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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

BARRY LAMON,

Plaintiff,

v.

JOHN TILTON, et al.,

Defendants.

CASE NO. 1:09-cv-00157-AWI-SKO PC

ORDER DENYING MOTION FOR RECONSIDERATION, WITH PREJUDICE

(Doc. 96)

Plaintiff Barry Lamon, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 26, 2009. On April 4, 2013, Plaintiff filed a motion seeking reconsideration of the Magistrate Judge’s order striking his second motion for an extension of time.

Federal Rule of Civil Procedure 60(b)(6) allows the Court to relieve a party from an order for any reason that justifies relief. Rule 60(b)(6) is to be used sparingly as an equitable remedy to prevent manifest injustice and is to be utilized only where extraordinary circumstances exist. *Harvest v. Castro*, 531 F.3d 737, 749 (9th Cir. 2008) (quotations marks and citation omitted). The moving party must demonstrate both injury and circumstances beyond his control. *Id.* (quotation marks and citation omitted). Further, Local Rule 230(j) requires, in relevant part, that Plaintiff show “what new or different facts or circumstances are claimed to exist which did not exist or were not shown upon such prior motion, or what other grounds exist for the motion,” and “why the facts or circumstances were not shown at the time of the prior motion.”

1 "A motion for reconsideration should not be granted, absent highly unusual circumstances,  
2 unless the district court is presented with newly discovered evidence, committed clear error, or if  
3 there is an intervening change in the controlling law," *Marlyn Nutraceuticals, Inc. v. Mucos Pharma*  
4 *GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citations omitted,  
5 and "[a] party seeking reconsideration must show more than a disagreement with the Court's  
6 decision, and recapitulation . . ." of that which was already considered by the Court in rendering its  
7 decision," *U.S. v. Westlands Water Dist.*, 134 F.Supp.2d 1111, 1131 (E.D. Cal. 2001).

8 On March 18, 2013, Plaintiff filed a motion seeking an extension of time to object to findings  
9 and recommendations filed on February 7, 2013. The Magistrate Judge granted Plaintiff's motion  
10 on March 20, 2013, and on the same day, Plaintiff filed a second motion for an extension of time,  
11 which was stricken as duplicative and is the subject of the motion for reconsideration.

12 The Magistrate Judge did not err. Plaintiff's second motion was filed two days after his first  
13 motion and on the same day that the Court granted the relief he requested. Plaintiff's desire to add  
14 into the record further evidence demonstrating he is being denied access to the courts does not entitle  
15 him to reconsideration. Fed. R. Civ. P. 60(b)(6); *Marlyn Nutraceuticals, Inc.*, 571 F.3d at 880.  
16 (Doc. 96, Motion, p. 2.) Plaintiff was granted the relief he sought, resolving the matter.

17 Accordingly, Plaintiff's motion for reconsideration, filed on April 4, 2013, is HEREBY  
18 DENIED, with prejudice.

19 IT IS SO ORDERED.

20 Dated: April 9, 2013



21 SENIOR DISTRICT JUDGE