

State of Vermont  
Superior Court—Environmental Division

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ENTRY REGARDING MOTION

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**In re Wood NOV and Permit Applications,**  
**(Appeal from Town of Hartford Zoning Board of Adjustment decision)**

**Docket No. 138-8-10 Vtec**

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**Town of Hartford v. Wood,**  
**(Municipal enforcement action)**

**Docket No. 1-1-11 Vtec**

Title: Motion for Relief Under Rule 60(b)(3)

Filed: June 3, 2014

Filed By: Appellant/Applicant/Respondent Marc Wood.

Response in Opposition filed on 6/16/14 by William F. Ellis, Attorney for the Town of Hartford.

Response in Opposition filed on 7/07/14 by W. Scott Fewell, Attorney for Respondent Susan Wood.

    Granted

  X   Denied

    Other

This Court issued its Corrected Merits Decision and Judgment Order on March 27, 2012. That Decision and accompanying Judgment Order was fully affirmed by the Vermont Supreme Court. See In re Wood NOV and Permit Applications, 2013 VT 40, 194 Vt. 190.

Defendant Marc Wood has moved the Court for relief from judgment, pursuant to V.R.C.P. 60(b)(3). In support of his motion, Defendant Wood asserts that the Town has committed some type of fraud, but his allegations of fraud are vague and not specific. In fact, we cannot even discern from his filings what judgment he is asking the Court to relieve him from.

In his last filing, it appears that Mr. Wood is not seeking “relief” from a prior judgment, but rather has filed his motion in response to the Town’s pending motion for contempt. (Defendants [sic] response to Towns [sic] Opposition to Defendants [sic] Motion for Relief Under Rule 60(b)(3), filed June 18, 2014.) To the extent that Mr. Wood intended to file his motion in response to the Town’s contempt motion, we will consider it as we rule upon the Town’s pending contempt requests.<sup>1</sup>

To the extent that Mr. Wood filed his pending motion in an effort to be relieved from his responsibility to satisfy the final judgments of this Court, including our 2012 Corrected Decision and Judgment Order, since affirmed by the Vermont Supreme Court, we **DENY** his motion on two grounds. First, his motion is untimely. Rule 60(b)(3) requires relief requests, even those based upon allegations of fraud, to be presented to the trial court within one year of the judgment. Mr. Wood has waited over two years to seek relief from the judgment for which the Town is now seeking the Court’s assistance in compelling Mr. and Mrs. Wood to satisfy.

Second, even if we felt empowered to ignore the one-year limitation of Rule 60(b)(3), we conclude that Mr. Wood has failed to provide sufficient evidence of the fraud he alleges. His filings are replete with conclusionary statements, but no specific factual allegations. While he protests the Town’s

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<sup>1</sup> Mr. Wood has also filed a memorandum in opposition to the Town’s contempt motion.

response to his Rule 60(b)(3) motion, we cannot understand how to read his protestations, other than as an attempt to have this Court absolve him and his Co-Defendant from satisfying a two-year old judgment that long ago became final. In the absence of persuasive facts to support his allegations of fraud, we cannot grant his request.

Mr. Wood appears to be tormented by the reality that he now faces: he fought a decade-long litigation battle with the Town. The courts, including the Vermont Supreme Court, found the Town's arguments more credible and persuasive than his. As a consequence, he must satisfy the final judgment rendered against him. The outstanding legal issue is no longer whether that judgment should have been entered against them, but rather how he and Mrs. Wood will (voluntarily or by subsequent order of this Court) satisfy that judgment.

For all these reasons, we **DENY** defendant's Rule 60(b)(3) post-judgment motion.

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Thomas S. Durkin, Judge

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August 12, 2014

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Date

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Date copies sent to: \_\_\_\_\_

Clerk's Initials \_\_\_\_\_

Copies sent to:

Appellant/Applicant/Respondent Marc Wood

William F. Ellis and Kimberlee J. Sturtevant, Attorneys for Appellee Town of Hartford

W. Scott Fewell, Attorney for Respondent Susan Wood