

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DONELL PRINCE, Plaintiff, v. THOMAS AIELLOS, Defendant.	Civil Action No. 09-5429 (JLL) ORDER
---	--

THIS MATTER comes before the Court by way of Plaintiff's motion for reconsideration of this Court's August 23, 2012 Order denying Plaintiff's previous motion for reconsideration of this Court's July 10, 2012 Opinion and Order denying Plaintiff's appeal of Magistrate Judge Hammer's May 22, 2012 Opinion and Order denying, *inter alia*, Plaintiff's request to amend the complaint for the fourth time. Plaintiff, proceeding *pro se* in this matter, seeks reconsideration of this Court's August 23, 2012 decision to prevent a "manifest injustice."

Local Civil Rule 7.1(i) provides, in relevant part:

A motion for reconsideration shall be served and filed within 14 days after the entry of the order or judgment on the original motion by the Judge or Magistrate Judge. A brief setting forth concisely the matter or controlling decisions which the party believes the Judge or Magistrate Judge has overlooked shall be filed with the Notice of Motion.

L. Civ. R. 7.1(i). "Reconsideration is an extraordinary remedy" and should be "granted 'very sparingly.'" See L. Civ. R. 7.1(i) cmt.6(d); see also *Felons v. Lombard Investment Corp.*, Nos. 04-3993, 04-5768, 04-3992, 04-6105, 2005 WL 3104145, at *1 (D.N.J. Oct. 18, 2005). A judgment may be altered or amended if the movant shows at least one of the following grounds: "(1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court [issued its order]; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice." *Max's Seafood Café v. Quinteros*, 176 F.3d 669, 677 (3d

Cir. 1999)(citing *N. River Ins. Co. v. CIGNA Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995)). When the assertion is that the Court overlooked something, the Court must have overlooked “some dispositive factual or legal matter that was presented to it.” *McGovern v. City of Jersey*, No. 98-5186, 2008 WL 58820, at *2 (D.N.J. Jan. 2, 2008). Moreover, a motion for reconsideration may not be used to re-litigate old matters or argue new matters that could have been raised before the original decision was reached. *See, e.g., P. Schoenfeld Asset Mgmt., L.L.C. v. Cendant Corp.*, 161 F. Supp. 2d 349, 352 (D.N.J. 2001).


Plaintiff’s motion for reconsideration is denied for two reasons. First, Plaintiff’s motion was not filed within fourteen (14) days of this Court’s August 23, 2012 decision, in violation of Local Civil Rule 7.1(i). Plaintiff’s untimely motion could be denied on this basis alone.

Second, even beyond this procedural deficiency, Plaintiff’s motion would, in any event, be denied on the merits. At the heart of Plaintiff’s motion is his request to amend his complaint for a fourth time. This request was denied by Magistrate Judge Hammer on May 22, 2012. Plaintiff then appealed Magistrate Judge’s Hammer’s decision to this Court; this appeal was denied on July 10, 2012. Plaintiff then sought reconsideration of said decision; Plaintiff’s request was denied on August 23, 2012. Although the Court is cognizant of Plaintiff’s *pro se* status, this is essentially Plaintiff’s attempt at a *fourth* bite at the apple. Plaintiff cites to no legal or factual matters that were previously presented to, but overlooked by the Court in rendering its August 23, 2012 decision. Plaintiff cites to no intervening change in law. Plaintiff provides no newly discovered evidence, nor does Plaintiff otherwise convince the Court that a manifest injustice would occur if this Court’s August 23, 2012 decision remains intact. Simply put, Plaintiff has provided no legal or factual basis warranting reconsideration of this Court’s August 23, 2012 decision. Plaintiff’s mere disagreement with this Court’s decision does not suffice.

Accordingly, **IT IS** on this **5th day of November, 2012,**

ORDERED that Plaintiff’s motion for reconsideration [Docket Entry No. 213] is **denied.**

IT IS SO ORDERED.



Jose L. Linares
United States District Judge