

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
BILLY J. HARRIS) CASE NO. 04-11317
DOROTHY E. HARRIS)
)
Debtors)

DECISION AND ORDER
ON MOTION TO RECONSIDER

At Fort Wayne, Indiana, on April 14, 2006

Three Rivers Federal Credit Union has asked the court to reconsider the order of March 24, 2006. That order sustained the trustee's objection to the Credit Union's proof of claim and denied the claim.

In federal practice, there really is no such thing as a motion to reconsider. In re Curry & Soreness, Inc., 57 B.R. 824, 827 (9th Cir. BAP. 1986). Such a motion is usually construed as a motion to alter or amend based upon Rule 59 of the Federal Rules of Civil Procedure, which is made applicable to bankruptcy proceedings by Bankruptcy Rule 9023. Id. See also, In re Watson, 102 B.R. 112, 113 (Bankr. S.D. Ohio 1989). Doing so is particularly appropriate here as the motion was filed within ten days of the court's order. See, Charles v. Daley, 799 F.2d 343, 347 (7th Cir. 1986)(substantive motions served within ten days of the entry of judgment are to be treated as having been filed pursuant to Rule 59(e)). The motion is 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).

In its motion for reconsideration, the Credit Union has 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. It merely advances the same arguments that it raised before. Those arguments were thoroughly considered in connection with the court’s original decision, and the court is not persuaded that there is any reason to revisit them. See, In re Arms, 238 B.R. 259 (Bankr. D. Vt. 1999). The motion is therefore DENIED.

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