

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

STRATEGY AND EXECUTION, INC.,

Plaintiff,

v

Case No. 15-146756-CK

Hon. Wendy Potts

LXR BIOTECH, LLC,

Defendant.

**OPINION AND ORDER RE: PLAINTIFF'S EMERGENCY MOTION FOR
REHEARING, RECONSIDERATION, OR RELIEF FROM ORDER REGARDING
DEFENDANT'S MOTION IN LIMINE PRECLUDING EVIDENCE OF LEGAL
CONCLUSIONS AND DAMAGES**

At a session of Court
Held in Pontiac, Michigan

On

OCT 25 2016

This matter is before the Court on Plaintiff's Motion for Rehearing and Reconsideration. On October 19, 2016, the Court entered an Order granting Defendant's motion in limine precluding evidence of legal conclusions and damages. Plaintiff is now requesting that the Court grant its motion for reconsideration and enter an Order precluding testimony concerning legal conclusions but denying Defendant's request prohibiting Plaintiff from introducing testimony and evidence of its damages. The Court dispenses with oral argument pursuant to MCR 2.119(F)(2).

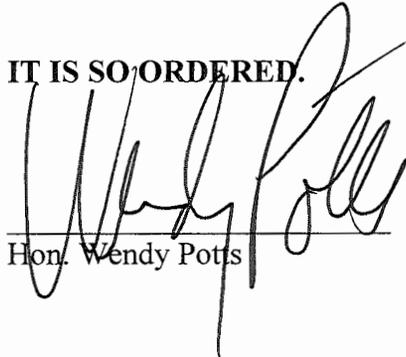
MCR 2.119(F) governs Motions for Rehearing or Reconsideration. The decision whether to grant or deny reconsideration is discretionary. MCR 2.119(F)(3); *Charbeneau v Wayne County General Hosp*, 158 Mich App 730, 733; 405 NW2d 151 (1987). MCR 2.119(F)(3) provides, in relevant part:

[A] motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error.

Further, the fact that Plaintiff disagrees 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 Court has reviewed Defendant's motion in limine and Plaintiff's response, as well as the record from the oral argument on Defendant's motion and finds that the parties did not argue the motion in limine as it pertains to any alleged damages. Accordingly, the Court will reconsider its decision granting Defendant's motion in limine precluding evidence of damages. To the extent that testimony regarding damages is not a legal conclusion, the Court will allow the Plaintiff to present evidence in accordance with the Rules of Evidence. In all other respects, Plaintiff's Motion for Reconsideration is denied.

Dated: OCT 25 2016

IT IS SO ORDERED.


Hon. Wendy Potts