

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

MICHAEL McCARTHY,)
)
 Plaintiff,)
 v.) C.A. No. CPU6-09-001032
)
 DEXTER A. LONG, III)
)
 Defendant.)

Submitted: June 8, 2010
Decided: June 28, 2010

Larry W. Fifer, Esq., counsel for Plaintiff.
Dexter A. Long, III, self-represented Defendant.

DECISION ON DEFENDANT'S
MOTION FOR NEW TRIAL

CLARK, J.

Trial of this matter was held on May 19, 2010; the Court ruled from the bench and entered judgment in favor of Plaintiff. On June 1, 2010, Defendant filed a "Motion to Reopen and Add New Testimony."

The Court interprets Defendant's pleading as a motion for a new trial. Court of Common Pleas Civil Rule 59 (a) provides: "A new trial may be granted to all or any of the parties and on all or part of the issues in an action in which there has been a trial for any of the reasons for which new trials have heretofore been granted in this Court. On a motion for a new trial, the Court may open the judgment if one has been entered, take additional testimony and direct the entry of a new judgment."

Plaintiff contends that Defendant's motion was filed late. Subsection (b) of Civil Rule 59 provides that the motion for a new trial "shall be served and filed not later than 10 days after the entry of judgment." The tenth day after entry of the May 19, 2010 judgment was May 29, 2010, a Saturday. The next Monday, May 31, 2010, was

Memorial Day, a legal holiday during which the Clerk's office was closed. Under Civil Rule 6 (a), when the last day of the period falls on a weekend day or other day when the Clerk's office is closed, "the period shall run until the end of the next day on which the office . . . is open." In any event, Rule 6 further provides that if, as here, the applicable time period is "less than 11 days, intermediate Saturdays, Sundays, and other legal holidays shall be excluded in the computation." Defendant's motion was timely filed.

Plaintiff further contends that defendant's motion should be denied because it "fails to state grounds or reasons" for granting a new trial. Defendant's motion contains non-sequentially numbered paragraphs. The contents of some of these paragraphs appear to be attempted responses to the like-numbered paragraphs of the Pretrial Conference Worksheet, which Defendant should have filed prior to the March 4, 2010 Pretrial Conference that he attended. In any event, the Court has attempted to give this pleading, filed by a self-represented litigant, its most liberal construction; however, the Court remains unable to discern any recognizable, colorable grounds for a new trial set forth in the motion. Accordingly, defendant's motion for a new trial is **DENIED**.

IT IS SO ORDERED, this ____ day of June, 2010.

Kenneth S. Clark Jr.
Judge