

1 September 2, 2015 be dismissed without prejudice to re-filing; and (4) the remaining claims and
2 defendants be dismissed for failure to state a cognizable claim. (ECF No. 16.) Plaintiff timely
3 filed objections on June 15, 2018, (ECF No. 17), and the Court adopted the findings and
4 recommendations in full on June 20, 2018, (ECF No. 18). The misjoined claims were
5 accordingly opened as separate actions. See Smith v. Knowlton, Case No. 1:18-cv-00851-LJO-
6 BAM; Smith v. Weiss, Case No. 1:18-cv-00852-LJO-BAM; and Smith v. Gibbs, Case No. 18-cv-
7 00854-LJO-BAM.

8 On June 22, 2018, the Magistrate Judge issued an order finding service of the first
9 amended complaint appropriate and directing Plaintiff to submit service documents for
10 Defendants Castro, Chanelo, Gonzalez, Hunt, Ramirez, Rodriguez, Sotelo, and Wattree related to
11 the excessive force claim from March 13, 2013. (ECF No. 19.) Plaintiff submitted partially
12 completed service documents on July 9, 2018, together with a motion for relief from judgment
13 and a proposed second amended complaint. (ECF Nos. 20, 21.)

14 On August 6, 2018, Plaintiff filed a motion to amend the complaint and lodged a proposed
15 supplemental complaint. (ECF No. 22, 23.) On September 10, 2018, Plaintiff filed a notice of
16 errata, a further proposed supplemental complaint, and a motion for reconsideration of judgment.
17 (ECF No. 24.)

18 **II. Motion for Reconsideration**

19 “A motion for reconsideration should not be granted, absent highly unusual
20 circumstances, unless the district court is presented with newly discovered evidence, committed
21 clear error, or if there is an intervening change in the controlling law,” Marlyn Nutraceuticals,
22 Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotation marks
23 and citations omitted), and “[a] party seeking reconsideration must show more than a
24 disagreement with the Court’s decision, and recapitulation . . .” of that which was already
25 considered by the Court in rendering its decision, U.S. v. Westlands Water Dist., 134 F. Supp. 2d
26 1111, 1131 (E.D. Cal. 2001) (internal quotation marks and citation omitted). Additionally,
27 pursuant to this Court’s Local Rules, when filing a motion for reconsideration of an order, a party
28 must show “what new or different facts or circumstances are claimed to exist which did not exist

1 or were not shown upon such prior motion, or what other grounds exist for the motion.” Local
2 Rule 230(j).

3 Essentially, Plaintiff argues that he should be permitted to file an amended complaint that
4 will sufficiently plead facts that will support his allegation that there exists against him a vast
5 conspiracy between nearly 100 defendants employed at multiple correctional institutions, county
6 law enforcement and prosecutorial offices, and state courts. The Court has reviewed Plaintiff’s
7 argument in this regard on multiple occasions, and the Magistrate Judge granted him an
8 opportunity to file a first amended complaint to include these allegations. Plaintiff failed to plead
9 sufficient facts to support such a conspiracy, and has now filed three additional proposed
10 amended complaints, each longer and with more defendants than the last.

11 Despite the fact that Plaintiff has not been granted further leave to amend his complaint,
12 the Court has reviewed all three of the proposed amended and supplemental complaints filed
13 since July 2018. Again, Plaintiff has failed to include specific allegations demonstrating that
14 Defendants shared the common objective of the conspiracy, but rather relies upon conclusory
15 allegations. The fact that Plaintiff alleges that each Defendant took some action detrimental to his
16 cause is not sufficient to demonstrate that there existed an express or implied agreement among
17 those defendants to have him harmed.

18 The Court has considered all of Plaintiff’s moving papers and proposed amended and
19 supplemental complaints, but again cannot find that they support the existence of a conspiracy
20 among the numerous defendants. Therefore, the Court finds no grounds that would warrant
21 reconsideration of the earlier decision to sever this case and dismiss otherwise unrelated claims.

22 **III. Conclusion and Order**

23 For the reasons stated, IT IS HEREBY ORDERED as follows:

- 24 1. Plaintiff’s motion for relief from judgment, (ECF No. 20), is DENIED;
- 25 2. Plaintiff’s motion to amend, (ECF No. 22), is DENIED;
- 26 3. Plaintiff’s motion for reconsideration of judgment, (ECF No. 24), is DENIED;
- 27 4. The first amended complaint filed July 14, 2017, (ECF No. 12), remains the operative
28 complaint in this action, as modified by the Court’s order of June 20, 2018; and

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5. This action is referred back to the Magistrate Judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: March 25, 2019

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