

1 THE HONORABLE JOHN C. COUGHENOUR

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 DIAMOND CONSTRUCTION, LLC,

CASE NO. C17-1408-JCC

10 Plaintiff,

MINUTE ORDER

11 v.

12 ATLANTIC CASUALTY INSURANCE
13 COMPANY,

14 Defendant.

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16 The following Minute Order is made by direction of the Court, the Honorable John C.
17 Coughenour, United States District Judge:

18 This matter comes before the Court on Plaintiffs' motion for reconsideration (Dkt. No.
19 35) of the Court's order granting Defendant Atlantic Casualty Insurance Company's motion for
20 summary judgment (Dkt. No. 33).

21 Motions for reconsideration are generally disfavored. W.D. Wash. Local Civ. R. 7(h)(1).
22 Reconsideration is only appropriate where there is "manifest error in the prior ruling or a
23 showing of new facts or legal authority which could not have been brought to [the Court's]
24 attention earlier with reasonable diligence." *Id.* "A motion for reconsideration should not be
25 used to ask the court to rethink what the court had already thought through—rightly or
26 wrongly." *Premier Harvest LLC v. AXIS Surplus Insurance Co.*, No. C17-0784-JCC, Dkt. No.

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1 61 at 1 (W.D. Wash. 2017) (quoting *U.S. v. Rezzonico*, 32 F. Supp. 2d 1112, 1116 (D. Ariz.
2 1998)).

3 Plaintiffs move for reconsideration on two issues. First, they assert that the Court erred by
4 interpreting the relevant insurance policy's ongoing operations exclusion too broadly. (Dkt. No.
5 35 at 1.) Second, they ask the Court to change its dismissal of their bad faith and Washington
6 Consumer Protection Act ("WCPA") claims to one without prejudice. (*Id.* at 2.)

7 Regarding the first ground for reconsideration, Plaintiffs merely repeat an argument they
8 used in their opposition to summary judgment. In their response to Defendants' motion for
9 summary judgment, Plaintiffs argued that the ongoing operations exclusion should be construed
10 narrowly under Washington law. (Dkt. No. 19 at 12.) The Court considered, and rejected
11 Plaintiffs' argument, citing to numerous cases that had interpreted identical policy language in a
12 way that supported the Court's ruling. (*See* Dkt. No. 33 at 8–9.) Essentially, Plaintiffs are asking
13 the Court to rethink what it already thought through, which is not a sufficient basis for
14 reconsideration. *See Premier Harvest LLC*, No. C17-0784-JCC, Dkt. No. 61 at 1.

15 Plaintiffs second ground for reconsideration is also unavailing. Plaintiffs ask the Court
16 "to change its Order relating to its WCPA claim and bad faith from with prejudice to without
17 prejudice." (Dkt. No. 35 at 2.) Plaintiffs suggest this is appropriate based on its ongoing
18 settlement negotiations with a third-party in a parallel proceeding. (*Id.*) However, the Court
19 considered the merits of Plaintiffs' bad faith and WCPA, and granted summary judgment for
20 Defendant. (Dkt. No. 33 at 13.) Given the Court' ruling on summary judgment, a dismissal with
21 prejudice was appropriate. Moreover, Plaintiffs could have asked for a dismissal without
22 prejudice as part of their summary judgment briefing, but failed to do so. Plaintiffs have not
23 demonstrated "manifest error in the prior ruling or a showing of new facts or legal authority
24 which could not have brought to [the Court's] attention earlier with reasonable diligence." W.D.
25 Wash. Local Civ. R. 7(h)(1).

26 For those reasons, Plaintiffs' motion for reconsideration (Dkt. No. 35) is DENIED.

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DATED this 28th day of August 2018.

William M. McCool
Clerk of Court

s/Tomas Hernandez
Deputy Clerk