
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

R. WAYNE KLEIN,

Plaintiff,

vs.

**WILLIAM TO CORNELIUS and
CORNELIUS & SALHAB,**

Defendants.

**MEMORANDUM DECISION
AND ORDER**

Case No. 2:11CV1159DAK

Judge Dale A. Kimball

This matter is before the court on Defendants’ “Motion for Relief from the Judgment, Alter, and Motion for Reconsideration of the Order Granting Summary Judgment and Request for Amended or Additional Findings.” Defendants filed the motion on December 11, 2013, and Plaintiff filed an opposition to the motion on December 30, 2013. Defendants have not filed a reply in support of their motion and the time for filing a reply has passed. The court concludes that a hearing would not significantly aid in its determination of the motion. Having carefully considered the memoranda submitted by the parties and the facts and law relevant to the motion, the court enters the following memorandum decision and order.

Pursuant to Rules 52(b), 59, and 60 of the Federal Rules of Civil Procedure, Defendants seek reconsideration of the court’s November 13, 2013 Memorandum Decision and Order granting Plaintiff’s Motion for Summary Judgment. A motion for reconsideration is an “inappropriate vehicle to reargue an issue previously addressed by the court when the motion merely advances new arguments, or supporting facts which were available at the time of the

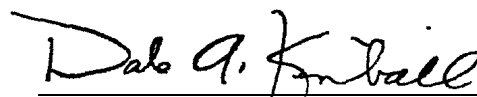
original motion. Absent extraordinary circumstances, . . . the basis for the second motion must not have been available at the time the first motion was filed.” *Servants of the Paracletes v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). A motion to reconsider must be made upon grounds other than a mere disagreement with the court’s decision and must do more than rehash a party’s former arguments that were rejected by the court.

Defendants’ motion for reconsideration makes the same arguments advanced in the briefing of the motion for summary judgment and Defendants’ prior motion to dismiss. The court understood these arguments, considered the arguments carefully in connection with the prior motions, has reconsidered the arguments for purposes of this motion, and concludes that such arguments remain unavailing. The court considered Plaintiff’s arguments and rejected them in a fully analyzed memorandum decision and order. There is also no basis for seeking further findings. Defendants’ mere disagreement with this court’s orders, does not provide a basis for granting a motion for relief from judgment or a motion to reconsider.

Accordingly, Defendants’ motion for relief from judgment and motion for reconsideration is DENIED.

DATED this 27th day of January, 2014.

BY THE COURT:



DALE A. KIMBALL
United States District Judge