

## MEMORANDUM DECISION

Pursuant to [Ind. Appellate Rule 65\(D\)](#), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE  
**Court of Appeals of Indiana**

Aneta K. Mucha and Krzysztof Rządkosz,  
*Appellants-Defendants*

v.

NextGear Capital, Inc.,  
*Appellee-Plaintiff*

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March 25, 2024

Court of Appeals Case No.  
23A-CC-2142

Appeal from the Hamilton Superior Court  
The Honorable Jonathan M. Brown, Judge

Trial Court Cause No.  
29D02-1702-CC-1074

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**Memorandum Decision by Judge Mathias**  
Judges May and Vaidik concur.

## **Mathias, Judge.**

[1] Aneta K. Mucha and Krzysztof Rządkosz (“the Guarantors”) appeal the trial court’s denial of their [Trial Rule 60\(B\)\(8\)](#) motion for relief from a May 2019 entry of summary judgment against them and for NextGear Capital, Inc. (“NextGear”). The Guarantors raise two issues for our review, which we restate as follows:

1. Whether the trial court failed to hold a hearing on their [Rule 60\(B\)\(8\)](#) motion.
2. Whether the trial court improperly denied their motion as untimely.

[2] The Guarantors’ arguments are wholly unsupported by the record. We therefore affirm the trial court’s judgment.

## **Facts and Procedural History**

[3] On October 25, 2013, Brandmax Motors, Inc. executed and delivered a note and security agreement to NextGear in the amount of \$100,000. The Guarantors each simultaneously delivered individual personal guaranties to NextGear in which they guaranteed Brandmax’s payment of its obligations under the note.

[4] Brandmax failed to make the payments due under its note, and, in February 2017, NextGear sued Brandmax and the Guarantors in the Hamilton Superior Court. The Guarantors obtained counsel, who filed an appearance on their

behalf in the trial court. Appellant's App. Vol. 2, p. 6. The Guarantors also filed an answer to NextGear's complaint. *Id.* at 7. Thereafter, NextGear moved for summary judgment. The next day, Guarantors' counsel moved to withdraw his appearance due to his clients' failure to communicate with him. The trial court granted that motion and then entered summary judgment for NextGear.

[5] More than four years later, the Guarantors filed their [Trial Rule 60\(B\)\(8\)](#) motion to set aside the May 2019 summary judgment. According to the Guarantors, their guarantees of Brandmax's note were "fraudulent" and not "personally signed" by either of them. *Id.* at 109, 112-13. They further alleged that neither of them "was ever aware of the Indiana judicial proceedings" brought against them by NextGear, and, because their attorney had withdrawn his appearance prior to the entry of summary judgment, the trial court's judgment "was rendered without jurisdiction over them." *Id.* at 110, 113. Finally, the Guarantors asserted that they had various meritorious defenses, including identity theft, lack of capacity to enter into a contract, lack of consideration, and a lack of privity between them and Brandmax. The Guarantors attached twenty exhibits to their [Rule 60\(B\)\(8\)](#) motion.

[6] On August 14, 2023, the trial court held a hearing on the Guarantors' motion.<sup>1</sup> *Id.* at 10, 12. After that hearing, the court denied the motion, stating as follows:

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<sup>1</sup> The Guarantors did not request a transcript of this hearing in their notice of appeal.

1. [The Guarantors] were served, represented by counsel, and filed an answer in the instant cause;
2. The record reflects that neither [of the Guarantors] responded to the Motion for Summary Judgment;
3. [The Guarantors] failed to explain why their failure to . . . respond to the Motion for Summary Judgment was due to anything other than their own negligence or fault;
4. [The Guarantors] failed to offer a credible explanation of the contradictory evidence in support of their alleged meritorious defense[s];
5. [The Guarantors'] conflicting and disputed allegations set forth in the[ir motion] do not establish a sufficient reason for this Court to grant the relief of setting aside a 4-year-old judgment[.]

*Id.* at 12-13. This appeal ensued.

## **Discussion and Decision**

- [7] The Guarantors argue that the trial court abused its discretion when it denied their [Rule 60\(B\)\(8\)](#) motion for relief from judgment. As our Supreme Court has made clear:

The decision of whether to grant a [Trial Rule 60\(B\)\(8\)](#) motion is left to the equitable discretion of the trial court, and is reviewable only for abuse of discretion. *Gipson v. Gipson*, 644 N.E.2d 876, 877 (Ind. 1994). “An abuse of discretion occurs if the decision is clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom.” *McElfresh v. State*, 51 N.E.3d

103, 107 (Ind. 2016) (internal quotations and citations omitted).  
The reviewing court does not reweigh the evidence. *Gipson*, 644  
N.E.2d at 877.

*State v. Collier*, 61 N.E.3d 265, 268 (Ind. 2016).

[8] Trial Rule 60(B)(8) provides that a trial court “may relieve a party . . . from a judgment” for “any reason justifying relief from the operation of the judgment” other than those reasons set forth in other provisions of Rule 60(B). A motion for relief from judgment under Rule 60(B)(8) “shall be filed within a reasonable time” and “must allege a meritorious claim or defense.” Further, our Supreme Court has stated that, “in order to be granted relief” under Rule 60(B)(8), the moving party “must demonstrate some extraordinary or exceptional circumstances justifying equitable relief” and that the party’s prior “failure to act was not merely due to omission involving mistake, surprise, or excusable neglect . . . .” *Id.* at 268-69 (citations omitted).

[9] Here, the Guarantors first assert that the trial court’s judgment on their Rule 60(B)(8) motion should be reversed because the trial court failed to hold an evidentiary hearing on their motion.<sup>2</sup> Trial Rule 60(D) requires a trial court to “hear any pertinent evidence” relevant to a Rule 60(B) motion. But, contrary to the Guarantors’ arguments here, we have never dictated the manner in which

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<sup>2</sup> The Guarantors have arguably waived this issue for our review, as they are unable to demonstrate where in the record they preserved an objection to the manner in which the trial court conducted its hearing on their motion.

the trial court is to conduct such a hearing, and, here, the trial court *did* hold a hearing and *did* consider the Guarantors' twenty submitted exhibits.

Presumably, those exhibits were the "pertinent evidence" the Guarantors wanted the trial court to consider. Accordingly, the Guarantors' argument on this issue is meritless.

[10] The Guarantors also argue that the trial court improperly denied their [Rule 60\(B\)\(8\)](#) motion as untimely. But the court said no such thing. The court instead denied their motion because the Guarantors' failure to respond to the motion for summary judgment was "due to . . . their own negligence or fault" and, further, because the Guarantors "failed [to] offer a credible explanation of the contradictory evidence" that undermined "their alleged meritorious defense[s]." Appellants' App. Vol. 2, pp. 12-13. And insofar as the Guarantors do attempt to challenge the merits of those conclusions of the trial court, the Guarantors simply seek to have this Court reweigh the evidence and disregard the trial court's discretion under [Rule 60\(B\)](#), which we will not do. Thus, the Guarantors' argument on this issue is also meritless.<sup>3</sup>

[11] For all of these reasons, the trial court's judgment is affirmed.

[12] Affirmed.

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<sup>3</sup> Despite the uncomplicated nature of the arguments in the Guarantors' brief to this Court, NextGear has submitted a 42-page responsive brief that is heavily focused on personal jurisdiction, an issue not raised by the Guarantors. We are not impressed with NextGear's responsive brief.

May, J., and Vaidik, J., concur.

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