

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Dolores Lucero v. Philip Lewis

Lucero v. Lewis · No. 2:24-cv-03116-DC-SCR (PS) · Decided December 29, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Plaintiff Dolores Lucero’s motion for reconsideration of the court’s prior order adopting findings and recommendations. The court held that although the motion was timely, Plaintiff identified no new evidence, clear error, manifest injustice, or intervening change in controlling law, and the case remains closed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dena Coggins
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 29, 2025
DOCKET	2:24-cv-03116-DC-SCR (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration under Federal Rule of Civil Procedure 59(e) of the court's prior order adopting the assigned magistrate judge's findings and recommendations. The district court denied reconsideration and ordered that the case remain closed.
STANDARD OF REVIEW	A Rule 59(e) motion for reconsideration is appropriate upon newly discovered evidence, clear error or manifest injustice, or an intervening change in controlling law; it is not an opportunity for a second bite at the apple. Local Rule 230(j) additionally requires identification of new or different facts or circumstances, other grounds for reconsideration, and an explanation for why the matters were not previously presented.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation

TOPICS

- motion for reconsideration
- civil procedure
- motions to dismiss

PRACTICE AREAS

civil procedure

federal litigation

QUESTIONS PRESENTED

1. Whether plaintiff's motion for reconsideration satisfied the requirements of Federal Rule of Civil Procedure 59(e) and Local Rule 230(j).
2. Whether plaintiff established manifest error, newly discovered evidence, an intervening change in controlling law, or another valid basis requiring reconsideration.

HOLDINGS

1. The motion for reconsideration was timely because judgment was entered on September 18, 2025, and plaintiff filed the motion on October 1, 2025.
2. Plaintiff was not entitled to reconsideration because she identified no qualifying basis for relief and merely repeated arguments that had already been presented and rejected.

KEY QUOTATIONS

“Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.”” (at 1)

“A motion for reconsideration does not, however, give the moving party a “second bite at the apple.”” (at 1)

FACTUAL BACKGROUND

Plaintiff sought reconsideration of the court's September 17, 2025 order adopting findings and recommendations. Although the motion was timely because judgment was entered on September 18, 2025 and the motion was filed on October 1, 2025, plaintiff relied on arguments previously presented in opposition to defendant's motion to dismiss and in objections to the findings and recommendations. The court had already considered and rejected those arguments.

PROCEDURAL HISTORY

The court entered judgment on September 18, 2025, following its September 17, 2025 order adopting the assigned magistrate judge's findings and recommendations. Plaintiff filed a motion for reconsideration on October 1, 2025, asserting manifest error. The court concluded that the arguments had already been raised and rejected in opposition to defendant's motion to dismiss and in plaintiff's objections to the findings and recommendations, and denied the motion.

DISPOSITION

other

CASES CITED

- *Bestran Corp. v. Eagle Comtronics, Inc.*, 720 F.2d 1019, 1019 (9th Cir. 1983)
- *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993)
- *Weeks v. Bayer*, 246 F.3d 1231, 1236 (9th Cir. 2001)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 DOLORES LUCERO, No. 2:24-cv-03116-DC-SCR (PS) 12 Plaintiff, 13 v.
ORDER DENYING PLAINTIFF’S MOTION FOR RECONSIDERATION 14 PHILIP LEWIS,
(Doc. No. 32) 15 Defendant. 16 17 This matter is before the court on Plaintiff’s motion for
reconsideration of the court’s 18 September 17, 2025¹ order adopting the assigned magistrate
judge’s findings and 19 recommendations.

(Doc. Nos. 30, 32.) 20 In her pending motion, Plaintiff invokes Rules 59(e) of the Federal Rules of
Civil 21 Procedure, which applies after judgment has been entered and provides that “[a] motion
to alter or 22 amend a judgment must be filed no later than 28 days after the entry of the
judgment.” Fed. R. 23 Civ. P. 59(e). “A timely filed motion for reconsideration under a local rule is
a motion to alter or 24 amend a judgment under [Rule] 59(e).” *Bestran Corp. v. Eagle Comtronics,*
Inc., 720 F.2d 1019, 25 1019 (9th Cir.

1983). “Reconsideration is appropriate if the district court (1) is presented with 26 newly
discovered evidence, (2) committed clear error or the initial decision was manifestly 27 1 The
court’s September 17, 2025 order was entered on the docket on September 18, 2025. (Doc. 28 No.
30.) 1 | unjust, or (3) if there is an intervening change in controlling law.” *Sch.*

Dist. No. 1J, Multnomah 2 | Cnty., Or. v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). A
motion for reconsideration does 3 | not, however, give the moving party a “second bite at the
apple.” *Weeks v. Bayer*, 246 F.3d 1231, 4 | 1236 (9th Cir. 2001) (citation omitted).

In addition, Local Rule 230() requires, in relevant part, 5 | that in moving for reconsideration of an
order denying or granting a prior motion, a party must 6 | show “what new or different facts or
circumstances are claimed to exist which did not exist or 7 || were not shown” previously, “what
other grounds exist for the motion,” and “why the facts or 8 | circumstances were not shown” at
the time the substance of the order which is objected to was 9 | considered.

L.R. 230(j). 10 Here, Plaintiff’s motion for reconsideration was timely filed because judgment was
11 | entered on September 18, 2025, (Doc. No. 31), and Plaintiff filed the pending motion for 12 |
reconsideration on October 1, 2025 (Doc. No. 32).

However, Plaintiff does not identify any basis 13 | that warrants reconsideration of the court’s
September 17, 2025 order. Plaintiff contends the court 14 | committed manifest error, but the
arguments Plaintiff advances in her motion were already raised 15 | in her opposition to

Defendant's motion to dismiss and in her objections to the findings and 16 | recommendations, and the court considered and rejected those arguments.

(See Doc. Nos. 27, 30.) 17 | Thus, Plaintiff's motion for reconsideration will be denied. 18 Accordingly, 19 1. Plaintiff's motion for reconsideration (Doc. No. 32) is DENIED; and 20 2. This case shall remain closed. 21 IT IS SO ORDERED. □ 23 | Dated: _December 28, 2025 DUC Dena Coggins 24 United States District Judge 25 26 27 28