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8	UNITED STATE	ES DISTRICT COURT
9	EASTERN DISTR	RICT OF CALIFORNIA
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11	LAURA LESKINEN,	No. 2:18-cv-00453-TLN-KJN
12	Plaintiff,	
13	v.	ORDER
14	SONNY PERDUE, Secretary of the United	
15	States Department of Agriculture,	
16	Defendant.	
17	This matter is before the Court pursuer	nt to Plaintiff Laura Leskinen's ("Plaintiff") Motion
18		nt Sonny Perdue ("Defendant") filed an opposition.
19		ered the parties' arguments. For the reasons set
20	forth below, Plaintiff's Motion for Reconsider	
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I.

II.

FACTUAL AND PROCEDURAL BACKGROUND

On June 14, 2018, the magistrate judge filed findings and recommendations ("F & R"),
which recommended dismissing Plaintiff's second and third causes of action based on Title I and
common law fraud. (ECF No. 20 at 3–4.) Because Plaintiff's sole remaining claim under Title
VII could only be asserted against Defendant in his official capacity, the F & R recommended
dismissing all other Defendants. (ECF No. 20 at 3–4.) The F & R further recommended denying
Plaintiff's motion for preliminary injunction. (ECF No. 20 at 5.)

On June 27, 2018, Plaintiff filed objections to the F & R (ECF No. 22), and on July 13,
2018, Defendants filed a response to those objections (ECF No. 23). On September 14, 2018, this
Court adopted the F & R in full. (ECF No. 28.) In that order, this Court made clear that it
reviewed de novo those portions of the F & R to which objections were made. (ECF No. 28 at 1.)
On September 24, 2018, Plaintiff brought the instant motion seeking reconsideration of
the Court's September 14, 2018 order. (ECF No. 29.)

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STANDARDS OF LAW

15 Before reconsideration may be granted, there must be a change in the controlling law, 16 facts, or other circumstances, the need to correct a clear error, or the need to prevent manifest 17 injustice. Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th 18 Cir. 2009). As with motions to alter or amend a judgment made pursuant to Federal Rule of Civil 19 Procedure 59(a), motions to reconsider are not vehicles permitting an unsuccessful party to 20 "rehash" arguments previously presented. See United States v. Rezzonico, 32 F. Supp. 2d 1112, 21 1116 (D. Az. 1998) ("A motion for reconsideration should not be used to ask the court to rethink 22 what the court has already though through—rightly or wrongly") (omitting internal citations and 23 quotation marks). Nor is a motion to reconsider justified on the basis of new evidence which 24 could have been discovered prior to the court's ruling. Finally, "after thoughts" or "shifting of 25 ground" do not constitute an appropriate basis for reconsideration. Fay Corp. v. BAT Holdings One, Inc., 651 F. Supp. 307, 309 (W.D. Wash. 1987), aff'd 896 F.2d 1227 (9th Cir. 1990). 26 27 ///

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III. ANALYSIS

2	Plaintiff requests this Court: (1) invalidate the magistrate judge's dismissal and reverse
3	this Court's denial of Plaintiff's motion for preliminary injunction and grant the injunctive relief;
4	(2) reverse this Court's order dismissing Plaintiff's Title I claim; and (3) remove the magistrate
5	judge from this case. (ECF No. 29.) Defendant, in opposition to Plaintiff's motion for
6	reconsideration, argues that Plaintiff's motion should be denied because Plaintiff has not
7	presented new facts or circumstances to warrant reconsideration or the disqualification of the
8	magistrate judge. (ECF No. 34.)
9	In what appears to be an attempt to relitigate her request for injunctive relief, Plaintiff first
10	argues that the affidavits and declaration submitted with Defendant's response to Plaintiff's
11	objections are hearsay, and thus inadmissible, or alternatively, incorrect and should be
12	disregarded and/or corrected. ¹ (ECF No. 29 at 13–18.) However, "the rules of evidence do not
13	apply strictly to preliminary injunction proceedings." Mahon v. Morton Golf, LLC, No. 14-2972,
14	2017 WL 1351070, at *2 n.2 (E.D. Cal. Apr. 6, 2017) (quoting Herb Reed Enters., LLC v. Fla.
15	Entm't Mgmt., Inc., 736 F.3d 1239, 1250 n.5 (9th Cir. 2013). Further, to the extent Plaintiff is
16	arguing the declaration and affidavits qualify as newly discovered evidence, the Court finds this
17	argument is not persuasive. The declaration and affidavits were submitted with Defendant's
18	response to Plaintiff's objections prior to this Court's Order. (ECF No. 23; ECF No. 28.) This
19	Court reviewed de novo those portions of the F & R to which objections were made. (ECF No.
20	28 at 1.)
21	Moreover, any new arguments provided by Plaintiff do not meet the threshold for
22	reconsideration; a motion for reconsideration is not an opportunity to relitigate a claim. See

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24 25 United States v. Westlands Water Dist., 134 F. Supp. 2d 1111, 1131 (E.D. Cal. 2001) ("A motion

for reconsideration is not a vehicle to reargue the motion or to present evidence which should

Plaintiff argues that the Declaration of Joseph Frueh (ECF No. 23-1) is inadmissible hearsay under Fed. R. Evid 801(c). (ECF No. 29 at 13.) Plaintiff further argues that the affidavits of Defendant Curt Stock (ECF No. 23-2), and Defendant Christine Messer (ECF No. 23-3) were not made under penalty of perjury and are therefore considered hearsay. (ECF No. 29 at 14.) Christine Messer and Curt Stock were terminated from this action on September 14, 2018. (See ECF No. 28.) Plaintiff further characterized Defendant's background facts as "incorrect and imprecise." (ECF No. 29 at 15.)

1	have been raised before."); Rezzonico, 32 F. Supp. 2d at 1116.		
2	Further, Plaintiff's request that the Court disqualify the magistrate judge from the		
3	proceedings due to bias are baseless. Plaintiff does not provide any evidence other than the		
4	magistrate judge's adverse rulings, which "alone almost never constitute a valid basis for a bias or		
5	partiality motion." Liteky v. United States, 510 U.S. 540, 555 (1994).		
6	Plaintiff fails to offer any new facts or a change in the law warranting revisiting either the		
7	denial of injunctive relief or dismissal of Plaintiff's Title VI claim. Thus, the Court denies		
8	Plaintiff's request for reconsideration.		
9	IV. CONCLUSION		
10	Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for reconsideration (ECF		
11	No. 29) be DENIED. Defendant is afforded twenty-one (21) days from the date of this Order to		
12	answer the complaint.		
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14	Dated: January 2, 2019		
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17	Troy L. Nunley United States District Judge		
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