

No. 22-30320

Because Rule 60(b)(5)'s first clause is rarely invoked in the context of consent decree dissolution, our jurisprudence is lacking.⁵⁴ The first clause of Rule 60(b)(5) is "almost never applied to consent decrees" and is typically reserved for disputes involving the amount of a judgment.⁵⁵ "The vast majority of motions for modification and termination of consent decrees, especially those involving institutional reform, invoke Rule 60(b)(5)'s third clause."⁵⁶ Although we have implicitly approved of *Dowell* and its applicability to motions to dissolve consent decrees, we have never explicitly applied it in this context. For example, in *City of Boerne* and in *Janek*, we endorsed a more "flexible standard [such as in *Dowell*]" for evaluating motions to modify or dissolve under the first clause of Rule 60(b)(5).⁵⁷ Moreover, in *Allen*, we discussed the applicability of *Dowell*'s holdings to consent decree disputes generally.⁵⁸

Furthermore, as the district court noted, at least six other circuits have applied the *Dowell* standard to motions to dissolve consent decrees under Rule 60(b)(5).⁵⁹ The Sixth and Ninth Circuits have applied *Dowell* to Rule

⁵⁴ *Janek*, [780 F.3d at 327](#).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *City of Boerne*, [659 F.3d at 43740](#); *Janek*, [780 F.3d at 323, 327](#).

⁵⁸ [14 F.4th at 373](#).

⁵⁹ See *Johnson*, [88 F.3d at 405 n.1](#); *Youngblood*, [925 F.2d at 960-62](#); *Jeff D.*, [643 F.3d at 283](#); *Alexander*, [89 F.3d at 199-203](#); *Allen*, [164 F.3d at 1350-54](#); *McDonald*, [109 F.3d at 1321-22](#); *Rufo II*, [12 F.3d at 288, 290, 292-94 n.3](#).

