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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GERALD L. MILLER, JR. CDCR #C-92075)	Civil No. 08-1233 BTM (WMe)
Plaintiff,)	
v.)	ORDER GRANTING IN PART
O. RUFION; MOONGA, R.N.,)	DEFENDANTS' MOTION FOR
Defendants.)	RECONSIDERATION
)	[Doc. No. 60]

I. INTRODUCTION

This case comes before the Court on Defendants’ motion for reconsideration of this Court’s May 10, 2010 order allowing Plaintiff: (1) leave to depose Defendants G. Moonga, R.N. and O. Rufino, L.V.N., and (2) leave to serve a subpoena for medical records. [Doc. Nos. 54, 60.] After consideration of the declaration and objections filed by Defendants, the motion is **GRANTED IN PART**.

II. STANDARD OF REVIEW

Generally, under the “law of the case” doctrine, a court is precluded from reconsidering an issue which has already been decided by the same court. *United States v. Alexander*, 106 F.3d 874, 876 (9th Cir. 1997). However, motions for reconsideration may, under the discretion of the court, be heard in circumstances where there has been a change in the controlling law or facts. *Id.*, *Midgard Tempering, Inc. v. Seals Corp. of America*, 902 F.3d 703, 715 (9th Cir. 1990). In the absence of such a circumstance, a court lacks discretion to stray from the “law of the case” doctrine. *Alexander*, 106 F.3d at 876 (citing *Thomas v. Bible*, 983 F.2d 152, 155 (9th Cir.1993)). Motions for reconsideration are not to be used to simply “rehash”

1 arguments and facts previously considered by the court in making its ruling. *See Costello v. U.S.*
2 *Government*, 765 F. Supp. 1003, 1009 (C.D. Cal. 1991); *Taylor v. Knapp*, 871 F.2d 803, 805 (9th Cir. 1989).
3 Correspondingly, in the absence of such “new or different facts,” the “law of the case” doctrine will preclude
4 reconsideration of a court’s decision. *Alexander*, 106 F.3d at 876 (citing *Thomas v. Bible*, 983 F.2d 152,
5 155 (9th Cir. 1993)); *see also School Dist. No. 1J, Multnomah County, Oregon v. ACandS, Inc.* 5 F.3d 1255,
6 1263 (9th Cir. 1993) (“Reconsideration is appropriate if the district court (1) is presented with newly
7 discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there
8 is an intervening change in controlling law.”)

9 Here, the Court was unaware of the Defendants’ opposition to the Plaintiff’s discovery motion and
10 did not consider the objections filed. Accordingly, after reviewing the Declaration of Stephen C. Pass in
11 support of the Motion for Reconsideration [Doc. No. 60] and the Objections to Plaintiff’s motion [Doc. No.
12 41], the Court issues the following orders.

13 **A. Deposition Request**

14 On motion or on its own, the court must limit the frequency or extent of discovery otherwise
15 allowed by the Federal Rules of Civil Procedure or by local rule if it determines that the burden or
16 expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the
17 amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the
18 importance of the discovery in resolving the issues. *Fed. R. Civ. P. 26(b)(2)(C)(iii)*. The court may also
19 limit discovery if the discovery sought can be obtained from some other source that is more convenient,
20 less burdensome, or less expensive. *Fed. R. Civ. P. 26(b)(2)(C)(i)*.

21 With respect to the Court’s order allowing Plaintiff to conduct a deposition by written questions,
22 Defendants request a requirement that Plaintiff: (1) retain a court reporter or other person sanctioned to
23 take depositions pursuant to Federal Rule of Civil Procedure 28(a); and (2) conduct the deposition in
24 accordance with Federal Rule of Civil Procedure 31. (Defs. Objection at 3:12-16.) Defendants’ requests
25 are **GRANTED**. As noted in the Court’s May 10, 2010 order, all appropriate procedures, including
26 proper notice required by Rule 30 and Rule 31 are in effect in this case and must be followed regardless
27 of Plaintiff’s *pro se* status.

