

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

David C. Lettieri v. Hostess Brands LLC

Lettieri · No. 24-3064-JWL · Decided May 8, 2026

OPINION

Lettieri

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

DAVID C. LETTIERI,

Plaintiff,

v. CASE NO. 24-3064-JWL

HOSTESS BRANDS LLC,

Defendant.

MEMORANDUM AND ORDER

Plaintiff brought this pro se civil action. The Court granted Plaintiff leave to proceed in forma pauperis. On August 2, 2024, the Court entered a Memorandum and Order (Doc. 8) dismissing this case for failure to state a claim. Plaintiff appealed, and the Tenth Circuit affirmed the decision of this Court on May 15, 2025 (Doc. 20). Plaintiff then filed a Motion to Reopen (Doc. 21) filed on April 6, 2026, which the Court denied (Doc. 22). This matter is now before the Court on Plaintiff's Motion to Reconsider (Doc. 23) filed on May 4, 2026. While not clear, the motion apparently seeks reconsideration of this Court's denial of Plaintiff's Motion to Reopen (Doc. 21). Plaintiff's latest motion is also denied. He continues to argue that this Court was wrong to dismiss his Complaint because "plaintiff has shown there is a cause of action in which is a mistake by the courts because of not being familiar with New York state law." (Doc. 23, at 1.) Plaintiff's Complaint was dismissed because it failed to state an actionable claim. The dismissal was affirmed by the U.S. Court of Appeals for the Tenth Circuit almost a year ago. (Doc. 20.) The Tenth Circuit found that Plaintiff's Complaint "fails to state a claim." Id. at 5. The mandate of an appellate court forecloses the district court from reconsidering matters determined in the appellate court. *Nguyen v. United States*, 792 F.2d 1500, 1502 (9th Cir. 1986). The way for Plaintiff to further challenge the dismissal of his case was not to seek reconsideration in this Court but to file a petition for rehearing in the Tenth Circuit or a petition for a writ of certiorari in the U.S. Supreme Court. IT IS THEREFORE ORDERED that Plaintiff's Motion for Reconsideration (Doc. 23) is denied. IT IS SO ORDERED. Dated May 8, 2026, in Kansas City, Kansas. S/ John W. Lungstrum

JOHN W. LUNGSTRUM
UNITED STATES DISTRICT JUDGE

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