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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MATT P. JACOBSEN,

Plaintiff,

v.

HSBC BANK USA, N.A., et al.,

Defendants.

Case No. 3:12-cv-00486-MMD-WGC

ORDER

(Plf.'s Renewed Motion for Temporary
Restraining Order – dkt. no. 28)

I. SUMMARY

Before the Court is Plaintiff Matt P. Jacobsen's Renewed Verified Emergency Motion for Temporary Restraining Order (dkt. no. 28). Jacobsen filed the Motion on the eve of the scheduled sale date of his property that is the subject of this suit and after the Court denied his previous temporary restraining order ("TRO") request on November 30, 2012. (See dkt. no. 27.) Defendants HSBC Bank USA, N.A. and HSBC Mortgage Corporation (USA) (collectively "HSBC") filed their Response the same day. (Dkt. no. 28.) In this Motion, he argues that the Court erred by failing to address whether or not Defendant complied with Nevada state law's requirement that an affidavit of authority be recorded alongside any notice of default. As the Motion requests a reconsideration of the November 30, 2012, Order, the Court construes this second Emergency Motion as a Motion for Reconsideration.

II. BACKGROUND

The relevant details concerning this transaction are summarized in the Court's November 30, 2012, Order.

1 **III. LEGAL STANDARD**

2 Although not mentioned in the Federal Rules of Civil Procedure, motions for
3 reconsideration may be brought under Rules 59(e) and 60(b). Under Rule 60(b), a court
4 may relieve a party from a final judgment, order or proceeding only in the following
5 circumstances: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly
6 discovered evidence; (3) fraud; (4) the judgment is void; (5) the judgment has been
7 satisfied; or (6) any other reason justifying relief from the judgment. *Stewart v. Dupnik*,
8 243 F.3d 549, 549 (9th Cir. 2000). See also *De Saracho v. Custom Food Mach., Inc.*,
9 206 F.3d 874, 880 (9th Cir. 2000) (noting that the district court’s denial of a Rule 60(b)
10 motion is reviewed for an abuse of discretion).

11 A motion for reconsideration must set forth the following: (1) some valid reason
12 why the court should revisit its prior order; and (2) facts or law of a “strongly convincing
13 nature” in support of reversing the prior decision. *Frasure v. United States*, 256
14 F.Supp.2d 1180, 1183 (D. Nev. 2003). On the other hand, a motion for reconsideration
15 is properly denied when the movant fails to establish any reason justifying relief.
16 *Backlund v. Barnhart*, 778 F.2d 1386, 1388 (9th Cir. 1985) (holding that a district court
17 properly denied a motion for reconsideration in which the plaintiff presented no
18 arguments that were not already raised in his original motion)). Motions for
19 reconsideration are not “the proper vehicles for rehashing old arguments,” *Resolution*
20 *Trust Corp. v. Holmes*, 846 F. Supp. 1310, 1316 (S.D. Tex. 1994) (footnotes omitted),
21 and are not “intended to give an unhappy litigant one additional chance to sway the
22 judge.” *Durkin v. Taylor*, 444 F. Supp. 879, 889 (E.D. Va. 1977).

23 **IV. DISCUSSION**

24 Jacobsen’s Motion is without merit, as he has failed to demonstrate a valid reason
25 as to why the Court should revisit its prior order. He argues that the impending
26 foreclosure sale must be enjoined because HSBC failed to file an affidavit of authority as
27 required by NRS § 107.080(2)(c). While his interpretation of the *current* law’s
28 requirements is correct, he fails to appreciate that this requirement arose only after


1 October 1, 2011. Under the current rule, effective from October 1, 2011, onwards, a
2 foreclosing entity must record a notice of breach and election to sell which includes a
3 notarized affidavit of authority to exercise the power of sale.

4 However, the prior rule, effective up until September 30, 2011, did not so require.
5 The Notice of Default issued by Housekey Financial Corporation was executed and
6 recorded on July 27, 2010. (Dkt. no. 23-F.) At the time of its execution, the governing
7 version of NRS § 107.080 did not require the recording of an affidavit of authority
8 alongside a notice of default and election to sell. Accordingly, Housekey and HSBC
9 complied with the statutory provisions of Nevada's foreclosure law, and Jacobsen cannot
10 meet his burden to demonstrate mistake in the Court's November 30, 2012 Order.

11 **V. CONCLUSION**

12 IT IS HEREBY ORDERED that Plaintiff's Emergency Motion for Temporary
13 Restraining Order (dkt. no. 28) is DENIED.

14 DATED THIS 5th day of December 2012.

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18 MIRANDA M. DU
19 UNITED STATES DISTRICT JUDGE
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