

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

SYNTHESES (U.S.A.) et al.,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	
GLOBUS MEDICAL, INC., et al.,	:	NO. 04-1235
Defendants.	:	

ORDER MEMORANDUM

AND NOW, this 4th day of March, 2005, presently before this Court is the Motion for Reconsideration filed by Defendants Globus Medical, David C. Paul and Richard A. Kienzle on February 18, 2005 (Doc. No. 57). For the reasons that follow, Plaintiff's Motion for Reconsideration is GRANTED. However, the Court further ORDERS that the Emergency Motion for Protective Order to Maintain Status Quo and Place Certain Filings Under Seal filed by Plaintiff Synthes Spine Company, L.P. on February 4, 2005 (Doc. No. 53) is GRANTED.

A brief history of certain issues in this case is warranted. On November 2, 2004, Plaintiff filed a motion for protective order requiring any document filed with the Court by Defendants containing allegations regarding a program known as Plaintiff's "ROI program" to be filed under seal. See Doc. No. 31. On November 29, 2004, the Court granted Defendants' motion to file amended counter-claims, the subject of which was Plaintiff's ROI program. See Doc. Nos. 37, 38. On December 2, 2004, the parties entered into a stipulation, under which certain documents related to those counter-claims would be sealed until December 7, 2004, subject to further order of the Court. See Doc. No. 40. The Court originally scheduled Oral argument on Plaintiff's initial motion for protective order for December 2, 2004, while the stipulation was still in effect;

the Court ultimately rescheduled the hearing for March 11, 2005. See Doc. No. 55. On February 4, 2004, Plaintiff filed an emergency motion to extend the protective order entered into by stipulation, which had expired on December 7, 2004. See Doc. No. 53. On February 8, 2005, the Court granted Plaintiff's motion, extending the protective order until it could have a hearing on its original, underlying motion for protective order on March 11, 2005. See Doc. No. 55. In their emergency motion, Plaintiff represented that **the parties had agreed to keep the stipulation in place so long as the parties were engaged in a dialogue period regarding the resolution of this matter; Plaintiff indicated that the dialogue period was ongoing.** Doc. No. 53 at 4. Defendants have moved this Court to reconsider its February 8, 2005 Order.

A motion for reconsideration in the United States District Court for the Eastern District of Pennsylvania is filed pursuant to Local Civil Rule 7.1(g) and Fed. R. Civ. P.59(e). A motion for reconsideration is meritorious if there is: (I) new evidence not previously available; (ii) an intervening change in controlling law; or (iii) a need to correct a clear error of law or to prevent a manifest injustice. See General Instrument Corp of Delaware. v. Nu-Tek Elecs. & Mfg., Inc., 3 F. Supp. 2d 602, 606 (E.D. Pa. 1998), aff'd. by, 197 F.3d 83 (3d Cir. 1999); see also Evans v. United States, 173 F. Supp. 2d 334, 335 (E.D. Pa. 2001); Environ Prods., Inc. v. Total Containment, Inc., 951 F. Supp. 57, 62 (E.D. Pa. 1996); Cohen v. Austin, 869 F. Supp. 320, 321 (E.D. Pa. 1994). "Because federal courts have a strong interest in the finality of judgments, motions for reconsideration should be granted sparingly." Continental Cas. Corp. v. Diversified Indus., Inc., 884 F. Supp 937, 943 (E.D. Pa. 1995). A general dissatisfaction with the court's ruling is not a valid ground for granting a motion for reconsideration. See, e.g., U.S. v. Phillips, 2001 WL 527810, at \*1 (E.D. Pa. May 17, 2001)(stating that a difference of opinion with the

court is not an appropriate ground for granting reconsideration).

Defendants' request is based on what they perceive as a misrepresentation by Plaintiff in its Emergency Motion for Protective Order – that Defendants had agreed to keep the allegations contained in their counterclaims under seal beyond December 7, 2004, a date that had previously been agreed upon by the parties. **The correspondence attached to Defendants' motion for reconsideration indicates that there was no firm agreement in place to extend the stipulation. Instead, the correspondence shows that Plaintiff proposed extending the stipulation and that Defendant objected to this extension while reserving the right to agree to seal the record at a later time, pending an evaluation of productivity of the parties' discussions. See Defs.' Mot. at Exs. 6, 7, 8. The Court finds that its previous holding should be reconsidered in light of the mistake of fact it was based upon, namely, that the parties had agreed to keep the stipulation in place so long as a possible resolution to the underlying adversary action were being discussed.**

Though the Court agrees that its previous Order should be reconsidered in light of the facts set forth in Defendants' motion, it finds its Order of February 8, 2005 sealing various documents should remain in place until March 11, 2005. Defendants argue that Plaintiff has not shown "good cause" supporting the issuance of a protective order required by Pennsylvania law. The Court finds this argument to be premature. The February 8, 2005 Order is temporary in nature – the documents at issue have been sealed only until March 11, 2005, the date on which the Court will hold a formal hearing on Plaintiff's original Motion for Protective Order. At that time, Plaintiff will bear the burden of showing good cause to keep these documents sealed. If the Court determines that there is no good cause for keeping these documents sealed, the documents will be unsealed and become part of the public record in this case. In the meantime, the Court

prefers to err on the side of caution.

BY THE COURT:

/s/  
Legrome D. Davis, J.