UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

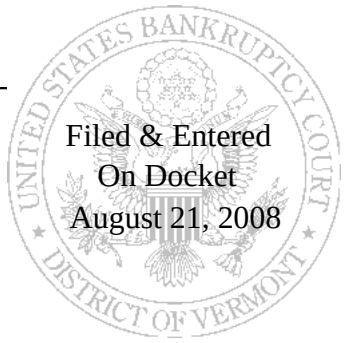
In re:
ELIZABETH C. CAMPBELL,
Debtor.

Chapter 13 Case
 # 06-10570

JAN M. SENSENICH, TRUSTEE &
ELIZABETH C. CAMPBELL, Debtor,
Plaintiffs,

v.

LEDYARD NATIONAL BANK,
Defendant.



Adversary Proceeding
 # 07-1023

ORDER
DENYING DEFENDANT'S MOTION TO RECONSIDER

On July 25, 2008, Plaintiff Elizabeth C. Campbell filed a Motion to Strike (doc. # 23), in which she asked the Court to strike two paragraphs (¶¶ 25, 26) that appeared in the Defendant's Statement of Undisputed Facts (doc. # 13). The Plaintiff claimed, inter alia, that the paragraphs were "immaterial" to the summary judgment proceedings as references to her professional licensing difficulties and professional performance in 2004-2005 had nothing to do with the events of February 2007 which formed the basis of her complaint in this Adversary Proceeding (doc. # 23).

Defendant did not interpose any opposition to the motion to strike, and on August 13, 2008, the Court granted the Plaintiff's Motion (doc. # 27). On August 14, 2008, the Defendant filed a Motion to Reconsider, in which it argued the merits of the motion to strike, asserting how the references in the stricken paragraphs were relevant to the issues raised in its summary judgment motion (doc. # 28). On August 19, 2008, the Plaintiff opposed the Defendant's Motion to Reconsider, also arguing the merits and pointing out that the Defendant had not asked for an extension of time to file its opposition to the Motion to Strike (doc. # 30).

The standard for granting a motion for reconsideration is strict in order to dissuade repetitive arguments on issues that the Court has already fully considered "where the moving party seeks solely to relitigate an issue already decided," Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995), to "plug gaps in an original argument or to argue in the alternative once a decision has been made," In re Newberry, 2007 WL 2247588, *1 (Bankr. D.Vt. Aug. 2, 2007), or to give the moving party another bite at the apple by permitting argument on issues that could have been or should have been raised in the original

motion. See Petition of Bird, 222 B.R. 229, 235 (Bankr. S.D.N.Y. 1998) (citing Federal Deposit Ins. Corp. v. Meyer, 781 F.2d 1260, 1268 (7th Cir.1986)). A court may reconsider an earlier decision when a party can point to an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice. Marrero Pichardo v. Ashcroft, 374 F.3d 46, 55 (2d Cir. 2004) (citation and quotation omitted); Virgin Atl. Airways, Ltd. v. Nat'l Mediation Bd., 956 F.2d 1245, 1255 (2d Cir. 1992) (cautioning that "where litigants have once battled for the court's decision, they should neither be required, nor without good reason [be] permitted, to battle for it again"). A court should grant reconsideration when a "party can point to controlling decisions or data that the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court," Shrader, 70 F.3d at 257, but ultimately the question is a discretionary one and the court is not limited in its ability to reconsider its own decisions prior to final judgment. See Virgin Atl., 956 F.2d at 1255.

The Defendant's motion for reconsideration does not cite an intervening change in controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice in the Court's decision to grant the motion to strike. The Court will not consider arguments on the merits of a motion, in the context of a motion to reconsider, from a party who failed to file a timely opposition to the motion.

Accordingly, the Court finds that the movant has failed to establish grounds for reconsideration.

Therefore, IT IS HEREBY ORDERED that the Defendant's motion to reconsider is DENIED.

SO ORDERED.

Rutland, Vermont
August 20, 2008

Colleen A. Brown
United States Bankruptcy Judge