

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ANTERINE MAPLE, as Administratrix of the
Estate of Kevin George, Jr. deceased, the Estate
of Zion George, deceased, and in her own right;
DESTINY DELUCA; and AMIR HARRIS,

Plaintiffs,

v.

DELAWARE DEPARTMENT OF NATURAL
RESOURCES AND ENVIRONMENTAL
CONTROL. et al.,

Defendants.

C.A. No. 22-857-JLH

MEMORANDUM ORDER

1. On December 19, 2023, the district judge who was presiding over this matter issued an Order ruling on Defendants’ motions to dismiss. (D.I. 86.) On January 3, 2024, Plaintiffs moved for reargument. (D.I. 87.) In January 2024, while the motion for reargument was pending, the case was reassigned to me. I have reviewed the parties’ briefs (D.I. 88, 90, 97, 98, 99, 100, 101, 102, 103, 104, 105) and the applicable law. For the reasons set forth below, the motion is denied.

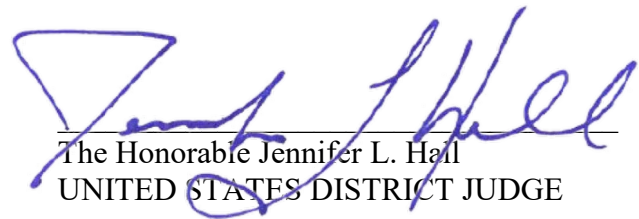
2. Even if Plaintiffs’ motion were timely filed,¹ the motion should be denied because motions for reconsideration are not the appropriate vehicles to raise new arguments. Plaintiffs seek reargument on the ground that the Court’s prior decision “appears not to have considered” § 8127(d) of the Delaware Builder’s Statute, 10 Del. C. § 8127(d), which provides that the statute of repose does not apply to any person in actual possession or control of an improvement. (D.I. 88 at 3.) But Plaintiffs failed to raise that argument before the Court issued its December 19, 2023

¹ This Court’s rules require that a motion for reargument be filed within 14 days. D. Del. LR 7.1.5(a).

Order and have raised it for the first time in the instant motion for reargument. (D.I. 46, 48, 58, 59, 61, 70, 82.) Accordingly, Plaintiffs have waived the argument. *Gillespie & Powers, Inc. v. Alcoa Warrick LLC*, No. 23-273, 2024 WL 1195032, at *4 (D. Del. Mar. 20, 2024) (“[M]otions for reconsideration may not be used ‘to argue new facts or issues that inexcusably were not presented to the court in the matter previously decided.’” (quoting *Brambles USA, Inc. v. Blocker*, 735 F. Supp. 1239, 1240 (D. Del. 1990))); *Corning Inc. v. SRU Biosystems*, No. 03-633, 2006 WL 155255, at *3 (D. Del. Jan. 20, 2006) (holding that newly-raised arguments are “not the proper subject of a motion for reargument”).

3. Plaintiffs’ Motion for Reconsideration/Reargument of the Court’s December 19, 2023, Order (D.I. 87) is therefore DENIED.

Dated: September 30, 2024



The Honorable Jennifer L. Hail
UNITED STATES DISTRICT JUDGE