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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Joanne Daphne Ellis,

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No. CV 07-508-PHX-MHM

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Plaintiff,

)

**ORDER**

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vs.

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K. Ross Johnston, (a.k.a. Kevin Ross  
Johnston), et al.,

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Defendants.

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16 Currently before the Court is Plaintiff Joanne Ellis's Motion for Reconsideration  
17 (Dkt. #81) of the Court's August 15, 2008 Order granting Defendant K. Ross Johnston's  
18 Motion to Dismiss due to Plaintiff's failure to comply with LRCiv 7.2(i) and the Court's  
19 June 6, 2008 Order directing Plaintiff fo file a responsive memorandum (Dkt. #78). Also  
20 currently before the Court is Defendant's Motion for Attorney's Fees. (Dkt. #80).

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21 In her Motion for Reconsideration, Plaintiff contends that she did in fact abide by  
22 the Court's June 6, 2008 Order, having prepared and mailed a Response to Defendant's  
23 Motion to Dismiss on June 18, 2008. In support of her contention, Plaintiff attaches a  
24 Response to Defendant's Motion to Dismiss dated June 18, 2008. (Dkt. #81, Exhibit A).  
25 After reviewing Plaintiff's motion and Defendant's August 8, 2008 Response, and finding  
26 good cause, the Court grants Plaintiff's Motion for Reconsideration. See Eitel v. McCool,  
27 782 F.2d 1470, 1472 (9th Cir. 1986) (stating that cases should be decided on their merits  
28 whenever reasonably possible).

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**Accordingly,**

**IT IS HEREBY ORDERED** granting Plaintiff's Motion for Reconsideration.

(Dkt. #81).

**IT IS FURTHER ORDERED** directing the Clerk of the Court to reopen this case.

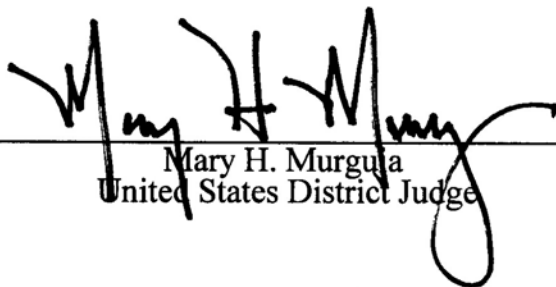
**IT IS FURTHER ORDERED** denying Defendant's Motion for Attorney's Fees

(Dkt. #80) as unripe.

**IT IS FURTHER ORDERED** directing Defendant to refile his Motion to Dismiss.

**IT IS FURTHER ORDERED** that Plaintiff must file with the Clerk of the Court and serve on opposing counsel her Response to Defendant's Motion to Dismiss no later than 10 business days after Defendant refiles his Motion to Dismiss. Failure to comply with this Order will result in the Court summarily granting Defendant's renewed Motion to Dismiss.

DATED this 24<sup>th</sup> day of November, 2008.



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Mary H. Murgula  
United States District Judge