

1 24, 2017, plaintiff moved this court to reconsider its prior order. Mot., ECF No. 34. Wells Fargo
2 opposed. ECF No. 35. Plaintiff filed a reply. ECF No. 36. For the following reasons, the court
3 DENIES plaintiff's motion.

4 A party may move to "alter or amend a judgment" within twenty-eight days of the
5 entry of the judgment. Fed. R. Civ. P. 59(e). Although the Rule does not list specific grounds for
6 such a motion, the Ninth Circuit has said that a Rule 59(e) motion may be granted if "(1) the
7 district court is presented with newly discovered evidence, (2) the district court committed clear
8 error or made an initial decision that was manifestly unjust, or (3) there is an intervening change
9 in controlling law." *Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th Cir. 2001). The
10 court has "wide discretion" when considering such a motion. *Turner v. Burlington N. Santa Fe*
11 *R.R. Co.*, 338 F.3d 1058, 1063 (9th Cir. 2003). The rule provides "an 'extraordinary remedy, to
12 be used sparingly in the interests of finality and conservation of judicial resources.'" *Kona*
13 *Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (quoting James Wm. Moore et
14 al., Moore's Federal Practice § 59.30[4] (3d ed. 2000)); *see also Above the Belt, Inc. v. Mel*
15 *Bohannan Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983) (emphasizing a party moving for
16 reconsideration should not ask the court "to rethink what the Court has already thought
17 through.").

18 Here, plaintiff's reconsideration request identifies no newly discovered evidence,
19 intervening changes in the law, or any manifest injustice. *See generally* Mot. Rather, plaintiff
20 simply restates why he believes *res judicata* should not bar his claims and faults the magistrate
21 judge for judicially noticing the relevant state court proceedings. *See id.* at 3-12. Plaintiff
22 contends that considering outside material effectively transformed the dismissal proceeding into a
23 summary judgment proceeding and deprived plaintiff of his right to meaningfully oppose. *See id.*
24 at 15. Plaintiff has misconstrued the applicable judicial notice rules and has raised no grounds
25 warranting reconsideration here.

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Plaintiff's motion for reconsideration is DENIED.

IT IS SO ORDERED.

This resolves ECF No. 34.

DATED: November 7, 2017.


UNITED STATES DISTRICT JUDGE