they may be encouraged to expend judicial resources (and the resources of their opponents) with abandon. Indeed, the Supreme Court has expressly cautioned that freely granting vacatur may "deter settlement at an earlier stage . . . [as] [s]ome litigants . . . may think it worthwhile to roll the dice rather than settle in the district court, . . . only if an unfavorable outcome can be washed away by a settlement-related vacatur." *Bancorp*, 513 U.S. at 28-29. Similarly, the Second Circuit has stressed that parties should not be permitted to use settlement as a means to manipulate the judicial system. *See Keller v. Mobile Corp.*, 55 F.3d 94, 98 (2d Cir. 1995). While there clearly is a public interest in conserving judicial resources, if the proposed savings can only be realized "at the cost of increasing the vulnerability of the judicial system to manipulation, [the Second Circuit] views the investments as unsound." *Mfr. Hanover Tr. Co. v. Yanakas*, 11 F.3d 381, 385 (2d Cir. 1993).

IV. CONCLUSION

For the reasons set forth above, the parties' motion to vacate [ECF No. 70] is DENIED. The Clerk of Court respectfully is requested to terminate the motion at docket entry 70. The parties

shall file a joint letter no later than August 7, 2024 informing the Court whether they wish to reopen this case and proceed promptly to trial.

SO ORDERED.

Date: July 24, 2024
New York, NY

MARY KAY VYSKOCIL
United States District Judge