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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

William J. Whitsitt, No. C 09-2387 JL  
Plaintiff,  
v.  
Judge Hugh Walker, et al.,  
Defendants.

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**ORDER DENYING LEAVE TO FILE  
MOTIONS FOR RECONSIDERATION  
(Docket #s 45, 46, 47, 48)**

**I. Introduction**

This Court received Plaintiff's Objections to the Court's rulings dismissing his complaint without leave to amend as to Defendants the Hon. Hugh Walker, the County of Alameda, the City of Dublin, the Alameda County District Attorney's Office, and Ronda Theisen.

**II. Legal Standard for granting leave to file a motion for reconsideration**

The Court interprets Plaintiff's Objections as motions for leave to file a motion for reconsideration of the Court's orders of dismissal filed at Docket #s 40, 43 and 44.

Civil Local Rule 7-9, at subsections (a) and (b) provides that

"[B]efore the entry of a judgment adjudicating all of the claims and the rights and liabilities of all the parties in a case, any party may make a motion before a Judge requesting that the Judge grant the party leave to file a motion for reconsideration of any interlocutory order made by that Judge on any ground set forth in Civil L.R. 7-9 (b). No party may notice a motion for reconsideration without first obtaining leave of Court to file the motion.

1        In addition, the Local Rule requires that the moving party must specifically show:

2        (1) That at the time of the motion for leave, a material difference in fact or law  
3           exists from that which was presented to the Court before entry of the  
4           interlocutory order for which reconsideration is sought. The party also must  
5           show that in the exercise of reasonable diligence the party applying for  
6           reconsideration did not know such fact or law at the time of the interlocutory  
7           order; or  
8        (2) The emergence of new material facts or a change of law occurring after the  
9           time of such order; or  
10       (3) A manifest failure by the Court to consider material facts or dispositive legal  
11           arguments which were presented to the Court before such interlocutory order.  
12       (c) No motion for leave to file a motion for reconsideration may repeat any oral or  
13           written argument made by the applying party in support of or in opposition to  
14           the interlocutory order which the party now seeks to have reconsidered. Any  
15           party who violates this restriction shall be subject to appropriate sanctions.  
16       (d) Unless otherwise ordered by the assigned Judge, no response need be filed  
17           and no hearing will be held concerning a motion for leave to file a motion to  
18           reconsider. If the judge decides to order the filing of additional papers or that  
19           the matter warrants a hearing, the judge will fix an appropriate schedule.

20       This Court finds that no response or further briefing is necessary to decide this  
21       motion.

22       A court has inherent power to reconsider and modify its interlocutory orders prior to  
23       the entry of judgment. *Smith v. Massachusetts*, 543 U.S. 462, 475 (2005).

24       However, reconsideration is an “extraordinary remedy, to be used sparingly.” A  
25       motion for reconsideration will be denied “unless the District Court is presented with newly  
26       discovered evidence, committed clear error, or if there is an intervening change in the  
27       controlling law.” *Kona Enterprises, Inc. V. Estate of Bishop*, 229 F.3d 877, 890 (9<sup>th</sup> Cir.  
28       2000).

### 29       **III. Analysis and Conclusion**

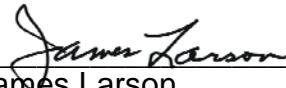
30       In this case, Plaintiff fails to present newly discovered evidence or an intervening  
31       change in the law, so the Court assumes he is arguing that the Court committed clear error  
32       in its rulings. Plaintiff repeats his same arguments with multiple citations to inapposite legal  
33       authorities and invocations of divine power which he believes to be on his side.

1        This Court carefully reexamined its rulings in light of Plaintiff's Objections and  
2 reaches the same conclusion as before: because Plaintiff fails to allege facts that entitle  
3 him to relief, his claims against Defendants must be dismissed without leave to amend.  
4 Amendment would be futile in this case because the deficiencies in Plaintiff's complaint  
5 could not be cured by granting him the opportunity to allege additional facts.

6        Accordingly, leave to file a motion for reconsideration is hereby denied.

7        IT IS SO ORDERED.

8 DATED: December 21, 2009

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11        James Larson  
12        United States Magistrate Judge

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