

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN THE MATTER OF:	:	CASE NUMBER: A06-71654-PWB
	:	
THOMAS G. DEAN,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 13 OF THE
Debtor.	:	BANKRUPTCY CODE

ORDER DENYING MOTION FOR RECONSIDERATION

On December 18, 2006, the Court entered an Order (1) dismissing the Debtor's "Motion to Redeem Bank Account and to Avoid Lien" and abstaining from resolving any matters arising out or related to the facts set forth therein; (2) denying the Debtor's "Motion for an Order of Default"; (3) dismissing the Debtor's "Motion for Compensatory, Incidental Punitive & Special Damages Under 11 USCA Subsection 362(h), Against the Claimants SunTrust Bank and 5th 3rd Bank" and abstaining from resolving any matters arising out of or related to the facts set forth therein; (4) granting the motion for relief from stay filed by Fifth Third Bank and SunTrust Bank by terminating the stay with respect to the Debtor's bank account; (5) denying confirmation of the Debtor's chapter 13 plan; and (6) dismissing the case without prejudice. The December 18 Order commemorated the Court's oral ruling at a hearing on these matters on December 13, 2006. On December 15, 2006, after the hearing but before entry of the Court's Order, the Debtor filed a Notice of Appeal. Seven days later, the Debtor filed his "Motion to Reconsider Oral Order or Orders Entered by the Court on December 13, 2006."

The filing of a notice of appeal in a bankruptcy case results in the transfer of jurisdiction from the bankruptcy court to the district court regarding issues on appeal. An appeal removes the bankruptcy court's authority to exercise further jurisdiction, except in assistance of the appeal.

2006). As a result, the bankruptcy court arguably lacks jurisdiction to consider the Debtor's motion. However, the Eleventh Circuit Court of Appeals has held that a district court retains jurisdiction after the filing of a notice of appeal to entertain and deny a motion made under Rule 60(b) of the Federal Rules of Civil Procedure because such action is in furtherance of the appeal. *Mahone v. Ray*, 326 F.3d 1176, 1180 (11th Cir. 2003). While a motion for reconsideration of a bankruptcy order is typically considered a motion to alter or amend a judgment governed by Rule 9023 of the Federal Rules of Bankruptcy Procedure and Rule 59(e) of the Federal Rules of Civil Procedure, to the extent the Debtor's motion is a request for relief from a judgment pursuant to Rule 60(b), made applicable by Bankruptcy Rule 9024, and because the relief requested in this motion for reconsideration is similar to considerations under a Rule 60(b) motion, the Court will consider the merits of the Debtor's motion.

A motion for reconsideration serves the limited function of correcting manifest errors of law or fact. *In re Ionosphere Clubs, Inc.*, 103 B.R. 501, 503 (Bankr. S.D.N.Y. 1989). Motions for reconsideration should not be used to raise arguments which could, and should, have been raised before judgment was issued. *O'Neal v. Kennamer*, 958 F.2d 1044, 1047 (11th Cir. 1992). Motions for reconsideration are not to be used to relitigate issues already decided. *In re Hollowell*, 242 B.R. 541, 542-543 (Bankr. N.D.Ga. 1999). The Debtor has cited no facts or law which warrant reconsideration of the Court's December 18, 2006 Order. Although the Debtor has raised a number of new arguments regarding the rights and standing of potential adverse parties in other jurisdictions (*see* Motion, subparts (vii) through (xvi)), these arguments are not relevant to the issues before the Court as set forth in the December 18, 2006 Order. Accordingly, it is

ORDERED that the Debtor's motion for reconsideration is DENIED.

The Clerk is directed to serve copies of this Order on the persons on the attached Distribution List.

At Atlanta, Georgia, this 29th day of December, 2006.

A handwritten signature in black ink, reading "Paul W. Bonapfel", written over a horizontal line.

PAUL W. BONAPFEL
UNITED STATES BANKRUPTCY JUDGE

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