

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

Case No. 12-60082-CIV-GAYLES/TURNOFF

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

BANKATLANTIC BANCORP, INC. and  
ALAN B. LEVAN,

Defendants.

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THIS CAUSE came before the Court on Defendants' Corrected Motion for Reconsideration of the Prior Judge's Ruling that Alan Levan's July 25, 2007 Statements were False and Incorporated Memorandum of Law [ECF 308]. The Court has carefully reviewed the Motion, the parties' submissions, the record, and the applicable law.

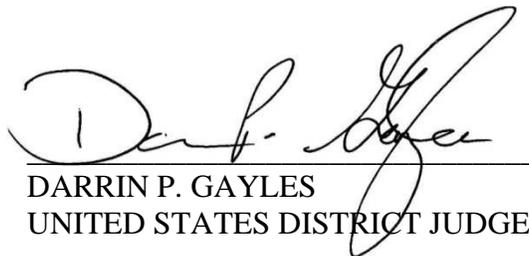
"Courts have distilled three major grounds justifying reconsideration: (1) an intervening change in controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or manifest injustice." *Instituto de Prevision Militar v. Lehman Bros., Inc.*, 485 F. Supp. 2d 1340, 1342 (S.D. Fla. 2007) (quoting *Cover v. Wal-Mart Stores, Inc.*, 148 F.R.D. 294, 295 (M.D. Fla. 1993)) (internal quotation marks omitted). Arguments that were or should have been raised in the first instance are not appropriate grounds for a motion for reconsideration. See *Gougler v. Sirius Prods., Inc.*, 370 F. Supp. 2d 1185, 1189 (S.D. Ala. 2005). Furthermore, "[i]t is an improper use of 'the motion to reconsider to ask the Court to rethink what the Court already thought through – rightly or wrongly.'" *Z.K. Marine, Inc. v. M/V Archigetis*, 808 F. Supp. 1561, 1563 (S.D. Fla. 1992) (quoting *Above the Belt, Inc. v. Mel Bohannan Roofing, Inc.*, 99 F.R.D. 99,

101 (E.D. Va. 1983)). The reconsideration decision is granted only in extraordinary circumstances and is “committed to the sound discretion of the district judge.” *Tristar Lodging, Inc. v. Arch Specialty Ins. Co.*, 434 F. Supp. 2d 1286, 1301 (M.D. Fla. 2006) (quoting *Am. Home Assur. Co. v. Glenn Estess & Assocs., Inc.*, 763 F.2d 1237, 1238-39 (11th Cir. 1985)) (internal quotations omitted).

Despite Defendants’ arguments to the contrary, the Court finds no clear error or manifest injustice in the prior judge’s rulings. Accordingly, it is

**ORDERED AND ADJUDGED** that Defendants’ Corrected Motion for Reconsideration of the Prior Judge’s Ruling that Alan Levan’s July 25, 2007 Statements were False and Incorporated Memorandum of Law [ECF 308] is **DENIED**.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 16th day of September, 2014.

  
DARRIN P. GAYLES  
UNITED STATES DISTRICT JUDGE

cc: Magistrate Judge Turnoff  
All Counsel of Record