

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**BOND SAFEGUARD INSURANCE
COMPANY,**

Plaintiff,

-vs-

Case No. 6:09-cv-824-Orl-31KRS

**DIANE ELIZABETH WARD and JAMES
ROBERT WARD,**

Defendants.

ORDER


This matter comes before the Court on the Motion for Reconsideration (Doc. 77) filed by the Plaintiff, Bond Safeguard Insurance Company (“Bond Safeguard). The Plaintiff seeks reconsideration of this Court’s order (Doc. 75) granting the Trustee’s motions to intervene and to transfer this matter to Bankruptcy Court.

Bond Safeguard’s primary argument is that its motion to amend its complaint (Doc. 60), which was pending at the time the Court granted the Trustee’s motions, would have rendered moot the motion to transfer. However, that motion to amend the complaint was also pending when Bond Safeguard responded to the motion to transfer, and Bond Safeguard never argued that some or all of the bases for referring this matter could be eliminated via amendment. It is well-settled that parties cannot use a Rule 59(e) motion to raise new legal arguments which could and should have been made during the pendency of the underlying motion. *Sanderlin v. Seminole Tribe of*

Florida, 243 F.3d 1282, 1292 (11th Cir. 2001). Bond Safeguard offers no explanation for its failure to raise this argument in its response to the motion to transfer.¹ Accordingly, it is hereby

ORDERED that the Motion for Reconsideration (Doc. 77) is **DENIED**.

DONE and **ORDERED** in Chambers, Orlando, Florida on August 31, 2009.


GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party

¹The motion to amend was also silent on the issue of transfer, containing no argument that the proposed amendment would affect the transfer issue in any way.