

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

ALAN CANTOR : CIVIL ACTION
 :
v. :
 :
THE EQUITABLE LIFE ASSURANCE :
SOCIETY OF THE UNITED STATES : NO. 97-CV-5711

MEMORANDUM AND ORDER

J. M. KELLY, J.

MAY 26, 1999

Presently before the Court is Plaintiff Alan Cantor's Motion for Reconsideration of the Court's Order granting Defendant's motion for partial summary judgment. For the reasons that follow, Plaintiff's motion is denied.

To prevail on his motion for reconsideration, Plaintiff must point to a manifest error of law or fact, present newly available evidence, or cite to an intervening change in the controlling law. See Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1986), cert. denied, 476 U.S. 1171 (1986); Drake v. Steamfitters Local Union No. 420, No. 97-CV-585, 1998 WL 564486, at *3 (E.D. Pa. Sept. 3, 1998). The Court will reconsider an earlier decision to prevent a manifest injustice. See Smith v. City of Chester, 155 F.R.D. 95, 96-97 (E.D. Pa. 1994). If Plaintiff merely is dissatisfied with the ruling, however, he has failed to present a proper basis to seek reconsideration. See Glendon Energy Co. v. Borough of Glendon, 836 F. Supp. 1109, 1122 (E.D. Pa. 1993).

Far from showing manifest injustice or error of law, Plaintiff essentially quarrels with the reasoning the Court employed in granting Defendant's motion for partial summary judgment. He revisits the arguments he presented earlier, but fails to cure his earlier inability to demonstrate

he could sustain his burden of proving, by clear and convincing evidence, that Defendant acted without a reasonable basis. Plaintiff disagrees with the Court's reliance on the persuasive authority of Seidman v. Minnesota Mutual Life Insurance Co., No. 96-CV-3191, 1997 WL 597608 (E.D. Pa. Sept. 11, 1997), and says "more appropriate holdings could be found" in Hepps v. General American Life Insurance, No. 95-5508, 1998 WL 564497 (E.D. Pa. Sept. 2, 1998), and Thomas v. Massachusetts Casualty Insurance Co., No. 96-CV-1758, 1997 WL 338842 (E.D. Pa. June 18, 1997). In neither case, however, did the defendant insurance company deny benefits based upon an investigation as exhaustive as Defendant conducted here: the defendant in Hepps denied benefits based upon the plaintiff's activities, not medical advice or diagnosis, Hepps, 1998 WL 564497, at *2; and the defendant in Thomas temporarily suspended payments on the report of one physician, Thomas, 1997 WL 338842, at *4. Plaintiff's argument falls far short of meeting the standards for reconsideration, and Plaintiff's motion is denied.¹

An Order follows.

¹Further, Plaintiff's motion was untimely under Local Rule of Civil Procedure 7.1(g).

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ORDER

AND NOW, this 26th day of May, 1999, upon consideration of Plaintiff's Motion for Reconsideration (Document No. 53), and Defendant's response thereto, it is hereby **ORDERED** Plaintiff's motion is **DENIED**.

BY THE COURT:

JAMES MCGIRR KELLY, J.