

VERMONT SUPERIOR COURT
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CIVIL DIVISION
Case No. 945-10-19 Cncv

ZEPHRYN HAMMOND,
Plaintiff

v.

THE UNIVERSITY OF VERMONT
MEDICAL CENTER,
Defendant

DECISION ON MOTIONS

RULING ON PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT AND
DEFENDANT'S MOTION FOR PREFILING INJUNCTION

This is an employment discrimination case arising out of disputes between Plaintiff Zephryn Hammond and their former employer, Defendant University of Vermont Medical Center ("UVMCM"). The claims were resolved in UVMCM's favor on summary judgment in June 2022, and the decision was affirmed on appeal in 2023. Hammond now attempts to bring the matter back before the Court with the latest motion for relief from judgment pursuant to Rule 60(b) of the Vermont Rules of Civil Procedure. UVMCM opposes the motion, and has moved for a pre-filing injunction under Rule 11. Plaintiff is self-represented and Defendant is represented by Attorney Elizabeth K. Rattigan, Esq. For the reasons discussed below, Plaintiff's motion is DENIED and Defendant's motion is GRANTED.

Procedural Background

The facts underlying Hammond's employment discrimination and retaliatory discharge claims are recounted in the Vermont Supreme Court's 2023 decision affirming this Court's grant of summary judgment to UVMCM, and thus will not be exhaustively repeated here. *See Hammond v. Univ. of Vt. Med. Ctr.*, 2023 VT 31, ¶¶ 2-21, 218 Vt. 250. The subsequent developments in this case are also chronicled in an entry order by a three-justice panel of the Vermont Supreme Court, which affirmed the Court's denial of previous motions by Hammond for relief from judgment. *See Hammond v. Univ. of Vt. Med. Ctr.*, Case No. 24-AP-303, 2025 WL 826916, at *1 (Vt. Mar. 2025) (unpub. mem.).

Currently, Hammond has filed a sixth post-judgment motion, seeking relief from judgment and to reopen the case under multiple sections of Rule 60(b). *See generally* Pl.'s Mot. for Relief from J., filed Apr. 15, 2026. The motion attacks the Court's summary judgment decision, and is largely repetitive of all of Hammond's prior motions. Indeed, Hammond reiterates their assertions that the "case was decided on summary judgment based on an incomplete and materially defective record," and as "a result, the judgment does not reflect a full

and fair adjudication on the merits.” Pl.’s Mot. at 1. UVMMC opposes the motion, arguing that it is untimely, barred by “law of the case,” and fails as a matter of law in any event. *See* Def.’s Opp. to Pl.’s Mot. for Relief from J., filed Apr. 17, 2026. Based on Hammond’s history of harassing and vexatious litigation in this case, UVMMC also moves the Court to enter a pre-filing injunction that would bar Hammond from making any further filings in this action, or against UVMMC based on the subject matter and claims asserted in this case, unless signed by an attorney licensed to practice in Vermont. *See* Def.’s Mot. for Pre-Filing Inj., filed Apr. 20, 2026.

Discussion

Rule 60(b) provides that upon motion, the court may grant relief from a final judgment or order for various reasons, including:

(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial . . . ; (3) fraud . . . , misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; . . . or (6) any other reason justifying relief from the operation of the judgment.

V.R.C.P. 60(b). Such a motion must “be filed within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken.” *Id.* “The hallmark of Rule 60(b) intervention is the prevention of hardship or injustice.” *Brandt v. Menard*, 2020 VT 61, ¶ 5, 212 Vt. 547 (quotation omitted). “A motion for relief from judgment under V.R.C.P. 60 is addressed to the discretion of the trial court and is not subject to appellate review unless it clearly and affirmatively appears from the record that such discretion was withheld or otherwise abused.” *Hill v. Springfield Hosp.*, 2023 VT 23, ¶ 13, 218 Vt. 64 (quotation omitted).

Hammond’s motion seeks relief under Rule 60(b)(1), (2), (3), (4), and (6). The Court addresses each provision in turn.

I. Motion for Relief from Judgment Under Rule 60(b)(1), (2), and (3).

Hammond’s motion seeking relief from judgment based on mistake/excusable neglect, newly discovered evidence, and fraud is untimely. While Hammond does not expressly identify which decision(s) they seek to relitigate, several years have passed since the Court’s summary judgment decision and the decision denying the prior post-judgment motions. As the Supreme Court has made clear, the “one year bar is an absolute one.” *Brown v. Tatro*, 136 Vt. 409, 411, 392 A.2d 380, 382 (1978). Hammond’s filing of an appeal from these decisions does not toll the running of the one-year period. Rather, a “final order is one that ends litigation on the merits or conclusively determines the rights of the parties, leaving nothing further for the court to do but execute the judgment.” *TBF Fin., LLC v. Gregoire*, 2015 VT 36, ¶ 19, 198 Vt. 607 (quotation omitted) (holding that because the Rule 60(b) “motion was filed more than a year after the foreclosure judgment was entered, the court correctly ruled that defendants’ motion based on fraud under Rule 60(b)(3) was time barred”); *see also Wyche v. Advanced Drainage Sys., Inc.*,

332 F.R.D. 109, 113 (S.D.N.Y. 2019) (“It is well-settled law . . . that an appeal of a final judgment does not toll the one-year period for filing a Rule 60(b)(2) motion. The Second Circuit has held that tolling is unnecessary because a Rule 60(b) motion can be made even as an appeal is pending.” (quotation omitted)). Further, Hammond’s motion simply rehashes grounds for relief that have already been rejected by this Court and the Vermont Supreme Court. Thus, the motion based on Rule 60(b)(1), (2), and (3) must be denied.

II. Motion for Relief from Judgment Under Rule 60(b)(4).

Hammond also asks the Court to grant relief from judgment because the “judgment is void” under Rule 60(b)(4). *See* Pl.’s Mot. at 9-10. However, “a judgment is void ‘only if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law.’” *In re. C.L.S.*, 2020 VT 1, ¶ 17 (quoting 11 Charles A. Wright & Arthur Miller, *Fed. Prac. & Proc.* § 2862 (3d ed. 2019)). Here, there is no question that the Court has personal jurisdiction over the parties and subject matter jurisdiction over the claims. Hammond does not argue otherwise, but rather asserts in conclusory fashion that there were “due process violations.” This is insufficient.¹ Moreover, Hammond does not actually describe any claimed actions that are inconsistent with due process. Instead, the motion repeats Hammond’s dissatisfaction with the summary judgment record and attempts to relitigate the outcome of these proceedings. No proper grounds under Rule 60(b)(4) are asserted. *See Hill*, 2023 VT 23, ¶ 19 (rejecting argument that court “order was inconsistent with due process such that it was void for purposes of Rule 60(b)(4)”).

III. Motion for Relief from Judgment Under Rule 60(b)(6).

Motions under the other sections of Rule 60(b) “shall be filed within a reasonable time.” V.R.C.P. 60(b). Rule 60(b)(6) has been referred to as a “catch-all provision” that allows a trial court to relieve a party from a final judgment, order, or proceeding for any reason not set forth in subsections (1)-(5), “as long as the request for relief is made within a reasonable time.” *Id.* ¶ 20. Critically, “Rule 60(b)(6) may be invoked only when a ground justifying relief is not encompassed within any of the first five subsections of the rule.” *Olde & Co., Inc. v. Boudreau*, 150 Vt. 321, 323, 552 A.2d 793, 794 (1988).

As an initial matter, the Court cannot find that Hammond’s Rule 60(b)(6) motion is brought “within a reasonable time.” This is particularly true given that Hammond repeats many of the accusations made in prior motions. Further, Hammond’s briefing on Rule 60(b)(6) is subject to many of the same shortcomings as their briefing regarding Rule 60(b)(4). That is, Hammond presents several bare allegations of “extraordinary circumstances” via bullet points.

¹ Indeed, the Court notes that Hammond’s briefing on the issue essentially consists of bullet point allegations and citations to case names, without further identifying information or explanation. As such, the briefing of any purported constitutional challenge is inadequate, and the Court can properly decline to address the issue. *See, e.g., In re Hamid-Ahmed*, 2018 VT 113, ¶ 9, 208 Vt. 536 (because party “fail[ed] to present any substantive analysis or argument on” alleged “violat[ion] of due process rights,” Court could “decline to address” the argument (quotation omitted)).

See Pl.’s Mot. at 10. And only some of these are followed by a citation to legal authority. *See id.* Where those citations are included, they are incomplete. *See id.* Hammond’s bare allegations include, “Pro se limitations,” “Collusion,” and “Fraud Upon the Court.” Again, this is insufficient to satisfy Hammond’s burden to demonstrate Rule 60(b)(6) relief is warranted.² Finally, some or all of the allegations implicate grounds for relief under one or more of the first five subsections of the rule, making the Rule 60(b)(6) “catchall” provision inapplicable. *See Olde & Co., Inc.*, 150 Vt. at 323, 552 A.2d at 794.

In short, “Rule 60(b)(6) is intended to accomplish justice in extraordinary situations that warrant the reopening of final judgments after a substantial period of time. This case does not present such an extraordinary situation.” *Hill*, 2023 VT 23, ¶ 21 (quotation omitted). This is particularly true given the repetitive nature of Hammond’s filings and the multiple rounds of litigation and appeals that have already occurred in this case. The motion for Rule 60(b) relief is denied.

IV. UVMMC’s Motion for Pre-Filing Injunction.

Based on the procedural history of Hammond’s seemingly unending, harassing, and vexatious litigation in this case, as described and documented above, UVMMC moves for a Rule 11 pre-filing injunction. Rule 11(c) authorizes the imposition of sanctions “of a nonmonetary nature,” so long as they are “limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.” V.R.C.P 11(c)(2).

Our Supreme Court employs a five-factor analysis used by the U.S. Court of Appeals for the Second Circuit in determining whether a prefiling injunction is an appropriate sanction:

(1) the litigant’s history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant’s motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties.

² To the extent Hammond alleges “attorney abandonment” and “attorney misconduct,” the Court notes that Rule 60(b) is not intended to address – or provide remedies for – claims of attorney malpractice. *See, e.g., Moulton v. Brown*, 627 A.2d 521, 523 (Me. 1993) (in deciding Rule 60(b)(6) motion, “an attorney’s actions of commission as well as omission are to be regarded as the acts of the party represented and that any neglect of the attorney is equivalent to that of the party” (quotation omitted); *Bailey v. Algonquin Gas Transmission Co.*, 788 A.2d 478, 484 (R.I. 2002) (affirming denial of Rule 60(b)(6) motion under “general rule of agency, requiring that the neglect of an attorney be imputed to the client”); *cf. Aguiar v. Williams*, 2021 VT 8, ¶ 30, 214 Vt. 176 (noting that, in general, “a client is bound by the acts and representations of his attorney”).

Fox v. Fox, 2022 VT 27, ¶ 35, 216 Vt. 460 (quoting *Zorn v. Smith*, 2011 VT 10, ¶ 18, 189 Vt. 219); *see also Safir v. U.S. Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986). “These factors attempt to strike a balance between a litigant’s right to court access and the need to protect the court and other parties from wasting resources.” *Fox*, 2022 VT 27, ¶ 35 (citation omitted). “The ultimate question is whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties.” *Zorn*, 2011 VT 10, ¶ 18 (quotation omitted). Such filing restrictions against pro se plaintiffs “should be approached with particular caution.” *Id.* ¶ 23.

Considering all five factors here, the Court concludes that the imposition of a pre-filing injunction against Hammond is warranted. There can be no question that Hammond’s post-judgment filings in this action have been vexatious, harassing, and duplicative. The instant motion for relief from judgment is wholly repetitive of Hammond’s previous motion for relief from judgment, which was affirmed by a three-justice panel in 2025. That motion, in turn, was largely repetitive of the arguments Hammond presented in opposition to summary judgment, which was ultimately granted to UVMMC and subsequently affirmed by the Vermont Supreme Court in 2023. Thus, Hammond’s latest attempt to revive this case is frivolous.

Hammond’s arguments in their opposition to UVMMC’s motion for a pre-filing injunction are directly relevant to several factors in the *Fox* analysis, particularly factor two. That is, Hammond is clear that the motions for relief from judgment and to reopen the evidence in this case are not based on a valid claim under Vermont law, but rather, are motivated by Hammond’s insistence that the record of the proceedings be augmented with evidence they believe should have been introduced. *See, e.g.*, Pl.’s Opp. to Def.’s Mot. for Pre-Filing Inj. at 5 (“At this point, it’s not about having enough evidence to prevail, it’s simply about having the evidence considered, being made part of the record as it should have been several years prior.”). But such relief has already been rejected by this Court and the Vermont Supreme Court.

Further, it is difficult to accept Hammond’s repeated litigation of the same issues as a good-faith effort to challenge the underlying summary judgment ruling on appropriate legal grounds. The Court notes that, with increasing frequency, Hammond’s arguments stray from an application of law to facts and devolve into a general critique of Vermont’s judiciary. *See, e.g.*, Pl.’s Opp. at 4 (“Judges are very powerful and immune to certain acts and or decisions but this doesn’t give them the right to act unethically by denying justice to those deserving of it.”); *id.* at 6 (“This should be an automatic safety measure to assure decisions are fair, based on evidence, and hold Judges more accountable for making such decisions knowing they could very well be reviewed.”). Hammond’s filings also exceed the bounds of professionalism, civility, and vigorous legal argument by accusing UVMMC of dishonesty, perjury, conspiracy, and a litany of other abuses. *See, e.g.*, Pl.’s Mot. at 22 (claiming UVMMC presented falsified and/or fabricated evidence at summary judgment and conspired with Hammond’s own counsel, ostensibly to sabotage Hammond’s claim against UVMMC); Pl.’s Opp. at 5 (“It’s evident [UVMMC] will say and do anything within their means, to prevent the plaintiff from obtaining justice and protecting the reputation of the organization responsible for allowing such abuse to occur.”). Hammond’s memoranda are rife with these inflammatory allegations and uncalled-for hostility, despite the fact that such assertions have little relevance to the relief Hammond requests.

Finally, UVMMC’s motion for sanction asserts, and Hammond does not dispute, that UVMMC has had to expend significant resources in employing counsel to read, review, and respond to Hammond’s repeated filings in this case – even after the substantive issues in this case have been heard, and decided by, the Vermont Supreme Court. While Hammond is properly afforded some leeway as a pro se litigant, that leeway is not a license to inundate UVMMC (and its counsel) with repetitive, unfounded litigation. The repeated filings by Hammond in this case that raise a plethora of already-decided issues with a paucity of applicable legal argument are the kind of “chronic vexatious, baseless, and frivolous filings” that prefiling injunctions are intended to address. *Zorn*, 2011 VT 10, ¶ 19; *see also Fox*, 2022 VT 27, ¶ 37 (prefiling injunction was warranted where party “was engaging in an escalating pattern of vexatious litigation and abusive behavior”). The Court must also consider the limited resources within the court system and the impact of Hammond’s repeated filings. *See Zorn*, 2011 VT 10, ¶ 17 (“Limits and burdens on judicial resources are not academic.”). As our Supreme Court has made clear, no “litigant enjoys a constitutional right to delay justice to others and occupy the court’s time with unfounded filings.” *Id.* Hammond appears to suggest that a less restrictive alternative would be for the Court to pre-review and approve any future filings. *See Pl.’s Opp.* at 6 (“Rather than consider filing successive motions as frivolous, motions should be read and considered beforehand.”). However, given the nature and character of Hammond’s filings in this case, such an approach would present an excessive and unwarranted drain on judicial and court-staff resources.

It is important to note that the pre-filing injunction the Court will grant here is limited: it only applies to bar further filings in this action, and the filing of any other cases asserting claims arising out of the underlying events of this case (i.e., Hammond’s employment with UVMMC). Thus, Hammond’s access to the courts is not unduly or improperly restricted.

Order

For the foregoing reasons, Plaintiff’s Motion for Relief from Judgment (Mot. #21) is DENIED.

Defendant’s Motion for Prefiling Injunction (Mot. #23) is GRANTED in part.

It is HEREBY ORDERED that Plaintiff shall not make additional filings in this action, or file any new cases asserting claims against UVMMC arising out of the same underlying facts and events as this action, unless those filings are signed by an attorney in good standing licensed to practice law in Vermont.

Electronically signed on August 26, 2026 at 1:38 PM pursuant to V.R.E.F. 9(d).



Megan J. Shafritz
Superior Court Judge