

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Lionetta White, as special)	
administrator for Lionel White,)	
deceased)	
)	
<i>Plaintiff,</i>)	
)	No. 17-cv-2877
<i>-vs-</i>)	
)	<i>(Judge Ellis)</i>
City of Chicago, et al.,)	
)	
<i>Defendants.</i>)	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT
MOHAMMED'S MOTION TO RECONSIDER**

The Court should deny defendant Mohammed's motion to reconsider (ECF No. 197) because the motion "merely takes umbrage with the court's ruling and rehashes old arguments." *Oto v. Metropolitan Life Ins. Co.*, 224 F.2d 601, 606 (7th Cir. 2000) (cleaned up).

1. The Court exercised its discretion to deny defendant Mohammed's motion to amend his complaint based on its finding that granting the motion "would burden White with undeserved strategic disadvantages, and because the motion has an air of bad faith." (ECF No. 192 at 2.)

2. Mohammed's motion to reconsider notes that Judge Hunt and Judge Seeger exercised their discretion in different ways when ruling on similar motions (ECF No. 197 at 4-5), but that "possibility is implicit in the

concept of a discretionary judgment.” *United States v. Williams*, 81 F.3d 1434, 1437 (7th Cir. 1996).

3. That one judge has reached a “different—but reasonable—conclusion on the same set of facts” does not warrant reconsideration. *Bracey v. Grondin*, 712 F.3d 1012, 1020 (7th Cir. 2013).

4. This Court has stated the standard for reconsideration as follows:

Motions for reconsideration serve a limited purpose and are “only appropriate where the court has misunderstood a party, where a court has made a decision outside the adversarial issues presented to the court by the parties, where the court has made an error of apprehension (not of reasoning), where a significant change in the law has occurred, or where significant new facts have been discovered.” *Broaddus v. Shields*, 665 F.3d 846, 860 (7th Cir. 2011) (citing *Bank of Waunakee v. Rochester Cheese Sales, Inc.*, 906 F.2d 1185, 1191 (7th Cir. 1990)), *overruled on other grounds*, *Hill v. Tangherlini*, 724 F.3d 965 (7th Cir. 2013).

Nat’l Sur. Corp. v. Bedivere Ins. Co., No. 17 C 3455, 2020 WL 6277335, at *1 (N.D. Ill. Jan. 28, 2020). Mohammed cannot meet this standard.

5. First, Mohammed is mistaken in arguing that plaintiff did not claim that granting the motion would cause prejudice. (ECF No. 197 at 2.) On the contrary, plaintiff pointed out that Mohammed waited far too long in seeking to amend his answer in light of the case schedule and the date by which he purportedly learned information that would have justify the amendment. In support of that argument, plaintiff relied on precedent

showing that the undue delay and the timing of the proposed amendment in these circumstances is prejudicial, particularly given that discovery is closed and the trial is scheduled. (ECF No. 178 at 1-2, 4-6, 8, citing *Liebhart v. SPX Corp.*, 917 F.3d 952, 965 (7th Cir. 2019) and *Park v. City of Chicago*, 297 F.3d 606 (7th Cir. 2002).)

6. Mohammed does not challenge the Court's holding that his lengthy delay in moving to amend created a "presumption against granting leave to amend." (ECF No. 192 at 6, quoting *Soltys v. Costello*, 520 F.3d 737, 743 (7th Cir. 2008).)

7. Accordingly, Mohammed had the burden to show that his lack of diligence did not prejudice plaintiff. He failed to make that showing in briefing on the motion, and he fails again in his motion to reconsider.

8. As the Court held, plaintiff has already been prejudiced by Mohammed's "procedural gamesmanship" and "faces the prospect of needing to completely retool his litigation strategy." (ECF No. 192 at 6.)

9. Plaintiff would suffer further prejudice if the Court permits Mohammed to amend. As the Court ruled, granting Mohammed's motion would allow Mohammed to "present a revisionist history of this case to the jury." (ECF No. 192 at 8.)

10. Mohammed cannot explain any error in this ruling.

11. Nor can Mohammed explain any error in the Court's ruling about bad faith. He points out that before he filed his motion to amend with this Court on June 3, 2024 (ECF No. 176), he had filed the motion with Judge Valderama on May 23, 2024. (ECF No. 197 at 3, citing ECF No. 735 in 17-cv-1717.) But changing the timeline by eleven days makes no difference.

12. The Court relied on the following factors to make its finding on bad faith: Mohammed waited until his deposition late in discovery to withdraw the privilege, he failed to substantively answer the relevant questions at his deposition, and he then waited until months after discovery closed to file his motion to amend. (ECF No. 192 at 8.)

13. Mohammed does not dispute these facts and provides no other argument to rebut this Court's finding that his withdrawal of the privilege was not made in good faith. (ECF No. 192 at 8.)

14. As another judge in this district recently noted, "Under the abuse of discretion standard, two district judges faced with the same set of facts may arrive at opposite conclusions, with neither one committing an abuse of discretion." *Madison St. Properties, LLC v. Marcus Corp.*, No. 20 CV 50471, 2023 WL 5860318, at *2 (N.D. Ill. Sept. 11, 2023) (citing *United States v. Williams*, 81 F.3d 1434, 1437 (7th Cir. 1996).)

The Court should therefore deny defendant Mohammed's motion to reconsider.

Respectfully submitted

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