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

JOHN FREDERICK WHEELER,

Plaintiff,

vs.

MAYOR OF BAKERSFIELD
CITY, et al.,

Defendants.

CASE NO. CV F 11-1832 LJO JLT

RECONSIDERATION ORDER
(Doc. 8.)

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This Court has dismissed as legally barred this action of pro se plaintiff John Frederick Wheeler (“Mr. Wheeler”) arising out of Mr. Wheeler’s traffic citation in Bakersfield. Mr. Wheeler filed April 26, 2012 papers which this Court construes to seek reconsideration of this Court’s orders and dismissal of this action.

A basic principle of federal practice is that courts generally refuse to reopen decided matters. *Magnesystems, Inc. v. Nikken*, 933 F.Supp. 944, 948 (C.D. Cal. 1996). Reconsideration is an “extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.” *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003). A reconsideration motion “should not be granted absent highly unusual circumstances.” *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999), *cert. denied*, 490 U.S. 1059, 109 S.Ct. 1972 (1989); *see Caldwell v. U.S.*, 391 F.3d 1226, 1235 (Fed. Cir. 2004) (reconsideration motions must be supported “by a showing of extraordinary

1 circumstances which justify relief”).

2 A reconsideration motion “is not a vehicle for relitigating old issues, presenting the case under
3 new theories, securing a rehearing on the merits, or otherwise taking a ‘second bite at the apple.’” *See*
4 *Sequa Corp. v. GBJ Corp.*, 156 F.3d 136, 144 (2nd Cir. 1998). “A party seeking reconsideration must
5 show more than a disagreement with the Court's decision, and recapitulation of the cases and arguments
6 considered by the court before rendering its original decision fails to carry the moving party's burden.”
7 *United States v. Westlands Water Dist.*, 134 F.Supp.2d 1111, 1131 (E.D. Cal. 2001) (internal citations
8 omitted). “To succeed, a party must set forth facts or law of a strongly convincing nature to induce the
9 court to reverse its prior decision.” *Westlands Water*, 134 F.Supp.2d at 1131.

10 Reconsideration is appropriate if the district court: (1) is presented with newly discovered
11 evidence; (2) has committed clear error or the initial decision was manifestly unjust; or (3) is presented
12 with an intervening change in controlling law. *School District 1J, Multnomah County v. ACandS, Inc.*,
13 5 F.3d 1255, 1263 (9th Cir. 1993), *cert. denied*, 512 U.S. 1236, 114 S.Ct. 2742 (1994). There may be
14 other highly unusual circumstances warranting reconsideration. *School District 1J*, 5 F.3d at 1263.
15 Denial of reconsideration is reviewed for abuse of discretion. *School District 1J*, 5 F.3d at 1262.

16 A motion for reconsideration is restricted and serves “a limited function: to correct manifest
17 errors of law or fact or to present newly discovered evidence.” *Publisher’s Resource, Inc. v. Walker*
18 *Davis Publications, Inc.*, 762 F.2d 557, 561 (7th Cir. 1985) (quoting *Keene Corp. v. International*
19 *Fidelity Ins. Co.*, 561 F.Supp. 656, 665-666 (N.D. Ill. 1982), *aff’d*, 736 F.2d 388 (7th Cir. 1984)); *see*
20 *Novato Fire Protection Dist. v. United States*, 181 F.3d 1135, 1142, n. 6 (9th Cir. 1999), *cert. denied*, 529
21 U.S. 1129, 120 S.Ct. 2005 (2000). Reconsideration “may not be used to raise arguments or present
22 evidence for the first time when they could reasonably have been raised earlier in the litigation.” *Kona*
23 *Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). Reconsideration should not be
24 used “to argue new facts or issues that inexcusably were not presented to the court in the matter
25 previously decided.” *See Brambles USA, Inc. v. Blocker*, 735 F.Supp. 1239, 1240 (D. Del. 1990). Under
26 this Court’s Local Rule 230(j), a party seeking reconsideration must demonstrate “what new or different
27 facts or circumstances are claimed to exist which did not exist or were not shown upon such prior
28 motion, or what other grounds exist for the motion” and “why the facts or circumstances were not shown

1 at the time of the prior motion.”

2 Mr. Wheeler offers nothing to support the extraordinary remedy of reconsideration. Mr. Wheeler
3 appears to contend that this Court erred to dismiss this action. Mr. Wheeler points to neither legal error
4 nor legitimate grounds to revisit his dismissed claims. Mr. Wheeler’s evidence fails to address the
5 grounds to dismiss his claims. No manifest error of law or fact arises to justify reconsideration. This
6 Court DENIES Mr. Wheeler reconsideration and his requested relief. Mr. Wheeler has noted in the
7 record his criticisms of this Court’s rulings and related matters, and this Court need comment no further
8 on such issues.

9 IT IS SO ORDERED.

10 **Dated:** April 27, 2012

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

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