

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

LEO R. MADDOX,	:	
	:	C.A. No. K13C-02-027 WLW
Plaintiff,	:	
	:	
v.	:	
	:	
CITIMORTGAGE, INC.	:	
	:	
Defendant.	:	

Submitted: December 20, 2013

Decided: February 28, 2014

ORDER

Upon Plaintiff's Motion for Reargument.

Denied.

Leo R. Maddox, *pro se*

Lisa R. Hatfield, Esquire of Morris Hardwick Schneider, LLC, Newark, Delaware;
attorney for Defendant.

WITHAM, R.J.

The issue before the Court is whether the Court should grant Plaintiff's Motion for Reargument pursuant to Superior Court Civil Rule 59(e).

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff Leo R. Maddox (hereinafter "Plaintiff") has filed the instant Motion for Reargument concerning this Court's December 13, 2013 Order dismissing Plaintiff's claims against Defendant CitiMortgage, Inc. (hereinafter "Defendant").

On December 12, 2009, CitiMortgage foreclosed on Plaintiff's property in Hartley. Plaintiff filed a *pro se* complaint against a lawyer involved in the foreclosure process asserting fraud and other causes of action; this Court subsequently dismissed Plaintiff's complaint. On February 21, 2013, Plaintiff filed another *pro se* complaint against Defendant, alleging similar causes of action. With leave from this Court, Plaintiff amended his complaint to include claims of embezzlement, identity theft, forgery, and fraud against Defendant.

On November 19, 2013, Defendant filed a motion to dismiss Plaintiff's claims pursuant to Superior Court Civil Rule 12(b)(6). By Order dated December 13, 2013 this Court granted Defendant's motion on the following grounds: embezzlement, identity theft and forgery are criminal charges, not civil causes of action; Plaintiff failed to allege fraud with particularity pursuant to Superior Court Civil Rule 9(b); and Plaintiff's fraud claim was time barred pursuant to the applicable statute of limitations.

Plaintiff filed the instant Motion for Reargument on December 20, 2013. As with his other filings, Plaintiff has filed the motion *pro se*. As can best be gleaned

from the motion, Plaintiff appears to provide greater detail for his fraud allegations. Plaintiff argues that he was a “victim [sic] of fraud at the wrong place at the wrong time. . . .” Plaintiff has provided documents in support of his claims. Defendant has not filed a response to the motion.

STANDARD OF REVIEW

Pursuant to Civil Rule 59(e), a party may file a motion for reargument within five days after the filing of the Court’s opinion or decision.¹ The motion will be granted only if “the Court has overlooked a controlling precedent or legal principles, or the Court has misapprehended the law or facts such as would have changed the outcome of the underlying decision.”² A motion for reargument is not an opportunity for a party to rehash arguments already decided by the Court or to present new arguments not previously raised.³ In order for the motion to be granted, the movant must “demonstrate newly discovered evidence, a change in the law, or manifest injustice.”⁴

¹ Del. Super. Ct. Civ. R. 59(e).

² *Kennedy v. Invacare, Inc.*, 2006 WL 488590, at *1 (Del. Super. Jan. 31, 2006) (citing *Bd. of Managers of the Del. Criminal Justice Info. Sys. v. Gannett Co.*, 2003 WL 1579170, at *1 (Del. Super. Ct. Jan. 17, 2003)).

³ *Strong v. Wells Fargo Bank*, 2013 WL 1228028, at *1 (Del. Super. Jan. 3, 2013) (citations omitted).

⁴ *Brenner v. Village Green, Inc.*, 2000 WL 972649, at *1 (Del. Super. Ct. May 23, 2000) (citing *E.I. duPont de Nemours Co. v. Admiral Ins. Co.*, 711 A.2d 45, 55 (Del. Super. Ct. 1995)).

DISCUSSION

This Court issued its original Order on Friday, December 13, 2013; Plaintiff filed the instant Motion for Reargument on the following Friday, December 20. The five-day period for filing the motion did not begin running until Monday, December 16 because intermediate Saturdays and Sundays are excluded from the time computation.⁵ Accordingly, as an initial matter, the Court notes that Plaintiff's motion was timely filed.

While Plaintiff has provided the Court with greater factual detail for the allegations underlying his fraud claim, Plaintiff was required to provide this level of detail in his original complaint under Civil Rule 9(b).⁶ When the Court gave Plaintiff an opportunity to amend his complaint to better describe his claims, Plaintiff again failed to allege his fraud claim with particularity. While the Court may grant *pro se* litigants reasonable accommodations where possible based on their lack of familiarity with the law, procedural requirements will not be relaxed.⁷ This Court already gave Plaintiff one opportunity to satisfy the requirements of Rule 9(b) when it allowed Plaintiff to amend his original complaint. The Court cannot give the Plaintiff a second opportunity.

Aside from the additional facts Plaintiff provides in his Motion for

⁵ *Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del. 1969); Del. Super. Ct. Civ. R. 6(a).

⁶ Del. Super. Ct. Civ. R. 9(b) (requiring that fraud be stated with particularity).

⁷ *Alston v. State*, 2002 WL 184247, at *1 (Del. Super. Jan. 28, 2002).

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Reargument, Plaintiff fails to advance any argument as to how the Court overlooked a controlling legal principle or misapprehended the law or the facts in such a way that would have changed the outcome of the December 13 Order. Plaintiff merely rehashes the same arguments he made in regards to Defendant's motion to dismiss. Plaintiff also fails to account for the applicable statute of limitations, which—as the Court noted in its original Order—bars Plaintiff's claims.⁸ Thus, Plaintiff has failed to provide the Court with any reason as to why his Motion for Reargument should be granted.

CONCLUSION

Based on the foregoing, Plaintiff's Motion for Reargument is **DENIED**.

IT IS SO ORDERED.

/s/ William L. Witham, Jr. _____
Resident Judge

WLW/dmh

⁸ See 10 *Del. C.* § 8106(a) (providing a three-year statute of limitations for any cause of action based on a promise).