

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ESTATE OF MOE NORMAN,)	
TODD GRAVES, and TODD GRAVES)	
GOLF SCHOOL, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-14-1435-M
)	
GREG LAVERN,)	
)	
Defendant.)	

ORDER

Before the Court is the Motion by Plaintiffs for Reconsideration of Order Denying Plaintiffs’ Motion for Default Judgment Based on New Information, filed May 23, 2017. Defendant filed no response.¹

Plaintiffs ask this Court to reconsider its May 15, 2017 Order denying plaintiffs’ Motion for Default Judgment. Plaintiffs contend that they have new information for the Court to consider regarding defendant’s physical condition, his ability to travel to the United States, and defendant’s doctor. “Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct error or prevent manifest injustice.” *Servants of the Paraclete v. John Does I-XVI*, 204 F.3d 1005, 1012 (10th Cir. 2000). A motion to reconsider is appropriate “where the court has misapprehended the facts, a party’s position, or the controlling law” but is not appropriate “to revisit issues already addressed or advance arguments that could have been raised in prior briefing.” *Id.*

¹ Despite the fact that defendant did not respond, the Court will still rule on the merits of plaintiffs’ motion, since plaintiffs have the burden to show reconsideration is warranted.

Plaintiffs specifically contend that defendant does not have a physical condition that would preclude him from traveling to the United States. Further, plaintiffs challenge defendant's physician's, Dr. Ambrose Kennedy², credibility and assert that defendant made misrepresentations to the Court regarding his physical health. Plaintiffs present an expert opinion from Dr. Rahul N. Doshi, M.D., F.A.C.C., who is with the Keck Medical Center of the University of Southern California, and is the Director of Electrophysiology and Associate Professor of Clinical Medicine. Dr. Doshi opined that individuals, such as defendant, with an implantable cardioverter defibrillator ("ICD") (otherwise known as a pacemaker), could travel without significant risk to the patient. *See* Report of Dr. Rahul N. Doshi, attached as Exhibit 2 to plaintiffs' Mot. to Reconsider. Further, plaintiffs provide the Court with information regarding possible health insurance coverage that defendant could get to cover his travel to the United States and online reviews of Dr. Kennedy.


Having carefully reviewed plaintiffs' motion, the Court finds that plaintiffs have not presented any new grounds warranting reconsideration of its May 15, 2017 Order denying plaintiffs' Motion for Default Judgment. Specifically, the Court finds that the new information submitted by plaintiffs is not sufficient enough to warrant reconsideration. While the Court acknowledges and respects the expert opinion of Dr. Doshi, the Court respectfully finds that Dr. Doshi has never seen or examined defendant; therefore, Dr. Doshi cannot give an expert opinion as it relates to defendant personally. Further, as for the credibility of Dr. Kennedy, the Court finds that the reviews presented by plaintiffs regarding treatment of other patients does not provide relevant information regarding his treatment of or relationship with defendant personally and, therefore, warrants no consideration from this Court. As to plaintiffs' assertion that defendant misrepresented facts regarding his health and his ability to get health insurance, which warrants

² Dr. Ambrose Kennedy is a family physician out of Charlottetown, Prince Edward Island.

reconsideration of the Court's Order, the Court finds that the information presented by plaintiffs simply does not support that assertion. Therefore, the Court finds that plaintiffs' motion for reconsideration should be denied.

Accordingly, for the reasons set forth above, the Court DENIES the Motion by Plaintiffs for Reconsideration of Order Denying Plaintiffs' Motion for Default Judgment Based on New Information [docket no. 183].

IT IS SO ORDERED this 6th day of July, 2017.


VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE