

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

RAYMOND HERNANDEZ and	§	
VENITA BETH HERNANDEZ,	§	
	§	Civil Action No. 4:19-cv-638
<i>Plaintiffs,</i>	§	Judge Mazzant
	§	
v.	§	
	§	
RUSH ENTERPRISES, INC., ET AL.,	§	
	§	
<i>Defendants.</i>	§	

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiffs’ Motion to Reconsider Order Granting Summary Judgment as to Rush Defendants (Dkt. #201). Having considered the Motion and the relevant pleadings, the Court finds the Motion should be denied.

BACKGROUND

This suit concerns allegations by Plaintiff Raymond Hernandez that he suffered racially based discrimination in the workplace. After the summary-judgment phase, the only claim remaining is the alleged disparate treatment Plaintiff endured that Rush Enterprises, Inc. (“Rush”) caused (Dkt. #192). On March 8, 2021, Plaintiffs filed their Motion to Reconsider Order Granting Summary Judgment as to Rush Defendants (Dkt. #201), currently before the Court. On March 19, 2021, Rush filed its response (Dkt. #202).

LEGAL STANDARD

Even though the “‘Motion to Reconsider’ is found nowhere in the Federal Rules of Civil Procedure, it [is] one of the more popular indoor courthouse sports at the district court level.” *Westport Ins. Corp. v. Stengel*, 571 F. Supp. 2d 737, 738 (E.D. Tex. 2005) (quoting *Louisiana v. Sprint Comms. Co.*, 899 F. Supp. 282, 284 (M.D. La. 1995)); see *Lavespere v. Niagara Mach. &*

Tool Works, Inc., 910 F.2d 167, 173 (5th Cir. 1990) (“The Federal Rules do not recognize a ‘motion for reconsideration’ *in haec verba.*”), *abrogated on other grounds by Little v. Liquid Air Corp.*, 37 F.3d 1069 (5th Cir. 1994). Motions to reconsider serve the “very limited purpose . . . [of] ‘permit[ting] a party to correct manifest errors of law or fact, or to present newly discovered evidence.’” *Polen v. Allstate Vehicle & Prop. Ins. Co.*, No. 4:16-CV-00842, 2017 WL 3671370, at *1 (E.D. Tex. June 30, 2017) (quoting *Krim v. pcOrder.com, Inc.*, 212 F.R.D. 329, 331 (W.D. Tex. 2002)). Granting a motion to reconsider “is an extraordinary remedy that should be used sparingly.” *Templet v. HydroChem Inc.*, 367 F.3d 473, 479 (5th Cir. 2004) (citing *Clancy v. Employers Health Ins. Co.*, 101 F. Supp. 2d 463, 465 (E.D. La. 2000)).

“Mere disagreement with a district court’s order does not warrant reconsideration of [an] order.” *Westport Ins. Corp.*, 571 F. Supp. 2d at 738 (citing *Krim*, 212 F.R.D. at 332). Moreover, parties should present their strongest arguments upon initial consideration of a matter—motions for reconsideration cannot serve as vehicles for parties to “restate, recycle, or rehash arguments that were previously made.” *Domain Prot., LLC v. Sea Wasp, LLC*, No. 4:18-CV-792, 2020 WL 4583464, at *3 (E.D. Tex. Aug. 10, 2020) (citing *Krim*, 212 F.R.D. at 332); *see Texas Instruments, Inc. v. Hyundai Elecs. Indus., Co.*, 50 F. Supp. 2d 619, 621 (E.D. Tex. 1999) (“[M]otions for reconsideration ‘should not be used to raise arguments that could, and should, have been made before the entry of judgment or to re-urge matters that have already been advanced by a party.’” (brackets and ellipsis omitted)). A “district court’s ‘opinions are not intended as mere first drafts, subject to revision and reconsideration at a litigant’s pleasure.’” *A&C Constr. & Installation, Co. WLL v. Zurich Am. Ins. Co.*, 963 F.3d 705, 709 (7th Cir. 2020) (quoting *Quaker Alloy Casting Co. v. Gulfco Indus., Inc.*, 123 F.R.D. 282, 288 (N.D. Ill. 1988)).

ANALYSIS

The manifest error Plaintiffs' motion alleges is that the Court's summary-judgment analysis did not properly adjudicate the claim for hostile work environment (Dkt. #201 at p. 7). Specifically, Plaintiffs argue that the Court did not sufficiently consider "the totality of the facts, including the pervasiveness of the hostile work environment for over a three-year period and the effect on other workers, along with the severity of the final harassment" (Dkt. #201 at p. 7).

Plaintiffs have not shown manifest errors of law or newly discovered evidence. *Templet*, 367 F.3d at 478–49. They have not shown (1) an intervening change in controlling law; (2) the availability of new evidence not previously available; or (3) the need to correct a clear error of law or prevent manifest injustice. *In re Benjamin Moore & Co.*, 318 F.3d 626, 629 (5th Cir. 2002). Defendants have simply failed to demonstrate that they are entitled to the extraordinary relief an order granting a motion for reconsideration provides. *See Templet*, 367 F.3d at 478. As such, the Court finds that its original decision should stand.

CONCLUSION

It is therefore **ORDERED** that Plaintiffs' Motion to Reconsider Order Granting Summary Judgment as to Rush Defendants (Dkt. #201) is **DENIED**.

IT IS SO ORDERED.

SIGNED this 26th day of March, 2021.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE