



1 warned that “any filing which does not comply with these instructions directing a short  
2 and plain statement or any filing which combines unrelated matters or defendants likely  
3 will result in dismissal with prejudice of the entire action.”

4           Thereafter Plaintiff sought leave to file a fifty page amended complaint. (ECF No.  
5 11.) The request was denied on the ground that Plaintiff failed to show good cause.  
6 (ECF No. 13.)

7           Plaintiff then filed a first amended complaint. (ECF No. 14.) The Court dismissed  
8 Plaintiff’s first amended complaint without prejudice for failure to comply with the Court’s  
9 prior screening order and Federal Rule of Civil Procedure 8. (ECF No. 18.) The Court  
10 noted that the amended complaint was over forty pages long, named forty-five  
11 defendants, and asserted a variety of claims arising out of unrelated facts. Plaintiff was  
12 not given further leave to file an amended pleading.

13           Before the Court for decision are Plaintiff’s objections (ECF No. 20) to the  
14 screening order, which the Court construes as a motion for reconsideration.

## 15 **II. LEGAL STANDARD**

16           Federal Rules of Civil Procedure 60(b)(6) allows the Court to relieve a party from  
17 an order for any reason that justifies relief. Rule 60(b)(6) “is to be used sparingly as an  
18 equitable remedy to prevent manifest injustice and is to be utilized only where  
19 extraordinary circumstances” exist. Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008)  
20 (internal quotations marks and citation omitted).

21           “A motion for reconsideration should not be granted, absent highly unusual  
22 circumstances, unless the district court is presented with newly discovered evidence,  
23 committed clear error, or if there is an intervening change in the controlling law,” Marlyn  
24 Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009).

1 “A motion for reconsideration may not be used to raise arguments or present evidence  
2 for the first time when they could reasonably have been raised in earlier litigation.” Id.  
3 Moreover, “recapitulation of the cases and arguments considered by the court before  
4 rendering its original decision fails to carry the moving party's burden.” U.S. v. Westlands  
5 Water Dist., 134 F. Supp. 2d 1111, 1131 (9th Cir. 2001) (quoting Birmingham v. Sony  
6 Corp. of Am., Inc., 820 F. Supp. 834, 856-57 (D.N.J. 1992)). Similarly, Local Rule 230(j)  
7 requires that a party seeking reconsideration show that “new or different facts or  
8 circumstances are claimed to exist which did not exist or were not shown upon such  
9 prior motion, or what other grounds exist for the motion . . . .”

### 11 **III. DISCUSSION**

12 Plaintiff asserts that his amended complaint complied with Federal Rule of Civil  
13 Procedure 8 and points out that he cut his original complaint by more than half.  
14 However, he acknowledges that his complaint combined “years of constitutional  
15 violation[s].” Plaintiff argues that the Court should have informed him if further  
16 corrections were needed and should have given Plaintiff leave to amend rather than  
17 dismissing the complaint. Plaintiff requests a certificate of appealability if his objections  
18 are denied.  
19

20 The Court’s initial screening order identified the deficiencies in Plaintiff’s  
21 complaint, advised him to avoid combining unrelated claims and defendants, and  
22 ordered that any amended pleading not exceed twenty pages. Plaintiff sought and was  
23 denied leave to file a lengthier pleading. Yet, Plaintiff’s amended complaint was over  
24 forty pages long, included numerous unrelated claims and defendants, and did not  
25 contain a “short and plain statement of the claim showing that the pleader is entitled to  
26 relief.” Fed. R. Civ. P. 8(a)(2). The Court carefully weighed the factors to be considered  
27  
28

1 in determining whether to dismiss an action for failure to obey a court order or local  
2 rules, and determined that those factors weighed in favor of dismissal. (ECF No. 18.)  
3 Plaintiff provides no basis for reconsidering the Court's earlier decision. Accordingly,  
4 Plaintiff's objections, which the Court construes as a motion for reconsideration, will be  
5 denied.  
6

7 Additionally, Plaintiff's request for a certificate of appealability is misplaced. A  
8 certificate of appealability is required for the appeal of habeas corpus proceedings or a  
9 proceeding under 28 U.S.C. § 2255. See 28 U.S.C. § 2253; Fed. R. App. P. 22. This  
10 action was brought pursuant to 42 U.S.C. § 1983, and Plaintiff is not required to obtain a  
11 certificate of appealability prior to taking an appeal.  
12

13 **IV. CONCLUSION AND ORDER**

14 Based on the foregoing, Plaintiff's objections (ECF No. 20) are HEREBY DENIED.  
15

16 IT IS SO ORDERED.  
17

18 Dated: July 21, 2014

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE