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United States Court of Appeals
Tenth Circuit

August 3, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

PERRY CLINE, on behalf of himself and all others similarly situated,

Plaintiff - Appellee,

v.

SUNOCO, INC. (R&M); SUNOCO PARTNERS MARKETING & TERMINALS L.P.,

Defendants - Appellants.

No. 22-7018
(D.C. No. 6:17-CV-00313-JAG)
(E.D. Okla.)

ORDER AND JUDGMENT*

Before **MATHESON**, **BRISCOE**, and **MORITZ**, Circuit Judges.

For almost three years, Sunoco, Inc. (R&M) and Sunoco Partners Marketing & Terminals, L.P. (collectively, "Sunoco") have unsuccessfully attempted to appeal several adverse rulings in a class-action lawsuit that resulted in a $155 million damages award against them. We dismissed Sunoco's first attempt as premature, explaining that Sunoco had appealed before the district court entered an order satisfying the two requirements under our precedents for a final, appealable judgment in the class-action context. Specifically, the district court had not entered an order

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. But it may be cited for its persuasive value. *See* Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

that (1) allocated damages among class members and (2) disposed of any unclaimed class funds. Once the district court adopted an allocation plan purporting to satisfy those finality requirements, Sunoco appealed a second time, reasserting its various merits arguments. But we dismissed Sunoco's second appeal, too, this time holding that Sunoco had failed to establish appellate jurisdiction because it argued that the district court's allocation plan did not, in fact, satisfy the two finality requirements and thus did not result in a final, appealable judgment.

After unsuccessfully seeking rehearing and mandamus relief, Sunoco returned to the district court and filed the Federal Rule of Civil Procedure 60(b)(6) motion at issue in this appeal. The motion asked the district court to modify the allocation plan so that it complies with the two finality requirements, thereby producing a final judgment that Sunoco might at last appeal on the merits. Believing that the plan, as written, already complied with those requirements, the district court denied the motion. Once again, Sunoco appeals. And because the district court's allocation plan satisfies neither finality requirement, we hold that the district court abused its discretion in denying Sunoco's Rule 60(b)(6) motion. We therefore reverse and remand for further proceedings.

Background

The class-action lawsuit underlying this appeal stems from Sunoco's role as a first purchaser of crude oil. In that role, Sunoco buys oil from individual wells and pays proceeds to the mineral-interest owners for those wells. Under Oklahoma law, Sunoco must pay these proceeds within certain statutory deadlines and, if it fails to

do so, must pay interest. *See* Okla. Stat. tit. 52, § 570.10(A)–(E). In 2017, Perry Cline and several other Oklahoma mineral-interest owners sued Sunoco for allegedly adopting an unlawful practice of paying interest on late proceeds payments only when owners requested such interest. The district court certified the case as a class action consisting of about 53,000 mineral-interest owners, and after a bench trial, it found Sunoco liable. The district court then issued an order in late August 2020 awarding the class about $155 million in total damages and purporting to enter final judgment against Sunoco.

That same day, Sunoco filed its first notice of appeal, challenging the district court's class-certification and bench-trial decisions, among other rulings. But about three weeks later, Sunoco moved to abate the appeal because the district court had yet to enter a final, appealable judgment. *See* Fed. R. Civ. P. 54(a) (defining "judgment" as "any order from which an appeal lies"); 28 U.S.C. § 1291 (permitting appeals from district court "final decisions"). Specifically, the district court had not entered an order that satisfied the two requirements for such a judgment in the class-action context under our precedents: it had not established (1) "the formula that will determine the division of damages among class members" or (2) "the principles that will guide the disposition of any unclaimed funds." *Strey v. Hunt Int'l Res. Corp.*, 696 F.2d 87 (10th Cir. 1982); *see also Cook v. Rockwell Int'l Corp.*, 618 F.3d 1127, 1137–38 (10th Cir. 2010) (holding that class-action judgment was final because district court adopted allocation plan that complied with *Strey*'s two requirements). Since the absence of a final judgment affected our jurisdiction, we ordered the parties

to brief whether Sunoco's first appeal should be dismissed. *See* 28 U.S.C. § 1291.

While the parties briefed that issue, the district court adopted an allocation plan addressing the two finality requirements mentioned above. As to the first, the plan adopted Cline's proposal to divide damages by assigning each class member a ten-digit Business Associate ("BA") number corresponding to their account number in Sunoco's records. A judgment administrator would then calculate each class member's damages by multiplying their predetermined percentage of the total judgment by the total judgment. And as to the second, the plan provided that the district court would decide where to send any unclaimed funds after the judgment administrator finished distributing damages to class members. Although the district court "anticipate[d]" sending unclaimed funds to "state accounts for unclaimed property," it "retain[ed] discretion to select a different method of distribution that best serves the interests of the class once all relevant information is available." App. 97. The same day the district court adopted the allocation plan, Sunoco filed a second notice of appeal challenging the plan and all prior adverse rulings.

Soon after, Sunoco filed a supplemental brief in its first appeal, noting that the district court had adopted an allocation plan but arguing that the plan did not constitute a final, appealable judgment under *Strey* and *Cook*. That is so, Sunoco argued, because the allocation plan (1) does not address how to distribute damages among a group of class members associated with two BA numbers that represent aggregate accounts that Sunoco used whenever it lacked a mineral-interest owner's name or address; and (2) makes no definitive preliminary finding about distributing

unclaimed funds. The next day, we dismissed Sunoco's first appeal for lack of jurisdiction. *Cline v. Sunoco Partners Mktg. & Terminals L.P.* (*Cline I*), No. 20-7055, 2020 WL 8632631 (10th Cir. Nov. 3, 2020) (unpublished). Without mentioning the district court's recently issued allocation plan, we concluded that the appeal was premature when filed because "the district court had not yet entered a final decision" allocating damages. *Id.* at *1.

That same day, we ordered supplemental briefing in Sunoco's second appeal on whether the district court's allocation plan complied with *Strey* and *Cook*'s finality requirements. In posttrial motions filed in the district court a few weeks later, Sunoco reasserted its position that the plan did not comply with those requirements. The district court denied the motions, summarily rejecting Sunoco's argument that the plan failed to allocate damages among class members and specifically rejecting Sunoco's objection that the plan did not provide for the distribution of unclaimed damages. As to the latter point, the district court asserted that the plan requires the judgment administrator to send unclaimed damages "to state unclaimed property funds." App. 114 n.10. Sunoco then filed a third notice of appeal challenging the district court's decision, which we consolidated with Sunoco's second appeal.

After full merits briefing and additional supplemental briefing on jurisdiction, we dismissed the consolidated appeals, holding that Sunoco "ha[d] not met its burden to establish [appellate] jurisdiction" because it had filed various briefs arguing that

the district court's allocation plan "d[id] not result in a final, appealable judgment."[1] *Cline v. Sunoco Partners Mktg. & Terminals L.P.* (*Cline II*), Nos. 20-7064 & 20-7072, 2021 WL 5858399, at *2 (10th Cir. Nov. 1, 2021) (per curiam) (unpublished), *cert. denied*, 143 S. Ct. 90 (Oct. 3, 2022). Sunoco then petitioned for panel rehearing and rehearing en banc, and alternatively asked that we construe the consolidated appeals as a mandamus petition. When we denied the rehearing petition, Sunoco filed a mandamus petition asking that we order the district court to amend the allocation plan so that it complies with *Strey* and *Cook*. Sunoco's proposed amendment would have (1) instructed the judgment administrator on how to divide damages among the group of class members associated with the two BA numbers that represent aggregate accounts; and (2) incorporated the district court's clarification in the order denying posttrial motions about where unclaimed funds will be sent. We denied this petition, too, concluding that Sunoco had not shown it was entitled to mandamus relief.

Undeterred, Sunoco returned to the district court and filed the Federal Rule of Civil Procedure 60(b)(6) motion at issue in this appeal. *See* Fed. R. Civ. P. 60(b)(6) (permitting relief from "a final judgment, order, or proceeding for . . . any other reason that justifies relief"). In that motion, Sunoco asked the district court to modify the allocation plan in the two ways suggested in Sunoco's mandamus petition and to issue a new judgment. *See* Fed. R. Civ. P. 58(a) ("Every judgment and amended

[1] In reaching that conclusion, we expressly declined to consider whether the allocation plan is a final, appealable judgment. *See Cline II*, 2021 WL 5858399, at *3 n.7 ("We do not address whether the district court's [allocation plan] resulted in a final, appealable judgment.").

judgment must be set out in a separate document . . . ."). The district court denied Sunoco's motion, maintaining that the allocation plan "complies with the [finality] standard set forth in" *Strey* and *Cook* and asserting that it had already "satisfied" Rule 58(a). App. 249. Once again, Sunoco appeals.[2]

Analysis

Sunoco challenges the district court's order denying Rule 60(b) relief. Before addressing Sunoco's challenge, however, we must consider the "threshold question" of whether we have jurisdiction to review that decision. *W. Energy All. v. Salazar*, 709 F.3d 1040, 1046 (10th Cir. 2013) (quoting *Timpanogos Tribe v. Conway,* 286 F.3d 1195, 1201 (10th Cir. 2002)). Only after confirming our jurisdiction may we proceed to address the merits of Sunoco's challenge to the district court's Rule 60(b) decision. *Id.*

I. Appellate Jurisdiction

Our jurisdiction generally extends only to appeals from "final decisions." 28 U.S.C. § 1291. As the party invoking our jurisdiction, Sunoco "bears the burden of . . . demonstrating the finality of the challenged decision." *Zen Magnets, LLC v. Consumer Prod. Safety Comm'n*, 968 F.3d 1156, 1164 (10th Cir. 2020). A decision is ordinarily final (and thus appealable) if it "ends the litigation on the merits and leaves nothing for the [district] court to do but execute the judgment." *Jackson v. Los Lunas*

[2] Sunoco also appealed orders declining to enjoin or stay enforcement of the damages award, but we dismissed those appeals for lack of jurisdiction. *Cline v. Sunoco, Inc. (R&M)*, Nos. 22-7017, 22-7018, & 22-7030, 2022 WL 16578857, at *2 (10th Cir. Aug. 4, 2022) (unpublished).

Cmty. Program, 880 F.3d 1176, 1189–90 (10th Cir. 2018) (quoting *Hayes Fam. Tr. v. State Farm Fire & Cas. Co.*, 845 F.3d 997, 1003 (10th Cir. 2017)). In other words, "a final decision is 'one by which the district court disassociates itself from a case.'" *Id.* at 1190 (quoting *McClendon v. City of Albuquerque*, 630 F.3d 1288, 1292 (10th Cir. 2011)).

We agree with Sunoco that the district court's order denying Rule 60(b) relief is final. As Sunoco notes, we typically treat Rule 60(b) denials "as final decisions for purposes of § 1291 because they usually signal that the district court's business is done." *McClendon*, 630 F.3d at 1294; *see also id.* (noting "well[-]settled" rule "that appeal can be taken from final denial of a motion to vacate a judgment" (quoting 15B Wright & Miller, Fed. Pract. & Proc. § 3916 (2d ed.))). Here, we know that the order denying Sunoco's Rule 60(b) motion signaled that the district court's business was done because the district court denied Sunoco's motion for that very reason; it concluded that the allocation plan, as written, already met *Strey* and *Cook*'s requirements for a final judgment. We also know that the decision left nothing for the district court to do but execute the judgment because, as Sunoco observes, proceedings to execute the judgment are now underway. For these reasons, the district court "disassociated itself from the case" in denying Sunoco's Rule 60(b) motion, and so that denial is final. *Id.*

Cline's contrary argument does not alter our conclusion. He asserts that an order denying a Rule 60(b) motion is a final decision only if "the ruling or judgment the [motion] challenged was [itself] a final decision." Aplee. Br. viii (quoting

Stubblefield v. Windsor Cap. Grp., 74 F.3d 990, 993 (10th Cir. 1996)). That standard, Cline says, "creates a dilemma for Sunoco" because the Rule 60(b) motion sought to modify the district court's allocation plan precisely because Sunoco believes that the plan does *not* satisfy *Strey* and *Cook*'s finality requirements. *Id.* To be sure, we have said that our jurisdiction to review a Rule 60(b) denial generally hinges on the finality of "the ruling or judgment the Rule 60(b) motion challenged." *Stubblefield*, 74 F.3d at 993. But we have also made clear that "every post-judgment decision must be assessed on its *own terms* to determine whether it is a final decision amenable to appeal." *McClendon*, 630 F.3d at 1293. The decision appealed here denied Rule 60(b) relief because the district court believed, rightly or wrongly, that its rulings had resulted in a final judgment. And in that circumstance—when a district court "refuses to enter judgment . . . [based] on the mistaken belief that final judgment [has] already . . . been properly entered"—other circuits have concluded that the district court's decision is final under § 1291. Wright & Miller, *supra*, § 3915 (collecting cases); *see, e.g.*, *State Nat. Bank of El Paso v. United States*, 488 F.2d 890, 892–93 (5th Cir. 1974) (treating "an order refusing to enter judgment" as final under § 1291 "because the district judge *regards* it as final" and "believes he [or she] has already entered a valid judgment"). Like those courts, we are satisfied that the district court's decision is final under § 1291.[3] *See Zinna v. Congrove*, 755 F.3d 1177, 1181 (10th Cir. 2014)

[3] As Sunoco observes, a contrary conclusion would not avoid resolution of the parties' core dispute about whether the allocation plan is final under *Strey* and *Cook*. That is, if Cline were correct that our ability to review the district court's Rule 60(b) decision really depends on whether the plan is itself final, we would still have to

(describing final order as one that "evidences the district court's intention that it is the court's final act in the matter"). We therefore have jurisdiction to review it.[4]

II. Denial of Rule 60(b)(6) Motion

Having confirmed our jurisdiction, we now consider whether the district court properly denied Sunoco's Rule 60(b)(6) motion. Rule 60(b)(6) "allows federal courts to relieve a party from a judgment for any reason—other than those in the five enumerated preceding categories—'that justifies relief.'" *Johnson v. Spencer*, 950 F.3d 680, 700 (10th Cir. 2020) (quoting Fed. R. Civ. P. 60(b)(6)). We review an order denying such relief for abuse of discretion, generally reversing "only if we find a complete absence of a reasonable basis and are certain that the decision is wrong." *Id.* at 701 (quoting *Davis v. Kan. Dep't of Corrs.*, 507 F.3d 1246, 1248 (10th Cir. 2007)). An abuse of discretion necessarily occurs, however, if the district court bases its ruling on a legal error. *Id.*

Sunoco contends that the district court here made such an error when denying Sunoco's Rule 60(b)(6) motion. As mentioned earlier, Sunoco's motion sought to

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resolve that antecedent finality question to confirm our jurisdiction; we would simply do so "at the jurisdictional threshold" instead of on the merits of the Rule 60(b) denial. Rep. Br. 4.

[4] Because the district court's Rule 60(b) decision is appealable under § 1291, we need not address Sunoco's alternative argument that the decision is also appealable under the pragmatic-finality doctrine. *See Trial Laws. Coll. v. Gerry Spence Trial Laws. Coll. at Thunderhead Ranch*, 23 F.4th 1262, 1268 (10th Cir. 2022) (noting that this doctrine may supply jurisdiction when an "issue is so 'urgent' and 'important' that 'the danger of injustice by delaying appellate review outweighs the inconvenience and costs of piecemeal review" (quoting *Bender v. Clark*, 744 F.2d 1424, 1427 (10th Cir. 1984))).

amend the allocation plan so that it complies with the finality requirements for a class-action judgment as set out in *Strey* and applied in *Cook*. Under those cases, a class-action judgment is not final "until the district court establishes both [(1)] the formula that will determine the division of damages among class members and [(2)] the principles that will guide the disposition of any unclaimed funds."[5] *Strey*, 696 F.2d at 88; *see also Cook*, 618 F.3d at 1137–38 (applying same requirements to allocation plan). Sunoco argues that the district court abused its discretion in denying Rule 60(b)(6) relief because the allocation plan does not satisfy either of these two requirements. We address each requirement in turn.

A. Division of Damages

On the first finality requirement, Sunoco questions the allocation plan's formula for "determin[ing] the division of damages among class members." *Strey*, 696 F.2d at 88. Recall that the plan adopted a formula for dividing damages that assigns each class member a ten-digit BA number taken from Sunoco's records. Under this formula, the judgment administrator will then calculate each class

[5] We note that, contrary to Cline's view, the district court did not produce a final judgment simply by expressing its belief that the allocation plan satisfied *Strey* and *Cook*'s requirements. As Cline acknowledges, whether the district court entered such a judgment depends not only on its intent, but also on the substance of the allocation plan. *Adams v. C3 Pipeline Constr. Inc.*, 30 F.4th 943, 958 (10th Cir. 2021). So if the allocation plan does not comply with the substantive finality requirements under *Strey* and *Cook*, this failure renders the judgment nonfinal "[n]otwithstanding" the district court's entry of a purportedly final judgment. *Strey*, 696 F.2d at 88. In arguing otherwise, Cline conflates the finality of the district court's Rule 60(b) ruling with the finality of the allocation plan. As Sunoco explains, "the mere fact that a district court has 'finally' determined that it has issued a final judgment does not resolve the question of whether it actually has." Rep. Br. 7.

member's damages by multiplying their predetermined percentage of the total judgment by the total judgment itself.

Sunoco acknowledges that this formula will produce individual damage figures for most class members because "most [of the BA] numbers correspond to an individual class member." Aplt. Br. 28. But according to Sunoco, the formula will not produce such figures for some class members because, as both parties recognize, two of the BA numbers do not represent individual accounts held by a single class member. Instead, those two BA numbers represent two undivided accounts that Sunoco deposited proceeds into whenever it did not know a mineral-interest owner's name or address. As a result, those two accounts—which make up over $16 million of the total damages—consist of "numerous unidentified class members owning interests in over 500 distinct properties or wells." *Id.* So when the judgment administrator applies the formula to the undivided accounts, Sunoco argues, it will not produce a damages figure for each of the unidentified class members in those accounts. On the contrary, the formula "will simply yield two more large aggregate sums . . . that require further allocation" among those unidentified class members. *Id.* at 29. Because the allocation plan "is entirely silent about how to do that further allocation," *id.*, Sunoco contends that it fails to establish a "formula that will determine the division of damages among class members," *Strey*, 696 F.2d at 88. We agree that this failure presents a finality problem, and Cline's responses do not persuade us otherwise.

At the outset, Cline argues that Sunoco's records for the two undivided

accounts contain enough identifying information for the judgment administrator to discover who the class members associated with those accounts are. But the finality problem Sunoco raises does not stem from the judgment administrator's potential inability to identify the class members from the undivided accounts. Instead, as Sunoco explains, the problem stems from the allocation plan's failure to articulate how the judgement administrator is to divide damages among those class members once they are identified.[6] And without such instructions, any distribution method the judgment administrator might use to determine individual damage amounts for the cluster of unidentified class members would be of the judgment administrator's own making. This result is at odds with *Strey*, which requires "the district court"—not the judgment administrator—to establish "the formula that will determine the division of damages among class members."[7] 696 F.2d at 88.

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[6] Tellingly, Cline nowhere disputes in his briefing that the allocation plan provides no such instructions. His sole attempt to argue otherwise came at oral argument, when his attorney pointed to the plan's instruction that the judgment administrator must "ascertain the precise amounts of the Net Class Award allocable to each class member." App. 96. But the earlier part of that sentence makes clear that the judgment administrator must do so by "applying the mathematical principles established in the [p]lan." *Id.* And as discussed above, the plan includes no instructions for the two undivided accounts. Thus, the language Cline cites does not alter our conclusion that the allocation plan says nothing about how to divide damages among class members associated with the two undivided accounts.

[7] Cline contends that this requirement means the district court needed only to "set forth" or "state" *some* formula for dividing damages, regardless of whether that formula can produce "individual damage awards [for] every class member" without "further proceedings." Aplee. Br. 36–37. But *Strey* and *Cook* make clear that a formula suffices only if it will result in "the division of damages *among* class members." *Strey*, 696 F.2d at 88 (emphasis added); *Cook*, 618 F.3d at 1138 (noting that allocation plan "provide[d] a thorough framework for determining *each* individual class member's damages" (emphasis added)). And here, the allocation

The absence of necessary instructions in the allocation plan also makes Cline's reliance on *Cook* misplaced. There, Cline emphasizes, we concluded that an allocation plan satisfied *Strey*'s first finality requirement because it "simply require[d] the application of mathematical principles to a formula" that would generate individual damage amounts for "each individual class member." *Cook*, 618 F.3d at 1138. But the same cannot be said of the allocation plan here, which adopts a formula that will not produce damage awards for the class members linked to the undivided accounts because it provides no instructions for how to divide damages among those members. So as Sunoco asserts, the judgment administrator will "have to devise its own plan for determining what measure of damages to award to" those class members. Rep. Br. 9. This case is thus unlike *Cook*, where the district court provided "straightforward and mechanical" guidelines for allocating damages among each class member.[8] 618 F.3d at 1138.

In short, although the allocation plan provides a formula that will produce individual damage awards for most class members, it will not produce such awards for the group of class members associated with the two undivided accounts. As a

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plan's formula will not do so because, again, it fails to instruct the judgment administrator on how to divide damages among the class members associated with the two undivided accounts.

[8] For the same reason, we reject Cline's view that this case resembles *Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980). In *Boeing*, the district court "fixed the amount that *each* [class] member . . . could recover," meaning the court-appointed special master only had "to administer the judgment and pass on the validity of individual claims." 444 U.S. at 476 (emphasis added). As explained above, the same is not true here.

result, and contrary to the district court's conclusion, the allocation plan does not satisfy the first finality requirement. *See Strey*, 696 F.2d at 88.

B. Disposition of Unclaimed Funds

To result in a final judgment, a class-action damages award must also establish "the principles that will guide the disposition of any unclaimed funds." *Strey*, 696 F.2d at 88. Sunoco argues that the district court's allocation plan fails to do so because it "expressly defer[s] the question of how to dispose of any unclaimed funds to a later date." Aplt. Br. 31. Here, too, we agree with Sunoco.

In the allocation plan, the district court made no definitive preliminary finding on where any unclaimed funds would go. To the contrary, the district court announced that it would rule on that issue later, "following the completion of the distribution process . . . and upon the submissions by any interested parties." App. 97. And although it "anticipate[d]" sending unclaimed funds to "state accounts for unclaimed property," it "retain[ed] discretion to select a different method of distribution that best serves the interests of the class once all relevant information is available." *Id.* Based on these statements, we can hardly say that the allocation plan "establishes" principles for disposing of unclaimed funds. *Strey*, 696 F.2d at 88; *see also* Black's Law Dictionary 688 (11th ed. 2019) (defining *establish* as "[t]o settle, make, or fix firmly").

Cline, for his part, does not dispute that the allocation plan allows the district court to resolve the unclaimed-funds issue "after the class damages have been distributed." Aplee. Br. 46. Instead, citing two district-court cases, he contends that

district courts "routine[ly]" reserve "discretion to *revisit* th[is] issue once the total amount of unclaimed funds is known" and, in so doing, do not "defeat finality." *Id.* (emphasis added). But in both cases Cline cites, the district court made an initial determination of where unclaimed funds would go before reserving discretion to choose a different location later. *See Cook v. Rockwell Int'l Corp.*, 564 F. Supp. 2d 1189, 1235 (D. Colo. 2008) (finding that unclaimed funds "shall be distributed to members . . . on a pro rata basis," "[s]ubject to further order of the [c]ourt"), *rev'd on other grounds*, 618 F.3d 1127 (10th Cir. 2010); *In re Urethane Antitrust Litig.*, No. 04-1616, 2013 WL 3879264, at *2 (D. Kan. July 26, 2013) (unpublished) (approving plan specifying that "any remaining funds *would be* distributed to participating class members" but leaving "final determination" of where such funds would go "until the expiration of the claims period" (emphasis added)). Here, on the other hand, the district court made no definitive preliminary ruling on where the unclaimed funds would go; it merely "anticipate[d]" where they might go.[9] App. 97.

And contrary to Cline's view, the district court's later order denying Sunoco's posttrial motions did not fix this finality problem. In that ruling, the district court merely asserted in a footnote that the allocation plan was "adequate [because] it provides for the distribution of [unclaimed] funds to state unclaimed property

[9] Cline comments that in *In re Urethane Antitrust Litigation*, we "affirmed th[e] judgment without any concern about its finality." Aplee. Br. 46. But neither party raised finality issues in that case, and we are "not bound by a prior exercise of jurisdiction in a case where it was not questioned and it was passed sub silentio." *United States v. L. A. Tucker Truck Lines, Inc.*, 344 U.S. 33, 38 (1952).

funds."[10] *Id.* at 114 n.10. But again, the plan does no such thing—it only "anticipates" the possibility that unclaimed funds might end up going to state unclaimed property funds. *Id.* at 97. In any event, as Sunoco notes, the district court never amended the allocation plan to adopt or incorporate this later clarification. So the plan "itself still resolves nothing about the disposition of any unclaimed funds and instead leaves that question entirely to the [district] court's determination at some future date." Aplt. Br. 32–33. For this reason, the district court failed to "establish[] . . . the principles that will guide the disposition of any unclaimed funds." *Strey*, 696 F.2d at 88.

In sum, the allocation plan fails both requirements for a final and appealable class-action judgment under *Strey* and *Cook*. Because the district court denied Sunoco's Rule 60(b)(6) motion based solely on its erroneous contrary conclusion, we remand for the district court to reconsider Sunoco's motion.[11] *See Johnson*, 950 F.3d

[10] Cline suggests that Sunoco "abandoned" this argument in *Cline II* by stating in a supplemental brief that it believed the district court "ha[d] adequately provided for the disposition of residual unclaimed funds" through its clarification in the order denying posttrial motions. Aplee. Br. 45 (quoting Appeal No. 20-7064, Aplt. Suppl. Br. 5–6 (Oct. 20, 2021)); *see also Cline II*, 2021 WL 5858399, at *2 n.3 (noting Sunoco's supplemental-brief statement). But Cline neither develops this argument nor cites authority explaining why the earlier statement precludes Sunoco from asserting its unclaimed-funds objection in this appeal. It is not our job "to craft arguments that the parties have not adequately developed." *New Mexico v. Trujillo*, 813 F.3d 1308, 1320 (10th Cir. 2016). Thus, we decline to address Cline's abandonment argument. *See Burke v. Regalado*, 935 F.3d 960, 1014 (10th Cir. 2019) (noting our discretion not to address arguments asserted through "[c]ursory statements, without supporting analysis and case law" (quoting *Bronson v. Swensen*, 500 F.3d 1099, 1105 (10th Cir. 2007))).

[11] We reject Cline's assertion that the district court denied Sunoco's motion for the additional reason that *Cline II* barred Sunoco from continuing to object to

at 701. In doing so, we take no position on whether Sunoco is ultimately entitled to Rule 60(b)(6) relief, as "the assessment of a motion for relief from judgment under [that provision] is committed, in the first instance, to the discretion of the district court." *Orner v. Shalala*, 30 F.3d 1307, 1310 (10th Cir. 1994). We note, however, that the necessary consequence of our analysis is that the district court has yet to enter a final judgment.[12] So although we do not decide whether Rule 60(b)(6) relief is appropriate, we urge the district court to promptly take whatever steps it deems necessary to cure the allocation plan's defects and produce a final judgment that complies with our precedents.

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finality. Although the district court *questioned* Sunoco's counsel about that issue at the hearing on the motion, Sunoco rightly notes that such questions "are not *reasons* for denying [the] motion." Rep. Br. 20. And in any event, had the district court concluded that Sunoco could not continue to assert its finality objections, that conclusion would have rested on a misreading of *Cline II*. There, we said only that Sunoco had "waived arguments that might have *supported* . . . jurisdiction" in that appeal. *Cline II*, 2021 WL 5858399, at *3 n.6 (quoting *Tompkins v. United States Dep't of Veterans Affs.*, 16 F.4th 733, 735 n.1 (10th Cir. 2021)). We said nothing about Sunoco waiving its ability to continue pursuing its finality objections in future proceedings. So even if the district court had denied Rule 60(b)(6) relief on the ground that Sunoco waived its finality objections, that erroneous legal conclusion would likewise require reversal. *See Johnson*, 950 F.3d at 701.

[12] In recognizing as much, we do not address Sunoco's argument that the district court improperly denied Sunoco's distinct request for relief under Rule 58. As it did below, Sunoco argues that the district court should have separately issued a new judgment because the August 2020 order designated as a judgment—which we found to be nonfinal in *Cline I*, 2020 WL 8632631, at *1—was issued before the district court adopted the allocation plan. Sunoco contends that by refusing to issue a new judgment, the district court violated Rule 58(a)'s requirement that "[e]very judgment and amended judgment must be set out in a separate document." But because we have concluded that the district court's existing orders did not result in a final judgment, we need not decide whether the district court followed Rule 58(a)'s procedure for entering such a judgment.

Conclusion

Because the district court legally erred in concluding that the allocation plan satisfies the two requirements for a final class-action judgment under *Strey* and *Cook*, we vacate the district court's order denying Rule 60(b)(6) relief and remand for further proceedings consistent with this opinion.

Entered for the Court

Nancy L. Moritz
Circuit Judge