

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

David C. Lettieri v. Hostess Brands LLC

Lettieri · No. 24-3064-JWL · Decided April 7, 2026

SUMMARY

The United States District Court for the District of Kansas denied David C. Lettieri’s motion to reopen his pro se civil action against Hostess Brands LLC. Treating the untimely motion as one under Federal Rule of Civil Procedure 60(b), the court held that Plaintiff had not shown exceptional circumstances warranting relief from the prior dismissal.

CASE DETAILS

|                       |                                                                                                                                                                                             |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Kansas                                                                                                                                     |
| WRITING FOR THE COURT | John W. Lungstrum                                                                                                                                                                           |
| JURISDICTION          | United States District Court for the District of Kansas                                                                                                                                     |
| DECIDED               | April 7, 2026                                                                                                                                                                               |
| DOCKET                | 24-3064-JWL                                                                                                                                                                                 |
| DISPOSITION           | other                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | The court considered Plaintiff's post-judgment Motion to Reopen after the action had been dismissed for failure to state a claim and that dismissal had been affirmed by the Tenth Circuit. |
| STANDARD OF REVIEW    | Relief under Rule 60(b) is extraordinary and available only in exceptional circumstances; the decision is committed to the court's discretion.                                              |
| PRECEDENTIAL VALUE    | unpublished, nonprecedential district court memorandum and order                                                                                                                            |
| PARTIES               | David C. Lettieri v. Hostess Brands LLC                                                                                                                                                     |

TOPICS

- motion for reconsideration
- final judgment rule
- civil procedure
- appellate procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- post-judgment relief

QUESTIONS PRESENTED

1. Whether Plaintiff's Motion to Reopen, filed more than 28 days after judgment, should be treated as a motion for relief from judgment under Federal Rule of Civil Procedure 60(b).
2. Whether Plaintiff demonstrated grounds for extraordinary relief under Rule 60(b) by asserting that the court committed an error of law and should have applied New York state law.
3. Whether Plaintiff could use a post-judgment motion to revisit issues previously addressed or raise arguments that were available when the original matter was litigated.

## HOLDINGS

1. A motion filed more than 28 days after entry of judgment is not a timely motion to alter or amend under Rule 59(e) and may be treated as a motion for relief from judgment under Rule 60(b).
2. Plaintiff was not entitled to relief under Rule 60(b) because he failed to establish an exceptional circumstance or another recognized basis for relief from the judgment.
3. A post-judgment motion may not be used to revisit issues already decided or advance new arguments and supporting facts that were available when the original matter was presented.

## KEY QUOTATIONS

*“A Rule 60(b) motion provides extraordinary relief which “may only be granted in exceptional circumstances.””*

*“Revisiting issues already addressed “is not the purpose of a motion to reconsider,” and “advanc[ing] new arguments or supporting facts which were otherwise available for presentation when the original . . . motion was briefed” is likewise inappropriate.”*

## FACTUAL BACKGROUND

Plaintiff brought a pro se civil action against Hostess Brands LLC. The district court previously dismissed the action for failure to state a claim and had considered and rejected Plaintiff's state-law claims. In his later Motion to Reopen, Plaintiff asserted an error of law and appeared to argue that New York law should have governed the action.

## PROCEDURAL HISTORY

Plaintiff filed a pro se civil action and was permitted to proceed in forma pauperis. The district court dismissed the action on August 2, 2024, for failure to state a claim. The Tenth Circuit affirmed on May 15, 2025. Plaintiff filed a Motion to Reopen on April 6, 2026; because it was filed more than 28 days after judgment, the district court treated it as a motion for relief under Federal Rule of Civil Procedure 60(b), denied it, and directed the Clerk to close the case.

## DISPOSITION

other

## CASES CITED

- Weitz v. Lovelace Health System Inc., 214 F.3d 1175, 1178 (10th Cir. 2000)
- Amoco Oil Co. v. United States Environmental Protection Agency, 231 F.3d 694, 697 (10th Cir. 2000)
- Servants of the Paraclete v. Does, 204 F.3d 1005, 1009 (10th Cir. 2000)
- Van Skiver v. United States, 952 F.2d 1241, 1243 (10th Cir. 1991)

## 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). This matter is before the Court on Plaintiff's Motion to Reopen (Doc. 21) filed on April 6, 2026. Because Plaintiff's motion was not filed within 28 days after the entry of the judgment, the Court will treat it as a motion under Rule 60(b). See Fed. R. Civ. P. 59(e) ("A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment."); see also *Weitz v. Lovelace Health System Inc.*, 214 F.3d 1175, 1178 (10th Cir. 2000). Rule 60(b) provides in relevant part 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: (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. Fed. R. Civ. P. 60(b). A Rule 60(b) motion provides extraordinary relief which "may only be granted in exceptional circumstances." *Amoco Oil Co. v. United States Environmental Protection Agency*, 231 F.3d 694, 697 (10th Cir. 2000). The decision to grant such relief "is extraordinary and may only be granted in exceptional circumstances." *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1009 (10th Cir. 2000) (quotation marks omitted). Plaintiff states that he bases his motion on "error in law." (Doc. 21, at 2.) He seems to argue that New York state

law should have applied to his action. However, the Court considered and rejected Plaintiff's state law claims. (See Doc. 8, at 4-5.) Revisiting issues already addressed "is not the purpose of a motion to reconsider," and "advanc[ing] new arguments or supporting facts which were otherwise available for presentation when the original . . . motion was briefed" is likewise inappropriate. *Van Skiver v. United States*, 952 F.2d 1241, 1243 (10th Cir. 1991). Plaintiff has not shown that relief under Rule 60(b) is warranted. Plaintiff has failed to provide any justification for reopening this case more than a year and a half years after it was dismissed. Plaintiff's motion to reopen is denied. IT IS THEREFORE ORDERED that the Clerk is directed to reopen this case for purposes of entering this Memorandum and Order. IT IS FURTHER ORDERED that Plaintiff's Motion to Reopen (Doc. 21) is denied. IT IS FURTHER ORDERED that the Clerk is directed to close this case. IT IS SO ORDERED. Dated April 7, 2026, in Kansas City, Kansas. S/ John W. Lungstrum  
JOHN W. LUNGSTRUM  
UNITED STATES DISTRICT JUDGE