

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

ALLVEST CORPORATION,

Debtor.

Case No. A02-01042-DMD
Chapter 7

**Filed On
10/20/05**

MEMORANDUM REGARDING MOTION FOR RECONSIDERATION

Evelyn Brown seeks an order that excludes her claim in certain insolvency proceedings from this estate. J.W., B.P., K.S., C.W. and A.W. (J.W. creditors) have opposed Brown's motion and filed a cross-motion for an order including the claim in the Allvest estate. The trustee also opposed Brown's motion. I initially ruled in favor of J.W. creditors. Brown has moved for reconsideration. Brown submitted the affidavit of Don Bauermeister in support of her motion for reconsideration.

I conclude that my ruling on the respective motions was premature. Alaska, unlike other jurisdictions, allows a court to consider extrinsic evidence regarding the interpretation of a contract prior to finding that the contract's language is ambiguous.¹ I did not have the benefit of extrinsic evidence prior to my ruling. Each party will be given the opportunity to present extrinsic evidence supporting their respective interpretations of the settlement agreement at an evidentiary hearing.

¹*Municipality of Anchorage v. Gentile*, 922 P.2d 248, 256 n.5 (Alaska 1996), citing *Wright v. Vickaryous*, 598 P.2d 490 n. 22, (Alaska 1979).

DATED: October 19, 2005.

BY THE COURT

/s/ Donald MacDonald IV
Donald MacDonald IV
United States Bankruptcy Judge

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10/20/05