

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ANDREA GUARINO,

Plaintiff,

v.

Case No. 8:10-cv-2885-T-30TGW

**WYETH LLC and
SCHWARZ PHARMA, INC.,**

Defendants.

ORDER

THIS CAUSE comes before the Court upon Plaintiff's Motion for Reconsideration (Dkt. 40) and Defendant Teva Pharmaceuticals USA, Inc.'s Response in opposition ("Teva") (Dkt. 46). The Court, having considered the motion, response, and being otherwise advised of the premises, concludes that the motion should be denied.

On November 7, 2011, the Court dismissed Plaintiff's claims against Defendant Teva with prejudice because the United States Supreme Court's recent decision in *Pliva, Inc. v. Mensing*, --- U.S. ---, 131 S. Ct. 2567 (2011) (*reh'g denied*) held that federal law preempts and therefore bars Plaintiff's state-law claims against Teva in this case (Dkt. 39).

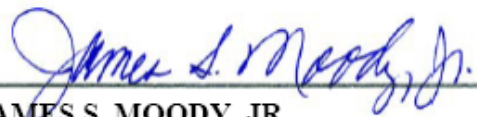
Plaintiff's motion for reconsideration essentially seeks to re-litigate issues already considered and rejected by this Court. And, as Teva points out, a motion for reconsideration is not a proper forum merely to seek a second bite at the apple. Also of note is that recently

over twenty additional decisions have been entered dismissing materially identical claims in the face of the same or similar arguments Plaintiff presents in this case.

In sum, Plaintiff makes no new arguments and raises no new facts that are proper grounds for reconsideration.

It is therefore ORDERED AND ADJUDGED that Plaintiff's Motion for Reconsideration (Dkt. 40) is DENIED.

DONE and **ORDERED** in Tampa, Florida on January 5, 2012.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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