

No. 23A55

IN THE
Supreme Court of the United States

J. CORY CORDOVA

Applicant,

v.

LOUISIANA STATE UNIVERSITY AGRICULTURAL & MECHANICAL COLLEGE BOARD OF
SUPERVISORS, KAREN CURRY, M.D., KRISTI ANDERSON, LAFAYETTE GENERAL
MEDICAL CENTER, INCORPORATED, LAFAYETTE GENERAL HEALTH SYSTEM,
INCORPORATED, UNIVERSITY HOSPITAL & CLINICS, INCORPORATED, NICHOLAS
SELLS, M.D.,

Respondents.

APPENDIX EMERGENCY APPLICATION FOR STAY

Petition for Writ of Certiorari pending distribution at conference on September 26, 2023

CHRISTINE M. MIRE

Counsel of Record

LAW OFFICE OF

CHRISTINE M. MIRE

2480 YOUNGSVILLE HIGHWAY,
SUITE C

YOUNGSVILLE, LA 70592

(337) 573-7254

CMM@MIRELAWFIRM.COM

Counsel for Applicant

AUGUST 28, 2023

APPENDIX TABLE OF CONTENTS

Lower Federal Courts

Fifth Circuit of Appeals:

Mandate/Judgment United States Court of Appeals for the Fifth Circuit, Case Nos. 22-30548, 22-30732 (May 12, 2023)	App. 1
Order Denying Stay of Mandate United States Court of Appeals for the Fifth Circuit, Case Nos. 22-30548, 22-30732 (May 4, 2023)	App. 2
Unpublished Per Curiam Opinion United States Court of Appeals for the Fifth Circuit, Case Nos. 22-30548, 22-30732 (April 17, 2023)	App. 5

U.S. District Court Western District of Louisiana:

Judgment – Rule 38 Sanctions (Lafayette General Defendants) United States District Court for the Western District of Louisiana, Lafayette Division, Docket No.: 6:19-CV-1027 (August 14, 2023)	App. 13
Memorandum Order Rule 38 award (Lafayette General Defendants) United States District Court for the Western District of Louisiana, Lafayette Division, Docket No.: 6:19-CV-1027 (June 29, 2023)	App. 14
Order awarding attorney’s fees (Lafayette General Defendants) United States District Court for the Western District of Louisiana, Lafayette Division, Docket No.: 6:19-CV1027 (April 13, 2023)	App. 17
Memorandum Order granting Rule 11 Sanctions (Lafayette General Defendants) United States District Court for the Western District of Louisiana, Lafayette Division, Docket No.: 6:19-CV-1027 (February 27, 2023)	App. 19
Order awarding Rule 11 sanctions (Louisiana State University Sanctions) United States District Court for the Western District of Louisiana, Lafayette Division, Docket No.: 6:19-CV-1027 (October 11, 2022)	App. 35

Memorandum Ruling Denying Motion to Vacate pursuant to Rule 60(b)
and Granting Rule 11 Sanctions to the LSU Defendants
United States District Court for the Western District of Louisiana,
Lafayette Division, Docket No. 6:19-CV-1027 (August 23, 2022)App. 36

Judgment Granting Motion for Remand, Rule 54b Certification
prior motion United States District Court for the Western District of Louisiana,
Lafayette Division, Docket No. 6:19-CV-1027 (March 23, 2021)App. 54

Louisiana State Court:

Notice of Appeal and Bond Order - Sanctions, (Dr. Curry)
J. Cory Cordova v. Lafayette General Health System, Inc., et al.,
Doc. No.: 2022-2976-L (August 18, 2023)App. 56

Rule to Show Cause Direct Contempt of Court, Judgment Debtor Rule,
J. Cory Cordova v. Lafayette General Health System, Inc., et al.,
Doc. No.: 2022-2976-L (August 7, 2023)App. 61

Ruling on Award Attorney Fees (Sanctions - Res Judicata - Dr. Curry)
J. Cory Cordova v. Lafayette General Health System, Inc., et al.,
Doc. No.: 2022-2976-L (July 17, 2023)App. 63

Judgment Debtor Rule, (Lafayette General Defendants)
J. Cory Cordova v. Lafayette General Health System, Inc., et al.,
Doc. No.: 2022-2976-L (July 5, 2023)App. 65

Judgment and Ruling on Sanctions - Res Judicata, (Lafayette General Defendants) *J. Cory
Cordova v. Lafayette General Health System, Inc., et al.*,
Doc. No.: 2022-2976-L (March 29, 2023)App. 72

OTHER

Appendix 16 Emails from attorney James GibsonApp. 76

No. 22-30548
c/w No. 22-30732

COLLEGE BOARD OF SUPERVISORS; KAREN CURRY; NICHOLAS SELLS; KRISTI ANDERSON,

Defendants—Appellees.

Appeals from the United States District Court
for the Western District of Louisiana
USDC No. 6:19-CV-1027

Before HO, OLDHAM, and DOUGLAS, *Circuit Judges.*

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the district court’s denial of relief under Federal Rule of Civil Procedure 60(b) is AFFIRMED. The district court’s award of fees and costs is AFFIRMED. And the case is REMANDED for calculation of damages, attorney fees, and costs under Federal Rule of Appellate Procedure 38.

IT IS FURTHER ORDERED that plaintiff-appellant pay to defendants-appellees the costs on appeal to be taxed by the Clerk of this Court.



Certified as a true copy and issued
as the mandate on May 12, 2023

Attest:

Jyle W. Cayce

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

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

May 04, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-30548 c/w 22-30732
Cordova v. LSU Agri & Mech Bd of Suprs
USDC No. 6:19-CV-1027

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

 *Shea E. Pertuit*

By: _____
Shea E. Pertuit, Deputy Clerk
504-310-7666

Ms. Elizabeth Bailly Bloch
Mr. James Huey Gibson
Ms. Stacy N. Kennedy
Ms. Christine M. Mire
Mrs. Jennie Porche Pellegrin

United States Court of Appeals
for the Fifth Circuit

No. 22-30548

J. CORY CORDOVA,

Plaintiff—Appellant,

versus

LOUISIANA STATE UNIVERSITY AGRICULTURAL & MECHANICAL
COLLEGE BOARD OF SUPERVISORS; KAREN CURRY; NICHOLAS
SELLS; KRISTI ANDERSON; UNIVERSITY HOSPITAL & CLINICS,
INCORPORATED; LAFAYETTE GENERAL MEDICAL CENTER,
INCORPORATED; LAFAYETTE GENERAL HEALTH SYSTEM,
INCORPORATED,

Defendants—Appellees,

CONSOLIDATED WITH

No. 22-30732

J. CORY CORDOVA,

Plaintiff—Appellant,

versus

No. 22-30548
c/w No. 22-30732

LOUISIANA STATE UNIVERSITY AGRICULTURAL & MECHANICAL
COLLEGE BOARD OF SUPERVISORS; KAREN CURRY; NICHOLAS
SELLS; KRISTI ANDERSON,

Defendants—Appellees.

Appeals from the United States District Court
for the Western District of Louisiana
USDC No. 6:19-CV-1027
USDC No. 6:19-CV-1027

ORDER:

The Appellant's opposed motion for stay of the mandate pending petition for writ of certiorari is DENIED.



ANDREW S. OLDHAM
United States Circuit Judge

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 17, 2023

Lyle W. Cayce
Clerk

No. 22-30548

J. CORY CORDOVA,

Plaintiff—Appellant,

versus

LOUISIANA STATE UNIVERSITY AGRICULTURAL & MECHANICAL
COLLEGE BOARD OF SUPERVISORS; KAREN CURRY; NICHOLAS
SELLS; KRISTI ANDERSON; UNIVERSITY HOSPITAL & CLINICS,
INCORPORATED; LAFAYETTE GENERAL MEDICAL CENTER,
INCORPORATED; LAFAYETTE GENERAL HEALTH SYSTEM,
INCORPORATED,

Defendants—Appellees,

CONSOLIDATED WITH

No. 22-30732

J. CORY CORDOVA,

Plaintiff—Appellant,

versus

LOUISIANA STATE UNIVERSITY AGRICULTURAL & MECHANICAL
COLLEGE BOARD OF SUPERVISORS; KAREN CURRY; NICHOLAS
SELLS; KRISTI ANDERSON,

Defendants—Appellees.

Appeals from the United States District Court
for the Western District of Louisiana
USDC Nos. 6:19-CV-1027

Before HO, OLDHAM, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

These consolidated appeals arise from an untimely motion for post-judgment relief under Federal Rule of Civil Procedure 60(b). We affirm the district court’s denial of that motion, affirm the district court’s award of attorney fees to the appellees, and remand the case to the district court to calculate damages under Federal Rule of Appellate Procedure 38.

I.

J. Cory Cordova, a former medical resident in LSU’s program at Lafayette General Hospital, was kicked out of his residency program after his first year due to substandard performance. Cordova sued LSU, the program director, the department head, and the director of graduate medical education (“LSU Defendants”), as well as several entities related to Lafayette General Hospital (“Lafayette General Defendants”), and his former lawyer in Louisiana state court.

The LSU Defendants removed to federal court. *See* 28 U.S.C. § 1441. The LSU and the Lafayette General Defendants moved for summary

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

22-30548
c/w No. 22-30732

judgment on Cordova's claims against them. After a hearing, the district court granted summary judgment and dismissed those claims with prejudice.

The LSU and the Lafayette General Defendants then moved for the entry of final judgment on the claims against them. *See* FED. R. CIV. P. 54(b). While these motions were pending, Cordova moved to remand. The district court referred Cordova's remand motion to a magistrate judge, who recommended remanding the remaining state law malpractice claims. The district court adopted the recommendation, remanded the malpractice claims, and entered final judgment on Cordova's claims against the LSU and the Lafayette General Defendants on March 24, 2021.

Cordova untimely appealed on April 27, 2021. So we dismissed his appeal as untimely under Federal Rule of Appellate Procedure 4(a)(1)(A). *See Cordova v. La. State Univ. Agri. & Mech. Coll. Bd. of Supervisors*, 2022 WL 1102480 (5th Cir. 2022) (per curiam).

Next, on July 8, 2022, Cordova moved to vacate the March 24, 2021, judgment. *See* FED. R. CIV. P. 60(b). The district court denied that motion. Cordova appealed that denial, which we docketed as No. 22-30548. The district court also awarded the LSU Defendants attorney fees (\$11,582.50) and costs (\$637.54) for defeating the Rule 60(b) motion. Cordova appealed that order, too, and we docketed it as No. 22-30732. On Cordova's suggestion, *see* Blue Br. No. 22-30732, at iii, we consolidated the appeals.

II.

We begin with the district court's denial of Cordova's Rule 60(b) motion. Our review is for abuse of discretion. *Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 402 (5th Cir. 1981) ("It is not enough that the granting of relief might have been permissible, or even warranted—denial must have been so *unwarranted* as to constitute an abuse of discretion.").

22-30548
c/w No. 22-30732

Cordova first argues that the district court lacked subject matter jurisdiction because the action belongs in state court not federal court. Under the well-pleaded complaint rule, a defendant can remove a case to federal court where the plaintiff's cause of action arises under federal law. *See* 28 U.S.C. § 1441; *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149 (1908); *Am. Well Works Co. v. Layne & Bowler Co.*, 241 U.S. 257 (1916). Here, Cordova repeatedly alleged the defendants violated his Fourteenth Amendment due process rights under the United States Constitution. *See* ROA.235–36 (alleging the defendants “violated Dr. Cordova’s due process rights established in the *federal* and state constitutions” and quoting the Fourteenth Amendment (emphasis added)). That plainly made the case removable and gave the district court federal jurisdiction.

Cordova next argues the district court violated his due process rights when it prevented his attorney from attending a hearing on the defendants’ summary judgment motions because the attorney was exposed to COVID-19. But Cordova forfeited this argument by failing to raise it in his Rule 60(b) motion in the district court. *See Rollins v. Home Depot USA*, 8 F.4th 393, 397 (5th Cir. 2021) (“A party forfeits an argument by failing to raise it in the first instance in the district court—thus raising it for the first time on appeal—or by failing to adequately brief the argument on appeal.”).

Cordova next argues that the district court’s judgment should be vacated due to an undisclosed conflict of interest between counsel for the Lafayette General Defendants and Cordova’s previous counsel. It is unclear where in Rule 60(b) such contentions are cognizable. If they are cognizable under Rule 60(b)(2) or 60(b)(3) as the Defendants contend, Cordova’s motion is plainly time-barred. That is because motions under Rule 60(b)(2) or 60(b)(3) must be filed within one year of the district court’s final judgment. And here, Cordova waited 471 days to seek Rule 60(b) relief.

22-30548
c/w No. 22-30732

Even if his contentions are cognizable under Rule 60(b)(6), we hold under the facts of this case that the motion was untimely. A motion filed under Rule 60(b)(6) must be asserted within “a reasonable time,” FED. R. CIV. P. 60(c)(1), and relief is only available under Rule 60(b)(6) in “extraordinary circumstances,” *Buck v. Davis*, 580 U.S. 100, 123 (2017). But Cordova has offered no explanation for why he waited until July 8, 2022, to seek relief from the March 24, 2021, judgment. Indeed, he knew about the purported conflict of interest as early as October 2021, when he raised the point in his untimely blue brief in his first appeal to our court. Yet he did not ask the district court to do anything about it at that point. *See Shepherd v. Int’l Paper Co.*, 372 F.3d 326, 329 (5th Cir. 2004) (a plaintiff can request Rule 60(b) relief while an appeal is pending).

And in any event, Cordova makes no attempt to explain how the purported conflict of interest would warrant reopening the March 24, 2021, judgment. The Louisiana Rules of Professional Conduct define a concurrent conflict of interest as one in which “the representation of one client will be directly adverse to another client” or “there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another.” LA. R. PROF COND. R. 1.7. And under Rule 60(b)(6), courts have long recognized that such an undisclosed conflict only amounts to an “extraordinary circumstance” where a plaintiff can show prejudice—that is that he was “adversely affected by the purported conflict.” *Gordon v. Norman*, 788 F.2d 1194, 1197–98 (6th Cir. 1986); *see also Marderosian v. Shamshak*, 170 F.R.D. 335, 340–41 (D. Mass. 1997). Here, Cordova fails to point to any evidence that the alleged conflict posed a “significant risk” of “materially limiting” the quality of Cordova’s representation in this proceeding.

22-30548
c/w No. 22-30732

III.

We next turn to the district court’s award of fees and costs in No. 22-30732. We review an award of attorney fees for abuse of discretion. *Loftin v. City of Prentis*, 33 F.4th 774, 779 (5th Cir. 2022). “A district court abuses its discretion if it (1) relies on clearly erroneous factual findings; (2) relies on erroneous conclusions of law; or (3) misapplies the law to the facts.” *Ibid.* (quotation omitted).

Cordova argues the district court’s award of fees and costs to the LSU Defendants should be reversed because the LSU Defendants failed to request fees and costs through a separately filed motion and thus were not entitled to them under Federal Rule of Civil Procedure 54(d). But again, Cordova forfeited this argument by failing to raise it below. *See Rollins*, 8 F.4th at 397. And even if we could consider the argument, it fails for two independent reasons.

That is first because a “party seeking attorney[] fees must make a timely Rule 54(d)(2)(B) motion *unless it falls under a Rule 54(d) exception.*” *United Indus., Inc. v. Simon-Hartley, Ltd.*, 91 F.3d 762, 766 (5th Cir. 1996) (emphasis added). The district court’s award of fees and costs here plainly falls under Rule 54(d)(2)(E)’s sanctions exception given that the LSU Defendants requested fees and costs in their Rule 60(b) response *as a sanction* for having to oppose Cordova’s baseless Rule 60(b) motion. *See id.* at 766 n.9. And second, we’ve long held that “a court may *deem* a notification” of a request for attorney fees “sufficient if it satisfies the intended purposes of Rule 54(d)(2)” even if it fails to comply with Rule 54(d)(2)’s formal requirements. *Romaguera v. Gegenheimer*, 162 F.3d 893, 895 (5th Cir. 1998) (emphasis added). Here, the district court plainly “deemed” the LSU Defendants’ request for fees and costs in their response to Cordova’s Rule 60(b) motion as sufficient to “properly notify” Cordova “of their requests

22-30548
c/w No. 22-30732

for attorney[] fees.” *Id.* And Cordova admits he had notice and the opportunity to respond (in fact, he actually did respond) to the LSU Defendants’ request for fees and costs in his reply in support of the Rule 60(b) motion. *See* Blue Br. 24.

IV.

Finally, we turn to Federal Rule of Appellate Procedure 38. That rule provides that if “a court of appeals determines that an appeal is frivolous, it may, after a separately filed motion . . . award just damages.” FED. R. APP. P. 38. “An appeal is frivolous if the result is obvious or the arguments of error are wholly without merit.” *Coghlan v. Starkey*, 852 F.2d 806, 811 (5th Cir. 1988).

Here, Cordova has repeatedly refused to heed the district court’s warnings about “unreasonable attempts at continuing this litigation” with an untimely and also meritless Rule 60(b) motion. And here again, Cordova has filed another frivolous appeal. Moreover, while this appeal was pending, the district court granted the Lafayette General Defendants’ motion for sanctions under Federal Rule of Civil Procedure 11 and set that matter for a hearing on the appropriate damage amount. *See Cordova v. La. State Univ. Health Sci. Ctr.*, No. 6:19-CV-1027, ECF No. 169 (W.D. La. Feb. 27, 2023). We, therefore, grant the appellees’ Rule 38 motion and remand for the district court to fix the appropriate sanctions, attorney fees, and costs for this appeal. *See Marston v. Red River Levee & Drainage Dist.*, 632 F.2d 466, 468 (5th Cir. 1980); *see also Henneberger v. Ticom Geomatics, Inc.*, 793 F. App’x 241, 244 (5th Cir. 2019). We believe the district court is in the best position to set an appropriate sanction that both deters vexatiousness and also does not duplicate the other sanctions imposed or to-be-imposed in this case.

* * *

22-30548
c/w No. 22-30732

For the foregoing reasons, the district court's denial of relief under Federal Rule of Civil Procedure 60(b) is AFFIRMED. The district court's award of fees and costs is AFFIRMED. And the case is REMANDED for calculation of damages, attorney fees, and costs under Federal Rule of Appellate Procedure 38. Cordova's motions to disqualify counsel and for sanctions, damages, attorney fees, and costs under 28 U.S.C. § 1927 are DENIED.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

J CORY CORDOVA

CASE NO. 6:19-CV-01027

VERSUS

JUDGE JAMES D. CAIN, JR.

**LOUISIANA STATE UNIVERSITY
HEALTH SCIENCE CENTER ET AL**

MAGISTRATE JUDGE HANNA

JUDGMENT

Considering the Motion for Entry of Judgment [doc. 184] filed by the Lafayette General defendants and the lack of opposition from plaintiff, the court hereby **GRANTS** the motion and enters its order of payment of attorney fees [doc. 183] as a judgment. Accordingly,

IT IS ORDERED, ADJUDGED, and DECREED that plaintiff be sanctioned with the full amount (\$50,664.74) of the Lafayette General defendants' costs and attorney fees incurred in the most recent appeal. The amount must be paid to the Lafayette General defendants within **30 days** of the entry of this judgment.

THUS DONE AND SIGNED in Chambers on this 14th day of August 2023.


JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

J. CORY CORDOVA

CASE NO. 6:19-CV-01027

VERSUS

JUDGE JAMES D. CAIN, JR.

**LOUISIANA STATE UNIVERSITY
AGRICULTURAL & MECHANICAL
COLLEGE BOARD OF SUPERVISORS,
ET AL.**

MAGISTRATE JUDGE HANNA

MEMORANDUM ORDER

Plaintiff unsuccessfully appealed this court's orders denying plaintiff's Motion to Vacate [doc. 149] and granting an award of attorney fees and costs [doc. 163] to the Lafayette General defendants. The Fifth Circuit then awarded attorney fees and costs to the Lafayette General defendants under Federal Rule of Appellate Procedure 38 and remanded the matter to this court for a calculation of the amount due. Doc. 176. The court set deadlines for the Lafayette General defendants' submissions on this amount and for plaintiff to file a response. Doc. 177.

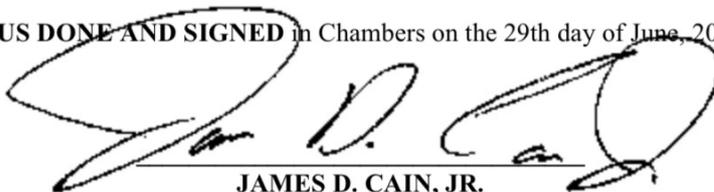
The Lafayette General defendants have submitted documentation of \$54,200.00 in attorney fees and \$139.22 in costs. Doc. 180. Upon review, the court finds the costs and fees to be well supported except that one invoice (totaling \$3,600 in attorney fees and \$74.48 in costs) appears to relate to the state court matter. *See id.* at 11–13. Accordingly, the total amount of costs and fees potentially owed in this matter is \$50,600.00 in attorney fees and \$64.74 in costs, for a total of \$50,664.74. In response plaintiff objects to the

imposition of sanctions because (1) his attorney is solely responsible for the contents of the offending appellate briefs; (2) his attorney has filed a criminal complaint alleging Medicare/Medicaid fraud against the defendant and the request for sanctions by the Lafayette General defendants constitutes impermissible retaliation; and (3) the imposition of additional sanctions in this matter “is purely punitive in nature and imposed without the requisite showing of frivolousness, evidence of material misrepresentations, and/or bad faith by the undersigned counsel.” Doc. 182, pp. 1–2.

Federal Rule of Appellate Procedure 38 provides: “If a court of appeals determines that an appeal is frivolous, it may, after a separately filed motion or notice from the court and reasonable opportunity to respond, award just damages and single or double costs to the appellee.” The Fifth Circuit has already made its determination as to the frivolousness of the appeal. There is no basis for this court to revisit that determination. Plaintiff’s counsel admits that she has “consistently been sanctioned by the state and federal courts in this matter” and the record in this case alone shows her numerous, meritless appeals. The court can find no cause for awarding anything less than defendants’ full costs. Additionally, the client has the authority to determine whether to proceed with an appeal. Plaintiff bears responsibility for this protracted litigation. The fact that he has also made criminal complaints against defendants is his business and has no bearing on the court’s determination.

The court finds that the costs and fees submitted by defendants are reasonable. Accordingly, **IT IS ORDERED** that plaintiff be sanctioned with the full amount (\$50,664.74) of defendants' costs and attorney fees incurred in the most recent appeal, payable to the Lafayette General defendants within 30 days of this order.

THUS DONE AND SIGNED in Chambers on the 29th day of June, 2023.

A handwritten signature in black ink, appearing to read "James D. Cain, Jr.", is written over a horizontal line. The signature is stylized and cursive.

JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

J CORY CORDOVA

CASE NO. 6:19-CV-01027

VERSUS

JUDGE JAMES D. CAIN, JR.

**LOUISIANA STATE UNIVERSITY
HEALTH SCIENCE CENTER ET AL**

**MAGISTRATE JUDGE PATRICK J.
HANNA**

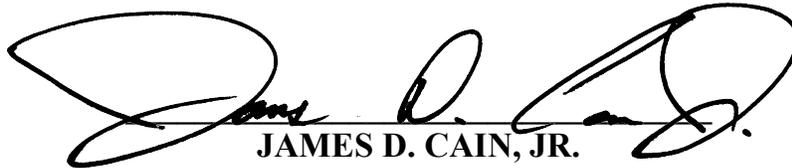
ORDER

Before the court is a Bill of Costs [doc. 170] filed by the Lafayette General defendants, in response to the ruling [doc. 169] awarding costs and attorney fees to those defendants in association with plaintiff's Motion to Vacate [doc. 138]. Plaintiff was given a deadline to file any response to the costs and fees claimed by defendants and has not done so. Doc. 171. The court has reviewed the bill and finds the fees and costs claimed to be reasonable and justified but only as to the hours billed in association with the Motion to Vacate. The court's ruling did not contemplate an award of fees incurred with the Lafayette General defendants' Rule 11 motion. The court will deduct the \$18,900 in fees¹ expended in connection with the Rule 11 motion along with the \$143.58 in mileage and meals incurred in association with the hearing on the Rule 11 motion. Thus,

¹ 47.25 hours at a rate of \$400/hour. See doc. 170, att. 1.

IT IS ORDERED that the Lafayette General defendants be awarded \$29,100.00 in attorney fees and \$592.70 in costs for the reasons set forth in the court's preceding Memorandum Ruling. *See* doc. 169.

THUS DONE AND SIGNED in Chambers on the 13th day of April, 2023.

A handwritten signature in black ink, appearing to read "James D. Cain, Jr.", written over a horizontal line.

JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

J. CORY CORDOVA

CASE NO. 6:19-CV-01027

VERSUS

JUDGE JAMES D. CAIN, JR.

**LOUISIANA STATE UNIVERSITY
AGRICULTURAL & MECHANICAL
COLLEGE BOARD OF SUPERVISORS,
ET AL.**

MAGISTRATE JUDGE HANNA

MEMORANDUM ORDER

Before the court is a Motion for Sanctions [doc. 147] filed against plaintiff J. Cory Cordova and his counsel, Christine M. Mire, by defendants University Hospital & Clinics, Inc.; Lafayette General Medical Center, Inc.; and Lafayette General Health System, Inc. (collectively, “the Lafayette General defendants”) under Federal Rule of Civil Procedure 11(b)(1)–(3) and 28 U.S.C. § 1927. Plaintiff opposes the motion. Doc. 151. The matter came before the court for oral argument on February 23, 2023, and the undersigned now issues this ruling.

I.

BACKGROUND

A. Filing of Suit and Motions to Dismiss

This suit arises from Dr. J. Cory Cordova’s non-renewal from the LSU “house officer” (residency) program at Lafayette General Hospital in Lafayette, Louisiana. Cordova was non-renewed from the program following his first year, after being placed on probation by program director Dr. Karen Curry. Following his non-renewal, he filed suit

against Curry, department head Dr. Nicholas Sells, director of graduate medical education Ms. Kristi Anderson, and LSU, as well as the Lafayette General defendants, and his former counsel, in the 15th Judicial District Court, Lafayette Parish, Louisiana. He alleged, in relevant part, that Curry, Sells, Anderson, LSU, and the Lafayette General defendants violated his right to due process under the federal and state constitutions, in violation of 42 U.S.C. § 1983, and committed a breach of contract by non-renewing him from the house officer program and then sabotaging his efforts to apply to other programs. Doc. 1, att. 2, pp. 192–93. He also alleged that his former attorney, Christopher C. Johnston, and Johnston’s firm were liable under state malpractice law for failing to disclose their prior representation of the Lafayette General defendants. *Id.*

The LSU defendants removed the suit to this court under federal question jurisdiction, 28 U.S.C. § 1331. Doc. 1. On Rule 12(b)(6) motions to dismiss filed by the LSU defendants, the court dismissed the breach of contract claims as to the individual defendants without prejudice to plaintiff’s right to amend and dismissed many of the due process claims, leaving as to the LSU defendants only the breach of contract claim against LSU and the substantive due process claim against Curry, with the issue of qualified immunity deferred until summary judgment. Docs. 29, 41. The claim against Curry was based on her negative evaluations of Cordova during his time in the house officer program. Doc. 76, p. 9. In ruling on the second motion to dismiss, the court had also noted a potential due process violation based on negative information that Curry communicated to other programs but held that plaintiff failed to allege sufficient harm to show a constitutional

violation. Doc. 41, pp. 11–12. The court dismissed this claim without prejudice, however, in order to allow plaintiff an opportunity to amend and show sufficient harm. *Id.*

B. Dismissal of All Claims on Summary Judgment

The remaining LSU defendants then brought a Motion for Summary Judgment, aimed at securing dismissal of Cordova’s substantive due process claim against Curry and breach of contract claim against LSU. Doc. 54, att. 2. To this end they asserted that (1) Curry is entitled to qualified immunity for any due process violation; (2) plaintiff had not identified a substantive due process property interest or violation thereof by Curry; and (3) plaintiff’s non-renewal did not breach any term of the House Officer Agreement of Appointment or House Officer Manual. *Id.* The Lafayette General defendants also sought summary judgment, asserting that they were not parties to the House Officer Agreement of Appointment and had no authority over or involvement in Cordova’s non-renewal. Furthermore, they contended that they could not be held liable for a due process violation because they are not state actors and did not conspire with the LSU defendants to violate plaintiff’s rights. In the alternative, the Lafayette General defendants wholly adopted the arguments of the LSU defendants and move for dismissal of all claims against them on those grounds. Doc. 65, att. 1. Cordova opposed both motions. Docs. 61, 73.

The court heard oral argument on the motions on December 15, 2020. Doc. 92. At the time plaintiff was represented by Christine Mire of Youngsville, Louisiana, as well as five attorneys from the Bezou Law Firm of Covington, Louisiana. Only Ms. Mire appeared at the hearing. *Id.* There she argued that she would be able to uncover evidence to oppose defendants’ motions, particularly regarding the substantive due process claim, in discovery

but admitted that she had not made any discovery requests since the court's ruling on the second Motion to Dismiss. *Id.* at 32–37. The court then expressed concern that counsel had not conducted any discovery or produced any evidence to support her oppositions to the motion for summary judgment. *Id.* at 42–43, 61–62. Mire repeatedly pushed back, indicating that she had unproduced tape recordings that supported her case and that she did not believe that it was her burden to develop the record at this stage. *Id.* at 42, 61–63. The court emphasized, however, that its duty was only to rule on what was in the record. *Id.* at 76. Finally, it pointed out its chief concern as to the claims against the Lafayette General defendants: the failure to show any privity of contract between those parties and Cordova. *Id.* at 88–89.

Two days after the hearing, the court issued a ruling on the Motions for Summary Judgment and dismissed all claims against the LSU defendants and Lafayette General defendants with prejudice. Docs. 76, 77. In sum, the court found that Curry had shown she was entitled to qualified immunity for any substantive due process violation; that plaintiff failed to show a breach of contract claim with respect to the LSU defendants' procedures in non-renewing his appointment under the terms of either the House Officer Manual ("HOM") or House Officer Agreement of Appointment ("HOAA"); and that there was no basis for (1) a § 1983 claim against the Lafayette General defendants, based on the same reasons those claims had been dismissed against the LSU defendants, or (2) a breach of contract claim against the Lafayette General defendants, because they were not a party to the HOAA or HOM. Doc. 76. Finally, the court amended its prior judgments on the Motions to Dismiss, under which the breach of contract claims against Curry and Sells and

substantive due process claims relating to dissemination of information to other programs had been dismissed without prejudice, to dismiss those claims with prejudice based on plaintiff's failure to amend his pleadings and cure the defects identified.

The court allowed the parties additional time to brief the issue of whether the ruling on the Motions for Summary Judgment should be certified as final under Federal Rule of Civil Procedure 54(b). Doc. 77. Plaintiff opposed the motion by brief filed December 28, 2021, arguing that the court's ruling established that it lacked subject matter jurisdiction over the case due to the lack of a constitutional violation and that it should remand the matter to state court rather than entering a final judgment dismissing the LSU and Lafayette General defendants. Doc. 82. Counsel from the Bezou Law Firm then withdrew from representation of plaintiff, leaving only Ms. Mire as plaintiff's counsel. Docs. 95–97.

The LSU defendants next filed a motion for costs and attorney fees. Doc. 87. Plaintiff also filed a Motion to Remand, arguing that the court's dismissal of his § 1983 claims meant that it lacked subject matter jurisdiction over the suit, and an amended Motion to Remand in which he argued that, despite his claims of due process violations, his original petition never actually raised a federal question under the well-pleaded complaint rule. Docs. 90, 109. The Motions to Remand were referred to the Magistrate Judge, who found no merit to these arguments but recommended that the remaining state law claims (i.e., the malpractice claims against Johnston and his firm) be remanded to the state court. Doc. 125. The undersigned adopted this report and recommendation, remanding the remaining claims to the 15th Judicial District Court and certifying its rulings on the Motions for Summary Judgment as final by judgment dated March 24, 2021. Doc. 131. On April 14,

2021, the undersigned issued an order denying the LSU defendants' Motion for Attorney Fees but granting costs in the amount of \$1,068.60. Doc. 133.

C. Appeal and New Suit

Plaintiff filed a Notice of Appeal from the court's final judgment [doc. 131] and order on the Motion for Attorney Fees [doc. 133] on April 27, 2021. Doc. 134. On April 13, 2022, the Fifth Circuit issued an opinion finding that the appeal was untimely as to the final judgment on the claims against the Lafayette General and LSU defendants and that he showed no merit as to his appeal of the order taxing him with costs. *Cordova v. La. State Univ. Agricultural & Mech. College Bd. of Supervisors*, 2022 WL 1102480 (5th Cir. Apr. 13, 2022). The court also rejected plaintiff's argument that he was entitled to relief under Federal Rule of Civil Procedure 60(b) based on new evidence that had deprived him of due process in the district court, because plaintiff had not raised the issue with this court or in his briefing before the Fifth Circuit. *Id.*

Meanwhile, in the state court proceedings plaintiff filed a second amended petition asserting malpractice claims against the attorneys of the Bezou Law Firm. Doc. 147, att. 2. After the Fifth Circuit's judgment was entered as mandate, on May 19, 2022, the plaintiff also filed a new suit in the 15th Judicial District Court against the Lafayette General defendants, LSU, and Dr. Karen Curry on June 8, 2022. Doc. 142, att. 6. There plaintiff raised a claim of "breach of confidentiality/bad faith" based on allegations that defendants had continued to disseminate inaccurate and confidential information about him to other residency programs. *Id.* As a result, he alleged that his completion of his residency was delayed for a year while he applied to programs and attempted to clear his reputation. *Id.*

He also alleged that Dr. Curry had misrepresented his record at the LSU program to the Mississippi State Board of Medical Licensure in 2021. *Id.* He maintained that these disclosures amounted to breaches of the terms of employment agreements with both defendants and sought declaratory and injunctive relief. *Id.* The Lafayette General defendants filed exceptions, including one of *res judicata* based on this court’s previous rulings, which were set for hearing on August 1, 2022. Doc. 142, att. 7.

D. Motion to Vacate

On July 8, 2022, plaintiff filed a Motion to Vacate in this matter, requesting that the court “clarify its previous rulings in light of the newly filed allegations currently pending before the state court.” Doc. 138, att. 1. He also urged the court to vacate its prior judgments under Rule 60(b) based on the same grounds asserted to the Fifth Circuit—namely, that defense counsel misrepresented facts as to the status of discovery before the hearing on the Motions for Summary Judgment and that lawyers from the Bezou Law Firm had an undisclosed conflict of interest that prejudiced plaintiff’s representation because counsel for the Lafayette General defendants was representing counsel from the Bezou Law Firm in an unrelated disciplinary proceeding—as well as the alleged admission of the Lafayette General defendants’ employer status in relation to medical residents in an unrelated proceeding. Defendants opposed the merits and timeliness of the motion.

On timeliness, the court noted that the plaintiff was not entitled to any sort of tolling while the matter was on appeal since this court retained jurisdiction to consider a motion to vacate. Accordingly, any grounds for relief based on Rule 60(b)(1)–(3) (namely, allegations of misrepresentations by opposing counsel on the status of discovery and the

status of the Lafayette General defendants as plaintiff's employer) were untimely since they were filed past the one-year limitations period. Doc. 149, pp. 8–9. The court then found that the allegation of a conflict of interest by plaintiff's former counsel should be considered under Rule 60(b)(6) and was thus subject to the "reasonable time" limitation, which plaintiff had exceeded by waiting several months since he first raised the issues in the Fifth Circuit to bring the matter to this court. *Id.* at 13–15.

The court also rejected all these grounds on the merits. As to the employer status of the Lafayette General defendants, it held that new case law referenced by plaintiff failed to show that those defendants were the true employers of residents. *See id.* at 11 (citing *Hayes v. University Health Shreveport*, 332 So.3d 1163 (La. 2022) and *Nelson v. Ochsner Lafayette General*, 332 So.3d 1172 (La. 2022)). At any rate, it continued:

[T]he court's ruling on the breach of contract claim against the Lafayette General defendants was premised on the fact that there was no evidence that that defendant was a party to the HOAA or the HOM. *See doc. 76*, pp. 20–21. Whether the Lafayette General defendants were party to some other agreement with plaintiff and breached same is immaterial to the claims plaintiff actually brought to this court. Finally, even if the Lafayette General defendants were shown to be party to the HOAA or HOM, plaintiff fails to show how they would have breached such an agreement when the court considered the merits of that claim as to the LSU defendants and found no breach. Likewise, even if some sort of employment relationship also showed that the Lafayette General defendants were joint actors with the LSU defendants for purposes of the § 1983 claims, plaintiff fails to show how the court's finding of no merit to those claims as to the LSU defendants would differ with respect to any other party's handling of plaintiff's non-renewal.

Id. at 11–12.

As for plaintiff's claims that opposing counsel misled the court about the status of discovery, the court likewise determined that these were unfounded. *Id.* at 10–11. Finally,

regarding former counsel's alleged conflict of interest, the court held that plaintiff had failed to prove the existence of a conflict or that he was thereby prejudiced. *Id.* at 15–16. The court denied the Motion to Vacate and granted the LSU defendants' request for attorney fees expended under that motion under 42 U.S.C. § 1988. *Id.* at 16–18.

E. Motion for Sanctions

One month after plaintiff filed the above Motion to Vacate, the Lafayette General defendants filed a Motion for Sanctions against plaintiff and Ms. Mire under Rule 11(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1927. Doc. 147. Here they seek an assessment of attorney fees and costs incurred in defending against the Motion to Vacate, on the grounds that it is both factually and legally frivolous. To this end, they assert that (1) plaintiff lacks factual support for his assertion that the Lafayette General defendants were his employer; (2) plaintiff and Ms. Mire have purposefully obscured her degree of involvement in the case; (3) Ms. Mire did not conduct an objectively reasonable legal inquiry into the motion before filing; and (4) the lack of good faith factual and legal bases in the motion, along with personal attacks on Lafayette General counsel, prove the motives of harassment and needless increase in the cost of litigation. Doc. 147, att. 1. Plaintiff opposes the motion, arguing that it is the Lafayette General defendants who are mischaracterizing matters and that neither he nor his counsel should be penalized for bringing the Motion to Vacate. Doc. 151.

II. LAW & APPLICATION

A. Legal Standards

1. Rule 11 Sanctions

A central purpose of Rule 11 is “to spare innocent parties and overburdened courts from the filing of frivolous lawsuits.” *Kurkowski v. Volcker*, 819 F.2d 201, 204 (8th Cir. 1987). Rule 11(b) provides in relevant part that, by presenting a pleading, motion, or other paper to the court, an attorney certifies to the best of his “knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,” that:

- (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
- (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; [and]
- (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery[.]

A violation of these provisions by counsel justifies sanctions under Rule 11(c). *Whitehead v. Food Max of Miss., Inc.*, 332 F.3d 796, 802 (5th Cir. 2003). In determining whether an attorney or party has violated Rule 11(b), the court uses an objective standard of reasonableness under the circumstances. *Id.* (citing *Childs v. State Farm Mut. Auto. Ins. Co.*, 29 F.3d 1018, 1024 (5th Cir. 1994)). Accordingly, an attorney’s subjective good faith will not protect him from sanctions. *Chapman & Cole v. ITEL Container Intern. B.V.*, 865 F.2d 676, 684 (5th Cir. 1989). The imposition of sanctions under this rule is usually a fact-intensive inquiry, and the trial court is accorded substantial deference. *Thomas v. Capital Sec. Svcs.*, 836 F.2d 866, 873 (5th Cir. 1988).

A represented party may also be sanctioned under Rule 11. *Topalian v. Ehrman*, 3 F.3d 931, 934 (5th Cir. 1993). Courts have generally declined to exercise this authority, however. *Rentz v. Dynasty Apparel Indus., Inc.*, 556 F.3d 389, 398 (6th Cir. 2009) (citing 5A Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. § 1336.2 (3d ed. 2004)) (“Imposing a sanction on the client has met with disfavor.”) Generally, the represented party against whom sanctions are levied “must be a party who had some direct personal involvement in the management of the litigation and/or the decisions that resulted in the actions which the court finds improper under Rule 11.” *Indep. Fire Ins. Co. v. Lea*, 979 F.2d 377, 379 (5th Cir. 1992).

2. Sanctions under 28 U.S.C. § 1927

The court also has authority to award attorney fees, costs, and expenses “reasonably incurred” because of an attorney who “unreasonably and vexatiously” multiplies the proceedings. 28 U.S.C. § 1927. Underlying this statute “is the recognition that frivolous appeals and arguments waste scarce judicial resources and increase legal fees charged to the parties.” *Balduch v. Johns*, 70 F.3d 813, 817 (5th Cir. 1995). An award of sanctions under this statute requires “evidence of bad faith, improper motive, or reckless disregard of the duty owed to the court.” *Edwards v. Gen. Motor Corp.*, 153 F.3d 242, 246 (5th Cir. 1998). An attorney acts with reckless disregard of his duty to the court “when he, without reasonable inquiry, advances a baseless claim despite clear evidence undermining his factual contentions.” *Morrison v. Walker*, 939 F.3d 633, 638 (5th Cir. 2019). Accordingly, the standard for awarding sanctions under § 1927 is higher than that required under Rule 11. *Bryant v. Mil. Dep’t of Miss.*, 597 F.3d 678, 694 (5th Cir. 2010). In other words,

sanctions under § 1927 should only be applied “in instances evidencing a serious and standard disregard for the orderly process of justice, lest the legitimate zeal of an attorney in representing a client be dampened.” *Lawyers Title Ins. Corp. v. Doubletree Partners, LP*, 739 F.3d 848, 872 (5th Cir. 2014) (cleaned up).

B. Application

The Lafayette General defendants first assert that plaintiff and his counsel violated Rule 11(b) by ignoring the undisputed facts of this case. Doc. 147, att. 1, pp. 16–21. They also argue that the lack of good faith factual and legal bases in the motion prove the motives of harassment and increase of legal costs. *Id.* at 23–26. Specifically, they maintain that Ms. Mire failed to adequately investigate whether University Hospital & Clinics (“UHC”) employed plaintiff before using that allegation as a basis for her motion to vacate. To support that allegation plaintiff pointed to the following evidence from his LSU residency file, which was attached to the LSU defendants’ October 2020 motion for summary judgment: (1) Dr. Cordova’s Form W-4; (2) his Louisiana Department of Revenue Form L-4; and (3) his Immigration Form I-9. Doc. 138, att. 1, pp. 4–5; *see* doc. 54, att. 5, pp. 52, 53, 41. All these documents displayed “UHC” as his employer. He also cited his Medicare Enrollment Record, which he attached to his state court action. Doc. 138, att. 2, pp. 15–16. This document, however, only appears to verify that UHC is the location where he was practicing.

The Lafayette General defendants urge that this documentation was an insufficient basis on which to raise an issue as to the identity of plaintiff’s employer. They first point to the listing of Tonia Latiolais as the contact person on his Medicare Enrollment and I-9

and note that her listed email on the Medicare Enrollment is an address affiliated with LSU. They also assert that her name “appears throughout Plaintiff’s LSU Residency File as the Administrative Assistant handling Plaintiff’s intake and exit documentation for LSU.” Doc. 147, att. 1, p. 17. Additionally, they point to affidavits attached to the prior motions for summary judgment establishing that LSU, and not UHC, employed plaintiff. *See* doc. 65, att. 3 (affidavit of UHC vice president Katherine Hebert); doc. 65, att. 6 (affidavit of Lafayette General Health System executive vice president Patrick Gandy); doc. 54, att. 4 (affidavit of LSU director of graduate medical education Kristi Anderson, authenticating plaintiff’s residency file). Furthermore, as authenticated under Mr. Gandy’s affidavit, the Affiliation Agreement between LSU and Lafayette General specifically provided that the residents were “employees of, and under the direction, control and supervision of the University [LSU]” Doc. 65, att. 7. All these documents have been part of the record, and equally available to plaintiff, since October and November 2020. Additionally, at the hearing the Lafayette General defendants produced plaintiff’s W-2 from 2017 and 2018, obtained in discovery in the state court suit and identifying “LSUHSC NEW ORLEANS” as his employer. Doc. 168, att. 1. Accordingly, the Lafayette General defendants maintain that plaintiff’s attempt to reopen the issue of who employed him reflects a lack of adequate investigation by plaintiff’s counsel as well as bad faith perpetuation of this suit. In response, plaintiff’s counsel continues to allege that Lafayette General/UHC was plaintiff’s actual employer based on the documents cited above.

As the court already determined, the new caselaw cited by plaintiff did not create an issue as to who his employer was.¹ The documents cited above are also insufficient to raise an issue as to who legally employed plaintiff, given the record evidence and affidavits. Indeed, the W-2s produced at the hearing should be enough to put the issue to rest. Ms. Mire objected to the latter evidence under Rule 11's snapshot rule, but the point is that these documents as well as other records like paystubs were in existence at the time she filed her motion and readily obtainable by her/her client.

Moreover, the futility of any arguments relating to the Lafayette General defendants' status as employer reflects counsel's bad faith in attempting to make an issue of it. Ms. Mire asserted at the hearing that substituting Lafayette General defendants for the LSU defendants would have allowed her to proceed with breach of contract and tort claims without overcoming the barrier of qualified immunity against state actors. Yet the court clearly found **no merit** to the breach of contract claims, where qualified immunity was not even considered. *See* doc. 76. As to the § 1983 claims, plaintiff's evidence did not undermine the showing that it was the LSU defendants/employees who supervised and trained him, who made his ultimate employment decisions, and whose references he now takes issue with. Accordingly, there would be no basis for substituting Lafayette General as defendant for any tort claims even if he could show some sort of employer relationship.

¹ The two cases were *Hayes v. University Health Shreveport*, 332 So.3d 1163 (La. 2022) and *Nelson v. Ochsner Lafayette General*, 332 So.3d 1172 (La. 2022). Those matters involved attempts by hospital employees to block their employers' COVID-19 vaccine mandate under the Louisiana Constitution. The Louisiana Supreme Court ruled in relevant part that (1) a state informed consent statute did not provide an exception to at-will employment and (2) state constitutional prohibitions against unreasonable searches and seizures applied only to state action, and thus did not provide an exception to employment at-will as applied to a private hospital. *Hayes*, 332 So.3d at 1169–72. There is no showing, however, that any plaintiff was a resident and no stipulation or finding that residents qualified as employees of the respective hospitals.

Ms. Mire's arguments regarding a potential conflict of interest and resulting prejudice do not cross the line from zealous advocacy to abusive litigation practices. Likewise, her mistakes regarding the timeliness of that motion do not provide cause to reprimand her at this point. But her meritless arguments and lack of investigation regarding the Lafayette General defendants' potential liability as employers are so unfounded as to amount to violations of Rule 11(b)(1)–(3).² The record reflects an unwillingness on behalf of both counsel and client to let this matter rest, even after a final adjudication on the merits and missing the appeal deadline from same. Defendants are entitled to some protection against the expense and annoyance that come with frivolous attempts at reopening this matter. Accordingly, the court must select the appropriate sanction under Rule 11(c).

Rule 11 is designed to “reduce the reluctance of courts to impose sanctions by emphasizing the responsibilities of attorneys and reinforcing those obligations through the imposition of sanctions.” *Thomas*, 836 F.2d at 870. The district court likewise retains broad discretion in fashioning the appropriate sanction once it finds a violation of Rule 11. *Childs*, 29 F.3d at 1027. However, the appropriate sanction should be the one that is least severe while still adequately furthering the purpose of the rule: deterrence. *Id.* (citing *Akin v. Q-L Investments, Inc.*, 959 F.2d 521 (5th Cir. 1992)). If the award is reimbursement of an opponent's expenses, those expenses must be both reasonable and caused by the violation. *Id.* (citing *Thomas*, 836 F.2d at 878–79).

² The client, Dr. Cordova, might also bear some responsibility under Rule 11(b)(3), particularly as it relates to ignoring clear evidence of who his employer was. The court declines to sanction him at this point but warns that he may expose himself to liability if he continues to seek justifications to reopen this suit. The court also finds that the issues raised fall short of sanctionable conduct under 28 U.S.C. § 1927, but again warns both Dr. Cordova and Ms. Mire that the standard might be met with further abusive litigation tactics.

An award of the Lafayette General defendants' attorney fees and costs incurred in connection with the Motion to Vacate appears sufficient to deter any more frivolous arguments or filings. The same award was made to the LSU defendants pursuant to their request under 42 U.S.C. § 1988. The court does not expect that this will amount to a formidably high amount of money but expects that it will be sufficient to warn both plaintiff and his counsel against further ill-considered efforts to perpetuate this suit.

**IV.
CONCLUSION**

For the reasons stated above, **IT IS ORDERED** that the Motion for Sanctions [doc. 147] be **GRANTED**. The Lafayette General defendants are directed to submit a bill of costs and attorney fees incurred in their defense against the plaintiff's Motion to Vacate and for Attorney Fees [doc. 138] within **14 days** of this order.

THUS DONE AND SIGNED in Chambers on the 27th day of February, 2023.


JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

J CORY CORDOVA

CASE NO. 6:19-CV-01027

VERSUS

JUDGE JAMES D. CAIN, JR.

**LOUISIANA STATE UNIVERSITY MAGISTRATE JUDGE PATRICK J.
HEALTH SCIENCE CENTER ET AL HANNA**

ORDER

Before the court is a Bill of Costs [doc. 156] filed by defendants Kristi Anderson, Karen Curry, Nicholas Sells, and Louisiana State University Agricultural & Mechanical College Board of Supervisors, in response to the ruling [doc. 149] awarding costs and attorney fees to those defendants in association with plaintiff's Motion to Vacate [doc. 138]. Plaintiff was given a deadline to file any response to the costs and fees claimed by defendants, and has not done so. Doc. 162. The court has reviewed the bill and finds the fees and costs claimed to be reasonable and justified. Accordingly, **IT IS ORDERED** that they be awarded.

THUS DONE AND SIGNED in Chambers on the 11th day of October, 2022.


JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

J. CORY CORDOVA

CASE NO. 6:19-CV-01027

VERSUS

JUDGE JAMES D. CAIN, JR.

**LOUISIANA STATE UNIVERSITY
AGRICULTURAL & MECHANICAL
COLLEGE BOARD OF SUPERVISORS,
ET AL.**

MAGISTRATE JUDGE HANNA

MEMORANDUM RULING

Before the court is a Motion to Vacate and for Attorney Fees [doc. 138] filed by plaintiff J. Cory Cordova under Federal Rule of Civil Procedure 60(b), seeking relief from the final judgment of this court dismissing his claims for breach of contract and civil rights violations. Defendants Louisiana State University Agricultural & Mechanical College Board of Supervisors (“LSU”), Dr. Nicholas Sells, Dr. Karen Curry, and Kristi Anderson (collectively, “LSU defendants”) and University Hospital & Clinics Inc., Lafayette General Medical Center, Inc., and Lafayette General Health System, Inc. (collectively, “Lafayette General defendants”) oppose the motion. Docs. 140, 142. The LSU defendants also request an award of attorney fees in connection with the motion. Doc. 140.

**I.
BACKGROUND**

This suit arises from Dr. J. Cory Cordova’s non-renewal from the LSU “house officer” (residency) program at Lafayette General Hospital in Lafayette, Louisiana. Cordova was non-renewed from the program following his first year, after being placed on

probation by program director Dr. Karen Curry. Following his non-renewal, he filed suit against Curry, department head Dr. Nicholas Sells, director of graduate medical education Ms. Kristi Anderson, and LSU, as well as the Lafayette General defendants, and his former counsel, in the 15th Judicial District Court, Lafayette Parish, Louisiana. He alleged, in relevant part, that Curry, Sells, Anderson, LSU, and the Lafayette General defendants violated his right to due process under the federal and state constitutions, in violation of 42 U.S.C. § 1983, and committed a breach of contract by non-renewing him from the house officer program and then sabotaging his efforts to apply to other programs. Doc. 1, att. 2, pp. 192–93. He also alleged that his former attorney, Christopher C. Johnston, and Johnston’s firm were liable under state malpractice law for failing to disclose their prior representation of the Lafayette General defendants. *Id.*

The LSU defendants removed the suit to this court on the basis of federal question jurisdiction, 28 U.S.C. § 1331. Doc. 1. On Rule 12(b)(6) motions to dismiss filed by the LSU defendants, the court dismissed the breach of contract claims as to the individual defendants without prejudice to plaintiff’s right to amend and dismissed many of the due process claims, leaving as to the LSU defendants only the breach of contract claim against LSU and the substantive due process claim against Curry, with the issue of qualified immunity deferred until summary judgment. Docs. 29, 41. The claim against Curry was based on her negative evaluations of Cordova during his time in the house officer program. Doc. 76, p. 9. In ruling on the second motion to dismiss, the court had also noted a potential due process violation based on negative information that Curry communicated to other

programs but held that plaintiff failed to allege sufficient harm to show a constitutional violation:

As for the claim relating to disclosure of information to other programs, there is no “constitutional protection for the interest in reputation.” *Siebert v. Gilley*, 500 U.S. 226, 234 (1991). While students are generally found to have an interest in continuing their education, it is well-established that applicants do not have a protected interest in admission to a program. *Tobin v. Univ. of Me. Sys.*, 59 F.Supp.2d 87, 90 (D. Me. 1999) (collecting cases). A plaintiff may show significant reputational harm if he alleges that the damage served as a complete bar to continuing his training. *See Cadet v. Bonbon*, 2006 WL 8205989, at *3 (D. Mass. Aug. 1, 2006) (citing *Greenhill v. Bailey*, 519 F.2d 5, 7 (8th Cir. 1975)). But all that is alleged here is that the plaintiff’s prospects at two other programs were harmed. Accordingly, these allegations may support a tort claim but do not give rise to a substantive due process violation.

Doc. 41, pp. 11–12. The court dismissed this claim without prejudice, however, in order to allow plaintiff an opportunity to amend and show sufficient harm. *Id.*

The remaining LSU defendants then brought a Motion for Summary Judgment, aimed at securing dismissal of Cordova’s substantive due process claim against Curry and breach of contract claim against LSU. Doc. 54, att. 2. To this end they asserted that (1) Curry is entitled to qualified immunity for any due process violation; (2) plaintiff has not identified a substantive due process property interest or violation thereof by Curry; and (3) plaintiff’s non-renewal did not breach any term of the House Officer Agreement of Appointment or House Officer Manual. *Id.* The Lafayette General defendants also sought summary judgment, asserting that they were not parties to the House Officer Agreement of Appointment and had no authority over or involvement in Cordova’s non-renewal. Furthermore, they contended that they could not be held liable for a due process violation because they are not state actors and did not conspire with the LSU defendants to violate

plaintiff's rights. In the alternative, the Lafayette General defendants wholly adopted the arguments of the LSU defendants and move for dismissal of all claims against them on those grounds. Doc. 65, att. 1. Cordova opposed both motions. Docs. 61, 73.

The court heard oral argument on the motions on December 15, 2020. Doc. 92. At the time plaintiff was represented by Christine Mire of Youngsville, Louisiana, as well as five attorneys from the Bezou Law Firm of Covington, Louisiana. Only Ms. Mire appeared at the hearing. *Id.* There she argued that she would be able to uncover evidence to oppose defendants' motions, particularly regarding the substantive due process claim, in discovery but admitted that she had not made any discovery requests since the court's ruling on the second Motion to Dismiss. *Id.* at 32–37. The court then expressed concern that counsel had not conducted any discovery or produced any evidence to support her oppositions to the motion for summary judgment. *Id.* at 42–43, 61–62. Mire repeatedly pushed back, indicating that she had unproduced tape recordings that supported her case and that she did not believe that it was her burden to develop the record at this stage. *Id.* at 42, 61–63. The court emphasized, however, that its duty was only to rule on what was in the record. *Id.* at 76. Finally, it pointed out its chief concern as to the claims against the Lafayette General defendants: the failure to show any privity of contract between those parties and Cordova. *Id.* at 88–89.

Two days after the hearing, the court issued a ruling on the Motions for Summary Judgment and dismissed all claims against the LSU defendants and Lafayette General defendants with prejudice. Docs. 76, 77. In sum, the court found that Curry had shown she was entitled to qualified immunity for any substantive due process violation; that plaintiff

failed to show a breach of contract claim with respect to the LSU defendants' procedures in non-renewing his appointment under the terms of either the House Officer Manual ("HOM") or House Officer Agreement of Appointment ("HOAA"); and that there was no basis for (1) a § 1983 claim against the Lafayette General defendants, based on the same reasons those claims had been dismissed against the LSU defendants, or (2) a breach of contract claim against the Lafayette General defendants, because they were not a party to the HOAA or HOM. Doc. 76. Finally, the court amended its prior judgments on the Motions to Dismiss, under which the breach of contract claims against Curry and Sells and substantive due process claims relating to dissemination of information to other programs had been dismissed without prejudice, in order to dismiss those claims with prejudice based on plaintiff's failure to amend his pleadings and cure the defects identified.

The court allowed the parties additional time to brief the issue of whether the ruling on the Motions for Summary Judgment should be certified as final under Federal Rule of Civil Procedure 54(b). Doc. 77. Plaintiff opposed the motion by brief filed December 28, 2021, arguing that the court's ruling established that it lacked subject matter jurisdiction over the case due to the lack of a constitutional violation and that it should remand the matter to state court rather than entering a final judgment dismissing the LSU and Lafayette General defendants. Doc. 82. Counsel from the Bezou Law Firm then withdrew from representation of plaintiff, leaving only Ms. Mire as plaintiff's counsel. Docs. 95–97.

The LSU defendants next filed a motion for costs and attorney fees. Doc. 87. Plaintiff also filed a Motion to Remand, arguing that the court's dismissal of his § 1983 claims meant that it lacked subject matter jurisdiction over the suit, and an amended Motion

to Remand in which he argued that, despite his claims of due process violations, his original petition never actually raised a federal question under the well-pleaded complaint rule. Docs. 90, 109. The Motions to Remand were referred to the Magistrate Judge, who found no merit to these arguments but recommended that the remaining state law claims (i.e., the malpractice claims against Johnston and the Gachassin Law Firm) be remanded to the state court. Doc. 125. The undersigned adopted this report and recommendation, remanding the remaining claims to the 15th Judicial District Court and certifying its rulings on the Motions for Summary Judgment as final by judgment dated March 24, 2021. Doc. 131. On April 14, 2021, the undersigned issued an order denying the LSU defendants' Motion for Attorney Fees but granting costs in the amount of \$1,068.60. Doc. 133.

Plaintiff filed a Notice of Appeal from the court's final judgment [doc. 131] and order on the Motion for Attorney Fees [doc. 133] on April 27, 2021. Doc. 134. On April 13, 2022, the Fifth Circuit issued an opinion finding that the appeal was untimely as to the final judgment on the claims against the Lafayette General and LSU defendants and that he showed no merit as to his appeal of the order taxing him with costs. *Cordova v. La. State Univ. Agricultural & Mech. College Bd. of Supervisors*, 2022 WL 1102480 (5th Cir. Apr. 13, 2022). The court also rejected plaintiff's argument that he was entitled to relief under Federal Rule of 60(b) based on new evidence that had deprived him of due process in the district court, because plaintiff had not raised the issue with this court or in his briefing before the Fifth Circuit. *Id.*

Meanwhile, in the state court proceedings plaintiff filed a second amended petition asserting malpractice claims against the attorneys of the Bezou Law Firm. Doc. 147, att. 2.

After the Fifth Circuit’s judgment was entered as mandate, on May 19, 2022, the plaintiff also filed a new suit in the 15th Judicial District Court against the Lafayette General defendants, LSU, and Dr. Karen Curry on June 8, 2022. Doc. 142, att. 6. There plaintiff raised a claim of “breach of confidentiality/bad faith” based on allegations that defendants had continued to disseminate inaccurate and confidential information about him to other residency programs. *Id.* As a result, he alleged that his completion of his residency was delayed for a year while he applied to programs and attempted to clear his reputation. *Id.* He also alleged that Dr. Curry had misrepresented his record at the LSU program to the Mississippi State Board of Medical Licensure in 2021. *Id.* He maintained that these disclosures amounted to breaches of the terms of employment agreements with both defendants and sought declaratory and injunctive relief. *Id.*

The Lafayette General defendants filed exceptions, including one of *res judicata* based on this court’s previous rulings, which were set for hearing on August 1, 2022. Doc. 142, att. 7. On July 8, 2022, plaintiff filed a Motion to Vacate in this matter, requesting that the court “clarify its previous rulings in light of the newly filed allegations currently pending before the state court.” Doc. 138, att. 1. He also urges the court to vacate its prior judgments under Rule 60(b) based on the same grounds asserted to the Fifth Circuit—namely, that defense counsel misrepresented facts as to the status of discovery before the hearing on the Motions for Summary Judgment and that lawyers from the Bezou Law Firm had an undisclosed conflict of interest that prejudiced plaintiff’s representation because counsel for the Lafayette General defendants was representing counsel from the Bezou Law Firm in an unrelated disciplinary proceeding—as well as the alleged admission of the

Lafayette General defendants' employer status in relation to medical residents in an unrelated proceeding. Defendants oppose the motion. Docs. 140, 142.

II. LAW & APPLICATION

A. Rule 60(b)

Under Federal Rule of Civil Procedure 59, a party may move to alter or amend a judgment within 28 days of judgment and the court may grant such relief for a variety of reasons. Fed. R. Civ. P. 59(e); *Lavespere v. Niagara Mach. & Tool Works, Inc.*, 910 F.2d 167, 173–74 (5th Cir. 1990), abrogated on other grounds by *Little v. Liquid Air Corp.*, 37 F.3d 1069 (5th Cir. 1994). Federal Rule of Civil Procedure 60(b), on the other hand, provides specific grounds for relief from a final order or judgment and is thus “subject to unique limitations that do not affect a Rule 59(e) motion.” *Edward H. Bohlin Co., Inc. v. Banning Co., Inc.*, 6 F.3d 350, 356 (5th Cir. 1993). These grounds include (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud, misrepresentation, or misconduct by an opposing party; (4) voidness of the judgment; (5) satisfaction of the judgment; and (6) any other reason justifying relief. Fed. R. Civ. P. 60(b). Any motion for relief under 60(b)(1)–(3) must be made within one year of judgment. Fed. R. Civ. P. 60(c)(1). A district court may consider a Rule 60(b) motion filed while a case is on appeal and may grant relief thereunder with leave from the court of appeals. *Shepherd v. Internat’l Paper Co.*, 372 F.3d 326, 329 (5th Cir. 2004). Accordingly, plaintiff is not entitled to any tolling based on the pendency of his appeal and his motion was filed past

the one-year time limit for 60(b)(1)–(3). Instead, the request can only be considered under Rule 60(b)(6).

A motion filed under Rule 60(b)(4)–(6) “must be made within a reasonable time.”¹ Fed. R. Civ. P. 60(c)(1). This motion was filed on July 8, 2022, over one year after the court’s final judgment of March 24, 2021. The court will therefore consider whether the circumstances alleged by plaintiff show grounds for relief under Rule 60(b)(6) before returning to the question of whether this motion is timely.

Relief under Rule 60(b)(6)’s catch-all provision is only available in “extraordinary circumstances.” *Buck v. Davis*, ___ U.S. ___, 137 S.Ct. 759, 778 (2017). The grounds for relief are mutually exclusive of those set forth under 60(b)(1)–(5). *Hesling v. CSX Transp., Inc.*, 396 F.3d 632, 643 (5th Cir. 1995). Plaintiff’s allegations of misrepresentations by opposing counsel about the status of discovery during the summary judgment hearing and about the Lafayette General defendants’ status as employers of medical residents fall under Rule 60(b)(3), providing relief for “fraud . . . misrepresentation, or misconduct by an opposing party.” *See, e.g., Garrett v. United States*, 820 F. App’x 275 (5th Cir. 2020) (considering alleged misconduct in the form of statements by opposing counsel under 60(b)(3)); *Harre v. A.H. Robins Co., Inc.*, 750 F.2d 1501, 1505 (11th Cir. 1985), *vacated in other part on reconsideration*, 866 F.2d 1203 (11th Cir. 1989) (fraud committed by third party with complicity of opposing counsel considered under 60(b)(3)). The alleged status of the Lafayette General defendants may also qualify as “new evidence,” under Rule

¹ This limit applies to motions filed under Rule 60(b)(1)–(3) as well, which must be filed within a reasonable time not to exceed one year. Fed. R. Civ. P. 60(c).

60(b)(2), but is still subject to a one-year limitation period.² At any rate, the court does not find that either basis would provide grounds for relief from its rulings on the Motions for Summary Judgment even if timely.

Plaintiff's counsel excerpts but does not attach an email from Lafayette General counsel, which she cites as evidence of a material misrepresentation regarding her client's refusal to be deposed. Doc. 138, att. 1, pp. 3–4. She also cites the fact that the parties filed a joint motion in April 2020 to continue the September 2020 trial date due to the inability to complete Cordova's deposition "in the reasonably foreseeable future[.]" Doc. 45. The excerpt and motion only show, however, that the parties had agreed it was not feasible for Dr. Cordova to submit to a deposition in the spring of 2020 due to his status as a healthcare worker. Trial was reset in May 2020 for April 19, 2021, with no further requests for continuance even after the Motions for Summary Judgment were filed in October and November of 2020. *See* docs. 51, 54, 65. Additionally, the discussion at the hearing also pertained to written discovery and the possibility of conducting depositions by Zoom. Doc. 92, pp. 38–39. As shown *supra*, the court's larger concern was not with the lack of any specific deposition but with plaintiff's failure to produce any evidence at all to contradict the showing made by defendants. Given this context, plaintiff's evidence and reference to

² Plaintiff also asserts that the Louisiana Supreme Court decisions, described *infra*, count as a change in controlling case law entitling her to relief under Rule 60(b)(6). To this end she points to a concurring opinion by Justice Sotomayor, asserting the potential availability of relief under Rule 60(b)(6) for an intervening change in controlling law combined with development of facts. *Kemp v. United States*, ___ U.S. ___, 142 S.Ct. 1856, 1865 (2022) (citing *Buck v. Davis*, 580 U.S. 100, 126 (2017)). The Fifth Circuit still holds, however, that a change in controlling law alone is not sufficient to warrant relief under Rule 60(b)(6). *Raby v. Davis*, 907 F.3d 880, 884 (5th Cir. 2018). Moreover, there is no showing that the Louisiana Supreme Court's determination that the Lafayette General defendants were private employers counts as any sort of change in the law or, as described below, that it is in any way material to the court's holding on the breach of contract claim.

email excerpts neither contradict the statements made by Lafayette General counsel nor do they show that any misstatement, if made, would have been material.

As for the status of Lafayette General defendants vis-à-vis medical residents, plaintiff references the cases of *Hayes v. University Health Shreveport*, 332 So.3d 1163 (La. 2022) and *Nelson v. Ochsner Lafayette General*, 332 So.3d 1172 (La. 2022). Those matters involved attempts by hospital employees to block their employers' COVID-19 vaccine mandate under the Louisiana Constitution. The Louisiana Supreme Court ruled in relevant part that (1) a state informed consent statute did not provide an exception to at-will employment and (2) state constitutional prohibitions against unreasonable searches and seizures applied only to state action, and thus did not provide an exception to employment at-will as applied to a private hospital. *Hayes*, 332 So.3d at 1169–72. There is no showing, however, that any plaintiff was a resident and no stipulation or finding that residents qualified as employees of the respective hospitals. Furthermore, while plaintiff now points to documentary evidence listing Lafayette General as his employer, the court's ruling on the breach of contract claim against the Lafayette General defendants was premised on the fact that there was no evidence that that defendant was a party to the HOAA or the HOM. *See* doc. 76, pp. 20–21. Whether the Lafayette General defendants were party to some other agreement with plaintiff and breached same is immaterial to the claims plaintiff actually brought to this court. Finally, even if the Lafayette General defendants were shown to be party to the HOAA or HOM, plaintiff fails to show how they would have breached such an agreement when the court considered the merits of that claim as to the LSU defendants and found no breach. Likewise, even if some sort of employment

relationship also showed that the Lafayette General defendants were joint actors with the LSU defendants for purposes of the § 1983 claims, plaintiff fails to show how the court's finding of no merit to those claims as to the LSU defendants would differ with respect to any other party's handling of plaintiff's non-renewal.

Allegations of misconduct by attorneys of the Bezou Law Firm, however, are outside of the scope of Rule 60(b)(3) and may be considered under Rule 60(b)(6). *See Latshaw v. Trainer Wortham & Co., Inc.*, 452 F.3d 1097, 1102 (emphasizing that Rule 60(b)(3) relief is not available for fraud committed by the moving party's own attorney). Plaintiff alleges that his representation was prejudiced because attorneys Jacques Bezou, Sr. and Jacques Bezou, Jr. ("the Bezous") did not disclose that James H. Gibson, attorney for the Lafayette General defendants, was concurrently representing them in an unrelated proceeding. The Lafayette General defendants contend that these allegations are both untimely, under Rule 60(b)(6)'s "reasonable time" limitation, and that they do not provide the extraordinary grounds necessary for relief under Rule 60(b)(6).

Plaintiff first raised his allegations of a conflict of interest by the Bezous in a motion for relief from judgment filed with the Fifth Circuit on October 14, 2021. *See Cordova v. LSU Agric. & Mech. College Bd. of Supervisors*, No. 21-30239, doc. 44 (5th Cir. 2021). The Fifth Circuit dismissed his appeal and denied the motion on November 8, 2021, noting that it did not have jurisdiction over his claims for relief under Rule 60(b) and that these should have been raised with the district court. *Cordova v. LSU Agric. & Mech. College Bd. of Supervisors*, 2021 WL 5183510 (5th Cir. Nov. 8, 2021). Plaintiff filed a motion to amend judgment on January 13, 2022, based on the Louisiana Supreme Court cases cited

supra. *Cordova v. LSU Agric. & Mech. College Bd. of Supervisors*, No. 21-30239, doc. 76 (5th Cir. 2021). The panel considered the motion and withdrew and superseded its opinion on April 13, 2022, but made no change as to its disposition of the claims. *Cordova v. LSU Agric. & Mech. College Bd. of Supervisors*, 2022 WL 1102480 (5th Cir. Apr. 13, 2022). The opinion was issued as mandate on May 19, 2022. Doc. 137. Plaintiff then first sought relief under Rule 60(b) in this court on July 8, 2022. Doc. 138.

Timeliness under Rule 60(b)(6) “depends on the particular facts of the case in question.” *Fed. Land Bank v. Cupples Bros.*, 889 F.2d 764, 767 (8th Cir. 1989). Courts determining what constitutes a “reasonable” period of time under Rule 60(b) measure the time at which a movant could have filed his Rule 60(b)(6) motion against the time when he did file it. *In re Edwards*, 865 F.3d 197, 208–09 (5th Cir. 2017). While the Fifth Circuit is clear that the motion “may not be used as an end run to effect an appeal outside the specified time limits,” it allows that the determination of timeliness is “less than a scientific exercise.” *Id.* Instead, courts look to factors such as the reason for delay, possible prejudice to the non-moving party, and the interests of finality. *Thai-Lao Lignite (Thailand) Co., Ltd. v. Gov’t of Lao People’s Democratic Repub.*, 864 F.3d 172 (2d Cir. 2017).

The Fifth Circuit made clear in its first ruling, on November 8, 2021, that it lacked jurisdiction over claims for relief under Rule 60(b) and that these must be raised with the district court. Even assuming that plaintiff did not learn of the alleged conflict until he filed his motion in the Fifth Circuit in October 2021, and that he was excused in waiting another month while the Fifth Circuit ruled on that motion, plaintiff must still account for the reasonableness of the eight months that followed before he finally sought relief under Rule

60(b) in this court. Due to finality concerns, courts have found that a delay of months can count as unreasonable when the plaintiff has all the facts necessary to bring his motion. *See, e.g., Scott v. United States*, 2006 WL 1274763 (D.D.C. May 8, 2006) (motion filed after two-month delay was untimely); *Werner v. Evolve Media, LLC*, 2020 WL 789035, at *4 (C.D. Cal. Nov. 10, 2020) (motion filed six months after original judgment and three months after amended judgment was untimely); *Intervention911 v. City of Palm Springs*, 2021 WL 3849696, at *2 (C.D. Cal. Aug. 27, 2021) (motion filed just under twelve months after final judgment was untimely).

Plaintiff has offered no excuse for his delay in bringing the motion, other than that the need became apparent to him when the issue of *res judicata* was raised in his state court proceedings. As noted above, this court was able to consider any request for relief under Rule 60(b) even while the appeal was pending. *Shepherd*, 372 F.3d at 329. Given that the rulings on summary judgment were issued in December 2020 and certified as final in March 2021, that this matter has already been to the Fifth Circuit once on the merits, and that related state court proceedings depend on an answer from this court as to the finality of these judgments, the factors of prejudice to the non-moving parties and the interest of finality certainly weigh in favor of a finding of untimeliness. Accordingly, the court agrees that the request for relief is untimely as it relates to the Bezous' alleged conflict.

Even if the motion were timely as to this claim, however, plaintiff still fails to show any merit. The Louisiana Rules of Professional Conduct define a concurrent conflict of interest as one in which “the representation of one client will be directly adverse to another client” or “there is a significant risk that the representation of one or more clients will be

materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer." La. R. Prof. Cond. R. 1.7. When such a conflict exists, the lawyer may only proceed with representation if (1) the representation is not prohibited by law, (2) the attorney reasonably believes he will be able to render "competent and diligent representation to each affected client," (3) "the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal," and (4) each affected client gives written consent. *Id.* Additionally, even in cases that do not involve actual ethical conflicts, relief under Rule 60(b)(6) may be granted where the "lawyer's failures are so egregious and profound that they amount to the abandonment of the client's case altogether, either through physical disappearance . . . or constructive disappearance." *Harris v. United States*, 367 F.3d 74, 81 (2d Cir. 2004). Still, the existence of an undisclosed conflict will only serve as an "extraordinary circumstance" justifying relief under Rule 60(b)(6) where plaintiff can show prejudice—that is, a likely bearing on the outcome of the case. *Marderosian v. Shamshak*, 170 F.R.D. 335, 340–41 (D. Mass. 1997).

Here plaintiff alleges a conflict based on Lafayette General counsel Gibson's representation of the Bezou attorneys in an unrelated proceeding. Defendants maintain that these facts do not establish a conflict of interest under the Louisiana Rules of Professional Conduct, raising questions as to why the Bezous would reduce their chances at recovery in this case merely because of a professional relationship with opposing counsel. The court is inclined to agree, noting that plaintiff has produced no evidence to show why this representation should pose a "significant risk" of materially limiting the Bezous'

representation of plaintiff. But even if Gibson’s representation of the Bezous did represent a conflict of interest, plaintiff has likewise failed to show any likelihood of prejudice. While she did not enroll in this matter until November 2020, current counsel Christine Mire has been involved in this case since its inception. *See* doc. 1, att. 2, p. 15 (signature on petition). She now claims that she was unprepared to practice in federal court or attend oral arguments before the undersigned in December 2020, but she has appeared as counsel of record in cases in this district in prior cases and has been a licensed attorney for over a decade. At oral argument she did not demonstrate any lack of familiarity with the record. To the extent she now attempts to blame the Bezous for failing to conduct discovery or produce evidence to oppose the Motions for Summary Judgment, the court notes that she signed both response briefs and must bear responsibility for their contents. Accordingly, plaintiff fails to show any merit to his request for relief based on the alleged conflict of interest. Finally, to the extent the plaintiff otherwise seeks clarification of the court’s prior rulings, those should stand for themselves. The motion for relief under Rule 60(b) will therefore be denied.

B. Request for Attorney Fees

The LSU defendants also request an award of attorney fees in conjunction with their opposition to this motion. As one of a few statutory exceptions to the “American Rule,” requiring each party to bear its own litigation expenses, 42 U.S.C. § 1988 allows the award of reasonable attorney fees to a prevailing party in a civil rights action brought under 42 U.S.C. § 1983. *Fox v. Vice*, 563 U.S. 826, 832–33 (2011). This award may be made to a defendant when the court finds “that the plaintiff’s action was frivolous, unreasonable, or

without foundation,” *id.* at 833 (internal quotation omitted) or that the plaintiff “continued to litigate after it clearly became so.” *Hughes v. Rowe*, 449 U.S. 5, 15 (1980). In determining whether the suit was frivolous, the court should focus not on the outcome but instead on “whether . . . the case is so lacking in arguable merit as to be groundless or without foundation[.]” *G&H Dev., LLC v. Penwell*, 2016 WL 5396711, at *3 (W.D. La. Sep. 27, 2016) (citing *Jones v. Texas Tech Univ.*, 656 F.2d 1137, 1145 (5th Cir. 1981)). To this end the court can consider factors such as whether the plaintiff established a prima facie case, whether the defendant offered to settle the suit, and whether the court held a full trial—but these factors remain “guideposts” and frivolousness must be judged on a case-by-case basis. *Id.* (citing *Doe v. Silsbee Indep. Sch. Dist.*, 440 F. App’x 421, 425 (5th Cir. 2011) (per curiam)). Generally, the Fifth Circuit regards an award of attorney fees for defendants as appropriate when the plaintiff’s claim “lacks a basis in fact or relies on an [indisputably] meritless legal theory” or when the “plaintiff knew or should have known the legal or evidentiary deficiencies of his claim.” *Doe*, 440 F. App’x at 425 (internal quotations omitted).

The court has ruled in favor of the LSU defendants regarding plaintiff’s inability to show a constitutional violation or a breach of contract under the HOAA or HOM. Nevertheless, plaintiff continues with attempts to resurrect that theory through both unfounded allegations of compromised representation and arguments about ancillary issues such as the status of the Lafayette General defendants as private employers. Additionally, plaintiff once again failed to conduct the discovery necessary to carry his burden—he provided no exhibits to support many of his critical allegations.

Plaintiff lost his chance for a review of the merits of the court's summary judgment rulings due to current counsel's failure to file a timely notice of appeal. Despite his apparent interest in perpetuating the matter, he failed to even seek timely review under Rule 60(b) or to attempt to provide evidence in support of many of his claims for relief from judgment. Accordingly, an award of attorney fees is due to the LSU defendants due to plaintiff's unreasonable attempts at continuing this litigation. The court will consider the same for the Lafayette General defendants under the Motion for Sanctions [doc. 147] filed by those parties under Federal Rule of Civil Procedure 11 and 28 U.S.C. § 1927.

**III.
CONCLUSION**

For the reasons stated above, **IT IS ORDERED** that the Motion to Vacate and for Attorney Fees [doc. 138] filed by plaintiff be **DENIED** and the request for attorney fees [doc. 140] by the LSU defendants be **GRANTED**. The LSU defendants are directed to submit a bill of costs and attorney fees incurred in defending against this motion within **14 days** of this order.

THUS DONE AND SIGNED in Chambers this 23rd day of August, 2022.



JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

J. CORY CORDOVA

CASE NO. 6:19-CV-01027

VERSUS

JUDGE JAMES D. CAIN, JR.

**LOUISIANA STATE UNIVERSITY
HEALTH SCIENCE CENTER ET AL.**

**MAGISTRATE JUDGE PATRICK J.
HANNA**

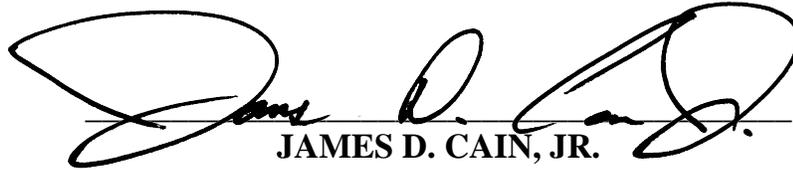
JUDGMENT

Before the court is a Report and Recommendation [doc. 125] of the Magistrate Judge, recommending that plaintiff's Motion to Remand [doc. 90] and Amended Motion to Remand [doc. 109] be granted. The court has conducted an independent review of the record, as well as the objections and responses filed by the parties, and finds that the Report and Recommendation is correct under applicable law. The undersigned agrees that, in light of the resolution of the claims arising under federal law, the court should decline to exercise supplemental jurisdiction over the remaining claims arising under state law between plaintiff and defendants the Gachassin Law Firm and Christopher C. Johnston. Accordingly,

IT IS ORDERED that the Report and Recommendation [doc. 125] be **ADOPTED** and that the Motion to Remand and Amended Motion to Remand [docs. 90, 109] be **GRANTED**, resulting in the remand of plaintiff's claims against the Gachassin Law Firm and Christopher C. Johnson to the 15th Judicial District Court, Lafayette Parish, Louisiana. As noted in the Report and Recommendation, the remaining claims in this matter have been

resolved through prior dispositive motions and the court hereby **GRANTS** the Motion for Entry of Judgment under Rule 54(b) [doc. 83] as to its rulings on those claims.

THUS DONE AND SIGNED in Chambers on this 23rd day of March, 2021.

A handwritten signature in black ink, appearing to read "James D. Cain, Jr.", is written over a horizontal line. The signature is stylized with large loops and a prominent flourish at the end.

JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE



NOTICE OF APPEAL
CIVIL CASE

J CORY CORDOVA

15TH JUDICIAL DISTRICT COURT

VS

DOCKET NUMBER: C-20222976

**LAFAYETTE GENERAL HEALTH
SYSTEM INC, ET AL**

PARISH OF LAFAYETTE, LOUISIANA

HON. MARILYN C. CASTLE
(JUDGE PRESIDING)

DIV: L

EDIE SUIRE
(COURT REPORTER(S))

APRIL 24, 2023
(EST. DATES OF TESTIMONY)

Notice is hereby given that on **AUGUST 18, 2023** upon motion of

Appellant: **J. CORY CORDOVA, M.D.**

Designation of Appellant: **PLAINTIFF**

an order of Appeal was entered on **AUGUST 18, 2023** granting an appeal from the judgment(s)
of **JULY 17, 2023** returnable to the COURT OF APPEAL, THIRD CIRCUIT COURT OF
APPEALS,

45 DAYS AFTER PAYMENT OF COSTS AND BOND.

This appeal taken was: Suspensive Devolutive InForma Pauperis
 Act La.R.S. 13:4521 & 13:4581 According to Law

Bond set at: \$ **47,394.70**

Lafayette, Louisiana, this **AUGUST 21, 2023**

Hannah Moscoris

Deputy Clerk of Court
Lafayette Parish

NOTICES SENT:

JUDICIAL ADMINISTRATOR

THIRD CIRCUIT COURT OF APPEALS

J. CORY CORDOVA, M.D. thru **CHRISTINE M. MIRE**, 2480 Youngsville Highway, Suite C, Youngsville, LA 70592

BAR#: 29352 PHONE#: 337-573-7254 FAX#: 337—205-8699

LAFAYETTE GENERAL HEALTH SYSTEM, INC., UNIVERSITY HOSPITAL & CLINICS, INC., LAFAYETTE GENERAL MEDICAL CENTER, INC thru **JAMES H. GIBSON and STACY N. KENNEDY (#23619)**, c/o **Gibson Law Partners, LLC**, 2448 Johnston Street, Lafayette, LA 70503, Post Office Box 52124, Lafayette, LA 70505-6025

BAR#: 14285 PHONE#: 337-761-6025 FAX#: 337-761-6061

KARREN CURRY, M.D thru **JENNIE P. PELLEGRIN**, c/o **NEUNERPATE**, One Petroleum Center, Suite 200, 1001 West Pinhook Road, Lafayette, LA 70503, Post Office Drawer 52828, Lafayette, LA 70505-2828

BAR#: 25207 PHONE#: 337-237-7000 FAX#: 337-233-9450

LOUIS J. PERRET, CLERK OF COURT AND EX-OFFICIO RECORDER OF MORTGAGES IN AND FOR THE 15TH JUDICIAL DISTRICT COURT, PARISH OF LAFAYETTE, c/o, **CEARLEY W. FONTENOT**, thru **Oats & Marino**, Gordon Square, Suite 400, 100 East Vermilion Street, Lafayette, LA 70501

BAR#: 30502 PHONE#: 337-233-1100 FAX#: 000-000-0000

J. CORY CORDOVA

15TH JUDICIAL DISTRICT COURT

VERSUS

DOCKET NUMBER: 2022-2976-L

**LAFAYETTE GENERAL HEALTH
SYSTEM, INC., ET AL.**

PARISH OF LAFAYETTE, LOUISIANA

MOTION AND ORDER FOR SUSPENSIVE APPEAL

**TO: Honorable Marilyn Castle
15th Judicial District Court
800 South Buchanan Street
Lafayette, LA 70502**

**Mr. James Gibson
Ms. Stacey Kennedy
Gibson Law Partners, LLC
Attorneys at Law
P.O. Box 52124
Lafayette, LA 70505**

**Ms. Jennie Pellegrin
Special Assistant Attorney General
1001 West Pinhook Road, Suite 200
Lafayette, LA 70503**

NOTICE IS HEREBY GIVEN that Plaintiff, J. Cory Cordova, M.D., intends to file to the Third Circuit Court of Appeal of Louisiana a Notice of Suspensive Appeal to review the Court's Judgment on Sanctions and Award of Attorney Fees and Costs granting Dr. Karen Curry's Motion for Sanctions and granting a monetary award of fees and costs dated July 17, 2023, and mailed on July 19, 2023.

Pursuant to Louisiana Code of Civil Procedure 2123, this Suspensive Appeal is filed within the requisite time for appealing the final judgments in this matter without the necessity of bond. The Supreme Court has previously held that the provisions of La. C.C.P. Art. 2124 are designed to protect the holders of civil money judgments and do not apply in this context. Thus, no bond is necessary to avoid paying a fine as long as an appeal is pending. *Allen v. Louisiana State Board of Dentistry*, 529 S.2d 1161 (La 1989). Also see La. Code Civ. Proc. Art. 1915(A)(6) which indicates that a judgment that imposes sanctions or disciplinary action pursuant to Article 863 is a final judgment subject to an immediate appeal and Mover was unable to locate any cases which state that a bond is required to suspensively appeal an award of sanctions predicated on attorney misconduct. This, Mover requests that this Court set a return date within which this appeal is to be filed in the Court of Appeal.

RESPECTFULLY SUBMITTED:

BY: /S/ Christine M. Mire
CHRISTINE M. MIRE (#29352)
2480 Youngsville Highway, Suite C
Youngsville, LA 70592
Telephone: (337) 573-7254
Facsimile: (337) 205-8699
Email: cmm@mirelawfirm.com
ATTORNEY FOR J. CORY CORDOVA, M.D.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been served upon all counsel of record via facsimile and electronic mail on this 17th day of August, 2023.

Christine M. Mire
CHRISTINE M. MIRE



**Certified True and
Correct Copy**
CertID: 2023082100392

059 A

Handwritten Signature

Lafayette Parish
Deputy Clerk Of Court

Alteration and subsequent re-filing of this certified copy may violate La. R.S. 14:132, 133, and/or RPC Rule 3.3(a)(3).

Generated Date:
8/21/2023 1:30 PM

J. CORY CORDOVA

15TH JUDICIAL DISTRICT COURT

VERSUS

DOCKET NUMBER: 2022-2976-L

LAFAYETTE GENERAL HEALTH SYSTEM, INC., ET AL.

PARISH OF LAFAYETTE, LOUISIANA

ORDER

Considering the Motion for Suspensive Appeal filed by Plaintiff, J. Cory Cordova, Per CCP Article 2124, security is required in Order to obtain a suspensive appeal of this money judgment. Bond is set in the amount of \$47,394.70 which is the amount of this money judgment and must be posted within the delays set forth in CCP Article 2123. ~~The Court hereby sets a Return Date of~~ Return Date will be set upon ~~According to Law~~, 2023 on or timely posting of bond.

M.D.; before which the appeal must be taken before the appellate court from this Court's Judgment on ~~Exceptions and Award of Attorney Fees and Costs granted~~ Exceptions in favor of the Defendant, Dr. ~~Russell C. Gray~~.

Signed on this _____ day of _____, 2023 in Lafayette, Lafayette Parish, Louisiana.

Marilyn C. Castle

HONORABLE MARILYN CASTLE
15TH JUDICIAL DISTRICT COURT

Marilyn C. Castle
SIGNED ON 8/18/2023

STATE OF LOUISIANA PARISH OF LAFAYETTE

I HEREBY CERTIFY THAT A CERTIFIED COPY OF THIS ORDER HAS BEEN MAILED/~~SERVED~~ ON ALL PARTIES THIS August 21, 2023
Christine M. Mire

DEPUTY CLERK OF COURT

CC: CHRISTINE M. MIRE
JAMES H. GIBSON
JENNIE P. PELLEGRIN
CEARLEY W. FONTENOT

Christine M. Mire

Lafayette Parish
Deputy Clerk Of Court

Generated Date:
8/21/2023 1:30 PM



Certified True and Correct Copy
CertID: 2023082100392

060 A

Alteration and subsequent re-filing of this certified copy may violate La. R.S. 14:132, 133, and/or RPC Rule 3.3(a)(3).



Requested by Atty.: MIRE, CHRISTINE M

RULE NISI

J CORY CORDOVA

15TH JUDICIAL DISTRICT COURT

VS

DOCKET NUMBER: C-20222976 L
BEFORE JUDGE MARILYN C. CASTLE

LAFAYETTE GENERAL HEALTH
SYSTEM INC, ET AL

PARISH OF LAFAYETTE, LOUISIANA

TO: CHRISTINE MIRE
2480 YOUNGSVILLE HWY.
SUITE C
YOUNGSVILLE, LA 70592

BY VIRTUE OF an order from the Honorable Court, 15TH JUDICIAL DISTRICT COURT in and for the Parish of Lafayette, State of Louisiana of date 08/07/2023, you are hereby ordered to appear in Open Court on **SEPTEMBER 5, 2023**, at **09:00 AM**, in order to show cause why you should not comply with the attached order.

WITNESS THE HONORABLE Judges of the said Court, at Lafayette Parish, Louisiana, this AUGUST 7, 2023.

Deputy Clerk of Court
Lafayette Parish

***Attached are the following documents:
RULE FOR CONTEMPT**

SHERIFF'S RETURN
LAFAYETTE PARISH SHERIFF

DATE SERVED: _____, 20____ TIME: _____
SERVED: _____
PERSONAL () _____
DOMICILIARY () ON _____
UNABLE TO LOCATE MOVED () NO SUCH ADDRESS ()
OTHER REASON: _____
RECEIVED TOO LATE FOR SERVICE () _____
SERVICE OF WITHIN PAPERS
COSTS FEE \$ _____ MILEAGE \$ _____ TOTAL \$ _____
DEPUTY _____

Children under 12 are not allowed in Court unless they are parties, witnesses or part of an educational group. Please dress appropriately. Cellular phones and beepers must be on silent or off. Camera Phones are NOT allowed in the courthouse.

If you require an interpreter for court visit <https://15thide.org/uploads/requestformrevisedMar2011.pdf>.

J. CORY CORDOVA

15th JUDICIAL DISTRICT COURT

VS.

DOCKET NO.: 2022-2976

LAFAYETTE GENERAL
HEALTH SYSTEM, INC., ET AL.

LAFAYETTE PARISH, LOUISIANA

.....

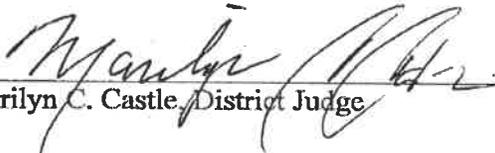
RULE FOR CONTEMPT

TO : Christine M. Mire
J. Cory Cordova

YOU ARE HEREBY ORDERED TO APPEAR AND SHOW CAUSE BEFORE THIS COURT ON SEPTEMBER 5, 2023. WHY YOU SHOULD NOT BE SANCTIONED FOR YOUR DIRECT CONTEMPT OF COURT.

On August 7, 2023, after being sworn in, in Open Court, to give testimony in a properly filed Judgment Debtor rule, you refused to respond to any questions, without just cause.

So Ordered this 7th day of August, 2023 at Lafayette, LA.


Marilyn C. Castle, District Judge

PLEASE SERVE:

Christine Mire
2480 Youngsville Hwy. Suite C
Youngsville, LA 70592

J. Cory Cordova
210 Windhaven Lane
Lafayette, LA 70506



Certified True and
Correct Copy
CertID: 2023080700600


Lafayette Parish
Deputy Clerk Of Court

Generated Date:
8/7/2023 3:28 PM

J. CORY CORDOVA

15th JUDICIAL DISTRICT COURT

VS.

DOCKET NO.: 2022-2976

LAFAYETTE GENERAL
HEALTH SYSTEM, INC., ET AL.

LAFAYETTE PARISH, LOUISIANA

.....
RULING ON AWARD OF ATTORNEY FEES
TO DR. KAREN CURRY

This Court previously issued a ruling finding sanctions were appropriate in regard to the filing of this suit against the Dr. Karen Curry. The Court further ruled that the appropriate sanction to be paid by Plaintiff and his attorney is an award of the reasonable expenses and attorney fees incurred by Dr. Karen Curry in obtaining dismissal from this lawsuit. The Court has reviewed the attorney fees and expenses requested by Dr. Curry and finds that, in light of the course of this litigation, the reasonable attorney fees incurred in defending the lawsuit and obtaining a dismissal is the amount of \$46,977.50 and reasonable expenses of \$417.20 for a total of \$47,394.70.

The Court has reduced or disallowed some of time entries. The rate charged by the attorneys has not been reduced. The Court finds that the fees for copies and electronic filing fees are reasonable.

Counsel for Plaintiff did not submit formal objections to the fees requested by Dr. Curry, but rather emailed counsel for Dr. Curry and this Court, stating “[p]lease allow the attached to serve as an objection to the award of attorney's fees to the LSU Defendants”, which included attachments of a copy of Dr. Cordova’s Petition for Writ of Certiorari to the United States Supreme Court, a copy of a letter to Plaintiff’s counsel from the Department of Health and Human Services, and a copy of the United States Supreme Court case *Dubin v. United States* (2023). Her reference to the “LSU defendants” is interesting in light of the allegations made about Dr. Curry’s status and the absence of LSU from the named defendants.

La. Code Civ. Proc. Ann. art. 863(D) provides:

If, upon motion of any party or upon its own motion, the court determines that a certification has been made in violation of the provisions of this Article, the court shall impose *upon the person who made the certification or the represented party, or both*, an appropriate sanction which may include an order to pay to the other party the amount of the reasonable expenses incurred because of the filing of the pleading, including reasonable attorney fees. (emphasis mine)



Certified True and
Correct Copy
CertID: 2023071800449

Katy M. de Blanc

Lafayette Parish
Deputy Clerk Of Court

Generated Date:
7/18/2023 1:53 PM

While counsel filed the actual pleadings in this suit, the pleadings which were filed against Dr. Curry sought to challenge the accuracy of records relating to Dr. Cory Cordova's first year residency. Those are the same records challenged in *Cordova I*. Dr. Cordova certainly was aware that a challenge to the accuracy of those records was the basis of both this lawsuit and his prior lawsuit in which he lost his challenge to the accuracy of the records (*Cordova I*). Dr. Cordova was present in court for the first hearing in this case and knew the allegations being made in this lawsuit.

It is appropriate in this case to impose the sanction upon both counsel who made the certification and the represented party. The issue of who, between the two, will ultimately satisfy the sanction is a matter between attorney and client.

Lafayette, Louisiana July 17.2023


MARILYN C. CASTLE, DISTRICT JUDGE

STATE OF LOUISIANA PARISH OF LAFAYETTE

I HEREBY CERTIFY THAT A CERTIFIED COPY
OF THIS ORDER HAS BEEN
MAILED/SERVED ON ALL PARTIES THIS
July 19, 2023



DEPUTY CLERK OF COURT

CC: CHRISTINE MIRE
JAMES H GIBSON
CEARLY FONTENOT
JENNIE PELLEGRIN



Lafayette Parish
Deputy Clerk Of Court

Generated Date:
7/18/2023 1:53 PM



Certified True and
Correct Copy
CertID: 2023071800449

064 A

Alteration and subsequent re-filing of this certified copy may violate La. R.S. 14 132, 133, and/or RPC Rule 3.3(a)(3).

J. CORY CORDOVA, M.D. : 15TH JUDICIAL DISTRICT COURT
 :
 VERSUS : DOCKET NO. 2022-2976, DIV. “L”
 :
 LAFAYETTE GENERAL HEALTH, INC., : PARISH OF LAFAYETTE
 UNIVERSITY HOSPITAL AND CLINICS, :
 LAFAYETTE GENERAL MEDICAL : STATE OF LOUISIANA
 CENTER, INC. and KAREN CURRY, M.D.:

MOTION AND ORDER TO EXAMINE JUDGMENT DEBTORS

Movers, LAFAYETTE GENERAL HEALTH SYSTEM, INC., UNIVERSITY HOSPITAL & CLINICS, INC. and LAFAYETTE GENERAL MEDICAL CENTER, INC. (collectively “Lafayette General Defendants”), respectfully represent that:

1.

The Lafayette General Defendants are the judgment creditors of debtors, Christine Mire and J. Cory Cordova, M.D., in the amount of NINETY-EIGHT THOUSAND THREE HUNDRED NINETY DOLLARS AND 17/100 (\$98,390.17), as more fully set forth in the Judgment attached hereto and marked **Exhibit 1**.

2.

Said Judgment was entered on March 29, 2023, and Notice of Judgment dated March 31, 2023 issued thereafter. **Exhibit 1**. The Judgment has not been paid or satisfied.

3.

Although Plaintiff has appealed, Ms. Mire has not, nor has Plaintiff posted a suspensive appeal bond to suspend execution of the judgment pending appeal. The delay for suspensive appeal has elapsed. Thus, the Lafayette General Defendants may proceed with execution of the judgment pursuant to La. C.C.P. art. 2252.

4.

The Lafayette General Defendants desire to examine the judgment debtors on matters pertaining to the judgment debtors’ property pursuant to La. C.C.P. art. 2451, to have the judgment debtors produce, in court, certain of their books, papers, and documents, which are in the judgment debtors’ possession and which are material to this cause; and to examine the judgment debtors personally in relation to the above matters and the documents listed below:

- A. Any and all titles, deeds, or other documents by which you own or lease any real estate or other immovable property;
- B. Copies of all income tax returns and personal property tax returns you have filed, individually or jointly with any other person, for the previous four (4) calendar years,

including all schedules, attachments, and worksheets, and with the name and address of the persons who assisted in preparing those returns;

- C. The original of all certificates of stock, bonds or indentures, and other securities titled in the name of, or beneficially held by, or for, you, whether alone or jointly with any other person or persons, in any corporation or limited liability company during the last three (3) years;
- D. Copies of all financial statements in your possession, custody or control, prepared by or for you, reflecting your financial condition during the past three (3) years, whether prepared for you individually or jointly with any other person or persons, or for a corporation, firm, or other entity in which you owned an interest;
- E. All notes, deeds, conveyances, certificates of title, bills of sale, mortgages, and security instruments of any kind showing or tending to show the existence of debts owed to or by you, or property owned by you, or property in which you have a mortgage or security interest. This request includes all such items executed or in effect during the last three (3) years;
- F. All writings and financial records in your possession or custody, or subject to your control, showing or tending to show monies owed to you, and all records you may have showing or tending to show all the persons who owe you money;
- G. All insurance policies insuring loss to any property, real or personal, that you own, individually or jointly with any other person, or that you hold for the benefit of any other person, that were in effect during the last three (3) years;
- H. All acts of sale, deeds, contracts and other documents showing transfer of any and all property owned by you, individually or jointly with any other person or firm, during the previous three (3) years;
- I. Any and all bank statements, cancelled checks, check stubs, deposit slips and other records in your possession, custody, or control, showing or tending to show transactions with a bank or other financial institution with which you did business, or relating to a deposit account on which you have had signature authority during the previous three (3) years, regardless of whether the accounts were in your name or that of another person or firm;

- J. All property insurance policies, whether such policies relates to any home, apartment, townhouse, condominium or other form of residential or commercial property owned or leased by you;
- K. All documents relating to any and all interests that you have had during the previous three years in any corporation, limited liability company, partnership, joint venture, or trust;
- L. All documents relating in any way to your business, occupation, employment, livelihood, and other sources of income during the last four (4) years, including sales revenue, salaries, income, bonuses, commissions, pension plan, insurance, and other fringe benefits;
- M. Your social security card and driver's license;
- N. All ledger cards, ledgers, journals, memoranda, books of account, and other documents reflecting and identifying your assets, payables and receivables during the last three (3) years;
- O. All life insurance policies owned by you or insuring your life, or on which you are a beneficiary or have any other interest, alone or jointly with any other person or firm;
- P. All documents providing information of all sources of the defendant's income during the last four (4) years;
- Q. All trust instruments, agreements, correspondence, and other documents relating to all trusts in which you are a trustee, beneficiary or have any other kind of interest in, together with all documents identifying the assets of such trusts, all transactions by such trusts, all transfers of trust property, and the names and addresses of trustees and beneficiaries; this request includes all such items signed or in effect during the last three (3) years;
- R. All records relating to and identifying all motor vehicles, boats, and other registered movables owned, rented, leased and otherwise used by you during the last three (3) years and, if not owned by you, records identifying the owner thereof and under what arrangement you were afforded use of the motor vehicle or boat;
- S. All records relating to safe deposit boxes at banks or other depositories for securities, cash, or other valuables, rented or otherwise, used by you alone or jointly with any

other person or persons during the last three (3) years, together with any agreements relating thereto;

- T. All documents reflecting or identifying all personal property owned by you either jointly, individually, or otherwise, during the last three (3) years, together with the location of each such item and its value, including all items of art, jewelry, collectors items, books, royalties, patents, copyrights and inventions;
- U. All mortgages, pledges, security agreements, financing statements and other documents in any way reflecting any security interest, mortgage, pledge, hypothecation or encumbrance of any kind upon any property owned by you, whether individually or jointly with others during the last four (4) years and in any way evidencing any debt relating thereto;
- V. All documents (including all monthly, quarterly or annual account statements) identifying every securities brokerage account you have or have had during the last three (3) years;
- W. All documents relating in any way to and identifying any property for which you or someone on your behalf have held for another person or firm during the last three (3) years, and such documents relating in any way to property you have held for another person or firm during that time;
- X. All documents that identify C.P.A.'s, accountants, and you have hired or used and those that have been hired or used by each corporation, limited liability company, partnership, joint venture, trust and other entity of yours and those with which you have been associated or affiliated with in some way during the last three (3) years;
- Y. All documents relating to and identifying any Testament/Will under which you are a legatee, heir-at-law, or beneficiary;
- Z. All wills and testaments of yours, including any codicils thereto, that have been in effect at any time during the last three (3) years;
- AA. A pleading from each succession proceeding currently pending in which you are a creditor, legatee, heir-at-law, beneficiary, or otherwise entitled to any inheritance, money, or property, whether or not you have renounced or waived such right;
- BB. All judgments which have been entered in your favor or against you that you have not satisfied in full;

- CC. All documents in any way relating to any insurance claims made by you or on your behalf during the last six (6) years and reflecting the status of the claim and any proceeds you may have received;
- DD. All appraisal reports prepared during the last three (3) years covering any property you owned, either individually or jointly with any other person or persons, or upon which you have held a mortgage, security interest, pledge or other encumbrance, either individually or jointly with any other person or persons, or in which you have had any other kind of interest during the last three years, and the status thereof; and
- EE. All agreements, documents, pleadings, judgments, or any other writings that establish your marital status during the last three (3) years and those that indicate:
 - (i) when you married, whether the marriage exists or existed under the Louisiana legal regime of community property or under a separate property regime or agreement, and
 - (ii) if now separated or divorced, the division of property that was made.

5.

By the above documents and examination, the Lafayette General Defendants intend to prove that the judgment debtors own property subject to execution.

WHEREFORE, the premises considered, Movers, LAFAYETTE GENERAL HEALTH SYSTEM, INC., UNIVERSITY HOSPITAL & CLINICS, INC. and LAFAYETTE GENERAL MEDICAL CENTER, INC., pray that they have the privilege of examining Christine Mire and J. Cory Cordova, M.D., judgment debtors, at a time and place to be fixed by the Court and that the judgment debtors be summoned and commanded to produce in open court the papers and documents described above.

Respectfully submitted:

GIBSON LAW PARTNERS, LLC

/s/ James H. Gibson

JAMES H. GIBSON – 14285

STACY N. KENNEDY - 23619

2448 Johnston St. (70503)

P.O. Box 52124

Lafayette, LA 70505

Direct Dial: 337-761-6025

Main: 337-761-6023

Fax: 337-761-6061

Email: jimgibson@gibsonlawpartners.com

Email: stacykennedy@gibsonlawpartners.com

Counsel for Defendants, LAFAYETTE
GENERAL HEALTH SYSTEM, INC.,
UNIVERSITY HOSPITAL & CLINICS, INC.
and LAFAYETTE GENERAL MEDICAL
CENTER, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing instrument has this day been served on all parties through their counsel of record in this proceeding by:

- Hand Delivery Prepaid U.S. Mail Email
 Facsimile Overnight Mail Service

Lafayette, Louisiana, this 5th day of July, 2023.

/s/ James H. Gibson

JAMES H. GIBSON

J. CORY CORDOVA, M.D. : 15TH JUDICIAL DISTRICT COURT
 :
 VERSUS : DOCKET NO. 2022-2976, DIV. "L"
 :
 LAFAYETTE GENERAL HEALTH, INC., : PARISH OF LAFAYETTE
 UNIVERSITY HOSPITAL AND CLINICS, :
 LAFAYETTE GENERAL MEDICAL : STATE OF LOUISIANA
 CENTER, INC. and KAREN CURRY, M.D.:

ORDER

Considering the foregoing Motion to Examine Judgement Debtors;

IT IS ORDERED that Christine Mire and J. Cory Cordova, M.D., judgment debtors, appear in open court on the ____ day of _____, 2023, at ____ o'clock __.m. to be examined and produce in open court, at that time, the papers and documents described in the preceding motion, under penalty of fine and/or imprisonment for contempt of court.

Lafayette, Louisiana, this _____ day of _____, 2023.

 JUDGE, 15TH JUDICIAL DISTRICT COURT

PLEASE SERVE:

Christine M. Mire
 2480 Youngsville Highway, Suite C
 Youngsville, LA 70592

J. Cory Cordova, M.D.
 Through his counsel of record:
 Christine M. Mire
 2480 Youngsville Highway, Suite C
 Youngsville, LA 70592

J. Cory Cordova, M.D.
 210 Wind Haven Lane
 Lafayette, LA. 70506

J. CORY CORDOVA

15th JUDICIAL DISTRICT COURT

VS.

DOCKET NO.: 2022-2976

LAFAYETTE GENERAL
HEALTH SYSTEM, INC., ET AL.

LAFAYETTE PARISH, LOUISIANA

.....
JUDGMENT ON SANCTIONS AND AWARD OF ATTORNEY FEES AND COSTS

In accordance with this Court's ruling on Motion for Sanctions issued on March 3, 2023, and the ruling on Award of Attorney Fees issued this date:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Judgment is granted in favor of Lafayette General Health System, Inc., Lafayette General Medical Center, Inc. and University Hospital and Clinic and against Dr. J. Cory Cordova and his counsel, Christine Mire, for sanctions pursuant to La. Code Civ. Proc. Ann. art. 863, for the filing of a claim barred by res judicata and not warranted by existing law or a non-frivolous argument for modification of existing law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Judgment is granted in favor of Lafayette General Health System, Inc., Lafayette General Medical Center, Inc. and University Hospital and Clinic and against Dr. J. Cory Cordova and his counsel, Christine Mire in the amount of ninety-one thousand six hundred (\$91,600) dollars in reasonable attorney fees and six thousand seven hundred ninety dollar and sevenccn cents (\$6,790.17) in reasonable expenses., constituting the appropriate sanction.

THUS DONE AND SIGNED this 29th day of March, 2023, at Lafayette, Louisiana.

STATE OF LOUISIANA PARISH OF LAFAYETTE

I HEREBY CERTIFY THAT A CERTIFIED COPY OF THIS JUDGMENT HAS BEEN MAILED/SERVED ON ALL PARTIES THIS March 31, 2023

Juanita Hebert

DEPUTY CLERK OF COURT

CC:
CHRISTINE MIRE
JENNIE PELLEGRIN
JAMES GIBSON

Marilyn C. Castle
MARILYN C. CASTLE, DISTRICT JUDGE

Juanita Hebert

Lafayette Parish
Deputy Clerk Of Court

Generated Date:
3/31/2023 9:06 AM



Certified True and
Correct Copy
CertID 2023033100040

J. CORY CORDOVA

15th JUDICIAL DISTRICT COURT

VS.

DOCKET NO.: 2022-2976

LAFAYETTE GENERAL
HEALTH SYSTEM, INC., ET AL.

LAFAYETTE PARISH, LOUISIANA

.....
RULING ON AWARD OF ATTORNEY FEES

This Court previously issued a ruling finding sanctions were appropriate in regard to the filing of this suit against the Lafayette General Defendants. The Court further ruled that the appropriate sanction to be paid by Plaintiff and his attorney is an award of the reasonable expenses and attorney fees incurred by the Lafayette General Defendants in obtaining their dismissal from this lawsuit. The Court has reviewed the attorney fees and expenses requested by the Lafayette General Defendants and finds that, in light of the course of this litigation, the reasonable attorney fees incurred in defending the lawsuit and obtaining a dismissal is the amount of \$91,600.00 and reasonable expenses of \$6790.17 for a total of \$98,390.17.

The Court finds that the award of fees for the employees of the attorneys to make copies is not a reasonable expense and those have been disallowed. In addition, the cost of copies has been reduced as well as some of the time entries by the attorneys. The rate charged by the attorneys has not been reduced.

Plaintiff counsel has asked that the sanction be imposed upon her solely. She states in her Memorandum In Opposition To Sanctions and Attorney Fees that:

“There is no evidence in the record that even suggests that the undersigned was forced to or that Dr. Cordova assisted the undersigned in filing the offending pleading.”

The meaning of this statement is not clear. Surely, the client consulted with counsel about this litigation. In fact, the client was in court for the first hearing in this case. The discussions between counsel and her client are privileged and between them only. Nonetheless, Dr. Cordova was aware of both *Cordova I* and the rulings issued in that case, as well as the claims set forth in this suit. While counsel filed the actual pleadings in this suit, the pleadings which were filed sought to challenge the accuracy of records relating to Dr. Cordova’s first year residency. Those are the same records challenged in *Cordova I*. Dr. Cordova certainly was aware that a challenge to the accuracy of those records was the basis of both this lawsuit and his prior lawsuit in which he lost his challenge to the accuracy of the records (*Cordova I*).



Certified True and
Correct Copy
CertID: 2023033100041

Lafayette Parish
Deputy Clerk Of Court

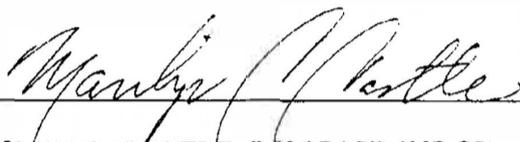
Generated Date:
3/31/2023 9:06 AM

La. Code Civ. Proc. Ann. art. 863(D) provides:

If, upon motion of any party or upon its own motion, the court determines that a certification has been made in violation of the provisions of this Article, the court shall impose *upon the person who made the certification or the represented party, or both,* an appropriate sanction which may include an order to pay to the other party the amount of the reasonable expenses incurred because of the filing of the pleading, including reasonable attorney fees. (emphasis mine)

It is appropriate in this case to impose the sanction upon both counsel who made the certification and the represented party. The issue of who, between the two, will ultimately satisfy the sanction is a matter between attorney and client.

Lafayette, Louisiana March 29, 2023.


MARILYN C. CASTLE, DISTRICT JUDGE

STATE OF LOUISIANA PARISH OF LAFAYETTE

I HEREBY CERTIFY THAT A CERTIFIED COPY
OF THIS ORDER HAS BEEN
MAILED/SERVED ON ALL PARTIES THIS
March 31, 2023



DEPUTY CLERK OF COURT

CC:
CHRISTINE MIRE
JENNIE PELLEGRIN
JAMES GIBSON



Certified True and
Correct Copy
CertID: 2023033100041

075 A



Lafayette Parish
Deputy Clerk Of Court

Generated Date:
3/31/2023 9:06 AM

RE: Cordova v. Univ Hosp & Clinics, 5th Cir. Nos. 23-30186 AND 23-30335

Jim Gibson <JimGibson@gibsonlawpartners.com>

Tue, Jul 18, 2023 at 5:24 PM

To: Christine Mire <cmm@mirelawfirm.com>, Stacy Kennedy <StacyKennedy@gibsonlawpartners.com>

Cc: Jennie Pellegrin <jpellegrin@neunerpate.com>, Clarissa Long <ClarissaLong@gibsonlawpartners.com>, Michelle Neef <MichelleNeef@gibsonlawpartners.com>

Good afternoon.

Rest assured that my clients will pursue all legal avenues to atone for the ongoing wrongs done by your client. So, file whatever it is that you deem appropriate. And we will respond accordingly.

Jim

***James H. Gibson***

Gibson Law Partners, LLC

Attorneys at Law

[2448 Johnston Street 70503](#)

P.O. Box 52124

Lafayette, LA 70505

Phone: 337-761-6023

DD: 337-761-6025

Fax: 337-761-6061

E-mail: jimgibson@gibsonlawpartners.comWebsite: <http://www.gibsonlawpartners.com>