

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FEDERAL DEPOSIT INSURANCE  
CORPORATION, as Receiver for  
Washington Mutual Bank,

Plaintiff,

Case No. 14-13706

v.

Hon. John Corbett O'Meara

FIDELITY NATIONAL TITLE INSURANCE  
COMPANY, Successor by Merger to Lawyers  
Title Insurance Corporation,

Defendant.

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**ORDER DENYING FIDELITY'S  
MOTION FOR RECONSIDERATION**

Before the court is Defendant Fidelity National Title Insurance Company's motion for reconsideration of the court's opinion and order dismissing Fidelity's counter-complaint. Specifically, Fidelity seeks reconsideration of the court's dismissal of its gross negligence defense. The standard for granting a motion for reconsideration is as follows:

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration which merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant shall not only demonstrate a

palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

LR 7.1(h)(3). A motion for reconsideration “is not properly used as a vehicle to rehash old arguments or to advance positions that could have been argued earlier but were not.” Smith v. Mount Pleasant Schools, 298 F. Supp.2d 636, 637 (E.D. Mich. 2003) (citing Sault Ste. Marie Tribe of Chippewa Indians v. Engler, 146 F.3d 357, 374 (6<sup>th</sup> Cir. 1998)).

In its motion for reconsideration, Fidelity argues that its gross negligence defense is valid, an argument considered and rejected by the court. Upon review, the court finds that Fidelity has not demonstrated a “palpable defect” by which the court and the parties have been misled.

Accordingly, IT IS HEREBY ORDERED that Fidelity’s motion for reconsideration is DENIED.

s/John Corbett O’Meara  
United States District Judge

Date: November 12, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, November 12, 2015, using the ECF system.

s/William Barkholz  
Case Manager