

1 HONORABLE RONALD B. LEIGHTON

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

9 TODD ALBRIGHT,

Plaintiff,

10 v.

11 ALLIANT SPECIALTY INSURANCE  
12 SERVICES, INC.,

Defendant.

CASE NO. C17-5062 RBL

ORDER

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

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

20 Defendants' antipathy toward Mr. Albright has festered for more than twelve  
21 years. In February 28, 2006, the President of Alliant Specialty Services, Inc., Sean  
22 McConlogue, sent the following email: "I hate AJG (Todd at least)."  
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1 [Dkt. # 114 at 2, internal citations omitted]. Albright claims this email supports an  
2 inference that contract language was in fact been published with malice, depriving it of  
3 the common interest privilege.

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

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

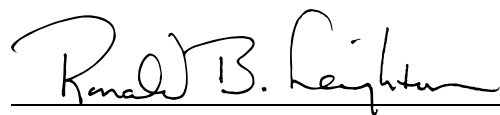
14 Reconsideration is an “extraordinary remedy, to be used sparingly in the interests  
15 of finality and conservation of judicial resources.” *Kona Enters., Inc. v. Estate of Bishop*,  
16 229 F.3d 877, 890 (9th Cir. 2000). “[A] motion for reconsideration should not be granted,  
17 absent highly unusual circumstances, unless the district court is presented with newly  
18 discovered evidence, committed clear error, or if there is an intervening change in the  
19 controlling law.” *Marlyn Natraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d  
20 873, 880 (9th Cir. 2009). Neither the Local Civil Rules nor the Federal Rule of Civil  
21 Procedure, which allow for a motion for reconsideration, is intended to provide litigants  
22 with a second bite at the apple. A motion for reconsideration should not be used to ask a  
23 court to rethink what the court had already thought through — rightly or  
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1 wrongly. *Defenders of Wildlife v. Browner*, 909 F.Supp. 1342, 1351 (D. Ariz.  
2 1995). Mere disagreement with a previous order is an insufficient basis for  
3 reconsideration, and reconsideration may not be based on evidence and legal arguments  
4 that could have been presented at the time of the challenged decision. *Haw. Stevedores,  
5 Inc. v. HT & T Co.*, 363 F. Supp. 2d 1253, 1269 (D. Haw. 2005). “Whether or not to grant  
6 reconsideration is committed to the sound discretion of the court.” *Navajo Nation v.  
7 Confederated Tribes & Bands of the Yakima Indian Nation*, 331 F.3d 1041, 1046 (9th  
8 Cir. 2003).

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

15           IT IS SO ORDERED.

16           Dated this 16<sup>th</sup> day of August, 2018.

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19 Ronald B. Leighton  
United States District Judge