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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ANTOINE BEALER,

12 Plaintiff,

13 vs.

14 R. BRANNUM, et al.,

15 Defendants.
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1:12-cv-01516-AWI-GSA-PC

ORDER DENYING MOTION FOR
RECONSIDERATION
(Doc. 63.)

17 **I. RELEVANT PROCEDURAL HISTORY**

18 Antoine Bealer ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis
19 with this civil rights action pursuant to 42 U.S.C. § 1983. On September 14, 2012, Plaintiff
20 filed the Complaint commencing this action. (Doc. 1.) This case now proceeds with the Fourth
21 Amended Complaint filed on March 28, 2014, against defendants Rios and Brannum for use of
22 excessive force in violation of the Eighth Amendment. (Doc. 21.)

23 On March 2, 2015, the court issued a Discovery and Scheduling Order establishing
24 pretrial deadlines for the parties, including a deadline of November 2, 2015, to complete
25 discovery, and a deadline of January 11, 2016, to file dispositive motions. (Doc. 45.) This case
26 is now in the discovery phase.

27 On June 1, 2015, Plaintiff filed a motion for reconsideration of the court's order issued
28 on April 20, 2015, which denied Plaintiff's motion for legal recognition. (Doc. 63.)

1 **II. MOTION FOR RECONSIDERATION**

2 Rule 60(b) allows the Court to relieve a party from an order for “(1) mistake,
3 inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with
4 reasonable diligence, could not have been discovered in time to move for a new trial under
5 Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or
6 misconduct by an opposing party; (4) the judgment is void; or (6) any other reason that justifies
7 relief.” Fed. R. Civ. P. 60(b). Rule 60(b)(6) “is to be used sparingly as an equitable remedy to
8 prevent manifest injustice and is to be utilized only where extraordinary circumstances . . .”
9 exist. Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and
10 citation omitted). The moving party “must demonstrate both injury and circumstances beyond
11 his control” Id. (internal quotation marks and citation omitted). In seeking
12 reconsideration of an order, Local Rule 230(k) requires Plaintiff to show “what new or different
13 facts or circumstances are claimed to exist which did not exist or were not shown upon such
14 prior motion, or what other grounds exist for the motion.”

15 “A motion for reconsideration should not be granted, absent highly unusual
16 circumstances, unless the district court is presented with newly discovered evidence, committed
17 clear error, or if there is an intervening change in the controlling law,” Marlyn Nutraceuticals,
18 Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations
19 marks and citations omitted, and “[a] party seeking reconsideration must show more than a
20 disagreement with the Court’s decision, and recapitulation” of that which was already
21 considered by the Court in rendering its decision,” U.S. v. Westlands Water Dist., 134
22 F.Supp.2d 1111, 1131 (E.D. Cal. 2001). To succeed, a party must set forth facts or law of a
23 strongly convincing nature to induce the court to reverse its prior decision. See Kern-Tulare
24 Water Dist. v. City of Bakersfield, 634 F.Supp. 656, 665 (E.D. Cal. 1986), affirmed in part and
25 reversed in part on other grounds, 828 F.2d 514 (9th Cir. 1987).

26 Here, Plaintiff has not set forth facts or law of a strongly convincing nature in his
27 motion for reconsideration to induce the court to reverse its prior decision. Therefore, the
28 motion for reconsideration shall be denied.

1 **III. CONCLUSION**

2 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for
3 reconsideration, filed on June 1, 2015, is DENIED.

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5 IT IS SO ORDERED.

6 Dated: June 2, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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