

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHERMAN A. CARTER,	:
	:
Plaintiff,	:
	:
v.	: Civil Action No. 99-757 JJF
	:
M. JANE BRADY, Attorney General,	:
STANLEY TAYLOR, Commissioner,	:
ROBERT SNYDER, Warden, and REBECCA	:
L. MCBRIDE, Record's	:
Supervisor,	:
	:
Defendants.	:

Sherman A. Carter, Wilmington, Delaware.
Pro Se Plaintiff.

Stuart B. Drowos, Esquire, Deputy Attorney General, STATE OF
DELAWARE DEPARTMENT OF JUSTICE, Wilmington, Delaware.
Attorney for Defendants.

MEMORANDUM OPINION

March 29, 2004

Wilmington, Delaware

Farnan, District Judge.

Presently before the Court is Defendants' Motion For Reconsideration. (D.I. 89.) For the reasons discussed, the Court will grant in part the Motion.

BACKGROUND

On February 11, 2004, the Court issued a Memorandum Order (the "February 11 Order") granting Plaintiff's motion in limine. (D.I. 85.) The Court based its decision on the absence of any specific opposition by Defendants to Plaintiff's motion in limine. As discussed in the February 11 Order, Defendants' opposition letter to Plaintiff's motion in limine, in large part, was a response to another of Plaintiff's motions. (D.I. 85 at 2.) Based on Defendants' apparent lack of opposition to Plaintiff's motion in limine, the Court granted Plaintiff's motion in limine as "unopposed." By their Motion, Defendants request the Court to reconsider its February 11 Order granting Plaintiff's motion in limine and to grant Defendants an extension to file dispositive motions.

DISCUSSION

I. Parties' Contentions

Defendants contend that the Court should reconsider its February 11 Order granting Plaintiff's motion in limine because the Court's determination that Plaintiff's motion in limine was unopposed is contrary to the record in this case. Defendants

contend that they previously set forth the basis for the defenses the Court struck in the February 11 Order in their motion to dismiss filed on March 17, 2000. Defendants contend that their prior pleadings in March of 2000, along with the Plaintiff's deposition testimony, demonstrate that Plaintiff's motion in limine should have been denied by the Court. In addition, Defendants request the Court to grant them an extension for filing dispositive motions.

In response, Plaintiff contends that the Court properly granted his motion in limine because there is no support for Defendants' defenses.

II. Applicable Legal Principles

Defendants move the Court to reconsider its February 11 Order pursuant to Rule 60(b) of the Federal Rules of Civil Procedure and Local Rule 7.1.5. As an initial matter, the Court notes that Rule 60(b) does not apply to the Court's February 11 Order because that Order was not a final judgment or order. Fed. R. Civ. P. 60(b); see also 12 Moore's Federal Practice § 60.23 (3d ed. rev. 2003). However, because Defendants also move for reconsideration pursuant to Local Rule 7.1.5, the Court will reach the merits of the instant motion.

"As a general rule, motions for reconsideration should be granted 'sparingly.'" Stafford v. Noramco of Delaware, Inc., 2001 WL 65738 at *1 (D. Del. Jan. 10, 2001) (quoting Karr v.

Castle, 768 F. Supp. 1087, 1090 (D. Del. 1991)). The purpose of granting motions for reconsideration is to correct manifest errors of law or fact, present newly discovered evidence, or to prevent manifest injustice. Harsco Corp. v. Zlotnicky, 176 F.3d 669, 677 (3d Cir. 1999) (citing Keene Corp. v. Int'l Fid. Ins. Co., 561 F. Supp. 656, 665 (N.D.Ill.1983); North River Ins. Co. v. CIGNA Reins., 52 F.3d 1194, 1218 (3d Cir. 1995) (citations omitted)). Parties should remain mindful that a motion for reconsideration is not merely an opportunity to "accomplish [the] repetition of arguments that were or should have been presented to the court previously." Karr v. Castle, 768 F. Supp. 1087, 1093 (D. Del. 1991) (citing Brambles U.S.A., Inc. v. Blocker, 735 F. Supp. 1239, 1240-41 (D. Del. 1990)). However, a court should reconsider a prior decision if it overlooked facts or precedent that reasonably would have altered the result. Id. (citing Weissman v. Fruchtman, 124 F.R.D. 559, 560 (S.D.N.Y. 1989)).

III. Decision

With respect to the portion of Defendants' Motion requesting reconsideration of the Court's February 11 Order granting Plaintiff's motion in limine, the Court will deny the Motion. Defendants do not contend that there has been any change in the law or that they have discovered new evidence; instead, Defendants maintain that in light of their submissions in support of their motion to dismiss that they filed in March of 2000 and

the Plaintiff's deposition testimony (that was not attached to Defendants' opposition to Plaintiff's motion in limine), the Court should not have concluded that Plaintiff's motion in limine was "unopposed."

The Court concludes that Defendants' arguments in support of their Motion for Reconsideration of the February 11 Order are without merit. Defendants cannot seriously have expected the Court to have searched the record in this case for one of their filings - submitted over four years ago - to formulate a rationale for denying Plaintiff's motion in limine. Additionally, although the Court is sympathetic to the heavy case load of Defendants' counsel, the Court is similarly faced with numerous proceedings and thus is prevented from undertaking in every case the type of searching review of the case record Defendants suggest the Court should have done when deciding Plaintiff's motion in limine. Defendants should have presented these arguments to the Court in their opposition to Plaintiff's motion in limine, and thus, are precluded from asserting them in the instant motion. See Karr, 768 F. Supp. at 1093.

Next, to the extent Defendants request the Court to grant them an extension of time to file dispositive motions, the Court will grant the Motion. Plaintiff does not contend that he will be unfairly prejudiced by the Court's grant of an extension, and, based on the heavy case load of Defendants' attorney, the Court

will grant the request.¹

CONCLUSION

For the reasons discussed, the Court will grant in part Defendants' Motion. An Order consistent with this Memorandum Opinion will be entered.

¹ Although the Court previously denied a request by Defendants for an extension to file dispositive motions (D.I. 83), Defendants' instant request is based on different grounds that the Court concludes justifies an extension. The Court previously denied Defendants an extension because the request was based on Defendants' belief that Plaintiff desired such an extension. Once the Court was notified by Plaintiff that he opposed any such extension, the Court denied Defendants' request. Contrary to their previous request, Defendants' instant request for an extension is based on Defense counsel's heavy case load.

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L. MCBRIDE, Record's	:
Supervisor,	:
	:
Defendants.	:

O R D E R

At Wilmington, this 29th day of March, 2004, for the reasons discussed in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that Defendants' Motion For Reconsideration (D.I. 89), with respect to:

- 1) The Court's February 11, 2004, Memorandum Order granting Plaintiff's motion in limine (D.I. 85) is **DENIED**;
- 2) Defendants' request for an extension of time to file dispositive motions is **GRANTED**.
- 3) Defendants shall file and serve any dispositive motion on or before Friday, April 23, 2004. Plaintiff shall file and serve an answer brief to any dispositive motion on or before Friday, May 14, 2004. Any reply brief shall be filed and served on or before Friday, May 21, 2004.

4) Defendants' Motion For Leave To File Out Of Time Motion
For Enlargement Of Time (D.I. 68) is **DENIED** as moot.

JOSEPH J. FARNAN, JR.
UNITED STATES DISTRICT JUDGE