

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LYNNE KOBILKA,

Plaintiff,

v.

OPINION AND ORDER

14-cv-268-wmc

COTTONWOOD FINANCIAL
WISCONSIN, LLC, and KOHN LAW
FIRM, S.C.,

Defendants.

STACY BOURDEAU,

Plaintiff,

v.

14-cv-144-wmc

CREDIT ACCEPTANCE CORPORATION,
and DAUBERT LAW FIRM, LLC,

Defendants.

In these two cases, plaintiffs Lynne Kobilka and Stacy Bourdeau pursued claims against creditors and their respective law firms under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*, and the Wisconsin Consumer Act (“WCA”), Wis. Stat. § 421 *et seq.*, among other claims. The court dismissed both actions, finding that plaintiffs’ claims were inextricably intertwined with their respective state court garnishment actions, and therefore the claims pursued in this court were barred by the *Rooker-Feldman* doctrine. (3/12/15 Op. & Order (‘268 dkt. #16) (‘144 dkt. ##28, 28-1).) Before the court are plaintiffs’ motions to alter or amend the judgment, asserting

four bases for relief. (‘268 dkt. #18; 144 dkt. #30.)¹ For the reasons that follow, the court will deny both motions.

OPINION

The disposition of any motion for reconsideration is entrusted to the district court’s discretion. *Caisse Nationale de Credit Agricole v. CBI Indus., Inc.*, 90 F.3d 1264, 1270 (7th Cir. 1996) (citing *Billups v. Methodist Hosp.*, 922 F.3d 1300, 1305 (7th Cir. 1991)). To prevail on a motion to alter or amend under Rule 59(e), the movant must present newly discovered evidence or establish a “manifest error of law or fact.” *Oto v. Metro. Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000). “A ‘manifest error’ is not demonstrated by the disappointment of the losing party. It is the ‘wholesale disregard, misapplication, or failure to recognize controlling precedent.” *Id.* (quoting *Sedrak v. Callahan*, 987 F. Supp. 1063, 1069 (N.D. Ill. 1997)). Accordingly, “[r]econsideration is not an appropriate forum for rehashing previously rejected arguments or arguing matters that could have been heard during the pendency of the previous motion.” *Caisse Nationale de Credit Agricole*, 90 F.3d at 1270.

Plaintiffs each posit four bases for relief from the judgment, all of which the court rejects. *First*, each plaintiff appears to assert interrelated arguments that: (a) she is not

¹ The court previously raised concerns about plaintiff’s counsel’s frequent filing of improper motions for reconsideration. *See Hopkins v. Capital One Bank USA, N.A.*, No. 14-cv-44, slip op. at 3 n.2 (W.D. Wis. May 14, 2015) (dkt. #48). These two motions bolster that concern, but since they were filed before the court’s order in *Hopkins*, the court will not sanction plaintiff’s counsel for the present filings, though this opinion serves as a further warning that it will not hesitate to do so going forward.

seeking review of the default judgment entered against her; and (b) the “wage garnishment proceeding did not include a separate judgment adverse to her.” (Pl.’s Br. (‘268 dkt. #19) 4.) As clearly stated in its original opinion and order, however, this court understood that plaintiffs were not seeking to upend the state court default judgment, which is why it framed the question as whether “plaintiff’s challenges to defendants’ efforts to execute on the judgment by bringing a state court garnishment action are *still* barred by the *Rooker-Feldman* doctrine.” (3/12/15 Op. & Order (‘268 dkt. #16) 6.) Moreover, the court anticipated and addressed plaintiffs’ apparent concern that the wage garnishment proceeding did not result in a “judgment.” The court explained that Wisconsin’s garnishment order is a final, appealable decision just like the Indiana garnishment order at issue in *Harold v. Steel*, 773 F.3d 884 (7th Cir. 2014). (3/12/15 Op. & Order (‘268 dkt. #16) 8 n.7.) In their Rule 59(e) motions, plaintiffs offer no response to this reasoning.

Second, plaintiffs contend that the court erred in finding the “wage garnishment was ‘inextricably intertwined’ with the state court judgment.” (Pl.’s Br. (‘268 dkt. #19) 5.) This contention, as well as plaintiffs’ third basis for relief, reflect nothing more than a misreading of the original opinion. The court actually found that the state court proceeding was “inextricably intertwined” with the claims each plaintiff sought to pursue in their respective federal actions. (3/12/15 Op. & Order (‘268 dkt. #16) 6 (“Plaintiff’s injuries are all based on defendants’ claimed abuse of the Wisconsin legal system to garnish plaintiff’s wages from a Minnesota employer.”); *id.* at 7 (“[T]his court cannot

evaluate the relief plaintiff requests here . . . absent review of the state court's actions with respect to its garnishment of wages.”.)

Third, plaintiffs argue that the injury they seek to address is the result of an “allegedly unlawful extra-territorial garnishment.” (Pl.’s Br. (‘268 dkt. #19) 6.) Again, the court agrees *and* understood this was plaintiffs’ position when issuing its original opinion and order. If anything, plaintiff’s regurgitated argument reinforces the court’s original finding that the federal claims were barred by the *Rooker-Feldman* doctrine, since plaintiffs simply confirm they seek redress for injuries caused by a state court proceeding.

Fourth, and finally, plaintiffs argue that the court erred in its reliance on *Harold v. Steel*, 773 F.3d 884 (7th Cir. 2014), because the Wisconsin garnishment proceeding differs from the Indiana proceeding at issue in *Harold*. (Pl.’s Br. (‘268 dkt. #19) 7.) In its original opinion and order, however, the court already acknowledged that differences may exist between the Indiana and Wisconsin garnishment proceedings, but found that those differences were not material in light of plaintiff’s *own* allegation that defendants “engag[ed]” the “Wisconsin legal process - in the form of Wisconsin garnishment documents,” coupled with a statutory scheme that provided the debtor an opportunity to assert defenses. (3/12/15 Op. & Order (dkt. #16) 8.)

ORDER

IT IS ORDERED that plaintiffs' motions to alter or amend the judgment ('268 dkt. #18; '144 dkt. #30) are DENIED.

Entered this 30th day of March, 2016.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge