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4 UNITED STATES DISTRICT COURT  
5 NORTHERN DISTRICT OF CALIFORNIA  
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7 DEWEY TERRY,

8 Plaintiff,

9 v.

10 BRAD SMITH, et al.,

11 Defendants.

Case No. [13-cv-01227-EMC](#)

**ORDER DENYING PLAINTIFF'S  
MOTION TO ALTER OR AMEND  
JUDGMENT**

Docket No. 131

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13 On December 2, 2016, the Court granted Defendants' motion for summary judgment and  
14 entered judgment against Plaintiff. Plaintiff has filed a motion to alter or amend the judgment, in  
15 which he re-argues his opposition to Defendants' motion and asks the Court to send the case back  
16 for further settlement proceedings. Docket No. 131.

17 A Rule 59(e) motion seeks to "alter or amend the judgment" and must be filed within 28  
18 days after judgment is entered. Fed. R. Civ. P. 59(e). "[A]ltering or amending a judgment [under  
19 Rule 59(e)] is an 'extraordinary remedy' usually available only when (1) the court committed  
20 manifest errors of law or fact, (2) the court is presented with newly discovered or previously  
21 unavailable evidence, (3) the decision was manifestly unjust, or (4) there is an intervening change  
22 in the controlling law." *Rishor v. Ferguson*, 822 F.3d 482, 491-92 (9th Cir. 2016); *see also*  
23 *McDowell v. Calderon*, 197 F.3d 1253, 1254 n.1 (9th Cir. 1999) (en banc). Plaintiff's motion does  
24 not show his entitlement to any relief under Rule 59(e) from the order granting summary  
25 judgment.

26 Plaintiff also argues that the Court should send the case back for further settlement  
27 proceedings because, in his view, it was improper for Defendants to offer a settlement package  
28 that, among other things, required that he leave the employ of CALPIA. Plaintiff offers no

1 persuasive legal authority for his view that a settlement offer violates a litigant's constitutional  
2 rights, especially when that settlement offer is not accepted. Plaintiff chose not to settle when the  
3 case *was* referred for settlement proceedings and counsel was provided to Plaintiff for purposes of  
4 those settlement proceedings. Now that one of the risks of not settling the case has occurred -- i.e.,  
5 Plaintiff has lost and judgment has been entered against him -- the Court will not undo the  
6 judgment so that Plaintiff can rethink his interest in settlement.

7 The motion to alter or amend the judgment is **DENIED**. (Docket No. 131.)

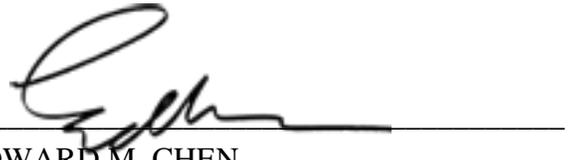
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9 **IT IS SO ORDERED.**

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11 Dated: January 10, 2017

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EDWARD M. CHEN  
United States District Judge

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