

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ADAM HUPE,)
4)
5 Plaintiff,)
6 vs.)
7 PHILIP C. MANI, an individual; RADIANT)
8 POINT LTD, a Texas limited company,)
9 Defendants.)

Case No.: 2:16-cv-00533-GMN-VCF

ORDER

10 Pending before the Court is the Motion for Reconsideration, (ECF No. 16), filed by
11 Plaintiff Adam Hupe (“Plaintiff”). Defendants Philip C. Mani and Radiant Point, Ltd.
12 (collectively “Defendants”) filed a Response, (ECF No. 17), and Plaintiff did not file a Reply.
13 For the reasons set forth herein, Plaintiff’s Motion for Reconsideration is **DENIED**.

14 **I. BACKGROUND**

15 Plaintiff filed his Complaint on March 9, 2016, alleging claims of breach of contract and
16 breach of the implied covenant of good faith and fair dealing. (Compl., ¶¶ 25–40, ECF No. 1).
17 On April 1, 2016, Defendants filed a Motion to Dismiss pursuant to Federal Rule of Civil
18 Procedure 12(b)(2), arguing that Plaintiff failed to establish the minimum contacts necessary to
19 sustain personal jurisdiction over Defendants in Nevada. (Mot. to Dismiss 7:14–16, ECF No.
20 8). On July 12, 2016, the Court granted Defendants’ Motion to Dismiss. (Order, ECF No. 14).
21 In the instant Motion, Plaintiff seeks reconsideration on this issue, asserting that new evidence
22 establishes the necessary minimum contacts for jurisdiction. (Pl.’s Mot. for Reconsideration
23 2:1–3, ECF No. 16).

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1 **II. LEGAL STANDARD**

2 Federal Rule of Civil Procedure 60(b) permits a court to set aside its order for the
3 following reasons:

- 4 1) mistake inadvertence surprise or excusable neglect;
- 5 2) newly discovered evidence that with reasonable diligence could not have been
6 discovered in time to move for a new trial under Rule 59(b);
- 7 3) fraud;
- 8 4) the judgment is void;
- 9 5) the judgment has been satisfied released or discharged; or
- 10 6) any other reason that justifies relief.

11 The Ninth Circuit has limited the grounds for reconsideration into three primary
12 categories: 1) newly discovered evidence; 2) the need to correct clear error or prevent manifest
13 injustice; or 3) an intervening change in controlling law. *Zimmerman v. City of Oakland*, 255
14 F.3d 734, 740 (9th Cir. 2001). In general, “a motion for reconsideration should not be granted,
15 absent highly unusual circumstances.” *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003).

16 **III. DISCUSSION**

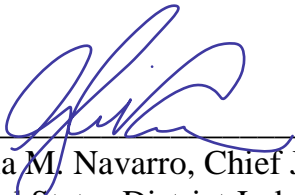
17 Plaintiff argues that reconsideration is warranted based on a number of new factual
18 assertions. It is well established that a motion for reconsideration “may not be used to raise
19 arguments or present evidence for the first time when they could reasonably have been raised
20 earlier in the litigation.” *Marylyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d
21 873, 880 (9th Cir. 2009); see also *Coastal Transfer Co. v. Toyota Motor Sales, U.S.A., Inc.*, 833
22 F.2d 208, 212 (9th Cir. 1987) (stating that evidence in the possession of the party before the
23 judgment was rendered is not newly discovered). Here, Plaintiff has failed to demonstrate how
24 his assertions constitute “newly discovered evidence” for purposes of reconsideration. To the
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1 contrary, Plaintiff's assertions are based almost entirely on his own personal knowledge and
2 could have been raised in response to the original Motion to Dismiss.

3 Accordingly,

4 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Reconsideration, (ECF No. 16),
5 is **DENIED**.

6 **DATED** this 24 day of March, 2017.

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10 Gloria M. Navarro, Chief Judge
11 United States District Judge
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