

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AND NOW, THIS ²⁹ DAY OF
May, 2012, IT IS HEREBY
ORDERED THAT THE WITHIN
MOTION IS DENIED.
Gary L. Lancaster
GARY L. LANCASTER,
UNITED STATES DISTRICT JUDGE

JOY TECHNOLOGIES INC. and)
JOY MM DELAWARE INC.,)

Plaintiffs,)

v.)

Civil Action No. 12-0144

NORTH AMERICAN REBUILD)
CO., INC.,)

Defendant.)

PLAINTIFFS' RULE 59 (e) MOTION TO ALTER JUDGMENT OF THE COURT

Plaintiffs, Joy Technologies, Inc. and Joy MM Delaware Inc. ("JOY"), hereby respectfully request that this Honorable Court reconsider its Order of Court dated May 15, 2012 (Doc No. 23), in part, and permit the parties to present oral argument as to the grounds for this motion.

1. JOY, through its counsel, William Pietragallo, II and Pietragallo Gordon Alfano Bosick & Raspanti, LLP, does not request reconsideration lightly or without acknowledging the limited circumstances under which such relief may be granted, and the burden it places upon the Court.

2. However, counsel for JOY feels compelled to explain to the Court the reasons for the filing of the present case, and respectfully request that the Court reconsider its finding of judicial estoppel as to JOY.

3. Further, JOY acknowledges that "[a] proper motion to alter or amend judgment must rely on one of three major grounds: (1) an intervening change in controlling law; (2) the availability of new evidence not available previously; or (3) the need to correct clear error of law