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8	UNITED STATES DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA
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11	BRYON ANDERSON, No. CIV. S-10-2833 LKK/GGH PS
12	Plaintiff,
13	v. Order
14	MCM CONSTRUCTION, INC.,
15	Defendant.
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17	Plaintiff Bryon Anderson is proceeding pro se and in forma
18	pauperis with this civil action brought under Title VII of the
19	Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq. By order
20	filed March 25, 2014, this court adopted in full findings and
21	recommendations filed by the magistrate judge on December 3, 2013
22	and granted summary judgment in favor of defendant MCM
23	Construction, Inc. (ECF No. 71) Judgment was entered on the
24	same day. (ECF No. 72) On April 7, 2014, plaintiff filed a
25	document styled "Response to Court's Decision." The court
26	construes this document as a motion for relief from judgment
27	pursuant to Fed. R. Civ. P. 60(b).
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Rule 60(b) provides: 1 2 (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just 3 terms, the court may relieve a party or its legal representative from a final judgment, 4 order, or proceeding for the following reasons: 5 6 (1) mistake, inadvertence, surprise, or excusable neglect; 7 (2) newly discovered evidence that, 8 with reasonable diligence, could not have been discovered in time to move 9 for a new trial under Rule 59(b); 10 (3) fraud (whether previously called 11 intrinsic extrinsic), or misrepresentation, or misconduct by an 12 opposing party; 13 (4) the judgment is void; 14 (5) the judgment has been satisfied, released, or discharged; it is based on 15 an earlier judgment that has been reversed or vacated; or applying 16 it prospectively is no longer equitable; 17 or 18 (6) any other reason that justifies relief. 19 Fed. R. Civ. P. 60(b). Plaintiff's motion is unsupported by 20 evidence and he has made no arguments that bring the motion 21 within the ambit of the first five paragraphs of Rule 60(b). 2.2 Nor has he met the rigorous standards for relief under Rule 23 60(b)(6). 24 25 Judgments are not often set aside under Rule 60(b)(6). Rather, the Rule is "'used 26 sparingly as an equitable remedy to prevent manifest injustice' and 'is to be utilized 27 extraordinary circumstances only where prevented a party from taking timely action 28 2

1 2 3 4 5 6	to prevent or correct an erroneous judgment.'" <u>United States v. Washington</u> , 394 F.3d 1152, 1157 (9th Cir.2005) (quoting <u>United States v. Alpine Land & Reservoir Co.</u> , 984 F.2d 1047, 1049 (9th Cir.1993)). Accordingly, a party who moves for such relief "must demonstrate both injury and circumstances beyond his control that prevented him from proceeding with the action in a proper fashion." <u>Community Dental</u> Services v. Tani, 282 F.3d 1164, 1168 (9th
7 8	Cir.2002).
9	Latshaw v. Trainer Wortham & Co., Inc., 452 F.3d 1097, 1103 (9 th
10	Cir. 2006). Plaintiff's motion, unsupported by any evidence,
11	does not meet the showing required for relief under Rule
12	60(b)(6).
13	Accordingly, IT IS HEREBY ORDERED that plaintiff's April 7,
14	2014 "Response to Court's Decision" (ECF No. 73) is construed as
15	a motion for relief from judgment pursuant to Fed. R. Civ. P.
16	60(b) and, so construed, is denied.
17	DATED: July 8, 2014.
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21	LAWRENCE K. KARLTON
22	SENIOR JUDGE UNITED STATES DISTRICT COURT
23	UNITED STATES DISTRICT COURT
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