

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

DISTRICT OF COLUMBIA,

Plaintiff,

v.

**58TH PRESIDENTIAL INAUGURAL COMMITTEE,
et al.,**

Defendants.

2020 CA 000488 B

Judge Yvonne Williams

**ORDER GRANTING MOTION FOR RECONSIDERATION IN PART & DENYING IN
PART**

Before the Court is District of Columbia’s (“the District”) Motion for Partial Reconsideration of the Court’s 11/8/2021 Order, filed on November 30, 2021. Defendant 58th Presidential Inaugural Committee (PIC) filed their Opposition on December 14, 2021. Defendant Trump Old Post Office LLC and Defendant Trump Organization LLC filed their Opposition on December 14, 2021. The District filed their Combined Reply on December 21, 2021. Finally, Defendant Trump Old Post Office LLC and Defendant Trump Organization LLC filed their sur-reply on January 6, 2022.

This matter arose over events surrounding the 2017 Presidential Inauguration. The District of Columbia filed an Amended Complaint on January 21, 2021 seeking a constructive trust and other equitable relief over the alleged misuse and waste of nonprofit funds from the PIC to Defendant Trump Old Post Office LLC, Defendant Trump Organization LLC, and the Loews Madison Hotel. The funds in question were used for blocks of rooms and events during the 2017 Presidential Inauguration. All four of the parties filed Motions for Summary Judgment in the case, and on November 8, 2021, the Court ruled on these Motions in an Omnibus Order. The Order granted Defendant Trump Organization’s Motion for Summary Judgment on all claims because of

the District of Columbia's lack of personal jurisdiction. The Court also granted the Defendants' Motion for Summary Judgment on the District's waste claim, but denied the Defendants' Motion for Summary Judgment on the District's private inurement claim.

In their Motion for Partial Reconsideration, the District argues that the 11/8/2021 Order errs in multiple ways. First the District claims the Court's grant of summary judgment for the Trump Organization LLC was improper, because the Court resolved disputed material facts. Next, the District avers the Court erred by faulting the District for not including testimony that is the subject of a pending discovery motion in granting summary judgement to the Trump Organization LLC. Lastly, the District asserts that the Court erred in applying the Business Judgment Rule to dismiss the District's waste claims. For the following reasons, the District's Motion for Reconsideration of the Court's 11/8/2021 Order will be **GRANTED IN PART** and **DENIED IN PART**.

I. PERSONAL JURISDICTION

The District argues in their Motion that the Court erred in finding the District did not have personal jurisdiction over the Trump Organization LLC in two ways 1. By resolving disputed material facts on a Motion for Summary Judgment and 2. By holding it against the District for failing to include testimony that is the subject of a pending discovery motion. For the following reasons, the District's Motion for Reconsideration with regards to the District's personal jurisdiction over the Trump Organization LLC will be granted.

Rule 54(b) provides that "any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." The standard for

reconsideration of interlocutory orders under Rule 54(b) is whether reconsideration is consonant with justice. *See Marshall v. United States*, 145 A.3d 1014, 1019 (D.C. 2016). “The burden is on the moving party to show that reconsideration is appropriate and that harm or injustice would result if reconsideration were denied.” *United States ex rel. Westrick v. Second Chance Body Armor, Inc.*, 893 F. Supp. 2d 258, 268 (D.D.C. 2012). Reconsideration is warranted if, for example, moving parties “present newly discovered evidence, show that there has been an intervening change in the law, or demonstrate that the original decision was based on a manifest error of law or was clearly unjust.” *See Bernal v. United States*, 162 A.3d 128, 133 (D.C. 2017) (quotation, ellipsis, and brackets omitted). However, “it is well-established that motions for reconsideration, whatever their procedural basis, cannot be used as an opportunity to reargue facts and theories upon which a court has already ruled, nor as a vehicle for presenting theories or arguments that could have been advanced earlier.” *Ali v. Carnegie Institute of Washington*, 309 F.R.D. 77, 81 (D.D.C. 2015). Raising “arguments that should have been, but were not, raised in” the original filing “is, frankly, a waste of the limited time and resources of the litigants and the judicial system.” *Estate of Gaither v. District of Columbia*, 771 F. Supp. 2d 5, 9-10 (D.D.C. 2011); *see Caisse Nationale de Credit Agricole v. CBI Industries, Inc.*, 90 F.3d 1264, 1270 (7th Cir. 1996) (“Reconsideration is not an appropriate forum for . . . arguing matters that could have been heard during the pendency of the previous motion.”).

We will not address the merits of the District’s first argument regarding the Court resolving disputed material facts on a Motion for Summary Judgment. Instead, we focus on their second argument that the Court erred in holding against the District that it failed to include testimony that is the subject of a pending discovery motion. The District asserts that it was legal error for the Court to rely on the Trump Organization’s argument that the District should have presented

testimony from Gentry Beach and Lindsay Santoro regarding their authority to act on behalf of the Trump Organization, because the District previously filed a motion to conduct additional depositions in the case that the Court never ruled on.

The 11/8/2021 Order granting summary judgment in the Trump Organization's favor because the District of Columbia's lack of personal jurisdiction was based on Gentry Beach's lack of agency to sign the Loews Madison Hotel contract on behalf of the Trump Organization. (*See* 11/8/2021 Order at 12). The contract involved a large block of rooms booked for people affiliated with the Trump Organization at the Loews Madison Hotel during the week of the 2017 Inauguration. (*See* 11/8/2021 Order at 4). Mr. Beach signed the contract on behalf of the Trump Organization and listed Lindsay Santoro, Mr. Donald Trump Jr.'s personal assistant, as the point of contact for the rooms. (*See* 11/8/2021 Order at 4). The 11/8/2021 Order found that Mr. Beach did not have the authority to bind the Trump Organization to this contract and avail the Trump Organization to the District's jurisdiction because there was no evidence that the Trump Organization authorized Mr. Beach to negotiate a contract or that Mr. Beach had the apparent authority to do so. (*See* 11/8/2021 Order at 12). The Order specifically reads "Of particular persuasiveness is, as the Defendant pointed out in its reply, that the District has failed to obtain any discovery from Mr. Beach or Ms. Santoro that establishes the requisite direction from the Trump Organization." (*See* 11/8/2021 Order at 4).

On February 23, 2021, the District filed a Motion to Conduct Additional Depositions in this case. In large part, this Motion indicates that the District intended to conduct additional depositions in relation to the Loews Madison contract. On August 26, 2021, this Court sua sponte ruled that it would hold the Motion, along with others related to discovery disputes, in abeyance until resolving the parties' pending Motions for Summary Judgment. Considering this procedural

posture, it was erroneous for the Court to rule against the District based on the District's failure to depose or otherwise obtain discovery from, Mr. Beach and Ms. Santoro, when the Court had held in abeyance ruling on the District's request to conduct that very discovery. Based on the phrasing of the 11/8/2021 Order- "Of particular persuasiveness..."- the Court relied in large part on the District's "fail[ure] to obtain any discovery from Mr. Beach or Ms. Santoro," in finding that the District did not have personal jurisdiction over the Trump Organization. (*See* 11/8/2021 Order at 12).

To ensure equitableness, the Court must address the pending discovery motions that have been held in abeyance prior to issuing a summary judgment order relating to whether the Court has personal jurisdiction over The Trump Organization LLC. As such, the Court shall grant the District's Motion to Reconsider and reinstate The Trump Organization LLC as a Defendant in this case. The Status Hearing scheduled for Thursday, February 17, 2022 shall be converted to a Motions Hearing where the Court will address all discovery motions that the Court has held in abeyance. Once the Court has ruled on the discovery motions and additional discovery is conducted where warranted, the parties are welcome to refile Motions for Summary Judgment. For these reasons, the District's Motion for Reconsideration of the Court's 11/8/2021 Order granting summary judgment in favor of the Trump Organization LLC's for lack of personal jurisdiction shall be **GRANTED**.

II. BUSINESS JUDGMENT RULE

The District also asserts that the Court incorrectly used the Business Judgment Rule to evaluate their common law waste claims, and instead the Court should have assessed the waste claims using the duty of loyalty, because this case involves the misuse of nonprofit funds. For the

following reasons, the District's Motion for Reconsideration of the 11/8/2021 grant of summary judgment in favor of the Defendants for the District's waste claims will be denied.

The 11/8/2021 Order stated that the Business Judgment Rule had some application to the waste claims in this case since there is no binding authority suggesting otherwise. (*See* 11/8/2021 Order at 14). The Court reasoned that inquiring into the PIC's "business judgment" was directly relevant to whether the PIC acted "egregiously or irrationally," as the standard for waste requires. (*See* 11/8/2021 Order at 14). The Court ruled that the District had not met the high burden required for a waste claim and granted summary judgment in favor of all the Defendants.

"Corporate waste claims must articulate an exchange of corporate assets for consideration so disproportionately small as to lie beyond the range at which a reasonable person might be willing to trade," and must be "egregious or irrational." *Daley v. Alpha Kappa Alpha Sorority Inc.*, 26 A.3d 723, 730 (D.C. 2011). "[T]he plaintiffs must shoulder the burden of proving that the exchange was 'so one sided that no business person of ordinary, sound judgment could conclude that the corporation has received adequate consideration.' A claim of waste will arise only in the rare, unconscionable case where directors irrationally squander or give away corporate assets." *Brehm v. Eisner (In re Walt Disney Co. Derivative Litig.)*, 906 A.2d 27, 73 (Del. 2006) (internal citations omitted).

The Business Judgment Rule "gives a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company. . . . The burden is on the party challenging the decision to establish facts rebutting the presumption." *Behradrezaee v. Dashtara*, 910 A.2d 349, 361 (D.C. 2006) (internal citations omitted).

In supporting their position, the District relies on persuasive authority from another court and from this Superior Court that declined to use the Business Judgment Rule in cases involving the misuse of nonprofit funds. *See Summers v. Cherokee Children & Family Servs.*, 112 S.W.3d 486 (Tenn. Ct. App. 2002); *District of Columbia v. NRA Foundation.*, 2020 CA 003454 (D.C. Super. Ct. Dec. 21, 2020). However, neither of these cases are binding, since one is from a different jurisdiction, and we are not bound by Superior Court Orders from other cases. Our Court of Appeals has not ruled on whether the Business Judgment Rule would apply in this case, and it has applied the Business Judgment Rule in other cases involving the misuse of nonprofit funds. *See Daley*, 26 A.3d 723 (D.C. 2011). Although the District makes valid arguments that the law is unsettled with regards to the application of the Business Judgment Rule to the misuse of nonprofit funds, that is not enough to meet the high standard that a motion for reconsideration requires. Unsettled law does not fall under the umbrella of “newly discovered evidence, show that there has been an intervening change in the law, or demonstrate that the original decision was based on a manifest error of law or was clearly unjust.” *See Bernal*, 162 A.3d at 133. For these reasons, the District’s Motion for Reconsideration of the Court’s 11/8/2021 grant of summary judgment in favor of the Defendants as to the District’s waste claims is **DENIED**.

Accordingly, it is on this 14th day of February 2022, hereby,

ORDERED that the District’s Motion for Partial Reconsideration of the Court’s 11/8/2021 Order is **GRANTED IN PART** and **DENIED IN PART**; and it is further

ORDERED that the District’s Motion for Partial Reconsideration of the Court’s 11/8/2021 Order Granting Summary Judgement for the Trump Organization for all claims is **GRANTED**; and it is further

ORDERED that District's Motion for Partial Reconsideration of the Court's 11/8/2021 Order Granting Summary Judgment for Defendants for waste claims is **DENIED**; and it is further

ORDERED that the Trump Organization LLC is reinstated as a Defendant in this case; and it is further

ORDERED that the parties shall appear for a Motion Hearing in Courtroom 212 on Thursday, February 17, 2022 at 9:30 AM to address the outstanding discovery motions.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to be 'Yvonne Williams', written over a horizontal line.

Judge Yvonne Williams

Date: February 14, 2022

Copies to:

Jimmy R. Rock
Randolph T. Chen
Elisa Leonor Miranda
Matthew D. James
Nicole S. Hill
Counsel for Plaintiffs

Rebecca Woods
K. Lee Blalack
James Billings-Kang
Alexander Reed
Scott Harman-Heath
David Leviss
Counsel for Defendants