

APPENDIX TABLE OF CONTENTS

App. 1a: Fifth Circuit Order and Entry of Judgment
(12/17/19)App. 1a

Federal Circuit Order (1/9/20).....(Contd.) App. 1a

App. 2a: District Court Order (5/16/2019)..... App. 2a

App. 1a
Fifth Circuit Order and Entry of Judgment (12/17/19)

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-40597

DOCTOR LAKSHMI ARUNACHALAM,

Plaintiff–Appellant,

v.

LYFT, INCORPORATED,

Defendant–Appellee.

Appeal from the United States District Court
for the Eastern District of Texas

Before GRAVES, HIGGINSON, and WILLETT, Circuit Judges.

PER CURIAM:

We must examine the basis of our jurisdiction on our own motion, if necessary. *Hill v. City of Seven Points*, 230 F.3d 167, 169 (5th Cir. 2000). The plaintiff claims patent infringement, and 28 U.S.C. § 1295(a)(1) gives the Federal Circuit exclusive jurisdiction over appeals in any action arising under an Act of Congress relating to patents. Accordingly, the appeal is DISMISSED for want of jurisdiction. All pending motions are denied as MOOT.



A True Copy
Certified order issued Dec 17, 2019

Styfe W. Cayce

Clerk, U.S. Court of Appeals, Fifth Circuit

App. 2a
District Court Order (5/16/19)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

DR. LAKSHMI ARUNACHALAM, Plaintiff,	§	
	§	
	§	CIVIL ACTION NO. 5:19-CV-00018-RWS
v.	§	
	§	
UBER TECHNOLOGIES, INC., Defendant.	§	
	§	

DR. LAKSHMI ARUNACHALAM Plaintiff,	§	
	§	
	§	CIVIL ACTION NO. 5:19-CV-00019-RWS
v.	§	
	§	
LYFT, INC., Defendant.	§	
	§	

ORDER OF DISMISSAL

On February 7, 2019, Plaintiff Dr. Lakshmi Arunachalam (“Plaintiff”) filed the above-titled patent infringement cases, one against Uber Technologies, Inc. (“Uber”) and the other against Lyft, Inc. (“Lyft”) (together, “Defendants”), alleging Defendants infringed United States Patent No. 7,930,340 (“340 Patent”) Docket No. 1 ¶¶ 7–10. The cases were referred to the Magistrate Judge for pretrial purposes in accordance with 28 U.S.C. § 636. On February 20, 2019, the Magistrate Judge denied Plaintiff’s motions for leave to proceed in forma pauperis. Cause No. 5:19-cv-018 (“-018 Case”), Docket No. 4; Cause No. 5:19-cv-019 (“-019 Case”), Docket No. 5.

On February 21, 2019, Plaintiff filed motions for reconsideration in both cases, requesting the Court waive the filing fees. -018 Case, Docket No. 5; -019 Case, Docket No. 6. The Court denied Plaintiff’s motions on April 17, 2019. -018 Case, Docket No. 10; -019 Case, Docket No. 11. In the April 17, 2019 Orders, the Court noted that Plaintiff receives social security payments and has been able to pay the full filing fee required of other courts. The information in Plaintiff’s

affidavits did not show that Plaintiff cannot afford to pay the applicable fee without undue hardship or deprivation of the necessities of life. Accordingly, Plaintiff is obligated to pay the filing fee for both actions. Plaintiff was ordered that “she must pay to the Clerk of the Court a filing fee of \$400.00” in each case within seven days from the date of entry of the April 17 Orders in order to proceed with the actions. -018 Case, Docket No. 10; -019 Case, Docket No. 11. The Court specifically advised Plaintiff that failure to pay the filing fees as ordered may lead to the dismissal of her actions pursuant to Federal Rule of Civil Procedure 41(b). *Id.*

As of the date of this Order, at least 20 days after ordering Plaintiff to pay the filing fees, Plaintiff has not done so. Plaintiff has not requested an extension of time or otherwise indicated that she desires to maintain the actions in this Court. Instead, Plaintiff has filed the following in each case: (1) Plaintiff’s Motion to Reconsider the Court’s 4/18/19 Order Denying Plaintiff ECF Filing and Motion to Recuse the Magistrate Judge; (2) Motion to Transfer the Case to District Court in Waco; and (3) Applications to Proceed in District Court Without Prepaying Fees or Costs (long form) and supplements thereto.

In her motions to transfer, Plaintiff requests that the Court transfer both of her cases to the Western District of Texas, Waco Division, which is already handling two of Plaintiff’s patent infringement cases asserting the ’340 Patent. -018 Case, Docket No. 13; -019 Case, Docket No. 14. It is unusual for a plaintiff to move to transfer venue after having selected the forum, but courts have held that “plaintiffs, like defendants, may seek a transfer for the convenience of the parties and in the interest of justice.” *Moto Photo, Inc. v. K.J. Broadhurst Enterprises, Inc.*, 2003 WL 298799, *3 (N.D. Tex. 2003) (unpublished). As the party seeking transfer, Plaintiff is obliged to support her request with “good cause.” *In re Volkswagen of America, Inc.*, 545 F.3d 304, 312-13 (5th Cir. 2008) (en banc).

Plaintiff argues that it would be a more efficient use of judicial resources to have all four of her cases handled by the same court. Plaintiff also asserts that the Western District has granted her electronic filing capability whereas the Magistrate Judge denied Plaintiff permission to use the Court's Electronic Filing System in this case. Neither of these reasons demonstrate good cause for the proposed transfer. 28 U.S.C. § 1404(a). Further, transfer would circumvent this Court's order requiring payment of filing fees in order for the action to proceed.

Under Rule 41(b), a court may order the dismissal of an action “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order.” FED. R. CIV. P. 41(b); *see also* Local Rule CV-41 (authorizing the district court to dismiss an action for want of prosecution *sua sponte* whenever necessary to achieve the orderly and expeditious disposition of cases); *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998); *see generally McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988) (a district court may dismiss an action for failure to prosecute or to comply with an order of the court). The exercise of the power to dismiss for failure to prosecute is committed to the sound discretion of the Court and appellate review is confined solely to whether the court's discretion was abused. *Green v. Forney Eng'g Co.*, 589 F.2d 243, 248 (5th Cir. 1979); *Lopez v. Aransas County Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978).


Plaintiff's cases should be dismissed under Rule 41(b) for failure to comply with the Court's order requiring payment of the filing fees. Plaintiff has failed to pay the filing fee in both cases, despite the Court's explicit warning that failure to do so could result in dismissal. There is no reason to believe this dismissal without prejudice will substantially prejudice Plaintiff's ability to refile her actions in another court. Accordingly, it is hereby

ORDERED that, pursuant to Federal Rule of Civil Procedure 41(b), Plaintiff's above-entitled and numbered causes of action are **DISMISSED WITHOUT PREJUDICE**.

All relief not previously granted is hereby **DENIED**.

The Clerk of the Court is directed to close the above cases.

So ORDERED and SIGNED this 16th day of May, 2019.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

DR. LAKSHMI ARUNACHALAM	§	
	§	
v.	§	No. 5:19CV18-RWS-CMC
	§	
UBER TECHNOLOGIES, INC.	§	

DR. LAKSHMI ARUNACHALAM	§	
	§	
v.	§	No. 5:19CV19-RWS-CMC
	§	
LYFT, INC.	§	

ORDER DENYING PLAINTIFF’S MOTION FOR RECONSIDERATION

On February 7, 2019, Plaintiff Dr. Lakshmi Arunachalam (“Plaintiff”) filed the above-titled patent infringement cases, one against Uber Technologies, Inc. (“Uber”) and the other against Lyft, Inc. (“Lyft”) (together, “Defendants”), alleging Defendants infringed United States Patent No. 7,930,340 (“340 Patent”). Docket No. 1 ¶¶ 7–10. The cases were referred to the Magistrate Judge for pretrial purposes in accordance with 28 U.S.C. § 636. On May 16, 2019, the Court entered an Order of Dismissal, dismissing both cases without prejudice pursuant to Federal Rule of Civil Procedure 41(b). Cause No. 5:19-cv-018 (“Uber Case”), Docket No. 16; Cause No. 5:19-cv-019 (“Lyft Case”), Docket No. 17.

Before the Court is Plaintiff’s Motion to Reconsider Order of Dismissal and to Re-instate the Case, filed as identical documents in each case. Uber Case, Docket No. 17; Lyft Case, Docket No. 18. Plaintiff that asserts she has not failed to prosecute these cases or disobeyed any order of this Court. According to Plaintiff, the Order of Dismissal in each case is unconstitutional because it has made it “burdensome, difficult, hazardous and expensive to have access to the Court on the subject of due process itself.” *Id.* at 4. Plaintiff requests the Court reinstate her

cases, grant her *in forma pauperis* status, and grant her permission to utilize the Court's electronic filing system. *Id.* at 6.

A motion seeking "reconsideration" may be construed under either Federal Rule of Civil Procedure 59(e) or 60(b). *Shepherd v. Int'l Paper Co.*, 372 F.3d 326, 328 n.1 (5th Cir. 2004); *see also Milazzo v. Young*, No. 6:11-cv-350-JKG, 2012 WL 1867099, at *1 (E.D. Tex. May 21, 2012). Such a motion "calls into question the correctness of a judgment." *Templet v. HydroChem Inc.*, 367 F.3d 473, 478 (5th Cir. 2004) (quoting *In Re Transtexas Gas Corp.*, 303 F.3d 571, 581 (5th Cir. 2002)). "If a motion for reconsideration is filed within 28 days of the judgment or order of which the party complains, it is considered to be a Rule 59(e) motion; otherwise, it is treated as a Rule 60(b) motion." *Milazzo*, 2012 WL 1867099, at *1; *see Shepherd*, 372 F.3d at 328 n.1; *Berge Helene Ltd. v. GE Oil & Gas, Inc.*, No. H-08-2931, 2011 WL 798204, at *2 (S.D. Tex. Mar. 1, 2011).


Plaintiff filed her motion for reconsideration within 28 days of the Order of Dismissal. Accordingly, the Court will consider the motion under Rule 59(e). A Rule 59(e) motion is "not the proper vehicle for rehashing evidence, legal theories, or arguments that could have been offered or raised before the entry of judgment." *Templet*, 367 F.3d at 479 (citing *Simon v. United States*, 891 F.2d 1154, 1159 (5th Cir. 1990)). Rule 59(e) "serve[s] the narrow purpose of allowing a party to correct manifest errors of law or fact or to present newly discovered evidence." *Id.* (quoting *Waltman v. Int'l Paper Co.*, 875 F.2d 468, 473 (5th Cir. 1989)). "Relief under Rule 59(e) is also appropriate when there has been an intervening change in the controlling law." *Milazzo*, 2012 WL 1867099, at *1 (citing *Schiller v. Physicians Resource Grp.*, 342 F.3d 563, 567 (5th Cir. 2003)). "Altering, amending, or reconsidering a judgment is an extraordinary remedy that courts should use sparingly." *Id.*

(citing *Templet*, 367 F.3d at 479).

Plaintiff has not clearly established a manifest error of law or fact or presented newly discovered evidence. Plaintiff re-raises essentially the same arguments as in her previous motions, see Uber Case, Docket No. 4 and Lyft Case, Docket No. 5. The Court addressed these issues in the dismissal Order and noted that Plaintiff had filed a motion to transfer to the Western District of Texas. *See* Docket No. 17. Plaintiff has not made the necessary showing to obtain relief under Rule 59(e) and does not address that filing in the Western District of Texas, where Plaintiff moved for transfer, is still available to Plaintiff. Accordingly, it is hereby

ORDERED that Plaintiff's Motion to Reconsider Order of Dismissal and to Re-instate the Case (Uber Case, Docket No. 17; Lyft Case, Docket No. 18) is **DENIED**.

So ORDERED and SIGNED this 24th day of June, 2019.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**