

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ROBERT WADE FERGUSON and
WENDY THOMPSON FERGUSON,

Plaintiffs,

VS.

THE BANK OF NEW YORK MELLON
CORP. fka THE BANK OF NEW YORK, *et al.*

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-13-279

MEMORANDUM AND OPINION

In this foreclosure, the plaintiffs, Robert and Wendy Ferguson, seeks reconsideration of the court’s June 23, 2014 Memorandum and Opinion granting the defendants’ motion to dismiss.¹ (Docket Entry No. 13). The defendant responded. (Docket Entry No. 14). Based on careful review of the motion and responses, the record, and the applicable law, the court denies the motion, for the reasons explained below.

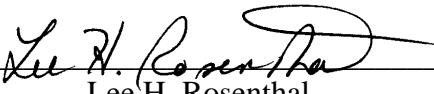
The Federal Rules of Civil Procedure do not specifically provide for motions for reconsideration. *See St. Paul Mercury Ins. Co. v. Fair Grounds Corp.*, 123 F.3d 336, 339 (5th Cir. 1997) (stating that “the Federal Rules of Civil Procedure do not recognize a general motion for reconsideration”). A motion seeking reconsideration of a judgment is generally considered a motion to alter or amend under Rule 59(e). *T-M Vacuum Products, Inc. v. TAISC, Inc.*, No. 07–cv–4108, 2008 WL 2785636, at *2 (S.D. Tex. July 16, 2008). “A Rule 59(e) motion ‘calls into question the correctness of a judgment.’” *Templet v. HyrdoChem Inc.*, 367 F.3d 473, 478 (5th Cir. 2004)

¹ The Ferguson’s motion is styled as a “Motion for New Trial.”

(quoting *In re Transtexas Gas Corp.*, 303 F.3d 571, 581 (5th Cir. 2002)). Such a motion allows a district court to correct a manifest factual error, to correct a manifest legal error, or to introduce newly discovered evidence. *Id.* A motion to reconsider may not be used to relitigate old matters or to raise arguments or present evidence that could have been raised before the judgment was entered. 11 CHARLES A. WRIGHT, ARTHUR R. MILLER, MARY KAY KANE, FEDERAL PRACTICE & PROCEDURE § 2810.1 at 127–28 (2d ed. 1995) (footnotes omitted); *see also Templet*, 367 F.3d at 479.

The grounds for reconsideration the Fergusons raised in their motion for reconsideration reassert the same arguments they raised previously. The Fergusons have not pointed to a clear error of law or fact that would materially affect the court’s analysis or conclusion. Because they do not present adequate grounds for the relief they seek, their motion for reconsideration, (Docket Entry No. 13), is denied.

SIGNED on August 12, 2014, at Houston, Texas.



Lee H. Rosenthal
United States District Judge