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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Francisco Alatorre Urtuzuastegui,  
Plaintiff,  
v.  
The United States of America,  
Defendant.

CIV 00-381 TUC ACM

**ORDER**

On December 5, 2000, the Court denied Plaintiff's Petition to Quash the IRS Summons and granted the Government's Counterpetition to enforce the summons. The case was closed. December 15, 2000, Plaintiff filed a Motion for New Trial, which is the same as a Motion to Reconsider. Defendants have filed a Response.

Motions to reconsider are appropriate only in rare circumstances:

The motion to reconsider would be appropriate where, for example, the court has patently misunderstood a party, or has made a decision outside the adversarial issues presented to the court by the parties, or has made an error not of reasoning but of apprehension. A further basis for a motion to reconsider would be a controlling or significant change in the law or facts since the submission of the issue to the court. Such problems rarely arise and the motion to reconsider should be equally rare.

Above the Belt, Inc. v. Mel Bohannon Roofing, Inc., 99 F.R.D. 99, 101 (E.D. Va. 1983);  
see also Sullivan v. Faras-RLS Group, Ltd., 795 F. Supp. 305, 308-09 (D. Ariz. 1992).

"The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence." Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985), cert. denied, 476 U.S. 1171 (1986). A motion for reconsideration should not be used to ask a court "to rethink what the court had already

1 thought through--rightly or wrongly". Above the Belt, Inc., 99 F.R.D. at 101; See  
2 Refrigeration Sales Co. v. Mitchell-Jackson, Inc., 605 F. Supp. 6, 7 (N.D. Ill. 1983).  
3 Arguments that a court was in error on the issues it considered should be directed to the  
4 court of appeals. Id. at 7.

5 Plaintiffs' Motion to Reconsider neither discloses any new facts, nor reveals any  
6 manifest error of law. The facts and circumstances which caused this Court to rule against  
7 Defendants have not changed.

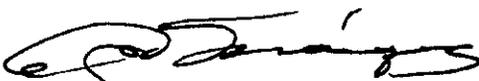
8 It remains undisputed that the government of Mexico requested assistance under  
9 a treaty with the United States, that the United States Competent Authority determined that  
10 providing such assistance is appropriate, that the information is not already in the  
11 possession of the IRS or the foreign state, and that the information sought might be  
12 relevant to the foreign tax investigation. See United States v. Powell, 379 U.S. 48 (1964)  
13 (prima facie case for issuance of summons); see also, United States v. Stuart, 489 U.S.  
14 353 (1989) (inquiry is not whether Mexican authorities are acting in good faith, but rather  
15 whether the foreign state has requested assistance under the treaty, competent authority  
16 determined providing assistance is appropriate, information is not already in possession of  
17 IRS or foreign state, and information sought might be relevant to foreign investigation).  
18 The IRS acted in good faith when it complied with the Mexican government's treaty  
19 request for assistance by issuing the summons to Salomon. See United States v. Fagan,  
20 1999 WL 164408 \* 1-2 (S.D. Calif. 1999) (citing Blackman, 72 F.3d at 1422 (IRS need  
21 make only a minimal showing; thereafter, the burden is on taxpayer to disprove good faith  
22 and prima facie case); see also, Liberty Fin. Servs. V. United States, 778 F.2d 1390, 1392  
23 (9<sup>th</sup> Cir. 1985).

24 **Accordingly,**  
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**IT IS ORDERED** that Plaintiffs' Motion for new Trial, treated herein as a Motion for Reconsideration, is DENIED.

DATED this 9<sup>th</sup> day of January, 2001.



Alfredo C. Marquez  
Senior U. S. District Judge