

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

TCS Holdings, Inc.,

Civil No. 07-1200 (DWF/AJB)

Plaintiff,

v.

**MEMORANDUM
OPINION AND ORDER**

Onvoy, Inc.,

Defendant.

Brian M. McSherry, Esq., Robert E. Kuderer, Esq., and Stacey A. Molde, Esq., Johnson & Condon, PA, counsel for Plaintiff.

Eric J. Nystrom, Esq., and John C. Ekman, Esq., Lindquist & Vennum PLLP, counsel for Defendant.

On September 4, 2008, the Court issued an order in this case denying a Motion for Summary Judgment brought by Onvoy, Inc. (“Onvoy”); granting in part and denying in part a Motion for Summary Judgment brought by TCS Holdings, Inc. (“TCS”); and granting in part and denying in part a Motion for Summary Judgment on Fraud and Punitive Damages Claims brought by Onvoy. (Doc. No. 121.) By letter dated October 7, 2008, Onvoy requested that the Court reconsider two findings in its September 4 Order. TCS opposes Onvoy’s request.

Pursuant to Local Rule 7.1(g), a request for leave to file a motion for reconsideration will only be granted upon a showing of “compelling circumstances.” A motion to reconsider should not be employed to relitigate old issues but to “afford an opportunity for relief in extraordinary circumstances.” *Dale & Selby Superette & Deli v.*

U. S. Dept. of Agric., 838 F. Supp. 1346, 1348 (D. Minn. 1993). Here, Onvoy asserts that the Court failed to properly consider *DeWitt v. Quarterback Sports Federation, Inc.*, 45 F.R.D. 252 (D. Minn. 1968), and that the Court erred in allowing TCS's fraud claim to proceed. Onvoy's arguments regarding the applicability of the *DeWitt* case and the merits of TCS's fraud claim were made in support of its motions for summary judgment and in opposition to TCS's motion, and the Court considered them fully at that time. Neither argument presents a compelling circumstance warranting reconsideration of the Court's September 4 Order. Accordingly, Onvoy's request for leave to file a motion for reconsideration is denied.

ORDER

For the reasons stated, **IT IS HEREBY ORDERED** that:

1. Onvoy's request for leave to file a motion to reconsider (Doc. No. 133) is

DENIED.

Dated: October 17, 2008

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court