

3 Diaz’s second EEOC filing as an administrative reconsideration request. The court **DENIES**
4 Rivera-Diaz’s motion for reconsideration.

5 **I. Standard of Review**

6 Motions for reconsideration are generally considered under FED. R. CIV. P. 59 or 60,
7 depending on the time such motion is served. Perez-Perez v. Popular Leasing Rental, Inc., 993 F.2d
8 281, 284 (1st Cir. 1993). Whether under Rule 59 or Rule 60, a motion for reconsideration cannot
9 be used as a vehicle to relitigate matters already litigated and decided by the court.
10 Villanueva-Mendez v. Vazquez, 360 F.Supp. 2d 320, 322 (D.P.R. 2005). These motions are
11 entertained by courts if they seek to correct manifest errors of law or fact, present newly discovered
12 evidence, or when there is an intervening change in law. See Rivera Surillo & Co. v. Falconer Glass.
13 Indus. Inc., 37 F.3d 25, 29 (1st Cir. 1994) (citing F.D.I.C. Ins. Co. v. World University, Inc., 978
14 F.2d 10, 16 (1st Cir. 1992); Cherena v. Coors Brewing Co., 20 F. Supp. 2d 282, 286 (D .P.R. 1998)).
15 Hence, this vehicle may not be used by the losing party “to repeat old arguments previously
16 considered and rejected, or to raise new legal theories that should have been raised earlier.” National
Metal Finishing Com. v. BarclaysAmerican/Commercial, Inc ., 899 F.2d 119, 123 (1st Cir. 1990).

17 **II. Discussion**

18 In his opposition to Defendants motion to dismiss, Rivera-Diaz did not argue that equitable
19 tolling applied to his claims or that his second EEOC complaint should be considered a
20 reconsideration order to his original EEOC complaint. Rivera-Diaz merely argued his claims were
21 timely because he filed his judicial complaint within ninety days of receiving the second right to sue
22 letter. Therefore, Rivera-Diaz attempts to make these arguments for the first time in a motion for
23 reconsideration. “It is generally accepted that a party may not, on a motion for reconsideration,
24 advance a new argument that could (and should) have been presented prior to the district court’s
25 original ruling.” Cochran v. Quest Software Inc., 328 F.3d 1, 11 (1st Cir. 2003) (holding district
26 court did not abuse discretion in refusing to reconsider its decision based on novel arguments). It
27 is for this reason the court **DENIES** Rivera-Diaz’s motion for reconsideration.

28 **III. Conclusion**

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Civil No. 12-1732 (GAG)

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Pursuant to the opinion and analysis above, the court **DENIES** Rivera-Diaz’s motion for reconsideration.

SO ORDERED.

In San Juan, Puerto Rico this 5th day of March 2013.

s/Gustavo A. Gelpí
GUSTAVO A. GELPI
United States District Judge_