

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THREE ANGELS BROADCASTING)
NETWORK, INC., and)
DANNY LEE SHELTON,)
Plaintiffs,) Civil Action No.
v.) 07-40098-FDS
Defendants.)

)

**ORDER ON DEFENDANTS' MOTION TO
RECONSIDER AND TO AMEND FINDINGS, MOTION FOR
LEAVE TO FILE UNDER SEAL, AND MOTION FOR SANCTIONS**

SAYLOR, J.

On October 30, 2008, pursuant to Fed. R. Civ. P. 41(a)(2), this Court granted plaintiffs' motion to dismiss without prejudice on the condition that any renewed claims brought by plaintiffs shall be brought in this Court. On November 13, 2008, defendants, proceeding *pro se*, filed a motion for costs in connection with that dismissal.

On April 13, 2009, the Court issued an order denying defendants' motion for costs. On April 15, 2009, the Court issued a further order denying defendants' motion for leave to file certain documents under seal.

On April 27, 2009, defendants filed a Motion to Reconsider and to Amend Findings. That motion sought reconsideration of the Court's Orders of April 13 and 15, 2009, and sought amendment or alteration of the judgment under Fed. R. Civ. P. 59(e) and relief from judgment

under Fed. R. Civ. P. 60(b).¹ The same day, defendants filed a further Motion for Leave to File Under Seal seeking to seal certain documents filed in support of the Motion to Reconsider. Plaintiffs opposed both motions in pleadings filed on May 11, 2009. Defendants then filed, on June 24, 2009, a Motion for Sanctions under Fed. R. Civ. P. 11(c)(2), and the Court's inherent powers, alleging various misstatements in plaintiffs' opposition filings.

For the reasons stated below, all three motions will be denied.

A. Motion for Reconsideration and to Amend or Alter the Judgment

A motion under rule 59(e) to alter or amend a judgment may not be used to relitigate matters already determined by the court. *See In re Williams*, 188 B.R. 721, 725 (D. R.I. 1995). Similarly, a motion to amend may not be used to raise arguments, or to present evidence, that could reasonably have been raised or presented before the entry of judgment. *Williams v. Poulos*, 11 F.3d 271, 289 (1st Cir. 1993); *FDIC v. World Univ. Inc.*, 978 F.2d 10, 16 (1st Cir. 1992). The party seeking to amend a judgment must demonstrate a manifest error of law or present newly discovered evidence. *FDIC v. World Univ. Inc.*, 978 F.2d at 16. Reconsideration of a previous order is an extraordinary remedy, to be used sparingly when necessary to achieve justice, and with due consideration for the interests of finality and conservation of judicial resources.

Defendants make no argument, and present no evidence, that was not either raised previously or should have been raised previously. Defendants are not entitled to argue the same matter twice simply because they are unhappy with the result. Accordingly, the Court is not convinced that it should reconsider its previous decision, much less reverse it. The motion for reconsideration and to amend or alter the judgment (Docket #169) is therefore DENIED.

¹ Defendants also sought relief under Fed. R. Civ. P. 52(b), which is clearly inapplicable here.

B. Motion for Leave to File Under Seal

Defendants' motion for leave to file under seal seeks an order permitting plaintiffs to file certain exhibits and a related affidavit under seal. The relevance of the documents is unclear, and plaintiffs have not demonstrated that the information is newly discovered and could not reasonably have been submitted with the original motion. Furthermore, to the extent that the materials are subject to the Confidentiality and Protective Order issued by Magistrate Judge Hillman in this matter on April 17, 2008, they should have been returned to plaintiffs some time ago. The motion for leave to file under seal (Docket #173) is therefore DENIED.

C. Motion for Sanctions

Defendants also seek sanctions against plaintiffs under Fed. R. Civ. P. 11 and pursuant to the Court's inherent powers to redress litigation abuses. In substance, defendants contend that plaintiffs' memoranda opposing the foregoing motions were "riddled with misstatements of fact that have no evidentiary support" and, in some instances, are "demonstrably intentional." The Court has carefully reviewed defendants' submissions. It appears to the Court that all of the disputed assertions fall within the bounds of permissible zealous advocacy, and none are sufficiently problematic to warrant the imposition of sanctions. Defendants' motion for sanctions (Docket #183) is therefore DENIED.

So Ordered.

/s/ F. Dennis Saylor _____
F. Dennis Saylor IV
United States District Judge

Dated: October 26, 2009