

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PHILIP EMIABATA, et al.,

CASE NO. C17-1302JLR

Plaintiffs,

ORDER DENYING PLAINTIFFS'
MOTION FOR
RECONSIDERATION

THE BANK OF NEW YORK
MELLON TRUST COMPANY
NA/JP MORGAN CHASE (SLS), et
al.,

Defendants.

Before the court is Plaintiffs Philip Emiabata and Sylvia Emiabata's (collectively, "Plaintiffs") motion for reconsideration of the court's order dismissing their complaint without prejudice and without leave to amend for lack of subject matter jurisdiction. (MFR (Dkt. # 9); *see also* Order (Dkt. # 7).) The court has reviewed the motion, the relevant portions of the record, and the applicable law. Being fully advised, the court denies the motion.

ORDER - 1

1 In its order, the court dismissed Plaintiffs' complaint for lack of subject matter
2 jurisdiction. (Order at 3-7.) Plaintiffs invoked the court's diversity jurisdiction (*see*
3 Compl. (Dkt. # 5) at 3), but the court found that Plaintiffs had failed to properly alleged
4 complete diversity of citizenship between Plaintiffs and Defendants (Order at 4). The
5 court did not permit Plaintiffs to amend their complaint because Plaintiffs' claim, which
6 relates to property located in Texas, is also barred by the local action doctrine. (*Id.* at
7 4-6.) Accordingly, the court dismissed the action for lack of subject matter jurisdiction
8 without prejudice and without leave to amend. (*See id.* at 6-7.) Plaintiffs ask the court to
9 reconsider this ruling. (*See generally* MFR.)

10 Plaintiffs do not identify the legal basis for their motion for reconsideration. (*See*
11 *generally id.*) Nevertheless, “[c]ourts in this circuit have an obligation to give a liberal
12 construction to the filings of pro se litigants.” *Blaisdell v. Frappiea*, 729 F.3d 1237, 1241
13 (9th Cir. 2013). Given this obligation, the court liberally construes Plaintiffs' motion as
14 one under Local Rule LCR 7(h). *See* Local Rules W.D. Wash. LCR 7(h)(1). Pursuant to
15 the Local Rules of the Western District of Washington, motions for reconsideration are
16 disfavored, and will ordinarily be denied unless there is a showing of (a) manifest error in
17 the prior ruling, or (b) new facts or legal authority which could not have been brought to
18 the attention of the court earlier with reasonable diligence. *Id.*

19 In addition, under Federal Rule of Civil Procedure 59(e), a court may alter or
20 amend a judgment where (1) the court is presented with newly discovered evidence; (2)
21 the court committed clear error or the initial decision was manifestly unjust; or (3) there
22

1 is an intervening change in controlling law. *See Fed. R. Civ. P. 59(e); Sch. Dist. No. 1J,*
2 *Multnomah Cty. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).

3 Finally, under Federal Rule of Civil Procedure 60(b), a court may relieve a party
4 from an order for the following reasons:

5 (1) mistake, inadvertence, surprise, or excusable neglect;
6 (2) newly discovered evidence that, with reasonable diligence, could not
7 have been discovered in time to move for a new trial under Rule 59(b);
8 (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation,
9 or misconduct by an opposing party;
10 (4) the judgment is void;
11 (5) the judgment has been satisfied, released, or discharged; it is based on an
12 earlier judgment that has been reversed or vacated; or applying it
13 prospectively is no longer equitable; or
14 (6) any other reason that justifies relief.

15 Fed. R. Civ. P. 60(b); *see Am. Ironworks & Erectors, Inc. v. N. Am. Const. Corp.*, 248
16 F.3d 892, 898-99 (9th Cir. 2001) (construing a “motion for reconsideration” filed past the
17 deadline as a Rule 60(b) motion).

18 Plaintiffs offer no new or additional legal or factual grounds or any other basis that
19 would justify revisiting or reconsidering the court’s prior order under any of the
20 foregoing standards. (*See* MFR.) Finding no basis for reconsidering its prior order, the
21 court DENIES Plaintiffs’ motion (Dkt. # 9).

22 Dated this 24th day of October, 2017.



23
24 JAMES L. ROBART
25 United States District Judge