

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DAVID SCOTT HASTINGS,

Plaintiff,

v.

Case No: 2:18-cv-485-FtM-38MRM

WILBUR SMITH LAW FIRM,  
JOSEPH VIACAVA, SAWYER  
SMITH, RYAN DOYLE and GERALD  
OLIVIO,

Defendants.

---

**ORDER**<sup>1</sup>

Before the Court is Plaintiff David Hastings's Motion for Relief from Order Under Rule 60(b). ([Doc. 14](#)). Hastings seeks relief from this Court's Order ([Doc. 11](#)), which dismissed his action without prejudice for failure to plead diversity jurisdiction. Attached to his Motion is an Amended Complaint that, according to Hastings, properly pleads diversity. ([Doc. 14-1](#)). Because the Court's Order dismissing his case was without prejudice ([Doc. 11](#)), there is no need to seek relief from the Order under Rule 60(b); and Hastings may file his Amended Complaint. Therefore, the Court denies the Motion for

---

<sup>1</sup> Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

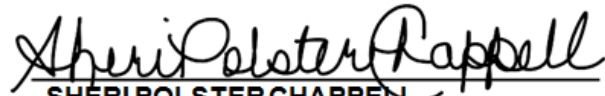
Relief from Order Under Rule 60(b), but the Clerk is directed to accept the Amended Complaint attached to this Motion ([Doc. 14-1](#)) and file it as a new docket entry.

Accordingly, it is now

**ORDERED:**

1. Motion for Relief from Order Under Rule 60(b) ([Doc. 14](#)) is **DENIED**.
2. The Clerk is **DIRECTED** to file the attached amended complaint ([Doc. 14-1](#)) as Hastings's Amended Complaint on the docket as a separate entry.

**DONE** and **ORDERED** in Fort Myers, Florida this 23rd day of January, 2019.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record