

1 as brought under Rule 60.

2 Federal Rule of Civil Procedure 60(b) governs the reconsideration of final orders of the
3 district court. Rule 60(b) permits a district court to relieve a party from a final order or judgment
4 on grounds of: “(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered
5 evidence . . .; (3) fraud . . . of an adverse party; (4) the judgment is void; (5) the judgment has
6 been satisfied . . . or (6) any other reason justifying relief from the operation of the judgment.”

7 Fed. R. Civ. P. 60(b). A motion under Rule 60(b) must be made within a reasonable time, in any
8 event “not more than one year after the judgment, order, or proceeding was entered or taken.” Id.

9 Moreover, when filing a motion for reconsideration, Local Rule 230(j) requires a party to
10 show the “new or different facts or circumstances claimed to exist which did not exist or were not
11 shown upon such prior motion, or what other grounds exist for the motion.” Motions to

12 reconsider are committed to the discretion of the trial court. Combs v. Nick Garin Trucking, 825
13 F.2d 437, 441 (D.C. Cir. 1987); Rodgers v. Watt, 722 F.2d 456, 460 (9th Cir. 1983) (en banc).

14 To succeed, a party must set forth facts or law of a strongly convincing nature to induce the court
15 to reverse its prior decision. See, e.g., Kern-Tulare Water Dist. v. City of Bakersfield, 634 F.
16 Supp. 656, 665 (E.D. Cal. 1986), aff’d in part and rev’d in part on other grounds, 828 F.2d 514
17 (9th Cir. 1987).

18 Here, Plaintiff contends that under Federal Rule of Civil Procedure 12, Defendants had
19 fourteen days to file an answer to the complaint after their motion to dismiss was denied on
20 February 20, 2020. Fed. R. Civ. P. 12(a)(4)(A). Pursuant to Rule 12, unless otherwise ordered,
21 “if the court denies the motion or postpones its disposition until trial, the responsive pleading
22 must be served within 14 days after notice of the court's action.” Fed. R. Civ. P. 12(a)(4)(A).

23 The Court finds that Plaintiff’s motion for reconsideration shall be denied. First, in
24 denying Defendants’ motion to dismiss, the Court’s February 20, 2020 order referred the matter
25 back to the magistrate judge for further proceedings. (ECF No. 66.) Thus, the order did not
26 direct Defendants to file a response pursuant to Rule 12(a)(4)(A), and it appears reasonable for
27 Defendants to have believed that the Court would issue a further order directing a response.
28 Indeed, on March 10, 2020, the Court directed Defendants to file a response within fourteen days.

1 (ECF No. 67.) Defendants filed their answer on March 24, 2020. (ECF No. 68.) Therefore,
2 although Defendants did not file an answer to the complaint within fourteen days after notice of
3 the order denying their motion to dismiss, Plaintiff fails to provide any evidence of prejudice or
4 harm caused by Defendants' untimely filing. Considering that "a case should, whenever possible,
5 be decided on the merits," the Court finds an insufficient basis to enter default, and Plaintiff's
6 motion for reconsideration shall be denied. U.S. v. Signed Personal Check No. 730 of Yubran S.
7 Mesle, 615 F.3d 1085, 1091 (9th Cir. 2010). Accordingly, Plaintiff's motion for reconsideration
8 of the Court's April 2, 2020 order is denied.

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IT IS SO ORDERED.

Dated: August 10, 2020



SENIOR DISTRICT JUDGE