UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA

In re DBMP LLC

In re DBMP LLC · No. 20-30080; Adv. Proc. Nos. 21-03023, 22-03000, and 22-03001 · Decided May 20, 2026

SUMMARY

This order addresses the Debtor's motion for reconsideration and amendment of a prior order concerning privilege issues in related adversary proceedings arising from the DBMP LLC bankruptcy case. The United States Bankruptcy Court for the Western District of North Carolina partially grants relief under Federal Rule of Civil Procedure 60(a) to clarify portions of the prior order, but denies reconsideration under Rules 59(e) and 52(b) except as otherwise specified. The order also discusses the non-preclusive effect of findings made in a preliminary-injunction proceeding and the standards governing reconsideration and correction of judgments.

CASE DETAILS

COURT	United States Bankruptcy Court for the Western District of North Carolina
WRITING FOR THE COURT	Ashley Austin Edwards
JURISDICTION	United States Bankruptcy Court for the Western District of North Carolina
DECIDED	May 20, 2026
DOCKET	20-30080; Adv. Proc. Nos. 21-03023, 22-03000, and 22-03001
DISPOSITION	other
PROCEDURAL POSTURE	The Debtor and joined non-Debtor Defendants moved under 11 U.S.C. § 105(a), Federal Rules of Civil Procedure 52(b), 59(e), and 60(a), and the corresponding Bankruptcy Rules, for reconsideration, amendment, or clarification of an earlier privilege order.
STANDARD OF REVIEW	Rule 59(e) relief requires an intervening change in controlling law, newly available evidence, clear error of law, or manifest injustice, and is an extraordinary remedy to be used sparingly. Rule 52(b) permits correction of manifest errors of law or fact but does not permit relitigation, new theories, or rehearing on the merits. Rule 60(a) permits correction of clerical mistakes, ambiguities, or blunders in execution to conform the record to the court's original intent, but not substantive reconsideration or a change of mind.

PRECEDENTIAL VALUE	Unknown; bankruptcy court order
PARTIES	DBMP LLC, CertainTeed LLC, CertainTeed Holding Corporation, Saint-Gobain Corporation, other non-DBMP Defendants v. Official Committee of Asbestos Personal Injury Claimants, Sander L. Esserman, in his capacity as Legal Representative for Future Asbestos Claimants

TOPICS

motion for reconsideration · bankruptcy · chapter 11 · attorney client privilege · bankruptcy discovery

PRACTICE AREAS

bankruptcy · civil procedure · evidence · commercial litigation

QUESTIONS PRESENTED

1. Whether 11 U.S.C. § 105(a) permits the Court to override the standards governing reconsideration under Rules 52(b) and 59(e).
2. What standards govern reconsideration or amendment under Federal Rules of Civil Procedure 52(b) and 59(e) in bankruptcy proceedings.
3. Whether Rule 60(a) permits clarification of language in the prior order concerning the preclusive effect of the preliminary-injunction order, the Funding Agreement, and asbestos-background discussions.
4. Whether the prior order improperly adopted or gave preclusive effect to findings from the preliminary-injunction proceeding.
5. Whether twenty-two documents were incorrectly designated as wholly or partially nonprivileged.

HOLDINGS

1. Section 105(a) cannot be used to override the requirements of otherwise applicable Bankruptcy Rules or Civil Rules, or to create substantive rights unavailable under applicable law.
2. Rule 59(e) relief is available only upon an intervening change in controlling law, newly available evidence, clear error of law, or manifest injustice; it cannot be used to raise arguments or theories that could have been presented earlier.
3. Rule 52(b) permits correction of manifest errors of law or fact, clarification of essential findings, or, in limited circumstances, consideration of newly discovered evidence, but does not permit relitigation, new theories, or rehearing on the merits.
4. Rule 60(a) permits correction of clerical mistakes, unintended ambiguities, and blunders in execution so the record reflects what the court originally intended, but it does not permit reconsideration of decided issues or substantive changes to the parties' rights.
5. The preliminary-injunction order did not have preclusive effect because it was not a final merits ruling, although the Court could consider its reasoning and evidence and could treat relevant prior rulings as

law of the case in the exercise of its discretion.

6. Statements in the prior order's background sections, including the discussion of the Original Funding Agreement and asbestos litigation, were dicta and did not constitute operative holdings or prejudge issues for the Estimation Trial.
7. Reconsideration under Rule 59(e) was warranted as to the designations of twenty-two documents: fifteen were fully privileged, with one also subject to the previously found at-issue waiver, and seven were partially privileged and required disclosure of nonprivileged portions.

KEY QUOTATIONS

> *"§ 105(a) 'does not allow the bankruptcy court to override explicit mandates of other sections of the Bankruptcy Code.'"* (¶ 4)

> *"Rule 60(a) allows a court to correct records to show what was done, rather than change them to reflect what should have been done."* (¶ 10)

> *"[T]he findings of fact and conclusions of law made by a court granting a preliminary injunction are not binding at trial on the merits."* (¶ 15)

FACTUAL BACKGROUND

The dispute arose from an earlier order concerning privilege designations in adversary proceedings involving DBMP LLC, asbestos personal-injury claimants, and CertainTeed and Saint-Gobain-related defendants. The earlier order discussed a prior preliminary-injunction order, the Original and Second Amended Funding Agreements, DBMP's decision to file bankruptcy, asbestos litigation background, and the privilege status of numerous documents. The Defendants argued that portions of the order improperly treated the preliminary-injunction order as binding, prejudged issues for later proceedings, or incorrectly designated twenty-two documents as nonprivileged.

PROCEDURAL HISTORY

The Court entered a prior order on March 16, 2026, partially granting and sustaining the Plaintiffs' privilege motion and the Defendants' objection. The Defendants moved for reconsideration and amendment on March 30, 2026; the Plaintiffs responded, the Defendants replied, and the Court held a hearing on May 13, 2026. The Court partially denied and partially granted the motion, granting clarifications under Rule 60(a) and reconsideration under Rule 59(e) as to the privilege designations of twenty-two documents.

DISPOSITION

other

CASES CITED

- L. v. Siegel, 571 U.S. 415, 421 (2014)
- Worthington v. Ahlers, 485 U.S. 197, 206 (1988)

- David v. King, 109 F.4th 653, 666 (4th Cir. 2024)
- In re Stokes, 198 B.R. 168, 175 (E.D. Va. 1996)
- Clear Touch Interactive, Inc. v. Ockers Co., 171 F.4th 715, 728 (4th Cir. 2026)
- Pac. Ins. Co. v. Am. Nat. Fire Ins. Co., 148 F.3d at 403
- Arvon v. Liberty Mut. Fire Ins. Co., 2021 WL 3401258, at *3 (4th Cir. Aug. 4, 2021)
- Baker v. GMC, 522 U.S. 222, 233 n.5 (1998)
- Univ. of Tex. v. Camenisch, 451 U.S. 390, 395 (1981)
- Bartels by & through Bartels v. Saber Healthcare Grp., LLC, 880 F.3d 668, 682 n.7 (4th Cir. 2018)
- Pepper v. United States, 562 U.S. 476, 506-07 (2011)
- Arizona v. California, 460 U.S. 605, 618-19 (1983)
- Chavez-Deremer v. Med. Staffing of Am., LLC, 147 F.4th 371, 416 (4th Cir. 2025)
- Sartin v. McNair L. Firm PA, 756 F.3d 259, 265-66 (4th Cir. 2014)
- Hudson v. State Farm Ins. Co., 2019 WL 96216, at *1 (E.D.N.C. Jan. 3, 2019)
- Lyons v. Jefferson Bank & Tr., 793 F. Supp. 989, 992 (D. Colo. 1992)
