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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KURT PHAM,

No. C-12-6374 EMC

Plaintiff,

v.

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

FINANCIAL INDUSTRY REGULATORY
AUTHORITY INC., *et al.*,

(Docket No. 52)

Defendants.

Previously, this Court entered a final judgment against Plaintiff in February 2013. *See* Docket No. 31 (final judgment). Plaintiff subsequently filed a motion for reconsideration and then a motion for a new trial, both of which were denied. *See* Docket Nos. 40, 43 (orders). Plaintiff then filed a notice of appeal in April 2013. *See* Docket No. 45 (notice of appeal). Almost a year later, Plaintiff filed a second motion for reconsideration, which is now currently pending before the Court.

Plaintiff's motion for reconsideration is hereby **DENIED**. First, this Court lacks jurisdiction over Plaintiff's motion (filed almost a year after the final judgment) in light of his appeal. *See Katzir's Floor & Home Design, Inc. v. M-MLS.COM*, 394 F.3d 1143, 1148 (9th Cir. 2004) (stating that "[t]he district court lacked jurisdiction to entertain the Rule 60(b) motion, which was filed after the notice of appeal had been filed, thereby stripping the district court of its jurisdiction").

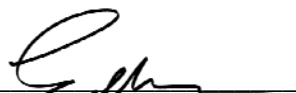
To the extent Plaintiff asks this Court to provide an indicative ruling on his motion pursuant to Federal Rule of Civil Procedure 62.1, the Court declines. Plaintiff's motion largely repeats arguments that this Court has already rejected. For example, citing California Code of Civil Procedure § 1288.6, Plaintiff contends that the statute of limitations did not start running until after

1 FINRA ruled on his motion to correct the arbitration award. *See* Cal. Civ. Code § 1288.6 (providing
2 that, “[i]f an application if made to the arbitrators for correction of the award, a petition may not be
3 served and filed under this chapter until the determination of that application”). But, as the Court
4 stated in its order of April 12, 2013, “there is no indication that FINRA has adopted [this] California
5 rule[.]” Docket No. 43 (Order at 2).

6 This order disposes of Docket No. 52.

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8 IT IS SO ORDERED.

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10 Dated: February 28, 2014

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13 EDWARD M. CHEN
14 United States District Judge
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