

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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:  
COMMONWEALTH OF THE NORTHERN :  
MARIANA ISLANDS, :

*Plaintiff,* :

v. :

No. 11 MISC 00099

WILLIAM H. MILLARD, :

*Defendant.* :  
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:  
COMMONWEALTH OF THE NORTHERN :  
MARIANA ISLANDS, :

*Plaintiff,* :

v. :

No. 11 MISC 00100

PATRICIA H. MILLARD, :

*Defendant.* :  
-----X

**PLAINTIFF’S MEMORANDUM IN SUPPORT OF ITS MOTIONS TO VACATE THE  
REGISTERED JUDGMENTS AND DISMISS MISCELLANEOUS ENFORCEMENT  
ACTIONS WITH PREJUDICE**

Plaintiff, the Commonwealth of the Northern Mariana Islands (the “Commonwealth”), by and through the undersigned, respectfully submits this memorandum in support of its motions to vacate the registered judgments entered in—and to dismiss the above-captioned miscellaneous actions with prejudice pursuant to Rules 41(a)(2) and 60(b)(5) of the Federal Rules of Civil Procedure, and in support thereof states:

***Background***

1. In an action in the United States District Court for the Northern Mariana Islands (D.N.M.I. Case No. 1:93-cv-00028) between the Commonwealth as plaintiff and William H. Millard as defendant, a judgment was entered therein on July 1, 1994 in favor of the Commonwealth and against William H. Millard.

2. In an action in the United States District Court for the Northern Mariana Islands (D.N.M.I. Case No. 1:93-cv-00029) between the Commonwealth as plaintiff and Patricia H. Millard as defendant, a judgment was entered therein on July 1, 1994 in favor of the Commonwealth and against Patricia H. Millard.

3. In 2011, the Commonwealth registered the above-described judgments against William H. Millard and Patricia H. Millard in this Court pursuant to 28 U.S.C. § 1963, opening miscellaneous Case Nos. 11 Misc. 00099 and 11 Misc. 00100.

4. By Order of August 20, 2014, the U.S. District Court for the Northern Mariana vacated the underlying judgment against William H. Millard pursuant to Fed. R. Civ. P. 60(b)(5). *See* Order, Docket No. 26 in Case No. 1:93-cv-00028 (D.N.M.I.) (appended hereto as Exhibit A).

5. By Order of August 20, 2014, the U.S. District Court for the Northern Mariana vacated the underlying judgment against Patricia H. Millard pursuant to Fed. R. Civ. P. 60(b)(5). *See* Order, Docket No. 31 in Case No. 1:93-cv-00029 (D.N.M.I.) (appended hereto as Exhibit B).

6. By Order of August 21, 2014, the U.S. District Court for the Northern Mariana dismissed the original action against William H. Millard with prejudice pursuant to Fed. R. Civ. P. 41(a)(2). *See* Order, Docket No. 27 in Case No. 1:93-cv-00028 (D.N.M.I.) (appended hereto as Exhibit C).

7. By Order of August 21, 2014, the U.S. District Court for the Northern Mariana dismissed the original action against Patricia H. Millard with prejudice pursuant to Fed. R. Civ. P. 41(a)(2). *See* Order, Docket No. 32 in Case No. 1:93-cv-00029 (D.N.M.I.) (appended hereto as Exhibit D).

### ***Legal Standards***

8. Pursuant to Fed. R. Civ. P. 60(b)(5), “[o]n motion and just terms, the court may relieve a party . . . from a final judgment [if] it is based on an earlier judgment that has been reversed or vacated.” Fed. R. Civ. P. 60(b)(5).

9. Pursuant to Fed. R. Civ. P. 41(a)(2), an action may be dismissed at the plaintiff’s request “on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2).

### ***Argument***

10. Because the underlying judgments rendered by the U.S. District Court for the Northern Mariana Islands against William H. Millard and Patricia H. Millard have both been vacated by the rendering court, and are therefore a nullity, there is good cause and just terms for this Court to likewise vacate the derivative judgments resulting from the registrations of the original judgments in this Court pursuant to 28 U.S.C. § 1963. Accordingly, the Court should vacate the registered S.D.N.Y. judgments (Case Nos. 11 Misc. 00099 and 11 Misc. 00100) against each of William H. Millard and Patricia H. Millard pursuant to Fed. R. Civ. P. 60(b)(5).

11. Because the underlying judgments have been vacated and the original actions dismissed by the U.S. District Court for the Northern Mariana Islands with prejudice, the Commonwealth further respectfully requests this Court, pursuant to Fed. R. Civ. P. 41(a)(2), to dismiss these miscellaneous actions with prejudice.

***Conclusion***

12. For the foregoing reasons, the Commonwealth respectfully requests the Court to enter an Order, substantially in the form of the proposed order (appended hereto as Exhibit E) vacating the registered judgments and dismissing these actions with prejudice.

Dated: September 25, 2014  
New York, New York

Respectfully submitted,

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