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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

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11 Ernest DuWayne King,  
12 Plaintiff,

13 v.

14 Charles L Ryan, et al.,  
15 Defendants.

No. CV-16-00259-TUC-RM

**ORDER**

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17 Pending before the Court is Plaintiff's Motion to Reconsider the Court's February  
18 27, 2020 Order regarding the scope of Defendants' potential liability in this case. (Doc.  
19 204.) In response to a dispute raised by the parties regarding Defendants' potential scope  
20 of liability, the Court ordered briefing and ruled that Defendant Ryan's potential liability  
21 ranges from September 13, 2015 to March 17, 2017. (Doc. 203.) It further ruled that  
22 Defendant Corizon's potential liability ranges from January 24, 2015 to March 17, 2017.  
23 (Id.) The Court found that Plaintiff's claims against Defendant Corizon are limited to the  
24 time during which Plaintiff had been recommended a "flap graft" surgical procedure but  
25 did not receive it. (Id.) Based on the record before it, the Court identified the date that the  
26 flap graft procedure was first recommended as January 24, 2015. (Id.)

27 Plaintiff moves the Court to reconsider its finding that the flap graft procedure was  
28 first recommended on January 24, 2015. (Doc. 204.) Plaintiff contends that documents in

1 the record indicate that Plaintiff’s doctors recommended surgically closing the wound  
2 before this date. (Id.) Plaintiff argues that the record shows that Plaintiff’s doctors  
3 recommended surgical closure of the wound as early as September 8, 2014. (Id.)  
4 Although the Motion does not explicitly state Plaintiff’s requested relief, the Court infers  
5 that Plaintiff requests that the Court modify its previous order to reflect the earlier date of  
6 September 8, 2014 as the beginning of the date range of potential liability as to Defendant  
7 Corizon.<sup>1</sup>

8 Defendants responded to the Motion to Reconsider. (Doc. 208.) Defendants  
9 contend that Plaintiff has inaccurately characterized the medical note cited to support his  
10 request to extend Corizon’s date range of potential liability back to September 8, 2014.  
11 (Id.) Defendants argue that the September 8, 2014 note, which concludes with a follow-  
12 up plan for “primary closure” of the wound, is not a recommendation for a flap graft  
13 surgical procedure. (Id.) Rather, Defendants characterize the note as part of the record of  
14 the course of treatment that Plaintiff received for the wound, during which medical  
15 providers continued to evaluate Plaintiff’s condition and adjust their recommendations  
16 and treatments accordingly. (Id.) Although the note discussed “primary closure” of the  
17 wound, there was no specific medical recommendation made for surgical treatment of the  
18 wound at that time. (Id.) The medical records subsequent to the September 8, 2014 note  
19 reveal that Plaintiff was seen by multiple medical specialists in the following weeks and  
20 that those visits did not yield a specific recommendation for surgical closure of the  
21 wound. (Id.) Given the context of the September 8, 2014 note, Defendants argue that the  
22 note was not a recommendation for surgical closure of the wound at that time. (Id.)

23 “A Court will ordinarily deny a motion for reconsideration absent a showing of  
24 manifest error or a showing of new facts or legal authority that could not have been

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26 <sup>1</sup> LRCiv 7.3(g) requires a motion for reconsideration to point out “any specific  
27 modifications being sought in the Court’s order.” Plaintiff’s motion does not do so.  
28 However, as Defendant Ryan’s potential liability is limited to his alleged failure to  
respond to Plaintiff’s medical grievances and does not involve an alleged denial of or  
delay in medical treatment, the Court infers that the Motion to Reconsider applies only to  
its findings as to Defendant Corizon. (See Doc. 203.)

1 brought to its attention earlier with reasonable diligence.” LRCiv. 7.3(g). In the District  
2 of Arizona, motions for reconsideration will be granted when:

3 (1) There are material differences in fact or law from that presented  
4 to the Court and, at the time of the Court's decision, the party moving for  
5 reconsideration could not have known of the factual or legal differences  
6 through reasonable diligence;

7 (2) There are new material facts that happened after the Court's  
8 decision;

9 (3) There has been a change in the law that was decided or enacted  
10 after the Court's decision; or

11 (4) The movant makes a convincing showing that the Court failed to  
12 consider material facts that were presented to the Court before the Court's  
13 decision.

14 *Motorola, Inc. v. J.B. Rodgers Mech. Contractors*, 215 F.R.D. 581, 586 (D. Ariz.  
15 2003).

16 The Court finds that the facts provided by Plaintiff do not provide a basis for  
17 reconsidering its prior Order. The September 8, 2014 note does not indicate that  
18 Plaintiff’s medical provider recommended a surgical procedure to close the wound at that  
19 time. Rather, the September 8, 2014 note indicates a plan to follow up, as part of  
20 Plaintiff’s course of treatment, about closing the wound and continuing Plaintiff’s care.  
21 The September 8, 2014 note includes no specific recommendation that should have  
22 caused Corizon to schedule a surgical procedure, or other medical procedure, to close the  
23 wound at that time. Nor does the Court find that that September 8, 2014 note requires or  
24 recommends Corizon to take a specific action that it did not thereafter take in order to  
25 treat Plaintiff’s condition. Therefore, the Court does not find a basis for reconsidering its  
26 prior order.

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Accordingly,

**IT IS ORDERED** that Plaintiff's Motion for Reconsideration (Doc. 204) is **denied.**

Dated this 6th day of April, 2020.



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Honorable Rosemary Márquez  
United States District Judge