

ORDERED.

Dated: April 09, 2019



 Karen S. Jennemann
 United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
 MIDDLE DISTRICT OF FLORIDA
 ORLANDO DIVISION
www.flmb.uscourts.gov

In re)	
)	
JULIE B. ZALLOUM,)	Case No. 6:17-bk-02329-KSJ
)	Chapter 13
Debtor.)	
_____)	
)	
JULIE B. ZALLOUM,)	
)	
)	
Plaintiff,)	
)	
vs.)	Adversary No. 6:17-ap-00068-KSJ
)	
RIVER OAKS COMMUNITY SERVICES)	
ASSOCIATION, INC. et al.,)	
)	
Defendants.)	
_____)	

ORDER DENYING MOTION FOR RECONSIDERATION

This adversary proceeding came before the Court to consider the Debtor’s Motion for Reconsideration of the Court’s Partial Final Judgment and Memorandum Opinion entered on February 25, 2019.¹

¹ Debtor’s Motion is at Doc. No. 251. Debtor’s husband submitted an affidavit in support of the Motion at Doc. No. 249. The affidavit was submitted almost two weeks before the Motion. The Motion seeks reconsideration of Doc. Nos. 237, 238 (the “Court’s Orders”).

The parties filed several dispositive motions in this adversary proceeding. The Court recently ruled against the Debtor on these dispositive motions. Debtor now seeks reconsideration of the Court's Orders that ruled on the claims between the Debtor and the ROCSA Association Claimants.² In those Orders, the Court dismissed three counts for failing to state a claim; the Court relied on *res judicata* to rule in favor of ROCSA on five counts of the Complaint; and the Court overruled the Debtor's objections to ROCSA's claims.

Reconsideration of an order under Rule 59(e) "is an extraordinary remedy to be employed sparingly" due to interests in finality and conservation of judicial resources.³ "A trial court's determination as to whether grounds exist for the granting of a Rule 59(e) motion is held to an 'abuse of discretion' standard."⁴ Where courts have granted relief under Rule 59(e), they act to: (1) account for an intervening change in controlling law, (2) consider newly available evidence, or (3) correct clear error or prevent manifest injustice.⁵ "Far too often, litigants operate under the assumption ... that any adverse ruling confers on them a license to move for reconsideration, and utilize such motion as a platform to relitigate issues that have already been decided or otherwise seek a 'do over.' Such use of Rule 59 is improper. Indeed, a court's order is not intended as a mere first draft, subject to revision at the litigant's whim."⁶

² The Court used "ROCSA" to refer to all the ROCSA related Defendants—River Oaks Community Services Association, Inc., River Oaks III, Wean & Malchow, and Laura Prevesk.

³ *Mathis v. United States (In re Mathis)*, 312 B.R. 912, 914 (Bankr. S.D. Fla. 2004) (quoting *Sussman v. Salem, Saxon & Nielsen, P.A.*, 153 F.R.D. 689, 694 (M.D. Fla. 1994)) (internal quotation marks omitted). Federal Rule of Civil Procedure 59 is incorporated into the Bankruptcy Code by Federal Rule of Bankruptcy Procedure 9023.

⁴ *In re Mathis*, 312 B.R. at 914 (citing *Am. Home Assurance Co. v. Glenn Estess & Assocs.*, 763 F.2d 1237, 1238-39 (11th Cir. 1985) ("The decision to alter or amend judgment is committed to the sound discretion of the [trial] judge and will not be overturned on appeal absent an abuse of discretion.")).

⁵ *In re Mathis*, 312 B.R. at 914 (citations omitted).

⁶ *In re Woide*, No. 6:10-BK-22841-KSJ, 2017 WL 549160, at *2 (M.D. Fla. Feb. 9, 2017).

Debtor's Motion, for the most part, is merely a disagreement with the Court's ruling. Many of the issues the Debtor raises are purely appellate issues and not subject to reconsideration by the trial court. The Court will address one example of the Debtor's reconsideration arguments.

The "new evidence" raised by the Debtor are copies of e-mail exchanges between a witness from a trial in the main case, Patrick McGee, and the Debtor's husband Sam Zalloum. This hardly can be considered "new evidence." Debtor and Mr. Zalloum had these almost nine-year old emails before that trial but chose not to use the e-mails as exhibits. "New evidence" may only form the basis of a successful reconsideration motion if the evidence was unavailable at the time of the opinion.⁷ This evidence was available and constitutes no basis for reconsideration.

Accordingly, it is

ORDERED the Motion for Reconsideration (Doc. No. 251) is **DENIED**.

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The Clerk is directed to serve a copy of this order on all interested parties.

⁷ *United States v. Weisman*, 651 F. App'x 858, 859–60 (11th Cir. 2016).