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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 AMERICAN FIREGLASS,

12 Plaintiff,

13 v.

14 MODERUSTIC INC.,

15 Defendant.

Case No.: 15-CV-2866 JLS (BGS)

**ORDER DENYING DEFENDANT'S
MOTION FOR
RECONSIDERATION**

(ECF No. 148)

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17 Presently before the Court is Defendant Moderustic Inc.'s Motion for
18 Reconsideration ("Mot.," ECF No. 148), asking the Court to reconsider its Order (ECF No.
19 145) granting Summary Judgment in favor of Plaintiff American Fireglass. Also before
20 the Court is Plaintiff's Response in Opposition to ("Opp'n," ECF No. 160) the Motion.

21 Federal Rule of Civil Procedure 59(e) permits a party to request a court to alter or
22 amend its judgment. "A district court may grant a Rule 59(e) motion if it 'is presented
23 with newly discovered evidence, committed clear error, or if there is an intervening change
24 in the controlling law.'" *Wood v. Ryan*, 759 F.3d 1117, 1121 (9th Cir. 2014) (internal
25 quotation marks omitted) (quoting *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir.
26 1999) (en banc)) (emphasis in original). Reconsideration is an "extraordinary remedy, to
27 be used sparingly in the interests of finality and conservation of judicial resources." *Kona*
28 *Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). Ultimately, whether

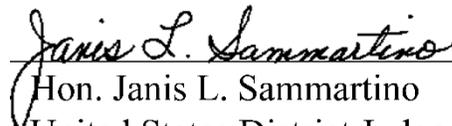
1 to grant or deny a motion for reconsideration is in the “sound discretion” of the district
2 court. *Navajo Nation v. Norris*, 331 F.3d 1041, 1046 (9th Cir. 2003) (citing *Kona Enters.*,
3 229 F.3d at 883).

4 Here, Defendant has not presented any newly discovered facts or intervening
5 changes in the controlling law. See generally *Mot.* Instead, Defendant argues that the
6 Court committed clear error in granting Plaintiff’s Motion for Summary Judgment. *Id.*
7 Defendant contends that “[t]he Court erred as a matter of law by misapplying summary
8 judgment standards, prior art analysis and failing to consider key evidence showing
9 material facts in dispute as to obviousness and commercial success.” *Mot.* at 2. In making
10 its arguments, however, Defendant raises the “same arguments, facts and case law” that
11 this Court already considered, which is insufficient grounds to grant reconsideration. See
12 *Wargnier v. National City Mortg. Inc.*, No. 09cv2721–GPC–BGS, 2013 WL 3810592, at
13 *2 (S.D. Cal. July 22, 2013) (denying motion for reconsideration where the motion
14 reflected the same arguments, facts, and case law that were previously considered and ruled
15 upon by the court). After considering Defendant’s Motion, the Court finds no clear error
16 in the initial decision and therefore **DENIES** the Motion for Reconsideration. See
17 *ArchitectureArt LLC v. City of San Diego*, No. 15-CV-01592-BAS-NLS, 2017 WL
18 1346899, at *1 (S.D. Cal. Apr. 4, 2017) (denying motion for reconsideration where movant
19 rehashed the same arguments made in its motion for summary judgment).

20 In its Opposition, Plaintiff requests the Court impose sanctions under Federal Rule
21 of Civil Procedure 11(b) because, among other things, Defendant allegedly makes false
22 statements of fact. *Opp’n* at 5–6. Plaintiff did not make this request in accordance with
23 Rule 11(c)(2) and, in any event, the Court does not find sanctions warranted in this case.
24 Plaintiff’s request for sanctions is therefore **DENIED**.

25 **IT IS SO ORDERED.**

26 Dated: October 4, 2019

27 
28 Hon. Janis L. Sammartino
United States District Judge