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2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 OAKLAND DIVISION  
5

6 HANS REISER,  
7 Plaintiff,  
8 vs.  
9 WILLIAM DU BOIS, et al.,  
10 Defendants.  
11

Case No: C 11-4735 SBA (pr)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR LEAVE TO FILE  
MOTION FOR  
RECONSIDERATION**

Docket 39

12 Plaintiff has filed a 23-page Motion for Leave to File Motion for Reconsideration,  
13 Dkt. 39, which seeks to challenge the Court's Order Re Various Motions, filed January 28,  
14 2013, Dkt. 37. Motions for leave to file a motion for reconsideration are governed by Civil  
15 Local Rule 7-9, which states, in relevant part:

16  
17 **(a) Leave of Court Requirement.** Before the entry of a  
18 judgment adjudicating all of the claims and the rights and  
19 liabilities of all the parties in a case, any party may make a  
20 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.

21 **(b) Form and Content of Motion for Leave.** A motion for  
22 leave to file a motion for reconsideration must be made in  
accordance with the requirements of Civil L.R. 7-9. The  
moving party must specifically show:

23  
24 **(1)** That at the time of the motion for leave, a material  
25 difference in fact or law exists from that which was presented to  
26 the Court before entry of the interlocutory order for which  
reconsideration is sought. The party also must show that in the  
exercise of reasonable diligence the party applying for  
reconsideration did not know such fact or law at the time of the  
interlocutory order; or

27  
28 **(2)** The emergence of new material facts or a change of law  
occurring after the time of such order; or

1 (3) A manifest failure by the Court to consider material facts  
2 or dispositive legal arguments which were presented to the  
Court before such interlocutory order.

3 (c) **Prohibition Against Repetition of Argument.** No motion  
4 for leave to file a motion for reconsideration may repeat any  
5 oral or written argument made by the applying party in support  
6 of or in opposition to the interlocutory order which the party  
7 now seeks to have reconsidered. Any party who violates this  
8 restriction shall be subject to appropriate sanctions.

9 Civ. L.R. 7-9(a)-(c) (emphasis added).

10 Plaintiff's motion is in violation of the Court's Standing Orders, which limit motions  
11 to 15 pages. On that basis alone, Plaintiff's motion may be denied. See Tri-Valley CAREs  
12 v. U.S. Dept. of Energy 671 F.3d 1113, 1131 (9th Cir. 2012) ("Denial of a motion as the  
13 result of a failure to comply with local rules is well within a district court's discretion.").  
14 That aside, Plaintiff's motion fails to meet the requirements for reconsideration under Local  
15 Rule 7-9. In short, Plaintiff disagrees with the Court's rulings, and, in a decidedly turgid  
16 manner, merely repeats arguments which the Court has already considered and rejected.  
17 See Civ. L.R. 7-9(c); Fuller v. M.G. Jewelry, 950 F.2d 1437, 1442 (9th Cir. 1991)  
18 ("Treating the motion for reconsideration as one brought under Rule 59(e), the trial court  
19 did not abuse its discretion in denying the motion, because the Fullers presented no  
arguments which the court had not already considered and rejected."). Plaintiff's motion is  
therefore DENIED.


20 Pursuant to the Court's January 28, 2013 Order, Plaintiff is reminded that his First  
21 Amended Complaint (FAC) is due to be filed by February 27, 2013. Should Plaintiff fail to  
22 timely file his FAC and/or if the FAC does not rectify the deficiencies noted by the Court in  
23 its prior orders, this action is subject to dismissal under Federal Rule of Civil Procedure  
24 41(b). See Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) ("Pursuant to Federal  
25 Rule of Civil Procedure 41(b), the district court may dismiss an action for failure to comply  
26 with any order of the court."); accord Yourish v. California, 191 F.3d 983, 986 (9th Cir.  
27 1999) ("Under Ninth Circuit precedent, when a plaintiff fails to amend his complaint after  
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1 the district judge dismisses the complaint with leave to amend, the dismissal is typically  
2 considered a dismissal for failing to comply with a court order ....”). Accordingly,

3 IT IS HEREBY ORDERED THAT Plaintiff’s Motion for Leave to File Motion for  
4 Reconsideration (Dkt. 39) is DENIED. This Order terminates Docket 39.

5 IT IS SO ORDERED.

6 Dated: February 22, 2013

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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Case Number: CV11-04735 SBA

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**CERTIFICATE OF SERVICE**

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13

14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
15 Court, Northern District of California.

16

17 That on February 25, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said  
18 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
19 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
20 located in the Clerk's office.

18

19

20 Hans Reiser G31008  
21 Pleasant Valley State Prison  
22 P.O. Box 8500  
23 Coalinga, CA 93210

24 Dated: February 25, 2013

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Richard W. Wieking, Clerk  
By: Lisa Clark, Deputy Clerk

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