

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

King Solomon v. Tapia

Solomon v. Tapia · No. 1:22-cv-1604-KES-HBK (PC) · Decided March 25, 2025

OPINION

(PC) Solomon v. Tapia

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 KING SOLOMON, Case No. 1:22-cv-1604-KES-HBK (PC) 12 Plaintiff, ORDER
DENYING PLAINTIFF’S MOTION

FOR RECONSIDERATION

13 v. (Doc. No. 47)

14 TAPIA,

15 Defendant. 16

17 18 Pending before the Court is Plaintiff’s Motion for Reconsideration filed on February 3, 19
2025. (Doc. No. 47). Plaintiff asks the Court to reconsider its January 21, 2025 Order striking 20
Plaintiff’s Motion to Compel Discovery. (See generally *Id.*). Because Plaintiff filed the motion 21
within 28 days of the order being challenged, the Court construes the Motion as made pursuant to
22 Federal Rule of Civil Procedure 59(e). See Fed. R. Civ. P. 59(e). For the reasons set forth
below, 23 the Court denies the Motion. 24 Federal Rule of Civil Procedure 59(e) permits a party
to move a court to alter or amend its 25 judgment. “A district court may grant a Rule 59(e) motion
if it ‘is presented with newly 26 discovered evidence, committed clear error, or if there is an
intervening change in the controlling 27 law.’” *Wood v. Ryan*, 759 F.3d 1117, 1121 (9th Cir. 2014)
(internal quotation marks omitted) 28 (quoting *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th
Cir. 1999) (en banc)) (emphasis in 1 original). Reconsideration is an “extraordinary remedy, to be
used sparingly in the interests of 2 finality and conservation of judicial resources.” *Kona Enters.,
Inc. v. Estate of Bishop*, 229 F.3d 3 877, 890 (9th Cir. 2000). Ultimately, whether to grant or deny
a motion for reconsideration is in 4 the “sound discretion” of the district court. *Navajo Nation v.
Norris*, 331 F.3d 1041, 1046 (9th

5 Cir. 2003) (citing *Kona*, 229 F.3d at 883). A Rule 59(e) motion “may not be used to relitigate old
6 matters, or to raise arguments or present evidence that could have been raised prior to the entry
of 7 judgment.” *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 486 n. 5 (2008) (internal quotation
marks 8 omitted); see also *Backlund v. Barnhart*, 778 F.2d 1386, 1388 (9th Cir. 1985); *Marlyn* 9

Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009). 10 On January 21, 2025 the Court struck Plaintiff's Motion to Compel as facially deficient. 11 (Doc. No. 45). Specifically, in his the one-paragraph Motion to Compel, Plaintiff did not provide 12 the requisite certification that he attempted to comply with the meet and confer mandate. (See 13 generally Doc. No. 44). In his current Motion for Reconsideration, Plaintiff states that when he 14 mailed the Motion to Compel to the Court, he also mailed the Motion to Compel to defense 15 counsel, but it presumably was lost in institutional mail. (Doc. No. 47 at 1). The Court did not 16 strike the Motion to Compel because it was not served on defense counsel. The Court struck the 17 Motion to Compel because Plaintiff did not first attempt to resolve his discovery dispute with 18 defense counsel before filing his Motion to Compel. Thus, Plaintiff has not shown grounds that 19 warrant reconsideration. 20 Furthermore, Plaintiff fails to set forth facts showing that manifest injustice would result if 21 the Court were to deny his motion. "Courts of the Ninth Circuit generally treat 'manifest 22 injustice' as very nearly synonymous with 'clear error,' defining manifest injustice as any 'error 23 in the trial court that is direct, obvious and observable, such as a defendant's guilty plea that is 24 involuntary.'" *Greenspan v. Fieldstone Fin. Mgmt. Grp., LLC*, 2018 WL 4945214, at *20 (D. Or.

25 Aug. 22, 2018); see also *In re Oak Park Calabasas Condominium Ass'n*, 302 B.R. 682, 683 26 (Banks. C.D. Cal. 2003) (citing *Black's Law Dictionary* 563 (7th ed. 1999)) (defining manifest 27 injustice under Rule 59(e)). "Manifest injustice," as it pertains to Rule 59(e), is not to be used as 28 a Trojan Horse to breach a court order for a second chance at litigating the same issue. All. for 1 *Wild Rockies v. United States Forest Serv.*, 2020 WL 7082687, at *2 (D. Idaho Dec. 3, 2020). 2 | Plaintiff has not set forth any facts to indicate a "direct, obvious and observable" error in the trial 3 | court that would constitute manifest injustice. Thus, he fails to meet his burden to justify 4 | reconsideration of the January 21, 2025 Order on that basis. 5 Accordingly, it is ORDERED: 6 Plaintiff's Motion for Reconsideration (Doc. No. 47) is DENIED. 7 | Dated: _ March 24, 2025 Mihaw. □□ fareh Hack

9 HELENA M. BARCH-KUCHTA

10 UNITED STATES MAGISTRATE JUDGE

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28