

1 full and dismissing the instant action, with prejudice, for failure to comply with Rule 8 and failed
2 to state a cognizable claim upon which relief may be granted. (ECF No. 20.)

3 On September 12, 2019, Plaintiff filed a notice of appeal to District Judge, which the
4 Court interprets as a motion for reconsideration of the Court's February 20, 2019 order adopting
5 the November 7, 2018 findings and recommendations and dismissing this action.

6 **II. Motion for Reconsideration**

7 Federal Rule of Civil Procedure 60(b)(6) permits the Court to relieve a party from an
8 order for any reason that justifies relief. Rule 60(b)(6) "is to be used sparingly as an equitable
9 remedy to prevent manifest injustice and is to be utilized only where extraordinary
10 circumstances" exist. Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotation
11 marks and citation omitted). "A party moving for relief under Rule 60(b)(6) must demonstrate
12 both injury and circumstances beyond [their] control[.]" Id. (internal quotation marks and
13 citation omitted). Additionally, Local Rule 230(j) requires that, when a party makes a motion for
14 reconsideration, the party must show "what new or different facts or circumstances are claimed to
15 exist or were not shown upon such prior motion, or what other grounds exist for the motion" and
16 "why the facts and circumstances were not shown at the time of the prior motion."

17 "A motion for reconsideration should not be granted, absent highly unusual
18 circumstances, unless the district court is presented with newly discovered evidence, committed
19 clear error, or if there is an intervening change in the controlling law." Marlyn Nutraceuticals,
20 Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotation marks
21 and citation omitted). Therefore, "[a] party seeking reconsideration must show more than a
22 disagreement with the Court's decision, and recapitulation of the cases and arguments considered
23 by the [C]ourt before rendering its original decision fails to carry the moving party's burden."
24 United States v. Westlands Water Dist., 134 F.Supp.2d 1111, 1131 (E.D. Cal. 2001) (internal
25 quotation marks and citation omitted).

26 Here, Plaintiff contends that the Magistrate Judge incorrectly determined that Plaintiff
27 failed to state any claim upon which relief may be granted. Plaintiff states that he "did state a
28 claim which was money and damages, pain and suffering, mental, physically, under cruel and

1 unusual punishment.” (ECF No. 24, at 1-2.) However, Plaintiff’s motion fails to present “new or
2 different facts or circumstances ... which did not exist or were not shown upon such prior
3 motion,” as required by Local Rule 230(j). The Court’s order adopting the Magistrate Judge’s
4 findings and recommendations was issued following a *de novo* review of the entire case, and
5 Plaintiff has failed to set forth any additional grounds that the Court did not consider that would
6 entitle him to relief from the Court’s judgment. Therefore, Plaintiff’s motion for reconsideration
7 is denied.

8 **III. Order**

9 Based on the foregoing, Plaintiff’s motion for reconsideration, (ECF No. 24), is HEREBY
10 DENIED. This action remains closed.

11
12 IT IS SO ORDERED.

13 Dated: November 12, 2019

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