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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 DEANNA C. THOMAS, *et al.*,

11 Plaintiffs,

12 v.

13 EVERETT ASSOCIATION OF CREDIT
14 MEN, INC., *et al.*,

15 Defendants.
16

Case No. C17-599RSM

ORDER DENYING PLAINTIFF'S
MOTION TO ALTER OR AMEND
JUDGMENT

17 This matter comes before the Court on Plaintiff Deanna C. Thomas' Motion to Alter or
18 Amend Judgment. Dkt. #32.

19 On March 9, 2018, this matter was dismissed without prejudice based on Plaintiff's
20 complete failure to engage in the discovery process or respond to Defendants' Motion seeking
21 dismissal. Dkt. #25. Plaintiff has since re-filed the same or nearly identical complaint in a new
22 action with the same counsel. *See* Case No. 2:18-cv-00615-RSM. If the Court were to grant
23 Plaintiff's requested relief, she would have two parallel actions in the same court pursuing the
24 same claims. Plaintiff does not address this obvious problem by, *e.g.*, offering to withdraw the
25 other action should relief be granted here. Instead, Plaintiff states that Defendants "make a big
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ORDER DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT - 1

1 deal” out of Plaintiff pursuing two identical cases at once, as if “this is somehow a bad thing,”
2 and asks, rhetorically or not, “what are Defendants trying to say here?” Dkt. #36 at 3.

3 The Court has reviewed Plaintiff’s substantive arguments for granting the requested
4 relief. A district court has considerable discretion when considering a motion to alter or amend
5 a judgment under Rule 59(e). *Turner v. Burlington N. Santa Fe R. Co.*, 338 F.3d 1058, 1063
6 (9th Cir. 2003). There are four grounds upon which a Rule 59(e) motion may be granted: 1) the
7 motion is necessary to correct manifest errors of law or fact upon which the judgment is based;
8 2) the moving party presents newly discovered or previously unavailable evidence; 3) the
9 motion is necessary to prevent manifest injustice; or 4) there is an intervening change in
10 controlling law. *Id.* Vacating a prior judgment under Rule 59(e) is an “extraordinary remedy,
11 to be used sparingly in the interests of finality and conservation of judicial resources.” *Carroll*
12 *v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003). “A Rule 59(e) motion may not be used to raise
13 arguments or present evidence for the first time when they could reasonably have been raised
14 earlier in the litigation.” *Id.*

15 Plaintiff has not met the Rule 59(e) standard. Plaintiff does not offer newly discovered
16 evidence or argue that there has been an intervening change in controlling law. Instead,
17 Plaintiff argues that the Court’s sanction of dismissing the case was too extreme given the facts
18 as previously presented to the Court. Plaintiff has failed to show any legal error in the Court’s
19 Order. Dismissal was an available sanction, and Defendants presented valid arguments for that
20 sanction. Plaintiff failed to respond to those arguments. While manifest injustice is a valid
21 ground to alter or amend a judgment, Plaintiff has not shown that the Court’s Order resulted in
22 any injustice to *Plaintiff*, who has already refiled her case. Instead, Plaintiff’s counsel spends
23 most of the briefing discussing his scheduling issues related to a family health problem. As
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1 sympathetic as the Court is to this or any counsel's family health emergencies, the Court has
2 already addressed how counsel failed to properly follow the Court's procedures or withdraw in
3 this case, and the sanction of dismissal without prejudice has not resulted in any injustice to his
4 client.¹ Plaintiff does not address the conservation of judicial resources, which weighs strongly
5 in denying this Motion.
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7 Given all of the above, and having reviewed the relevant briefing, the declarations and
8 exhibits attached thereto, and the remainder of the record, the Court hereby finds and ORDERS
9 that Plaintiff's Motion to Alter or Amend Judgment, Dkt. #32, is DENIED. No further attorney
10 fees will be assessed based on Plaintiff's Motion.
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13 DATED this 8 day of May, 2018.

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16 RICARDO S. MARTINEZ
17 CHIEF UNITED STATES DISTRICT JUDGE
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¹ Defendant argues "Plaintiff's argument fails to show any evidence of how this Court's ruling affects Plaintiff in any way," that "[t]he argument centers on the unfairness to Plaintiff's attorney," and that "[t]his appears to be a malpractice repair argument." Dkt. #35 at 6.