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LYLE J. HITCHCOCK,  
 Plaintiff,  
 v.  
 STAN STANLEY; RICHARD BURTZ;  
 PATHFINDERS of SAN DIEGO, INC.,  
 Defendants.

Civil No.08cv2007 L (NLS)  
**ORDER DENYING PLAINTIFF'S  
 MOTION FOR RECONSIDERATION**  
 [Doc. No. 40]

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1 **Legal Standard.**

2 Under Rule 54(b),

3 any order or other decision, however designated, that adjudicates fewer  
4 than all the claims or the rights and liabilities of fewer than all the parties  
5 does not end the action as to any of the claims or parties and may be  
revised at any time before the entry of a judgment adjudicating all the  
claims and all the parties' rights and liabilities.

6 Fed. R. Civ. Proc. 54(b). In the Southern District of California, motions for reconsideration are also  
7 governed by Civil Local Rule 7.1(i). The rule requires that for any motion for reconsideration,

8 it shall be the continuing duty of each party and attorney seeking such  
9 relief to present to the judge . . . an affidavit of a party or witness or  
10 certified statement of an attorney setting forth the material facts and  
11 circumstances surrounding each prior application, including inter alia:  
(1) when and to what judge the application was made, (2) what ruling or  
decision or order was made thereon, and (3) what new or different facts  
and circumstances are claimed to exist which did not exist, or were not  
shown, upon such prior application.

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13 Civ. L.R. 7.1(i)(1).

14 The court has “inherent jurisdiction to modify, alter, or revoke” all non-final orders, “absent  
15 some applicable rule or statute to the contrary.” *Martin*, 226 F.3d at 1049; *see Qualcomm Inc. v.*  
16 *Broadcom Corp.*, 2008 WL 2705161 at \* 1 (S. D. Cal. 2008) (relying on inherent authority). Allowing  
17 such reconsideration “furthers the policy favoring judicial economy.” *U.S. v. Jones*, 608 F.2d 386, 390  
18 n.2. (9th Cir. 1979).

19 “The overwhelming weight of authority is that the failure to file documents in an original motion  
20 or opposition does not turn the late filed documents into ‘newly discovered evidence.’” *Sch. Dist. No.*  
21 *IJ v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993) (citations omitted). Although Civil Local Rule  
22 7.1(i)(1)(3) does not specifically limit the new facts to those that could not have been shown in the  
23 original application through the use of reasonable diligence, strong policy reasons exist for such a  
24 restriction.

25 **Discussion and Order.**

26 Plaintiff argues there are new allegations that were not considered in the original motion for  
27 counsel and states there is a changed, or extraordinary circumstance. He argues that he has an  
28 educational and psychiatric history that make prosecuting a complex civil rights action almost

1 impossible, he is disadvantaged against a team of trained and experienced attorneys, prosecuting and  
2 trying the action would take a toll on his health, and counsel is needed to investigate the case and  
3 present the facts. These are facts that either were already presented, or could have been presented, in the  
4 original motion for appointment of counsel. These are not new or different facts or circumstances that  
5 justify reconsideration of the court's order. Because "[n]either the Local Civil Rules nor the Federal  
6 Rule[s] of Civil Procedure, which allow for a motion for reconsideration, [are] intended to provide  
7 litigants with a second bite at the apple," the court **DENIES** Plaintiff's motion for reconsideration.  
8 *Verble v. 9th U.S. Dist. Court*, 2007 U.S. Dist. LEXIS 33026, \*3 (S.D. Cal. 2007).

9 **IT IS SO ORDERED.**

10 DATED: October 26, 2009

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12 Hon. Nita L. Stormes  
13 U.S. Magistrate Judge  
14 United States District Court  
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