

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

STEVES AND SONS, INC., )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action No. 3:16-cv-545-REP  
 )  
JELD-WEN, INC., )  
 )  
Defendant. )  
 )

**INTERVENOR JOHN G. PIERCE’S MEMORANDUM IN SUPPORT OF  
MOTION TO CORRECT THE FINAL JUDGMENT ORDER**

Intervenor, John G. Pierce (“Pierce”), by counsel, states as follows for his Memorandum in Support of his Motion to Correct the Final Judgment Order:

**I. INTRODUCTION**

Intervenor John Pierce has moved to correct the Court’s December 14, 2018, Final Judgment Order (“Judgment”), ECF No. 1815, pursuant to Fed. R. Civ. P 60(a). Consistent with the Court’s prior ruling, judgment should be entered in favor of the individual defendants, Edward and Sam Steves and John Pierce, on JELD-WEN’s trade secret counterclaims.

**II. BACKGROUND**

JELD-WEN filed counterclaims against Steves and Sons, Inc. (“Steves”), alleging violations of the Texas Uniform Trade Secrets Act, violations of the Defend Trade Secrets Act, and various common law claims. Edward Steves, Sam Steves, and John Pierce successfully moved to intervene with regard to JELD-WEN’s trade secrets counterclaims. ECF No. 832. On October 4, 2018, the Court granted the intervenors’ motion for judgment as a matter of law as to the trade secrets counterclaims. ECF Nos. 1779 and 1780. Specifically, the Court ruled that

“[j]udgment as a matter of law having been entered herein . . . in favor of Sam Steves, Edward Steves, and John G. Pierce, it is ORDERED that, as to them, the Counterclaims are dismissed with prejudice[.]” ECF No. 1780.

### III. ARGUMENT

Federal Rule of Civil Procedure 60(a) provides in part, that, “[t]he court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice....” Moreover, the Court’s Judgment noted that the Court “retains jurisdiction to enable any party to this Order to apply at any time for further orders and directions as may be necessary and appropriate to carry out or construe this Order . . . .” Judgment at 9.

The Court granted Edward Steves, Sam Steves, and John Pierce’s motions for judgment as a matter of law on JELD-WEN’s trade secret counterclaims. ECF Nos. 1779 and 1780 (October 4, 2018). The Court’s Judgment, did not, however, enter a judgment in favor of the individual counterclaim defendants. ECF No. 1815. This omission appears to be an oversight that should be corrected to ensure that there is no confusion regarding when the Judgment becomes final and appealable, *see* Fed. R. Civ. P. 54(b), and so there is no confusion regarding the final disposition of JELD-WEN’s trade secret counterclaims. Moreover, correcting the Judgment to expressly include a final judgment regarding JELD-WEN’s counterclaims against Edward Steves, Sam Steves, and John Pierce, will provide clarity regarding the final disposition of this matter to the state court in Texas that is hearing JELD-WEN’s parallel lawsuit against these individuals.<sup>1</sup>

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<sup>1</sup> As recently as yesterday, January 10, 2019, JELD-WEN’s counsel in the Texas case continued to litigate that case by issuing a document subpoena to the custodian of information obtained from John Pierce’s computer. A clear final Judgment in this action with respect to the claims

Accordingly, pursuant to Rule 60(a), the Court should correct the Judgment to reflect that, for the reasons set forth in the Memorandum Opinion and Order entered on October 4, 2018 (ECF Nos. 1779 and 1780), judgment is entered in favor of Edward Steves, Sam Steves, and John G. Pierce as to JELD-WEN's First and Third Counterclaims.

January 11, 2019.

**JOHN G. PIERCE**

By: /s/ Edward E. Bagnell, Jr.  
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against Edward Steves, Sam Steves, and John Pierce will promote judicial efficiency by allowing the parties to bring the Texas litigation to a close.

**CERTIFICATE OF SERVICE**

I hereby certify that on January 11, 2019, I caused a copy of the foregoing to be electronically filed using the CM/ECF system, which will send notification to counsel of record of such filing by operation of the Court's electronic system.

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