

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

CONSTANCE SWANSTON, WOMEN’S	§	
ELEVATED SOBER LIVING LLC, and	§	
SHANNON JONES,	§	Civil Action No. 4:19-cv-412
	§	Judge Mazzant
v.	§	
	§	
CITY OF PLANO, TEXAS.	§	
	§	

MEMORANDUM OPINION AND ORDER

Pending before the Court is Defendant City of Plano’s Motion for Reconsideration (Dkt. #93). Having considered the Motion and the relevant pleadings, the Court finds that it should be denied.

BACKGROUND

This case centers around alleged violations of the Fair Housing Act (“FHA”) and Americans with Disabilities Act (“ADA”) by Defendant City of Plano (Dkt. #2). Defendant filed a Motion for Summary Judgment on Plaintiffs’ Facial Challenge to Defendant’s Ordinance (Dkt. #52), which the Court granted as to the direct-evidence theory of Plaintiffs’ FHA claim and denied as to the circumstantial-evidence theory of Plaintiff’s FHA claim (Dkt. #92). Five days later, Defendant filed its Motion for Reconsideration (Dkt. #93), currently before the Court. On December 18, 2020, Plaintiffs filed their Reply in Opposition to Defendant’s Motion for Reconsideration (Dkt. #95).

LEGAL STANDARD

Even though the “‘Motion to Reconsider’ is found nowhere in the Federal Rules of Civil Procedure, it [is] one of the more popular indoor courthouse sports at the district court level.” *Westport Ins. Corp. v. Stengel*, 571 F. Supp. 2d 737, 738 (E.D. Tex. 2005) (quoting *Louisiana v.*

Sprint Comms. Co., 899 F. Supp. 282, 284 (M.D. La. 1995)); see *Lavespere v. Niagara Mach. & Tool Works, Inc.*, 910 F.2d 167, 173 (5th Cir. 1990) (“The Federal Rules do not recognize a ‘motion for reconsideration’ *in haec verba*.”), *abrogated on other grounds by Little v. Liquid Air Corp.*, 37 F.3d 1069 (5th Cir. 1994). Motions to reconsider serve the “very limited purpose . . . [of] ‘permit[ting] a party to correct manifest errors of law or fact, or to present newly discovered evidence.’” *Polen v. Allstate Vehicle & Prop. Ins. Co.*, No. 4:16-CV-00842, 2017 WL 3671370, at *1 (E.D. Tex. June 30, 2017) (quoting *Krim v. pcOrder.com, Inc.*, 212 F.R.D. 329, 331 (W.D. Tex. 2002)). Granting a motion to reconsider “is an extraordinary remedy that should be used sparingly.” *Templet v. HydroChem Inc.*, 367 F.3d 473, 479 (5th Cir. 2004) (citing *Clancy v. Employers Health Ins. Co.*, 101 F. Supp. 2d 463, 465 (E.D. La. 2000)).

“Mere disagreement with a district court’s order does not warrant reconsideration of [an] order.” *Westport Ins. Corp.*, 571 F. Supp. 2d at 738 (citing *Krim*, 212 F.R.D. at 332). Moreover, parties should present their strongest arguments upon initial consideration of a matter—motions for reconsideration cannot serve as vehicles for parties to “restate, recycle, or rehash arguments that were previously made.” *Domain Prot., LLC v. Sea Wasp, LLC*, No. 4:18-CV-792, 2020 WL 4583464, at *3 (E.D. Tex. Aug. 10, 2020) (citing *Krim*, 212 F.R.D. at 332); see *Texas Instruments, Inc. v. Hyundai Elecs. Indus., Co.*, 50 F. Supp. 2d 619, 621 (E.D. Tex. 1999) (“[M]otions for reconsideration ‘should not be used to raise arguments that could, and should, have been made before the entry of judgment or to re-urge matters that have already been advanced by a party.’” (brackets and ellipsis omitted)). A “district court’s ‘opinions are not intended as mere first drafts, subject to revision and reconsideration at a litigant’s pleasure.’” *A&C Constr. & Installation, Co. WLL v. Zurich Am. Ins. Co.*, 963 F.3d 705, 709 (7th Cir. 2020) (quoting *Quaker Alloy Casting Co. v. Gulfco Indus., Inc.*, 123 F.R.D. 282, 288 (N.D. Ill. 1988)).

ANALYSIS

The manifest error Defendant's motion alleges is that the Court's summary-judgment analysis "sets forth contradictory holdings" that "cannot coexist" (Dkt. #93 at p. 1). Specifically, Defendant argues that the ordinance in question ("Ordinance") cannot simultaneously treat disabled persons better than non-disabled persons and still present "a genuine issue of material fact as to whether there is circumstantial evidence that the City's reasons for enacting the ordinance were a mere pretext for discrimination against disabled persons" (Dkt. #93 at p. 1).

Defendant has not shown manifest errors of law or newly discovered evidence. *Templet*, 367 F.3d at 478–49. It has not shown (1) an intervening change in controlling law; (2) the availability of new evidence not previously available; or (3) the need to correct a clear error of law or prevent manifest injustice. *In re Benjamin Moore & Co.*, 318 F.3d 626, 629 (5th Cir. 2002). Defendant has simply failed to demonstrate it is entitled to the extraordinary relief an order granting a motion for reconsideration provides. *See Templet*, 367 F.3d at 478. As such, the Court finds that its original decision should stand.

CONCLUSION

It is therefore **ORDERED** that Defendant's Motion for Reconsideration (Dkt. #25) is **DENIED**.

IT IS SO ORDERED.

SIGNED this 22nd day of January, 2021.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE