

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

**JENNY CRAIG, individually and on
behalf of all others similarly situated**

PLAINTIFF

V.

CASE NO. 5:14-CV-05214

TWININGS NORTH AMERICA, INC.

DEFENDANT

ORDER

Currently before the Court are Plaintiff Jenny Craig's Motion for Reconsideration (Doc. 31) and brief in support (Doc. 32) regarding the Court's Order of February 5, 2015 (Doc. 29), and Defendant Twinings North America, Inc's Response (Doc. 33).

In Plaintiff's Motion for Reconsideration, she asks the Court to reconsider its ruling as to whether her "Natural Source" claims are expressly preempted, again directing the Court to case law and an FDA warning letter cited in her Response to the Motion to Dismiss. A motion for reconsideration of a final judgment or order may be considered pursuant to either Federal Rule of Civil Procedure 59(e) or 60(b). "Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence." *Lowry ex rel. Crow v. Watson Chapel School Dist.*, 540 F.3d 752, 761 (8th Cir.2008) (quoting *Metropolitan St. Louis Sewer Dist.*, 440 F.3d at 933 (internal citations and quotations omitted)). "A district court has broad discretion in determining whether to grant or deny a motion to alter or amend judgment pursuant to Rule 59(e)." *Id.*

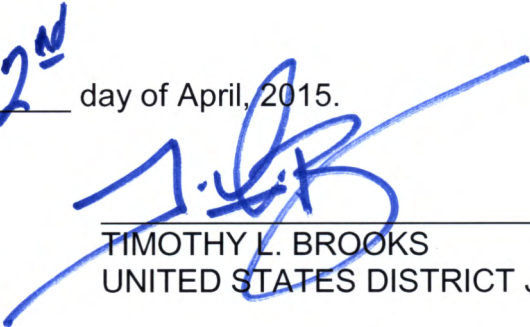
According to Rule 60(b), a party may be relieved from an order of the Court under certain enumerated circumstances, including the existence of "mistake, inadvertence, surprise, or excusable neglect" or "any other reason that justifies relief." Fed. R. Civ. P.

60(b)(1) and (6). Rule 60(b) "provides for extraordinary relief which may be granted only upon an adequate showing of exceptional circumstances." *United States v. Young*, 806 F.2d 805, 806 (8th Cir. 1986).

None of the circumstances envisioned by Rules 59(e) or 60(b) favoring reconsideration are present in this case, and relief is not otherwise justified. Neither the Court nor the Plaintiff have identified manifest errors of law or fact underlying the decision to dismiss the case. Plaintiff has not presented newly discovered evidence that would persuade the Court to alter its decision.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Reconsideration (Doc. 31) is **DENIED**.

IT IS SO ORDERED this 2nd day of April, 2015.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE