



Caution

As of: September 1, 2015 10:24 AM EDT

[Anwar v. Fairfield Greenwich Ltd.](#)

United States District Court for the Southern District of New York

July 27, 2011, Decided; July 27, 2011, Filed

09 Civ. 0118 (VM)

Reporter

800 F. Supp. 2d 571; 2011 U.S. Dist. LEXIS 84105

PASHA S. ANWAR, et al., Plaintiffs, - against -
FAIRFIELD GREENWICH LIMITED, et al., Defendants.

Subsequent History: Motion granted by, in part, Motion denied by, in part, Claim dismissed by [Anwar v. Fairfield Greenwich Ltd., 826 F. Supp. 2d 578, 2011 U.S. Dist. LEXIS 128508 \(S.D.N.Y., 2011\)](#)

Prior History: [Anwar v. Fairfield Greenwich, Ltd., 728 F. Supp. 2d 372, 2010 U.S. Dist. LEXIS 86716 \(S.D.N.Y., 2010\)](#)

Counsel: **[**1]** For Securities & Investment Company Bahrain, Harel Insurance Company, Ltd. AXA Private Management, St. Stephen's School, Lead Plaintiffs: David A. Barrett, LEAD ATTORNEY, Boies, Schiller & Flexner, LLP(NYC), New York, NY; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, PRO HAC VICE, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL.

For Pacific West Health Medical Center, Inc. Employee's Retirement Trust, Lead Plaintiff: David A. Barrett, LEAD ATTORNEY, Boies, Schiller & Flexner, LLP(NYC), New York, NY; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, PRO HAC VICE, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; Natalie Marie MacKiel, Wolf Popper LLP, New York, NY.

For Fairfield Risk Services Ltd., Debtor: Mark Geoffrey Cunha, Simpson Thacher & Bartlett LLP (CA), Palo Alto, CA.

For Pasha S. Anwar, on behalf of themselves and all others similarly situated investors in the Greenwich Sentry, L.P. private investment limited partnership, Plaintiff: Christopher Lovell, Victor E. Stewart, LEAD ATTORNEYS, Jody Krisiloff, Lovell Stewart Halebian Jacobson LLP, New York, NY; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, Sashi Bach Boruchow, **[**2]** Stuart Harold Singer, PRO HAC VICE,

Susan E. Klock, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; David A. Barrett, Boies, Schiller & Flexner, LLP(NYC), New York, NY.

For Julia Anwar, on behalf of themselves and all others similarly situated investors in the Greenwich Sentry, L.P. private investment limited partnership, Inter-Ammerican Trust, Elvira 1950 Trust, Bonaire Limited, Carlos Gauch, Plaintiffs: Christopher Lovell, LEAD ATTORNEY, Jody Krisiloff, Lovell Stewart Halebian Jacobson LLP, New York, NY; Victor E. Stewart, LEAD ATTORNEY, Lovell, Stewart, Halebian LLP, New York, NY; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, Sashi Bach Boruchow, Stuart Harold Singer, PRO HAC VICE, Susan E. Klock, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; David A. Barrett, Boies, Schiller & Flexner, LLP(NYC), New York, NY.

For Loana Ltd., Wall Street Securities, S.A., Banco General, S.A., Harvest Dawn International Inc., El Prado Trading, Omawa Investment Corporation, Carmel Ventures Ltd., Blythel Associated Corp., Marrekesh Resources, Centro Inspection Agency, Kalandar International, Landville Capital Management S.A., Diversified Investments Associates Class **[**3]** A Units, ABR Capital Fixed Option/Income Strategic Fund LP, Plaintiffs: Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, PRO HAC VICE, Susan E. Klock, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; David A. Barrett, Boies, Schiller & Flexner, LLP(NYC), New York, NY.

For Traconcorp, Plaintiff: Adam S. Deckinger, Eli Justin Glasser, PRO HAC VICE, Susan E. Klock, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; David A. Barrett, Boies, Schiller & Flexner, LLP(NYC), New York, NY.

For 20/20 Investments, Plaintiff: Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, Susan E. Klock,

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For Miguel Lomeli, Morning Mist Holdings Limited, Plaintiffs: [**4] Robert Alan Wallner, LEAD ATTORNEY, Milberg LLP (NYC), New York, NY; Susan E. Klock, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL.

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For ABN AMRO LIFE S.A., Bahia del Rio S.A., Bevington Management, Ltd., Calwell Investment S.A., Diamond Hills Inc., Hedge Strategy Fund LLC, Kivory Corporation, North Club, Inc., PFA Pension A/S, Taurus the Fourth Ltd., Zenn Assets Holding, Ltd., Plaintiffs: Susan E. Klock, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL.

For Pacific West Health Medical Center Inc. Employees Retirement Trust, On behalf of Itself, Consolidated Plaintiff: Carl Lester Stine, Chet Barry [**5] Waldman, Robert Craig Finkel, LEAD ATTORNEYS, Natalie Marie MacKiel, Wolf Popper LLP, New York, NY; James Abram Harrod, III, LEAD ATTORNEY, Wolf Popper LLP, New York, NY; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, Stuart Harold Singer PRO HAC VICE, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; Brian Dale Graifman, David Alan Gehn, Gusrae, Kaplan, Bruno & Nusbaum, PLLC, New York,

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For Pacific West Health Medical Center Inc. Employees Retirement Trust, on Behalf of All Others Similarly Situated, Consolidated Plaintiff: Carl Lester Stine, Chet Barry Waldman, Robert Craig Finkel, LEAD ATTORNEYS, Natalie Marie MacKiel, Wolf Popper LLP, New York, NY; James Abram Harrod, III, LEAD ATTORNEY, Wolf Popper LLP, New York, NY; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, Stuart Harold Singer PRO HAC VICE, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; David A. Barrett, Boies, Schiller & Flexner, LLP(NYC), New York, NY.

For Shimon Laor, Consolidated Plaintiff: Catherine A. Torrell, LEAD ATTORNEY, Cohen [**6] Milstein Sellers & Toll P.L.L.C., New York, NY; Daniel S. Sommers, Joshua Seth Devore, LEAD ATTORNEYS, Steven Jeffrey Toll, LEAD ATTORNEY, PRO HAC VICE, Cohen Milstein Sellers & Toll PLLC (DC), Washington, DC; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, PRO HAC VICE, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; David A. Barrett, Boies, Schiller & Flexner, LLP(NYC), New York, NY.

For David I. Ferber, Frank E. Pierce, Frank E. Pierce Ira, Consolidated Plaintiffs: Jean Lee, Kent Andrew Bronson, Kristi Stahnke McGregor, Robert Alan Wallner, LEAD ATTORNEYS, Milberg LLP (NYC), New York, NY; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, PRO HAC VICE, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; David A. Barrett, Boies, Schiller & Flexner, LLP(NYC), New York, NY.

For The Knight Services Holdings Limited, on behalf of itself and all others similarly situated, Consolidated Plaintiff: Daniel W. Krasner, Gregory Mark Nespole, LEAD ATTORNEYS, Wolf Haldenstein Adler Freeman & Herz LLP, New York, NY; Demet Basar, LEAD ATTORNEY, Wolf Haldenstein Adler Freeman & Herz, New York, NY; Adam S. Deckinger, Eli Justin Glasser, Jonathan Edgar Pollard, [**7] PRO HAC VICE, Boies, Schiller & Flexner LLP (FL), Fort Lauderdale, FL; David A. Barrett, Boies, Schiller & Flexner, LLP(NYC), New York, NY; Gustavo Fabian Bruckner, Pomerantz Haudek Block Grossman & Gross LLP, New York, NY.

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For Fairfield Sentry Ltd., Fairfield Sentry Limited, Consolidated Plaintiffs: David J. Molton, Martin S. Siegel, LEAD ATTORNEYS, Brown Rudnick LLP (NYC), New York, NY.

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For Ricardo Lopez, Consolidated Plaintiff: Laurence Edward Curran, III, LEAD ATTORNEY, Curran & Associates, Coral Gables, FL.

For Standard Chartered [**9] Bank International (Americas) Limited, Stanchart Securities International, Inc., Consolidated Plaintiffs: Joseph Emanuel Neuhaus, LEAD ATTORNEY, Sullivan and Cromwell, LLP(NYC), New York, NY.

For Maria Akriby Valladolid, Consolidated Plaintiff: Michael Jules Aguirre, Aguirre, Morris & Severson LLP, San Diego, CA.

For Ricardo Rodriguez Caso, Consolidated Plaintiff: Gaytri D. Kachroo, K&L Gates (New Jersey), Newark, NJ; John H. Ray, III, K&L Gates (DC), Washington, DC.

Wong Yuk Hing de Lou, Consolidated Plaintiff, Pro se.

Moises Lou Martinez, Consolidated Plaintiff, Pro se.

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For Americas/SwissCo. Trusts, Movant: Gregory Mark Nespole, LEAD ATTORNEY, Wolf Haldenstein Adler Freeman & Herz LLP, New York, NY.

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For Fairfield Greenwich Group, Fairfield Greenwich (Bermuda) Ltd., Defendants: Mark Geoffrey Cunha, LEAD ATTORNEY, Simpson [**10] Thacher & Bartlett LLP (CA), New York, NY; Michael Joseph Chepiga, Simpson Thacher & Bartlett LLP (NY), New York, NY.

For Fairfield Greenwich Advisors L.L.C., Defendant: Mark Geoffrey Cunha, LEAD ATTORNEY, Simpson Thacher & Bartlett LLP (CA), New York, NY; Michael Joseph Chepiga, Paige Elizabeth Fleming, Paul Jacob Sirkis, Peter Eric Kazanoff, Philip A. Mirrer-Singer, Sara Ann Ricciardi, Simpson Thacher & Bartlett LLP (NY), New York, NY.

For Walter M. Noel, Jr., Defendant: Glenn Kurtz, LEAD ATTORNEY, White & Case LLP (NY), New York, NY; Mark Geoffrey Cunha, Simpson Thacher & Bartlett LLP (CA), New York, NY.

For Andres Piedrahita, Defendant: Andrew J. Levander, David Scott Hoffner, LEAD ATTORNEYS, Dechert, LLP (NYC), New York, NY; Jennie Boehm Krasner, Dechert, LLP (NJ), Princeton, NJ; Mark Geoffrey Cunha, Simpson Thacher & Bartlett LLP (CA), New York, NY.

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For PricewaterhouseCoopers Accountants Netherlands N.V., Defendant: Gabrielle Sean Marshall, Sarah Loomis Cave, William R. Maguire, Hughes Hubbard & Reed LLP (NY), New York, NY.

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For Carlos Gadala-Maria, Raul Mas, Robert Friedman, Rodolfo Pages, John G Dutkowski, Defendants: Ricardo Alejandro Gonzalez, PRO HAC VICE, Greenberg Traurig, P.A., Miami, FL.

For Miguel Calvo, Defendant: Stephen Lee Weinstein, Eiseman, Levine, Lehrhaupt & Kakoyiannis, P.C., New York, NY.

For EFG Capital International Corp., Defendant: Joseph Clay Coates, III., Greenberg Traurig, West Palm Beach, FL.

For EFG Capital International Corp., Defendant: Jon Andrew Jacobson, Lauren Whetstone, Greenberg Traurig, West Palm Beach, FL.

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For Andrew Smith, Consolidated Defendant: Peter Eric Kazanoff, LEAD ATTORNEY, Simpson Thacher & Bartlett LLP (NY), New York, NY; Mark Geoffrey Cunha, Simpson Thacher & Bartlett LLP (CA), New York, NY.

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For CITCO Fund Services (Europe) B.V., Consolidated Defendant: Amanda MCGovern, LEAD ATTORNEY, PRO HAC VICE, Dyanne Eyce Feinberg, Terence Michael Mullen, PRO HAC VICE, Elizabeth A. Izquierdo, Lewis Nathan Brown, Gilbride Heller & Brown P.A, Miami, FL; Michael Joseph Moscato, Timothy Neil McCabe, LEAD ATTORNEYS, Curtis, Mallet-Prevost, Colt & Mosle, LLP(NYC), New York, NY.

For GlobeOp Financial Services LLC., Consolidated Defendant: Jonathan David Cogan, Michael Sangyun Kim, LEAD ATTORNEYS, Kobre & Kim LLP, New York, NY; Brad H. Samuels, PRO HAC VICE, Kobre & Kim, LLP (DC), Washington, DC.

For Citco Canada Inc., Citgo Global Custody N.V., Consolidated Defendants: Amanda MCGovern, Lewis Nathan Brown, Gilbride Heller & Brown P.A, Miami, FL.

For Pricewaterhouse Coopers Accountants N.V., Consolidated Defendant: William R. Maguire, Hughes Hubbard & Reed LLP (NY), New York, NY.

For Pricewaterhousecoopers International Limited, Consolidated Defendant: Brad Eric Konstandt, Howard M. Shapiro, Wilmer Cutler Pickering Hale & Dorr, L.L.P. (NY), Washington, DC, NW; Fraser Lee Hunter, Jr, Wilmer, Cutler, Hale & Dorr, L.L.P. (NYC), New York, NY.

For [**15] Fairfield Greenwich Advisors, L.L.C., Consolidated Defendant: Mark Geoffrey Cunha, LEAD ATTORNEY, Simpson Thacher & Bartlett LLP (CA), New York, NY; Michael Joseph Chepiga, Philip A. Mirrer-Singer, Simpson Thacher & Bartlett LLP (NY), New York, NY.

For Robert Blum, Consolidated Defendant: Claudio Godinez RoumainOchoa, Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, P.C, New York, NY; Mark Geoffrey Cunha, Simpson Thacher & Bartlett LLP (CA), New York, NY.

For Standard Chartered International (USA) Ltd., Standard Chartered PLC, Consolidated Defendants: Sharon L. Nelles, LEAD ATTORNEY, Allison Caffarone, Bradley Paul Smith, Patrick Barrett Berarducci, Sullivan & Cromwell, LLP(NYC), New York, NY; Diane Lee McGimsey, PRO HAC VICE, Sullivan and Cromwell LLP, Los Angeles, CA.

For Standard Chartered Bank International (Americas) Limited, a Foreign entity, Standard Chartered Private Bank, Foreign entity, and a private banking division of Standard Chartered Bank, Consolidated Defendants: Hilarie Bass, LEAD ATTORNEY, Greenberg Traurig, Miami, FL; Ricardo Alejandro Gonzalez, LEAD ATTORNEY, PRO HAC VICE, Greenberg Traurig, P.A., Miami, FL; Sharon L. Nelles, Sullivan & Cromwell, LLP(NYC), New [**16] York, NY.

For Standard Chartered Bank, Consolidated Defendant: Sharon L. Nelles, Sullivan & Cromwell, LLP(NYC), New York, NY.

For Gregory Bowes, Consolidated Defendant: Bruce Allen Baird, LEAD ATTORNEY, Matthew Fitzgerald Dunn, PRO HAC VICE, Covington & Burling, L.L.P. (DC), Washington, DC.

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For Tradwaves, Ltd., All Plaintiffs: Matthew W. Cheney, LEAD ATTORNEY, PRO HAC VICE, Crowell & Moring LLP (DC), Washington, DC.

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Neelam P. Daryani, All Plaintiffs, Pro se.

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Kishu Nathurmal Uttamchandani, All Plaintiffs, Pro se.

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Vandna Patel, All Plaintiffs, Pro se.

Kishin Mohandas Bhatia, All Plaintiffs, Pro se.

Suresh M. Bhatia, All Plaintiffs, Pro se.

Bharat Mohandas, All Plaintiffs, Pro se.

Aarvee Ltd., All Plaintiffs, Pro se.

Judges: Victor Marrero, United States District Judge.

Opinion by: Victor Marrero **[**17]**

Opinion

[*572] DECISION AND ORDER

VICTOR MARRERO, United States District Judge.

Defendants PricewaterhouseCoopers Accountants N.V. and PricewaterhouseCoopers LLP (together, "PWC") move for reconsideration of this Court's Decision and Order dated August 18, 2010 (the "Decision"), insofar as it denied PWC's motion to dismiss the negligence claims in Plaintiffs' Second Consolidated Amended Complaint ("SCAC"). See [Anwar v. Fairfield Greenwich Ltd.](#), 728 F. Supp. 2d 372, 2010 WL 3341636 (S.D.N.Y. 2010) ("[Anwar II](#)"). Familiarity with the relevant facts from [Anwar II](#) is assumed.

I. DISCUSSION

Reconsideration of a previous order by the court is an "extraordinary remedy to be employed sparingly in the interests of finality and conservation of scarce judicial resources." [In re Health Mgmt. Sys. Inc. Sec. Litg.](#), 113 F. Supp. 2d 613, 614 (S.D.N.Y. 2000) (citations and quotation **[*573]** marks omitted). "The provision for reargument is not designed to allow wasteful repetition of arguments already briefed, considered and decided." [Schonberger v. Serchuk](#), 742 F. Supp. 108, 119 (S.D.N.Y. 1990). "The major grounds justifying reconsideration are 'an intervening change in controlling law, the availability of new evidence, **[**18]** or the need to correct a clear error or prevent manifest injustice.'" [Virgin Atl. Airways, Ltd. v. Nat'l Mediation Bd.](#), 956 F.2d 1245, 1255 (2d Cir. 1992) (quoting 18 C. Wright, A. Miller & E. Cooper, [Federal Practice & Procedure](#) §

4478 at 790). To these ends, a request for reconsideration under [Rule 6.3](#) of this Court's Local Civil Rules ("[Rule 6.3](#)"), which governs motions for reconsideration, must demonstrate controlling law or factual matters put before the court in its decision on the underlying matter that the movant believes the court overlooked and that might reasonably be expected to alter the conclusion reached by the court. See [Shrader v. CSX Transp., Inc.](#), 70 F.3d 255, 257 (2d Cir. 1995). [Rule 6.3](#) is intended to "ensure the finality of decisions and to prevent the practice of a losing party . . . plugging the gaps of a lost motion with additional matters." [S.E.C. v. Ashbury Capital Partners, No. 00 Civ. 7898](#), 2001 U.S. Dist. LEXIS 7094, 2001 WL 604044, at *1 (S.D.N.Y. May 31, 2001) (quoting [Carolco Pictures, Inc. v. Sirota](#), 700 F. Supp. 169, 170 (S.D.N.Y. 1988)). A court must narrowly construe and strictly apply [Rule 6.3](#) so as to avoid duplicative rulings on previously considered issues and to prevent **[**19]** [Rule 6.3](#) from being used to advance different theories not previously argued, or as a substitute for appealing a final judgment. See [Montanile v. Nat'l Broad. Co.](#), 216 F. Supp. 2d 341, 342 (S.D.N.Y. 2002); [Shamis v. Ambassador Factors Corp.](#), 187 F.R.D. 148, 151 (S.D.N.Y. 1999).

Upon review of the parties' submissions, the Court finds that PWC urges reconsideration on the basis of essentially the same arguments that were raised in briefing on the original motion to dismiss. The motion at hand cites no controlling law or factual matters the Court overlooked that might reasonably be expected to alter the outcome of [Anwar II](#).

For example, PWC argues that the decision of the Appellate Division, First Department, in [CRT Investments, Ltd. v. BDO Seidman, LLP](#), 85 A.D.3d 470, 925 N.Y.S.2d 439, 2011 WL 2225050, at *1 (N.Y. App. Div. 1st Dep't 2011) is an intervening controlling authority justifying the Court's reconsideration of its Decision. In [CRT Investments](#), the Appellate Division held that an investor fund that invested with Madoff could not sue the fund's auditor for negligence. See 925 N.Y.S.2d 439, *id.* at *2. That decision merely affirmed the New York Supreme Court's decision in [CRT Investments](#), 29 Misc. 3d 1218[A], 918 N.Y.S.2d 397, 2010 NY Slip Op 51868[U], 2010 WL 4340433 at *11-12 [N.Y. Sup. Ct. N.Y. Cnty. 2010], **[**20]** which PWC extensively discussed and relied upon in its reply brief to the original motion to dismiss. In the course of rendering the Decision, the Court had the New York Supreme Court decision in [CRT Investments](#) before it, took it into account, and found it to be sufficiently

distinguishable. In particular, among other reasons, in Anwar II, the Court found it compelling that the auditors recognized that their reports would be communicated directly to shareholders, who might thus rely on those financial statements to make investment decisions. (See, e.g., ¶ 277 ("Indeed, PWC acknowledged in the Audit Plan that its audit engagement involved delivering to shareholders and other stakeholders in the Funds independent opinions and reports that provide assurance on financial information released by the Funds." (citation and quotation marks omitted)).) Accordingly, the Appellate Division's affirmation of that ruling does not alter this Court's [*574] view of the issues presented in that case or the case's relationship with the instant matter.

Because PWC has failed to identify any controlling law or factual matters put to the Court on the underlying motion that the Court demonstrably did not consider, [**21] PWC's motion for reconsideration is DENIED.

II. ORDER

For the reasons stated above, it is hereby

ORDERED that the motion of defendants PricewaterhouseCoopers Accountants N,V. and PricewaterhouseCoopers LLP for reconsideration and reargument (Docket No. 663) of the Court's Decision and Order dated August 18, 2010 is DENIED.

SO ORDERED.

Dated: New York, New York

27 July 2011

/s/ Victor Marrero

Victor Marrero

U.S.D.J.