

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PHILIP O. EMIABATA, *et al.*,

Plaintiffs,

v.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, *et al.*,

Defendants.

Civil Action No. 23-1054-RGA

MEMORANDUM ORDER

At Wilmington, on this 16th day of September 2025, having reviewed and considered Plaintiffs' June 24, 2025 *pro se* motion to alter or amend judgment (D.I. 30), which seeks to alter or amend this Court's August 13, 2024 Order denying Plaintiffs' motion for a stay (D.I. 23) in the above-captioned case;¹

WHEREAS the Federal Rules of Civil Procedure state that a "motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment," FED. R. CIV. P. 59(e);

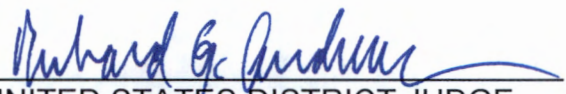
WHEREAS a motion to alter or amend judgment "must rely on one of three grounds: (1) an intervening change in controlling law; (2) the availability of new evidence; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice," *Lazaridis v. Wehmer*, 591 F.3d 666, 669 (3d Cir. 2010) (citing *N. River Ins. Co. v. CIGNA Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995));

¹ The motion also references an "emergency notice." (D.I. 25). The emergency notice, which is not a motion and which did not seek any ruling from this Court, provides no basis for any reconsideration. The motion also references an earlier order, dated May 30, 2024, which transferred this case to the Western District of Texas. (D.I. 12). For the same reasons that there is no basis to alter or amend the motion for a stay, there is no reason to alter or amend the transfer order.

WHEREAS a motion to alter or amend may not merely assert facts or arguments that “inexcusably were not presented to the court in the matter previously decided,” *Brambles USA, Inc. v. Blocker*, 735 F. Supp. 1239, 1240 (D. Del. 1990); and

WHEREAS, to the extent that this Court’s August 13, 2024 Order denying Plaintiffs’ motion for a stay (D.I. 23) could be construed as a judgment subject to Federal Rule of Civil Procedure 59, Plaintiff’s motion to alter or amend (D.I. 30) offers no justification for the nine-and-a-half month delay in filing, and it shows no availability of new evidence, error in law or fact, or intervening change in law that would affect this Court’s denial of Plaintiffs’ motion for a stay (D.I. 23);

THEREFORE, IT IS HEREBY ORDERED that Plaintiff’s motion to alter or amend (D.I. 30) is **DENIED**.


UNITED STATES DISTRICT JUDGE