

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Inst # 1993-18834

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U.S. DISTRICT COURT
N.D. OF ALABAMA

SIGRI CORPORATION, a
corporation,

Plaintiff,

v.

H. M. KEARNEY COMPANY, INC.,
a corporation,

Defendant and Counterclaim
Plaintiff,

v.

SIGRI CORPORATION, a
corporation, and SIGRI GmbH,
a corporation,

Counterclaim Defendants.

CIVIL ACTION NO.
CV-90-B-2747-S



ENTERED
JUN 15 1993

ORDER

This matter came before the Court on the Motion to Reconsider, Amend, and Modify Order and Memorandum Opinion entered September 30, 1992, which was filed by the defendant/counterclaim plaintiff, H. M. Kearney Company, Inc. ("Kearney") on October 5, 1992, and the Motion Under Rule 52(b) filed by Kearney on October 7, 1992.

Upon consideration of Kearney's Motion to Reconsider, Amend, and Modify, this Court finds that the only issue raised therein that merits possible reconsideration is the question whether Kearney is entitled to a set-off of the amount it owes to the plaintiff, Sigri Corporation ("Sigri"). The evidence establishes that the maximum principal amount of such set-off is

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\$13,607.21. See Affidavit of A. F. Smith, Jr., filed October 1, 1991. This Court has been notified by counsel for Sigri that Sigri is willing to have the Court reduce its judgment by this amount plus interest in order to expedite this matter -- even though Sigri believes Kearney's set-off defense to be without merit. Based on the foregoing, this Court hereby **GRANTS** Kearney's Motion to Reconsider, Amend and Modify as to the issue concerning the set-off defense only, and **ORDERS** that the judgment in Sigri's favor in the amount of \$1,025,540.20, plus interest and costs, entered by Judge Pointer on April 25, 1991, and certified by this Court as final under Rule 54(b) on October 6, 1992, be reduced by the total sum of \$14,219.57. Interest is calculated at the prejudgment rate of six percent per annum, pursuant to Ala. Code §§ 8-8-1, 8-8-8 (1975), from the due date of the claimed invoice amount to which the set-off applies to the date of Judge Pointer's judgment. This is not a new judgment, but simply a reduction of the judgment previously entered.¹ In all other respects, Kearney's motion is **DENIED**. Likewise, Kearney's Motion Under Rule 52(b) filed on October 7, 1992, is **DENIED**.

Inst # 1993-18834

DONE this the 10th day of June, 1993.

Sharon Lovelace Blackburn
Sharon Lovelace Blackburn
United States District Judge

A TRUE COPY
BERRY D. MATHIS, CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
BY: Shirley Brown
DEPUTY CLERK

¹ This Court has received correspondence from Kearney's counsel dated June 3, 1993, arguing that this Order constitutes entry of a new judgment. This unequivocally is not the Court's intent. Instead, the Court simply is reducing the judgment entered by Judge Pointer on April 25, 1991 based on a claimed "set off" which arose after entry of that judgment.

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