



The Court specifically notes and finds that the amendment of paragraph five(5) and deletion of paragraph eighteen (18) are immaterial and do not impact the Court's original decision to dismiss plaintiffs' claims.

Plaintiffs' remaining objections and requests for additions are without merit and are DENIED. Plaintiffs have not established there was a manifest error of law or fact in the Court's Findings of Fact and Conclusions of Law.

Plaintiffs clearly have not established that a new trial is necessary to avoid a miscarriage of justice. "Generally, new trials are granted only if the record presents prejudicial error or substantial justice has not been done." Comerio v. Beatrice Foods Co., 616 F. Supp. 1423, 1428 (E.D. Mo. 1985). See also Sifers Corp. v. Arizona Bakery Sales Co., 133 F.R.D. 607 (1991). The burden of demonstrating the verdict was against the weight of the evidence or showing prejudicial error is on the moving party. Comerio, 616 F. Supp at 1428. Plaintiffs were afforded a full and fair opportunity during the trial to present their claims; however, their claims were not substantiated factually or legally.

Finally, an additional hearing on plaintiffs' motion will not benefit the Court and is unnecessary.

Accordingly, plaintiffs' requests to add or amend the Findings of Fact and Conclusions of Law and for new trial (Doc. 178) is GRANTED, in part, and DENIED, in part, consistent with the above discussion.

Dated this 27<sup>th</sup> day of April, 2012, at Jefferson City, Missouri.

/s/ Matt J. Whitworth

MATT J. WHITWORTH  
United States Magistrate Judge