

VERMONT SUPERIOR COURT  
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CIVIL DIVISION  
Case No. 44-2-20 Oscv

**Butler vs. Town of Westmore**

**ENTRY REGARDING MOTION**

Title: Motion to Reconsider of Entry Order w/exhibits (6,8,10) (Motion: 11)  
Filer: Paul Brierre  
Filed Date: June 21, 2022

**Order on Motion for Reconsideration**

The court issued an order denying Butler's (Plaintiff's) motion to compel and for sanctions and granting in part the Town of Westmore's (the Town's) motion for a protective order. The basis of the court's decision was that allowing the requested inquiry would have a chilling effect on future important discussions which would be against the public interest, and that the Town had shown good cause that the discussions are protected by attorney-client privilege. Additionally, Plaintiff had not demonstrated the relevance of some of the testimony it sought. Finally, the court found that the circumstances described did not support a finding that the Town acted in bad faith or should otherwise be responsible for Plaintiff's attorneys' fees or other costs.

The court considers motions to reconsider an interlocutory order under the standards for motions to amend or alter a final judgment under V.R.C.P. 59(e). *City of Burlington v. Khamnei*, 2018 WL 6813856, at \*1 (Vt. Super. Ct. Dec. 18, 2018) (Walsh, J.), 11 Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d § 2810.1. The *Khamnei* court identified four basic grounds for granting such a motion: (1) to "correct manifest errors of law or fact upon which the judgment is based"; (2) to allow a moving party to "present newly discovered or previously unavailable evidence"; (3) to "prevent manifest injustice"; and (4) to respond to an "intervening change in the controlling law." *Id.* A motion for reconsideration "is not an opportunity for the movant to reargue or express dissatisfaction with the Court's factual findings or legal conclusions and will be denied where it repeats arguments previously heard and rejected." *Id.*

Plaintiff filed a motion to reconsider and argues that the court should reconsider compelling testimony from William Perkins, Peter Hyslop, and Jeff Leland regarding Burton Hinton's employment with the Town and Hinton's relationship with co-workers and supervisors, as well as imposing sanctions. Plaintiff submits that the court did not consider all the evidence and applicable law in its prior decision. Plaintiff therefore substantially retreads the same

grounds relied upon in his original motion. Plaintiff has raised no new arguments, has identified no error of fact or law meriting reconsideration, has identified no manifest injustice resulting from the previous order, and has not identified any change in the law.

Plaintiff presents no justification for the court to depart from its initial decision denying his motion to compel or for sanctions, or its initial decision to grant in part the Town's motion for a protective order. The court, accordingly, DENIES Plaintiff's motion to reconsider.

**Dated October 7, 2022**

A handwritten signature in black ink, appearing to read 'D. Barra', is written over a horizontal line.

**David Barra**  
**Vermont Superior Court Judge**  
**Electronically signed**