

The document below is hereby signed.
Signed: June 28, 2011.



A handwritten signature in black ink, reading "S. Martin Teel, Jr.", written over a horizontal line.

S. Martin Teel, Jr.
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	
)	Case No. 09-00783
ANITA HEATHER KERNACS,)	(Chapter 7)
)	
Debtor.)	Not for publication in
)	West's Bankruptcy Reporter.

MEMORANDUM DECISION AND ORDER RE MOTION
TO DISMISS OPPOSITION FOR RECONSIDERATION

The debtor's Motion to Dismiss Opposition for Reconsideration will be denied.

I

The motion seeks to strike the opposition filed to the debtor's motion for reconsideration of the court's order dismissing her motion for contempt. The arguments she raises do not warrant striking the opposition, and appear to be more in the nature of a reply that addresses anew her motion to reconsider.

The debtor alleges that she was misled by her attorney regarding the time for taking an appeal. That provides no basis for reconsidering the order denying her contempt motion.

Similarly, she contends that the fraud of the creditors allows her to disregard the statute of limitations for an appeal.

Perhaps what she is arguing is that reconsideration is appropriate under Rule 60(b)(3) based on fraud. The type of fraud to which she generally points, however, was fraud in the mortgage process, not fraud in the litigation of the civil contempt motion such as to form a basis for relief under Rule 60(b)(3). The one exception to this observation is the debtor's statement that the lenders "lied to the Court about the HAMP modification after being bailed out by the government," but that statement fails to identify the lie, and fails to articulate how the contempt ruling would have been different had that lie not occurred. It thus forms no basis for Rule 60(b)(3) relief.

Moreover, even if the court were to re-visit its contempt ruling, the "fraud" to which the debtor generally points logically has nothing to do with the allegations of civil contempt, and instead is alleged fraud regarding the mortgage process, nonbankruptcy claims that she is free to pursue elsewhere. Her faulty logic is that because the creditors are "Pretendlenders" who had no *in rem* rights (as they could not prove ownership of the mortgage lien), any communications made by them to her necessarily were an attempt to collect on a discharged unsecured debt. Again, however, the fraudulent assertion of *in rem* rights proves an attempt to enforce the lien, regardless of how wrong, under nonbankruptcy law, the creditors may have been in asserting that they held the lien. It does not

