

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

Robert Olszewski, Jr., et ux. v. Barry Hutchins, individually and as
former selectman, et al.

Olszewski · No. 1:24-cv-00209-JAW · Decided January 28, 2026

SUMMARY

The United States District Court for the District of Maine denied the plaintiffs’ motion under Federal Rule of Civil Procedure 59(e) to reconsider dismissal of their claims under 42 U.S.C. § 1983 and related state-law claims. The court also declined to permit amendment of the complaint because the plaintiffs did not establish manifest error, manifest injustice, newly discovered evidence, or an intervening change in controlling law. The underlying action concerned alleged retaliation, speech restrictions, disability-related misconduct, and other claims involving a town selectman and the Town of Dover-Foxcroft.

CASE DETAILS

COURT	United States District Court for the District of Maine
WRITING FOR THE COURT	John A. Woodcock, Jr.
JURISDICTION	United States District Court for the District of Maine
DECIDED	January 28, 2026
DOCKET	1:24-cv-00209-JAW
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs moved under Federal Rule of Civil Procedure 59(e) for reconsideration of the dismissal judgment and sought leave under Rule 15(a)(2) to file a second amended complaint. The district court denied both requests.
STANDARD OF REVIEW	A Rule 59(e) motion is an extraordinary remedy granted sparingly and generally requires newly discovered or previously unavailable evidence, a manifest error of law or fact, prevention of manifest injustice, or an intervening change in controlling law. A post-judgment motion to amend may proceed only if the judgment is first set aside or vacated under Rule 59 or Rule 60.
PRECEDENTIAL VALUE	unpublished

PARTIES

Robert Olszewski, Jr., Julie Olszewski v. Barry Hutchins, Town of Dover-Foxcroft

TOPICS[motion for reconsideration](#)[motion to amend](#)[civil procedure](#)[section 1983](#)[first amendment](#)**PRACTICE AREAS**[civil procedure](#)[civil rights](#)[constitutional law](#)[municipal law](#)**QUESTIONS PRESENTED**

1. Whether plaintiffs established a basis for relief under Federal Rule of Civil Procedure 59(e) by showing manifest error of law or fact, manifest injustice, newly discovered evidence, or an intervening change in controlling law.
2. Whether the court erred by failing to address qualified immunity when it had already determined that plaintiffs failed to state a federal cause of action.
3. Whether the court was required to consider substantive due process, Fourth Amendment, or Fifth Amendment theories raised in briefing but not adequately pleaded in the amended complaint.
4. Whether plaintiffs could obtain leave to file a second amended complaint after entry of judgment.
5. Whether the proposed additional allegations concerning mutual no-contact orders would change the dismissal of plaintiffs' § 1983 claims.
6. Whether Julie Olszewski's loss-of-consortium claim survived dismissal of Robert Olszewski's underlying federal claims.

HOLDINGS

1. Plaintiffs were not entitled to reconsideration because they identified no manifest error of law or fact, manifest injustice, newly discovered or previously unavailable evidence, or intervening change in controlling law.
2. The court did not err in accepting plaintiffs' factual allegations and reasonable inferences as true while distinguishing those allegations from conclusory legal assertions.
3. The court did not err by declining to decide qualified immunity because the prior order had already determined that plaintiffs failed to state a federal cause of action.
4. The court was not required to evaluate substantive due process, Fourth Amendment, or Fifth Amendment theories advanced in briefing but not adequately alleged as claims in the amended complaint.
5. Plaintiffs could not obtain leave to amend because the Rule 59(e) motion failed and the final judgment therefore remained in place.
6. Even assuming plaintiffs could amend to allege that mutual no-contact orders had issued, the additional allegations would not change the prior dismissal of the federal claims.

7. Julie Olszewski's federal loss-of-consortium claim failed because it was derivative of Robert Olszewski's failed federal claims.

KEY QUOTATIONS

“The granting of a motion for reconsideration is an extraordinary remedy which should be used sparingly.” (III.A)

“The Court was aware of its obligation to accept the allegations in their amended complaint as true and it strictly adhered to this fundamental legal requirement.” (IV.A.1)

“The Court DISMISSES without prejudice Robert Olszewski, Jr. and Julie Olszewski’s Motion to Reconsider Order and Judgment Dated July 29, 2025 and for Leave to File Amended Complaint (ECF No. 20).” (V)

FACTUAL BACKGROUND

Robert Olszewski, who alleged a mental disability, engaged in an escalating dispute with Barry Hutchins, a Dover-Foxcroft selectman, concerning town roads, public records requests, town expenditures, and participation in town affairs. The dispute involved allegedly vulgar and threatening communications, competing protection-from-harassment proceedings, and a state-court no-contact order against both Olszewski and Hutchins. Plaintiffs alleged that the town and Hutchins retaliated against Olszewski through restrictions on recording and speaking at town meetings, exclusion from town business, and law-enforcement activity. The district court had previously dismissed the federal claims, concluding that the allegations did not establish a viable constitutional retaliation claim, and this order addressed plaintiffs' effort to revisit that ruling.

PROCEDURAL HISTORY

Plaintiffs filed this § 1983 and state-law action in June 2024 and filed an amended complaint in August 2024. The court granted defendants' motion to dismiss on July 29, 2025, dismissing the federal claims and dismissing the state claims without prejudice after declining supplemental jurisdiction. Plaintiffs then moved for reconsideration and leave to amend; the court concluded that they had not shown manifest error, manifest injustice, newly available evidence, or an intervening change in controlling law, and that the proposed amendment would not change the result.

DISPOSITION

dismissed

CASES CITED

- United States v. \$23,000 in United States Currency, 356 F.3d 157, 165 n.9 (1st Cir. 2004)
- Salmon v. Lang, 57 F.4th 296, 323 (1st Cir. 2022)
- Palmer v. Champion Mortg., 465 F.3d 24, 30 (1st Cir. 2006)
- Caribbean Mgmt. Grp., Inc. v. Erikon LLC, 966 F.3d 35, 44-45 (1st Cir. 2020)
- Ira Green, Inc. v. Mil. Sales & Serv. Co., 775 F.3d 12, 28 (1st Cir. 2014)
- Guilfoile v. Shields, 913 F.3d 178, 195 n.17 (1st Cir. 2019)

- *Maldonado v. Dominguez*, 137 F.3d 1, 11 (1st Cir. 1998)
- *Cardigan Mountain Sch. v. N.H. Ins. Co.*, 787 F.3d 82, 84 (1st Cir. 2015)
- *García-Catalán v. United States*, 734 F.3d 100, 103 (1st Cir. 2013)
- *Goldstein v. Galvin*, 719 F.3d 16, 30 (1st Cir. 2013)
- *Nieves v. Bartlett*, 587 U.S. 391, 399 (2019)
- *Hartman v. Moore*, 547 U.S. 250, 259-60 (2006)
- *Clark v. Boscher*, 514 F.3d 107, 112 (1st Cir. 2008)
- *Wadsworth v. Nygren*, 129 F.4th 38, 52 n.8 (1st Cir. 2025)
- *Souza v. Pina*, 53 F.3d 423 (1st Cir. 1995)
- *Pittsley v. Warish*, 927 F.2d 3 (1st Cir. 1991)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
- *Haley v. City of Boston*, 657 F.3d 39, 49 (1st Cir. 2011)
- *Barrett v. Lombardi*, 239 F.3d 23, 27 (1st Cir. 2001)
- *Ortiz v. Jimenez-Sanchez*, 98 F. Supp. 3d 357, 366 n.5 (D.P.R. 2015)
- *Steele v. Botticello*, 2011 ME 72, ¶ 17, 21 A.3d 1023
- *Grant v. Foster Wheeler*, 2016 ME 85, ¶ 14 n.5, 140 A.3d 1242
- *McBreairty v. Sch. Bd. of RSU22*, 616 F. Supp. 3d 79, 90-93 (D. Me. 2022)
- *Carlow v. Mruk*, 425 F. Supp. 2d 225, 247-48 (D.R.I. 2006)
- *Schatz v. Republican State Leadership Comm.*, 669 F.3d 50, 55 (1st Cir. 2012)