

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

LOCAL 703, I.B. OF T. GROCERY)
AND FOOD EMPLOYEES)
WELFARE FUND, Individually and)
on Behalf of All Others Similarly Situated)

Plaintiffs,)

v.)

CV: 10-2847-IPJ

REGIONS FINANCIAL)
CORPORATION, C. DOWD)
RITTER, IRENE M. ESTEVES, and)
ALTON E. YOTHER,)

Defendants.)

ORDER

Pending before this court is defendants’, Regions Financial Corporation, C. Dowd Ritter, Irene M. Esteves, and Alton E. Yother, Renewed Motion to Reconsider and/or Certification for Interlocutory Appeal and exhibits in support (doc. 70).

Defendants cite to no provisions in the Federal Rules of Civil Procedure allowing for continual filing of motions for reconsideration. Further, “motions to reconsider generally fall within the purview of Rule 60(b) of the Federal Rules of

Civil Procedure, *see Preserve Endangered Areas of Cobb's History, Inc. v. United States Army Corps of Engineers*, 916 F.Supp. 1557, 1560 (N.D. Ga 1995) (“[T]he term ‘motion for reconsideration’, as such, does not appear in the Federal Rules of Civil Procedure. The title of FED.R.CIV.P. 60(b), under which a so-called motion for reconsideration may be brought, further attests to its extraordinary nature.... ‘[Rule 60(b)] is “properly invoked where there are extraordinary circumstances, or where the judgment may work an extreme and undue hardship”’”), *judgment aff'd*, 87 F.3d 1242 (11th Cir. 1996).” *Cooper v. Escambia County Com'n*, 2011 WL 3439144 (S.D. Ala. 2011). Under this rule, “[a] motion to reconsider is only available when a party presents the court with evidence of an intervening change in controlling law, the availability of new evidence, or the need to correct clear error or manifest injustice.” *Burrell v. Infirmary W.*, 2011 U.S. Dist. LEXIS 40347, at *2 (S.D. Ala. Apr. 6, 2011) (*quoting Summit Med. Ctr. of Ala., Inc. v. Riley*, 284 F. Supp. 2d 1350, 1355 (M.D. Ala. 2003)). The defendants have cited the Court to a Second Circuit case, *Fait v. Regions Financial Corp.*, 2011 WL 3667784 (2nd Cir. 2011)¹, in support of its Renewed Motion for Reconsideration.

¹ With regard to the review of the investigator’s notes *in camera*, the Court used them “for the limited purpose of determining whether the confidential witnesses acknowledged the statements attributed to them in the complaint.” *Campo v. Sears Holdings Corp.*, 371 Fed. Appx. 212, 216 n.4 (2nd Cir. 2010).

However, a decision by the Second Circuit Court of Appeals is not binding on this Court, and therefore, is not an intervening change in controlling law.

It is therefore **ORDERED** that defendants' renewed motion for reconsideration and/or interlocutory appeal (doc. 70) is **DENIED**.

DONE and **ORDERED** this the 6th day of September 2011.



INGE PRYTZ JOHNSON
U.S. DISTRICT JUDGE