UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Securities and Exchange Commission v. SHE Beverage Company, Inc. et al.

No. 2:21-cv-07339-CAS-ASx (C.D. Cal. Apr. 28, 2025) · No. 2:21-cv-07339-CAS-ASx · Decided April 28, 2025

SUMMARY

The United States District Court for the Central District of California denied Lupe Rose's motions seeking relief from the final judgment, dismissal of the proceedings, and related relief under Federal Rule of Civil Procedure 60. The court held that the motions were untimely under Rule 60(b)(1)–(3), and that Rose failed to establish extraordinary circumstances, newly discovered evidence, fraud, mistake, or excusable neglect. The court also concluded that SEC v. Jarkesy did not warrant relief because Rose had waived her jury-trial and appellate rights in a bifurcated consent agreement.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Christina A. Snyder
JURISDICTION	United States District Court for the Central District of California
DECIDED	April 28, 2025
DOCKET	2:21-cv-07339-CAS-ASx
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Lupe Rose, proceeding pro se, moved under Federal Rule of Civil Procedure 60 to set aside the final judgment, vacate a bifurcated consent agreement, dismiss the proceedings, and obtain related relief. The district court denied the motions.
STANDARD OF REVIEW	Abuse-of-discretion principles govern relief from judgment under Rule 60; relief under Rule 60(b)(3) requires clear and convincing evidence of fraud, misrepresentation, or misconduct that prevented a full and fair presentation of the defense.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Lupe L. Rose v. Securities and Exchange Commission

TOPICS

motion for reconsideration · civil procedure · commercial litigation · remedies · constitutional law

PRACTICE AREAS

civil procedure · securities litigation · remedies · constitutional law

QUESTIONS PRESENTED

1. Whether Rose's motions for relief under Rule 60(b)(1), (2), and (3) were timely.
2. Whether Rose established extraordinary circumstances warranting relief under Rule 60(b)(6).
3. Whether Rose demonstrated mistake or excusable neglect sufficient for relief from her deliberate execution of the bifurcated consent agreement.
4. Whether Rose presented newly discovered evidence sufficient to justify relief under Rule 60(b)(2).
5. Whether Rose established fraud, misrepresentation, or misconduct by clear and convincing evidence under Rule 60(b)(3), or whether SEC v. Jarkesy warranted relief under Rule 60(b)(6).

HOLDINGS

1. A motion seeking relief under Rule 60(b)(1), (2), or (3) must be filed no more than one year after entry of the challenged judgment; Rose's motions, filed more than one year after final judgment, were untimely.
2. Relief under Rule 60(b)(6) was unavailable because Rose did not establish extraordinary circumstances that prevented her from taking timely action, and the asserted grounds were also covered by Rule 60(b)(1)-(3).
3. Rule 60(b)(1) does not provide relief to a party who deliberately entered an agreement but later misunderstood or regretted its legal consequences.
4. Rose was not entitled to relief under Rule 60(b)(2) or (b)(3) because the evidence was cumulative or previously available, and she failed to prove fraud, misrepresentation, or misconduct by clear and convincing evidence that prevented a full and fair defense.
5. SEC v. Jarkesy did not justify Rule 60(b)(6) relief because Rose's case ended in federal district court through a consent agreement in which she waived her jury-trial and appellate rights, whereas Jarkesy concerned the Seventh Amendment right to a jury trial in an SEC administrative proceeding seeking civil penalties.

KEY QUOTATIONS

> *"Rule 60(b)(1) relief is unavailable to parties who simply misunderstand the legal consequences of their deliberate acts."* (Discussion)

> *"Accordingly, the Court finds that Rose is not entitled to relief pursuant to Rule 60(b)."* (Discussion)

FACTUAL BACKGROUND

The SEC alleged that SHE Beverage and its principals conducted a fraudulent securities offering between 2017 and 2019 and raised approximately $15.4 million. Rose signed a bifurcated consent agreement waiving, among other things, any right to a jury trial and appeal, and the court later entered final judgment against her. More than one year after final judgment, Rose asserted that the SEC suppressed financial evidence, that its expert improperly analyzed company records, and that she was unable to fully defend the action because of personal and financial circumstances.

PROCEDURAL HISTORY

The SEC filed the enforcement action in 2021. The court entered a bifurcated consent judgment against Rose in March 2023, later granted disgorgement, prejudgment interest, and civil penalties, and entered final judgment against her on January 16, 2024. Rose filed several motions in March 2025, which the court construed principally as a Rule 60 motion and denied as untimely and meritless.

DISPOSITION

other

CASES CITED

- School District No. 1J, Multnomah County, Or. v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993)
- Latshaw v. Trainer Wortham & Co., 452 F.3d 1097, 1100, 1103 (9th Cir. 2006)
- Lal v. California, 610 F.3d 518, 524 (9th Cir. 2010)
- United States v. Washington, 394 F.3d 1152, 1157 (9th Cir. 2005)
- Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 244 (1944)
- United States v. Beggerly, 524 U.S. 38, 47 (1998)
- United States v. Estate of Stonehill, 660 F.3d 415, 444 (9th Cir. 2011)
- Gonzales v. Crosby, 545 U.S. 524, 529 (2005)
- Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996, 1005 (9th Cir. 2007)
- United States v. Alpine Land & Reservoir Co., 984 F.2d 1047, 1049 (9th Cir. 1993)
- Yapp v. Excel Corp., 186 F.3d 1222, 1231 (10th Cir. 1999)
- Casey v. Albertson's Inc., 362 F.3d 1254, 1260 (9th Cir. 2004)
- Henson v. Fidelity National Financial, Inc., 943 F.3d 434, 445-53 (9th Cir. 2019)
- Securities & Exchange Commission v. Jarkesy, 603 U.S. 109, 120 (2024)

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