

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

FLICK DISTRIBUTING LLC

CIVIL ACTION

VERSUS

NO: 09-3329

ALLIED AIR ENTERPRISES, INC;
ET AL

SECTION "C"(2)

ORDER AND REASONS¹

Before the Court comes the Defendants' Motion to Reopen and/or Set Aside Order of Dismissal. (Rec. Doc. 61-1). Having considered the record, the memoranda of counsel, and the applicable law, the Defendants' Motion is DENIED for the following reasons.

The Supreme Court and the Fifth Circuit have both held that there is no provision of law that provides federal courts with jurisdiction arising out of agreements that produce stipulations of dismissal. *Kokkonen v. Guardian Life Ins. Co. of Am*, 511 U.S. 375 (1994). The Plaintiff's suit was dismissed on May 13, 2010 with the right to reopen within sixty days if settlement was not consummated. (Rec. Doc. 56) That sixty day period expired, and this Court did not retain jurisdiction. (Rec. Doc. 67). Thus, the Court recently dismissed the Defendants' Motion to Enforce Settlement Agreement. (Rec. Doc.67). And this Motion is simply a repetitive request to enforce the settlement agreement as new information have been presented. Even though Rule 60(b)(6) of Federal Rule of Civil Procedure provides federal courts with the authority to re-open a case, this determination is to the court's complete discretion. *See* C. Wright, A. Miller, & M. Kane, *Federal Practice and Procedure* § 2863 at 350 (1995). This "catch-all" provision, however, is intended to be used in narrowly defined situations when justice so requires. *Id.* Here, justice can still be served

¹Helen Meaher, a J.D. Candidate at Tulane Law School assisted in preparing this Order and Reasons.

through a separate action to enforce the parties' settlement agreement in a court with proper jurisdiction.

Accordingly,

IT IS SO ORDERED that the Defendants' Motion to Reopen and/or Set Aside Order of Dismissal is DENIED.

New Orleans, Louisiana, this 12th day of October 2010.


HELEN G. BERRIGAN
UNITED STATES DISTRICT JUDGE