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FOR PUBLICATION

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

SHINJI FUJIE AND TOSHIN GROUP)
INTERNATIONAL, INC.)

PLAINTIFFS,)

vs.)

JOAQUIN Q. ATALIG AND)
RAMON QUICHOCHO,)

DEFENDANTS.)

CIVIL CASE NO. 10-0131

**MEMORANDUM OPINION
AND ORDER**

JOAQUIN Q. ATALIG AND)
RAMON QUICHOCHO,)

COUNTER-PLAINTIFFS,)

vs.)

SHINJI FUJIE AND TOSHIE GROUP)
INTERNATIONAL, INC., AND)
STEPHEN J. NUTTING,)

COUNTER-DEFENDANTS.)

I. INTRODUCTION

This is a suit by the lessees of land, Shinji Fujie and Toshin Group International, Inc., against the lessor of the land and his attorney, Joaquin Q. Atalig and Ramon Quichocho ("Atalig" and "Quichocho"), respectively. The Plaintiffs brought this suit, asserting a variety of claims,

1 following the Defendants' attempt to terminate the lease at issue in this case. The Court concluded,
2 on lengthy and detailed consideration, that the Plaintiffs were entitled to partial summary judgment.
3 The Plaintiffs' motion for partial summary judgment was, accordingly, granted.

4 Thereafter, the Defendants filed a motion for reconsideration. In response, the Plaintiffs
5 filed for sanctions against the Defendants. Similarly, the Defendants filed a motion for sanctions
6 against the Plaintiffs.

7 The Court issued an Order to Show Cause against Quichocho and Robert Myers ("Myers")
8 in response to the motion for reconsideration, which contains abusive and derogatory language
9 directed at the Court and Stephen Nutting.

10 The hearing in this matter was set for September 3, 2013, at 9:00 A.M. The Defendants in
11 this case, Joaquin Atalig and Ramon Quichocho, together with Atalig's attorney, Robert Myers,
12 filed a lawsuit against the undersigned at 7:54 A.M. on September 3, 2013. Quichocho filed a
13 motion to disqualify, in this case, thirteen minutes after the lawsuit was filed. The hearing in this
14 matter was continued to September 6, 2013, to allow the Court to consider the Motion to
15 Disqualify. The Motion to Disqualify was subsequently denied from the bench.

16 **II. DISCUSSION**

17 The Defendants filed a motion for reconsideration of the Court's Memorandum Opinion and
18 Order issued on May 10, 2013. The Plaintiffs responded by alerting the Court that the majority of
19 the Defendants' motion for reconsideration was copied from the Defendants' opposition to
20 summary judgment. Shortly thereafter, the Plaintiffs filed a motion for sanctions against the
21 Defendants for refusing to withdraw the motion for reconsideration. The Defendants responded by
22 filing a motion for sanctions against the Plaintiffs.

23 Less than an hour before the hearing, Defendant Ramon Quichocho filed a motion to
24 disqualify the undersigned. The Court begins its analysis by examining the motion to disqualify.

1 **A. MOTION TO DISQUALIFY**

2 The Motion to Disqualify is denied. The Court finds that a reasonable person with
3 knowledge of all of the facts would not question the impartiality of the undersigned in this matter.

4 Defendant Quichocho's Motion to Disqualify was made pursuant to 1 CMC § 3308(a): "A
5 justice or judge of the Commonwealth shall disqualify himself or herself in any proceeding in
6 which his or her impartiality might reasonably be questioned." The Court employs an objective
7 standard to determine when disqualification is necessary under § 3308(a). Tudela v. Superior Court,
8 2010 MP 6 ¶ 25. "Under this standard, a trial judge is required to recuse himself or herself when 'a
9 reasonable person with knowledge of all the facts would conclude that the judge's impartiality
10 might be questioned.'" Saipan Lau Lau Dev., Inc. v. Superior Ct., 2000 MP 12 ¶ 5 (citation
11 omitted). There are no strict procedural requirements for bringing a motion disqualify under
12 § 3308(a) "and the motion is not strictly construed against recusal." Id. (citation omitted). Further,
13 the motion is not subject to the affidavit requirement of Canon 3(D)(c) of the Commonwealth Code
14 of Judicial Conduct. Tudela, 2010 MP ¶ 15.

15 In the Commonwealth, "[t]he mere filing of a complaint of judicial misconduct is not
16 grounds for recusal." In re Estate of Malite, 2010 MP 20 ¶ 18 (quoting Ginsberg v. Evergreen Sec.,
17 Ltd., 570 F.3d 1257, 1265 (11th Cir. 2009). "It would be detrimental to the judicial system if a
18 judge had to disqualify himself anytime someone filed a complaint about his conduct." Id.
19 "Otherwise, an attorney would need only file a complaint, possibly groundless, to avoid a particular
20 judge thereafter." Id. (quoting Ball v. Melsur Corp., 633 A.2d 705, 709 (Vt. 1993)). Here,
21 Quichocho and Myers filed a lawsuit against the undersigned, not a judicial complaint. However,
22 the reasoning of In re Estate of Malite is equally applicable to this case. Namely, "'[a] judge is not
23 disqualified merely because a litigant sues or threatens to sue him.' Such an easy method for
24 obtaining disqualification should not be encouraged or allowed." Ronwin v. State Bar of Arizona,

1 686 F.2d 692 (9th Cir. Ariz. 1981) (quoting United States v. Grismore, 564 F.2d 929, 933 (10th Cir.
2 1977)). "[E]ach judge must be alert to avoid the possibility that those who would question his
3 impartiality are in fact seeking to avoid the consequences of his expected adverse decision."
4 Commonwealth v. Caja, (NMI Super. Ct. April 23, 1999) (Order Den. Defs.' Mot. Disq. of
5 Associate Judge John Manglona at 3) (citations omitted).

6 Here, the facts and circumstances of this case indicate that the lawsuit and accompanying
7 motion to disqualify were filed solely to avoid an adverse decision. First, the events complained of
8 in the lawsuit against the undersigned occurred over two years ago. Second, the lawsuit and the
9 motion to disqualify were filed less than an hour before the sanctions hearing. Third, the Defendants
10 have not served the undersigned with the lawsuit. Finally, this is not the first time Quichocho has
11 used a lawsuit to avoid a potentially adverse ruling. Quichocho recently delayed a hearing before
12 the Honorable Judge Wiseman by filing a lawsuit against his wife, Faythe Wiseman. Similar to this
13 case, Quichocho did not inform Judge Wiseman prior to the hearing that a potentially disqualifying
14 lawsuit had been filed.

15 The timing of the lawsuit filed by the Defendants is not a coincidence. The motion to
16 disqualify was meant to delay the sanctions hearing and prevent an adverse ruling. It is not a
17 strategy that will be permitted in this Court. Accordingly, the Court holds that the mere filing of a
18 lawsuit against the presiding judge does not, on its own, constitute grounds for recusal.

19 Having reviewed the facts and circumstances giving rise to Quichocho's motion, the Court
20 does not believe that a reasonable person would question the impartiality of the undersigned.

21 Therefore, the Motion to Disqualify is denied.

22 **B. MOTION TO RECONSIDER**

23 The Defendants move the Court to vacate its Opinion and Order issued on May 10, 2013,
24 pursuant to Rule 59(e). Motions for Reconsideration are governed by Rule 59(e) of the

1 Commonwealth Rules of Civil Procedure. Reconsideration of an order is an extraordinary measure
 2 to be taken at the Court’s discretion. Commonwealth v. Brana, Civil Action Nos. 04-0583, 05-0006
 3 (NMI Super. Ct. November 28, 2005) (Order Den. Recon. at 1) (citations omitted). Motions to
 4 reconsider “run contrary to notions of finality and repose [and] should be discouraged. In re August,
 5 1993 Regular Grand Jury, 854 F. Supp. 1403 (S.D. Ind. 1994). “[T]he standard for approving a
 6 motion for reconsideration in the civil context is ‘an intervening change of controlling law, the
 7 availability of new evidence, or the need to correct a clear error or prevent manifest injustice.’”
 8 Commonwealth v. Eguia, 2008 MP 17 ¶ 7 (quoting Camacho v. J.C. Tenorio Enter., Inc., 2 NMI
 9 408, 414 (1992)).

10 Motions for reconsideration can be effective devices for correcting errors of law, calling
 11 attention to new evidence, or preventing manifest injustice. Unfortunately, motions for
 12 reconsideration are often used in the Commonwealth to delay the administration of justice and
 13 increase the costs of litigation. Here, the Defendants filed a motion for reconsideration that is
 14 almost entirely a word for word copy of their previously filed opposition to summary judgment.
 15 The following portions of the Defendants’ motion for reconsideration appear to be exact copies,
 16 regurgitated word for word, from the Defendants’ opposition to summary judgment:

Motion for Reconsideration	Opposition to Motion for Summary Judgment
The gist: The word abandon has a different meaning than the word abandonment. Found at: P. 6 L. 13 – P. 7 L 8.	Verbatim copy at: P. 6 L. 9 – P. 7 L. 7.
The gist: Abandonment is an issue of fact. Found at: P. 8 L. 5 – L. 14.	Verbatim copy at: P. 7 L. 9 – 18.
The gist: Plaintiff abandoned the premises in 2006. Found at: P. 8 L. 16 – L. 22.	Verbatim copy at: P. 7 L. 20 – 26.
The gist: Notice of termination was valid. Found at: P. 8 L. 24 – P. 9 L. 21.	Verbatim copy at: P. 8 L. 1 – 6, 11-17; P. 5 L. 22 – P. 6 L. 4.

<p>1 The gist: Defendants did not slander Plaintiff's title.</p> <p>2 Found at: P. 9 L. 28 – P. 10 L. 13; P. 10 L. 13 –</p> <p>3 22;¹ P. 10 L. 27 – P. 11 L. 7.</p>	<p>Verbatim copy at: P. 11 L. 25 – P. 12 L. 10; P. 12 L. 11 – 16; P. 12 L. 17 – 26.</p>
<p>4 The gist: Plaintiffs are not entitled to summary judgment for breach of contract.</p> <p>5 Found at: P. 12 L. 17 – P. 13 L. 10.</p>	<p>Verbatim copy at: P. 3 L. 13 – P. 4 L. 4.</p>
<p>6 The gist: Atalig did not breach his contractual duty to provide the Plaintiff with quiet enjoyment of the property.</p> <p>7 Found at: P. 13 L. 24 – P. 14 L. 17²</p>	<p>Verbatim copy at: P. 4 L. 25 – P. 5 L. 17.</p>
<p>8 The gist: Quichocho did not interfere with the lease.</p> <p>9 Found at: P. 14 L. 22 – P. 16 L. 10³</p>	<p>Verbatim copy at: P. 9 L. 18 – P. 11 L. 4</p>

11 The Defendants' motion to reconsider does not call the Court's attention to law that the

12 Court overlooked in its order; it does not reveal the existence of new evidence; it does not direct the

13 Court to manifest error of fact or law. Instead, the Defendants' arguments are literally copied from

14 their opposition to summary judgment, word for word, and styled as a motion to reconsider. The

15 motion for reconsideration filed by Defendants has wasted time, money, and unduly burdened the

16 the Court. Defendants' motion for reconsideration is denied.

17 **C. MOTION FOR RELIEF FROM ORDER**

18 Defendants' motion indicates that Defendants seek relief from the Court's Order and

19 Opinion issued on May 10, 2013, pursuant to NMI R. Civ. P. 60(b). The Defendants identify the

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22 ¹ In this paragraph the Defendants spiced things up by criticizing the Court. Otherwise, it is a replication of page twelve, lines eleven through sixteen of Defendants' Opposition.

23 ² In this paragraph the Defendants added several new lines in reference to a man named Mustafa Shakir. Aside from Defendants' minor alteration, the lines on pages thirteen and fourteen are an encore of the prose found on pages four and five of the Defendants' Opposition.

24 ³ The Defendants' added a few additional words and included a snide footnote. In all other respects, the lines on pages fourteen through sixteen are a recapitulation of Defendants' Opposition.

1 legal standard for NMI R. Civ. P. 60(b), but do not further address the issue in their motion.

2 Therefore, Defendants' Motion for Relief From Judgment Under Rule 60(b) is denied.

3 **D. RULE 11 SANCTIONS**

4 On June 17, 2013, the Plaintiffs filed a motion for sanctions against Defendants, pursuant to
5 NMI R. Civ. P. 11, for filing a frivolous motion for reconsideration. On July 1, 2013, the
6 Defendants filed an opposition and counter-motion for sanctions against counsel for Plaintiffs. On
7 August 6, 2013, the Court issued an Order to Show Cause against Defendants for violation of NMI
8 R. Civ. P. 11(b). For the reasons that follow, the Court denies both motions for sanctions. On its
9 own initiative, the Court imposes sanctions against Ramon Quichocho and Robert Myers.

10 Motions for sanctions are governed by Rule 11 of the Commonwealth Rules of Civil
11 Procedure. "By presenting to the court . . . [a] written motion . . . an attorney . . . is certifying to the
12 best of the [attorney's] knowledge, information and belief, formed after an inquiry reasonable under
13 the circumstances, it is not being presented for any improper purpose, such as to harass or cause
14 unnecessary delay or needless increase in the cost of litigation." NMI R. Civ. P. 11(b)(1). If the
15 Court determines that a motion has been filed to harass, delay proceedings, or increase the cost of
16 litigation, then the Court may impose appropriate sanctions upon the attorneys responsible. NMI R.
17 Civ. P. 11(c). Rule 11 sanctions may be initiated by motion of an opposing party or by the order of
18 the Court. Id. The motion for sanctions must (1) be separate from other motions or requests; (2) and
19 must describe the specific conduct alleged to violate Rule 11(b). NMI R. Civ. P. (c)(1)(A). The
20 motion for sanctions must be served in accordance with NMI R. Civ. P. 5, but not filed unless the
21 challenged document has not been withdrawn after nine business days have passed. Id. If initiated
22 by the Court, the order to show cause must describe the specific conduct of the attorney appearing
23 to violate Rule 11(b). NMI R. Civ. P. 11(c)(1)(B). The Court may impose sanctions "sufficient to
24 deter repetition of such conduct or comparable conduct by others similarly situated." NMI R. Civ.

1 P. 11(c)(2). If an award of attorney’s fees is included as part of the sanction, “such fees must be
2 reasonable and must be incurred as a direct result of the violation.” Ferriera v. Borja, 1999 MP 23
3 ¶ 12. “A party is entitled to notice and a hearing before sanctions are imposed, but an “additional
4 hearing on the amount of the fees is not necessary to satisfy the due process requirement of the
5 Constitution.” Id. ¶ 10. The burden falls on the movant to show that the time expended was
6 reasonable. Id. ¶ 13.

7 **1. MOTION FOR SANCTIONS FILED BY THE PARTIES**

8 The Plaintiffs’ motion for sanctions does not comply with NMI R. Civ. P. 11 because it does
9 not describe the specific conduct that the Defendant is alleged to have violated. Instead, it directs
10 the Defendants to the Plaintiffs’ opposition to the Defendants’ motion for reconsideration. The clear
11 language of Rule 11(c)(1)(A) requires that the motion itself contain a description of the specific
12 conduct that is in violation of Rule 11(b). Accordingly, the Plaintiffs’ motion for sanctions is
13 denied.

14 The Defendants’ motion for sanctions was contained in the Defendants’ opposition to the
15 Plaintiffs’ motion for sanctions. A motion for sanctions must be made separately from any other
16 motion or request. NMI R. Civ. P. 11(c)(1)(A). Accordingly, the Defendants motion for sanctions is
17 denied.

18 **2. TYPOGRAPHICAL SIGNATURE OF ROBERT MYERS**

19 At the sanctions hearing on September 6, 2013, Myers informed the Court that he did not
20 authorize the motion for reconsideration or the accompanying reply. Thus, he argues that he is not
21 responsible for the inappropriate content of the motion for reconsideration and the reply. The Court
22 disagrees.

23 The Court begins its analysis by noting that Myers filed a document titled Opposition to
24 Notice of Motion and Motion for Sanctions and Order to Show Cause ("Opposition"). The

1 Opposition argues that the motion for reconsideration should be granted, is not frivolous, and
2 should not result in sanctions. The Opposition does not argue, or even hint, that Myers did not
3 approve the motion for reconsideration. To summarize, Myers argued in favor of a motion bearing
4 his name, but simultaneously denies all responsibility for the contents of the motion.

5 All documents in this case were filed electronically. Any document filed "filed or served
6 [electronically] shall be deemed to have been signed by the . . . attorney . . . and shall bear a
7 scanned facsimile or typographical signature of such person, along with the typed name, address,
8 telephone number, and Bar number of a signing attorney. Typographical signatures shall be in the
9 form of a conforming signature ("/s/")." Com. E-Filing R. 6.5(a). Here, the motion for
10 reconsideration and the reply included the typed name, address, telephone number, and bar number
11 of Robert Myers. The documents did not contain Myers's typographical signature.

12 Myers did not notify the Court that the submitted documents, bearing Myers's signature
13 block, were submitted without Myers's permission. If the documents were truly submitted without
14 Myers's permission, then Myers had an affirmative duty to inform the Court that he did not
15 authorize the documents. Myers will not be allowed reap the potential benefits of a motion bearing
16 his name while simultaneously disclaiming responsibility for its contents. Accordingly, the Court
17 holds that the motion for reconsideration and the accompanying reply are deemed to have been
18 signed by Myers.

19 **3. ORDER TO SHOW CAUSE**

20 The Court, upon its own initiative, sanctions the Defendants' counsel for violation of Rule
21 11(b) of the Commonwealth Rules of Civil Procedure. The motion for reconsideration filed by the
22 Defendants represents an incredible departure from the standards of conduct expected of attorneys
23 practicing in this jurisdiction and will not be tolerated.

1 The Defendants filed a motion for reconsideration that consists almost entirely, word for
2 word, of copied arguments from their opposition to summary judgment. The Defendants' actions
3 have wasted time, increased the expense of litigation, and squandered scarce judicial resources.
4 Accordingly, the Court finds that the Defendants' motion for reconsideration was submitted for an
5 improper purpose and that sanctions are warranted.

6 In addition, Quichocho and Myers chose to intersperse their motion for reconsideration and
7 subsequent filings with name calling, personal attacks, and wild conspiracy theories. The Court
8 finds that the inflammatory language used by Quichocho and Myers was improper and designed to
9 harass the Plaintiffs and the Court.

10 Quichocho and Myers shall be jointly and severally liable for all reasonable attorney's fees
11 and costs incurred by the Plaintiffs in responding to the Defendants' motion for reconsideration.
12 Plaintiffs are ordered to submit their costs and attorney fees within ten calendar days of the issuance
13 of this order.

14 Ramon Quichocho and Robert Myers shall each pay a fine of \$5,000 to the Clerk of Court.
15 The fine is necessary to deter repetition of their conduct in this case and in other matters before this
16 Court. Payment shall be made no later than thirty (30) calendar days following the issuance of this
17 Order.

18 **3. DISCIPLINARY PROCEEDINGS**

19 A copy of this order will be forwarded to the Disciplinary Committee of the Bar Association
20 for the initiation of proceedings against Ramon Quichocho and Robert Myers. The following
21 behavior of counsel and inflammatory language deviates from the standards required of all
22 attorneys practicing in this jurisdiction:

- 1 1. The Defendants’ attorneys have made numerous claims of racism against the undersigned.
2 They have misconstrued and misrepresented the holding of the Supreme Court in In Re
3 Govendo, 2010 MP 16.
- 4 2. Accusing the Court of “conveniently forgetting” the Commonwealth Rules of Civil
5 Procedure to benefit another party. (Mot. to Recon. 15, n. 5.)
- 6 3. Referring to a decision of this Court as “bizarre”. (Mot. to Recon. 16.)
- 7 4. The following statement: “Which begs the question whether the Court intends to get rid of
8 locals by not honoring Lease [sic] agreements that favor locals, who are fee-simple owners
9 of the lands in the CNMI.” (Mot. to Recon. 16.)
- 10 5. Accusing the Court of purposely ignoring the law and the facts. (Mot. to Recon. 17.)
- 11 6. Misrepresenting the Court’s Order by implying that Defendant Atalig is being forced from
12 his property because he is a local.⁴ (Mot. to Recon. 17.)
- 13 7. Accusing the Court of ruling against Defendants, not because they were wrong, but because
14 Ramon Quichocho is a local, married to a Filipina, and has Filipino children. (Mot. to
15 Recon. 18.)
- 16 8. Accusing the Court, without an iota of support, of committing ethical violations against
17 Quichocho. (Reply in Supp. Mot. to Recon. 6.)
- 18 9. The following statement: “On May 9, 2013, at 2:06 p.m., Nutting sent a “settlement offer”
19 to [Quichocho] and Myers. The offer was so lopsided that it leaves Quichocho and Atalig
20 wondering whether it was merely paving the way for the Court’s May 10, 2013, Order.”
21 (Decl. Quichocho Supp. Opp. Sanctions 2, n. 2.) Here, Quichocho accused the undersigned
22 and Stephen Nutting of engaging in some sort of criminal conspiracy.

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⁴ Defendant Atalig is being held to the lease agreement that he entered into, nothing more.
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1 10. Portions of the motion for reconsideration were filed on behalf of Defendant Atalig by
2 Ramon Quichocho. Ramon Quichocho does not represent Defendant Atalig.

3 11. Robert Myers failed to inform the Court that he did not authorize the motion for
4 reconsideration or the accompanying reply.

5 **IV. CONCLUSION AND ORDER**

6 Nearly all of the documents filed by Ramon Quichocho and Robert Myers filed in this
7 matter after May 10, 2013, are saturated with abusive language directed at this Court and Stephen
8 Nutting. The shameful behavior of counsel cannot, and will not, be tolerated. Any further motion
9 filed in this case, or any other case, containing personal attacks will be stricken without hearing and
10 will be forwarded to the Disciplinary Committee of the Bar Association.

11 **IT IS ORDERED** that a copy of this Opinion and Order and other relevant documents be
12 transmitted to the Disciplinary Committee of the Commonwealth Bar Association to consider
13 disciplinary action, if necessary, against Ramon Quichocho and Robert Myers.

14 **IT IS ORDERED** that Ramon Quichocho and Robert Myers are jointly and severally liable
15 for all reasonable attorney's fees incurred by the Plaintiffs in responding to the Defendants' motion
16 for reconsideration. Plaintiffs shall submit their fees and costs within ten (10) days of this Order.

17 **IT IS ORDERED** that Ramon Quichocho and Robert Myers are each fined \$5,000 for their
18 abusive filings in this matter. Payment shall be made no later than thirty (30) calendar days
19 following the issuance of this Order.

20 **ENTERED** on this 23rd day of September, 2013.

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/s/
KENNETH L. GOVENDO
ASSOCIATE JUDGE