

March 12, 2004

Mr. Leonard P. Machulas
223 Mont Drive
Dover, Delaware 19904

Mr. James E. Walker
936 Proctors Purchase Road
Hartly, Delaware 19953

**RE: L.P. Machulas v. James E. Walker
C.A. No. 03-08-0091 (Kent County Court of Common Pleas)**

Dear Mr. Machulas and Mr. Walker:

As you know, I entered an order dismissing the Plaintiff's complaint for the above-referenced matter with prejudice for its failure to state a claim upon which relief can be granted. On March 8, 2004, the Plaintiff filed a "RECONSIDERATION MOTION" with the Court requesting that the Court vacate its dismissal of his civil action for the reason that he provided evidence of the expenses that he had incurred and that he had stated a claim for relief pursuant to 29 C.F.R. 1614.108. I find that the Plaintiff's application to reopen the present matter, which I consider a motion for reargument pursuant to Rule 59(e) of the *Civil Rules Governing the Court of Common Pleas*, is without merit and must be denied.

Although the Plaintiff has made factual allegations that he has incurred expenses in order to obtain the satisfaction of a judgment against the Defendant, he still has not provided a valid legal basis for recovery of these litigation costs. Under the American Rule, each party must bear his or her own litigation costs unless there is a "contractual or statutory basis for liability". *Safeway Stores v. Chamberlain Protective Services*, 451 A.2d 66, 68 (D.C. 1982) *citing, e.g., Alyeska Pipeline Service Co. v. Wilderness Society*, 421 U.S. 240, 246-255 (1975); *see also Thomas v. Marta*, 1990 WL 35292 at *2 (Del. Super.Ct. 1990); *Tri State Mall Assocs. v. A.A. R. Realty*, 198 A.2d 368, 373 (Del. Ch. 1972). Given the pleadings for the above-referenced matter and the facts to which the parties stipulated at the pre-trial conference for this matter on January 16, 2004, it is apparent that there is no contractual or statutory basis for recovery of the Plaintiff's litigation costs that are the subject of the above-captioned matter.

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In his motion for reargument, the Plaintiff cites 29 C.F.R. 1614.108 as a basis for his claim for relief. However, that section of the *Code of Federal Regulations* pertains to the investigation of complaints by federal agencies concerned with equal employment opportunities. Therefore, it is not relevant to the present matter. As such, the Plaintiff's motion for reconsideration must be denied.

IT IS SO ORDERED THIS 12TH DAY OF MARCH, 2004.

JUDGE