

Not for Publication or Citation

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE: CASE NO. 08-13109)
)
JUSTIN LEE STUCKEY)
TERESA ROSE STUCKEY)
)
Debtors)
)
)
JAMES CRAVER)
JANE CRAVER)
)
Plaintiffs)
)
vs.) PROC. NO. 09-1046
)
JUSTIN LEE STUCKEY)
TERESA ROSE STUCKEY)
)
Defendants)

**DECISION AND ORDER DENYING
MOTION TO CORRECT ERRORS**

At Fort Wayne, Indiana, on May 7, 2010.

On April 26, 2010, the court issued a decision and judgment denying the debtors' discharge.

The debtors have now filed a motion to correct errors, together with a brief in support thereof.

In federal practice, there is no such thing as a motion to correct errors. Counsel is apparently following state practice concerning such motions. See, Ind. Trial Rule 59. Nonetheless, since the thrust of the debtors' motion is that the court erred, it construes the motion as one to alter or amend, filed pursuant to Rule 59 of the Federal Rules of Civil Procedure which is made applicable to bankruptcy proceedings by Bankruptcy Rule 9023. Such motions are addressed to the court's discretion, In re Prince, 85 F.3d 314, 324 (7th Cir.1996) and may be considered without a hearing

or requiring a response. See, Dunn v. Truck World, Inc., 929 F.2d 311, 313 (7th Cir. 1991). See also, N.D. Ind. L.B.R. B-9023-1(b).

A motion to alter or amend generally requires the movant to demonstrate a manifest error of law or fact or newly discovered evidence that could not have been discovered previously. See, Deutsch v. Burlington Northern R. Co., 983 F.2d 741, 744 (7th Cir. 1992) (citing Figgie Int'l Inc. v. Miller, 966 F.2d 1178, 1180 (7th Cir. 1992)); Publishers Resource Inc. v. Walker-Davis Publications, Inc., 762 F.2d 557, 561 (7th Cir.1985). It may also be appropriate if the court has clearly misunderstood the party, rendered a decision outside of the issues raised, or if there was a significant change in the law since the issues were submitted. Bank of Waunakee v. Rochester Cheese Sales, Inc., 906 F.2d 1185, 1191 (7th Cir.1990). It is not an opportunity to rehash earlier arguments, or to present arguments or evidence “that could and should have been presented” before, in the hope that the court will change its mind. Moro v. Shell Oil Co., 91 F.3d 872, 876 (7th Cir.1996) (citing LB Credit Corp. v. Resolution Trust Corp., 49 F.3d 1263, 1267 (7th Cir.1995)). Court orders are not “mere first drafts, subject to revision and reconsideration at a litigant’s pleasure.” Quaker Alloy Casting Co. v. Gulfco Indus., Inc., 123 F.R.D. 282, 288 (N.D. Ill. 1988).

The debtors have not demonstrated any mistake of law or fact in the court’s decision, advanced any argument that could not have been asserted before, presented any newly discovered evidence or identified a change in the law which might apply. Their reliance on an unreported Seventh Circuit decision, Alleman v. Kitson, 341 Fed. Appx. 234, 2009 U.S. App. LEXIS 18282 (7th Cir. 2009), does not demonstrate that this court committed any error of law or fact (much less

a manifest error) when it decided this case.¹ The motion is nothing more than an attempt to either rehash earlier arguments or, what is more likely, advance arguments which were not previously presented, i.e. that the debtors' false oaths were not material.² Nothing in the debtors' briefs filed in response to the plaintiffs' motion for summary judgment made any argument concerning materiality.

Debtors' motion is DENIED.

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court

¹In Alleman, the circuit simply determined that the bankruptcy judge's findings of fact, made following a trial, were not clearly erroneous.

²Even if the debtors' arguments were well-taken, they address only one of the two grounds upon which the court's decision was based, and so the ultimate result would remain the same.