

ORDERED.

Dated: September 03, 2021


Caryl E. Delano
Chief United States Bankruptcy Judge

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

In re:

Chapter 11

Work & Son, Inc.,

Case No. 8:18-bk-09917-CED
Substantively Consolidated with

Work & Son – Kraeer Holdings, Inc.

Case No. 8:18-bk-09918-CED

Work & Son – Memorial Services, Inc.

Case No. 8:18-bk-09919-CED

Work & Son – Osiris, Inc.

Case No. 8:18-bk-09920-CED

Work & Son – Royal Palm Acquisition, Inc.

Case No. 8:18-bk-09921-CED

Work & Son – Sarasota Memorial, Inc.

Case No. 8:18-bk-09922-CED

Debtors.

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**ORDER DENYING MOTION FOR RECONSIDERATION OF SUPPLEMENT TO ORDER
APPROVING DISTRIBUTIONS TO UNSECURED CREDITORS UNDER THE PLAN**

THIS CASE came before the Court without a hearing to consider the *Motion for Reconsideration of Supplement to Order Approving Distributions to Unsecured Creditors Under the Plan* (the “Reconsideration Motion”) filed by Signal Management Group, Inc.¹

Debtors filed their Chapter 11 cases on November 28, 2018.² Thereafter, Stanley Murphy was appointed as the Chapter 11 Trustee (the “Trustee”).³ In July 2020, Batesville Casket Company, Inc.,

¹ Doc. No. 651.

² Debtors’ cases are substantively consolidated (Doc. No. 182). The consolidated debtors are referred to herein as “Debtor.”

³ Doc. No. 168.

the holder of an unsecured claim in this Chapter 11 case (Claim No. 9), transferred its claim to Signal Management Group, Inc. (“Signal”).⁴ Claim No. 9, in the total amount of \$347,266.29, is based on a judgment in the original amount of \$194,724.41 (the “Judgment”),⁵ and includes \$152,502.58 in post-judgment interest calculated at the judgment rate of 8% per annum as of the petition date.

On October 30, 2020, the Court entered an order confirming the Trustee’s Chapter 11 plan (the “Plan” and the “Confirmation Order”).⁶ The Confirmation Order modifies Article 6.11 of the Plan to provide:

Allowed Class 11 Unsecured Claims shall be paid in full with such interest on an Allowed Claim calculated in accordance to the terms of the agreements between the Debtor and the Holders of the Allowed claim, or the judgment rate of interest if the claim is based on a judgment⁷

After the Chapter 11 Trustee resolved objections to a few claims, he filed a motion for approval of distributions to unsecured creditors (the “Distribution Motion”).⁸ In the Distribution Motion, the Trustee proposed to pay \$380,346.14 to Signal, which the Trustee calculated to include interest at the judgment rate of 8% on the principal amount of the Judgment from the date of the Judgment through the proposed date of distribution.

Signal filed a limited objection to the Distribution Motion (the “Objection”) asserting that under the Plan and the Confirmation Order, Signal was entitled to postpetition interest at 8% on the *total* amount of its Allowed Claim, instead of on the principal amount of the Judgment as the Trustee

⁴ Doc. No. 346. From the record, it appears that Signal acquired Claim No. 9 in order to have standing to file a plan in Debtor’s case. On October 19, 2020, Signal filed a Plan of Reorganization and a Disclosure Statement (Doc. Nos. 370 and 371). Signal’s Plan provided for Signal to purchase all of Debtor’s assets for \$1,700,000.00. Ultimately, the Trustee sold most of Debtor’s assets to a third party for \$2,725,000.00 while retaining the rights to, inter alia, cash and surplus funds in Debtor’s Pre-Need Trusts as approved by the Florida Board of Cemeteries and Funeral Services (Doc. Nos. 510 and 567).

⁵ Claim No. 9, p. 6. The Judgment included prejudgment interest of \$36,854.08.

⁶ Doc. Nos. 386, 566.

⁷ Doc. No. 566, p. 8.

⁸ Doc. No. 571.

had calculated.⁹ In other words, Signal claimed entitlement to interest on the prepetition interest component of Claim No. 9—that is, interest at the judgment rate of 8% on the \$152,502.58 in prepetition interest included in Claim No. 9—from the November 18, 2018 bankruptcy filing date through the date of disbursement, then estimated to occur in mid-2021.

On April 21, 2021, the Court conducted a hearing on the Objection, and considered the arguments of counsel for Signal and the Trustee.¹⁰ On April 26, 2021, the Court entered an order granting the Distribution Motion, authorizing the Trustee to distribute to Signal the undisputed amount of its claim of \$380,602.22, and taking under advisement the issue raised the Objection.¹¹

At a hearing on August 3, 2021, the Court announced its ruling on the Objection,¹² and on August 11, 2021, the Court entered its *Supplement to Order Approving Proposed Distributions to Unsecured Creditors Under the Plan* (the “Supplemental Order”).¹³ In the Supplemental Order the Court ruled that Signal was entitled to a distribution of \$380,602.22 “calculated using the judgment rate of interest of eight percent (8%) on the judgment amount of \$194,724.41 post-judgment through the date of distribution.”¹⁴ As the Court had explained in its August 3 oral ruling, to rule otherwise would allow Signal a greater distribution than it would have been entitled had Debtor not filed bankruptcy [or, for that matter, if the bankruptcy case had been dismissed].

In the Reconsideration Motion, Signal asserts that the confirmed Chapter 11 Plan “specifically states that interest would accrue on its Allowed Claim,” and that the Supplemental Order has the effect of changing its Claim No. 9 from an impaired claim to an unimpaired claim.¹⁵

⁹ Doc. No. 577.

¹⁰ Doc. No. 589.

¹¹ Doc. No. 594.

¹² Doc. No. 645.

¹³ Doc. No. 646.

¹⁴ Doc. No. 646, p. 3.

¹⁵ Doc. No. 651, ¶¶ 11, 12.

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).¹⁶ 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.¹⁷

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 Supplemental Order. Instead, Signal essentially repeats the same arguments it made in its Objection to the Trustee's Distribution Motion. A motion for reconsideration under Rule 59(e) cannot be used to rehash legal theories or arguments that were made or could have been made before the order was entered.¹⁸

Accordingly, it is

ORDERED that Signal Management Group, Inc.'s *Motion for Reconsideration of Supplement to Order Approving Distributions to Unsecured Creditors Under the Plan* (Doc. No. 651) is **DENIED**.

Attorney Scott Stichter is directed to serve a copy of this Order on interested parties who are not CM/ECF users and to file a proof of service within three days of the date of this Order.

¹⁶ 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).

¹⁷ *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007) (quoting *In re Kellogg*, 197 F.3d 1116, 1119 (11th Cir. 1999)).

¹⁸ *In re Steel City Pops Holding, LLC*, 2020 WL 2569927, at *5 (Bankr. N.D. Ala. May 20, 2020).