

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK REESE, FRANCES ELAINE PIDDE,
JAMES CICHANOFSKY, ROGER
MILLER, GEORGE NOWLIN, and
RONALD HITT, on behalf of themselves
and a similarly situated class,

Plaintiffs,

Case No. 04-70592

v.

Honorable Patrick J. Duggan

CNH GLOBAL N.V. and
CNH AMERICA LLC,

Defendants.

**OPINION AND ORDER DENYING PLAINTIFFS' MOTION FOR
RECONSIDERATION OF THE JUNE 30, 2011 ORDER RELATING TO
ATTORNEY FEES**

This matter is presently before the Court on Plaintiffs' motion for reconsideration filed pursuant to Eastern District of Michigan Local Rule 7.1(h) on July 14, 2011. Plaintiffs seek reconsideration of this Court's June 30, 2011 decision granting in part and denying in part Plaintiff's second motion for attorneys' fees, arguing that this Court committed a palpable defect in denying their request for attorneys' fees for work expended on appeal. According to Plaintiffs, the Court applied an incorrect legal standard in reaching its decision.

It is unclear why Plaintiffs believe this Court applied an incorrect legal standard in assessing whether to award them attorneys fees for the appeal. The Sixth Circuit has repeatedly set forth the five factors this Court applied as the relevant factors when

deciding whether to award attorney's fees under ERISA. *See Wells v. U.S. Steel*, 76 F.3d 731, 736 (6th Cir. 1996) (citing *Armistead v. Vernitron Corp.*, 944 F.2d 1287, 1304 (6th Cir. 1991) (citing *Sec'y of Dep't of Labor v. King*, 775 F.2d 666, 669 (6th Cir. 1985)).

This Court did not disobey, as Plaintiffs suggest, the Supreme Court's statement in *Hensley v. Eckerhart*, 461 U.S. 424, 103 S. Ct. 1933 (1983), that "[w]here a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee" that "should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit." *Id.* at 435, 103 S. Ct. at 1940. To the contrary, the Court concluded that Plaintiffs are not entitled to attorneys fees for the work expended on the appeal because they did *not* obtain excellent results on appeal.

For these reasons, Plaintiffs fail to demonstrate that this Court committed a palpable defect in deciding their second motion for attorneys' fees.

Accordingly,

IT IS ORDERED, that Plaintiffs' motion for reconsideration of the June 30, 2011 order relating to attorney fees is **DENIED**.

Date: July 20, 2011

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

Roger J. McClow, Esq.

Norman C. Ankers, Esq.

Bobby R. Burchfield, Esq.