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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 IN RE QUALCOMM INCORPORATED
12 SECURITIES LITIGATION

Case No.: 3:17-cv-00121-BEN-MSB

13 **ORDER DENYING MOTION TO**
14 **RECONSIDER**

15 **[Doc. No. 167]**
16

17 Before the Court is Defendants Qualcomm Incorporated, Derek A. Aberle, Steven
18 R. Altman, William F. Davidson, Paul E. Jacobs, Steven M. Mollenkopf, and Donald J.
19 Rosenberg's (collectively "Defendants") motion to reconsider denial of lead Plaintiffs'
20 motion to seal (Doc. No. 165).

21 Federal Rule of Civil Procedure 60(b) governs the reconsideration of final orders
22 of the district court. The Rule permits a district court to relieve a party from a final order
23 or judgment on grounds of: "(1) mistake, inadvertence, surprise, or excusable neglect; (3)
24 fraud ... of an adverse party, ... or (6) any other reason justifying relief from the
25 operation of the judgement." Fed. R. Civ. P. 60(b). The motion for reconsideration must
26 be made within a reasonable time, in any event "not more than one year after the
27 judgment, order, or proceeding was entered or taken." Id.
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1 Motions to reconsider are committed to the discretion of the trial court. *Rodgers v.*
2 *Watt*, 722 F.2d 456, 460 (9th Cir. 1983) (en banc). To succeed, a party must set forth
3 facts or law of a strongly convincing nature to induce the court to reverse its prior
4 decision. See e.g., *Kern-Tulare Water Dist. v. City of Bakersfield*, 634 F. Supp. 656, 665
5 (E.D. Cal. 1986), *aff'd in part and rev'd in part on other grounds*, 828 F.2d 514 (9th Cir.
6 1987), cert. denied, 486 U.S. 1015, 108 S. Ct. 1752 (1988). The Ninth Circuit has stated
7 that “[c]ause 60(b)(6) is residual and ‘must be read as being exclusive of the preceding
8 clauses.’” *Corex Corp. v. United States*, 638 F.2d 119 (9th Cir. 1981); accord *LaFarge*
9 *Conseils et Etudes, S.A. v. Kaiser Cement*, 791 F.2d 1334, 1338 (9th Cir. 1986).
10 Accordingly, “the clause is reserved for ‘extraordinary circumstances.’” *Id.*

11 In its motion for reconsideration, Defendants summarily repeat arguments made in
12 lead Plaintiffs’ motion (Doc. No. 149), then make known its [Qualcomm’s] anxiety that
13 the Court may have inadvertently overlooked M. Brent Byars Declaration (Doc. No.
14 152)¹, when it denied Lead Plaintiffs’ application to seal (Doc. No. 152). In support,
15 Defendants’ highlight (**in bold font with italics**) the following from M. Brent Byars
16 Declaration:

17 **“...the portions of the FTC Complaint in question have already been**
18 **sealed in two other federal actions: by the District Court for the Northern**
19 **District of California, and by the Court of Appeals for the Ninth Circuit, in**
20 **the Federal Trade Commission v. Qualcomm Incorporated matters.”**

21 (Byars Decl. ¶ 10.)
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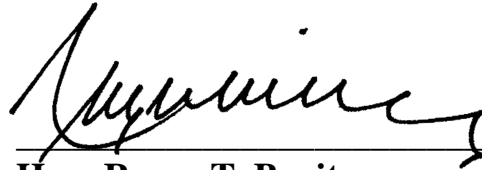
26 ¹ “As set forth below, Qualcomm believes the Court may have inadvertently
27 overlooked the Declaration of M. Brent Byars in support of Lead Plaintiffs’ application,
28 Dkt. 152, and therefore not fully considered the grounds for maintaining the records in
question under seal.” (Doc. No. 167 at 1.)

1 Having considered the Defendants’ motion and attached Declaration, lead
2 Plaintiffs’ original motion to seal², and the Order of denial (Doc. No. 165), the Court
3 does not find extraordinary circumstances, new or different facts, and/or circumstances that
4 would justify reconsideration. The Court continues to find the subject documents to be of
5 significance to the public, and neither party has presented a compelling reason that would
6 outweigh the public’s interest. Moreover, it bears noting that just because this or another
7 Court has previously sealed a document does not mean it will seal it again, particularly at
8 trial. Likewise, the fact that both sides agree to seal or that the documents are designated
9 confidential under a protective order is insufficient cause for sealing. Lastly, while this
10 Court found the documents to be of significance to the public, it provided the parties the
11 option of withdrawing the documents, should they choose to do so rather than have them
12 published on the public docket.

13 Accordingly, Defendants’ motion for reconsideration is **DENIED**.

14 **IT IS SO ORDERED.**

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16 DATED: July 24, 2020



Hon. Roger T. Benitez
United States District Court

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28 ² The Court re-reviewed lead Plaintiff’s Motion to Seal (Doc. No. 149), M. Brent Byars Declaration (Doc. No. 152), and the documents sought to be sealed.