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Supreme Court to Address Circuit Split Regarding Deadline for Setting Aside Void Judgments



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The U.S. Supreme Court recently granted a *writ of certiorari* in *In re Vista-Pro Automotive LLC*,¹ a case in which the Sixth Circuit Court of Appeals held that a timeliness requirement exists for a motion for relief from a judgment under Rule 60 of the Federal Rules of Civil Procedure, even where such judgment is void for lack of personal jurisdiction. The opinion is notable in that it deepened a circuit split with the First, Third, Fifth, Seventh, Eighth, Ninth, Tenth, Eleventh and D.C. Circuits,² each of which have held that there is no time limit for seeking relief from a void judgment. Oral argument at the Supreme Court is scheduled for Nov. 5, 2025. This article discusses the Sixth Circuit's majority and dissenting opinions.

Civil Rules 60(b) and (c)

Civil Rule 60, which is made applicable in bankruptcy proceedings by Rule 9024 of the Federal Rules of Bankruptcy Procedure, establishes six grounds on which a party may seek relief from a final judgment or order, providing:

(b) **Grounds for Relief from a Final Judgment, Order, or Proceeding.** On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.³

Civil Rule 60(c)(1) governs the time for filing a motion under Civil Rule 60(b). The rule provides that motions seeking relief from a final judgment or order must be brought "within a reasonable time — and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding."⁴

In re Vista-Pro Automotive LLC

Creditors of Vista-Pro commenced an involuntary chapter 7 case in the Middle District of Tennessee in November 2014, which was subsequently converted to a chapter 11 case. In February 2015, Vista-Pro commenced an adversary proceeding against Coney Island Auto Parts Unlimited Inc., seeking to collect approximately \$50,000 in unpaid invoices. The summons and complaint were sent to Coney Island's corporate address but without any corporate officer's or other individual's name on the mailing, as required by Bankruptcy Rule 7004(b)(3).⁵ After Coney Island failed to respond to the complaint, Vista-Pro moved for default judgment (again, using the same address for service), which the bankruptcy court granted in May 2015.

Thereafter, the case was reconverted to chapter 7 and a trustee was appointed. In April 2016, the trust-

¹ *Burton v. Coney Island Auto Parts Unlimited Inc. (In re Vista-Pro Auto. LLC)*, 109 F.4th 438 (6th Cir. 2024).

² See *U.S. v. One Toshiba Color Television*, 313 F.3d 147, 157 (3d Cir. 2000) ("In light of our ruling that the judgment against [Reginald] McGlory in the electronic-equipment forfeiture is void, however, no passage of time can transmute a nullity into a binding judgment, and hence there is no time limit for such a motion."); *Rodd v. Region Constr. Co.*, 783 F.2d 89, 91 (7th Cir. 1986) ("[T]he reasonable time criterion of Rule 60(b), as it relates to void judgments, means no time limit because a void judgment is no judgment at all."); *U.S. v. Boch Oldsmobile Inc.*, 909 F.2d 657, 661-62 (1st Cir. 1990); *Briley v. Hidalgo*, 981 F.2d 246, 249 (5th Cir. 1993); *Katter v. Arkansas La. Gas Co.*, 765 F.2d 730, 734 (8th Cir. 1985); *Owens-Corning Fiberglass Corp. v. Center Wholesale Inc. (In re Center Wholesale Inc.)*, 759 F.2d 1440, 1448 (9th Cir. 1985); *Misco Leasing Inc. v. Vaughn*, 450 F.2d 257, 260 (10th Cir. 1971); *Hertz Corp. v. Alamo Rent-a-Car Inc.*, 16 F.3d 1126, 1130-31 (11th Cir. 1994); *Austin v. Smith*, 312 F.2d 337, 343 (D.C. Cir. 1962).

³ Fed. R. Civ. P. 60(b).

⁴ Fed. R. Civ. P. 60(c)(1).

⁵ Bankruptcy Rule 7004(b)(3) allows service on a corporation to be accomplished "by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b)(3).

ee sent a demand letter to Coney Island regarding the default judgment. This letter was addressed to Coney Island’s chief executive officer. Although it was undisputed that Coney Island received the letter, the company once again failed to respond. The trustee continued her efforts to collect on the judgment over the next several years, including placing a hold on Coney Island’s bank account.

In October 2021, Coney Island moved in the Southern District of New York to vacate the default judgment. The court denied the motion, instructing Coney Island to seek relief from the Middle District of Tennessee, where the bankruptcy case had been filed.

Coney Island did so in July 2022, moving under Civil Rule 60(b)(4) to vacate the default judgment. In its motion, Coney Island argued that Vista-Pro’s service of the summons and complaint failed to comport with the requirements of Bankruptcy Rule 7004(b)(3) and the default judgment was therefore void. Coney Island further argued that the trustee could not invoke *laches* or any other equitable defense because there is no time limit for filing a motion to vacate a void judgment.

The Middle District of Tennessee bankruptcy court denied the Civil Rule 60(b)(4) motion on the basis that it was not made within a “reasonable” time as required by Civil Rule 60(c). The court observed that Coney Island had actual notice of the default judgment no later than April 2016. Its years-long delay in bringing the motion to vacate, the court found, was unreasonable. The district court affirmed, and Coney Island appealed to the Sixth Circuit Court of Appeals.

The Majority Opinion

Hon. Joan Larsen and Hon. Danny Boggs, writing for the majority, affirmed the lower court’s denial of the motion to vacate the default judgment holding that the “reasonable time” requirement set forth in Civil Rule 60(c) applies even to judgments that are void due to a lack of personal jurisdiction. The majority acknowledged that its holding appeared “to be out of step with the majority view,” but held that it was consistent with the plain language of Civil Rule 60.⁶

This text-based outcome, the majority stated, was consistent with Sixth Circuit precedent.⁷ The majority cited *United States v. Dailide*,⁸ a case in which the Sixth Circuit denied a motion to vacate under Civil Rule 60(b)(4) because the motion, premised on Dailide’s assertion that the court lacked subject-matter jurisdiction, was filed four years after entry of the judgment and, therefore, “was untimely and lack[ed] merit.”⁹ The dissent disputed the binding nature of *Dailide*, asserting that the holding was based on the appeal’s lack of merit rather than the timeliness issue. The majority disagreed, concluding that it was “bound by *Dailide*’s holding that Civil Rule 60(b)(4) motions are subject to a reasonable-time limitation.”¹⁰

Returning to the text of Civil Rule 60, the majority concluded that its reading of subsection (c)(1) was the “only

reading that is faithful to the text ... which, by its plain terms, imposes a reasonable-time requirement on *each* of the enumerated grounds in Civil Rule 60(b).”¹¹ The majority noted that the rule’s drafters were deliberate in framing its limitations and knew how to establish different standards for the various grounds, citing the one-year time period to bring motions under Civil Rule 60(b)(1)–(3) and observing the drafter’s silence on a different time limitation for motions related to void judgments.¹² The court reasoned that “[i]f the drafters of the rule meant that a district court may never dismiss a [Civil] Rule 60(b)(4) motion as untimely, then commanding that such motions ‘must be made within a reasonable time’ was an odd way to express it.”¹³

Next, the majority observed that applying a reasonable-time limitation to Civil Rule 60(b)(4) motions comports with basic equitable principles. Adopting a position that there is no time limit for filing a Civil Rule 60(b)(4) motion, the court stated, “would permit a party to engage in flagrantly inequitable conduct” in that such party could “consciously sleep ... on its rights in order to cause prejudice to the judgment holder, undermine the finality of long-forgotten judgments, or upset reliance interests.”¹⁴

Finally, the court stated that nothing about its interpretation of Civil Rule 60 requires unfairness to a party who is subject to a void judgment because the reasonable-time limitation “anticipates a fact-specific inquiry that can account for a variety of circumstances, including a party’s innocent delay in learning of a void judgment against it or in learning why the judgment is void.”¹⁵ Therefore, “any notice concerns that arise in the context of void judgments can be properly accounted for in the reasonable-time calculation.”¹⁶

The Dissent

Hon. David W. McKeague issued a forceful dissent, stating, “I would hold that Coney Island is not categorically barred solely on timeliness grounds from filing a [Civil] Rule 60(b)(4) motion for relief from final judgment.”¹⁷ Regardless of the delay, he reasoned that “[c]ourts have no power to enforce void judgments.”¹⁸ The dissent focused its analysis on due process principles, stating:

Principles of due process require that parties to a lawsuit be properly served for a court to have jurisdiction to adjudicate the parties’ rights. Indeed, before “a federal court may exercise personal jurisdiction over a defendant, the procedural requirement of service of summons must be satisfied.” Without proper jurisdiction over the parties, a judgment is void under [Civil] Rule 60(b)(4). Because a court lacks the power to enforce a void judgment, “overwhelming authority exists for the proposition that there are no time limits with regards to a challenge to a void judgment.”

11 *Id.* at 444 (emphasis in original).

12 *Id.*

13 *Id.*

14 *Id.* at 445.

15 *Id.* at 445–46.

16 *Id.* at 446.

17 *In re Vista-Pro Auto. LLC*, 109 F.4th at 447 (McKeague, J., dissenting).

18 *Id.*

6 *In re Vista-Pro Auto. LLC*, 109 F.4th at 442 (citing *Kemp v. U.S.*, 596 U.S. 528, 533 (2022)).

7 *Id.*

8 *United States v. Dailide*, 316 F.3d 611, 614 (6th Cir. 2003).

9 *In re Vista-Pro Auto. LLC*, 109 F.4th at 442 (quoting *Dailide*, 316 F.3d at 619).

10 *Id.* at 442.

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Because a void judgment is a “nullity,” the argument goes, the passage of time cannot render it valid.¹⁹

Citing a well-regarded treatise, the dissent continued: “Courts widely agree that the timeliness requirement in the text of [Civil] Rule 60(c)(1) does not apply to a motion seeking vacatur of an allegedly void judgment for the simple fact that a legal nullity must necessarily be vulnerable to vacatur at any time.”²⁰ The dissent opined that the circuit was not bound by its prior ruling in *Dailide* because, among other reasons, intervening Supreme Court precedent permits the circuit to revisit findings from earlier panels.

In this regard, the dissent pointed to the Court’s recent ruling in *United States Aid Funds Inc. v. Espinosa*,²¹ interpreting it as an instruction from the Supreme Court that Civil Rule 60(b)(4) permits attacking void judgments at any time.²² Moving on from the issue of precedent, the dissent once again focused on personal jurisdiction and due process concerns, stating that

personal jurisdiction is an “essential element” of a court’s jurisdiction, “without which the court is ‘powerless to proceed to an adjudication.’” The requirement that courts possess personal jurisdiction over the parties whose rights are being adjudicated represents a “restriction on judicial power” and is framed as a “matter of individual liberty....” The personal-jurisdiction requirement is rooted in fundamental due-process principles, ensuring that parties to a suit are legitimately subject to a court’s lawful authority before the court adjudicates their rights.²³

Finally, the dissent focused on the history of Civil Rule 60.²⁴ Prior to that rule’s enactment, the dissent noted, there was a “well-established rule that void judgments could be vacated at any time.”²⁵ The Advisory Committee that drafted the rule specifically affirmed that the construction of Civil Rule 60 was not intended to take away pre-existing remedies.²⁶ The dissent opined that inclusion of the word

“reasonable” in the text of Civil Rule 60(c)(1) can be taken as further evidence that the Advisory Committee did not intend to upend the traditional rule because, “as applied to facially void judgments, a ‘reasonable’ time limit might very well be no time limit at all.”²⁷

***In re Vista-Pro Automotive LLC* might end up being the only bankruptcy case before the Supreme Court in the October 2025 term.**

Regardless of the timeliness of a request to set aside a judgment that is void for lack of personal jurisdiction, the dissent opined, such judgment cannot be allowed to stand. The dissent concluded by stating:

Before exercising power over the parties to a legal action, a court must abide by certain restraints on its authority to adjudicate individuals’ rights. Subject-matter and personal jurisdiction limitations act to protect individual liberty, uphold faith in the rule of law, and bolster the legitimacy of a judiciary that wields otherwise significant power. Those fundamental limitations manifest the deep responsibility that courts have to administer justice fairly and dispassionately. Enforcement of a legal nullity is a true injustice. Where a judgment is void, it cannot stand.²⁸

Conclusion

In re Vista-Pro Automotive LLC might end up being the only bankruptcy case before the Supreme Court in the October 2025 term. While *In re Vista-Pro Automotive LLC* does not deal with substantive bankruptcy law issues, it is nonetheless an important case for bankruptcy practitioners to be aware of, particularly those with a more litigation-focused practice. The case will allow the Court to resolve a clear circuit split. In doing so, the Court will need to address an arguable conflict between the plain text of Civil Rule 60 and the fundamental principles of due process. **abi**

²⁷ *Id.*
²⁸ *Id.* at 453.

¹⁹ *Id.* at 448 (internal citations omitted).

²⁰ *Id.* (citing 11 Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2862 (3d ed. June 2024 update)).

²¹ *United States Aid Funds Inc. v. Espinosa*, 559 U.S. 260 (2010).

²² *In re Vista-Pro Auto. LLC*, 109 F.4th at 449-50.

²³ *Id.* at 450-51 (internal citations omitted).

²⁴ *Id.* at 451.

²⁵ *Id.*

²⁶ *Id.* at 452.

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