

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1232 (CKK)

STATE OF NEW YORK, *et al.*,

Plaintiffs

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1233 (CKK)

ORDER

This case comes before the Court on a motion by David L. Whitehead to reconsider the denial of his motion to file as amicus curiae. Pursuant to the Federal Rules of Civil Procedure, a party may petition a district court to alter or amend judgment no later than ten days after the entry thereof. *See* Fed. R. Civ. P. 59(e). Such motions will be denied unless the district court finds that there is an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice. *Firestone v. Firestone*, 76 F.2d 1205,

1208 (D.C. Cir. 1996) (internal quotations omitted); *see also Mekuria v. Washington Metropolitan Area Transit Authority*, 45 F. Supp. 2d 19, 31 n.10 (D.D.C. 1999). A motion to alter or amend a judgment pursuant to Federal Rule of Civil Procedure 59(e) is not simply an opportunity to reargue facts and theories upon which a court has already ruled. *New York v. United States*, 880 F. Supp. 37, 38 (D.D.C. 1995) (three-judge panel) (per curiam); *see also Harvey v. District of Columbia*, 949 F. Supp. 878, 879 (D.D.C. 1996) (holding that a motion to reconsider pursuant to Rule 59(e) is not routinely granted). Rather, a district court properly exercises its discretion under Rule 59(e) to alter or amend its judgment where the moving party presents new facts or a clear error of law which compel a change in the court's ruling. *New York*, 880 F. Supp. at 39; *see also Assassination Archives and Research Ctr. v. United States Dep't of Justice*, 828 F. Supp. 100, 102 (D.D.C. 1993).

Movant's motion to reconsider fails to provide any grounds for permitting Movant to file as amicus curiae which were not presented in Movant's original motion. Furthermore, Movant has failed to identify any new fact, clear error of law, or other injustice which compels a change in the Court's prior ruling. Accordingly, it is this 9th day of October, 2001, hereby

ORDERED that David L. Whitehead's motion to reconsider is DENIED.

SO ORDERED.

COLLEEN KOLLAR-KOTELLY
United States District Judge