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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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John Steven Simon,

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No. CV-09-701-PHX-MHM

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Plaintiff,

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ORDER

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vs.

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City of Phoenix, et al.,

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Defendant.

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Currently pending before the Court are Plaintiff John Steven Simon’s Motions for Reconsideration, (Dkt.#69,70), and Motion for Leave to Appeal In Forma Pauperis, (Dkt.#72). After reviewing the pleadings and determining oral argument unnecessary, the Court issues the following Order.

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In deciding whether to grant a motion for reconsideration, which is generally brought under Rule 59(e), a district court has broad discretion. Stewart v. Wachowski, 574 F. Supp. 2d 1074, 1115 (C.D. Cal. 2006) (internal citations omitted). While Rule 59(e) allows a district court to reconsider and amend its previous orders for clear error or a fundamental miscarriage of justice, the interests of finality and conservation of judicial resources behoove the courts to use the rule sparingly and only as an extraordinary remedy. Carroll v. Nakatani, 342 F.3d 934, 945 (9th Cir. 2003) (citations omitted). Moreover, a motion to reconsider may

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1 not be used to raise arguments or present evidence for the first time when they could
2 reasonably have been raised earlier in the litigation. Id.

3 There is nothing in Plaintiff Simon's Motion that would warrant the Court to
4 reconsider and amend its previous Order, which dismissed Simon's Complaint in its entirety
5 with prejudice for failure to state a claim. The Court notes that the most appropriate manner
6 in which to challenge a final judgment issued by a district court is through the appellate
7 process, rather than a Rule 59 motion. As such, Simon's Motion for Reconsideration will
8 be denied.

9 In addition, although Simon has filed a motion for the district court to grant him leave
10 to proceed in forma pauperis ("IFP"), the Court notes that it has already granted Simon's IFP
11 request, which is available on the Court's docket at document number five. As such,
12 Simon's Motion for Leave is moot, since his IFP status remains in place through the
13 appellate process.

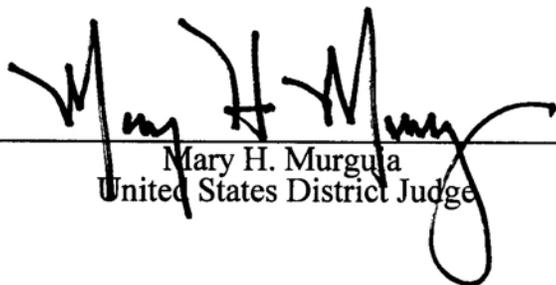
14 **Accordingly,**

15 **IT IS HEREBY ORDERED** denying Plaintiff John Steven Simon's Motion for
16 Reconsideration, (Dkt.#69,70).

17 **IT IS FURTHER ORDERED** denying as moot Plaintiff John Steven Simon's
18 Motion for Leave to Proceed In Forma Pauperis, (Dkt.#72)

19 DATED this 18th day of March, 2010.

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Mary H. Murgula
United States District Judge