

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CARL CAVALIER

CIVIL ACTION NO.: 21-656-JWD-RLB

VERSUS

JUDGE: JOHN W. DEGRAVELLES

**THE LOUISIANA DEPT. OF
PUBLIC SAFETY & CORRECTIONS,
ET AL.**

**MAGISTRATE JUDGE: RICHARD
L. BOURGEOIS, JR.**

MOTION FOR REHEARING ON RULING AND ORDER

NOW INTO COURT comes Plaintiff, Carl Cavalier, appearing herein pro se, who respectfully moves this Honorable Court to reconsider the Ruling and Order of May 22nd 2023 (hereinafter "Order"), and represents the following, to wit:

1.

Plaintiff avers that the Order of May 22nd 2023 is contrary to Local Rule 16 (c), specifically that Notice of Settlement under Alternative Dispute Resolution, is required to be immediately filed into a Joint Notice of Settlement signed by Counsel (Jill Craft) for Plaintiff into the record.

2.

Plaintiff avers that the Order is also contrary to Rule 16 (c) in that those claims unsettled, specifically the reinstatement of his employment, were not outlined in such a document as required by Local Rule.

3.

Plaintiff avers that the considerations taken under review by this Honorable Court failed to include all evidence and considerations of Plaintiffs expression of Duress and Error, specifically that Counsel present with Plaintiff disregarded Plaintiffs desires of how representation was to be handled.

4.

Plaintiff shows that according to State and Federal Rules of Professional Conduct, counsel failed to abide by Plaintiff's decisions concerning the objectives of representation.

5.

Plaintiff further shows that counsel further violated said Rules of Professional Conduct by not abiding by Plaintiff's decision whether or not to settle in the foregoing matter.

6.

Plaintiff further shows that Counsel violated said Rules of Professional Conduct by limiting the scope of representation without Plaintiff's informed consent, specifically with regards to the terms under which Plaintiff was willing to settle.

7.

Plaintiff further shows that Counsel violated said Rules of Professional Conduct by failing to inform Plaintiff of decisions and circumstances which required Plaintiff's informed consent.

8.

Plaintiff further shows that there are several audio recordings and other documented communications between Counsel and Plaintiff which were not reviewed by this Honorable Court prior to rendering the Order. (Exhibits 3, 4, &5 of the Motion to Reopen the Cause and Rescind Settlement, filed 12.02.2022)

9.

Plaintiff also avers that the Magistrate's Report and Recommendation (Report), which was the basis for the Order, is contradictory. Specifically, on page 9, the Report states that the agreement almost "exclusively dealt with the ending of Plaintiff's employment. Re-employment was never considered." The following paragraph goes on to admit that re-employment would be barred by the agreement, then doubles back and states that it, in pertinent part, "...does not mean that the agreement failed to address the issue of his *future* employment."

10.

Plaintiff shows that, according to precedent, Louisiana law governs the construction and validity of the (alleged) settlement agreement in this case. Specifically, Article 3072 of the Louisiana Code of Civil Procedure mandates that a compromise be in writing and signed in open court.

11.

Plaintiff further shows that Article 3076 of the Louisiana Civil Code states that a compromise "settles only those differences that the parties *clearly* intended to settle...". Plaintiff

informed Counsel throughout the entire representation that he would not agree to termination, resignation, or inability to be employed in the future.

12.

Plaintiff further shows that Article 3082 of the Louisiana Civil Code allows for a compromise to be “rescinded for error, fraud, and other grounds for the annulment of contracts.

13.

Plaintiff further shows that, according to Article 2031 of the Louisiana Civil Code, “A contract is relatively null when it violates a rule intended for the protection of private parties”. As described above, those rules of which Counsel violated have - at least in part - the intent to protect the Client within an attorney/client relationship. Also, Local Rule 16, *supra*, necessarily protects Plaintiff’s rights to judicial review by mandating the agreement be put into the record *and* those unsettled claims be outlined.

CONCLUSION

Plaintiff believes there are sufficient grounds, as listed herein, for rehearing this matter and prays this Honorable Court hold an evidentiary hearing for the purpose of reviewing all related information as to whether or not Counsel ever had authority to enter into the agreement as was outlined subsequent to the settlement conference. Plaintiff further prays this Honorable Court allow both parties to submit to the Court any and all evidence relating to the issues outlined herein. Plaintiff further requests that Plaintiff be allowed to reserve the right to amend the claims outlined herein, whether by form of additional evidence or brief and memorandum in support, prior to any evidentiary hearing held. Plaintiff believes that the interests of justice would be served by allowing the requested relief and, further, the ensured protection of Plaintiff's constitutional and civil rights.

Respectfully submitted this 20 day of June, 2023, at Baton Rouge, La.



Carl Cavalier, Pro Se

248 Ciera Dr.

Houma, La. 70364

(504)316-0351

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CARL CAVALIER

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AFFIDAVIT

I, Carl Cavalier, Plaintiff herein being duly sworn, hereby declare that all of the information contained in the foregoing Motion for Rehearing on Ruling and Order is true and correct to the best of my knowledge, information, and belief under penalty of perjury.

I further certify that the original of the foregoing has been filed with the Clerk of Court for the United States Middle District Court of Louisiana, and service requested on all parties.

This 20 day of June, 2023, at Baton Rouge, Louisiana.

Carl Cavalier

Carl Cavalier

Carl Cavalier, Affiant Print

Carl Cavalier, Affiant Signature

Sworn to and Subscribed before me this 20 day of June, 2023, at

Baton Rouge, Louisiana.

Melissa McManus

MELISSA MCMANUS
NOTARY PUBLIC ID #157216
STATE OF LOUISIANA
MY COMMISSION IS FOR LIFE

Upe

Notary Public

Commission Expiration

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

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ORDER

After consideration of the foregoing Motion for Rehearing on Ruling and Order, it is hereby ORDERED that a hearing be set for the ____ day of _____, 2023, at ____:____ o'clock ____m.

It is further ORDERED that a return date be set for the ____ day of _____, 2023, for the parties herein to submit Brief and Memorandum in Support, along with any further evidence to be considered.

This ____ day of _____, 2023, at Baton Rouge, Louisiana.

JUDGE

Please Serve:

Plaintiff

State of Louisiana
Dept. Of Public Safety and Corrections
Office of State Police
% Counsel on Record

Carl Cavalier
248 Ciera Dr.
Houma, La. 70364

Middle District of Louisiana,
Clerk of Court
Russell B Long Federal Building
United States Courthouse
777 Florida St., Ste. 139
Baton Rouge, La. 70801

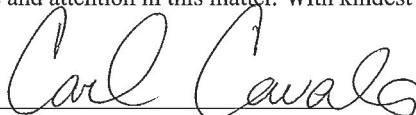
In Re: Cavalier v. State of Louisiana, et al., No.: 21-656-JWD-RLB

June 20, 2023

Dear Clerk:

Enclosed herein is a Motion for Rehearing on Rule and Order, bearing the above captioned docket number. Please file same with your office, serve opposing counsel a copy of the foregoing, and present it to the Court as the docket permits.

Thank you for your time and attention in this matter. With kindest regards,


Carl Cavalier

Please Serve:

Plaintiff

State of Louisiana
Dept. Of Public Safety and Corrections
Office of State Police
% Counsel on Record