

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

LINCOLN GENERAL INSURANCE COMPANY,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	No. 09-1194-MLB
)	
ERIC SMITH and HEATHER BAKER,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER

This case is before the court on defendants' motion for reconsideration. (Doc. 26). On February 5, 2010, this court entered an order granting summary judgment to plaintiff and finding that defendant Baker was not an insured on plaintiff's policy issued to A-OK Car Rental. Defendants move to reconsider on the basis that the language in the rental agreement states that the policy was only valid for two weeks unless noted by the rentor (A-OK Rental). Plaintiff responds that defendants are estopped from raising this argument as it was not presented to the court in defendants' response to the motion for summary judgment. (Doc. 27).

Analysis

A motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law. Servants of Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000). A motion for reconsideration is not appropriate, however, to advance arguments that could have been raised in prior briefing. Id. Defendants did not make their "two weeks only" argument to the court in prior briefing, nor do they explain why they didn't. Their

statement that their present purpose is to "simply cite a provision in the Rental Agreement [which] was not taken into account . . ." in the court's earlier ruling is both disingenuous and unavailing. With one exception, it is not this court's job to raise issues not raised by the parties. Hardiman v. Reynolds, 971 F.2d 500, 502 (10th Cir. 1992). The sole exception pertains to jurisdiction, which is not disputed. What defendants seek is for the court to change its ruling based upon information which could have been, but was not, presented earlier. This is not an appropriate basis for reconsideration.

Conclusion

Defendants' motion for reconsideration is denied. (Doc. 26).

IT IS SO ORDERED.

Dated this 4th day of March 2010, at Wichita, Kansas.

s/ Monti Belot

Monti L. Belot

UNITED STATES DISTRICT JUDGE