

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MORTON

SOUTH CENTRAL JUDICIAL DISTRICT

Case No. 30-2019-CV-00180

Energy Transfer LP, (formerly known as)
 Energy Transfer Equity, L.P.), Energy)
 Transfer Operating, L.P. (formerly known)
 As Energy Transfer Partners, L.P., and)
 Dakota Access, L.L.C.,)
 Plaintiffs,)

-vs-

MEMORANDUM OPINION DENYING
MOTION FOR RECONSIDERATION

Greenpeace International (also known as)
 "Stichting Greenpeace Council";)
 Greenpeace Inc.; Greenpeace Fund, Inc.)
 Red Warrior Society (also known as "Red)
 Warrior Camp; Cody Hall and Krystal Two)
 Bulls;)
 Defendants.)

¶ 1. The Greenpeace Defendants (Greenpeace International, Greenpeace Inc. and Greenpeace Fund, Inc.) requested the Court reconsider the Court’s October 28, 2025 Memorandum Opinion on the Motions for Judgment as a Matter of Law; Motions for Reduction in Damages, Motion for Order for Judgment and Motion for Extension of the Automatic Stay. The Plaintiffs (ET and DAP) resisted the Motion for Reconsideration, and requested the Court grant their Motion for Order for Judgment. The Court heard oral argument on January 23, 2026.

¶ 2. Initially, ET and DAP challenged the reconsideration of the Memorandum Opinion, claiming since no final judgment was entered, the motion for reconsideration was premature.

Rule 54(b), N.D.R.Civ.P., states:

. . . Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be

revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

In Dinger ex rel. Dinger v. Strata Corp., 2000 ND 41, ¶ 11, 607 N.W.2d 886, the North Dakota Supreme Court applied this rule to reconsideration of a summary judgment order:

Because the order granting summary judgment was not certified as a final judgment under Rule 54, Dingers' motion for reconsideration of the trial court's order granting summary judgment was proper. As we noted in Union State Bank v. Woell, 357 N.W.2d 234, 239 (N.D. 1984), the summary judgment, as an interlocutory order, "remains subject to revision by the court at any time before the entry of judgment adjudicating all claims between all parties."

The North Dakota Supreme Court further elaborated on this concept in Ceynar v. Bart, 2017 ND 286, ¶ 7, 904 N.W.2d 469, stating:

Ceynar's reliance on N.D.R.Civ.P. 60(b) is misplaced. Rule 60(b) does not apply to interlocutory judgments and orders. Thompson v. Goetz, 455 N.W.2d 580, 585 (N.D. 1990). "Interlocutory orders of any kind are ordinarily subject to reconsideration and change without the restrictions applicable to reconsideration and changes in 'final' judgments." Cumber v. Cumber, 326 N.W.2d 194, 195 (N.D. 1982). The denial of a motion for summary judgment is an interlocutory order leaving a case pending for trial and decides nothing, except that the parties may proceed with the case. Herzog v. Yuill, 399 N.W.2d 287, 293 (N.D. 1987). An interlocutory order "may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." N.D.R.Civ.P. 54(b). "When a district court is convinced that it incorrectly decided a legal question in an interlocutory ruling, the district court may correct the decision to avoid later reversal." Strom-Sell v. Council for Concerned Citizens, Inc., 1999 ND 132, ¶ 12, 597 N.W.2d 414 (internal citation omitted).

Accordingly, it is clear that the motion to reconsider is permissible and is not grounds for denying the motion because any decision entered prior to judgment is subject to revision at any time. Rather than looking to N.D.R.Civ.P. 60(b), the Court considered the motion as being under N.D.R.Civ.P. 54(b), since there has been no judgment entered here.

¶ 4. Greenpeace International correctly argues this Court did not address its personal jurisdiction argument in its October 28 memorandum opinion. However, this issue was previously decided by the district court on February 13, 2020, when the Court denied

Greenpeace's motion to dismiss the complaint for both failure to state a claim and lack of personal jurisdiction. In analyzing the personal jurisdiction issue, the district court quoted N.D.R.Civ.P. 4(b)(2) and then reasoned:

GPI appeared in the federal case, which was remanded. A party's right to object to personal jurisdiction can be waived. Larson v. Dunn, 474 N.W.2d 34, 36 (N.D. 1991). The Court, however, need not decide this because there is personal jurisdiction of GPI by contact. It committed tortuous acts outside the state causing injury to persons or property in the state. Here, Plaintiffs have made out a prima facie cause of action for defamation.

Index # 242, ¶¶ 4- 5. The Court already decided this issue and it need not revisit the decision.

¶ 5. Greenpeace argues a lack of evidence showing the alleged defamatory statements were made with actual malice and states the Court failed to address the standard for proving actual malice, nor did the Court identify any evidence that could satisfy that standard.

The exact language included in the Memorandum Opinion states:

GP and GPI challenge the jury's findings on four points – 1) the statements made were not actionably false because the statements expressed public views on matters subject to public debate; 2) No evidence was presented the statements were made with actual malice as required under the First Amendment; 3) ET provided no evidence any third party believed any of the statements were defamatory; and 4) ET failed to provide evidence the alleged defamatory statements proximately caused any damages. In addressing the actual malice component, GP and GPI claimed to be entitled to rely on statements made by the United Nations, the Standing Rock Sioux Tribe, other indigenous people, and other credible sources. GP and GPI further claimed they were not required to conduct research into, or present ET's position of the substance of the statements; and that any GP or GPI employees' communications reflecting a personal animus toward ET or DA between themselves are insufficient to support actual malice.

ET responds with reference to the documents and testimony presented to the jury indicating the statements were defamatory, and that ET and DA suffered damages from the statements. GP and GPI contested the evidence presented, but the Court cannot find the jury could not reach the conclusion it did. GP and GPI's motions for judgment as a matter of law on the issue of defamation are denied.

. The Court stands by its ruling in the Memorandum Opinion.

¶ 6. Greenpeace International and Greenpeace Fund, Inc. both argue the award of damages against them vastly exceeded any harm those two defendants could have possibly caused, relying on Johnson v. Monsanto Co., 303 N.W.2d 86, 92 (N.D. 1981), which stated:

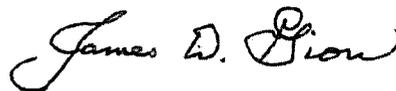
The determination of the amount of damages is in the province of the jury and rests largely in the discretion of the jury. Froemke v. Hauff, 147 N.W.2d 390 (N.D. 1966). Nevertheless, the jury must determine the compensation to which a party is entitled within reasonable limits, based upon the evidence. If those limits have been exceeded, it is the duty of the court to make a proper reduction or grant a new trial.

Both the Plaintiffs and Defendants provided evidence as to damages. The jury heard that evidence and made their decision. Sufficient evidence existed to support the jury verdict. While the Defendants disagree with the damages claimed by ET and DAP, the jury must have found the evidence presented by the Plaintiffs to be more credible. The Court sees no reason to change the Court's decision.

¶ 7. The Court denies the Motion for Reconsideration of the Greenpeace Defendants.

Dated this 24th day of February, 2026.

BY THE COURT:

A handwritten signature in black ink that reads "James D. Gion". The signature is written in a cursive style with a large initial "J" and "G".

James D. Gion, Judge