

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
2000 MAY 31 P 3: 22
LORETTA G. WHYTE
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MINUTE ENTRY
SHUSHAN, M.J.
MAY 31, 2000

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

CIVIL ACTION

VERSUS

NO: 99-2884

c/w 99-3733

LAKESIDE IMPORTS, INC.
dba LAKESIDE TOYOTA

SECTION: "S" (1)

HEARING ON MOTION

APPEARANCES: Submitted on briefs

MOTION: MOTION OF EEOC TO RECONSIDER ORDER COMPELLING
PRODUCTION WITH REQUEST FOR ORAL ARGUMENT

DENIED.

Before the court is the motion of the U. S. Equal Employment Opportunity Commission (EEOC) to reconsider the Court's order of April 26, 2000, compelling the EEOC to produce to the defendant, under a protective order, the administrative files of Greg Quirk and David Oseng.

DATE OF ENTRY
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The Fifth Circuit has made clear that in evaluating a motion for reconsideration, the Rule 60(b) standard is applicable. As the appellate court has stated:

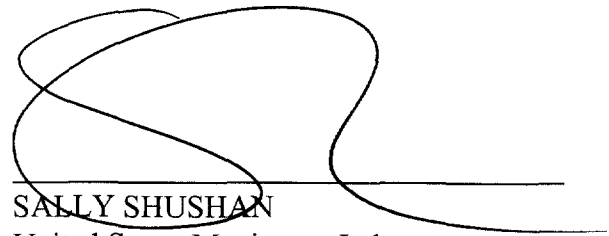
The federal rules do not recognize a "motion for reconsideration" *in haec verba*. We have consistently stated, however, that a motion so denominated, provided that it challenges the prior judgment on the merits, will be treated as either a motion "to alter or amend" under Rule 59(e) or a motion for "relief from judgment" under Rule 60(b).

Lavespere v. Niagra Mach. & Tool Works, Inc., 910 F.2d 167, 173 (5th Cir. 1990). This motion was filed within ten days after the court's ruling on the initial motion, so Rule 59(e) would apply. Under Rule 59 a motion for a new trial may be granted for any of the reasons for which rehearings have heretofore been granted in suits in equity in the courts of the United States. Under Rule 60 the court is empowered to "relieve a party from a final judgment" upon a showing of (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence ...; (3) fraud...; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; or (6) any other reason justifying relief for the operation of the judgment. " Teal v. Eagle Fleet, Inc., 933 F.2d 341, 347 (5th Cir. 1991) citing Fed. R. Civ. P. 60(b). The court enjoys considerable discretion when determining whether the movant has satisfied any of these Rule 60(b) standards. Id.

In the instant matter, the court has reviewed in detail the motion for reconsideration. There is no new law or evidence presented in this motion for reconsideration that could not have been noted, or was not already noted in the prior motion.

The EEOC argues that NLRB v. Robbins Tire & Rubber Co., 98 S.Ct. 2311 (1978) is applicable. The issue was whether the NLRB was required under the Freedom of Information Act to disclose witness statements from open administrative case files prior to the NLRB hearing. The Freedom of Information Act is not at issue in this action. The defendant, Lakeside Imports, Inc., filed its motion to compel pursuant to the Federal Rules of Civil Procedure.

In its prior decision the court gave careful consideration to National Electric Contractors Assoc. v. Walsh, 1976 WL 600 (D.D.C. 1976), EEOC v. Associated Dry Goods Corp., 101 S.Ct. 817 (1981), and Associated Dry Goods Corp. v. Equal Employment Opportunity Commission, 720 F.2d 804 (4th Cir. 1983) (Associated Dry Goods II). The EEOC's policy arguments are unpersuasive. The EEOC's motion to reconsider is DENIED. The defendant's request for fees and costs is DENIED.



SALLY SHUSHAN
United States Magistrate Judge