

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Crisis Pregnancy Services, Inc. v. Jennifer L. Page et al.; Hannah Kamke v. Crisis Pregnancy Services, Inc.

Crisis Pregnancy Services · No. 23-CV-1057-LJV · Decided January 31, 2026

SUMMARY

The United States District Court for the Western District of New York denied Crisis Pregnancy Services, Inc.’s motion for reconsideration of an earlier decision addressing claims under the Freedom of Access to Clinic Entrances Act and counterclaims by Hannah Kamke. The court held that the arguments concerning informed consent merely rehashed prior arguments and that arguments concerning punitive damages and attorney’s fees were raised for the first time. The case was referred back to the magistrate judge for further proceedings.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	Lawrence J. Vilardo
JURISDICTION	United States District Court for the Western District of New York
DECIDED	January 31, 2026
DOCKET	23-CV-1057-LJV
DISPOSITION	denied
PROCEDURAL POSTURE	Crisis Pregnancy Services moved for reconsideration of the court's prior order that had granted in part and denied in part Jennifer Page's motion to dismiss and CompassCare's motion to dismiss Hannah Kamke's counterclaims.
STANDARD OF REVIEW	A motion for reconsideration is an extraordinary request granted only in rare circumstances, generally where the court overlooked controlling decisions, evidence, or data that might reasonably be expected to alter its conclusion.
PRECEDENTIAL VALUE	unpublished
PARTIES	Crisis Pregnancy Services, Inc., doing business as CompassCare v. Jennifer L. Page, Hannah Kamke, John Doe, Jane Doe

TOPICS

motion for reconsideration

informed consent

civil rights

health law

civil procedure

PRACTICE AREAS

civil procedure

civil rights

health law

QUESTIONS PRESENTED

1. Whether CompassCare established grounds for reconsideration based on the court's alleged failure to address Kamke's lack-of-informed-consent claim.
2. Whether CompassCare could raise arguments concerning punitive damages and attorney fees for medical malpractice for the first time on reconsideration.
3. Whether Kamke plausibly alleged emotional distress arising from the allegedly nonconsensual transvaginal ultrasound.

HOLDINGS

1. Reconsideration was not warranted because CompassCare merely rehashed arguments previously made and disagreed with the court's prior decision.
2. Kamke plausibly alleged emotional distress resulting from the transvaginal ultrasound and from confusion about whether she was pregnant, even though the ultrasound showed that she was not pregnant.
3. The court would not consider CompassCare's arguments concerning punitive damages and attorney fees because CompassCare failed to raise them in its original motion to dismiss.

KEY QUOTATIONS

"A motion for reconsideration is an extraordinary request that is granted only in rare circumstances, such as where the court failed to consider evidence or binding authority." (Discussion)

"It is well established that a motion for reconsideration is not an opportunity to relitigate issues or advance new arguments." (Discussion)

FACTUAL BACKGROUND

CompassCare operates a reproductive health facility in Amherst, New York. Kamke alleged that a CompassCare nurse administered a transvaginal ultrasound without obtaining her informed consent and that she suffered emotional distress from the ultrasound and confusion about whether she was pregnant. CompassCare argued that the ultrasound could not have caused injury or distress because it showed that Kamke was not pregnant.

PROCEDURAL HISTORY

CompassCare filed an action under the Freedom of Access to Clinic Entrances Act against Page, Kamke, and Doe defendants. Kamke asserted counterclaims, and the court previously resolved the parties' motions to dismiss in part. CompassCare then moved for reconsideration, arguing that the prior order did not address punitive

damages, attorney fees for medical malpractice, and lack of informed consent. The court denied reconsideration and referred the case back to Magistrate Judge H. Kenneth Schroeder, Jr., for further proceedings.

DISPOSITION

denied

REMAND INSTRUCTIONS

The case was referred back to Magistrate Judge H. Kenneth Schroeder, Jr., for further proceedings consistent with the October 1, 2025 referral order.

CASES CITED

- Van Buskirk v. United Grp. of Cos., 935 F.3d 49, 54 (2d Cir. 2019)
- Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995)
- Rock v. Enfants Riches Deprimes, LLC, 2020 WL 2793026, at *2 (S.D.N.Y. May 29, 2020)
- Polsby v. St. Martin's Press, Inc., 2000 WL 98057, at *1 (S.D.N.Y. Jan. 18, 2000)
- de los Santos v. Fingerson, 1998 WL 788781, at *1 (S.D.N.Y. Nov. 12, 1998)

OPINION

Crisis Pregnancy Services, Inc. v. Jennifer L. Page et al.; Hannah Kamke v. Crisis Pregnancy Services, Inc.

PER CURIAM.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

CRISIS PREGNANCY SERVICES, INC.,

doing business as COMPASSCARE, Plaintiff, v. JENNIFER L. PAGE et al., Defendants. 23-CV-1057-LJV

DECISION & ORDER

HANNAH KAMKE,

Counterclaim Plaintiff, v.

CRISIS PREGNANCY SERVICES, INC.,

doing business as COMPASSCARE, Counterclaim Defendant. On October 5, 2023, the plaintiff, Crisis Pregnancy Services, Inc.—which does business under the name “CompassCare” and “operates a reproductive health facility in Amherst, New York”—filed this action under the Freedom of Access to Clinic Entrances Act (the “FACE Act”). Docket Item 1 (complaint); Docket Item 23 (amended complaint). It alleges that the defendants—Hannah Kamke, Jennifer L. Page, “John Doe,” and “Jane Doe”—violated the FACE Act by threatening and intimidating those who sought to access CompassCare’s Amherst facility; by obstructing access to the facility; and by damaging CompassCare’s property. See Docket Item 23 ¶¶ 51-78. Page moved to dismiss the

claims against her, Docket Item 29, and CompassCare moved to dismiss Kamke's counterclaims, Docket Item 60. On September 30, 2025, this Court issued a decision and order granting both motions in part and denying them in part. Docket Item 70. This Court then referred this case to United States Magistrate Judge H. Kenneth Schroeder, Jr., for all proceedings under 28 U.S.C. § 636(b)(1)(A). Docket Item 71. About a week later, CompassCare moved for reconsideration of this Court's decision and order, arguing that this Court "did not address or decide Kamke's [counter]claims for (1) punitive damages[,] (2) attorney fees for medical malpractice, and (3) lack of informed consent." Docket Item 72 at 1.

DISCUSSION¹

"A motion for reconsideration is an extraordinary request that is granted only in rare circumstances, such as where the court failed to consider evidence or binding authority." *Van Buskirk v. United Grp. of Cos.*, 935 F.3d 49, 54 (2d Cir. 2019). Thus, "reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995). CompassCare fails to meet that high bar. First, with regard to Kamke's alleged lack of informed consent, CompassCare merely rehashes arguments it made previously.¹ The Court assumes the reader's familiarity with the factual background of this case, see Docket Item 70 at 3-14, and will refer only to those facts necessary to explain its decision. and expresses disagreement with this Court's decision. See Docket Item 72-1 at 2-3. That is not a ground for reconsideration. See *Shrader*, 70 F.3d at 257. But even if the Court were to consider CompassCare's argument anew, it again would reject it. Kamke alleged that a CompassCare nurse "failed to obtain . . . Kamke's informed consent before administering the transvaginal ultrasound." Docket Item 59 at 43, ¶ 46. CompassCare suggests that because the ultrasound showed that Kamke was not pregnant, it could not have caused her any injury or distress. See Docket Item 72-1 at 2-3. But, as Kamke observes, drawing all inferences in her favor, she plausibly alleged that she suffered emotional distress because of the ultrasound itself— regardless of the result it yielded. See Docket Item 76 at 4-5. Moreover, she alleged emotional distress as a result of her confusion as to whether she was pregnant based on, among other things, the ultrasound. See, e.g., Docket Item 59 at 39-40, ¶¶ 34-35. With regard to punitive damages and attorney's fees, CompassCare failed to raise those arguments in its original motion, and the Court therefore will not consider them on a motion for reconsideration. See, e.g., *Rock v. Enfants Riches Deprimes, LLC*, 2020 WL 2793026, at *2 (S.D.N.Y. May 29, 2020) ("It is well established that a motion for reconsideration is not an opportunity to relitigate issues or advance new arguments."); *Polsby v. St. Martin's Press, Inc.*, 2000 WL 98057, at *1 (S.D.N.Y. Jan. 18, 2000) (parties may not "use such a motion [for reconsideration] to advance new theories or adduce new evidence in response to the court's rulings") (quoting *de los Santos v. Fingerson*, 1998 WL 788781, at *1 (S.D.N.Y. Nov. 12, 1998)). CompassCare can, of course, make these arguments at summary judgment, but the ship has sailed

on its motion to dismiss.

CONCLUSION

For the reasons stated above, CompassCare's motion for reconsideration, Docket Item 72, is DENIED. The case is referred back to Judge Schroeder for further proceedings consistent with the referral order of October 1, 2025, Docket Item 71. SO ORDERED. Dated: January 31, 2026
Buffalo, New York /s/ Lawrence J. Vilardo

LAWRENCE J. VILARDO

UNITED STATES DISTRICT JUDGE