

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PHILIP P. KALODNER,

Plaintiff,

v.

**SAMUEL BODMAN, Secretary, U.S.
Department of Energy, *et al.*,**

Defendants.

Civil Action No. 06-818 (RMC)

MEMORANDUM OPINION & ORDER

Plaintiff Philip P. Kalodner, Esq., asks this Court, pursuant to Fed. R. Civ. P. 59(e), to alter or amend its judgment and now deny Defendants' motion to dismiss. Because Mr. Kalodner's motion merely re-argues points previously made and decided adversely, he fails to meet the requirements of the Rule and his motion will be denied.

A Rule 59(e) motion must meet certain stringent standards:

While the court has considerable discretion in ruling on a 59(e) motion, the reconsideration and amendment of a previous order is an extraordinary measure. Rule 59(e) motions need not be granted unless the district court finds that there is an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice. Finally, a Rule 59(e) motion to reconsider is not simply an opportunity to reargue facts and theories upon which a court has already ruled, nor is it a vehicle for presenting theories or arguments that could have been advanced earlier.

Zyko v. Dept. of Defense, 180 F. Supp. 2d 89, 90 (D.D.C. 2001) (internal quotations and citations omitted). Mr. Kalodner's motion takes issue with decisions of the D.C. Circuit Court of Appeals and invites this Court to sidestep them. Not only does he not present new controlling law, but he

asks the Court to ignore the controlling law that does apply. That cannot be done. If this Court erred, Mr. Kalodner's remedy lies in the Court of Appeals.

The motion to alter or amend the order issued on December 18, 2006 [Dkt. # 30], dismissing this case and denying the motion to consolidate this case with others, is **DENIED**.

SO ORDERED.

/s/
ROSEMARY M. COLLYER
United States District Judge

DATE: March 5, 2007