IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

MARVIN B. DAVIS,)	
Plaintiff,)	CIVIL ACTION
v.)	CIVIL ACTION
)	No. 00-3051-CM
)	
LOUIS E. BRUCE, et al.,)	
Defendants.)	
)	

ORDER

On March 26, 2007, the court entered an order granting plaintiff's motion to reconsider its order dismissing the case for failure to exhaust. In accordance with a Tenth Circuit mandate, the court reentered that order on April 16, 2007. Plaintiff filed a motion for reconsideration (Doc. 176), asking the court to reconsider the portion of the March 26 order that granted defendants leave to assert failure to exhaust as an affirmative defense in their answer. Defendants did not respond to plaintiff's motion.

Plaintiff has not given the court a valid reason to reconsider its order. The court implicitly or explicitly considered and rejected all of plaintiff's arguments when issuing its first order. Plaintiff has not presented (1) an intervening change in controlling law; (2) new, previously unavailable evidence; or (3) a valid argument that the court committed clear error or created manifest injustice. *See Marx v. Schnuck Mkts., Inc.*, 869 F. Supp. 895, 897 (D. Kan. 1994) (citations omitted); D. Kan. Rule 7.3 (listing three bases for reconsideration of order). Reconsideration is not appropriate here.

IT IS THEREFORE ORDERED that plaintiff's motion for reconsideration (Doc. 176) is

denied.

Dated this 10th day of May 2007, at Kansas City, Kansas.

s/ Carlos Murguia CARLOS MURGUIA United States District Judge