

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Charles R. Norgle	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 6018	DATE	10/26/2005
CASE TITLE	George S. May International Company vs. Xcentric Ventures, LLC, et al.		

DOCKET ENTRY TEXT:

Defendant's Amended Motion for Reconsideration [90-1]

Briefing schedule set. See below.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

On October 25, 2005, Defendant filed a motion styled, Amended Motion for Reconsideration, which he now more specifically brings pursuant to Federal Rules of Civil Procedure 7(b) and 54(b). "Technically, a 'Motion for Reconsideration' does not exist under the Federal Rules of Civil Procedure." Talano v. Northwestern Medical Facility Foundation, Inc., 273 F.3d 757, 760 n.1 (7th Cir. 2001); see Demos v. City of Indianapolis, 302 F.3d 698, 706 n.11 (7th Cir. 2002). The court generally construes such requests as being brought under Rule 59(e) or 60(b). See Walker v. Abbott Laboratories, 340 F.3d 471, 475 n.2 (7th Cir. 2003).

Rule 59(e) requires that "[a]ny motion to alter or amend judgment shall be filed no later than 10 days after the entry of judgment." FED. R. CIV. P. 59(e). In this particular instance, the court entered the Contempt Order on 9/13/2005, and this Motion to Reconsider was brought on 10/25/2005. After making the appropriate computations, the court finds that Defendant's Motion was not timely filed with the court for it to be considered a Rule 59(e) Motion to Alter or Amend Judgment.

In addition, "Rule 60(b) relief is an extraordinary remedy and granted only in exceptional circumstances." Karraker v. Ren-A-Car Center, Inc., 411 F.3d 831, 837 (7th Cir. 2005) (quoting Cincinnati Ins. Co. v. Flanders Elec. Motor Serv. Inc., 131 F.3d 625, 628 (7th Cir. 1997).

In a footnote Xcentric does not challenge the inappropriateness of Rule 59(e) or 60(b), but proceeds pursuant to Rule 7(b) and 54(b). Plaintiff may file its Response on or before 11/8/2005, and Defendant may file its Reply on or before 11/15/2005.

IT IS SO ORDERED.

Courtroom Deputy
Initials:

ER