

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR CALHOUN COUNTY

STREVREP CO., a Michigan General
Partnership,
Plaintiff,

Docket # 17-1938-CB
Hon. Brian K. Kirkham

v.

MYRA SEAMAN, an individual,
Defendant.

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OPINION AND RULING

This matter comes before the court as a result of an Order for Summary Disposition entered by this court on November 17, 2017. The Defendant has alleged multiple errors committed by the court as her basis for reconsideration.

The court considered all the evidence and issues presented to the court. It is apparent from the Defendant's Motion that when a party does not prevail it must have been the result of error by the court.

A motion for reconsideration is governed by MCR 2.119(F)(3) which provides: “Generally, and without restricting the discretion of the court, 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.”

The court has accepted the Black’s Law Dictionary definition of “palpable” as “easily perceptible, plain, obvious, readily visible, noticeable, patent, distinct, manifest.” *Estate of Stanley Luckow*, 291 Mich App 417 (2011).

“It is up to the moving party to show palpable error that would lead to different disposition in the case.” *UM Regents v. Titan Ins. Comp.*, 484 Mich 852 (2009).

As stated in *People v Walters*, 266 Mich App 341(2005) the “palpable error’ provision of MCR 2.119(F)(3) is not mandatory and only provides guidance to a court about when it may be appropriate to consider a motion for rehearing or reconsideration.”

Additionally, as the court stated in *Smith v. Sinai Hospital of Detroit*, 152 Mich App 716, 723 (1986), “If a court wants to give a ‘second chance’ to a motion it has previously denied, it has every right to do so,”

The Defendant’s Motion For Reconsideration does not present any issues that were not considered and ruled on previously. Defendant’s arguments simply attempt to put a new expression on the same face

the court examined and ruled on previously. Further, the Defendant has not demonstrated “palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result”.

The Defendant’s Motion For Reconsideration is denied. Plaintiff shall prepare an Order Denying the Motion and present it pursuant to MCR 2.602(B)(3).

December 12, 2017

Hon. Brian K. Kirkham

