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

J. DOE,

CASE NO. CV F 08-1219 LJO DLB PC

Plaintiff,

**RECONSIDERATION ORDER**  
(Doc. 29.)

vs.

ARNOLD SCHWARZENEGGER, et. al.,

Defendants.

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**INTRODUCTION**

In this inmate civil rights action, pro se plaintiff J. Doe (“plaintiff”) belatedly seeks what this Court construes as reconsideration of the magistrate judge’s order to screen plaintiff’s amended complaint. For the reasons discussed below, this Court DENIES plaintiff reconsideration and other purported requested relief.<sup>1</sup>

**BACKGROUND**

United States Magistrate Dennis Beck issued his March 23, 2009 screening order (“March 23 order”) to address plaintiffs’ claims against numerous defendants. On April 16, 2009, plaintiff filed 226 pages which this Court construes as a motion to reconsider the March 23 order.

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<sup>1</sup> This Court’s Local Rule 72-303 addresses reconsideration of magistrate judge rulings, and its subsection (e) provides that Local Rule 78-230’s notice and briefing schedules have “no application to requests for reconsideration.” Subsection (e) further provides: “No oral argument shall be allowed in the usual civil action.”

1 **DISCUSSION**

2 **Untimely Reconsideration Attempt**

3 This Court’s Local Rule 72-303(b) addresses timing to seek reconsideration:

4 Rulings by Magistrate Judges shall be final if no reconsideration thereof is sought  
5 from the Court within ten (10) court days calculated from the date of service of the ruling  
6 on the parties . . .”

7 The March 23 order was served on plaintiff on March 23, 2009. Plaintiff delayed to file his  
8 reconsideration papers until April 16, 2009, after the 10-day limit and beyond a grace period for prison  
9 mail. As such, his reconsideration request is time barred. Nonetheless, this Court will turn to the merits  
10 of reconsideration of the March 23 order.

11 **Merits**

12 Motions to reconsider are committed to the discretion of the trial court. *Rodgers v. Watt*, 722  
13 F.2d 456, 460 (9th Cir. 1983) (en banc); *Combs v. Nick Garin Trucking*, 825 F.2d 437, 441 (D.C.Cir.  
14 1987). A party seeking reconsideration must set forth facts or law of a strongly convincing nature to  
15 induce the court to reverse a prior decision. *See, e.g., Kern-Tulare Water Dist. v. City of Bakersfield*,  
16 634 F.Supp. 656, 665 (E.D.Cal. 1986), *aff’d in part and rev’d in part on other grounds*, 828 F.2d 514  
17 (9th Cir. 1987). This Court’s Local Rule 78-230(k) requires a party seeking reconsideration to  
18 demonstrate “what new or different facts or circumstances are claimed to exist which did not exist or  
19 were not shown upon such prior motion, or what other grounds exist for the motion.”

20 This Court reviews a motion to reconsider a Magistrate Judge’s ruling under the “clearly  
21 erroneous or contrary to law” standard set forth in 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). As  
22 such, the court may only set aside those portions of a Magistrate Judge’s order that are either clearly  
23 erroneous or contrary to law. Fed.R.Civ.P. 72(a); *see also Grimes v. City and County of San Francisco*,  
24 951 F.2d 236, 240 (9th Cir.1991) (discovery sanctions are non-dispositive pretrial matters that are  
25 reviewed for clear error under Rule 72(a)). “Under this standard of review, a magistrate's order is  
26 ‘clearly erroneous’ if, after considering all of the evidence, the district court is left with the definite and  
27 firm conviction that a mistake has been committed, and the order is ‘contrary to law’ when it fails to  
28 apply or misapplies relevant statutes, case law or rules of procedure.” *Yent v. Baca*, 2002 WL 32810316,  
at \*2 (C.D. Cal. 2002). “The reviewing court may not simply substitute its judgment for that of the

1 deciding court.” *Grimes*, 951 F.2d at 241. A district court is able to overturn a magistrate judge’s ruling  
2 “only if the district court is left with the definite and firm conviction that a mistake has been made.”  
3 *Computer Economics, Inc. v. Gartner Group, Inc.*, 50 F.Supp.2d 980, 983 (S.D. Cal. 1999) (quoting  
4 *Weeks v. Samsung Heavy Indus. Co., Ltd.*, 126 F.3d 926, 943 (7<sup>th</sup> Cir. 1997)).

5 Plaintiff’s reconsideration papers are largely incoherent gibberish. “[T]o give fair consideration  
6 to those who call upon us for justice, we must insist that parties not clog the system by presenting us  
7 with slubby mass of words rather than a true brief.” *N/S Corp. v. Liberty Mut. Ins. Co.*, 127 F.3d 1145,  
8 1146 (9<sup>th</sup> Cir. 1997). Plaintiff points to nothing to demonstrate that the March 23 order is clearly  
9 erroneous or contrary to law. This Court is not in position to overturn th March 23 order.

10 **CONCLUSION AND ORDER**

11 For the reasons discussed above, plaintiff fails to substantiate the burden for reconsideration of  
12 the March 23 order, and this Court DENIES plaintiff’s belated request for reconsideration. This Court  
13 ORDERS plaintiff, no later than September 7, 2009, to file an amended complaint. The amended  
14 complaint must be complete in itself. This Court’s Local Rule 15-220 requires an amended complaint  
15 to be complete without reference to any prior pleading. This Court will strike piecemeal filings. As a  
16 general rule, an amended complaint supersedes prior complaints. *See Loux v. Rhay*, 375 F.2d 55, 57 (9<sup>th</sup>  
17 Cir. 1967). After the filing of an amended complaint, the prior pleadings serve no further function.  
18 Thus, in an amended complaint, each claim and involvement of each defendant must be sufficiently  
19 alleged.

20 IT IS SO ORDERED.

21 **Dated:** July 27, 2009

/s/ Lawrence J. O’Neill  
UNITED STATES DISTRICT JUDGE

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