

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD, ILLINOIS**

DARIN WHITTEN, LISA C. KAISER, )  
WILLIAM D. KAISER, DOROTHY TAFT, )  
And JARED KERWIN, )  
Plaintiffs, )  
v. ) Case No.: 21-3023-RM-TSH  
ROCHESTER TOWNSHIP REPUBLICAN )  
CENTRAL COMMITTEE, et al., )  
Defendants. )

**DEFENDANT LYNN CHARD'S RESPONSE TO  
PLAINTIFFS' MOTION TO RECONSIDER**

NOW COMES, Defendant, LYNN CHARD, in her official capacity as Clerk of Rochester Township, by and through her attorneys, BROWN, HAY & STEPHENS, LLP, and hereby submits her response to plaintiffs' motion to reconsider (Doc. 14), stating as follows:

## **INTRODUCTION**

On February 1, 2021, this Court denied Plaintiffs' motion for a temporary restraining order, preliminary or permanent injunction and dismissed the matter pursuant to the *Rooker-Feldman* doctrine. On February 5, 2021, Plaintiffs' filed a motion to reconsider alleging errors in the Court's application of the law. Plaintiff's motion to reconsider should be denied because they have failed to clearly establish that the Court erred in applying the law. This matter is barred by the *Rooker-Feldman* doctrine because allowing it to proceed would, in effect, overrule the decision of the Sangamon County Circuit Court.

### **STANDARD OF REVIEW**

The purpose of a motion to alter or amend judgment under Rule 59(e) is to ask the Court to reconsider matters “properly encompassed in a decision on the merits.” *Osterneck v. Ernst & Whitney*, 489 U.S. 169, 174 91989). A Rule 59(e) motion may be used to bring to the Court's attention “a manifest error or law, or newly discovered evidence.” *Bordelon v. Chicago Sch. Reform Bd. of Trs.*, 233 F.3d 524, 529 (7th Cir. 2000).

A motion to reconsider pursuant to Rule 59(e) should be granted only in rare circumstances. *Scott v. Bender*, 948 F. Supp. 2d 859, 865 (N.D. Ill. 2013). A party moving for reconsideration pursuant to Rule 59(e) bears the heavy burden of establishing that the court should reverse its prior judgment. *See Caisse Nationale de Credit Agricole v. CBI Indus., Inc.*, 90 F.3d 1264, 1270 (7th Cir. 1996). A Rule 59(e) motion for reconsideration is not an appropriate vehicle for re-litigating arguments that the district court previously rejected, or for arguing issues or presenting evidence that could have been raised during the pendency of the motion presently under reconsideration. *Id.*; *see also Sigsworth v. City of Aurora*, 487 F.3d 506, 512 (7th Cir. 2007); *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996). A court's ruling is not a “mere first draft[ ], subject to revision and reconsideration at a litigant's pleasure.” *Quaker Alloy Casting Co. v. Gulfco Industries, Inc.*, 123 F.R.D. 282, 288 (N.D. Ill. 1988).

To prevail on a Rule 59(e) motion to amend judgment, a party must “clearly establish” that (1) the court committed a manifest error of law or fact, or (2) newly discovered evidence precluded entry of judgment. *Harrington v. City of Chicago*, 433 F.3d 542, 546 (7th Cir. 2006). A manifest error of law is the “disregard, misapplication, or failure to recognize controlling precedent.” *Oto v. Metropolitan Life Ins.*, 224 F.3d 601, 606 (7th Cir. 2000) (internal quotations marks omitted). A manifest error “is not demonstrated by the disappointment of the losing party.” *Id.* The decision to grant a Rule 59(e) motion to reconsider lies in the sound discretion of the trial court, and its ruling

will only be disturbed upon a showing that the court abused its discretion. *Scott*, 948 F. Supp. 2d at 865 (citing *Matter of Prince*, 85 F.3d 314, 324 (7th Cir. 1996)).

### **ARGUMENT**

Plaintiffs have failed to establish that they are entitled to relief under Rule 59 (e) and their motion should be denied. Here, the Court properly dismissed Plaintiffs' claims under the *Rooker-Feldman* doctrine. Plaintiffs filed nearly an identical complaint to the complaint filed in the Circuit Court of Sangamon County. In addition, Plaintiff raises the same issues and the same claims that the Sangamon County Court has already dismissed for failure to exhaust their administrative remedies. Plaintiffs' clearly disappointed, argue that this Court misapplied the law, but that is incorrect.

Plaintiff asserts that the Court misapplied the law and that *Charchenko v. City of Stillwater*, 47 F. 3d 981 (8th Cir. 1995), is not distinguishable. However, it appears continue to misunderstand the basis of the Sangamon County Circuit Court's dismissal. Plaintiffs matter was dismissed because the Sangamon County Circuit Court determined that they were first required to exhaust their administrative remedies prior to bringing their suit. The failure to do so deprived the Court of jurisdiction. This is not the situation that the Court was faced with in *Charchenko*. Further, in order for this matter to move forward the District Court in effect overrule the Sangamon County Circuit Court. As a result, and as set forth in detail in Defendant's objection to Plaintiffs' motion for a temporary restraining order, this matter is barred by the *Rooker-Feldman* doctrine. Plaintiffs' have failed to clearly establish that the Court committed any manifest error and their motion to reconsider must be denied.

WHEREFORE, for the above and foregoing reasons, Defendant Chard, in her official capacity, respectfully requests this Honorable Court deny Plaintiffs' motion to reconsider.

Respectfully submitted,

**LYNN CHARD, Defendant**

By: /s/Dylan P. Grady  
One of Her Attorneys

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 10, 2021, I caused to be electronically filed the foregoing with the Clerk of Court using the CM/ECF system that will send notification of such filing to the following:

Rochester Township Republican Central Committee  
c/o Thomas K. Munroe  
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I hereby further certify that on the same date, I mailed by United States Postal Service, the foregoing to the following non-registered participants:

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Proof of Service are true and correct.

/s/Dylan P. Grady

**BROWN, HAY & STEPHENS, LLP**

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