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2 IN THE UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4

5 BERNARD HAMILTON,

No. C 09-0648 CW (PR)

6 Plaintiff,

ORDER DENYING PLAINTIFF'S  
MOTION TO ALTER OR AMEND THE  
7 JUDGMENT

8 v.

9 G. THOMSON, et al.,

(Docket no. 122)

10 Defendants.  
11 \_\_\_\_\_/

12 Plaintiff, a state prisoner incarcerated at San Quentin State  
13 Prison, filed this civil rights action alleging that Defendants  
14 violated his constitutional rights in conjunction with the denial  
15 of a laptop computer to monitor his oxygen intake. Defendants  
16 filed a motion for summary judgment. On February 7, 2014, this  
17 Court issued an Order Granting Defendants' Motion for Summary  
18 Judgment and entered judgment in favor of Defendants. Doc. nos.  
19 119, 120. On February 26, 2014, Plaintiff filed a motion to  
20 reconsider or vacate that Order. The Court construes this as a  
21 motion to alter or amend the judgment under Federal Rule of Civil  
22 Procedure 59(e). For the reasons discussed below, Plaintiff's  
23 motion is denied.

24 A motion under Rule 59(e) "'should not be granted, absent  
25 highly unusual circumstances, unless the district court is  
26 presented with newly discovered evidence, committed clear error,  
27 or if there is an intervening change in the law.'" McDowell v.  
28 Calderon, 197 F.3d 1253, 1255 (9th Cir. 1999) (citation omitted)

1 (en banc). A district court does not commit clear error  
2 warranting reconsideration when the question before it is a  
3 debatable one. Id. at 1256. A motion under Rule 59(e) is not a  
4 vehicle permitting the unsuccessful party to "rehash" arguments  
5 previously presented or to present "contentions which might have  
6 been raised prior to the challenged judgment." Costello v. United  
7 States, 765 F. Supp. 1003, 1009 (C.D. Cal. 1991). These holdings  
8 "reflect[] district courts' concerns for preserving dwindling  
9 resources and promoting judicial efficiency." Id.

10 In his motion, Plaintiff argues that the Court erred in  
11 ruling that his contract claim was barred by collateral estoppel  
12 because, in the Court's previous order reopening this case, doc.  
13 no. 122, it had rejected the collateral estoppel argument and  
14 accepted Plaintiff's representation that his claims in this case  
15 were different from the claims in his previous case.

16 Plaintiff asserted this same argument in his opposition to  
17 Defendants' motion for summary judgment, and the Court addressed  
18 it as follows:

19 Plaintiff's only argument against collateral estoppel is that  
20 the Court rejected this argument when it granted his motion  
21 to reopen this case because the Court stated that it relied  
22 on Plaintiff's argument that his claims in this case were  
23 different from the claims addressed in Adamik. But, at that  
24 time, the issue of collateral estoppel was not before the  
25 Court. Therefore, the Court's ruling in the Order granting  
26 Plaintiff's motion to reopen this case did not foreclose the  
27 determination of whether the contract claim is barred by res  
28 judicata or collateral estoppel.

Doc. no. 119 at 15.

Thus, Plaintiff is merely "rehashing" an argument he  
presented previously. As stated above, a motion to alter or amend  
the judgment is not the proper vehicle for relitigating previous

1 arguments. Furthermore, Plaintiff neither alleges the discovery  
2 of new evidence nor an intervening change in the controlling law.

3 Accordingly, Plaintiff's motion to alter or amend the  
4 judgment is denied. This Order terminates docket number 122.

5 IT IS SO ORDERED.

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7 Dated: 3/10/2014

  
CLAUDIA WILKEN  
United States District Judge

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