

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Zachary Harris v. Bechtel Marine Propulsion Corporation and Fluor Marine Propulsion, LLC

Harris · No. 4:20-cv-00360-JCG · Decided March 6, 2026

SUMMARY

The United States District Court for the District of Idaho denied Defendants’ motion for reconsideration of an order imposing lesser sanctions under Federal Rule of Civil Procedure 37. The Court declined to replace adverse-inference jury instructions concerning a non-disclosed witness and an allegedly unpreserved bus etiquette document with a deposition or to remove the document-related sanction. The Court also ordered the parties to meet and confer and submit an updated proposed scheduling order in advance of the November 2026 jury trial.

CASE DETAILS

COURT	United States District Court for the District of Idaho
WRITING FOR THE COURT	Jennifer Choe-Groves
JURISDICTION	United States District Court for the District of Idaho
DECIDED	March 6, 2026
DOCKET	4:20-cv-00360-JCG
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 54(b) for reconsideration of an interlocutory order that partially denied Plaintiff's request for terminating sanctions and imposed lesser sanctions, including adverse-inference jury instructions.
STANDARD OF REVIEW	A motion to reconsider an interlocutory order under Rule 54(b) is evaluated under substantially the same standards as a motion under Rule 59(e). Reconsideration is an extraordinary remedy generally limited to manifest errors of law or fact, newly discovered or previously unavailable evidence, manifest injustice, or an intervening change in controlling law.
PRECEDENTIAL VALUE	unpublished and nonprecedential district-court order

TOPICS

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QUESTIONS PRESENTED

1. Whether Defendants satisfied the standard for reconsideration of the prior sanctions order by arguing that a deposition should replace the adverse-inference instruction concerning Susan Rankin.
2. Whether Defendants satisfied the standard for reconsideration by asserting that the 2016 PDF version of the bus etiquette document remained unchanged and therefore constituted a preserved 2018 version.
3. Whether the prior adverse-inference sanctions order should be revised under Federal Rule of Civil Procedure 54(b).

HOLDINGS

1. A motion to reconsider an interlocutory order under Rule 54(b) will generally be granted only upon a manifest error of law or fact, newly discovered or previously unavailable evidence, manifest injustice, or an intervening change in controlling law; it may not be used to raise arguments or evidence that could reasonably have been presented earlier or to take a second bite at the apple.
2. Defendants were not entitled to reconsideration or to substitute a deposition for the adverse-inference jury instruction because their arguments were previously available, did not identify newly discovered evidence or an intervening change in law, and did not demonstrate clear error or manifest injustice.
3. Defendants were not entitled to reconsideration or removal of the adverse-inference sanction concerning the bus etiquette document because they offered no new evidence establishing that the 2016 PDF remained unchanged through the relevant 2018 period and did not show clear error or manifest injustice.

KEY QUOTATIONS

“motions for reconsideration are requests for an “extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.”” (2)

“A motion for reconsideration is not intended to provide litigants with a “second bite at the apple.”” (3)

FACTUAL BACKGROUND

Plaintiff sought terminating sanctions based on Defendants' nondisclosure of fact witness Susan Rankin and alleged failure to preserve a version of a bus etiquette document from the 2018 period relevant to Plaintiff's discharge. The Court previously declined to dismiss the action and instead ordered adverse-inference jury instructions concerning those matters. Defendants argued that a deposition would be a more appropriate sanction and that a 2016 PDF version of the document remained unchanged, but the Court found that these arguments and evidence did not satisfy the standard for reconsideration.

PROCEDURAL HISTORY

The Court previously granted in part and denied in part Plaintiff's motion for terminating sanctions under Federal Rule of Civil Procedure 37. Instead of dismissing the action, the Court imposed lesser sanctions concerning Defendants' nondisclosure of a fact witness and failure to preserve a relevant bus etiquette document. Defendants sought reconsideration, and the Court denied the motion, directing the parties to submit an updated proposed scheduling order before trial.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Defendants' motion for reconsideration was denied. The parties were ordered to meet and confer and file an updated proposed scheduling order by March 13, 2026, in preparation for the jury trial set for November 16-20, 2026.

CASES CITED

- Lindstrom v. Bingham Cnty., Idaho, No. 1:17-cv-00019-DCN, 2018 WL 3186925, at *2 (D. Idaho June 28, 2018)
- Hathaway v. Idaho Pacific Corp., No. 4:15-cv-00086-DCN, 2017 WL 6268514, at *1 (D. Idaho Dec. 8, 2017)
- Thomason v. Moeller, No. 4:16-cv-141-BLW, 2017 WL 3723638, at *1 (D. Idaho Aug. 29, 2017)
- Kona Enters., Inc. v. Estate of Bishop, 229 F.3d 877, 890 (9th Cir. 2000)
- Santoro v. Ocwen Loan Servicing, LLC, No. 6:14-cv-00522-MK, 2020 WL 97784, at *1 n.1 (D. Or. Jan. 8, 2020)
- Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009)
- Carroll v. Nakatani, 342 F.3d 934, 945 (9th Cir. 2003)
- Costello v. United States Gov't, 765 F. Supp. 1003, 1009 (C.D. Cal. 1991)
- Weeks v. Bayer, 246 F.3d 1231, 1236 (9th Cir. 2001)
- Wood v. Ryan, 759 F.3d 1117, 1121 (9th Cir. 2014)

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO ZACHARY HARRIS, Plaintiff, Case No. 4:20-cv-00360-JCG BECHTEL MARINE PROPULSION | OPINION AND ORDER CORPORATION and FLUOR MARINE PROPULSION, LLC, Defendants. Before the Court is Defendants Bechtel Marine Propulsion Corporation's ("Bechtel") and Fluor Marine Propulsion, LLC's ("Fluor") (collectively "Defendants") Motion for Reconsideration of Order (Dkt.

138) on Plaintiff's Motion for Terminating Sanctions (Dkt. 108) ("Defs.' Br." or "Def.'s Mot.") (Dkt. 140). Plaintiff Zachary Harris ("Harris" or "Plaintiff") opposed the motion, and Defendants

filed a reply. Pl.'s Resp. Opp'n Defs.' Mot. Reconsideration (Dkt. 140) ("Pl.'s Resp. Br.") (Dkt. 144); Defs.' Reply Supp. Mot. Reconsideration (Dkt. 140) ("Defs.' Reply Br.") (Dkt.

145). For the following reasons, the Court denies Defendants' Motion. **LEGAL FRAMEWORK** Federal Rule of Civil Procedure 54(b) allows a district court to revise any order "that adjudicates fewer than all of the claims... at any time before the entry of a judgment adjudicating all the claims[.]" Fed. R. Civ. P. 54(b). District courts throughout the Ninth Circuit are frequently guided by substantially the same standards as those used to reconsider final orders pursuant to Federal Rule of Civil Procedure 59(e).

See e.g., *Lindstrom v. Bingham Cnty.*, Idaho, No. 1:17-cv- 00019-DCN, 2018 WL 3186925, at *2 (D. Idaho June 28, 2018) (citing Ninth Circuit law applying Rule 59(e) when using court's inherent power to reconsider an interlocutory order); *Hathaway v. Idaho Pacific Corp.*, No. 4:15-cv-00086- DCN, 2017 WL 6268514, at *1 (D. Idaho Dec. 8, 2017) (applying Rule 59(e) to motion for reconsideration of evidentiary rulings and sanctions issued prior to trial); *Thomason v. Moeller*, No. 4:16-cv-141-BLW, 2017 WL 3723638, at *1 (D.

Idaho Aug. 29, 2017) (noting that although a district court has the inherent power to modify its interlocutory orders prior to entry of judgment, absent highly unusual circumstances, a motion for reconsideration will not be granted "unless the district court is presented with newly discovered evidence, committed clear error, or there is an intervening change in the controlling law") (citing *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir.

2000)); *Santoro v. Ocwen Loan Servicing, LLC*, No. 6:14-cv-00522-MK, 2020 WL 97784, at *1 n.1 (D. Or. Jan. 8, 2020) (noting the considerations of Rule 59(e) "govern[] reconsideration of interlocutory **OPINION AND ORDER — 2 orders under Rule 54(b).**") (citing *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009)). While Federal Rule of Civil Procedure 59(e) permits a district court to reconsider and amend a previous order, motions for reconsideration are requests for an "extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources." *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir.

2003). The high bar that movants must overcome to prevail on a motion for reconsideration reflects the courts' "concerns for preserving dwindling resources and promoting judicial efficiency." *Costello v. United States Gov't*, 765 F. Supp. 1003, 1009 (C.D. Cal. 1991).

As a result, the moving party must demonstrate that reconsideration is warranted based upon one of four grounds: (1) to correct manifest errors of law or fact; (2) to consider newly discovered or previously unavailable evidence; (3) to prevent manifest injustice; or (4) to consider an intervening change in the law. *Turner v. Burlington N. Santa Fe R. Co.*, 338 F.3d 1058, 1063 (9th Cir.

2003). A motion for reconsideration is not intended to provide litigants with a “second bite at the apple.” *Weeks v. Bayer*, 246 F.3d 1231, 1236 (9th Cir. 2001). Thus, the “motion may not be used to raise arguments or present evidence for the first time [that] could reasonably have been raised earlier in the litigation,” *Kona Enterprises, Inc.*, 229 F.3d at 890, nor is it an opportunity to reargue the moving OPINION AND ORDER — 3 parties’ positions, see *Wood v. Ryan*, 759 F.3d 1117, 1121 (9th Cir.

2014) (finding no abuse of discretion where the district court denied a motion to reconsider the judgment based on the same arguments made in the original motion). DISCUSSION On January 15, 2026, the Court granted in part and denied in part Plaintiff’s request for a sanction of dismissal against Defendants pursuant to Federal Rule of Civil Procedure 37. Opinion and Order (Jan.

15, 2026) (Dkt. 138). Rather than dismiss the case, the Court considered the arguments raised by the parties in support of their respective positions, determined that lesser sanctions were a more appropriate remedy, and ordered adverse inference jury instructions regarding the non-disclosure of a relevant fact witness and the non-disclosure of a bus etiquette document.

Id. Defendants argue first that the Court should reconsider its decision to order an adverse inference jury instruction regarding the non-disclosure of fact witness Susan Rankin, because ordering a deposition of Ms. Rankin would be a more appropriate lesser sanction. Defs.’ Br. at 1-3. Plaintiff counters that a deposition at this late stage of the proceedings would not remedy the prejudice caused to Plaintiff, because Plaintiff would no longer be able to depose Ms. Rankin when her recollection was fresh or when additional discovery could have been pursued for information regarding company-wide practices and comparators that Ms. Rankin OPINION AND ORDER — 4 might have revealed if the deposition took place during the regular discovery period.

Pl.’s Resp. Br. at 3-4. Plaintiff’s arguments are similar to the objections raised during the November 17, 2025, videoconference with the Parties regarding Plaintiff’s motion for terminating sanctions. Conf. Audio Trans. at 8:35-9:45; 10:30—12:50. Defendants offer the same arguments made previously during briefing on the motion for terminating sanctions, and offer additional arguments regarding the feasibility of a deposition that they could and should have made previously.

See Defs.’ Br.; Defs.’ Reply Br. The arguments do not raise newly discovered or previously unavailable evidence, nor do they raise an intervening change in the law, convince the Court that it clearly erred, or demonstrate that the Court’s decision results in manifest injustice. See *Turner*, 338 F.3d at 1063.

Accordingly, Defendants have not met their burden of demonstrating that reconsideration is warranted, and the Court denies Defendants’ request to order a deposition of Ms. Rankin in place of an adverse jury instruction. Defendants also argue that the Court should reconsider its finding

that Defendants failed to preserve a version of the bus etiquette document from the 2018 timeframe in which Plaintiff was discharged.

Defs.' Br. at 3-6. During the original sanctions proceedings, Plaintiff claimed that Defendants failed to produce a "Bus Etiquette.docx" file that appeared to be attached to an email sent in August OPINION AND ORDER — 5 2018. Mem. Supp. Mot. Terminating Sanctions at 6—7 (Dkt. 108-1). Defendants' response and sur-reply focused on asserting that the bus etiquette document was not intended to be an HR policy and noted that Defendants "kept one Word document on which occasional revisions were added and saved, overwriting the prior version rather than maintaining separate dated copies showing each revision." Defs." Mem.

Law Opp'n Pl.'s Terminating Sanctions Mot. at 7 (Dkt. 122); see also Defs.' Reply Pl.'s Nov. 5, 2025 Filing (Dkt. 127) Re Pl.'s Mot. Terminating Sanctions (Dkt. 108) (Dkt. 129-1). Defendants countered that they produced a 2016 pdf version of the bus etiquette document and later produced the 2025 Word version, but had no other versions. Defs." Mem. Law Opp'n Pl.'s Terminating Sanctions Mot. at 4-7.

Plaintiff's reply focused on alleged misrepresentations made by Defendants regarding the bus etiquette documents. Reply Mem. Supp. Mot. Terminating Sanctions (Dkt. 108) at 3-4 (Dkt. 127). Plaintiff also argued that the metadata from the 2025 Word version indicated that the document was created in January 2017 and modified as recently as January 2025, and therefore Defendants failed to preserve any version of the bus etiquette document from the 2018 timeframe despite the bus policies being relevant to the case since its inception.

Id. Defendants argue now that the 2016 pdf version of the document that was produced during discovery was not changed prior to Plaintiffs discharge. Defs.' OPINION AND ORDER — 6 Br. at 4 (citing Decl. (Second) of Jeff Peck on Defs.' Mot. Reconsideration (Dkt. 140-1)); Defs.' Reply Br. at 7. Plaintiff responds that Defendants only confirm the Court's finding that there was no version preserved from the relevant 2018 timeframe.

Pl.'s Resp. Br. at 4-5. Plaintiff contends that Defendants' claim that the 2016 pdf version was unchanged is unsubstantiated and should have been presented during the original sanctions proceedings. Id. at 5. The Court agrees that Defendants have not provided new evidence to support their claim or pointed to a change in the relevant law. Nor do Defendants' arguments demonstrate that the Court committed a manifest injustice by concluding that Defendants did not produce a version of the bus etiquette document from 2018, particularly given the lack of incontrovertible evidence as to whether the 2016 pdf version was unchanged and in effect at the time of Plaintiff's termination.

Accordingly, the Court denies Defendants' request to remove the sanction regarding the bus etiquette document. CONCLUSION Upon consideration of Defendants' Motion for

Reconsideration of Order (Dkt. 138) on Plaintiff's Motion for Terminating Sanctions (Dkt. 108) (Dkt. 140), and all other papers and proceedings in this action, it is hereby OPINION AND ORDER — 7 ORDERED that Defendants' Motion for Reconsideration of Order (Dkt.

138) on Plaintiff's Motion for Terminating Sanctions (Dkt. 108) (Dkt. 140) is denied; and it is further ORDERED that in light of the Court setting this case for a jury trial from November 16—20, 2026, the Parties shall, no later than March 13, 2026, meet and confer and file an updated proposed scheduling order for proceeding to trial, along with a cover letter requesting the Court to enter the joint proposed scheduling order if there are no disputes or other issues concerning scheduling that the Court needs to address.

The pre-trial order should comply with District Local Rule 16.3 (Civil) and address trial submissions, trial memorandum and objections to trial submissions, responses to trial memoranda, motions in limine, voir dire, jury instructions, and exhibit lists. If the Parties are unable to agree upon an updated proposed scheduling order, each Party shall file an updated proposed scheduling order by the deadline and contact my Case Manager, Steve Taronji, by telephone at (212) 264-1611 or via e-mail at steve_taronji@cit.uscourts.gov, to arrange a conference with the Court.

DATED: March 6, 2026 /s/ Jennifer Choe-Groves Jennifer Choe-Groves U.S. District Court Judge* * Judge Jennifer Choe-Groves, of the United States Court of International Trade, sitting by designation. OPINION AND ORDER — 8