

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

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KARA BILLER, as Attorney-in-Fact  
for JOAN M. MCKENNA; and JOAN  
M. MCKENNA,  
Plaintiff,

v.

S-H OPCO GREENWICH BAY  
MANOR, LLC, a/k/a BROOKSDALE  
GREENWICH BAY; BROOKDALE  
SENIOR LIVING COMMUNITIES,  
INC., a/k/a BROOKDALE SENIOR  
LIVING, INC.; BKD HB ACQUISITION  
SUB, INC.; BKD TWENTY-ONE  
MANAGEMENT COMPANY, INC.;  
and S-H TWENTY-ONE OPCO, INC.,  
Defendant.

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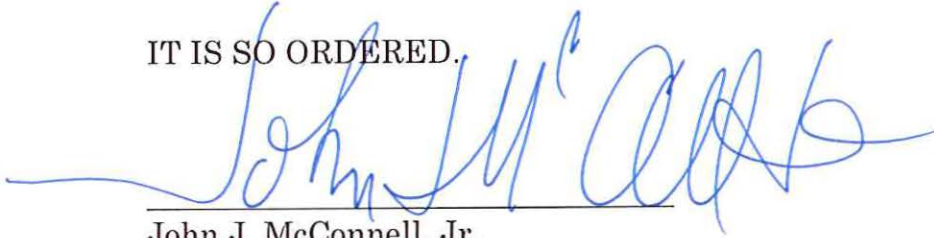
C.A. No. 19-233-JJM-PAS

ORDER

Defendants' Rule 59(e) Motion to Alter or Amend this Court's July 17, 2019 Order in Light of Newly Discovered Evidence (ECF No. 15) is DENIED. The "newly discovered evidence" to which the Defendants' refer was within their custody and they had access to it at all times. A court should "deny a motion for reconsideration based on the 'new evidence' exception if that evidence 'in the exercise of due diligence[] could have been presented earlier.'" *Emmanuel v. Int'l Broth. of Teamsters, Local Union No. 25*, 426 F.3d 416, 422 (1st Cir.2005). "[A] district court does not abuse its discretion by denying a motion for reconsideration grounded on the discovery of evidence that, in the exercise of due diligence, could have been presented earlier." *Id.* (citing *Hayes*

*v. Douglas Dynamics, Inc.*, 8 F.3d 88, 91 n. 1 (1st Cir.1993)). Such is the case here,  
and so the Court DENIES Defendants' Motion to Alter. ECF No. 15.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "John J. McConnell, Jr.", written over a horizontal line.

John J. McConnell, Jr.  
United States District Judge

August 22, 2019