

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

NARRAGANSETT INDIAN TRIBE,
ACTING BY AND THROUGH THE
NARRAGANSETT INDIAN TRIBAL
HISTORIC PRESERVATION OFFICE
Plaintiff,

v.

C.A. No. 1:19-cv-00158

NICOLE R. NASON in her official
capacity as Deputy Administrator of the
FEDERAL HIGHWAY ADMINISTRATION
Defendant.

PLAINTIFF'S MOTION FOR RECONSIDERATION

Plaintiff, Narragansett Indian Tribe, by and through the Narragansett Indian Tribal Historic Preservation Office, respectfully requests that this Honorable Court reconsider its December 5, 2019 Text Order denying Plaintiff's Motion to Transfer Venue ("Motion"). Plaintiff, in order to evaluate and determine the appropriate next steps, seeks clarification as to the reason(s) for this Court's denial of its Motion.

It is well settled that "[t]he granting of a motion for reconsideration is 'an extraordinary remedy which should be used sparingly.'" *Doe v. Brown Univ.*, C.A. No. 17-191-JJM-LDA, 2018 U.S. Dist. LEXIS 196537, *1-2 (D.R.I. 2018) (quoting *Palmer v. Champion Mortg.*, 465 F.3d 24, 30 (1st Cir. 2006)). "The four grounds on which the Court may grant a Rule 59(e) motion are: (1) 'manifest errors of law or fact,' (2) 'newly discovered or previously unavailable evidence,' (3) 'manifest injustice,' and (4) 'an intervening change in controlling law.' *Ruiz v. Rhode Island*, No. 16-507 WES, 2018 U.S. Dist. LEXIS 128710, at *7 (D.R.I. Aug. 1, 2018) (quoting *Markel Am. Ins. v. Diaz-Santiago*, 674 F.3d 21, 32 (1st Cir. 2012)).

Reconsideration of Plaintiff's Motion would accomplish the avoidance of a manifest injustice and would assist "to secure the just, speedy, and inexpensive determination" of this action. See F.R.C.P. 1. Any appeal of an order relative to the Motion would be subject to an abuse of discretion standard of review. *Coady v. Ashcraft & Gerel*, 223 F.3d 1, 11 (1st Cir. 2000). Plaintiff asserts that it would be unfairly prejudiced if it opted to appeal the Text Order because it is impossible to ascertain the reason(s) why the Court denied the Motion. The Text Order does not offer any reasoning for the denial of the Motion, and thus, if Plaintiff opted to appeal the Text Order, it would be left to speculate as to the reason or reasons why the Court abused its discretion. See e.g., *United States v. Marizcales-Delgadillo*, 243 F. App'x 435, 439 (10th Cir. 2007) (explaining that when text order does not offer a reason for denial and the record is not clear for the reason(s) justifying denial, then the denial could constitute an abuse of discretion).

Accordingly, Plaintiff seeks reconsideration and clarification as to the Court's denial of the Motion.

Respectfully submitted,

NARRAGANSETT INDIAN TRIBE BY AND
THROUGH THE NARRAGANSETT INDIAN
TRIBAL HISTORIC PRESERVATION OFFICE

By its Attorneys,

/s/ William P. Devereaux

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CERTIFICATION

I hereby certify that on this 16th day of December, 2019, this document was filed electronically and is available for reviewing and downloading by the ECF registered counsel of record.

/s/ William P. Devereaux