



1                                   **I. RELEVANT FACTS AND PROCEDURAL HISTORY**

2           The background facts and procedural history are in the May 13, 2019 Order on Washington’s  
3 Motion for Partial Summary Judgment on the GEO Group, Inc.’s Affirmative Defenses (Dkt.  
4 202, at 1-4) and are adopted here.

5           The May 13, 2019 order denied GEO’s request to strike or defer the State’s motion for  
6 partial summary judgment on GEO’s affirmative defenses of laches, unclean hands and failure to  
7 join necessary parties (Department of Homeland Security and U.S. Immigration and Customs  
8 Enforcement (collectively “ICE”) and the Washington State Department of Labor & Industries  
9 (“L & I”)). Dkt. 202. The order dismissed the laches defense because laches is not a cognizable  
10 defense against the State in this enforcement action and, even if it was, GEO failed to point to  
11 genuine issues of fact as to the defense. *Id.* The defense of unclean hands was dismissed  
12 because, under Washington law, the State’s treatment of its own inmates is not relevant to its  
13 ability to bring an enforcement action against GEO. *Id.* The order also dismissed the affirmative  
14 defense of failure to join necessary parties, noting that GEO made no showing on either proposed  
15 party. *Id.* The Court’s rulings were based on applicable law.

16                                   **PENDING MOTION**

17           GEO now moves for reconsideration of the portion of the order (Dkt. 202) which denied its  
18 request to strike or defer consideration of the State’s partial motion for summary judgment. Dkt.  
19 209. It argues that it provided declaration of counsel stating that depositions of state agencies  
20 had been noted, but had not occurred, and that document production was ongoing. *Id.* As it  
21 relates to its affirmative defenses, GEO asserts that it expects, through additional discovery, to  
22 learn: “when the State (or the State Agencies) first learned about the Voluntary Work Program  
23 (“VWP”), the extent of that knowledge, the reasonableness of the State’s delay in bringing the  
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1 action (which the State admits is at least three and a half years), and the State’s use of work  
2 programs that do not pay minimum wage.” *Id.*, at 4-5.

## 3 II. DISCUSSION

4 Local Rule W.D. Wash. 7 (h)(1) provides: “[m]otions for reconsideration are disfavored. The  
5 court will ordinarily deny such motions in the absence of a showing of manifest error in the prior  
6 ruling or a showing of new facts or legal authority which could not have been brought to its  
7 attention earlier with reasonable diligence.” Under Fed. R. Civ. P. 56 (d):

8 If a nonmovant shows by affidavit or declaration that, for specified reasons, it  
9 cannot present facts essential to justify its opposition [to a motion for summary  
10 judgment], the court may: (1) defer considering the motion or deny it; (2) allow  
time to obtain affidavits or declarations or to take discovery; or (3) issue any other  
appropriate order.

11 “A party seeking additional discovery under Rule 56 (d) must explain what further discovery  
12 would reveal that is essential to justify its opposition’ to the motion for summary judgment.”  
13 *Stevens v. Corelogic, Inc.*, 899 F.3d 666, 678 (9th Cir. 2018)(*cert. denied*, 139 S. Ct. 1222  
14 (2019)(*internal quotation marks and citation omitted*). “In particular, the requesting party must  
15 show that: (1) it has set forth in affidavit form the specific facts it hopes to elicit from further  
16 discovery; (2) the facts sought exist; and (3) the sought-after facts are essential to oppose  
17 summary judgment.” *Id.* (*internal quotation marks and citation omitted*).

18 GEO’s motion for reconsideration (Dkt. 209) should be denied. GEO has failed to make  
19 a “showing of manifest error in the prior ruling or a showing of new facts or legal authority  
20 which could not have been brought to [the court’s] attention earlier with reasonable diligence.”  
21 The reasoning from the May 13, 2019 order is adopted. In particular, GEO has not demonstrated  
22 that the “sought-after facts are essential to oppose summary judgment.” The facts that GEO  
23 seeks are not relevant to these affirmative defenses. “A party seeking to delay summary  
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1 judgment for further discovery must state what other specific evidence it hopes to discover and  
2 the relevance of that evidence to its claims.” *Stevens*, at 678 (*emphasis added*). GEO has failed  
3 to demonstrate that the evidence it seeks is relevant to the affirmative defenses that were at issue  
4 in the partial motion for summary judgment. Further evidentiary facts would not change the  
5 Court’s rulings. GEO’s motion for reconsideration should be denied.

6 **III. ORDER**


7 Therefore, it is hereby **ORDERED** that:

- 8 • GEO’s motion for reconsideration of the order denying its motion to defer or  
9 deny the State’s motion for summary judgment pursuant Fed. R. Civ. P. 56 (d)  
10 (Dkt. 209) **IS DENIED**; and

- 11 ○ The May 13, 2019 Order on Washington’s Motion for Partial Summary  
12 Judgment on the GEO Group, Inc.’s Affirmative Defenses (Dkt. 202) **IS**  
13 **AFFIRMED.**

14 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
15 to any party appearing pro se at said party’s last known address.

16 Dated this 23<sup>rd</sup> day of May, 2019.

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18 ROBERT J. BRYAN  
19 United States District Judge