

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document has been entered electronically in the record of the United States Bankruptcy Court for the Northern District of Ohio.



Dated: August 13 2007

Mary Ann Whipple  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

In Re:	)	Case No. 07-31798
	)	
L & M Video Productions, Inc.,	)	Chapter 11
	)	
Debtor.	)	JUDGE MARY ANN WHIPPLE

**MEMORANDUM OF DECISION AND ORDER**  
**DENYING MOTION FOR RECONSIDERATION**

This case is before the court on Debtor’s motion for reconsideration of this court’s order entered on June 25, 2007, granting a motion to abstain from exercising jurisdiction pursuant to 11 U.S.C. § 305(a) filed by shareholder/creditor/asset purchaser Cornerstone Church, Inc. (“Cornerstone”) [Doc. # 28] and Cornerstone’s opposition [Doc. # 29]. Debtor did not reply to Cornerstone’s opposition. For the reasons that follow, Debtor’s motion will be denied.

Although Debtor does not indicate under what authority it brings the motion, motions for reconsideration filed within ten days of the court’s final judgment, as this one was, are generally treated as a motion to alter or amend the judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, applicable in this bankruptcy case under Rule 9023 of the Federal Rules of Bankruptcy Procedure. Rule 59(e) motions may be granted if there is clear error of law, newly discovered evidence, an intervening change in controlling law, or to prevent manifest injustice. *Gen. Truck Drivers, Local No. 957 v. Dayton Newspapers, Inc.*, 190 F.3d 434, 445 (6th Cir. 1999).

Section 305(a) provides that a court may dismiss a case under this title if “the interests of creditors and the debtor would be better served by such dismissal. . . .” 11 U.S.C. § 305(a). The court based its conclusion that it was in the best interests of creditors and Debtor for the court to abstain from exercising its jurisdiction in this case on the following findings. The court found that there were alternative state and federal forums available to protect the interests of the parties. Specifically, Debtor had instituted proceedings in state court to challenge a state court order confirming the sale of Debtor’s assets to Cornerstone, including the sale of an FCC broadcast license that was critical to Debtor’s effective reorganization as an operating television station. The state court order had been entered in a receivership proceeding that had been pending for two years and was near conclusion. In addition, Debtor indicated its intent to pursue an administrative challenge to the FCC’s consent to assignment of the broadcast license to Cornerstone’s assignee, Matrix. The FCC’s consent to the assignment occurred since Debtors’ second Chapter 11 case in this court and shortly after the commencement of this third case. Debtor explained that the state court and FCC proceedings would go forward independently of this bankruptcy case and that, meanwhile, the television station that Debtor had operated before the receivership would continue to be operated by Matrix under the supervision of the state court receiver unless and until the FCC ruled in Debtor’s favor. Debtor argued that Chapter 11 was a necessary predicate to proceeding in the other forums with the imprimatur of status as a debtor-in-possession and to shed the accountability or blame for any wrongdoings of and failure to act by Laramee Miller, Debtor’s former President, as brought to light in two prior Chapter 11 cases in this court. As Debtor did not have control of the broadcast license and conceded that this court lacks the authority to override the FCC’s determinations regarding such control, the court found Debtor had no present ability to reorganize. The court further found that to incur the expense of a Chapter 11 case and to continue to incur debt as Debtor was admittedly doing without a present ability to reorganize in order to present itself in a tactically better light in other forums was not a valid use of the reorganization provisions of Chapter 11 under the circumstances.

Debtor did not present evidence at the hearing of any business or business opportunity independent of its operation of a local television station. The bottom line is that this court cannot now afford Debtor control of the requisite federal broadcast license the transfer of which has been approved by the state court combined with the recent regulatory consent of the FCC. Debtor’s motion for reconsideration highlights the evidence of its positive governance changes and efforts to secure new advertising business for the future should it regain control of the broadcast license someday. But this evidence, and Debtor’s motion for reconsideration in general, does not address the outcome determinative legal proceedings in the other two

forums as the findings that provide the essential basis for the court's decision to abstain in this case. Debtor presents no new evidence and identifies no error of law. Nor does it present any basis for finding that the court's decision to abstain will result in a manifest injustice. Rather, Debtor attempts to challenge the court's final factual findings made in Debtor's two prior Chapter 11 cases, which were not appealed, and reargues the facts of this case. A motion to reconsider is not a vehicle that parties may use to reargue their case. *See Sault Ste. Marie Tribe of Chippewa Indians v. Engler*, 146 F.3d 367, 374 (6th Cir. 1998).

**THEREFORE**, for the foregoing reasons, good cause appearing,

**IT IS ORDERED** that Debtor's motion for reconsideration [Doc. # 28] be, and hereby is, **DENIED**.