

SUMMARY OPINION AND ORDER; NOT INTENDED FOR PUBLICATION  
IN THE OFFICIAL REPORTERS

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

ISHTIAQ A. MALIK, M.D., *et al.*,

Defendants.

Civil Action No. 12-cv-1234 (RLW)

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on Defendants’ “Motion to Alter or Amend Judgment” (Dkt. 52), seeking to set aside the Court’s final order granting Plaintiffs’ Motion for Partial Summary Judgment (Dkt. 47). Having carefully considered Defendants’ Motion, Plaintiffs’ Opposition, and all of the evidence submitted therewith, the Court **DENIES** Defendants’ Motion.

Defendants seek relief pursuant to Federal Rule of Civil Procedure 59(e). A Rule 59(e) motion “is discretionary and 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.” *Dyson v. District of Columbia.*, 710 F.3d 415, 420 (D.C. Cir. 2013).

Defendants’ motion argues that (1) the evidence does not support the Court’s finding that Defendants acted with reckless disregard, and (2) awarding damages based on claims submitted from 2006 through 2010 is improper (Dkt. 52 at 8).

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Defendants' first argument was previously raised before this Court and therefore is not a basis for granting relief from judgment. *See, e.g., SmartGene, Inc. v. Advanced Biological Labs., SA*, 915 F. Supp. 2d 69, 72 (D.D.C. 2013) ("A motion for reconsideration under Rule 59(e) is not simply an opportunity to reargue facts and theories upon which a court has already ruled.") (internal quotation marks omitted).

Defendants' second argument is not timely because it was raised for the first time in Defendants Motion to Alter or Amend Judgment. *District of Columbia v. Doe*, 611 F.3d 888, 896 (D.C. Cir. 2010) ("It is well settled that an issue presented for the first time in a motion pursuant to Federal Rule of Civil Procedure 59(e) generally is not timely raised."). Although the Court has discretion to consider Defendants' untimely argument, *Dyson v. District of Columbia*, 710 F.3d 415, 419 (D.C. Cir. 2013), the Court declines to exercise its discretion, particularly because the Court provided Defendants the opportunity to submit any objections to the Court's provisional grant of Plaintiffs' Motions for Partial Summary Judgment. Defendants' declined this invitation (Dkt. 45). For these reasons, Defendants' motion is hereby denied.

This is a final appealable order.

SO ORDERED.

Date: October 2, 2013

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ROBERT L. WILKINS  
United States District Judge