

IN THE CIRCUIT COURT FOR THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

FLORIDA CARRY, INC.,
a Florida non-profit corporation,

Plaintiff,

Case No: 2014-CA-000104

Division: J

v.

UNIVERSITY OF FLORIDA,
a state university; and
BERNIE MACHEN, an individual,

Defendants.

**DEFENDANTS' RESPONSE TO MOTION FOR REHEARING
AND MOTION FOR RECONSIDERATION**

Plaintiff files Motions for Rehearing and Reconsideration that do nothing more than rehash arguments made in their memorandum of law and at oral argument, and that were surely considered by this Court. Florida appellate courts have frequently admonished lawyers not to file motions for rehearing or reconsideration that simply re-argue points already made or take issue with the court's decision. Those comments are reflected in the statement of the First District in *Jaytex Realty Co. v. Green*, 105 So. 2d 817, 818 (1st DCA 1958):

Certainly it is not the function of a petition for rehearing to furnish a medium through which counsel may advise the court that they disagree with its conclusion, to re-argue matters already discussed in briefs and oral argument and necessarily considered by the court, or to request the court to change its mind as to a matter which has already received the careful attention of the judges, or to further delay determination of litigation.

Accord: *Department of Revenue v. Leadership Housing, Inc.*, 322 So. 2d 7, 8 (Fla. 1975)(“The proper function of a petition for rehearing is to present to the court in clear concise terms some point that it overlooked or failed to consider; only this and nothing more.”)(quoting *Texas Co. v. Davidson*, 80 So. 558 (1919)); *Marion v. Orlando Pain & Medical Rehabilitation*, 67 So. 3d 264, 265 (Fla. 5th DCA 2011)(“Motions for rehearing are not to be used for the purpose of venting counsel’s frustrations with the form or substance of the court’s decision.”).

While the above cases involve motions for hearing or reconsideration filed at the appellate level, the principle applies as well to such motions at the trial level.

The Court is respectfully urged to deny the motions for rehearing and reconsideration.

S/ BARRY RICHARD

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed this
13th day of August, 2014 via the Florida ePortal, for service upon:

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