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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ZANE HARDIN,

Plaintiffs,

vs.

WAL-MART STORES, INC,

Defendant.

CASE NO. 1:08-cv-0617 AWI-BAM

**ORDER ON REQUEST FOR
CLARIFICATION AND DENY
RECONSIDERATION**

(Docs. 233, 239, 240, 243)

The Court has reviewed the following filing’s by Plaintiff: Declaration of John A. Shepardson, Esq. in Support of the Motion to Compel Emails and Other Documents and Notice of Motion (Doc. 243); Declaration of John A. Shepardson, Esq. re: Judge Ishii’s Order Granting Plaintiff’s Motion For Reconsideration; Magistrate McAuliffe’s Discovery Order (not addressing Defendant Wal-Mart Destroying Documents in Violation of Judge Jenkin’s Order) (collectively “Plaintiff’s Statement”). (Doc. 247).

Plaintiff’s Statement asks the Court to confirm or deny whether it mistakenly overlooked Plaintiff’s claim that Wal-Mart destroyed emails and documents in violation of a Court Order in its prior order denying Plaintiff’s motion to compel emails and other documents. (Doc. 247). Plaintiff is

1 advised that the Court carefully reviewed and considered all of the joint motions, briefs, points and
2 authorities, declarations, and/or exhibits in preparation of its order denying Plaintiff’s Motion to
3 Compel or otherwise reopen discovery. Any omission of a reference to any specific argument or
4 declaration is not to be construed that the Court failed to consider the argument or declaration. The
5 Court denied Plaintiff’s Motion to Compel and its axiomatic that any related sanctions claim must
6 suffer the same fate.

7 To the extent that Plaintiff’s Statement is to be construed as a motion for reconsideration, this
8 Court **DENIES** Plaintiff’s request for reconsideration.

9 “A party seeking reconsideration must show more than a disagreement with the Court’s
10 decision, and recapitulation of the arguments considered by the court before rendering its original
11 decision fails to carry the moving party’s burden.” *United States v. Westlands Water Dist.*, 134
12 F.Supp.2d 1111, 1131 (E.D. Cal. 2001) (internal citations omitted). “To succeed, a party must set forth
13 facts or law of a strongly convincing nature to induce the court to reverse its prior decision.” *Westlands*
14 *Water*, 134 F.Supp.2d at 1131.

15 Reconsideration is appropriate if the district court: (1) is presented with newly discovered
16 evidence; (2) has committed clear error or the initial decision was manifestly unjust; or (3) is presented
17 with an intervening change in controlling law. *School District 1J, Multnomah County v. ACandS, Inc.*,
18 5 F.3d 1255, 1263 (9th Cir. 1993), *cert. denied*, 512 U.S. 1236 (1994).

19 Plaintiff’s Statement simply represents Plaintiff’s disagreement with the Court’s decision to
20 deny additional discovery and sanctions. Plaintiff’s disagreement alone is insufficient to establish that
21 the Court overlooked relevant facts or controlling law in denying Plaintiff’s Motion to Compel. *See*
22 *Schiano v. MBNA Corp*, 2006 U.S. Dist. LEXIS 93578, * 2 (D.N.J. Dec. 27, 2006) (“Mere
23 disagreement with the Court will not suffice to show that the Court overlooked relevant facts or
24 controlling law, ..., and should be dealt with through the normal appellate process[.]”) (citations

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1 omitted). Furthermore, in this District a motion for reconsideration is “an extremely limited procedural
2 vehicle” and such requests should be granted sparingly; the Court finds that Plaintiff fails to meet the
3 standard for reconsideration, and the request for reconsideration must be denied. *See Westlands Water,*
4 *134 F.Supp.2d at 1131.*

5 IT IS SO ORDERED.

6 **Dated: July 23, 2012**

/s/ **Barbara A. McAuliffe**
UNITED STATES MAGISTRATE JUDGE

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