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**Standard of Review**

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4 FED. R. CIV. P. 59(e) allows a party, within twenty eight (28) days of the entry of  
5 judgment, to file a motion seeking to alter or amend said judgment. The rule itself does not  
6 specify on what grounds the relief sought may be granted, and courts have ample discretion in  
7 deciding whether to grant or deny such a motion. *Venegas-Hernández v. Sonolux Records*, 370  
8 F.3d 183, 190 (1<sup>st</sup> Cir. 2004) (citations omitted). In exercising that discretion, courts must  
9 balance the need for giving finality to judgments with the need to render a just decision. *Id.*  
10 (citing *Edward H. Bolin Co. v. Banning Co.*, 6 F.3d 350, 355 (5<sup>th</sup> Cir. 1993)).

11 Despite the lack of specific guidance by the rule on that point, the First Circuit has stated  
12 that a Rule 59(e) motion “must either clearly establish a manifest error of law or must present  
13 newly discovered evidence.” *F.D.I.C. v. World Univ., Inc.*, 978 F.2d 10, 16 (1<sup>st</sup> Cir. 1992)  
14 (citing *Fed. Deposit Ins. Corp. v. Meyer*, 781 F.2d 1260, 1268 (7<sup>th</sup> Cir. 1986)). Rule 59(e) may  
15 not, however, be used to raise arguments that could and should have been presented before  
16 judgment was entered, nor to advance new legal theories. *Bogosonian v. Woloohojian Realty*  
17 *Corp.*, 323 F.3d 55, 72 (1<sup>st</sup> Cir. 2003).

**Applicable Law and Analysis**

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19 In our Opinion and Order, we noted that Plaintiff did not comply with Local Rule 56(c)  
20 insofar as she failed to submit her proposed additional facts in a separate section as mandated  
21 by said rule. As a result, Plaintiff’s additional facts were disregarded upon ruling on  
22 Defendants’ request for summary judgment.

23 In her motion for reconsideration, Plaintiff contends that this Court erroneously  
24 interpreted Rule 56(c) insofar as the rule only provides that the opposing statement “may  
25 contain” a separate section of additional facts. Additionally, she posits that although the  
26 additional facts were not listed separately, they were substantiated with evidence on the record,

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3 and should have been considered when ruling on the motion. Nevertheless, it is well settled that  
4 “Local Rule 56(c) requires that, if the nonmoving party includes any additional facts, such facts  
5 must be in a separate section, set forth in separate numbered paragraphs, and be supported by  
6 a record citation.” Davila-Feliciano v. P.R. State Ins. Fund Corp., No. 09-1405, slip op. at \*6-7  
7 (D.P.R. Dec. 6, 2010); Rodriguez-Torres v. Gov’t Dev. Bank of P.R., No. 09-2199, slip op. at  
8 \*5-6 (D.P.R. Nov. 5, 2010); TC Investments, Corp. v. Becker, 733 F. Supp. 2d 287, 291 (D.P.R.  
9 2010); Oquendo-Rivera v. Toledo, 736 F. Supp. 2d 434 (D.P.R. 2010); Guillen-Gonzalez v. JC  
10 Penney Corp., 731 F. Supp. 2d 219, 220-221 (D.P.R. 2010). As a result, this district has  
11 disregarded any responses to defendants’ assertions of fact that do not comply with Local Rule  
12 56(c).

13 Recently, in Melendez-Ortiz v. Wyeth Pharm. Co., No. 08-1676, slip op at \*2, n. 1  
14 (D.P.R. Sept. 22, 2010), the court disregarded certain portions of the plaintiff’s opposing  
15 statement of facts as not compliant with Local Rule 56(c), upon finding “that plaintiffs’  
16 responses to defendant’s proposed statement of facts go beyond admitting, denying, or  
17 qualifying defendant’s facts; they generally include a large amount of information that is  
18 unrelated to defendant’s corresponding facts and properly belongs in the opposing statement’s  
19 separate section of additional facts, if anywhere.”

20 The First Circuit has consistently upheld such determinations, holding that when a party  
21 does not act in compliance with Local Rule 56, “a district court is free, in the exercise of its  
22 sound discretion, to accept the moving party’s facts as stated.” Caban Hernandez v. Phillip  
23 Morris USA, Inc., 486 F.3d 1, 7 (1st Cir. 2007) (citing Cosme-Rosado v. Serrano-Rodriguez,  
24 360 F.3d 42, 45 (1st Cir. 2004)). More specifically, in Carreras v. Sajo, 596 F.3d 25, 32 (1st Cir.  
25 P.R. 2010), the Court recently held that therein plaintiff’s response to a motion for summary  
26 judgment included argumentation asserting numerous additional facts that failed to comply with

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3 Rule 56(c)'s mandate that additional facts be "contain[ed] in a separate section." Moreover,  
4 plaintiff's argument that the rule did not require additional facts to be adduced in a separate  
5 section was deemed by the court as "unavailing," insofar as the "[t]he plain language of the rule  
6 specifically requires that additional facts be put forward in a 'separate section.'" Id.  
7 Accordingly, the Court found that "the district court acted well within its discretion when it  
8 deemed as admitted a portion of [defendant's] properly supported facts." Id. In light of the  
9 foregoing, Plaintiff's argument on this front fails.

10 Plaintiff also avers that we should consider newly discovered facts that shed light on the  
11 acts of Co-defendant William Alicea-Perez. Docket # 55. On this point, she contends that after  
12 the motion for summary judgment and her opposition were filed, but prior to the issuance of our  
13 Opinion and Order, she learned about some admissions made by Alicea during his deposition.  
14 According to Plaintiff, Alicea's deposition was not available to be included in her response,  
15 further meriting setting aside this Court's Judgment.

16 Upon reviewing the deposition excerpts included with Plaintiff's motion, this Court notes  
17 that Alicea's deposition took place on July 20, 2010, while Plaintiff filed her opposition to the  
18 motion for summary judgment on July 29, 2010, that is, 9 days after the deposition. Moreover,  
19 on July 27, 2010, Plaintiff moved for an extension of time to file her opposition, noting that the  
20 transcripts of Alicea's deposition had not yet been received. Docket # 42. She did not, however,  
21 request another extension of time due to the unavailability of the deposition transcripts, and  
22 instead filed her opposition using the notes taken during the same. Additionally, even though  
23 Plaintiff avers that Alicea's deposition was produced after the relevant documents were  
24 submitted but prior to the issuance of our Opinion and Order, she fails to explain why she did  
25 not move to amend her opposition immediately, prior to entry of judgment in the case. As such,  
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3 Plaintiff should have raised these arguments before judgment was entered, and not at this  
4 juncture.

5 Notwithstanding, this Court notes that even assuming that Alicea knew about Plaintiff's  
6 political affiliations, the excerpts of his deposition alone do not warrant setting aside our prior  
7 Judgment. Plaintiff's argument on this front largely relies on this Court's setting aside its prior  
8 Judgment and considering all the additional facts set forth in her opposition jointly with the  
9 alleged newly discovered evidence. As previously held, however, Plaintiff's additional facts  
10 were properly disregarded in our prior Opinion. Thus even if we considered them now, the  
11 excerpts of Alicea's deposition alone are insufficient to show the requisite elements of a prima  
12 facie case of political discrimination against said co-defendant or the other defendants in the  
13 case.

14 **Conclusion**

15 Based on the foregoing, Plaintiff's motion for reconsideration is **DENIED**.

16 **IT IS SO ORDERED.**

17 In San Juan, Puerto Rico, this day 4<sup>th</sup> day of March, 2011.

18 *S/ Salvador E. Casellas*  
19 SALVADOR E. CASELLAS  
20 U.S. Senior District Judge  
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