

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

TIMOTHY COPACIA,

Plaintiff/Counter-Defendant,

v

Case No. 2014-138581-CK  
Hon. Wendy Potts

MARTIN GINZINGER,

Defendant/Counter-Plaintiff.

OPINION AND ORDER RE: DEFENDANT/COUNTER-PLAINTIFF'S MOTION FOR  
PARTIAL RECONSIDERATION OF THIS COURT'S JULY 16, 2014 OPINION AND  
ORDER

At a session of Court  
Held in Pontiac, Michigan

On

~~SEP 12 2014~~

Defendant/Counter-Plaintiff Martin Ginzinger moves the Court to reconsider its decision denying summary disposition of Plaintiff/Counter-Defendant Timothy Copacia's claims for unjust enrichment, implied contract, fraud, and breach of fiduciary duty. 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).

Ginzinger raises several arguments in support of his request for reconsideration, however, all of those argument were or could have been raised before the Court decided the summary disposition motion. Ginzinger 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). The fact that Ginzinger disagrees with this Court's reasoning or legal conclusions does not amount to palpable error. *Herald Co v Tax Tribunal*, 258 Mich App 78, 83; 669 NW2d 862 (2003).

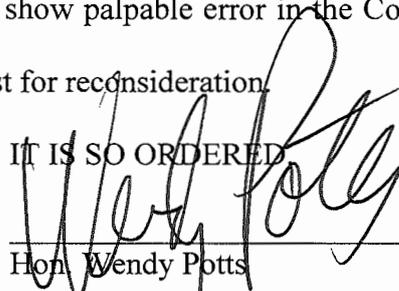
The Court further notes that Ginzinger's motion was filed as his first response to Copacia's complaint. Thus, his arguments and the Court's ruling were based on the sufficiency of Copacia's pleading. Contrary to the claim in Ginzinger's reconsideration motion, the Court did not make any factual findings. Rather, the Court concluded, based on the pleadings and the undisputed facts, that Copacia pleaded facially valid claims for unjust enrichment, implied contract, fraud, and breach of fiduciary duty. To the extent that Ginzinger believes that Copacia will not be able to demonstrate a question of fact on these claims, Ginzinger may renew his request for summary disposition of these claims after discovery on disputed issues is completed.

For all of these reasons, Defendant fails to show palpable error in the Court's summary disposition opinion, and the Court denies the request for reconsideration.

Dated:

SEP 12 2014

IT IS SO ORDERED

  
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Hon. Wendy Potts