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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JANAR WASITO,
12 Plaintiff,
13 v.
14 SPECIALIZED LOAN SERVICING,
15 LLC; GSAA 5-11; GOLDMAN SACHS
16 MORTGAGE COMPANY; JPM CHASE
17 BANK,
18 Defendants.

Case No.: 3:17-cv-01279-BEN

**ORDER DENYING MOTION FOR
RECONSIDERATION**

19 Plaintiff has filed a Rule 60(b)(6) motion for reconsideration of this Court's order
20 denying a preliminary injunction to postpone a foreclosure sale on his home. The Court
21 denied the preliminary injunction because Plaintiff had not demonstrated a likelihood of
22 success on the merits, that the balance of equities tips in his favor, or that the public
23 interest favors enjoining the foreclosure. Plaintiff admitted he has not made his monthly
24 mortgage payments since May 2015. He also failed to demonstrate a credible offer of
25 tender.

26 Federal Rule of Civil Procedure 60(b)(b) provides that a court may relieve a party
27 from an order for "any . . . reason that justifies relief." Fed. R. Civ. P. 60(b)(6).
28 Reversing a prior order under Rule 60(b)(6) is an exercise of a court's equitable power

1 that “requires a showing of extraordinary circumstances.” *Phelps v. Alameida*, 569 F.3d
2 1120, 1135 (9th Cir. 2009). Those circumstances may include an intervening change in
3 law, newly discovered evidence, or that the district court committed clear error and its
4 initial decision was manifestly unjust. *Marlyn Nutraceuticals, Inc. v. Mucos Pharma*
5 *GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009). A motion for reconsideration may not
6 be used to raise arguments or present evidence for the first time that could have been
7 raised earlier in the litigation. *Id.*

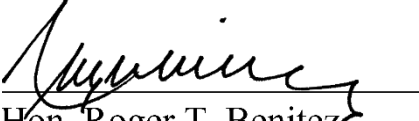
8 Here, Plaintiff does not present new evidence or suggest that there has been an
9 intervening change of law. Instead, Plaintiff argues that the Court made legal errors
10 regarding its interpretation of the tender rule and in refusing to issue a notice of lis
11 pendens, a state procedural rule. He further contends that he is a disabled veteran and,
12 once he completes “sustainment therapy,” his earnings will increase, which will help him
13 qualify for a loan modification. Plaintiff desires to stay in his home and asserts that he
14 will improve the home to increase its value.

15 Although the Court is sympathetic to the loss of Plaintiff’s home, his arguments
16 are not convincing that a clear error has been made or that the decision is manifestly
17 unjust. Plaintiff has not demonstrated the presence of extraordinary circumstances to
18 warrant overturning the Court’s order denying a preliminary injunction. The Rule
19 60(b)(6) standard has not been met.

20 Plaintiff’s motion for reconsideration is **DENIED**.

21 **IT IS SO ORDERED.**

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23 Dated: July 27, 2017

24 
25 Hon. Roger T. Benitez
26 United States District Judge
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