

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

CHOE CONSULTING, INC, et al,

Plaintiffs,

Case No. 13-137889-CB
Hon. Wendy Potts

v

VARILEASE TECHNOLOGY AND
FINANCE GROUP, INC,

Defendant.

OPINION AND ORDER RE: PLAINTIFF/COUNTER-DEFENDANT/THIRD-PARTY
DEFENDANT JOEL CHOE AND CHOE CONSULTING, INC'S MOTION FOR
RECONSIDERATION

At a session of Court
Held in Pontiac, Michigan

On
SEP 22 2015

Plaintiff/Counter-Defendant Choe Consulting, Inc and Third-Party Defendant Joel Choe move the Court to reconsider its decision denying their motion for summary disposition and granting Defendant/Counter-Plaintiff Varilease Technology and Finance Group, Inc.'s motion for summary disposition. 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).

The Choe parties' arguments for reconsideration mostly mirror the arguments they raised in their summary disposition briefs, and thus are insufficient to demonstrate palpable error warranting reconsideration. *Churchman v Rickerson*, 240 Mich App 223, 233; 611 NW2d 333

(2000). The fact that the Choe parties disagree with the Court's reasoning or conclusions does not amount to palpable error. *Herald Co v Tax Tribunal*, 258 Mich App 78, 83; 669 NW2d 862 (2003).

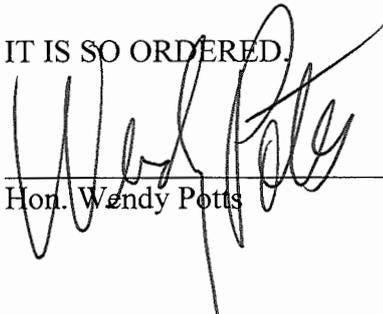
The sole new assertion in the reconsideration motion is that the Court should exercise its equitable authority to relieve the Choe parties from the consequences of their lease agreement with Varilease. However, the only equitable relief sought in the complaint was unjust enrichment, which the Court properly rejected because there is an express agreement governing the lease. *HJ Tucker & Assoc, Inc v Allied Chucker & Engineering Co*, 234 Mich App 550, 573; 595 NW2d 176 (1999). The Choe parties did not plead a restitution or constructive trust claim and did not seek leave to amend their pleadings to add these claims. Thus, the Court will not consider these equitable theories for the first time in a motion for reconsideration.

Because the Choe parties have not demonstrated palpable error in the Court's decision, the motion for reconsideration is denied.

Dated:

SEP 22 2015

IT IS SO ORDERED.



Hon. Wendy Potts