Not Intended for Publication or Citation

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:	)	
	)	
RANDALL WAYNE KING	)	CASE NO. 06-11123
BARBARA SUE KING	)	
	)	
Debtors	)	

DECISION AND ORDER DENYING MOTION TO RECONSIDER

At Fort Wayne, Indiana, on July 11, 2011.

Bank of America, N.A. has filed a motion to reconsider the court's order of July 7, 2011 denying its motion to quash subpoena. 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). They generally require 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). They 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). They are not opportunities 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)). They are not a second-chance to

correct earlier failures.

That is all Bank of America has done here, seek a second-chance to remedy an earlier failure, Its original motion was denied because it failed to comply with the certification requirements of the court's local rule, B-7037-1.[1] The Bank claims that its failure to comply with the rule was "inadvertent" but it never explains why – was it not aware of the rule or did something else go wrong? – and accompanying the motion is a certification which it claim demonstrates compliance with the rule. But whether the motion complied with the court's local rules should be determined as of the time the motion was filed, not after the court has ruled upon it. Bank of America's motion provides no real justification for its failure to comply with the certification requirements of local rule B-7037-1 and no argument or authority that the court erred when it enforced those requirements. Its motion to reconsider is, therefore, DENIED.

If the Bank wants to start anew and file a motion to quash which complies with the Federal Rules of Bankruptcy Procedure and the local rules of this court, it is free to do so. In that event, the court will consider the motion, but it will be considering a motion that is fully compliant, not one that had to be cobbled together with various bits and pieces.

SO ORDERED.

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

[1]There is nothing unusual about this particular rule. It is substantially the same as the District Court's rule on the same subject, see, N.D. Ind. L.R. 37.1, differing only format.