



## Analysis

FED. R. CIV. P. 59 provides in pertinent part the following:

(a)(1) **Grounds for New Trial.** The court may, on motion, grant a new trial on all or some of the issues - and to any party - as follows:

- (A) after a jury trial, for any reason for which a new trial has heretofore been granted in an action at law in federal court; or
- (B) after a nonjury trial, for any reason for which a rehearing has heretofore been granted in a suit in equity in federal court.

(2) **Further Action After a Nonjury Trial.** After a nonjury trial, the court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment.

(e) **Motion to Alter or Amend a Judgment.** A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.

After careful consideration of plaintiff's motion to alter or amend judgment, the court is of the opinion that same should be granted.<sup>1</sup>

## ORDER

For the reasons set forth above, plaintiff should be granted relief from the judgment. It is therefore

**ORDERED** that plaintiff's motion to alter or amend judgment is **GRANTED**. It is further

**ORDERED** that the judgment entered on August 20, 2020 is **VACATED**. The Clerk of Court is **DIRECTED** to reinstate the above-styled action on the court's active docket.

SIGNED at Beaumont, Texas, this 10th day of September, 2020.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> While plaintiff has filed a notice of appeal, "the timely filing of a motion listed in Rule 4(a)(4)(A) suspends or renders dormant a notice of appeal until all such motions are disposed of by the trial court. This holds true regardless of whether the motion was filed before or after the notice of appeal." *Ross v. Marshall*, 426 F.3d 745, 751-52 (5th Cir. 2005). A motion to alter or amend judgment under Rule 59 of the Federal Rules of Civil Procedure is one of the motions listed in Rule 4(a)(4)(A) of the Federal Rules of Appellate Procedure. Thus, the notice of appeal is suspended. *See Ross*, 426 F.3d at 752. As a result, this court has jurisdiction to consider plaintiff's motion.