

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

OLEG SHOYKHET,

Plaintiff,

v

**Case No. 24-206344-CB
Hon. Michael Warren**

**YEVGENY MUCHNIK, ALINA
RITS, RITS ACCOUNTING, PC,
SPECTRUM AUTOWORKS, INC.,**

Defendants.

**OPINION AND ORDER DENYING PLAINTIFF’S MOTION FOR
RECONSIDERATION OF JANUARY 14, 2025 ORDER REGARDING MOTION**

**At a session of said Court, held in the
County of Oakland, State of Michigan
May 12, 2025**

PRESENT: HON. MICHAEL WARREN

OPINION

**I
Overview**

Before the Court is Plaintiff’s Motion for Reconsideration of January 14, 2025 Order Regarding Motion. The January 14, 2025 Order denied Plaintiff’s Motion for Entry of a Default Judgment as a Sanction for Failure to Comply with Court Order Compelling Production of Documents (corrected to add signature) because the Plaintiff failed to

identify the documents that had not been produced and failed to demonstrate that a default judgment is warranted. The January 14, 2025 Order provides:

The Motion is DENIED because the Court has no understanding why the discovery provided is purportedly defective. Granted, the Motion (the Plaintiff failed to file a Brief in violation of MCR 2.119) repeatedly asserts that the Defendants have failed to produce requested documents, but the Motion's 6 pages fail to identify what has not [been] produced. The Court has no idea why that assertion is true. As such, the argument is deemed abandoned. *Houghton v Keller*, 256 Mich App 336, 33 9-340 (2003) ("failure to properly address the merits of [one's] assertion of error constitutes abandonment of the issue"; a party "may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims . . . nor may he give issues cursory treatment with little or no citation of supporting authority" (citations omitted)); *People v Bennett*, unpublished Opinion of the Court of Appeals decided April 8, 2008, Docket No. 274390, p. 3 ("We similarly decline to address whether the application of MCL 768.27a in this case violated defendant's right to due process . . . [H]e devotes a single, short paragraph to this issue with no analysis and little citation to relevant authority. A party cannot assert a position and then it to this Court to search for authority to sustain or reject that position, or to unravel and elaborate for him his arguments" (citations omitted)). After all, "[t]rial Courts are not the research assistants of the litigants; the parties have a duty to fully present legal arguments for its resolution of their dispute." *Walters v Nadell*, 481 Mich 377, 388 (2008). Simply put, the Plaintiff has failed to fully present its arguments and the Court need not divine the analysis or advocate on behalf on its behalf.

The Court also incorporates by reference the Response. The Plaintiff has simply failed to meet the high burden that dismissing this case is warranted for an unproven, ambiguous, undefined discovery sanction. See, e.g., *Bass v Combs*, 238 Mich App 16, 26 (1999). See also *Richardson v Ryder Truck Rental, Inc*, 213 Mich App 447, 451 (1995).

[January 14, 2025 Order.]

The Court having reviewed the Motion and otherwise being fully informed in the premises, hereby dispenses with oral argument as it would not assist the Court in rendering a decision. MCR 2.119(F)(2).

At stake is whether a motion for reconsideration should be granted when there has been no showing of a palpable error by which the Court and parties were misled requiring a different disposition to correct such palpable error, and the circumstances do not justify allowing a “second chance” to argue matters that could have been argued at the time of the motion? Because the answer is “no,” the Motion is denied.

II Law Regarding Motions for Reconsideration

A motion for reconsideration must demonstrate “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 that merely presents the same issues as ruled upon by the Court, either expressly or by reasonable implication, will not be granted. MCR 2.119(F)(3). The grant or denial of a motion for reconsideration is a matter within the discretion of the trial court. *Cason v Auto Owners*, 181 Mich App 600, 605 (1989). There is no abuse of discretion in denying a motion resting on a legal theory or facts which could have been pled or argued prior to the trial court’s original order. *Charbeneau v Wayne County Gen’l Hosp*, 158 Mich App 730, 733 (1987).

III Analysis

Having carefully reviewed and considered the Motion, relief is not warranted because the Motion (1) fails to allege or demonstrate palpable error by which this Court

and the parties were misled, (2) fails to show that a different disposition of the underlying motion must result from correction of any error, and/or (3) raises arguments and authorities that were or could have been argued prior to this Court's January 14, 2025 Order. In short, the Plaintiff has merely presented, expressly and by reasonable implication, the same issues as previously ruled upon by this Court.

Without limiting the foregoing, the Plaintiff argues that it "at ¶¶4 and 6 of his December 30, 2024 Motion (as corrected), identified the documents to which he was entitled" and the underlying motion "evidenced that NOTHING had been produced in response to this Court's Order." However, the underlying motion merely states that "Defendants did not by December 20, 2024, and have not as of this writing, produced the responsive documents" and "Defendants' (sic) [] failed to produce the remaining responsive documents." However, the claim that no documents had been produced was contested by the Defendants. Indeed, the response to the underlying motion claims that the Defendants served a thumb drive containing responsive documents. Hence, the Court stated in its January 14, 2025 Order that "The Motion is DENIED because the Court has no understanding why the discovery provided is purportedly defective."

In the end, the Plaintiff has failed to demonstrate any palpable error that warrants a different disposition of the underlying motion. Motions for reconsideration are not a mechanism to cure cursorily raised issues and deficient briefing. Although there may be occasions to exercise discretion and allow a second chance to argue a position, such an occasion is not presented in the instant circumstances. *Carey Investments, LLC v Mount*

Pleasant, 342 Mich App 304, 319-320 (2022) (trial court's refusal to change its decision in response a motion for reconsideration that was nothing more than a regurgitation of the underlying argument was not an abuse of discretion).

ORDER

In light of the foregoing Opinion, Plaintiff's Motion for Reconsideration of January 14, 2025 Order Regarding Motion is DENIED.

/s/ Michael Warren

**HON. MICHAEL WARREN
CIRCUIT COURT JUDGE**

