

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

JOHN MICHAEL JONES and
OUTBACK PROPERTY
MANAGEMENT, LLC,

Plaintiffs,

Case No. 2015-1987-CB

vs.

WESTMINSTER, LLC and
LEONARDO ROBERTS,

Defendants.

FILED
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CARMELLA SABAUGH
MACOMB COUNTY CLERK
MT. CLEMENS, MICHIGAN

OPINION AND ORDER

Plaintiffs have filed a motion for reconsideration of the Court's August 3, 2016 Opinion and Order granting, in part, Defendants' motion for summary disposition. In addition, Defendants have also filed a motion for reconsideration of the same August 3, 2016, Opinion and Order.

As a preliminary matter, on September 26, 2016, the Court issued an Opinion and Order denying Plaintiffs motion for reconsideration of the August 3, 2016 Opinion and Order granting Defendants summary disposition of Counts I, III, IV, V and X under the doctrine of res judicata on jurisdictional grounds. The parties have since advised the Court that Plaintiffs' claim of appeal which created the jurisdictional issue involves a separate Opinion and Order issued on August 3, 2016 which denied Plaintiff's motion for reconsideration of the May 25, 2016 Opinion and Order granting Defendants summary disposition of Count II under the doctrine of res judicata. The jurisdictional issues referenced in the September 26, 2016 Opinion and Order therefore do not apply.

Consequently, as indicated in the September 29, 2016 stipulated order, the September 26, 2016 Opinion and Order is vacated and the Court will now address the merits of the parties' motions.

I. Standard of Review

Motions for reconsideration must be filed within 21 days of the challenged decision. MCR 2.119(F)(1). 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. MCR 2.119(F)(3). A motion for reconsideration which merely presents the same issue ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *Id.* The grant or denial of a motion for reconsideration is a matter within the discretion of the trial court. *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

II. Arguments and Analysis

A. Plaintiffs' Motion for Reconsideration

In their motion, Plaintiffs seek reconsideration of the August 3, 2016 Opinion and Order granting Defendants summary disposition of Counts I, III, IV, V and X under the doctrine of res judicata. In support of their motion, Plaintiffs make the exact same arguments the Court has already addressed in its August 3, 2016 Opinion and Order granting Defendants summary disposition of Counts I, III, VI, V and X. A motion for reconsideration which merely presents the same issue ruled upon by the Court, either expressly or by reasonable implication, will not be granted. MCR 2.119(F)(3). Accordingly, the Court is satisfied that Plaintiffs' motion must be denied.

B. Defendants' Motion for Reconsideration

In their motion, Defendants aver that Plaintiffs' claims for tortious interference with business relationships (Count VI) and tortious interference with contract (Count VII) should be dismissed because the evidence Plaintiffs rely upon in their response fails to create a genuine issue of material fact. In their response, Plaintiffs assert that Defendant Roberts published multiple defamatory statements with the purpose of interfering with Plaintiffs' business relationships and contracts. In support of their position, Plaintiffs rely on various emails (See Exhibit M to Plaintiffs' Response) and two affidavits. One of the affidavits was executed by Plaintiff Jones in which he testified that Defendant Roberts engaged in a campaign of harassment against his investors in which he defamed Plaintiff Jones and his business, ultimately causing many of the investors to stop doing business with Plaintiffs or to sell their properties. (See Exhibit S to Plaintiffs' Response.) In their motion for reconsideration, Defendants aver that the statements contained in Plaintiff Jones' affidavit are false because there were no properties at the time the emails in question were sent. However, Defendants' sole support for their position is a chart that appears to be generated for the purposes of litigation, the contents of which are not substantiated in any way. Moreover, even if the properties referenced in the chart were sold on the dates indicated, Defendants have failed to provide any evidence that the investors in question did not have other properties or other business dealings with Plaintiffs. Consequently, the Court is convinced that Defendants have failed to establish that they are entitled to reconsideration of the portion of the August 3, 2016 Opinion and Order denying their request for summary disposition of Plaintiffs' tortious interference claims.

In addition, Defendants also aver that they are entitled to summary disposition of Plaintiffs' claim for injurious falsehood (Count VIII). However, Defendants' position is based on the same arguments already addressed in connection with Plaintiffs' tortious interference claims. As a result, Defendants' position is without merit and their request for reconsideration will be denied.

IV. Conclusion

Based on the foregoing, the Plaintiffs' motion for reconsideration of the Court's August 3, 2016 Opinion and Order is DENIED. Further, Defendants' motion for reconsideration of the August 3, 2016 Opinion and Order is DENIED. Pursuant to MCR 2.602(A)(3), the Court states this Opinion and Order neither resolves the last pending claim nor closes the case.

IT IS SO ORDERED.

Date: OCT 05 2016

Kathryn A. Viviano
Hon. Kathryn A. Viviano, Circuit Court Judge