

ORDERED.

Dated: August 13, 2021



Caryl E. Delano  
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION  
[www.flmb.uscourts.gov](http://www.flmb.uscourts.gov)

In re:

Case No. 2:15-bk-04241-FMD  
Chapter 7

Benjamin H. Yormak,

Debtor.

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**ORDER DENYING STEVEN R. YORMAK'S  
MOTION FOR RECONSIDERATION OF ORDER  
SUSTAINING DEBTOR'S OBJECTION TO BILL OF COSTS  
[Doc. No. 924]**

THIS CASE came before the Court without a hearing to consider the *Motion for Reconsideration of Court Order (DE 919) Sustaining Debtor's Objection (DE 896) to Creditor Bill of Costs (DE 892)* filed by Steven R. Yormak ("Claimant") (the "Reconsideration Motion")<sup>1</sup> and the response filed by Debtor Benjamin H. Yormak ("Debtor").<sup>2</sup>

<sup>1</sup> Doc. No. 924.

<sup>2</sup> Doc. No. 928.

Claimant filed a claim in Debtor's bankruptcy case, and Debtor filed an objection to the claim. After years of litigation, the parties filed motions for summary judgment, and in February 2021, the Court entered an order disallowing Claimant's claim (the "SJ Order").<sup>3</sup>

On May 12, 2021, Claimant filed a form Bill of Costs,<sup>4</sup> in which he asserted that judgment was entered in "the above entitled action" against Debtor. The form includes a blank for the "date" of the judgment. Claimant filled in the blank with "April 22, 2016 (ECF #88) and June 6, 2019 (ECF #586)."<sup>5</sup> The two listed ECF docket numbers relate to the docket entries of orders in which the Court, prior to the entry of the SJ Order, had granted, in part, Claimant's motions for summary judgment.

Debtor timely filed an objection to Claimant's Bill of Costs,<sup>6</sup> and Claimant filed a response to the objection.<sup>7</sup> On July 20, 2021, the Court entered an order finding that because Claimant was not the prevailing party on Debtor's objection to his claim, Claimant is not entitled to an award of costs under Federal Rule of Bankruptcy Procedure 7054 (the "Costs Order").<sup>8</sup>

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<sup>3</sup> Doc. No. 851.

<sup>4</sup> Official Form B 2630.

<sup>5</sup> Doc. No. 892.

<sup>6</sup> Doc. No. 896.

<sup>7</sup> Doc. No. 900.

<sup>8</sup> Doc. No. 919.

Claimant timely filed the Reconsideration Motion. Claimant primarily asserts, first, that Debtor was not the *only* “prevailing party” in the litigation, and the Court should exercise its discretion to apportion the litigation costs between the parties; and second, that Rule 7054 does not apply to the contested matter involving his proof of claim.<sup>9</sup>

A motion for reconsideration filed within 14 days after entry of the order or judgment is generally treated as a motion for relief under Federal Rule of Civil Procedure 59(e).<sup>10</sup> Reconsideration of an order under Rule 59(e) is an extraordinary remedy to be granted sparingly because of the interest in the finality of orders and the conservation of judicial resources. In the Eleventh Circuit, the only grounds for granting a motion for reconsideration under Rule 59(e) are newly discovered evidence or manifest errors of law or fact.<sup>11</sup>

Here the Reconsideration Motion does not present any newly discovered evidence or show that the Court made an error of law or fact in the Costs Order. Instead, Claimant essentially repeats exactly the same arguments he made in his response to Debtor’s objection to his Bill of Costs and that the Court has already

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<sup>9</sup> Doc. No. 924, p. 1.

<sup>10</sup> Fed. R. Civ. P. 59, as made applicable to bankruptcy cases by Fed. R. Bankr. P. 9023. *In re John Q Hammons Fall 2006, LLC*, 614 B.R. 371, 376 (Bankr. D. Kan. 2020) (citations omitted); *In re Smith*, 541 B.R. 914, 915, n. 11 (Bankr. M.D. Fla. 2015).

<sup>11</sup> *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007) (quoting *In re Kellogg*, 197 F.3d 1116, 1119 (11th Cir. 1999)).

addressed in the Costs Order. A motion for reconsideration under Rule 59(e) cannot be used to rehash evidence, legal theories, or arguments that were made or could have been made before the order was entered.<sup>12</sup>

Accordingly, it is

**ORDERED** that Claimant Steven R. Yormak's *Motion for Reconsideration of Court Order (DE 919) Sustaining Debtor's Objection (DE 896) to Creditor Bill of Costs (DE 892)* (Doc. No. 924) is **DENIED**.

The Clerk's office is directed to serve a copy of this Order on interested parties via CM/ECF.

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<sup>12</sup> *In re Steel City Pops Holding, LLC*, 2020 WL 2569927, at \*5 (Bankr. N.D. Ala. May 20, 2020).