

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

JANE B. KENNEDY : CIVIL ACTION
 :
 v. :
 :
 BOROUGH OF SOUTH COATESVILLE, :
 et al. : NO. 98-CV-6558

MEMORANDUM AND ORDER

J. M. KELLY, J.

JUNE 25, 1999

Presently before the Court is Plaintiff's Motion to Vacate and Reconsider the Court's Judgment on the pleadings. For the reasons that follow, Plaintiff's motion is denied.

To prevail on her motion for reconsideration, Plaintiff must point to a manifest error of law or fact, present newly available evidence, or cite to an intervening change in the controlling law. See Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir.), cert. denied, 476 U.S. 1171 (1986); Drake v. Steamfitters Local Union No. 420, No. 97-CV-585, 1998 WL 564486, at *3 (E.D. Pa. Sept. 3, 1998). The Court will reconsider its earlier ruling to prevent a manifest injustice. See Smith v. City of Chester, 155 F.R.D. 95, 96-97 (E.D. Pa. 1994). If Plaintiff's motion merely states a dissatisfaction with the Court's ruling, however, she has failed to present a proper basis to seek reconsideration. See Glendon Energy Co. v. Borough of Glendon, 836 F. Supp. 1109, 1122 (E.D. Pa. 1993).

Plaintiff argues that the Court exceeded the scope of its review under Rule 12(c) when it observed Plaintiff, in a previous litigation, raised the same cause of action she seeks relief for

here.¹ Plaintiff claims the Court may review only the pleadings before it under Rule 12(c).

Because Defendants did not attach Plaintiff's pre-trial memorandum to their motion, Plaintiff believes the Court should not have considered it.

Plaintiff, however, views the Court's function under Rule 12(c) too restrictively. The Court may take judicial notice of matters of public record not incorporated, or even referenced in, the motion. See Fed. R. Evid. 201; Huntt v. Government of the Virgin Islands, 339 F.2d 309, 310 (3d Cir. 1964); see also MGIC Indem. Corp. v. Weisman, 803 F.2d 500, 504 (9th Cir. 1986) ("On a motion to dismiss, we may take judicial notice of matters of public record outside the pleadings."); 21 Charles A. Wright & Kenneth W. Graham, Jr., Federal Practice and Procedure § 5016, at 505 (1977 & Supp. 1998). The Court did no more than this when it looked at the pre-trial memorandum Plaintiff filed in the earlier case.

Moreover, Plaintiff does not take into account what the Court must review when presented with a claim preclusion defense. Because that defense compels the Court to examine

¹Plaintiff also maintains claim preclusion is inappropriate here. Her claims against Defendants, she states, involve matters of important public policy that warrant an opportunity to be heard, and therefore failure to reinstate her case is manifestly unjust.

It is true, of course, that claims brought under the Fair Housing Amendments Act are significant ones, and that those who believe they have been aggrieved under this or other statutes generally can avail themselves of the courts. Unfortunately for Plaintiff, courts also must consider both the interests of parties other than the allegedly aggrieved and the policies underlying those interests. Two of those policies, fundamental fairness and judicial economy, are relevant here, and each dictate that all claims arising out of a single occurrence must be brought in the same action. See Corestates Bank, N.A. v. Huls Am., Inc., No. 97-1784, 1999 WL 289426, at *5 (3d Cir. May 11, 1999) (citing Board of Trustees v. Centra, 983 F.2d 495, 504 (3d Cir. 1992)). These considerations counseled in favor of the result Plaintiff presently complains of. Because Plaintiff's argument generally revisits much of her response to Defendants' motion for judgment on the pleadings, and none of this reargument meets the standard for reconsideration, see Harsco Corp., 779 F.2d at 909, the Court will not address this contention further.

each litigation to determine if any claim was or could have been raised, the Court necessarily must delve into the record the parties created. The Court's review of the papers the parties filed when before Judge Shapiro therefore did not exceed the scope of review permitted under Rule 12(c). Plaintiff's motion accordingly is denied.

An Order follows.

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et al.	:	NO. 98-CV-6558

ORDER

AND NOW, this 25th day of June, 1999, upon consideration of Plaintiff Jane Kennedy's Motion to Vacate and for Reconsideration (Document No. 10), it is hereby **ORDERED** Plaintiff's motion is **DENIED**.

BY THE COURT:

JAMES MCGIRR KELLY, J.