HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TODD ALBRIGHT,

Plaintiff,

v.

ALLIANT SPECIALTY INSURANCE SERVICES, INC.,

Defendant.

CASE NO. C17-5062 RBL

ORDER

THIS MATTER is before the Court on Plaintiff Todd Albright's Motion for Reconsideration [Dkt. # 114] of the Court's Order [Dkt. # 112] Granting the Defendants' Motion for Summary Judgment [Dkt. # 71] and Dismissing his claims.

Albright claims that recent discovery has bolstered his claim that the draft language was motivated by malice, for two primary reasons: First, he argues a twelve-year-old email demonstrates that Alliant's president has had a longstanding animosity toward Todd:

> Defendants' antipathy toward Mr. Albright has festered for more than twelve years. In February 28, 2006, the President of Alliant Specialty Services, Inc., Sean McConlogue, sent the following email: "I hate AJG (Todd at least)."

[Dkt. # 114 at 2, internal citations omitted]. Albright claims this email supports an inference that contract language was in fact been published with malice, depriving it of the common interest privilege.

Second, Albright claims (and demonstrates) that Alliant previously used similar CBA language to exclude a different broker, Bob Matson, whom it similarly did not "like," because it apparently felt he did not do a good job. He apparently argues that lumping him in with Matson (by using similar language) casts him in a similar light.

Under Local Rule 7(h)(1), motions for reconsideration are disfavored, and will ordinarily be denied unless there is a showing of (a) manifest error in the ruling, or (b) facts or legal authority which could not have been brought to the attention of the court earlier, through reasonable diligence. The term "manifest error" is "an error that is plain and indisputable, and that amounts to a complete disregard of the controlling law or the credible evidence in the record." Black's Law Dictionary 622 (9th ed. 2009).

Reconsideration is an "extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources." *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). "[A] motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." *Marlyn Natraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009). Neither the Local Civil Rules nor the Federal Rule of Civil Procedure, which allow for a motion for reconsideration, is intended to provide litigants with a second bite at the apple. A motion for reconsideration should not be used to ask a court to rethink what the court had already thought through — rightly or

wrongly. *Defenders of Wildlife v. Browner*, 909 F.Supp. 1342, 1351 (D. Ariz. 1995). Mere disagreement with a previous order is an insufficient basis for reconsideration, and reconsideration may not be based on evidence and legal arguments that could have been presented at the time of the challenged decision. *Haw. Stevedores, Inc. v. HT & T Co*., 363 F. Supp. 2d 1253, 1269 (D. Haw. 2005). "Whether or not to grant reconsideration is committed to the sound discretion of the court." *Navajo Nation v. Confederated Tribes & Bands of the Yakima Indian Nation*, 331 F.3d 1041, 1046 (9th Cir. 2003).

Albright's Motion does not meet this standard. A single 12 year old email does not establish that the drafter of the language (who did not draft the email) acted with "malice," even if the language that Albright complains of was defamatory. Business competitors frequently speak in such terms and far worse. Alliant was not obligated to do business with Albright, and its refusal to do so was not defamation or tortious interference as a matter of law. The Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

Dated this 16th day of August, 2018.

Ronald B. Leighton
United States District Judge