

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DARRYL L. GREENE, : CIVIL ACTION
Plaintiff, :
 :
v. :
 :
LONDON HARNESS & CABLE, :
Defendant. : NO. 99-3807

MEMORANDUM ORDER

J.M. KELLY, J.

APRIL , 2001

On December 22, 2000, the Court entered Findings of Fact, Conclusions of Law and an Order and dismissed the Complaint of Plaintiff, Darryl L. Greene ("Greene"). In brief, the Court found that Greene and his attorney, Marshall Williams, Esquire, ("Williams"), had pursued this case with a complete and total disregard for the Federal Rules of Civil Procedure and the Orders of this Court. At the same time, the Court dismissed as moot all outstanding Motions, including the Motion for Attorney's Fees Pursuant to Rule 11 of Defendant London Harness & Cable ("London Harness"). Both parties now request the Court to reconsider its December 22 Order.

As an initial matter, the Court must address its jurisdiction as Greene has filed a Notice of Appeal in addition to the present Motion for Reconsideration. Review of the Docket in this matter shows that Greene's Motion for Reconsideration was filed on January 12, 2001, London Harness's Motion for Reconsideration was filed on January 17, 2001 and Greene's Notice

of Appeal was filed on January 22, 2001. As Greene's Motion for Reconsideration was filed prior to the Notice of Appeal, jurisdiction remains in this Court until all Motions for Reconsideration are decided. Fed. R. App. P. 4(a)(4)(A). The Notice of Appeal then becomes effective once all of the Motions for Reconsideration are decided. Fed. R. App. P. 4(a)(4)(B)(i). Accordingly, the Court has jurisdiction to consider the Motions for Reconsideration and the Notice of Appeal will become effective once the Motions for Reconsideration have been decided.

Federal Rule of Civil Procedure 59(e) and Local Civil Rule 7.1(g) of the United States District Court for the Eastern District of Pennsylvania allow parties to file motions for reconsideration or amendment of a judgment. Courts should grant these motions sparingly, reserving them for instances when: (1) there has been an intervening change in controlling law; (2) new evidence has become available; or (3) there is a need to prevent manifest injustice or correct a clear error of law or fact. See, e.g., General Instrument Corp. v. Nu-Tek Electronics, 3 F. Supp. 2d 602, 606 (E.D. Pa. 1998), aff'd, 197 F.3d 83 (3d Cir. 1999); Environ Prods., Inc. v. Total Containment, Inc., 951 F. Supp. 57, 62 n.1 (E.D. Pa. 1996). Dissatisfaction with the Court's ruling is not a proper basis for reconsideration. Burger King Corp. v. New England Hood and Duct Cleaning Co., No. 98-3610, 2000 WL 133756 at *2 (E.D. Pa. Feb. 4, 2000).

Greene's presentation of his Motion for Reconsideration does not address the Court's Findings of Fact related to the events leading to the Court's Order to Show Cause why this case should not be dismissed, entered December 1, 2000. Rather, Williams chose to set forth his activities between December 4, 2000 and the filing of the present Motion for Reconsideration on January 12, 2001. Interestingly, Williams admits that he failed to check his mail for one month and has no back-up system in place to keep him informed of, or cover, his cases if he is unable to be in the office. Williams has provided no explanation for why it took from reading his mail on January 4 until January 12 to file the present Motion, or even contact the Court. Williams' explanation is in no way sufficient to convince the Court to reconsider its decision. While the Court appreciates that Williams is willing to throw himself upon his own sword of ethical impropriety in order to save his client's claim, the Court is convinced that Greene was put on early notice of how Williams was handling his case and also must bear the responsibility for the way this case has not been prosecuted. Accordingly, Greene's Motion for Reconsideration is DENIED.

London Harness seeks reconsideration of the Court's Order to recover its attorney fees expended in defense of this case. The Court recognizes that London Harness has had to endure considerable delay while defending this case. The Court is not

convinced that Greene could not have survived a Motion for Summary Judgment in this case, therefore, dismissal of the case will save London Harness considerable defense costs. As a monetary sanction is designed to act as deterrent to future bad behavior, the Court hopes that Williams will use the dismissal of this case as a catalyst to review how he practices law. Accordingly, London Harness's Motion for Reconsideration is DENIED.

BY THE COURT:

JAMES MCGIRR KELLY, J.