

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SAJID L. SYED, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 96-62-JJF
 :
 HERCULES INCORPORATED, a :
 Delaware Corporation, :
 HERCULES INCORPORATED INCOME :
 PROTECTION PLAN, an Employee :
 welfare benefit plan, and :
 HERCULES INCORPORATED, :
 Plan Administrator of :
 DISABILITY PLAN, :
 :
 Defendants. :

Sajid L. Syed, Pro Se Plaintiff.

W. Harding Drane, Jr., Esquire; Mary E. Copper, Esquire; Kevin R. Shannon, Esquire of POTTER ANDERSON & CORROON LLP, Wilmington, Delaware.
Attorneys for Defendants.

MEMORANDUM OPINION

January 19, 2001

Wilmington, Delaware

Farnan, District Judge.

Pending before the Court is a Rule 60(b) Motion For Relief From Judgment Or Order Entered May 28, 1999 (D.I. 57) filed by Plaintiff, Sajid L. Syed. For the reasons set forth below, Plaintiff's Motion is denied.

BACKGROUND

Plaintiff, Sajid L. Syed, filed the instant action seeking to recover disability benefits allegedly due Plaintiff under an employee benefits plan provided by Defendant, Hercules Incorporated. By his Complaint, Plaintiff alleged that he was entitled to recover benefits under ERISA Section 502(a)(1)(B), 29 U.S.C. § 1132(a)(1)(B). In addition, Plaintiff sought sanctions against Defendants for failure to provide him with the plan documentation pursuant to a written request, as required by ERISA Section 502(c), 29 U.S.C. § 1132(c) and failure to give him adequate written notice of the reasons for denial of his claim, as required by ERISA Section 503, 29 U.S.C. § 1133.

In a Memorandum Opinion dated May 27, 1999, the Court granted a Motion For Summary Judgment (D.I. 33) filed by Defendants, Hercules Incorporated ("Hercules") and Hercules Incorporated Income Protection Plan ("the Plan") (collectively "Defendants"). Syed v. Hercules Inc., Civ. Act. No. 96-62, mem. op. (D. Del. May 27, 1999) ("Syed I"). Specifically, the Court concluded that although a genuine issue of material fact existed

as to whether the Claims Fiduciary under the Plan, Provident Life and Accident Insurance Company ("Provident"), acted arbitrarily and capriciously in terminating Plaintiff's disability benefits, Plaintiff's claim under ERISA Section 502(a)(1)(B) was barred by the applicable one-year statute of limitations. In addition, the Court granted Defendants' Motion For Summary Judgment as it pertained to Plaintiff's Section 503 and Section 502(c) claims concluding that Defendants provided Plaintiff with the appropriate plan documentation and sufficiently set forth the reasons for denying Plaintiff's benefits.

On June 14, 1999, Plaintiff filed a Motion For Reconsideration, Clarification And Reargument Of Order Entered On May 28, 1999 (D.I. 48). By Memorandum Order dated July 14, 1999, the Court denied Plaintiff's Motion, and Plaintiff appealed the Court's decisions to the Court of Appeals for the Third Circuit. Syed v. Hercules, Inc., Civ. Act. No. 96-62, mem. order (D. Del. Jul. 14, 1999) ("Syed II") (denying motion for reargument).

On appeal, the Third Circuit affirmed the Court's conclusion that Plaintiff's claims were barred by the one-year statute of limitations. Syed v. Hercules, Inc., No. 99-5472, slip op. (3d Cir. May 30, 2000) ("Syed III"). In addition, the Third Circuit affirmed the Court's dismissal of Plaintiff's ERISA Section 502(c) and Section 503 claims. Plaintiff then filed a Petition For Panel Rehearing And Rehearing En Banc, which the Third Circuit denied by order.

Shortly thereafter, Plaintiff filed the instant Motion pursuant to Rule 60(b). Defendants filed a Response In Opposition to Plaintiff's Motion (D.I. 58). Plaintiff did not file a Reply Brief, but filed a letter (D.I. 59) requesting the Court to rule on his Rule 60(b) Motion. Accordingly, the Court will proceed to consider the merits of Plaintiff's Motion.

STANDARD OF REVIEW

In relevant part, Federal Rule of Civil Procedure 60(b) provides:

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order or proceeding for the following reasons: (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 under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reasons justifying relief from the operation of the judgment. The motion shall be made 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.

Fed. R. Civ. P. 60(b). The decision to grant or deny relief pursuant to Rule 60(b) is committed to the "sound discretion" of the district court. Ross v. Meagan, 638 F.2d 646, 648 (3d Cir. 1981) (citations omitted); United States v. Witco Corp., 76 F. Supp. 2d 519, 527 (D. Del. 1999) (citations omitted). However,

the court's exercise of its discretion is not unfettered. Moolenaar v. Government of the Virgin Islands, 822 F.2d 1342, 1346 (3d Cir. 1987) (recognizing that Rule 60(b) "does not confer upon the district courts a standardless residual of discretionary power to set aside judgments"). In applying Rule 60(b), the court should be cognizant that final judgments are not to be disturbed lightly and the procedures in Rule 60(b) are not meant to be a substitute for an appeal. Kock v. Government of the Virgin Islands, 811 F.2d 240, 246 (3d Cir. 1987). Thus, relief under Rule 60(b) is considered extraordinary and is only warranted in special circumstances sufficient to overcome the overriding interest in the finality of judgments. Harris v. Martin, 834 F.2d 361, 364 (3d Cir. 1987) (citations omitted); Moolenaar, 822 F.2d at 1346 (citations omitted).

DISCUSSION

By his Rule 60(b) Motion, Plaintiff raises three arguments in support of his request to set aside the Court's May 28, 1999 judgment in this case. Two of Plaintiff's arguments, that the Court erred in applying the one-year statute of limitations and Defendants failed to provide Plaintiff with the appropriate Plan Documents, have been previously raised by Plaintiff and addressed by this Court and the Third Circuit. Plaintiff's remaining argument concerns the Court's judgment in favor of Defendants on their counterclaim. The Court will consider each of Plaintiff's

arguments in turn.

A. The Statute of Limitations

By his motion, Plaintiff contends that his ERISA Section 502 claim is subject to a three-year, rather than a one-year statute of limitations. To this effect, Plaintiff contends that he "has recently learned" about this Court's decision in Loving v. Pirelli Cable Corporation, 94-205-RRM (D. Del. Mar. 29, 1995) (order), a case in which Plaintiff contends that the Court applied a three-year limitations period to an ERISA Section 502 claim. (D.I. 57 at 1-3).

After reviewing Plaintiff's argument, as well as the Loving decision, in the context of the standard for applying Rule 60(b), the Court concludes that Plaintiff has not established sufficient grounds to justify setting aside the final judgment in this case. First, Plaintiff has not established that his recent discovery of the Loving decision was a result of mistake, inadvertence, surprise, excusable neglect, newly discovered evidence or fraud or misconduct by Defendants. Indeed, Plaintiff acknowledges in his Motion, that Plaintiff's counsel knew of and was involved in the Loving case, yet Plaintiff's counsel chose not to cite the case in either this Court or the Third Circuit. (D.I. 57 at ¶4). Moreover, even if Plaintiff or his counsel were unaware of this decision, it is generally established that ignorance of substantive law is not sufficient grounds for relief from judgment under Rule 60(b)(1), because it is not excusable

neglect. See 12 James W. Moore, et al., Moore's Federal Practice, 60.41[2] (3d Cir. 1997). And, in any event, Plaintiff has not offered any evidence to establish that his failure to cite the Loving decision was the result of "excusable neglect."

Perhaps more importantly, the Court has reviewed the Loving decision upon which Plaintiff relies and finds it inapplicable to the instant case. The Order which Plaintiff cites (D.I. 57, Ex. B) is a one page order containing no legal analysis at all. To the extent that Plaintiff relies on the Third Circuit's Judgment Order in the Loving case, the Court observes that this Order did not affirm the March 29, 1995 Order upon which Plaintiff relies, but affirmed a judgment entered on October 18, 1995. The Court further observes that the Third Circuit's Order states that the plaintiff's "ERISA Section 503" claim is subject to "the three-year statute of limitations as set forth in Del. Code. Ann. tit. 10 § 8106 (1975), rather than the one-year statute of limitations as set forth in Del. Code Ann. tit. 10 § 8115 (1975)." In this case, Plaintiff's claim is predicated upon ERISA Section 502(a)(1)(B), not Section 503, and therefore, the relevance of the Loving decisions cited by Plaintiff is questionable at best.

Further, both this Court and the Third Circuit have expressly considered the issue of whether the one-year or three-year statute of limitations is applicable to Plaintiff's ERISA claim, and both this Court and the Third Circuit have concluded that the one-year statute of limitations applies. Syed III, No.

99-5472 at 5-10; Syed II, Civ. Act. No. 96-62 at 2-3; Syed I, Civ. Act. No. 96-62 at 10-11. The Third Circuit's decision in this case is the controlling authority, not the decision in Loving, and therefore, the Court finds no grounds upon which to grant Plaintiff's request for relief under Rule 60(b).¹

B. The Plan Documentation

By his Motion, Plaintiff reiterates his claim that Defendants failed to provide him with the appropriate Plan Documents. In both this Court and the Third Circuit, Plaintiff argued that the Summary Plan Description (the "Hercules SPD") was not the Plan Document to which Plaintiff was entitled and that Plaintiff should have received the Insurance Policy relating to the Plan. Both this Court and the Third Circuit rejected Plaintiff's argument. Syed III, No. 99-5472 at 10-11; Syed I, Civ. Act. No. 96-62 at 15-17. By the instant Motion, Plaintiff contends that his counsel presented the "wrong SPD" to the Court and that the Benefits Portfolio attached to the affidavit of Patrick Donahue dated August 26, 1994 was the correct Plan Document rather than the Hercules SPD or the Insurance Policy. (D.I. 57 at 8).

¹ By his Motion, Plaintiff also contends that the Court ignored his claim for "partial disability benefits." (D.I. 57 at 4). The Court observes that Plaintiff failed to raise this claim in his Motion For Reconsideration in this Court and in his Motion For Rehearing before the Third Circuit. However, in any event, Plaintiff's claim for partial disability benefits would be barred by the one-year statute of limitations, and therefore, the Court need not consider the merits of Plaintiff's argument.

As with Plaintiff's previous argument concerning the statute of limitations, the Court concludes that Plaintiff has not established grounds justifying relief under Rule 60(b). The record establishes that Plaintiff was aware of the Benefits Portfolio and included it in his submissions to the Court. Thus, the Benefits Portfolio does not constitute newly discovered evidence under Rule 60(b)(2).

To the extent that Plaintiff suggests that his attorney made a "mistake" by attaching the "wrong SPD" or raising the argument based on the Insurance Policy rather than the Benefits Portfolio, the Court likewise concludes that such a "mistake" is insufficient to justify relief under Rule 60(b). To allow Plaintiff to relitigate this issue by casting his previous arguments as "mistakes" would contravene the primary principle governing the application of Rule 60(b), i.e. the respect for finality of judgments.

As for Plaintiff's claim that Defendants "defrauded" the Court by concealing, switching or citing to the wrong Plan Document (D.I. 57 at 9), the Court concludes that Plaintiff has not offered any evidence to establish fraud on the Court. As the Court has noted, Plaintiff was aware of the Benefits Portfolio and cited it to the Court in his submissions. Further, there is no evidence in the record suggesting that Plaintiff's claim was evaluated under a document other than the Hercules SPD. Indeed, in its Opinion, the Third Circuit recognized that the claim

denial letters sent to Plaintiff in 1994 specifically quoted the Hercules SPD. Syed III, No. 99-5472 at 11. Thus, the Court finds no merit in Plaintiff's claim that Defendants cited the wrong Plan Document or "switched" the Plan Document in 1996. Accordingly, the Court concludes that Plaintiff has not established circumstances justifying relief under Rule 60(b).²

C. Defendants' Counterclaim

Plaintiff next contends that the Court improperly considered Defendants' counterclaim, because the Court did not have jurisdiction over the claim. Specifically, Plaintiff contends that Defendants' counterclaim was a breach of contract claim and the amount claimed did not meet the minimum requirements for the exercise of federal jurisdiction. In addition, Plaintiff contends that, even if the Court had jurisdiction over the counterclaim, the Court should not have considered the Reimbursement Agreement Plaintiff signed in which Plaintiff agreed to provide the Plan with a copy of any Social Security decision issued in his case and reimburse the Plan for any overpayment, because the Reimbursement Agreement was between Plaintiff and a non-party to the litigation, Provident Life and

² Further, the Court notes that even if Plaintiff could establish mistake, newly discovered evidence or fraud, Plaintiff's claim would be time-barred under Rule 60(b), which requires such claims to be filed within one year of the entry of the judgment. In this case, Plaintiff Motion was filed in September 2000, more than one year after the Court's May 28, 1999 judgment.

Accident Insurance Company. (D.I. 57 at 16).

As with Plaintiff's previous arguments, the Court concludes that Plaintiff has failed to establish grounds under Rule 60(b) justifying relief from the Court's judgment in favor of Defendants on their counterclaim. Plaintiff did not raise his arguments concerning the counterclaim previously and offers no explanation for his failure to do so. Moreover, Plaintiff's assertion that the Court lacked jurisdiction over Defendants' counterclaim is incorrect as a matter of law. Defendants' counterclaim was premised on an overpayment made by an ERISA plan, and therefore, the Court had subject matter jurisdiction over the counterclaim. In addition, Defendants' counterclaim arose out of the transaction or occurrence that was the subject matter of Plaintiff's claim, namely the operation of an ERISA plan, and therefore Defendants' counterclaim was a compulsory counterclaim over which the Court could exercise ancillary jurisdiction. See Fed. R. Civ. P. 13(a); 13 Charles Alan Wright, et al., Federal Practice and Procedure, § 3523 (2d ed. 1984). Further, as the Court noted in its May 1999 Memorandum Opinion, Plaintiff admitted in his Answer to Defendants' counterclaim that he was required to reimburse the Plan for overpayments which resulted when Plaintiff began receiving social security benefits and admitted that the amount due was \$16,395.75. Syed I, Civ. Act. No. 96-62 at 18-19.

In addition, the Court observes that Plaintiff did not

challenge the Court's decision on Defendants' counterclaim in his appeal to the Third Circuit. As the Court previously noted, Rule 60(b) is not a substitute for an appeal and extraordinary circumstances are required to justify relief under Rule 60(b). Plaintiff refers to the Reimbursement Agreement, however, the Reimbursement Agreement is not new evidence, and Plaintiff has not established any other ground under Rule 60(b) justifying relief. Accordingly, the Court will deny Plaintiff's Motion as it pertains to the Court's judgment on Defendant's counterclaim.

CONCLUSION

For the reasons discussed, Plaintiff's Rule 60(b) Motion For Relief from Judgment Or Order Entered May 28, 1999 will be denied.

An appropriate Order will be entered.