UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE JPMORGAN PRECIOUS METALS SPOOFING LITIGATION	Case No.: 1:18-cv-10356
THIS DOCUMENT RELATES TO: ALL ACTIONS	Hon. Gregory H. Woods

MEMORANDUM OF LAW IN OPPOSITION TO
OBJECTOR MICHAEL COSCIA'S MOTION FOR RECONSIDERATION
OF THE COURT'S JUNE 18, 2026 AND JULY 2, 2026 ORDERS

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INTRODUCTION

Objector Michael Coscia's motion for reconsideration of the Court's June 18, 2026 and July 2, 2026 Orders (the "Reconsideration Motion"), relating to the Court's approval of the recommended distribution of the Net Settlement Fund from the above-captioned class action settlement, should be denied. Procedurally, Mr. Coscia is not a party and therefore has no standing to seek reconsideration of the Distribution Order (ECF No. 126). Substantively, the Reconsideration Motion rehashes his objection to the Distribution Order (ECF No. 127) (the "Objection") and claims that the Court failed to address arguments that he never raised in his Objection.

Even if the Court were to consider Mr. Coscia's additional arguments, there is no basis to grant his requested stay or any other relief proposed. At bottom, the Court's original rationale in rejecting the Objection remains correct: "Mr. Coscia objects to the distribution to the late but otherwise eligible claims for the sole reason that it will increase his return. . . . To provide the incremental additional damages that Mr. Coscia requests would deprive many other injured class members of any redress at all." ECF No. 133.

I. Mr. Coscia Lacks Standing to Seek Reconsideration of the Distribution Order

Mr. Coscia may not seek reconsideration of the Distribution Order as he is not a proper party. In a procedurally identical context where a class member sought reconsideration of a distribution order for a class settlement, the court explained:

> In order to file a motion for reconsideration in a class action, an absent class member first must obtain leave to intervene under Rule 24. "In order to intervene as a matter of right under Fed. R. Civ. P. 24(a)(2), an applicant must (1) timely file an application, (2) show an interest in the action, (3) demonstrate that the interest may be impaired by the disposition of the action, and (4) show that the interest is not protected adequately by the parties to the action." Mr. Johnson has not filed any application, let alone a timely one. Nor has he shown that his interests are not protected adequately by the class representative, who fairly and adequately protected the interests of the class. Mr. Johnson therefore may not intervene by

> right. Permissive intervention under Rule 24(b) likewise would be inappropriate here given Mr. Johnson's failure to file a motion to intervene, the stage of the litigation, and the lack of merit to the position he seeks to advance as set forth below. Accordingly, the Court denies the motion for the reconsideration on the basis that it is not properly raised by a party to this action."

Williams v. Block.One, No. 20-CV-2809 (LAK), 2025 WL 673300, at *1 (S.D.N.Y. Mar. 3, 2025). The same rationale applies here. Mr. Coscia has not filed a motion to intervene. Further, he has not shown that his interest is not adequately protected by the class representative nor that his background, history and qualification make him an appropriate intervenor in the Action. For that reason alone, the Court may decline this motion for reconsideration.

II. The Reconsideration Motion Is Simply a Rearguing of Issues Raised in the Objection and Resolved by the Court

Should the Court be inclined to allow Mr. Coscia to intervene or otherwise consider his argument, the Reconsideration Motion is nonetheless flawed. "Reconsideration motions [under either Federal Rules of Civil Procedure 59(e) and 60(b) and S.D.N.Y. Local Civil Rule 6.3] are subject to a 'strict' standard [ ] and will be granted 'only when the movant identifies "an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice."'" *Pentacon BV v. Vanderhaegen*, No. 23-cv-2172 (KPF), 2024 WL 3835334, at *4 (S.D.N.Y. Aug. 15, 2024) (quoting *Shrader* v. *CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995) and *Sec. & Exch. Comm'n* v. *Gottlieb*, No. 98-cv-2636 (LAP), 2021 WL 5450360, at *2 (S.D.N.Y. Nov. 22, 2021)).

Critically, the moving party bears the burden to "demonstrate controlling law or factual matters put before the court 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." *Cordero v. Astrue*, 574 F. Supp. 2d 373, 379 (S.D.N.Y. 2008). Further "'[a] motion for reconsideration may not be used to advance new facts, issues or arguments not previously presented to the Court, nor may it be used as a vehicle for relitigating issues already decided by the Court.'" *Montblanc-Simplo GmbH v. Colibri Corp.*, 739 F. Supp. 2d 143, 147 (E.D.N.Y. 2010) (quoting *Davidson v. Scully,* 172 F.Supp.2d 458, 461 (S.D.N.Y. 2001)); *accord Hall v. North Bellmore Union Free School Dist.,* No. 08-cv-1999, 2010 WL 2267399, at *1 (E.D.N.Y. May 30, 2010) ("Reconsideration is not a proper tool to repackage and relitigate arguments and issues already considered by the Court in deciding the original motion. . . . Nor is it proper to raise new arguments and issues."). Reconsideration is at the sole discretion of the Court and is an "'extraordinary remedy to be employed sparingly in the interests of finality and conservation of scarce judicial resources.'" *Cordero*, 574 F. Supp. 2d at 380 (quoting *In re Health Mgmt. Sys. Inc. Sec. Litg.,* 113 F.Supp.2d 613, 614 (S.D.N.Y.2000)).

The arguments raised in the memorandum supporting the Reconsideration Motion (ECF No. 136) are simply Mr. Coscia's effort to repackage old arguments and introduce new ones in support of his effort to see the late claims rejected. His Reconsideration Motion asserts that: (a) "material data and controlling principles," including the claimed assertion that the Objection "raised class-wide concerns about notice, reliability, equal treatment and the exercise of discretion," were overlooked in overruling the Objection, and (b) "material evidence" concerning the number of late claims "was not available" when the Court entered the Distribution Order. ECF No. 136 at 2. As discussed below, these major arguments, as well as the minor arguments he later raises, fail to satisfy the stringent standards for reconsideration.

A. The Reconsideration Motion Impermissibly Introduces Arguments Not Raised in the Objection.

To begin, it is disingenuous for Mr. Coscia to accuse the Court of overlooking his alleged concerns regarding "class-wide notice, reliability, and settlement-administration." ECF No 136 at 2. Mr. Coscia did not raise those issues in his Objection:

> I am writing to formally object to the proposed distribution motion filed and granted on June 18, 2026, *specifically the proposal to accept and pay late-but-otherwise-eligible claims* that were submitted after the August 8, 2022 claim deadline.
>
> My objection is not to the calculation of my own claim based on my individual transactions. *My objection is to the inclusion of late claims in the pro rata distribution pool. According to the motion materials, 871 late-but-otherwise-eligible claims were accepted even though they were received or postmarked after the original claim deadline. I understand that A.B. Data's position is that these claims did not delay administration, but their inclusion appears to materially dilute the recovery of timely claimants who complied with the Court-approved deadline.*
>
> I respectfully request that you reconsider your entry of the order approving of the net settlement fund.
>
> *I object to the acceptance of late claims absent a specific showing that accepting such late claims is fair to timely claimants, supported by good cause or excusable neglect, and does not materially prejudice timely claimants.* Here, the late claims appear to significantly increase the total Transaction Claim Amount denominator and reduce the pro rata recovery of timely claimants.

ECF No. 127 (emphasis added). The Objection makes no reference to class-wide notice issues or generalized concerns about reliability or settlement administration. The relief Mr. Coscia sought in his Objection makes clear that his focus was squarely on the acceptance of late claims and the alleged dilution of his settlement payment.

Now, Mr. Coscia claims that the Objection was much more expansive and the Court failed to address other issues contained therein. As courts have made clear, motions for reconsideration may not be used as means to nakedly raise new concerns to dispute decided issues. *See Cordero*, 574 F. Supp. 2d at 380-81 (denying motion for reconsideration where, among other things, the movant "attempted to advance different theories not previously raised before this Court").

B. The *Number* of Late Claims Is Not Material to Mr. Coscia's Original Argument that Late Claims Not Be Accepted.

If, arguably, the Reconsideration Motion could be construed in part as properly asserting that the corrected number of late but otherwise eligible claims is material evidence that was not previously before the Court, that argument still fails. The updated late claims number is not material to Mr. Coscia's underlying argument that *all* late claims should not be permitted. His argument does not depend on the number of claims. At best, if the Court accepted Mr. Coscia's view that late claims should not be accepted, the recategorization of the 547 claims that had been miscoded as late claims simply would address the issue of who is eligible to receive payment, and not whether any otherwise eligible late claims should be permitted to receive a payment from the settlement. Moreover, from an administrative integrity standpoint, while claims had been miscoded, there was no practical impact of that miscoding on those claimants' entitlement to settlement proceeds, based on the distribution A.B. Data recommended. Every claimant that had an otherwise eligible claim had been recommended to receive a payment, whether timely or late. The recategorization of certain claims has not changed that recommendation.

C. The Reconsideration Motion Does Not Identify Issues of Notice, Reliability, Equal Treatment and the Exercise of Discretion That the Court Must Address

The remainder of Mr. Coscia's arguments can be fairly characterized as an effort to distract and diminish an incontrovertible fact concerning the ability to pay late claims in this administration: the Court's Final Judgment provides that "Class Counsel, in their discretion, may accept for processing late-submitted Claims so long as the distribution of the Net Settlement Fund is not materially delayed." Final Judgment Approving Class Action Settlement (ECF No. 115) ¶ 20 ("Final Judgment"). Mr. Coscia does not dispute that the plain language of the Final Judgment provides that the only criteria to be considered in determining whether to accept late claims was whether acceptance of the claims would materially delay the distribution of the settlement. ECF No. 136 at 4-5. A.B. Data has already provided a declaration confirming that it took this into consideration in making its recommendation to allow otherwise eligible late claims to participate in the settlement. *See* ECF No. 130 ¶ 17.

Mr. Coscia further suggests that perhaps A.B. Data should have performed a more searching examination in light of the size of some late claims. But such conduct would be the opposite of an appropriate exercise of its discretion and equitable treatment to similarly situated Class Members. In *In re Flag Telecom Holdings, Ltd. Sec. Litig.*, the court resolved an analogous issue concerning whether to approve a class counsel's distribution order that proposed a claims cut-off date that would have accepted some late claims but not those of the cross-movant, who sought a later cut-off date. No. 02-CV-3400 (CM)(PED), 2011 WL 5039776, at *1 (S.D.N.Y. Oct. 21, 2011). The cross-movant's claims had been submitted three and one-half weeks prior to the submission of the motion for distribution. In advocating for its requested cut-off date, class counsel stated that it selected the cut-off date "to allow 'small' or 'simple' late claims that were filed before [the proposed cut-off date] to be processed [and pointed] to several reasons why the bar date should be set so as to allow those claims but ban [the cross-movant's] claims, including the size and complexity of [cross-movant's] claims . . . ." *Id.* at *2.

The *In re Flag Telecom* court instead sided with the cross-movant. In reaching that conclusion, the court made clear that the settlement administrator's exercise of discretion to accept late claims cannot be inequitably applied; if class counsel and the administrator had enforced the original claims filing deadline, "this Court would as well—especially since [cross-movant] has not offered any real 'excuse' for neglecting to file [its claims.] But that is not what happened here: [the administrator] continued to accept late proofs of claim . . . . and claims processing work continued [after cross-movant submitted its claims]." Given that settlement administration remained ongoing when the cross-movant's claims were received, and such claims could be processed in a reasonable time frame, the court found class counsel and the administrator had no reasonable basis to treat the cross-movant's claims differently. *Id.* at *2 ("I doubt that the additional work required to finalize [the administrator's] preliminary analysis, and make appropriate revisions to the proposed distribution plan, would take so long as to work as substantial prejudice to the other claimants who are entitled to funds from the settlement.").

Under *In re Flag Telecom*, the size of a late claim or the identity of the claimant does not itself serve as a basis to treat the claim differently from other late claims. 2011 WL 5039776, at *2 ("But the fact that the claims are sizable does not, in and of itself, make it appropriate to set a bar date so as to preclude the claim."). That is precisely what Mr. Coscia proposes to the Court. Once the discretion to accept late claims has been exercised, it must be applied equitably to all similarly situated claims that satisfy the applicable conditions. In this case, late claims could be accepted so long as they did not materially delay the administration. As stated in the declaration from A.B. Data, all of the late claims proposed to receive a portion of the Net Settlement Fund satisfy that condition. Further, in light of that exercise of discretion, the authorities Mr. Coscia cites in support of his motion (*see* ECF No. 136 at 8) are inapposite given that the Final Judgment, a draft of which is an exhibit and part of the Settlement Agreement between the Parties (*see* ECF No. 79-1), expressly gave A.B. Data the ability to accept late claims. *Dahingo v. Royal Caribbean Cruises, Ltd.*, 312 F. Supp. 2d 440, 445–47 (S.D.N.Y. 2004) and *Blank v. Jacobs*, No. 03-CV-2111, 2013 WL 1310503, at *4–6 (E.D.N.Y. Mar. 27, 2013), cited by Mr. Coscia, involved settlements with no comparable grant of discretion to the administrator, leaving the courts to apply the multi-factor *Pioneer* excusable-neglect analysis because no court-ordered standard displaced it. *See Dahingo*, 312 F. Supp. 2d at 447 ("where the analysis is moored in contract principles, *Pioneer* does not apply"). Here, the Parties agreed to and the Court approved a specific standard for evaluating late claims. Final Judgment ¶ 20. Thus, that standard controls, and the general excusable-neglect factors Mr. Coscia cites do not provide an independent basis for reconsideration.

Mr. Coscia's citation to paragraph 45 of the original Ewashko Distribution Declaration (ECF No. 125), for the proposition that A.B. Data's "no material delay" conclusion is unsupported misreads the record. That paragraph addressed A.B. Data's request for a cutoff date going forward so that future submissions would not delay distribution, not the claims already accepted and included in the recommended distribution. A.B. Data's recommendation for a prospective cutoff to prevent delay from further late submissions is not evidence that the claims already accepted caused delay; rather, it confirms that A.B. Data affirmatively considered and managed the risk of delay throughout claims processing, consistent with its obligation. Mr. Coscia's demand that A.B. Data now produce billing records, work logs, and a claim-by-claim accounting to retroactively justify a conclusion the Final Judgment already left to Class Counsel's discretion is simply not justified.

Mr. Coscia's suggestion that the settlement website should have been updated to disclose that late claims would continue to be accepted after August 8, 2022 is a new argument that was not raised in the Objection and does not undermine the adequacy of the Court-approved notice program. The Notice Plan, ECF No. 79-2, was designed to inform class members of the claims deadline and was found sufficient at final approval. Final Judgment ¶ 5. Rule 23 does not require an ongoing public accounting of every discretionary claims-administration decision made under Paragraph 20 after that notice issued. Mr. Coscia identifies no authority requiring such supplemental notice, and none of the cases he cites imposes one.

III. The Timing of the Court's Decision on the Objection Did Not Prejudice Mr. Coscia.

Mr. Coscia suggests that, but for the Court's July 2, 2026 Order on the Objection, he would have and should have had an "opportunity to address the corrected record." ECF No. 136 at 2-3. But that presupposes that Mr. Coscia was entitled to submit a response. The Court ordered Plaintiffs to respond to the Objection. *See* ECF No. 128. The Court did not similarly grant Mr.

Coscia a right to reply to Plaintiffs' response. Neither Rule 23 nor this Court's Individual Rules confer on an objecting class member an automatic right to a further round of briefing once Class Counsel has responded to an objection. Without a specific order inviting a reply, an objector's opportunity to be heard is satisfied by the objection itself. Fed. R. Civ. P. 23(e)(5) guarantees a class member the right to object to a proposed settlement or its implementation, not a right to reply to counsel's response to that objection.

Moreover, the Court was able to consider the Objection in full using all of the information available, including the correct late claims data provided by A.B. Data. Further, to the extent Mr. Coscia should have had an opportunity to respond to the corrected data and the other information provided in A.B. Data's declaration, this Reconsideration Motion has already afforded Mr. Coscia the opportunity to present the information to the Court to assess whether it impacts the prior orders. In the end, no additional remedies are required.

IV. Mr. Coscia Has Not Satisfied the Prerequisites for Obtaining a Stay of Distribution or Requiring a Separate Reserve Be Created While He Pursues the Reconsideration Motion.

Lastly, Mr. Coscia also asks the Court to alternatively impose a stay on the Distribution Order or to impose a reserve (separate and apart from the reserve already proposed by A.B. Data's distribution recommendation). ECF No. 136 at 1, 10-11. Courts consider four factors in deciding whether to grant a motion for a stay: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken v. Holder*, 556 U.S. 418, 426 (2009) (citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)). Recently, a Court in this Circuit rejected movant's request for stay pending motion for reconsideration. *See Smith v. D'Agostino*, No. 25-CV-1265 (MAV) (CDH), 2026 WL 295525, at *5 (N.D.N.Y. Feb. 4, 2026) (denying request for stay pending motion for reconsideration when movant "neither demonstrated a likelihood of success in this action or presented sufficiently serious questions going to the merits to make them a fair ground for litigation."). The Court should do likewise as to Mr. Coscia's request for a stay and a reserve. As argued above, the Reconsideration Motion fails to establish the existence of any intervening change in controlling law, evidence that was not previously available, or clear error. A reserve, like a stay, would withhold funds from claimants who have waited years for distribution, based only on an unlikely prospect of success on reconsideration. Without a possibility of success on the merits, the relief Mr. Coscia seeks, including the stay and the reserve, cannot be issued.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny the motion for reconsideration.

Dated: July 31, 2026
White Plains, New York

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned attorney certifies that this memorandum complies with the type-volume and type size limitations contained in LR 7.1(b) and (c). The memorandum has 3,301 words in Times New Roman font type in font size 12. The memorandum was prepared using Microsoft Word Office 365 which includes all text, including headings, footnotes, and quotations in the word count.

Dated: July 31, 2026

/s/ Sitso W. Bediako