

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

CASE NO. 9:14-CV-80781-ROSENBERG/BRANNON

EDWARD LEWIS TOBINICK, MD,
et al,

Plaintiffs,

v.

M.D. STEVEN NOVELLA, et al,

Defendants.

ORDER DENYING PLAINTIFFS' MOTION FOR RECONSIDERATION

This matter is before the Court on Plaintiffs' Motion for Reconsideration of Order Granting SGU's Motion to Dismiss [DE 95]. The Court has reviewed the Motion, the response,¹ the reply, and the record in this case, and denies the Motion for the reasons set forth below.

"[R]econsideration of a previous order is an extraordinary remedy to be employed sparingly." *Burger King Corp. v. Ashland Equities, Inc.*, 181 F. Supp. 2d 1366, 1370 (S.D. Fla. 2002) (citing *Mannings v. Sch. Bd. of Hillsborough County*, 149 F.R.D. 235, 235 (M.D. Fla. 1993)). "The 'purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence.'" *Id.* at 1369 (quoting *Z.K. Marine Inc. v. M/V Archigetis*, 808 F. Supp. 1561, 1563 (S.D. Fla. 1992)). Only three major grounds generally justify reconsideration: "(1) an intervening change in the controlling law; (2) the availability of new

¹ The Court notes that Defendant SGU Productions requests attorney's fees, in light of its contention that the Plaintiffs' Motion for Reconsideration is frivolous and was filed in bad faith. *See* DE 96 at 6–7. While the Court denies Plaintiffs' Motion, it does not believe the Motion was filed in bad faith. Moreover, a court's inherent power to award attorney's fees and costs as a sanction for bad-faith litigation "must be exercised with restraint and discretion." *See Blanco GmbH+Co. KG v. Vlanco Indus., LLC*, 992 F. Supp. 2d 1225, 1258 (S.D. Fla. 2014) (internal quotation marks omitted). Accordingly, the Court declines to award attorney's fees.

evidence; and (3) the need to correct clear error or prevent manifest injustice.” *Id.* (citing *Offices Togolais Des Phosphates v. Mulberry Phosphates, Inc.*, 62 F. Supp. 2d 1316, 1331 (M.D. Fla. 1999); *Sussman*, 153 F.R.D. at 694). On the other hand, “[a] ‘motion for reconsideration should not be used as a vehicle to . . . reiterate arguments previously made.’” *Id.*

Here, Plaintiffs admit that the only possible ground upon which the Motion can be granted is the third. The Court finds that Plaintiffs have failed to raise a plausible argument that there was clear error or manifest injustice in the Court’s Order Granting SGU Productions’ Motion to Dismiss [DE 91]. Rather, Plaintiffs simply repeat arguments they previously raised, and which were addressed, either directly or indirectly, in the Court’s Order. This is insufficient. Accordingly, it is hereby

ORDERED and ADJUDGED that Plaintiffs’ Motion for Reconsideration of Order Granting SGU’s Motion to Dismiss [DE 95] is **DENIED**.

DONE and ORDERED in Chambers, Fort Pierce, Florida, this 30th day of December, 2014.


ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE

Copies furnished to: Counsel of Record