

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

KENNETH LAWRENCE LENK,
Plaintiff,
v.
MONOLITHIC POWER SYSTEMS, INC.,
Defendant.

Case No. 20-cv-08094-BLF

**ORDER DENYING PLAINTIFF'S
MOTION TO AMEND OR ALTER
JUDGMENT PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 59(e)**

[Re: ECF 49]

The Court has reviewed Plaintiff's motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e) (ECF 49), seeking relief from the Court's order granting in part and denying in part Defendant's motion for prevailing party attorneys' fees (ECF 47). The Court finds the motion suitable for decision without soliciting a response from Defendant, and without oral argument. *See* Civ. L.R. 7-1(b).

Under Rule 59(e), a party may file a motion to alter or amend a judgment within 28 days after the entry of the judgment. Some district courts within the Ninth Circuit have held that Rule 59(e) cannot be used to challenge an award of attorneys' fees. *See, e.g., Soares v. Lorono*, No. 12-CV-05979-WHO, 2015 WL 3826795, at *1 (N.D. Cal. June 19, 2015). Even if Plaintiff's motion may be brought under Rule 59(e), he has not identified manifest errors of law or fact, newly discovered evidence, a manifest injustice, or an intervening change in controlling law that would entitle him to relief. *See Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (listing grounds for relief under Rule 59(e)).

Accordingly, Plaintiff's Rule 59(e) motion is DENIED.

Dated: April 18, 2022


BETH LABSON FREEMAN
United States District Judge