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

JESUS R. **SABLAN**, Senator,) Civil Action No. 94-500
Plaintiff,)

v.

FROILAN C. TENORIO, Governor,)
Commonwealth of the Northern)
Mariana Islands, NINTH NORTHERN)
MARIANAS COMMONWEALTH)
LEGISLATURE, and JUAN S.)
DEMAPAN, PAUL A. **MANGLONA**,)
DAVID M. **CING**, EUSEBIO A **HOCOG**,)
and RICARDO S. ATALIG,)
Senators,)

Defendants.)
_____)

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

This matter came before the Court on August 17, 1994, on the Motion of Plaintiff Senator Jesus R. **Sablan** for reconsideration of a portion of this **Court's** Memorandum Decision on Motions to Dismiss and Judgment, issued July 18, 1994. Defendants oppose the motion.

Plaintiff moves for reconsideration under Com. R. Civ. P. 59(e). This Rule provides that "[a] motion to alter or amend the judgment shall be served not later than ten days after the entry of the judgment," but does not specify the proper grounds for bringing such a motion. While no reported Commonwealth case

1 deals specifically with Rule 59 (e), the Commonwealth Supreme Court
2 has noted that:

3 Most recent decisions suggest that the major grounds
4 that justify reconsideration involve an intervening
5 change of controlling law, the availability of new
evidence, or the need to correct a clear error or
prevent manifest injustice.

6 *Camacho v. J.C. Tenorio Enterprises, Inc.*, 2 N.M.I. 408, 414
7 (1992). This list mirrors the test employed in the Ninth Circuit
8 for a motion under the analogous Fed. R. Civ. P. 59 (e). See All
9 Hawaii Tours v. Polynesian Cultural Center, 116 F.R.D. 645, 649
10 (D. Haw. 1987) (listing same three grounds). Under federal cases,
11 a motion for reconsideration which presents no arguments that were
12 not already presented prior to judgment should be denied. *Id.*
13 Moreover, reconsideration motions are inappropriate vehicles for
14 arguments which could or should have been raised prior to
15 judgment. As one court put it,

16 if it be held that 59 (e) can be used to file a brief in
17 opposition to the judge's opinion in rendering final
18 judgment, the rule becomes a mischief-maker rather than
a means for quickly correcting mistakes.

19 Johnson v. City of Richmond, 102 F.R.D. 623, 624 (E.D. Va. 1984).

20 The motion at bar cannot be characterized as falling within
21 any of the three grounds set forth above. Plaintiff neither cites
22 a change in controlling law nor the discovery of new evidence.
23 While Plaintiff strongly disagrees with both the reasoning and the
24 result of the Court's July 18, 1994 Memorandum Decision, the
25 grounds expressed do not rise to an allegation of "clear error."
26 Rather, the Memorandum supporting Plaintiff's motion is best

1 characterized as a "brief in opposition to the judge's opinion."^{1/}

2 Because Plaintiff's arguments could have been presented
3 during the extensive briefing and argument which preceded the
4 Court's entry of judgment in this matter, reconsideration is not
5 proper under Rule 59(e). Plaintiff's motion is therefore
6 DENIED.^{2/}

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8 So ORDERED this 22 day of August, 1994.

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11 ALEXANDRO C. CASTRO, Presiding Judge
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22 The sole argument raised in Plaintiff's motion which
23 arguably merits consideration is the contention that this Court
24 made factual findings in the course of its *Insular Cases* analysis
25 which are impermissible under Com. R. Civ. P. 56. As Defendants
26 correctly observe, prior to the July 13, 1994 hearing, the Court
27 consolidated Plaintiff's preliminary injunction motion with the
28 merits of trial subject to Com. R. Civ. P. 65(a)(2). All parties
had notice of this consolidation and none objected to it. *See*
Memorandum Decision at 3, n.1. Therefore, the Court's July 18
Judgment was based on the preponderance of the evidence. *Id.* at
16.

27 ^{2/} At oral argument, Defendant Governor Tenorio moved orally
28 for an award of fees and costs incurred in responding to this
motion. Such a request is not proper unless brought by noticed
motion, affording the responding party an opportunity to be heard.
Defendant Governor's motion is therefore denied.