

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

PHYLLIS MATHANGANI,)	
)	
Plaintiff,)	
)	C.A. No.: N14C-01-205 EMD
v.)	
)	
CHRISTIAN HEVELOW, DELAWARE)	TRIAL BY JURY DEMANDED
STATE POLICE, DEPARTMENT OF)	
SAFETY AND HOMELAND)	
SECURITY, and the STATE OF)	
DELAWARE,)	
)	
Defendants/Third-party Plaintiffs,)	
)	
v.)	
)	
REGINALD E. BROWN,)	
)	
Third-Party Defendant.)	

**MEMORANDUM ORDER DENYING
DEFENDANTS/THIRD-PARTY PLAINTIFFS’
MOTION FOR REARGUMENT**

Upon consideration of the Motion for Summary Judgment filed on January 25, 2016 by Defendants/Third-Party Plaintiffs Christian Hevelow, Delaware State Police, Department of Safety and Homeland Security, and the State of Delaware (collectively, “Defendants”); Plaintiff’s Response to Defendants’ Motion for Summary Judgment filed on February 15, 2016; the opinion and order granting and denying in part Defendants’ Motion for Summary Judgment issued by the Court on May 31, 2016 and amended on June 27, 2016 (“the Opinion”); Defendants/Third-Party Plaintiffs’ Motion for Reargument (the “Motion for Reargument”) filed on June 7, 2016, and Plaintiff’s Response to Defendants’ Motion for Reargument (the “Opposition”) filed on June 10, 2016, the Court finds and holds as follows:

INTRODUCTION

This case arises from an automobile collision that occurred on January 28, 2012.¹ Defendant Christian Hevelow, a Delaware State Police corporal (“Corporal Hevelow”), pursued a suspect driving a stolen vehicle. As the chase concluded, Corporal Hevelow was repositioning his car when he and Ms. Mathangani collided. As noted in the Opinion, the Court found factual dispute or conflict as to what exactly happened at the time of the collision.² The record is not clear as to whether Corporal Hevelow’s car was moving or stationary at the time of the collision.³ Moreover, Corporal Hevelow is unsure exactly where his patrol car was when the collision occurred—fully in the turn lane or in the southbound lane.⁴ Finally, the Court noted that neither party provided facts demonstrating which Defendant (Delaware State Police, Department of Safety and Homeland Security or the State of Delaware) owned Corporal Hevelow’s car.⁵

In their Motion for Summary Judgment, Defendants argued that Ms. Mathangani’s claims were barred under the State Tort Claims Act and the Authorized Emergency Vehicles Statute (the “AEVS”). Ms. Mathangani argued that under *Pauley v. Reinoehl*, the owner of Corporal Hevelow’s car is liable for Corporal Hevelow’s negligent conduct—regardless of the protections and immunities afforded to Corporal Hevelow by the AEVS. In the Opinion, the Court granted Defendants’ Motion for Summary Judgment with respect to Corporal Hevelow and denied the motion with respect to the owner of Corporal Hevelow’s vehicle under the AEVS.

¹ The facts are more fully set out in the Opinion. To the extent any fact recited in this Order conflicts with a fact set out in the Opinion, the Opinion controls.

² Opinion at 4-5.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 2-3 n.2.

Defendants ground their Motion for Reargument in the contention that Ms. Mathangani has not established a genuine issue of material fact as to whether the accident was caused by Corporal Hevelow’s negligence. Defendants then argue that they cannot be held liable for Corporal Hevelow’s actions if those actions were privileged under the AEVS. Ms. Mathangani contends that Defendants’ argument was already considered and dismissed by the Court in the Opinion—under *Pauley*, the owner of a police vehicle can be imputed with liability for the otherwise privileged actions of the driver if those actions rise to the level of ordinary negligence.

STANDARD OF REVIEW

Superior Court Civil Rule 59(e) provides that a party may file a motion for reargument “within 5 days after the filing of the Court’s Order or decision.”⁶ The standard for a Rule 59(e) motion is well defined under Delaware law.⁷ A motion for reargument will be denied unless the Court has overlooked precedent or legal principles that would have controlling effect, or misapprehended the law or the facts such as would affect the outcome of the decision.⁸ Motions for reargument should not be used merely to rehash the arguments already decided by the court,⁹ or to present new arguments not previously raised.¹⁰ Such tactics frustrate the efficient use of judicial resources, place the opposing party in an unfair position, and stymie “the orderly process of reaching closure on the issues.”¹¹

DISCUSSION

⁶ Super. Ct. Civ. R. 59(e).

⁷ *Kennedy v. Invacare Corp.*, C.A. No. 04C-06-028, 2006 WL 488590, at *1 (Del. Super. Jan. 31, 2006).

⁸ *Woodward v. Farm Family Cas. Ins. Co.*, C.A. No. 00C-08-066, 2001 WL 1456865, at *1 (Del. Super. Aug. 24, 2001).

⁹ *Id.*

¹⁰ *Plummer v. Sherman*, C.A. No. 99C-08-010, 2004 WL 63414, at *2 (Del. Super. Jan. 14, 2004); *see also Bd. of Managers of the Del. Crim. Justice Info. Sys. v. Gannett Co.*, C.A. No. 01C-01-039, 2003 WL 1579170, at *3–4 (Del. Super. Jan. 17, 2003) (holding that a motion for reargument is not a device for raising new arguments or stringing out the length of time for making argument), *rev’d on other grounds, Gannett Co. v. Bd. of Managers of the Del. Crim. Justice Info. Sys.*, 840 A.2d 1232 (Del. 2003).

¹¹ *Plummer*, 2004 WL 63414, at *2.

After reviewing the Opinion and the arguments previously made by the parties in connection with the Motion for Summary Judgment and the Motion for Reargument, the Court concludes that it did not overlook any precedent or controlling legal principles or misapprehend the law or the facts such as would affect the outcome of the decision. In its Motion for Reargument, Defendants merely rehash arguments they made in their brief and at the Summary Judgment hearing. Though Defendants may not agree with the Court's interpretation of *Pauley*, the Court maintains that its application of *Pauley* to the facts as set forth in the Opinion is correct. Moreover, the Court found genuine issues as to material facts that relate to whether Corporal Hevelow was moving or stopped at the time of the collision and, if stopped, where Corporal Hevelow was located at the time of the collision.

CONCLUSION

For the foregoing reasons, the Defendant/Third-Party Plaintiffs' Motion for Reargument is **DENIED**.

Dated: June 28, 2016
Wilmington, Delaware

/s/ *Eric M. Davis*
Eric M. Davis, Judge