ORDERED.

Dated: January 04, 2017

Karen S. Jennemann
United States Bankruptcy Judge

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

In re	)	
	)	
NADINE ROUNDTREE TROMBACCO,	)	Case No. 6:16-bk-00188-KSJ
	)	Chapter 13
Debtor.	)	
	)	

ORDER DENYING MOTION FOR RECONSIDERATION

Debtor, Nadine Trombacco, seeks reconsideration of the Order Confirming her Chapter 13 plan for four primary reasons: (1) the Court erred in amending her plan and confirming the plan without the Debtor's consent; (2) the Court allowed usurious interest paid in the plan; (3) the Court did not consider Debtor's invocation of the "cramdown" provision of the Bankruptcy Code; and (4) the Court exceeded its authority to modify the Debtor's plan and make the Debtor pay debts in full that she wanted to cram down.[1] Debtor also references "new evidence" as grounds for reconsideration. After reviewing the pleadings and considering the positions of all interested parties, the Court will deny the Debtor's Motion.

[1] Doc. No. 62 is the Motion for Reconsideration. Doc. No. 61 is the Order Confirming Chapter 13 Plan.

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.[2] "The function of a motion to alter or amend a judgment is not to serve as a vehicle to relitigate old matters or present the case under a new legal theory … [or] to give the moving party another 'bite at the apple' by permitting the arguing of issues and procedures that could and should have been raised prior to judgment."[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]

Debtor appeared in person at her confirmation hearing on October 18, 2016.[6] She is acting *pro se* and was encouraged to seek legal assistance. The Chapter 13 Trustee's attorney, understanding that Ms. Trombacco may need help succeeding in a Chapter 13 case, gave the Debtor a spreadsheet with proposed payments that would pay all claims as required under the Bankruptcy Code and allow the Court to confirm her Chapter 13 plan. The Court then took a 30-minute break to give the Debtor time to consider the payment schedule in the new spreadsheet and to privately ask the Trustee's attorney questions.

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[2] *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.
[3] *In re Mathis*, 312 B.R. at 914 (quoting *In re Halko*, 203 B.R. 668, 671-72 (Bankr. N.D. Ill. 1996)) (citations omitted).
[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] Doc. No. 60.

When the Court re-called the case, I asked the Debtor if the payments in the spreadsheet were acceptable. The Debtor replied, "I guess I can make it work." The Court then confirmed the plan but noted that confirmation would not preclude the Debtor from pursuing a mortgage modification with her mortgage lender. Debtor replied that she would look into modifying her mortgage. The Court then denied without prejudice the Debtor's request to disallow "usurious interest" in her plan and overruled Debtor's two objections to claims.[7] The Court confirmed a Chapter 13 Plan that meets the legal requirements of the Bankruptcy Code. The alternative was to dismiss the case because the Debtor's proposal was not confirmable.

Debtor consented to the modified plan at her confirmation hearing. Debtor simply does not want to make the payments needed to continue in the Chapter 13 case. As such, she has shown no change in the law, injustice, or clear error to justify reconsideration. She is just unhappy with the result. Nor does the Debtor demonstrate any new evidence that would justify reconsideration.

As the Court stated at the confirmation hearing, the Debtor is free to seek a mortgage modification. The Debtor is also free to dismiss this case or to pursue her appeal in the United States District Court, but this Motion for Reconsideration is **DENIED.**

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

[7] Doc. No. 60.