

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

LAURA THOMAS,)
)
Defendant - Below)
Appellant,)
)
v.) C.A. No. 00A-03-008
)
)
AMERICAN MOTORIST INS.)
CO., as Subrogee of Michael K.)
Williams and Linda Williams,)
)
Plaintiff - Below)
Appellee.)

Date Submitted: May 7, 2001
Date Decided: October 12, 2001

ORDER

**UPON LAURA THOMAS’
MOTION FOR REARGUMENT**

DENIED

On this 21st day of August, 2001, upon consideration of Plaintiff’s Motion for
Reargument, it appears to the Court that:

- (1) On April 30, 2001, the Court entered judgment for American Motorist Ins.

Co. (“American”) allowing them as a no-fault insurer to seek subrogation reimbursement from the tortfeasor. The Court found there was substantial evidence to support that American paid the insured’s medical expenses resulting from the accident with the tortfeasor. In her motion, Plaintiff does not challenge this Court’s ruling, but rather casts doubts on this Court’s citation to *Harper v. State Farm Mutual Ins. Co.*, Del. Supr. 703 A.3d 136, 141 (1997).

(2) “On motion for reargument the only issue is whether the [C]ourt overlooked something that would have changed the outcome of the underlying decision.”¹ “A motion for reargument is not intended to rehash arguments already decided by the [C]ourt.”² Nor is it “a device for raising new arguments or stringing out the length of time for making an

¹ *McElroy v. Shell Petroleum, Inc.*, Del. Super., No. 375, 1992, Moore, J. (Nov. 24, 1992) (ORDER).

² *Id.*

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argument.”³ ““A party seeking to have the Court consider the earlier ruling must demonstrate newly discovered evidence, a change in the law or manifest injustice.”⁴

³ *Eisenmann Corp. v. General Motors Corp.*, C.A. No. 99C-07-260, Quillen, J. (Feb. 24, 2000) (Letter Op.).

⁴ *State v. Spicer*, Del. Super., C.A. Nos. 98M-12-008, 98M-12-009, Stokes, J. (May 11, 1999) (ORDER) (quoting *E.I. duPont de Nemours Co. v. Admiral Ins.. Co.*, Del Super., 711 A.2d 45, 55 (1995)).

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(3) The issues raised in Plaintiff's Motion for Reargument were considered by the Court in making its original decision. An insurer has a statutory right to reimbursement through subrogation of the rights of its insured; however that right is limited "where the tortfeasor's liability carrier is involved."⁵ Nothing in Delaware's no-fault statute excludes an insurer from suing a tortfeasor directly when the tortfeasor lacks liability insurance.⁶ Therefore, Plaintiff's Motion for Reargument is DENIED.

For the forgoing reasons, Plaintiff's Motion for Reargument is hereby **DENIED**.

IT IS SO ORDERED.

ALFORD, J.

Prothonotary's Office - Civil Div.

⁵ *Nationwide Mutual Ins. co. v. Wooters*, Del. Super., C.A. No. 93C-02-029, Bifferato, R.J. (Jan. 31, 1996) (Mem. Op.).

⁶ *See* 10 Del. C. § 2118(g)