WILLIAM B. CHANDLER III
CHANCELLOR

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

COURT OF CHANCERY COURTHOUSE
34 THE CIRCLE
GEORGETOWN, DELAWARE 19947

Submitted: July 15, 2005
Decided: July 18, 2005

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Re: *Wolf, et al. v. Triangle Broadcasting Co., LLC, et al.*
Civil Action No. 17143

Dear Counsel:

On May 18, 2004, I dismissed this action pursuant to Court of Chancery Rules 41(b) and (e). Counsel for counterclaimants were notified by letter on May 25, 2004, that the Court was in receipt of counsel's letter of May 20, 2004, but that the case had been dismissed two days before. Counsel was expressly told in that letter, "You, of course, have the right to seek Rule 60(b) relief from the [Dismissal] Order." Counterclaimants did not seek 60(b) relief, nor appeal that decision, and the judgment became final. On May 17, 2005, however, counterclaimants returned to this Court seeking to vacate the dismissal order entered 364 days before.

Court of Chancery Rule 60(b) states "[o]n motion and upon such terms as are just," the Court may offer relief from judgment when certain enumerated grounds are met, or for "any other reason justifying relief from the operation of the judgment."[1] The Delaware Supreme Court has stated:

> There are two significant values implicated by Rule 60(b). The first is ensuring the integrity of the judicial process and the second, countervailing, consideration is the finality of judgments. Because of the significant interest in preserving the finality of judgments, Rule 60(b) motions are not to be taken lightly or easily granted.[2]

Rule 60(b)(1) permits relief from judgment for "[m]istake, inadvertence, surprise, or excusable neglect." The realm of extraordinary circumstances that would justify relief under Rule 60(b)(6) only encompasses circumstances that could not have been addressed using other procedural methods,[3] constitute an "extreme hardship," or that "manifest injustice" would occur if relief were not granted. Counterclaimants have failed to meet this standard.

Counterclaimants have demonstrated a continued inability to advance this litigation. Although counterclaimants' brief attempts to persuade me

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[1] CT. CH. R. 60(b) (2004).
[2] *MCA, Inc. v. Matsushita Elec. Indus. Co., Ltd.*, 785 A.2d 625, 634-35 (Del. 2001) (internal footnotes and citations omitted).
[3] *See Nakahara v. NS 1991 American Trust*, 718 A.2d 518, 520 (Del. Ch. 1998).

why a Rule 60(b) motion filed almost a year after the final order in the case has been filed in a timely manner, nowhere in counterclaimants' papers do they explain *why* the motion has come so late in the game. Counterclaimants have not demonstrated that relief is proper under either Rule 60(b)(1) or (6) because there was no mistake, inadvertence, or *excusable* neglect, and because there is no other good reason to reopen this matter after such a lengthy delay.

Relief under Rule 60(b) is not necessary to serve the interests of justice. The motion to vacate dismissal is denied.

IT IS SO ORDERED.

Very truly yours,

William B. Chandler III

WBCIII:amf