



IT IS ORDERED as set forth below:

Date: February 13, 2008

Mary Grace Diehl

**Mary Grace Diehl
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:	:	CASE NUMBER
	:	
MOHAMMED A. FAIYAZ,	:	01-64875-MGD,
	:	
Debtor.	:	CHAPTER 7
	:	

ORDER

THIS MATTER is before the Court on the Motion for Reconsideration filed by Dr. Suraiya Mateen (Docket No. 200). The Motion for Reconsideration was filed on January 29, 2008, and attorneys for Frank Dicus and Dicus Enterprises filed a Response on February 6, 2008 (Docket No. 201). For the reasons stated herein, Dr. Mateen’s Motion for Reconsideration is **DENIED**.

The Court, however, recognizes the need for a finding with respect to a statement of jurisdiction in this matter. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b), as well as Rule 1070-1 of the Local Rules of Practice for the United States Bankruptcy Court for the Northern District of Georgia. This matter is a core proceedings under 28 U.S.C. §

157(b)(2)(A), (B), (H), (K), and (O).

The Motion for Reconsideration followed this Court's Order denying the Motion Requesting the Court to Issue Orders Compelling the Trustee and Frank Dicus and Dicus Enterprises to Deposit \$587,377 in Court's Registry (the "Motion") by Suraiya A. Mateen, individually and as trustee of Suraiya Faiyaz Living Trust, and Mohammed A. Faiyaz (Docket No. 198). The Motion followed the September 28, 2007 District Court's reversal and remand¹ of this Court's Order and Judgment from May 5, 2004 (Docket No. 103). The District Court limited² its reversal and remand to this Court's erroneous reliance on the doctrine of res judicata in the May 5, 2004 Order and Judgment. In accord with the District Court's remand and following the Supreme Court of Georgia's denial of the Dr. Mateen's writ of certiorari,³ the Court ruled that the state court judgment was now entitled to preclusive effect. Therefore, the Court's May 5, 2004 Order and Judgment (Docket No. 189) was re-entered, as of January 8, 2008.

A motion for reconsideration is appropriate only where there is: "(1) newly discovered evidence; (2) an intervening development or change in controlling law; or (3) a need to correct a clear

¹ Case No. 1:04-cv-02137-CC

² The September 28, 2007 District Court Order denied the following motions: (1) Emergency Motion of Appellant Suraiya Mateen to Declare the Interlocutory Orders of April 3, 2003 and Final Orders of December 23, 2003 as Null and Void, (2) Petition of Appellant Suraiya Mateen to Grant Her Emergency Motion Filed on May 26, 2005 and to Dismiss Trustee's Amended Complaint to Determine Interest in Properties and Subsequent Proceedings and Orders, (3) Appellants's Motion Requesting the Court to Grant Her Motions Filed on Docket Nos. 23, 28, 30 & 39; and (4) Appellant's Request to Strike Off Appellee Dicus's Status Report Filed on April 16, 2007 and to Impose Sanctions Against His Attorneys.

³ The Supreme Court of Georgia denied Dr. Mateen's petition for writ of certiorari on January 7, 2008, Case No. S07-C-1814.

error or prevent manifest injustice.” Smith v. Continental Cas. Co., No. 1:06-cv-1441-WSD, slip op. 2007 WL 4355314 at *1 (N.D. Ga. Dec. 10, 2007) (internal citations omitted). Motions to reconsider are only appropriate in a confined scope of cases. Bryan v. Murphy, 246 F. Supp. 2d 1256, 1259 (N.D. Ga. 2003). Motions for reconsideration are not an opportunity for the moving party to instruct the court on how it “could have done it better” the first time.” Pres. Endangered Areas of Cobb’s History, Inc. v. U.S. Army Corps of Eng’rs, 916 F. Supp. 1557, 1560 (N.D. Ga. 1995). Also, motions for reconsideration are not appropriately used to present the court with arguments already heard and decided. Brogdon ex rel. Cline v. Nat’l Healthcare Corp., 103 F. Supp. 2d 1322, 1338 (N.D. Ga. 2000); see also Adler v. Wallace Computer Servs., Inc., 202 F.R.D. 666, 675 (N.D. Ga. 2001). Motions presented under these circumstances must be denied. Brogdon ex rel. Cline, 103 F.R.D. at 1338.

Because Dr. Mateen has not shown newly discovered evidence, a change in controlling law, or clear error, the Motion for Reconsideration is inappropriate. Accordingly, it is

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

It is **FURTHER ORDERED** that the Court’s January 18, 2008 Order (Docket No. 198) remain in full force and effect.

The Clerk is directed to serve a copy of this Order upon Debtor, Suraiya A. Mateen, the Chapter 7 Trustee, and the parties on the attached distribution list.

END OF DOCUMENT

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