

SUPERIOR COURT  
of the  
State of Delaware

William L. Witham, Jr.  
Resident Judge

Kent County Courthouse  
38 The Green  
Dover, Delaware 19901  
Telephone (302) 739-5332

July 15, 2005

James J. Woods, Jr., Esquire  
Sullivan & Woods, LLC  
5305 Limestone Road  
Suite 200  
Wilmington, Delaware 19808

I. Barry Guerke, Esquire  
Parkowski, Guerke & Swayze, P.A.  
116 West Water Street  
P.O. Box 598  
Dover, Delaware 19903

RE: *Pearson v. Thomas*  
C.A. No. 02C-09-028 WLW

Gentlemen:

Hilton Bus Service, Inc. has filed a motion requesting reconsideration and/or reargument on its motion for summary judgment contending that no evidence exists rebutting Deborah Herrmann's affidavit concerning notice. For the reasons set forth below, Hilton Bus Service's motion for reargument will be *denied*.

A motion for reargument is the appropriate method for requesting the Court to reconsider its finding of facts or conclusions of law.<sup>1</sup> While such motion affords the Court an opportunity to correct erroneous findings of fact or conclusions of law prior to an appeal, a motion for reargument will only be granted when the Court has overlooked a controlling legal principle or has misapprehended the law or facts such as would have changed the outcome of the underlying decision.<sup>2</sup>

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<sup>1</sup> *Beatty v. Smedley*, 2003 Del. Super. LEXIS 437, at \*5.

<sup>2</sup> *Id.*

This Court does not believe that it has overlooked any controlling legal principle or has misapprehended the law or facts of this case that would have changed the outcome of Hilton Bus Service's motion for summary judgment. Determining whether Hilton Bus Service received fair and sufficient notice of these proceedings in compliance with Superior Court Civil Rule 15 was indeed arduous. However, after careful consideration of the unique relationship between Hilton Bus Service and J & J Bus Service, the manner in which service was performed on J & J Bus Service through Hilton Bus Service, and the circumstances under which this accident is alleged to have occurred, this Court is satisfied that Hilton Bus Service received the requisite notice on or about September 30, 2002. Accordingly, Hilton Bus Service's motion for reargument and/or reconsideration is hereby *denied*.

IT IS SO ORDERED

/s/ William L. Witham, Jr.  
Resident Judge

WLW/dmh  
oc: Prothonotary  
xc: Counsel