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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

**PASTOR STEVE
SMOTHERMON,**

Plaintiff,

v.

KEITH HODGE, an individual;
KEVIN HODGE, an individual;
HODGETWINS, LLC, a Nevada
limited liability company;

Defendants.

Case No.: 2:25-cv-01858-APG-BNW

**PLAINTIFF’S RESPONSE TO
DEFENDANTS’ MOTION TO
RECONSIDER ORDER DENYING
MOTION TO CONTINUE
HEARING (ECF NO. 60)**

Plaintiff writes separately only because Defendants’ motion asks the Court to brand its own prior order (ECF No. 59) “manifestly unjust” and to sanction Plaintiff’s counsel for incivility. That request is meritless and should be denied. Reconsideration is an extraordinary remedy reserved for newly discovered evidence, clear error or manifest injustice, or an intervening change in law — not a vehicle to re-argue a motion the Court has already decided. Defendants offer nothing new; they simply disagree with the Court’s ruling. Indeed, Defendants concede the very point the Court relied upon: that their counsel can appear remotely. The Court should grant or deny a continuance as a matter of its own calendar management, but it should reject Defendants’ invitation to reconsider its order as unjust.

LEGAL STANDARD

Under Local Rule 59-1(a), reconsideration of an interlocutory order may be appropriate only where (1) there is newly discovered evidence not available when the original motion was filed, (2) the court committed clear error or the initial decision was manifestly unjust, or (3) there is an intervening change in controlling law. NV R USDCT LR 59-1. Motions for reconsideration “are disfavored,” and a movant “must not repeat arguments already presented,” on pain of “appropriate sanctions.” NV R USDCT LR 59-1. Reconsideration “should not be granted, absent highly unusual circumstances,” (*United States v. Bundy*, 406 F. Supp. 3d 932 (D. Nev. 2018)) and “is not a mechanism for rearguing issues presented in the original filings.” *United States v. Bundy*, 406 F. Supp. 3d 932 (D. Nev. 2018).

ARGUMENT

A. The motion identifies no proper ground for reconsideration and merely reargues the continuance.

Defendants do not claim newly discovered evidence or a change in controlling law. They rely solely on the “manifestly unjust” prong, resting on the same fact they advanced in their original motion — that defense counsel had pre-planned commitments out of state. The Court already weighed those conflicts and denied relief, finding that Defendants failed to show irreparable prejudice or any crisis and that appearing remotely was a “seemingly viable alternative.” ECF No. 59 at 2. Repressing the identical conflicts is precisely the repetition Local Rule 59-1(b) forbids. NV R USDCT LR 59-1. A motion for reconsideration “is not a mechanism for rearguing issues presented in the original filings,” (*United States v. Bundy*, 406 F. Supp. 3d 932 (D. Nev. 2018)) and disagreement with the Court’s exercise of its calendar-management discretion is not a basis to disturb the order.

B. There is no manifest injustice, as Defendants’ own motion concedes.

An order cannot be “manifestly unjust” when the moving party admits it can

1 comply without hardship. Defendants concede exactly that: “each of the attorneys
2 of record can step away from their previously scheduled activities to appear
3 remotely. There is no impossibility here, and if that is what must happen, it will.”
4 ECF No. 60 at 4. Their conclusion confirms that lead counsel will appear remotely
5 if reconsideration is denied. *Id.* at 6. That concession matches the Court’s own
6 finding that remote appearance was available. ECF No. 59 at 2. Where the
7 challenged order deprives Defendants of nothing — their chosen counsel will appear
8 and be heard — there is no injustice, let alone the “manifest” injustice
9 reconsideration requires. NV R USDCT LR 59-1.

10 C. Defendants’ civility arguments provide no ground for relief, and the meet-and-
11 confer record does not support their characterization.

12 Defendants devote much of their motion to the theme that Plaintiff’s counsel
13 acted uncivilly by declining to stipulate. Plaintiff declines to litigate that
14 characterization at length and notes only that the record does not bear it out: the
15 parties conferred, and Plaintiff’s position on scheduling has been communicated in
16 good faith. In any event, professional-courtesy arguments do not convert a
17 discretionary scheduling ruling into clear error or manifest injustice under Local
18 Rule 59-1. NV R USDCT LR 59-1. To the extent Defendants invoke *Ahanchian v.*
19 *Xenon Pictures, Inc.*, that decision addressed the denial of an extension of time
20 necessary to preserve a party’s opportunity to be heard on the merits; here, by
21 Defendants’ own admission, no such opportunity is lost because counsel will appear.
22 The civility authorities Defendants cite counsel restraint on all sides and do not
23 supply a ground for reconsideration.

24 CONCLUSION

25 Regardless of how the Court determines to manage its docket, Plaintiff
26 respectfully requests that the Court deny Defendants’ request to reconsider its order
27 (ECF No. 59) as “manifestly unjust,” because the motion satisfies none of the

1 grounds for reconsideration and merely reargues a matter the Court has already
2 decided.

3 Respectfully submitted this 24th day of July, 2026.

4
5 /s/ Nicole A. Westbrook

6 Nicole A. Westbrook

7 G. Michael Jackson Esq.

8 **JONES, DAVIS & JACKSON, P.C.**

9 *Attorneys for Pastor Steve*

10 *Smothermon*

11 **CERTIFICATE OF SERVICE**

12
13 I HEREBY CERTIFY that on July 24, 2026, I caused the foregoing
14 document to be electronically filed with the Clerk of the Court using CM/ECF. I
15 further certify that a true and correct copy of the foregoing document was served
16 on all counsel of record via transmission of Notices of Electronic Filing generated
17 by CM/ECF.

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26 /s/ Nicole A. Westbrook