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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 DANA GRAY,

12 Plaintiff,

13 vs.

14 ROMERO, et al.,

15 Defendants.
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1:13-cv-01473-DAD-GSA-PC

**ORDER DENYING MOTIONS FOR
RECONSIDERATION
(ECF Nos. 177, 183.)**

17 **I. BACKGROUND**

18 Plaintiff is a prisoner proceeding pro se and in forma pauperis with this civil rights
19 action pursuant to 42 U.S.C. § 1983.

20 On March 15, 2017, Plaintiff filed objections to the court's order of March 2, 2017,
21 (ECF No. 177), and on March 27, 2017, Plaintiff filed objections to the court's order of
22 February 3, 2017. (ECF No. 183.) The court construes Plaintiff's objections as motions for
23 reconsideration of the court's orders.

24 **II. MOTION FOR RECONSIDERATION**

25 Rule 60(b) allows the Court to relieve a party from an order for "(1) mistake,
26 inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with
27 reasonable diligence, could not have been discovered in time to move for a new trial under
28 Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or

1 misconduct by an opposing party; (4) the judgment is void; or (6) any other reason that justifies
2 relief.” Fed. R. Civ. P. 60(b). Rule 60(b)(6) “is to be used sparingly as an equitable remedy to
3 prevent manifest injustice and is to be utilized only where extraordinary circumstances . . .”
4 exist. Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and
5 citation omitted). The moving party “must demonstrate both injury and circumstances beyond
6 his control” Id. (internal quotation marks and citation omitted). In seeking
7 reconsideration of an order, Local Rule 230(k) requires Plaintiff to show “what new or different
8 facts or 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.”

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

21 **III. DISCUSSION**

22 Plaintiff requests reconsideration of the court’s orders of February 3, 2017, and March
23 2, 2017.

24 The court’s order of February 3, 2017, denied three of Plaintiff’s motions: (1) motion
25 for a 90-day extension of the discovery deadline, filed on January 26, 2017 (ECF No. 159); (2)
26 motion for leave to supplement the complaint, filed on February 1, 2017 (ECF No. 162), and
27 (3) motion for a 90-day extension of the discovery deadline, filed on February 1, 2017 (ECF
28 No. 163).

1 The court's order of March 2, 2017, denied three of Plaintiff's other motions: (1)
2 motion for 90-day extension of time to submit Fifth Amended Complaint, filed on February 9,
3 2017 (ECF No. 166), (2) motion to supplement the complaint with submission of Fifth
4 Amended Complaint, filed on February 16, 2017 (ECF No. 171), and (3) motion to amend and
5 supplement the complaint, filed on February 22, 2017 (ECF No. 172).

6 All six of Plaintiff's motions listed above were denied as premature because at the time
7 Plaintiff filed the motions, findings and recommendations were pending recommending that
8 Defendant Rebel's motion to dismiss be granted, with leave to amend; that Defendant Ziomek's
9 motion for judgment on the pleadings be granted, with leave to amend; and that Defendant
10 Mundunuri's motion for judgment on the pleadings be granted. The court could not properly
11 consider Plaintiff's six motions until after the resolution of the findings and recommendations.
12 Therefore, Plaintiff's six motions were premature.

13 The court has thoroughly reviewed Plaintiff's objections and finds that she has not set
14 forth facts or law of a strongly convincing nature in her motions for reconsideration to induce
15 the court to reverse its prior decisions. Therefore, Plaintiff's motions for reconsideration shall
16 be denied.

17 **IV. CONCLUSION**

18 Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motions for
19 reconsideration, filed on March 15, 2017, and March 27, 2017, are DENIED.

20 IT IS SO ORDERED.

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22 Dated: March 30, 2017

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE