

1 **WO**

2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

8  
9 Weltha J. Jones-Rankins,  
10 Plaintiff,

No. CV-12-02360-PHX-DGC

**ORDER**

11 v.

12 Cardinal Health, Inc., et al.,  
13 Defendants.

14 On May 29, 2013, the Court issued an order granting Defendant's motion to  
15 dismiss for failure to state a claim. Doc. 28. On June 17, 2013, Plaintiff filed a motion  
16 for reconsideration. Doc. 29. The Court will deny Plaintiff's motion.

17 **I. Background.**

18 In *Jones-Rankins v. Cardinal Health, Inc.*, No. CV 10-01626-PHX-FJM, 2011 WL  
19 629011 (D. Ariz. Dec. 16, 2011) ("*Jones-Rankins I*"), Plaintiff alleged discriminatory  
20 conduct against her former employer. Plaintiff's claim was defeated on the merits. *Id.*  
21 In its previous order the Court determined that *Jones-Rankins I* met the requirements for  
22 res judicata and therefore precluded Plaintiff from bringing the related claims in this case.  
23 Plaintiff's motion to reconsider alleges that the Court improperly considered statements  
24 made in the briefs of *Jones-Rankins I* and that there was no identity of claims between the  
25 two suits.

26 **II. Legal Standard.**

27 Motions for reconsideration are disfavored and are not the place for parties to  
28 make new arguments not raised in their original briefs and arguments. *See Northwest*

1 *Acceptance Corp. v. Lynnwood Equip., Inc.*, 841 F.2d 918, 925-26 (9<sup>th</sup> Cir. 1988). Nor  
2 should such motions ask the Court to rethink its analysis. *See United States v. Rezzonico*,  
3 32 F.Supp.2d 1112, 1116 (D. Ariz. 1998) (citing *Above the Belt, Inc. v. Mel Bohannon*  
4 *Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983)). Under Rule 59(e), a motion for  
5 reconsideration should not be granted unless the Court is presented with newly  
6 discovered evidence, committed clear error, the initial decision was manifestly unjust, or  
7 there is an intervening change in controlling law. *See 389 Orange Street Partners v.*  
8 *Arnold*, 179 F.3d 656, 665 (9th Cir. 1999) (citing *Sch. Dist. No. 1J v. ACandS, Inc.*, 5  
9 F.3d 1255, 1263 (9th Cir. 1993)); *Turner v. Burlington N. Santa Fe R.R. Co.*, 338 F.3d  
10 1058, 1063 (9th Cir. 2003).

### 11 **III. Analysis.**

12 Plaintiff's primary contention is that the first suit did not involve a claim for  
13 wrongful termination and so the new suit does not share an identity of claims. This  
14 argument has already been considered and rejected. While the Court acknowledged that  
15 the second suit contained claims about discrimination surrounding Plaintiff's discharge  
16 that were not asserted in the first suit, it found that those claims could have been asserted  
17 in the first suit and therefore were insufficient to establish that the two suits do not "arise  
18 from the same transactional nucleus of facts." Doc. 28 at 4 (quoting *Owens v. Kaiser*  
19 *Found. Health Plan, Inc.*, 244 F.3d 708, 714 (9th Cir. 2001)).

20 Plaintiff objects to the Court's citations from the "factual background" portion of  
21 her brief in the first case, which she argues was not part of the claim but rather the factual  
22 predicate upon which retaliation claims were based. She argues that it is a contradiction  
23 for the Court to note that the wrongful termination was mentioned in the briefing of the  
24 first suit and then to hold that the wrongful termination claim was not part of the first suit.

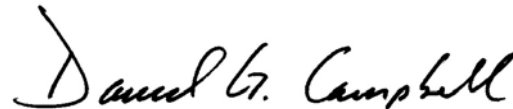
25 Identity of claims does not require that a particular claim was actually brought in  
26 the first action in the same form in which it is brought in the second action. It requires  
27 only that the claim "arise from the same transactional nucleus of facts" as the claim in the  
28 first action, *Owens*, 244 F.3d at 714, and that the claim "could have been asserted" in the

1 first action, *United States ex rel. Barajas v. Northrup Corp.*, 147 F.3d 905, 909 (9th Cir.  
2 1998). Contrary to Plaintiff's assertion, the Court's conclusion that there was an identity  
3 of claims did not rest on the fact that wrongful termination was mentioned in the first-  
4 case briefing. As explained in the order, the first suit was initiated nearly one year after  
5 Plaintiff's discharge. Doc. 28 at 5. Both suits allege discriminatory action, and all of  
6 Plaintiff's claims could have been asserted in the first suit. *Id.*

7 Plaintiff has not presented new evidence, has not shown that the Court committed  
8 clear error, and has not demonstrated an intervening change in law. Accordingly, the  
9 Court will deny the motion for reconsideration.

10 **IT IS ORDERED** that Plaintiff's motion for reconsideration (Doc. 29) is **denied**.

11 Dated this 20th day of June, 2013.

12  
13  
14 

15 \_\_\_\_\_  
16 David G. Campbell  
17 United States District Judge  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28