

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
8

9 JEREMY JONES,

10 Plaintiff,

11 vs.

12 ARNETTE, et al.,

13 Defendants.
14

1:16-cv-01212-DAD-GSA-PC

**ORDER DENYING MOTION FOR
RECONSIDERATION
(ECF No. 112.)**

15 **I. BACKGROUND**

16 Jeremy Jones (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis*
17 with this civil rights action pursuant to 42 U.S.C. § 1983 and the Americans with Disabilities Act
18 (ADA), 42 U.S.C. § 12132.

19 On October 15, 2021, the court granted Defendants’ motion to modify the scheduling
20 order, and on October 18, 2021, the court granted in part Plaintiff’s motion to compel. (ECF
21 Nos. 110, 111.) On October 20, 2021, Plaintiff filed an opposition to the court’s orders, which
22 the court construes as a motion for reconsideration. (ECF No. 112.)

23 **II. MOTION FOR RECONSIDERATION**

24 Rule 60(b) allows the Court to relieve a party from an order for “(1) mistake,
25 inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable
26 diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3)
27 fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an
28 opposing party; (4) the judgment is void; or (6) any other reason that justifies relief.” Fed. R.

1 Civ. P. 60(b). Rule 60(b)(6) “is to be used sparingly as an equitable remedy to prevent manifest
2 injustice and is to be utilized only where extraordinary circumstances . . .” exist. Harvest v.
3 Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and citation omitted). The
4 moving party “must demonstrate both injury and circumstances beyond his control” Id.
5 (internal quotation marks and citation omitted). In seeking reconsideration of an order, Local
6 Rule 230(k) requires Plaintiff to show “what new or different facts or circumstances are claimed
7 to exist which did not exist or were not shown upon such prior motion, or what other grounds
8 exist for the motion.”

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

20 Here, Plaintiff objects to the court’s decisions to stay the deadlines in this case pending
21 resolution of issues related to unserved defendants and a defendant who has not appeared, and to
22 compel Defendants to respond to Plaintiff’s discovery request.

23 Plaintiff does not present the Court with any newly-discovered evidence or show that the
24 Court committed clear error in its rulings. Nor does he point to any intervening change in
25 controlling law. Instead, Plaintiff merely disagrees with the court’s decisions and recapitulates
26 that which was already considered by the Court in rendering its decisions. Accordingly, Plaintiff
27 fails to show any reason why the Court should reconsider its prior orders, and the Court will deny
28 his motion for reconsideration.

1 **IV. CONCLUSION**

2 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for
3 reconsideration, filed on October 20, 2021, is DENIED.

4
5 IT IS SO ORDERED.

6 Dated: October 21, 2021

/s/ Gary S. Austin
7 UNITED STATES MAGISTRATE JUDGE