

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MERLIN PETROLEUM COMPANY, INC.,

Plaintiff,

v.

CASE NO: 8:16-CV-1000-T-30TBM

PEDRO JAVIER SARABIA,

Defendant.

ORDER

THIS CAUSE comes before the Court upon Plaintiff's Motion for Summary Judgment and Entry of Final Judgment against Defendant Javier Sarabia (Dkt. 86) and Defendant's Response in Opposition (Dkt. 88). The Court, upon review of the motion, response, and being otherwise advised in the premises, concludes that Plaintiff's motion should be denied.

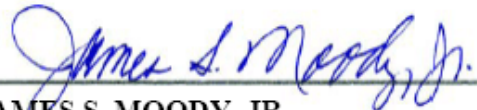
DISCUSSION

This is a breach of contract case regarding a November 9, 2011 agreement (the "agreement") executed by Plaintiff Merlin Petroleum Company, Inc. ("Merlin") and Defendant Pedro Javier Sarabia. The instant motion constitutes Merlin's fourth attempt to obtain final judgment against Sarabia in the amount of \$1,470,907.41 (*see* Dkts. 18, 54, 73, and 88). But Merlin does not point to anything new in the record to change the Court's prior rulings. Accordingly, as the Court has previously ruled on more than one occasion, summary judgment is inappropriate. There are simply too many disputed material issues. *See* Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

For example, the Court noted in its Order dated February 8, 2017, that the agreement is “ambiguous on the issue of whether Sarabia guaranteed the entire debt above and beyond the payments he was supposed to make to Merlin under the four enumerated sources[.]” And that “this issue would have to be determined at trial” because when a contract’s terms are disputed and “reasonably susceptible to more than one construction, an issue of fact is presented as to the parties’ intent which cannot properly be resolved by summary judgment.” (Dkt. 83). Merlin’s motion points to nothing new that would convince the Court to depart from its prior rulings.

It is therefore **ORDERED** and **ADJUDGED** that Plaintiff’s Motion for Summary Judgment and Entry of Final Judgment against Defendant Javier Sarabia (Dkt. 86) is denied.

DONE and **ORDERED** in Tampa, Florida on March 28, 2017.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record