

1 Plaintiffs ostensibly seek reconsideration of the Court's
2 September 17, 2010 Order. In the view of this Court, however,
3 Plaintiffs' request is more properly construed as a Motion for
4 Relief under Federal Rule of Civil Procedure 60(b). The Motion
5 will consequently be analyzed as having been brought under
6 Rule 60(b).

7 Federal Rule of Civil Procedure 60(b) permits this Court to
8 relieve a party or his representative from an order or judgment
9 on various grounds, including said party's "mistake,
10 inadvertence, surprise or excusable neglect." Fed. R. Civ. P.
11 60(b)(1). Motions for relief from judgment pursuant to
12 Rule 60(b) are addressed to the sound discretion of the district
13 court. Casey v. Albertson's Inc., 362 F.3d 1254, 1257 (9th Cir.
14 2004).

15 Here, Plaintiffs' counsel, Ellen Dove, has submitted a
16 declaration indicating that while she reviewed the Court's
17 August 13, 2010 Memorandum and Order, which permitted leave to
18 amend but did not specify a deadline for doing so, because of her
19 vacation schedule she overlooked the subsequent August 19, 2010
20 Minute Order and did not realize she had missed the subsequently
21 imposed September 3, 2010 deadline for filing an amended pleading
22 until that time had already passed. Ms. Dove notified the Court
23 of her error on September 17, 2010, the same day she was notified
24 that no further leave would be permitted due to the lapsed
25 deadline. She thereafter moved for relief from the September 17
26 Order.

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1 Counsel's error in this regard appears to be a classic
2 example of the kind of mistake Rule 60(b) was intended to
3 rectify. Consequently, Plaintiffs' Motion, construed as a Motion
4 for Relief under Rule 60(b), is GRANTED.¹ Plaintiffs have ten
5 (10) days from the date this Order is electronically filed to
6 file a timely amended complaint in this matter.

7 IT IS SO ORDERED.

8 Dated: December 10, 2010

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11 MORRISON C. ENGLAND, JR.
12 UNITED STATES DISTRICT JUDGE
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27 ¹ Because oral argument was not be of material assistance,
28 the Court ordered this matter submitted on the briefs. E.D. Cal.
Local Rule 230(g).