

STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

RIZZO ENVIRONMENTAL  
SERVICES, INC.,

Plaintiff,

vs.

Case No. 2014-335-CB

DUMPSTER BROKERS, LLC,  
d/b/a DUMPSTER FOR LESS,  
and WILLIAM TURNER,

Defendants.

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OPINION AND ORDER

Plaintiff has filed for reconsideration of the Court's January 22, 2015 Opinion and Order granting Defendants' motion for summary disposition of Counts I and II of Plaintiff's complaint.

In the interests of judicial economy the factual and procedural statements set forth in the Court's January 22, 2015 Opinion and Order are herein incorporated.

*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 purpose of MCR 2.119(F)(3) is to allow a trial court to immediately correct any obvious mistakes it may

have made in ruling on a motion, which would otherwise be subject to correction on appeal but at a much greater expense to the parties. *Bers v Bers*, 161 Mich App 457, 462; 411 NW2d 732 (1987). 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).

#### *Arguments and Analysis*

In its motion, Plaintiff contends that the Court erred in holding that paragraph 6 unambiguously only applies to situations in which Defendant Dumpster requires the listed services for its own locations.

Paragraph 6 provides that Defendant Dumpster agrees to exclusively use Plaintiff “as Customer’s exclusive solid waste collection, waste control, and waste recycling company for all of Customer’s locations within Contract’s geographical service area.” for “all Customer’s locations.” In its motion, Plaintiff contends that use of the term “Customer’s locations” does not only include locations owned by Defendant Dumpster; rather, Plaintiff contends that the term includes locations that are “closely associated” with Defendant Dumpster, which it contends includes its client’s locations. In support of its position, Plaintiff cites to the Oxford University Press’ website. However, after reviewing Plaintiff’s support for its position, the Court remains convinced that paragraph 6 does not require Defendant Dumpster to exclusively use Plaintiff in connection with its client’s locations. Consequently, Plaintiff’s motion must be denied.

The Court also notes that Plaintiff contends that the Court erred with respect to the standard to be used in the event that a provision is ambiguous. However, the Court has held that the provision in question is unambiguous. Consequently, the issue

presented by Plaintiff is not relevant for the purpose of deciding the instant motion and will not be addressed by the Court.

*Conclusion*

For the reasons discussed above, Plaintiff's motion for reconsideration is DENIED. In compliance with MCR 2.602(A)(3), the Court states this Opinion and Order does not resolve the last claim and does not close the case.

IT IS SO ORDERED.

/s/ John C. Foster  
JOHN C. FOSTER, Circuit Judge

Dated: February 23, 2015

JCF/sr

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