IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALETHA FASSL,	**:**	**CIVIL ACTION**
Plaintiff	**:**	
	:	
v.	**:**	
	:	
OUR LADY OF PERPETUAL HELP	**:**	
ROMAN CATHOLIC CHURCH,	**:**	
Defendant	**:**	**NO. 05-CV-404**

PRATTER, DISTRICT JUDGE MARCH 13, 2006

MEMORANDUM AND ORDER

On December 23, 2004, Plaintiff Althea Fassl filed a complaint in state court in Northampton County alleging Defendant Our Lady of Perpetual Help Roman Catholic Church (the "Church") violated the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq*. ("ADA"), the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 *et seq*. ("FMLA") and the Pennsylvania Human Relations Act, 43 PA. CONS. STAT. ANN. § 955(d) ("PHRA"). On January 28, 2005, the Church filed the Notice of Removal based upon federal question jurisdiction, and the litigation proceeded in this Court.

On February 4, 2005, the Church filed a Motion to Dismiss Ms. Fassl's complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), which Ms. Fassl opposed. The Court held oral argument on April 14, 2005, during which the Court issued an order permitting the parties to conduct limited discovery regarding the Rule 12(b)(1) jurisdictional challenge. Specifically, the parties were authorized to take discovery to determine the application of the "ministerial exception" to the Court's exercise of jurisdiction over Ms. Fassl's

claims. On or about April 25, 2005, the Court received a stipulation from the parties acknowledging both the voluntary withdrawal of Ms. Fassl's ADA claim and that Ms. Fassl had served in the Church in a ministerial capacity. Ms. Fassl, however, declined to withdraw her FMLA claim, asserting that the "ministerial exception" did not apply to the FMLA. Thereafter, the parties submitted post-argument legal memoranda regarding the Rule 12(b)(1) grounds for dismissal, as well as the application of the "ministerial exception" to the FMLA claim.

On October 5, 2005, the Court issued its Opinion granting the Church's Motion to Dismiss and dismissed all of Ms. Fassl's claims with prejudice. Fassl v. Our Lady of Perpetual Help Roman Catholic Church, No. 05-404, 2005 U.S. Dist. LEXIS 22546, 2005 WL 2455253 (E.D. Pa. Oct. 5, 2005) (hereinafter "Fassl Opinion at __"). On October 13, 2005, Ms. Fassl filed a Motion for Reconsideration with an accompanying Memorandum of Law. On November 14, 2005, the Church filed its Response as well as a Motion for Attorney's Fees, to which Ms. Fassl responded. For the reasons set forth below, Ms. Fassl's Motion for Reconsideration is denied, as is the Church's Motion for Attorney's Fees.

I. DISMISSAL OF MS. FASSL'S FMLA CLAIMS

Ms. Fassl performed ministerial responsibilities as the Director of Music for the Church.[1] As its Director of Music, the Church considered Ms. Fassl to be a non-ordained liturgical minister who was an integral part of the pastoral and spiritual mission of the Church, and not simply a member of the custodial, clerical, or office personnel. Ms. Fassl herself repeatedly

[1] The Court here refers only to the facts relevant and necessary for consideration of the pending motions for reconsideration and attorney's fees. A more comprehensive recitation of the facts and procedural history of the case can be found in the Court's Opinion dismissing Ms. Fassl's claims. Fassl v. Our Lady of Perpetual Help Roman Catholic Church, No. 05-404, 2005 U.S. Dist. LEXIS 22546, 2005 WL 2455253 (E.D. Pa. Oct. 5, 2005).

referred to her employment as her ministry, and, eventually, she admitted, by way of the Stipulation presented to the Court after a lively and fulsome oral argument on the issue, that her responsibilities as Director of Music were ministerial in nature.

In her Complaint, Ms. Fassl alleged that she has a neurological disorder, and, as a result of her condition, was experiencing ambulatory difficulties and decreased stamina and energy in late 2001. On or about December 20, 2001, Ms. Fassl claims she approached Reverend Monsignor Edward Sacks and requested a "break" from her employment as Director of Music. Msgr. Sacks reportedly denied her request after Ms. Fassl informed him that she did not know how long of a break she would need. Ms. Fassl claims that, at that point, she had no choice but to resign from her position, which she did in writing. Subsequently, Ms. Fassl allegedly requested reinstatement, which was apparently denied. Ms. Fassl then filed a "Charge of Discrimination" with the EEOC, and allegedly requested that the EEOC dual-file her charge with the Pennsylvania Human Relations Commission ("PHRC"). Ms. Fassl reportedly received her right-to-sue notice from the EEOC on November 17, 2004. Thereafter, Ms. Fassl instituted suit against the Church alleging violations of her rights under the ADA, FMLA, and PHRA.

The Church challenged Ms. Fassl's claims with a Rule 12(b)(1) motion questioning the Court's subject matter jurisdiction based on the application of the "ministerial exception," which exempts employment relationships between religious institutions and their "ministers" from various federal employment laws. Ms. Fassl responded, and, as indicated above, the Court held oral argument, during which Ms. Fassl's counsel denied that the ministerial exception was applicable factually to Ms. Fassl and legally to the FMLA, and requested leave to undertake certain discovery. The Court permitted the parties to conduct limited discovery to determine the

application of the ministerial exception to Ms. Fassl in light of her responsibilities as the Director of Music for the Church. There is no indication that the parties conducted any such discovery. Rather, the parties sent the stipulation to the Court in which Ms. Fassl admitted that her duties were ministerial in nature and agreed to dismiss her ADA claim. Ms. Fassl, however, declined to withdraw her FMLA claim, asserting that the ministerial exception is inapplicable to the FMLA.

In its October 5, 2005 Opinion, the Court dismissed Ms. Fassl's remaining claims, including her claim that the Church violated the FMLA. The Court found the "ministerial exception" applicable to claims by ministers pursuant to the FMLA.[2] Thereafter, Plaintiff Fassl filed a Motion for Reconsideration. The Church responded and also filed a Motion for Attorney's Fees.

II. PLAINTIFF'S MOTION FOR RECONSIDERATION

A. Standard of Review Applicable to Motions for Reconsideration

The purpose for a motion for reconsideration is to correct manifest errors of law or fact, or to present newly discovered evidence. Max's Seafood Café v. Max Quinteros, 176 F.3d 669,

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[2] In the Court's October 5, 2005 Opinion, the Court held that, as with other federal employment-related laws, the Free Exercise Clause of the First Amendment to the United States Constitution barred its jurisdiction over Ms. Fassl's FMLA employment law claims.

The Free Exercise Clause states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof[.]". U.S. CONST. amend. I. The Free Exercise Clause precludes the application of the ADA, FMLA, and PHRA to religious organization employees such as ministers, teachers, and other individuals whose duties are "integral to the spiritual and pastoral mission." EEOC v. Roman Catholic Diocese of Raleigh, 213 F.3d 795, 797 (4th Cir. 2000). This "ministerial exception" derives from the fundamental principle of separation of church and state as set forth by our Founding Fathers, and the purpose of the "ministerial exception" is to prevent encroachment by the government into an area of religious freedom which it is forbidden to enter by the principles established by the Free Exercise Clause.

677 (3d Cir. 1999). Thus, a prior decision may be altered or amended only if the party seeking reconsideration establishes at least one of the following grounds: (1) an intervening change in controlling law; (2) the availability of new evidence that was not available when the district court decided the motion under consideration; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice. Id. (citing N. River Ins. Co. v. CIGNA Reinsurance Co., 52 F.3d 1194, 1218 (3d Cir. 1995)). Moreover, "[b]ecause federal courts have a strong interest in finality of judgments, motions for reconsideration should be granted sparingly." Continental Casualty Co. v. Diversified Indus., Inc., 884 F.Supp. 937, 943 (E.D. Pa. 1995); see also Rottmund v. Continental Assurance Co., 813 F.Supp. 1104, 1107 (E.D. Pa. 1992). A motion to reconsider may not raise new arguments that could or should have been made in support of, or in opposition to, the original motion. Burger King Corp. v. New Eng. Hood and Duct Cleaning Co., No. 98-3610, 2000 U.S. Dist. LEXIS 15171, at *3-4 (E.D. Pa. Oct. 18, 2000); Balogun v. Alden Park Mgmt. Corp., No. 98-0612, 1998 U.S. Dist. LEXIS 15499, at *2 (E.D. Pa. Oct. 1, 1998).

Here, Ms. Fassl cannot meet the standard for a successful reconsideration of the order which displeases her because: (1) there has been no change in controlling law between the Court's decision and the filing of the motion for reconsideration; (2) no previously unavailable evidence has come to light; nor (3) is there any error to correct or injustice to prevent. Thus, for the reasons set out more fully below, the Motion for Reconsideration is denied.

B. Ms. Fassl Cannot Meet the Standard for Reconsideration

Ms. Fassl argues that the Court failed to adequately consider three pieces of evidence, two that were part of the record, and one that was available but not submitted to the Court, at the time of consideration. Specifically, Ms. Fassl asserts that the Court did not sufficiently address a

"violation letter" issued on December 11, 2003 by the United States Department of Labor ("DOL"), the federal agency empowered with enforcing the FMLA ("DOL Letter"). Ms. Fassl also argues that the Court did not properly consider her affidavit, in which Ms. Fassl presented double hearsay information that the Allentown Diocese's Human Resource Department informed her husband that she was covered by the FMLA. Ms. Fassl further argues that the Court should consider the May 4, 2002 letter written by Msgr. Sacks to Ms. Fassl's counsel ("Msgr. Sacks' Letter"), which was not part of her presentation initially, but which purportedly gave Ms. Fassl reason to believe her circumstances were covered by the FMLA. Finally, Ms. Fassl asks the Court to consider that the language and regulations of the FMLA do not specifically refer to the "ministerial exception."

The Court finds that Ms. Fassl's arguments regarding the three documents and legal considerations do not support reconsideration. First, there has been no change in controlling law between the time of the Court's decision and the filing of the motion for reconsideration. Second, no evidence not previously available has come to light. The record at the time of consideration contained both the DOL letter and Ms. Fassl's affidavit. These two documents, one of which, namely, the affidavit, presents hearsay on hearsay without even identifying an actual person at the Diocesan Human Resources Department who allegedly spoke to Ms. Fassl's husband, were irrelevant to the Court's determination that constitutional considerations were at play. The Church was protected from Ms. Fassl's FMLA suit by the Free Exercise Clause of the First Amendment. Neither the letter from the DOL nor Plaintiff's affidavit regarding a purported nonspecific admission by the Human Resources Department can undo that which the United States Constitution commands. Furthermore, Msgr. Sacks' Letter, written directly to Plaintiff's

counsel, was available at the time of the Court's consideration of the motion to dismiss, but Ms. Fassl by then did not bring it to the Court's attention. No reference to it was made in the Complaint, during oral argument, in briefing, or with the stipulation submitted by counsel. Thus, this document may not properly be considered as grounds for reconsideration.[3] Third, there is no clear error of law or fact to correct or manifest injustice to prevent. Although Ms. Fassl points to the regulations and language of the FMLA in an effort to show that there is no language in the law itself regarding the "ministerial exception," the lack of verbiage is immaterial for purposes of First Amendment protection. Thus, the Court finds that Ms. Fassl is not entitled to reconsideration of the Court's determination that dismissal of her claims was proper. The Court does find, however, that the foregoing evidence and arguments are pertinent to its determination of the propriety of awarding attorney's fees in this case.

II. DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND COSTS

The Church seeks the imposition of attorney's fees under the ADA, FMLA, Rule 11 of the Federal Rules of Civil Procedure, the Federal Cost Statute, 28 U.S.C. § 1927, and the PHRA. In contrast, Ms. Fassl argues that attorney's fees are inappropriate in this case because she made all allegations against the Church in good faith, and her complaint was "reasonable under the circumstances."

[3] If the Court were to consider Msgr. Sacks' Letter, however, it could well find the letter to be irrelevant to the jurisdictional issue in this case. As noted above, the Church is constitutionally entitled to protection from employment-related claims by its ministers, and the Letter does not state any intentional waiver of such constitutional protection. The Court does, however, consider that this letter is relevant to the Court's determination regarding attorney's fees.

A. Attorney's Fees Pursuant to the ADA

The fee-shifting provision of the ADA provides that, "[i]n any action . . . commenced pursuant to this chapter, the court . . ., in its discretion, may allow the prevailing party . . . a reasonable attorney's fees, including litigation expenses, and costs . . . ." 42 U.S.C. § 12205. In order to recover such fees, the prevailing defendant must show that the "plaintiff's action was frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith."[4] Christianburg Garment Co. v. EEOC, 434 U.S. 412, 421 (1978); Veneziano v. Long Island Pipe Fabrication & Supply Corp., 238 F. Supp. 2d 683, 688 (D.N.J. 2002); Rivera v. City of Phila., No. 97-1130, 1998 U.S. Dist. LEXIS 1749, at *9 (E.D. Pa. Feb. 19, 1998). Courts, when considering whether a claim is "frivolous, unreasonable, or without foundation," are to assess: (1) whether the plaintiff established a *prima facie* case; (2) whether the defendant offered to settle; (3) whether the trial court dismissed the case prior to the trial or held a trial on the merits; (4) whether the issue was one of first impression requiring judicial resolution; and (5) whether the controversy is based sufficiently upon a real threat of injury to the plaintiff. See Barnes Found. v. Twp. of Lower Merion, 242 F.3d 151, 158 (3d Cir. 2001); EEOC v. L.B. Foster Co., 123 F.3d 746, 751 (3d Cir. 1997); Veneziano, 238 F.Supp. 2d at 688. Determinations of frivolity must be made on a case-by-case basis. L.B. Foster Co., 123 F.3d at 751.

The Supreme Court, in Buckhannon Board & Care Home v. West Va. Dept. of Health & Human Resources, 532 U.S. 598 (2001), set forth the standard for determining whether a party is a "prevailing party." In Buckhannon, the Court, held that a "prevailing party" is one who has

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[4] The Third Circuit generally treats case law under the ADA and Title VII interchangeably when there is no material difference in the question being addressed. See Newman v. GHS Osteopathic, Inc., Parkview Hosp. Div., 60 F.3d 153, 157 (3d Cir. 1995).

been awarded some relief by the court, by virtue of a judgment on the merits or settlements enforced through court-ordered consent decrees, which effects a material alteration of the legal relationship of the parties. Id. at 604. Private settlements, however, cannot form the basis for becoming a "prevailing party" because they do not "entail the judicial approval and oversight involved in consent decrees." Id. at 604 n.7;Dorfsman v. Law School Admissions Council, Inc. , No. 00-306, 2001 U.S. Dist. LEXIS 24044, at *15-16 (E.D. Pa. Nov. 28, 2001).

Here, the Church cannot meet the threshold requirement of being a "prevailing party" because Ms. Fassl's voluntary stipulation of dismissal did not require the judicial imprimatur necessary for monetary recoupment. Here, the parties submitted a signed stipulation to the Court in which Ms. Fassl voluntarily withdrew her ADA claim. Buckhannon clarified that the prevailing party must be awarded some relief by the court. The voluntary dismissal of Ms. Fassl's claims did not involve judicial intervention or relief. Thus, the Church's request for attorney's fees pursuant to the ADA is denied.

B. Attorney's Fees Pursuant to the FMLA

The FMLA does not use the "prevailing party" language found in the ADA, and instead provides that, "[t]he court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant." 29 U.S.C. § 2617(a)(3). The parties have not provided the Court with any case law regarding the treatment of fees for defendants of FMLA claims in the Third Circuit, and independent research by the Court has not uncovered any such guidance. Other courts have held, however, that the absence of "prevailing party" language is significant because the FMLA, by its own terms, only allows attorney's fees to a plaintiff who has secured a

favorable judgment. See Billings v. Cape Cod Child Dev. Prog., Inc., 270 F. Supp. 2d 175, 176 (D. Mass. 2003); McDonnell v. Miller Oil Co., 968 F. Supp. 288, 293 (E.D. Va. 1997); see also Stomper v. Amalgamated Transit Union Local 241, 27 F.3d 316, 318-19 (7th Cir. 1994). The Court finds that the plain language of the FMLA is unambiguous that Congress did not extend to defendants entitlement to attorney's fees pursuant to the FMLA.

C. Sanctions Pursuant to Rule 11 of the Federal Rules of Civil Procedure

Rule 11 of the Federal Rules of Civil Procedure requires an attorney who signs a pleading, motion, or other paper to conduct a reasonable pre-filing inquiry to assure that the document "is not being presented for any improper purpose such as to harass or to cause unnecessary delay or needless increase in the cost of litigation" and that the "claims . . . and other legal contentions therein are warranted by law . . . ." Fed. R. Civ. P. 11(b)(1)-(2). Courts utilize an objective standard to examine the reasonableness of the party's conduct under the circumstances.[5] Business Guides v. Chromatic Commc'ns Ent., 498 U.S. 533, 551 (1991); Bradgate Assocs. v. Fellows, Read & Assocs., 999 F.2d 745, 752 (3d Cir. 1993). As an initial matter, however, the Court of Appeals for the Third Circuit has promulgated a supervisory rule requiring that "'all motions requesting Rule 11 sanctions [must] be filed in the district court before the entry of a final judgment' and 'as soon as practicable after discovery of the Rule 11 violation.'" Robert S. v. City of Phila., No. 97-6710, 2001 U.S. Dist. LEXIS 13485, at *16 (E.D.

[5] Courts consider several factors to analyze an attorney's pre-filing inquiry including: (1) the amount of time available for conducting the factual and legal investigation; (2) the necessity for reliance on a client for underlying factual information; (3) the plausibility of the legal position advocated; (4) the complexity of the legal and factual issues involved; (5) and, if applicable, whether the case was referred to the particular attorney by another member of the bar. Mary Ann Pensiero, Inc. v. Lingle, 847 F.2d 90, 95 (3d Cir. 1988); Morrow v. Blessing, No. 04-1161, 2004 U.S. Dist. LEXIS 20318, *27-29 (E.D. Pa. Sept. 29, 2004).

Pa. Aug. 28, 2001) (quoting Mary Ann Pensiero, Inc. v. Lingle, 847 F.2d 90, 100 (3d Cir. 1988)). The filing of a Rule 11 motion subsequent to the dismissal of all of the claims violates the safe harbor provisions of Rule 11 because counsel is not given the opportunity to withdraw or correct the offending documents. FED. R. CIV. P. 11(c)(1)(A); Progress Fed. Sav. Bank v. Lenders Ass'n, Inc., No. 94-7425, 1996 U.S. Dist. LEXIS 1422, at *9-11 (E.D. Pa. Feb. 12, 1996) (filing Rule 11 motion after dismissal of claims violates safe-harbor provision).

The Church contends that Rule 11 sanctions are appropriate in this case because Plaintiff's counsel did not undertake a reasonable pre-filing inquiry to determine the legal bases for the claims in the complaint. Counsel for Ms. Fassl argues that the Church cannot meet the Rule 11 standard because the pre-filing inquiry was reasonable under the circumstances, and an imposition of sanctions would "chill zealous advocacy." Although the parties are in sharp disagreement about the propriety of Rule 11 sanctions in this case, and it is not surprising that the Church questions Plaintiff's counsel's possibly overly zealous advocacy that may have impeded thorough research in advance of aggressive pleading, the fact remains that the Church did not file its Motion for Rule 11 sanctions until November 14, 2005, well after the issuance of the Court's October 5, 2005 Opinion dismissing all of Ms. Fassl's claims and terminating the case. Thus, because the Motion for Rule 11 sanctions was filed after closure of the case, such sanctions cannot be granted.

B. Sanctions Pursuant to the Federal Cost Statute, 28 U.S.C. § 1927

The Church, in the alternative, seeks the imposition of sanctions against Plaintiff's counsel pursuant to the Federal Cost Statute, 28 U.S.C. § 1927. Section 1927 provides that: "[a]ny attorney . . . who so multiplies the proceedings in any case unreasonably and vexatiously

may be required by the court to satisfy personally the excess costs, expenses and attorneys' fees reasonably incurred because of such conduct." In order to impose such sanctions, the Court must examine whether counsel: "(1) multiplied proceedings; (2) in an unreasonable and vexations manner; (3) thereby increasing the cost of the proceedings; and (4) doing so in bad faith or by intentional misconduct." In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions, 278 F.3d 175, 188 (3d Cir. 2002) (citing Williams v. Giant Eagle Markets, Inc., 883 F.2d 1184, 1191 (3d Cir. 1989)). Specifically, the Court must find that there was willful bad faith, which is evident when "'claims advanced were meritless, that counsel knew or should have known this, and that the motive for filing the suit was for an improper purpose such as harassment.'" Id. (quoting Smith v. Detroit Fed'n of Teachers Local 231, 829 F.2d 1370, 1375 (6th Cir. 1987)).

The Court, after considering the entire record, cannot make a finding here that counsel's "behavior [was] 'of an egregious nature, stamped by bad faith that is violative of recognized standards in the conduct of litigation.'" In re Orthopedic Bone Screw Products Liab. Litig., 193 F.3d 781, 795 (3d Cir. 1999) (quoting Baker Indus., Inc. v. Cerberus Ltd., 764 F.2d 204, 208 (3d Cir. 1985)). Although Plaintiff's counsel initially and obdurately refused to acknowledge that Ms. Fassl was a "minister" in the Church in the face of a significant evidentiary array that she was a minister and so considered herself, counsel ultimately acted reasonably by stipulating to that fact and by voluntarily dismissing Plaintiff's ADA claim. Moreover, while the relative dearth of case law regarding the application of the ministerial exception to FMLA claims does not excuse Plaintiff's counsel from thoroughly researching the issues and acting in a similarly reasonable manner with respect to the FMLA claims, the lack of specific FMLA case law combined with the DOL Letter and the May 4, 2002 letter from Msgr. Sacks regarding the

possible applicability of the FMLA to Ms. Fassl here militates against a finding of bad faith. While the Court refuses to condone some of Plaintiff's counsel's tactics, including counsel's consistent failure throughout this litigation to substantively respond to the Church's arguments, the Court appreciates the need for appropriately zealous advocacy (as well as the ethically mandated exercise of independent judgment and competent performance) and does not find that Plaintiff's counsel actually acted in bad faith. Thus, the Court declines to award the Church sanctions pursuant to Section 1927.[6]

D. Attorney's Fees Pursuant to the PHRA

Finally, the Church argues that attorney's fees are proper pursuant to the PHRA because of Plaintiff's counsel's bad faith conduct. The PHRA provides that a defendant is entitled to an award of attorney's fees if, *inter alia*, the defendant proves that the complaint was brought in bad faith. As discussed above, after reviewing the entire record, the Court cannot find that Ms. Fassl filed her complaint against the Church in bad faith. Thus, here an award of attorney's fees under the provisions of the PHRA is inappropriate.

The Church, within its argument that attorney's fees are appropriate under the PHRA, also asserts that such fees are also appropriate under section 2503 of Title 42 of the Pennsylvania Consolidated Statutes Annotated. Section 2503 allows for an award of attorney's fees for a suit that is commenced which is "arbitrary, vexatious or in bad faith" or "dilatory, obdurate or vexatious conduct during the pendency of a matter." 42 PA. CONS. STAT. ANN. § 2503(5), (9). "'[T]he aim of the rule is to sanction those who knowingly raise, in bad faith, frivolous claims

[6] The Court will, however, take this opportunity to commend the Church's counsel for its professional, insightful, and thorough handling of the issues in this case.

which have no reasonable possibility of success, for the purpose of harassing, obstructing or delaying the opposing party.'" In re Estate of Liscio, 638 A.2d 1019, 1022 (Pa. Super. Ct. 1994) (quoting Dooley v. Rubin, 618 A.2d 1014, 1018 (Pa. Super. Ct. 1993)). Here, once again, the Court cannot find that Plaintiff's counsel acted in bad faith, and, thus, counsel fees are not warranted pursuant to Section 2503.

III. CONCLUSION

For the foregoing reasons, the Court finds that Plaintiff Fassl has not met her burden for reconsideration of the Court's October 5, 2005 Order. Thus, Plaintiff's Motion for Reconsideration is denied. The Court also finds that attorney costs and fees are not appropriate in this case. Thus, the Defendant's Motion for Attorney's Fees is denied. An appropriate Order consistent with this Memorandum follows.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALETHA FASSL,	**:**	**CIVIL ACTION**
Plaintiff,	**:**	
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v.	**:**	
	:	
OUR LADY OF PERPETUAL HELP	**:**	
ROMAN CATHOLIC CHURCH,	**:**	
Defendant	**:**	**NO. 05-CV-404**

ORDER

PRATTER, DISTRICT JUDGE MARCH 13, 2006

AND NOW, this 13th day of March, 2006, upon consideration of Plaintiff's Motion for Reconsideration and Memorandum in Support thereof (Docket Nos. 14, 15) and Defendant's Response thereto (Docket No. 19), it is hereby ORDERED that Plaintiff's Motion for Reconsideration is DENIED.

IT IS FURTHER ORDERED that, upon consideration of Defendant's Motion for Attorney's Fees (Docket No. 18) and Plaintiff's Response thereto (Docket Nos. 20, 21), Defendant's Motion for Attorney's Fees is DENIED, and all parties shall bear their own expenses and costs.

The Clerk is instructed to close this case for all purposes.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE