

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PHOENIX FUNDING GROUP, LLC.,

Plaintiff,

v.

Case No. 13-135243-CK  
Hon. Wendy Potts

WHITTGUARD SECURITY SERVICES, INC.,  
and JAMES WHITT

Defendants/Third-Party Plaintiffs,

v.

SNAP SECURITY, INC.,  
Third-Party Defendant.

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ORDER RE: DEFENDANT/THIRD-PARTY PLAINTIFF'S MOTION FOR  
RECONSIDERATION OF THIS COURT'S JUNE 25, 2014 OPINION AND ORDER

At a session of Court  
Held in Pontiac, Michigan

On

OCT 20 2014

Defendants/Third-Party Plaintiffs Whittguard Security Services, Inc. and James Whitt move the Court to reconsider its decision granting summary disposition of Plaintiff Phoenix Funding Group, LLC's breach of contract claim for non-payment of lease. The Court has discretion to grant or deny reconsideration. MCR 2.119(F)(3); *Charbeneau v Wayne County General Hosp*, 158 Mich App 730, 733; 405 NW2d 151 (1987). Reconsideration is warranted if a party identifies a palpable error by which the Court and the parties have been misled and shows that a different disposition must result from correction of that error. MCR 2.119(F)(3).

Whittguard raises an accounting argument in support of his request for reconsideration, however, that argument was or could have been raised before the Court decided the summary disposition motion. Whittguard cannot demonstrate palpable error based on arguments that were or could have been raised in its motion or reply brief. *Churchman v Rickerson*, 240 Mich App 223, 233; 611 NW2d 333 (2000).

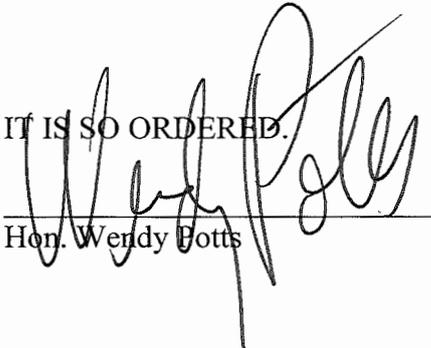
Even though Defendants should have raised this issue in response to the motion for summary disposition, the Court notes that Defendants appear to be raising a factual dispute regarding Plaintiff's calculation of the damages owed. While there is no genuine issue of material fact regarding liability for Plaintiff's breach of contract claim, the Court acknowledges that there may be grounds for reconsideration of Defendants' damages under the lease agreement.

Therefore, the Court will allow Plaintiff to respond to Defendants' request for reconsideration within 21 days.

Dated:

**OCT 20 2014**

IT IS SO ORDERED.

  
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Hon. Wendy Potts