

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

GENEVIEVE A. DESMOND, et al,

Plaintiffs,

v

Case No. 15-146639-CK

Hon. Wendy Potts

SHATTUCK ARMS ASSOCIATES, LLC,

et al,

Defendants.

OPINION AND ORDER RE: PLAINTIFF'S MOTION FOR RECONSIDERATION OF
THE ORDER DENYING PLAINTIFFS' EMERGENCY MOTION FOR PRELIMINARY
INJUNCTION

At a session of Court
Held in Pontiac, Michigan

On
'JUL 16 2013

Plaintiff Genevieve Desmond moves the Court to reconsider its decision denying her motion for preliminary injunction. 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).

Most of Desmond's arguments were or could have been raised before the Court issued its opinion, and she cannot demonstrate palpable error based on arguments that the Court considered before making its decision. *Churchman v Rickerson*, 240 Mich App 223, 233; 611 NW2d 333 (2000). The fact that Desmond disagrees with this Court's reasoning or conclusions does not

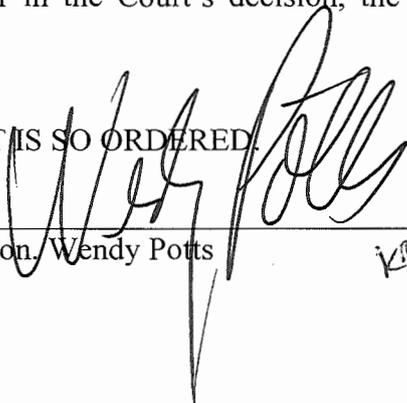
amount to palpable error. *Herald Co v Tax Tribunal*, 258 Mich App 78, 83; 669 NW2d 862 (2003).

Although Desmond's reconsideration motion focuses primarily on her likelihood of success on the merits of her claims, the key consideration is whether Desmond will be irreparably harmed. *Michigan AFSCME Council 25 v Woodhaven-Brownstown School District*, 293 Mich App 143, 149; 809 NW2d 444 (2011). Desmond asserts that she will suffer irreparable harm because Defendants' proposed amendments to the LLC operating agreement will cause her to lose her membership rights. However, Desmond's assertion that she is at imminent risk of losing member rights is based on a disputed, and likely unsuccessful, theory that she had the right to veto certain decisions of the majority of the LLC members. The mere apprehension of injury is insufficient to show irreparable injury. *Dunlap v Southfield*, 54 Mich App 398, 403; 221 NW2d 237 (1974).

The Court's decision whether to grant injunctive relief is a matter of discretion, *Schadewald v Brule*, 225 Mich App 26, 39; 570 NW2d 788 (1997), and Desmond has not explained how the Court abused its discretion in denying her request for injunctive relief. Because Plaintiff fails to demonstrate palpable error in the Court's decision, the motion for reconsideration is denied.

Dated: JUL 16 2015

IT IS SO ORDERED.



Hon. Wendy Potts