

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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RODERICK WEBBER,)	
)	
	Plaintiff)	
)	
v.)	Case No. 1:18-cv-00931-LM
)	
EDWARD DECK, ET AL.)	
)	
	Defendants)	
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**DEFENDANT DONALD J. TRUMP’S OBJECTION TO
PLAINTIFF’S RULE 59(e) MOTION TO RECONSIDER ORDER**

Defendant Donald J. Trump objects to the plaintiff’s motion to reconsider the Court’s order dismissing all claims against Mr. Trump, Doc. 155 (01/06/2020). The objection rests on the following grounds.

I. Introduction

A motion for reconsideration is not “a mechanism to regurgitate old arguments previously considered and rejected.” *Biltcliffe v. CitiMortgage, Inc.*, 772 F.3d 925, 930 (1st Cir. 2014) (internal punctuation omitted). Yet that is exactly what the plaintiff has done. He doubles down on his arguments that Mr. Trump can be held liable for the allegedly wrongful actions of others under theories of vicarious liability and alter ego liability – even though the plaintiff pleads no factual allegations whatsoever that would support the conclusion that Mr. Trump personally employed or used any other defendant in this case to perpetrate fraud upon the plaintiff. The plaintiff simply repeats the same arguments this Court already fully considered and rejected, including his reliance on FEC filings made by Donald J. Trump for President, Inc. (the “Campaign”) and dicta from an order in an ongoing case in the New York state courts.

Simply put, the plaintiff has failed to establish that the Court's order dismissing his claims against Mr. Trump was based on a manifest error of fact or law, *see* LR 7.2(d), and his motion for reconsideration should accordingly be denied.

II. Argument

Reconsideration is “an extraordinary remedy which should be used sparingly.” *Palmer v. Champion Mortg.*, 465 F.3d 24, 30 (1st Cir. 2006). Pursuant to Local Rule 7.2(d), a motion for reconsideration of an interlocutory order must “demonstrate that the order was based on a manifest error of fact or law.” Reconsideration is “appropriate only in a limited number of circumstances: if the moving party presents newly discovered evidence, if there has been an intervening change in the law, or if the movant can demonstrate that the original decision was based on a manifest error of law or was clearly unjust.” *United States v. Allen*, 573 F.3d 42, 53 (1st Cir. 2009). Accordingly, a party cannot use a motion for reconsideration “to undo its own procedural failures” or to “advance arguments that could and should have been presented” earlier. *Id.*

A. The Court Did Not Commit a Clear Error of Law in Dismissing the Claims Against Mr. Trump.

The plaintiff contends that the Court made an error of law by finding his references to an ongoing case in the New York state courts and FEC filings made by the Campaign insufficient to provide the needed evidence to support his allegations.

The plaintiff attempts to bind the Court to accept dicta of a New York state judge deciding a motion for summary judgment in a case dealing with different facts and decided under different law. The Court is not bound to accept the conclusions of a New York state judge and these conclusions are not facts or evidence to support the plaintiff's allegations or claims against Mr. Trump in this case. Plaintiff cites no law to the contrary.

The plaintiff also contends that that the Court improperly failed to consider FEC filings made by the Campaign, which allegedly show payments made from the Campaign to Mr. Trump and other defendants in this case. As the Court points out, those FEC filings, if taken as true, can only show that the Campaign made payments to Mr. Trump and other defendants in this case, not that Mr. Trump personally made any payments. Doc. 155 (01/06/2020) at 33.

The Court did not commit a manifest error of law in finding that the plaintiff failed to adequately support his claims with factual allegations.

B. The Plaintiff Has Presented No New Evidence to Support His Claims Against Mr. Trump.

The plaintiff contends that the Court should grant his motion for reconsideration “to account for new evidence.” Doc 157 (01/20/2020) at 2. However, the plaintiff does not even provide a hint as to what new evidence there is supporting his claims against Mr. Trump. The plaintiff simply “regurgitate[s] old arguments previously considered and rejected” in his motion, which cannot provide a basis for the Court to reconsider its prior order. *See Biltcliffe*, 772 F.3d at 930. The motion for reconsideration should be denied.

III. Conclusion

For the reasons set forth above, Mr. Trump respectfully requests that this Court deny the plaintiff’s motion for reconsideration.

Respectfully submitted,

Donald J. Trump,
By His Attorneys,

Date: January 31, 2020

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CERTIFICATE OF SERVICE

I hereby certify that the within pleading is being served electronically upon the persons listed below through the court's ECF system.

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