

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

Case No. 8:10-bk-29130-CED  
Chapter 7

Mary L. Regit,

Debtor.

Joseph Daly,

Plaintiff,

v.

Adv. No. 8:11-ap-00571-CED

Mary L. Regit,

Defendant.

**ORDER DENYING MOTION FOR  
RECONSIDERATION, REHEARING,  
AND MOTION TO VACATE AND  
SET ASIDE ADVERSARY JUDGMENT**

THIS PROCEEDING came on for consideration, without a hearing, of Plaintiff's Motion for Reconsideration, Rehearing, and Motion to Vacate and Set Aside Adversary Judgment (Doc. No. 43) (the "Motion for Reconsideration"). The Court has reviewed the Motion and the record, and for the reasons stated below, finds that the Motion should be denied.

The Court entered its Final Judgment for Defendant on April 20, 2012, following a trial conducted on March 30, 2012 (Doc. No. 41) (the "Final Judgment"). The Motion for Reconsideration was timely filed. The Plaintiff seeks relief under Fed. R. Bankr. P. 9023, which incorporates Fed. R. Civ. P. 59, and under Fed. R. Bankr. P. 9024, which incorporates Fed. R. Civ. P. 60. The Plaintiff states four reasons in support of his request that rehearing and reconsideration be granted: (1) the Court failed to properly weigh the credibility of the witnesses in light of the impeachment offered at trial; (2) the Court failed to give preclusive weight to the judgment and decision entered in the New Jersey state court action; (3) the Final Judgment is contrary to the evidence presented to the Court at trial; and (4) the Final Judgment is contrary to the law governing the issues raised in the Complaint.

A timely filed post-judgment motion that asks for reconsideration of matters encompassed in the judgment is treated as a motion under Rule 59(e).<sup>1</sup> Fed. R. Civ. P. 59 permits the Court to reconsider its orders upon one of the following grounds: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.<sup>2</sup> A motion for reconsideration is left to the discretion of the trial court.<sup>3</sup> Reconsideration is an extraordinary remedy requiring the moving party to set forth facts or law of a strongly convincing nature to induce the court to reverse its prior decision.<sup>4</sup>

Because the Plaintiff has described neither an intervening change in law nor new evidence not available at trial, the Court can only assume that the Plaintiff contends that the Court made a clear error of law, or that reconsideration is necessary to prevent manifest injustice. However, the Motion for Reconsideration does not set forth any facts or law, let alone facts or law of a strongly convincing nature, to induce the Court to reconsider its decision.

Accordingly, it is

**ORDERED** that the Motion for Reconsideration is DENIED.

**DONE** and **ORDERED** in Chambers at Tampa, Florida, on June 1, 2012.

/s/  
Caryl E. Delano  
United States Bankruptcy Judge

<sup>1</sup> *Finch v. City of Vernon*, 845 F.2d 256, 258-59 (11th Cir. 1988).

<sup>2</sup> *See In re CHC Indus., Inc.*, 381 B.R. 385, 389-90 (Bankr. M.D. Fla. 2007).

<sup>3</sup> *Robinson v. U.S.*, 2007 WL 4320661, \*1 (11th Cir. Dec. 11, 2007).

<sup>4</sup> *Cover v. Wal-Mart Stores, Inc.*, 148 F.R.D. 294 (M.D. Fla. 1993); *Sussman v. Salem, Saxon & Nielson, P.A.*, 153 F.R.D. 689, 694 (M.D. Fla. 1994).