



A. Underlying Facts of the Case

Reisinger claims the City of Wilkes-Barre, through certain of its employees, issued Building Code citations, relating to different properties, purportedly to disrupt his law practice and housing-rental business. Reisinger further claims that the Cadle Defendants somehow “conspired” with the City of Wilkes Barre, Thomas Leighton, Frances Kratz and Greg Barrouk (the City Defendants”) to somehow precipitate the inspections which led to the citations being issued, for the supposed purpose of making it difficult for Reisinger to file a Brief with the Pennsylvania Superior Court in connection with an appeal he had filed to a preliminary injunction Order issued by the Luzerne County Court of Common Pleas on December 13, 2006. Reisinger claims these building citations somehow (i) caused him to lose that appeal-- even though he did timely file a Brief in that Superior Court proceeding, and (ii) also somehow caused his law practice income to drop.

B. Facts Concerning the Discovery Delays in this Case

The original fact discovery deadline was November 30, 2009 (Case Doc. 14), which at Reisinger’s request was extended first to January 31, 2010 (Case Doc. Nos. 21 and 22), then on a later request, but on a limited basis, to March 31, 2010 (Case Doc. Nos. 25 and 28), then on a later request to June 30, 2010 (Case Doc. Nos. 29 and 32), following which Reisinger sought an extension of his expert witness report deadline to July 12, 2010, and then filed yet another Motion asking that his expert deadline be extended to September 30, 2010 (Case Doc. Nos. 49 and 50). While some of these requests were opposed by the City Defendants and/or the Cadle Defendants, this Court granted to a large extent Reisinger’s extension requests -- notwithstanding the dubious nature of his repeated and convenient reliance on often undocumented “health

issues” -- until it became apparent that the pre-July, 2010 delays were all truly inexcusable. As a consequence there was nothing inappropriate about this Court eventually and rightfully running out of patience, and properly exercising its discretion to deny Reisinger’s most recent extension request, as well as his unfounded “Motions to Compel,” relating to discovery which (i) was untimely and in clear violation of the Case Management Plan to which Reisinger and his original lawyer had agreed almost a year ago, and (ii) ignored the substantial responses provided by both the City Defendants and the Cadle Defendants to Reisinger’s lawyer’s original written discovery requests propounded in this case.

### **III. QUESTION PRESENTED**

Has Reisinger presented any new or different information which would justify this Court reversing its prior Order establishing an Amended Cash Management Plan, and denying Reisinger’s requests concerning that Plan?

Suggested Answer: No.

### **IV. ARGUMENT**

#### **A. Standard Applicable to Motions for Reconsideration**

The standard applicable within the federal courts in connection with a Motion for Reconsideration is well established.

Under Fed. R. Civ. P. 59(e), a party may file a Motion to Alter or Amend a judgment, with ten days of the entry of that judgment. A Motion for Reconsideration is viewed as “functional equivalent” of a Motion to Alter or Amend a judgment under Rule 59(e). *Federal Kemper Insurance Co. v. Rauscher*, 807 F.2d 345, 348 (3d Cir. 1986); *Venen v. Sweet*, 758 F.2d 117, 122 (3d Cir. 1985). It has also been noted that the purpose of a Motion for

Reconsideration is to “correct manifest errors of law or to present newly discovered evidence.”  
*Black v. United States Postal Service*, 2004 WL 2700347 at \*1 (E.D. Pa. 2004).

For the reasons which follow, the allegations in Reisinger’s Motion fall far short of meeting these criteria.

B. The Unsubstantiated and in Some Instances Falsified History Relied on by Reisinger

1. *The Cadle Defendants have in fact provided substantial discovery responses in this case.*

On p. 8 of his Memorandum of Law filed in support of his Motion for Reconsideration, Reisinger states that Defendants “. . . have completely violated their respective responsibilities in regard to the discovery due to the Plaintiff in this case.”

However, this vague and unsubstantiated accusation is utterly false. Indeed, on November 4, 2009, and then by follow-up letter the next week, counsel for the Cadle Defendants provided Reisinger’s prior counsel with not only responses to numerous Interrogatories and subparts, but also produced over 400 documents responsive to Reisinger’s Request for Production. Moreover, the documents produced included substantial typewritten notes from Cadle’s files concerning communications with tenants, representatives from the City of Wilkes-Barre and otherwise. It is therefore simply inaccurate to represent to this Court that the Cadle Defendants have obstructed or refused to participate in discovery.

2. *Reisinger’s well documented uncontrolled litigiousness needs to be stopped.*

Reisinger claims throughout the subject Motion and related Brief that this Court should forgive his numerous discovery transgressions because (i) while he is a lawyer, he is acting *pro se*, and (ii) he is supposedly not an experienced litigator. However,

Reisinger conveniently disregards the fact that he has gone through numerous lawyers over the past four years (e.g. Robert Schaub, Esquire of Rosenn, Jenkins and Greenawald, Ronald Santoro, Esquire, Michael Butera, Esquire, Walt Grabowski, Esquire, Peter Loftus, Esquire), all of whom have quit or been fired, which is why he's now been left representing himself.

Plus, the docket of this Court confirms that he is quite the experienced *pro se* litigator, as does the Luzerne County docket, which shows a multitude of state court actions he has brought against not only the Defendants in this litigation, but also lawsuits filed against the County of Luzerne and various employees. These cases include a malpractice action against one of his former lawyers (Ronald Santoro, Esq.),<sup>1</sup> a multitude of other cases filed against Cadle and its predecessor holder of these loans, NOVA Bank, as well as numerous *lis pendens* filed by Reisinger to continue clouding title to real estate which was sold by the Luzerne County Tax Claim Bureau at a properly noticed and advertized Judicial Tax Sale (the free and clear sale) in August, 2009. In fact, just last month Reisinger filed yet another three-inch-thick Complaint (264 paragraphs and numerous exhibits; copy of first page attached hereto as Exhibit "A") against Luzerne County, the Tax Claim Bureau, eight current or former County employees, Cadle and four people acting for Cadle, as well as its undersigned lawyer in this case -- which is the third time he's been sued by Reisinger -- with the same nonsensical "constitutional" claims, this time though under the Pennsylvania State Constitution (not the federal one, because when he did that in two prior instances those cases were dismissed by this Court).

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<sup>1</sup> This case is captioned as *Joseph R. Reisinger v. Ronald Santoro, Esquire et al.* - Civil Action No. 14431-2007 (C.C.P. Luzerne).

So in addition to the fact that Reisinger has absolutely nothing to show for this avalanche of lawsuits-- other than forcing individuals and institutions to incur substantial legal fees and costs to respond to what are all frivolous filings--, the suggestion that he hasn't had enough time to devote to this case, would -- even if accepted by this Court -- be the obvious and direct by-product of his full time occupation, which is suing people.

*3. Reisinger's (and even his secretary's) repeated and coincidentally timed illnesses and health issues are not credible.*

The timing of the various maladies allegedly plaguing Reisinger and his office staff -- each seeming to occur a day or two before discovery depositions are to take place-- cannot by any stretch of the imagination be anything more than a contrivance to postpone and delay discovery. More importantly though, Reisinger's unilateral last minute cancellations of his deposition on at least three occasions does not excuse, or have any relevance to, his failure and refusal to pursue discovery against the Defendants, after they had provided their responses to Reisinger's written discovery requests in November, 2009,.

In other words, there was nothing preventing Reisinger with complying with prior discovery deadlines, scheduling and taking depositions of any of the City Defendants, the Cadle Defendants, or for that matter any third parties. Yet he simply failed and refused to take any steps to do so for more than six months after he had been provided with Defendants' responses to his lawyers' written discovery requests.

It also bears mentioning at this juncture that Reisinger has a history of filing lawsuits, and then relying on largely fabricated excuses to delay discovery and avoid adjudications, leaving the people and institutions he sues -- like the City Defendants and

the Cadle Defendants here -- spending tens of thousands of dollars in continuing legal fees and costs until they can finally get the case to the point of dismissal.

As one example, this Court's attention is respectfully directed to the case captioned as *Joseph R. Reisinger v. FH Partners Investment, LLC* - No. 08-CV-02019 (M. D. Pa.) (docket entries attached hereto as Exhibit "B"), which after a multitude of delays --see the May 7, 2009, letter attached hereto as Exhibit "C"-- occasioned by the same dog-ate-my-homework stories relied on in this ligation, was eventually dismissed.

As another example, in the case of *Joseph R. Reisinger v. Seneca Specialty Insurance Company* - No. 3-07-1221 (M. D. Pa.) (copy of docket entries attached hereto as Exhibit "D"), Reisinger relied on the same types of excuses as in the case at bar --see Plaintiff's Motion for Extension to Respond to Defendant, Seneca Specialty Insurance Company's Motion for Summary Judgment (copy attached hereto as Exhibit "E"), a June 18, 2010, attorney to Magistrate Judge Malachy Mannion, concerning Reisinger's repeated discovery delays (copy attached hereto Exhibit "F"), and the June 22, 2010, Order entered by Magistrate Mannion (copy attached hereto as Exhibit "G"), in response to another Motion filed by Reisinger seeking enlargement of time, noting that "[t]his case will shortly be three years old and has been delayed multiple times for the actions, and inactions, of the plaintiff."

As another example, in the case of *Joseph R. Reisinger v. LPP Mortgage, Ltd.* - 07-CV-01362, Reisinger filed a state court Complaint (copy attached hereto as Exhibit "H"), which was properly removed to federal court by the United States Justice Department --the United States of America was a named defendant--, and upon the filing

of a Motion to dismiss for lack of jurisdiction, Reisinger filed a notice of voluntary withdrawal. (See docket entries attached hereto as Exhibit “H.”)

As another example, in the case of *Joseph R. Reisinger v. Markian Slobodian, Esquire* - No. 10-CV-00334 (docket entries attached hereto as Exhibit “I”), Reisinger filed numerous Motions seeking extensions of time, that action eventually being dismissed “for failure to prosecute and comply with a Court Order.” (See Order on docket, dated June 30, 2010.)

The point here is that Reisinger’s complaints concerning health issues, and his supposed inability to “keep up” with this litigation, are flatly contradicted by his years of litigation experience both in this court, as well as in state court, and his continued behavior in that regard in not only this case but also others litigated in this District simply should not be countenanced any further, particularly by allowing the further delays which would result from granting Reisinger’s pending Motion for Reconsideration.

*4. Reisinger’s accusations against counsel for the City Defendants are very inappropriate and unwarranted.*

Reisinger’s Brief on his Motion for Reconsideration is riddled with unwarranted and baseless *ad hominem* attacks on Donald Brobst, Esquire. These accusations-- particularly calling Attorney Brobst a liar and suggesting Attorney Brobst violated the Rules of Professional Conduct -- are completely beyond the pale.

In point of fact, Attorney Brobst has done nothing other than diligently represent his clients and, in that regard has been attempting for months now to move this case along, so that the eventual summary judgment Motion can be filed. In doing so, he has been forced to deal with and work through Reisinger’s repeated scheduling discourtesies and last minute cancellations, not to mention having to track down people Reisinger has



listed as witnesses who Reisinger now claims not to know where can be contacted or located.


In short, this Court should soundly reject Reisinger's attempt to deflect blame away from himself by castigating a well respected member of bar.

#### **V. CONCLUSION**

Reisinger's Motion for Reconsideration should be rejected and denied, and Defendants should be awarded their fees and costs for having to respond; a proposed form of Order is attached hereto as Exhibit "K."

Respectfully submitted,

LAW OFFICES OF KEVIN T. FOGERTY

By:   
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Kevin T. Fogerty, Esquire  
Attorneys for Defendants, Michael Kermec  
and The Cadle Company II, Inc.