

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KNIFE RIGHTS, INC.; JOHN COPELAND;  
PEDRO PEREZ; KNIFE RIGHTS  
FOUNDATION, INC.; and  
NATIVE LEATHER, LTD.,

Plaintiffs,

-against-

CYRUS VANCE, JR., in his Official Capacity as  
the New York County District Attorney; and CITY  
OF NEW YORK,

Defendants.

No. 11 Civ. 3918 (KBF) (RLE)

ECF Case

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, pursuant to Local Rule 6.3 Plaintiffs respectfully move the Court to reconsider its decision and order filed September 25, 2013 (Doc. No. 80) to the extent of granting Plaintiffs leave to file an amended complaint.

PLEASE TAKE FURTHER NOTICE that Plaintiffs rely upon the Memorandum of Law filed herewith.

Dated: New York, New York  
October 7, 2013

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**MEMORANDUM OF LAW  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR RECONSIDERATION**

The Court should reconsider its decision and order of September 25, 2013 (Doc. No. 80) and grant Plaintiffs leave to file an amended complaint to address the pleading deficiencies that the Court has identified. Plaintiffs previously requested this relief in their responses to Defendants' motions to dismiss. Plaintiffs submit this motion "setting forth concisely the matters or controlling decisions which counsel believes the court has overlooked" pursuant to Local Rule 6.3. See also Fed. R. Civ. Proc. 59.

Reconsideration is needed because the court has overlooked a matter that "might reasonably be expected to alter the conclusion reached by the court." In re Keyspan Corp., No. 01 CV 5852, 2003 U.S. Dist. LEXIS 20964, \*7 (E.D.N.Y. Nov. 21, 2003); see also Shrader v. CSX Corp., 70 F.3d 255, 257 (2d Cir. 1995). Plaintiffs responded to Defendants' motions to dismiss by, among other things, specifically requesting that the Court grant them leave to file an amended complaint in the event that the Court found that Plaintiffs' pleading was inadequate. See Plaintiffs' Opposition to Defendant City of New York (Doc. No. 70) p. 25 n.4 (citing Dougherty v. Bd. of Zoning Appeals, 282 F.3d 83, 89-92 (2d Cir. 2002)); Plaintiffs' Opposition

to Defendant District Attorney Vance (Doc. No. 73) p. 2. However, the Court's decision and order does not address this request.

As the Court is aware, the Federal Rules of Civil Procedure provide that district courts should "freely give" leave to amend. See Fed. R. Civ. P. 15(a)(2); see also Foman v. Davis, 371 U.S. 178, 182 (1962). "[T]he Supreme Court has emphasized that amendment should normally be permitted." Nerney v. Valente & Sons Repair Shop, 66 F.3d 25, 28 (2d Cir. 1995). "The rule in this Circuit has been to allow a party to amend its pleadings in the absence of a showing by the nonmovant of prejudice or bad faith." Block v. First Blood Assocs., 988 F.2d 344, 350 (2d Cir.1993). No such factors are present, and accordingly, Plaintiffs should have the opportunity to address the issues that the Court has identified.

As such, Plaintiffs respectfully request that the Court reconsider its decision and order and grant them leave to file an amended complaint.

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