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FOR PUBLICATION

IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

OFFICE OF THE ATTORNEY
GENERAL AND DIVISION OF
IMMIGRATION SERVICES,

Petitioners,

vs.

Sarah G. Gascon,

Respondent.

CIVIL ACTION NO. 06-0052E

DENIAL OF RESPONDENT'S
MOTION TO RECONSIDER
WITHOUT HEARING

I. INTRODUCTION

THIS MATTER came to the attention of the Court on June 19, 2006, The Court has read Respondent's points and authorities in support of her Motion For Reconsideration and is prepared to submit its ruling and order without hearing.

II. AUTHORITY

Motions for reconsideration are governed by Rule 59 and are considered an extraordinary measure to be taken at the Court's discretion. See *Yuba Natural Resources, Inc. v. United States*, 904 F.2d 1577, 1583 (Fed. Cir. 1990). The Commonwealth Supreme Court articulated a limited number of grounds to warrant a court to revisit an already decided matter. Consequently, only an

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1 "intervening change of controlling law, the availability of new evidence, or the need to correct a
2 clear error or prevent manifest injustice" are sufficient grounds for reconsideration. *Camacho v.*
3 *J.C. Tenorio Enterprises, Inc.*, 2 N.M.I. 408, 414 (1992).

4 Respondent grounds her Motion For Reconsideration on her claim that the Court's Denial of
5 Summary Judgment was in clear error and needs to be corrected to prevent manifest injustice.
6 Specifically, Respondent argues that the Court erred when it determined that Respondent's had no
7 legitimate expectation of privacy as an invitee in a the kitchen of a bowling alley, such that the
8 Fourth Amendment protections against unreasonable search and seizure applied.

10 III. DISCUSSION

11 As a preliminary matter, the Court is concerned that in her points and authorities in support
12 of her Motion for Reconsideration, Respondent asserts several points, none of which are supported
13 by any cited authorities. For an attorney to submit a memorandum of law without any supporting
14 case law or authority is a dodgy practice at best because it signals to the Court that the attorney
15 submitting the papers either has no authority to support his contentions or simply does not wish to
16 perform the research to bolster his bold assertions. Either way, the attorney risks provoking the
17 Court's ire.

18 Motions for reconsideration in effect ask the Court to re-reflect on the law and facts set forth
19 in the parties' original motion because of (1) an intervening change in law; (2) the availability of
20 new evidence; or (3) the need to correct a clear error. Presumably, in reaching its original decision,
21 the Court has diligently read each party's arguments, assiduously researched the law, and carefully
22 analyzed the material facts within the law to render a competent decision. Thus, when a party asks a
23 court to reconsider its earlier decision, the moving party has a substantial burden to overcome.
24 However, Respondent appears unable to grasp the seriousness of such a motion in light of her
25 rhetoric, which substitutes contrariety for reason, and is devoid of any case law support.

26 As the Court found earlier, Respondent's expectation of privacy was low in comparison to
27 other cases where a warrant was required. For example, an overnight guest did have legitimate
28 expectation of privacy (See *Minnesota v. Olson*, 495 U.S. 91 (1990)), however an invitee, e.g.

1 someone allowed to enter a place to conduct business, did not share that legitimate expectation of
2 privacy with the overnight guest. *Rakas v. Illinois*, 439 U.S. 128 (1978). Given that Respondent
3 was in a commercial establishment, a bowling alley, she had no legitimate expectation of privacy
4 regardless of whether the sign on the door instructed that the room was for "employees only".

5 The words "employees only" do not signal that the occupants can objectively expect privacy,
6 nor does Respondent point to any factually similar authority supporting the contention. Although
7 the "employees only" sign is utilized to keep the general public out of certain areas in a public
8 establishment, the reasoning behind them is not to protect the privacy of the inhabitants, but for
9 myriad other reasons, such as protecting the public from hazardous areas and maintaining an
10 environment where employees may work free from being hassled by a wandering member of the
11 public. Respondent's argument is unpersuasive and is rejected in its entirety.

12
13 **IV. CONCLUSION**

14 For the foregoing reasons, Respondent's Motion for Reconsideration is DENIED.

15 It is further ordered that Respondent appear for a hearing on an order to show cause why she
16 should not be deported on July 6, 2006 at 1:30 p.m. in courtroom 223A.

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18 **SO ORDERED** this 26 day of June, 2006.

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22 DAVID A. WISEMAN, Associate Judge
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