

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

OHIO CASUALTY INSURANCE CO. : CIVIL ACTION  
: :  
v. : :  
: :  
THE SOUTHLAND CORPORATION, :  
AMERICAN MOTORISTS INSURANCE :  
and DALLER, GREENBERG & :  
DIETRICH, L.L.P. : NO. 98-CV-6187

**MEMORANDUM AND ORDER**

**J. M. KELLY, J.**

**JULY 30, 1999**

Presently before the Court is Plaintiff Ohio Casualty Insurance Company's ("Ohio Casualty") Motion for Reconsideration of the Court's June 29, 1999, Order. Plaintiff bases its motion in part on the bewildering argument that the Court erred by relying on cases not cited by the parties. Neither this argument nor the others presented by Ohio Casualty persuade the Court that reconsideration is warranted here and, for the reasons that follow, Plaintiff's motion is denied.

Ohio Casualty states in its memorandum of law that, "[t]he Court made its ruling on a basis neither presented nor argued by [Defendant] Southland in its application. . . . Indeed, in this most unusual situation, *not a single one of the eight case authorities invoked by the Court in its decision was cited by Southland in its moving papers.*" (Pl.'s Mem. Supp. Mot. Reconsid. at 1) (emphasis in original). Plaintiff then proceeds to discuss why the authority the Court relied upon is inapplicable to the underlying issue.

Contrary to Plaintiff's position, the Court is under absolutely no obligation to restrict itself to the universe of cases cited by the parties. Indeed, if the Court had followed Plaintiff's

rule in this case it would have decided the motion to quash with only the barest reference to any case law. As Plaintiff said in its response to Defendant's motion,

[t]he Rule [Federal Rule of Civil Procedure 45] does not recognize, nor has any court in any reported decision ever recognized, an 'exception' to the general rule permitting a party to obtain, by subpoena, evidence relevant to a pending lawsuit against another based upon the fact that the party is separately engaged in arbitration against the party seeking discovery.

(Pl.'s Mem. Resp. Def.'s Mot. Quash at 7.) Assuming Plaintiff's position to be true, this absence of case law is not surprising given the overriding general rule that no party may take discovery while an action is stayed pending arbitration. See, e.g., Air Line Pilots Assoc. v. Miller, 118 S. Ct. 1761, 1769 & n.6 (1998); Corpman v. Prudential-Bache Sec., Inc., 907 F.2d 29, 31 (3d Cir. 1990). More to the point presented in Plaintiff's motion, this case law, even though not provided by either party, is controlling.

It is the obvious and unflagging obligation of this and every court to conduct its own research into the merits of the parties' positions. In fact, a court's failure to research issues presented to it may be reversible error. See United States v. Davis, No. 98-6251, 1999 WL 504702, at \*20 (3d Cir. July 19, 1999) ("The judge has an immanent obligation to research the law . . .") (reversing the district court for failing to give a jury instruction requested but not researched by the parties). The Court merely acquitted its obligation to fairly decide an issue before it when it relied upon cases not cited by either party.

The remainder of Plaintiff's motion for reconsideration is no more availing. To prevail on its 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.), 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 its earlier ruling to prevent a manifest injustice. See Smith v. City of Chester, 155 F.R.D. 95, 96-97 (E.D. Pa. 1994). The distinctions Plaintiff draws between this case and those the Court earlier cited are unavailing, and certainly fall far short of demonstrating the manifest injustice necessary for the Court to reconsider its Order. Plaintiff's motion is denied.

An Order follows.

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and DALLER, GREENBERG &	:	
DIETRICH, L.L.P.	:	NO. 98-CV-6187

**ORDER**

AND NOW, this 30th day of July, 1999, upon consideration of Plaintiff Ohio Casualty Insurance Company's Motion for Reconsideration (Document No. 30), it is hereby **ORDERED** Plaintiff's motion is **DENIED**.

BY THE COURT:

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JAMES McGIRR KELLY, J.