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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JAMES MILLNER,	)	Case No.: 1:17-cv-00507-SAB (PC)
	)	
Plaintiff,	)	
	)	<b>ORDER OVERRULING PLAINTIFF’S</b>
v.	)	<b>OBJECTIONS, AND DENYING MOTION</b>
	)	<b>FOR RECONSIDERATION</b>
DR. DILEO, et al.,	)	
	)	[ECF Nos. 73, 74]
Defendants.	)	
	)	
	)	
	)	

18           Plaintiff James Millner is proceeding pro se in this civil rights action pursuant to 42 U.S.C. §  
19 1983. Both parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1).  
20 (ECF No. 55.)

21           Currently before the Court is Plaintiff’s objections to Defendants’ motion for an extension of  
22 time to file a dispositive motion and motion for reconsideration of the Court’s June 18, 2020, order,  
23 filed on June 29, 2020, respectively.

24           On June 17, 2020, Defendants filed a request to extend the dispositive motion deadline.  
25 Plaintiff opposes Defendants’ motion and argues that Defendants have had ample time to prepare and  
26 file a dispositive motion. (ECF No. 73.) Plaintiff also opposes and seek reconsideration of the Court’s  
27 June 18, 2020 order granting Defendants’ motion to extend the dispositive motion deadline. (ECF No.  
28 74.) Contrary to Plaintiff’s contention, Defendants set forth good cause to extend the dispositive

1 motion deadline in that new counsel, Daniel Duan, declared as follows:

2 I was recently reassigned to represent the Defendants in this case on June 8, 2020 due  
3 to current counsel's upcoming leave of absence. I have started to review the case records, and  
4 the results of the investigation by previous counsel. In addition, I am beginning to put together  
5 Defendants' motion for summary judgment, which includes declarations from Defendants and  
6 specific subject-matter experts.

7 Based on my initial review of the case files, I have determined I will need more time  
8 in order to properly prepare Defendants' motion and the opposition to Plaintiff's motion for  
9 summary judgment. The extension of thirty days will be sufficient to allow me to adequately  
10 review all case files and prepare a motion for summary judgment and an opposition to  
11 Plaintiff's motion for summary judgment. The extension will move the deadline for  
12 Defendants to file a motion for summary judgment and an opposition to Plaintiff's motion for  
13 summary judgment to July 29, 2020.

14 Additionally, since this case was assigned to me, I have also been assigned additional  
15 cases, *Belton v. Gutierrez, et al.*, Case No. 3:19-cv-01909-WHO (N.D. Cal.) and *Kocak v.*  
16 *Jiminez*, Case No. 4:18-cv-02065-JST (N.D. Cal.). In *Belton*, I will have a summary judgment  
17 motion due shortly after a stay is lifted. In *Kocak*, I am preparing for a settlement conference  
18 that has been ordered to be completed by July 15, 2020.

19 (Duan Decl. ¶¶ 3-5, ECF No. 70-1.)

20 Plaintiff has failed to demonstrate that reconsideration is warranted. Federal Rule of  
21 Civil Procedure 60(b) governs relief from orders of the district court. The Rule permits a district  
22 court to relieve a party from a final order or judgment on grounds of: "(1) mistake, inadvertence  
23 surprise, or excusable neglect; (2) newly discovered evidence. . . ; (3) fraud . . . by an opposing  
24 party, . . . ; (4) the judgment is void; (5) the judgment has been satisfied...; or (6) any other  
25 reason that justifies relief." Fed. R. Civ. P. 60(b). The motion for reconsideration must be made  
26 within a reasonable time. *Id.* Rule 60(b)(6) "is to be used sparingly as an equitable remedy to  
27 prevent manifest injustice and is to be utilized only where extraordinary circumstances . . ." exist.  
28 *Harvest v. Castro*, 531 F.3d 737, 749 (9th Cir. 2008). The moving party "must demonstrate both injury and circumstances beyond his control . . ." *Id.* Local Rule 230(j) requires Plaintiff to show "what new or different facts or circumstances are claimed to exist which did not exist or were not shown upon such prior motion, or what other grounds exist for the motion." "A motion for reconsideration should not be granted, absent highly unusual

1 circumstances, unless the district court is presented with newly discovered evidence, committed  
2 clear error, or if there is an intervening change in the controlling law,” and it “may not be used to  
3 raise arguments or present evidence for the first time when they could reasonably have been raised  
4 earlier in the litigation.” Marilyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873,  
5 880 (9th Cir. 2009) (emphasis in original).

6 “A party seeking reconsideration must show more than a disagreement with the Court's  
7 decision, and recapitulation” of that which was already considered by the Court in rendering its  
8 decision. United States v. Westlands Water Dist., 134 F.Supp.2d 1111, 1131 (E.D. Cal. 2001). To  
9 succeed, a party must set forth facts or law of a strongly convincing nature to induce the court to  
10 reverse its prior decision. See Kern–Tulare Water Dist. v. City of Bakersfield, 634 F. Supp. 656, 665  
11 (E.D. Cal. 1986). Additionally, pursuant to this Court's Local Rules, when filing a motion for  
12 reconsideration, a party must show what “new or different facts or circumstances claimed to exist  
13 which did not exist or were not shown upon such prior motion, or what other grounds exist for the  
14 motion.” Local Rule 230(j).

15 Plaintiff fails to demonstrate that the undersigned erred in finding good cause to extend the  
16 dispositive motion deadline based on Defendants’ June 17, 2020 motion. Plaintiff simply disagrees  
17 with the Court’s June 18, 2020 order. However, he has failed to demonstrate that the June 18, 2020  
18 order was clearly erroneous or contrary to the law. Accordingly, Plaintiff’s objections are overruled  
19 and his request for reconsideration is denied.

20  
21 IT IS SO ORDERED.

22 Dated: June 30, 2020



UNITED STATES MAGISTRATE JUDGE