

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

<b>IVORY BAKER,</b>	)	
	)	
Plaintiff,	)	Case No. 1:11CV00035
	)	
v.	)	<b>OPINION AND ORDER</b>
	)	
<b>LOWE’S HOME CENTER, INC.,</b>	)	By: James P. Jones
	)	United States District Judge
Defendant.	)	

*Ivory Baker, Pro Se Plaintiff; Sean C. Workowski, Frith Anderson & Peake, PC, Roanoke, Virginia, for Defendant.*

Plaintiff Ivory Baker originally filed a pro se lawsuit in state court against Lowe’s Home Center, Inc. (“Lowe’s”), asserting claims of defamation and personal injury. The case was removed to this court pursuant to 28 U.S.C.A. §§ 1441, 1446 (West 2006). However, before the time of trial, the parties reached a settlement agreement and a Dismissal Order (ECF No. 44) was entered providing that the case was dismissed with prejudice. The Dismissal Order did not incorporate the terms of the settlement agreement nor retain jurisdiction over the suit.

Baker has now filed a pro se motion seeking to reopen the previous lawsuit based on an alleged violation of the settlement agreement that underlay the suit’s dismissal. Baker alleges that the settlement agreement stated he was unable to

work for Lowe's in the future, and that Lowe's violated this agreement by giving out information indicating that he could still work for Lowe's. Baker asks the court to reopen the prior case for the purpose of conducting a jury trial to resolve the claims.

Federal Rule of Civil Procedure 60(b) allows a district court to vacate its own final judgment for five enumerated reasons or "for any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6). While this catchall reason includes few textual limitations, its context requires that it may be invoked in only "extraordinary circumstances" in order to preserve the finality of judgments. *See Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 864 n.11 (1988). It is established that granting relief from judgment pursuant to Rule 60(b) is a matter committed to the discretion of the district court. *See Werner v. Carbo*, 731 F.2d 204, 206 (4th Cir. 1984).

Baker contends that the court must vacate its dismissal order solely because the settlement terms were violated. I disagree. Even assuming that Lowe's breached the terms of the settlement agreement, this does not require the court to set the judgment of dismissal aside. There is no indication that the underlying settlement agreement was reached through unfair or inequitable means, and Baker has failed to demonstrate any other extraordinary circumstances justifying the

vacatur of the prior order dismissing the case. In this situation, I find that the interests of justice require me to protect the finality of the prior judgment.

Furthermore, this court did not retain jurisdiction over any subsequent disputes concerning the settlement agreement. Generally, a district court may not enforce a settlement agreement “unless the agreement ha[s] been approved and incorporated into an order of the court, or, at the time the court is requested to enforce the agreement, there exists some independent ground upon which to base federal jurisdiction.” *Fairfax Countywide Citizens Ass’n v. Cnty. of Fairfax, Va.*, 571 F.2d 1299, 1303 (4th Cir. 1978). In the present case, the action was terminated by a simple order of dismissal with prejudice. The order did not incorporate the terms of the settlement agreement nor include any other language giving the parties the right to reopen the judgment. Thus, without alleging some independent basis for subject matter jurisdiction, Baker cannot enforce the settlement agreement in this court. *See, e.g., Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375 (1994).

For these reasons, it is **ORDERED** that the plaintiff’s Motion to Reopen (ECF No. 46) is DENIED.

ENTER: May 6, 2012

/s/ James P. Jones  
United States District Judge