IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARGARET LINDSLEY	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 16-941
AMERICAN HONDA MOTOR COMPANY, INC., ET AL.	:	

MEMORANDUM

SURRICK, J. **JULY 28, 2017**

Presently before the Court is Defendant Ada Technologies, Inc.'s ("Ada") Motion for Reconsideration of this Court's Order entered on July 7, 2017. (ECF No. 25.) For the following reasons, Ada's Motion will be denied.

I. BACKGROUND

On April 19, 2016, Plaintiff filed a Complaint in this Court asserting the following claims against Ada: negligence (Count I); strict product liability (Count II); failure to warn (Count IV); violations under the UTPCPL, 73 Pa. Stat. Ann. §§ 201-1 *et seq.* (Count V); and negligent infliction of emotional distress (Count VI). Ada filed a Motion to Dismiss all of Plaintiff's claims for Lack of Personal Jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2). (ECF No. 19.) On July 7, 2017, we filed a Memorandum and Order, which denied Ada's Rule 12(b)(2) Motion, and permitted Plaintiff to conduct jurisdictional discovery. (ECF Nos. 23, 24.) On July 14, 2017, Ada filed a Motion for Reconsideration, requesting that we vacate our July 7th Order, and dismiss Plaintiff's claims for Lack of Personal Jurisdiction. (Ada Mot., ECF No. 25.) On July 26, 2017, Plaintiff filed a Memorandum in Opposition to Ada's Motion. (Pl.'s Mem., ECF No. 26.) The factual background surrounding this matter is fully set forth in our July 7,

2017 Memorandum. (*See Lindsley v. Am. Honda Motor Co., Inc.*, No. 16-941, 2017 WL 2930962 (E.D. Pa. July 7, 2017)).

II. LEGAL STANDARD

Federal Rule of Civil Procedure 59(e) allows parties to file a motion to alter or amend a judgment. *See* Fed. R. Civ. P. 59(e). A Rule 59(e) motion is a motion for reconsideration. *See* E.D. Pa. Local R. Civ. P. 7.1(g). "The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence." *Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985) (citation omitted). A judgment may be altered or amended if the party seeking reconsideration establishes: "(1) an intervening change in controlling law; (2) the availability of new evidence that was not available when the court [ruled on the motion]; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice." *Max's Seafood Cafe, by Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999).

"Dissatisfaction with the Court's ruling is not a proper basis for reconsideration." *Id.* (citation omitted). "The scope of a motion for reconsideration . . . is extremely limited." *Blystone v. Horn*, 664 F.3d 397, 415-16 (3d Cir. 2011); *see also Tomasso v. Boeing Co.*, No. 03-4220, 2007 WL 2458557, at *2 (E.D. Pa. Aug. 24, 2007) ("Because of the courts' interest in the finality of judgments, motions for reconsideration should be granted sparingly." (citation omitted)). "Such motions are not to be used as an opportunity to relitigate the case; rather, they may be used only to correct manifest errors of law or fact or to present newly discovered evidence." *Blystone*, 664 F.3d at 415; *see also United States v. Dupree*, 617 F.3d 724, 732 (3d Cir. 2010) (noting that motions to reconsider will only be granted for "compelling reasons . . . not for addressing arguments that a party should have raised earlier" (internal quotation marks

omitted)); *Mash v. Twp. of Haverford Dep't of Codes Enf't*, No. 06-4479, 2007 WL 2692333, at *3 (E.D. Pa. Sept. 11, 2007) ("It is improper on a motion for reconsideration to ask the court to rethink what it has already thought through-rightly or wrongly." (citations omitted)).

III. DISCUSSION

Ada argues that the July 7th Order must be reconsidered because there has been an intervening change in controlling law. Specifically, Ada contends that the United States Supreme Court's recent decision in *Bristol-Myers Squibb Co. v. Superior Court of Cali., San Francisco Cty.*, 137 S. Ct. 1773 (2017) establishes that "the 'stream of commerce' theory articulated by Justice Brennan in *Asahi Metal* is no more[,] and that the more stringent 'stream of commerce plus' test articulated by Justice O'Connor controls." (Ada Mot. 4.) According to Ada, our denial of Ada's Rule 12(b)(2) Motion was based upon Justice Brennan's stream of commerce theory, and therefore the July 7th Order must be reconsidered. We reject Ada's arguments for a number of reasons.

First, the Supreme Court issued its decision in *Bristol-Meyers Squibb* on June 19, 2017, eighteen days before we issued the July 7th Memorandum and Order. Since the decision in *Bristol-Meyers Squibb* was published before this Court's July 7th Order, we had an opportunity to consider the case before issuing the Order. Accordingly, it does not constitute an intervening change in controlling law.

Second, even if the Supreme Court had issued its decision in *Bristol-Meyers Squibb* after July 7th, our Memorandum and Order would nevertheless remain unchanged. Ada's assertion that *Bristol-Meyers Squibb* established Justice O'Connor's test as controlling law is plainly wrong. The Court's decision in *Bristol-Meyers Squibb* makes absolutely no mention of either Justice Brennan or Justice O'Connor's theories under the stream of commerce doctrine.

Contrary to Ada's assertions, the Court made its decision through a "straightforward application" of "settled principles of personal jurisdiction." *Id*. at 1783. The case does not establish that Justice O'Connor's stream of commerce plus test is controlling.

In *Bristol-Meyers Squibb* the Supreme Court reviewed the California Supreme Court's holding that the defendant was subject to specific jurisdiction with regard to claims brought by nonresident plaintiffs. The United States Supreme Court noted that "[t]he relevant plaintiffs [were] not California residents and [did] not claim to have suffered harm in that State." *Id*. at 1782. In *Bristol-Meyers Squibb*, over 600 plaintiffs brought suit in California; however, only eighty-six of those plaintiffs were actually California residents. The nonresidents did not allege that they purchased the harmful product in question in California, nor did they allege that they suffered any injury in California. The United States Supreme Court held that the California courts lacked specific jurisdiction over the claims of the nonresidents. However, the Court also noted that "the plaintiffs who are residents of a particular State—for example, the 92 plaintiffs from Texas and the 71 from Ohio—could probably sue together in their home States." *Id*. at 1783. Here, Plaintiff is a resident of Pennsylvania, the forum state, who alleges that she was injured in Pennsylvania by a defect in her Honda CR-V. Ada's arguments are unpersuasive.[1]

Third, even if *Bristol-Meyers Squibb* had established that Justice O'Connor's stream of commerce plus theory is the applicable standard, we would nevertheless find it inappropriate to amend our July 7th Order. Ada contends that we applied Justice Brennan's stream of commerce theory, rather than Justice O'Connor's stream of commerce plus theory, as the basis for our July 7th Memorandum and Order. Again, Defendant is wrong. In our July 7th Memorandum, we

[1] We also note that the Court's decision in *Bristol-Meyers Squibb* "concern[ed] the due process limits on the exercise of personal jurisdiction by a State," and "le[ft] open the question of whether the Fifth Amendment imposes the same restrictions on . . . a federal court." *Id*. at 1784-85.

determined that it was appropriate to allow Plaintiff to engage in jurisdictional discovery given the "sheer number of defective gear selectors that Ada sold to Honda, and that Honda placed in its vehicles." *Lindsley*, 2017 WL 2930962, at *5. Based upon that information, we determined that it was possible for jurisdictional discovery to reveal information sufficient to establish specific jurisdiction over Ada under "*one or more* of the stream of commerce theories." *Id.* (emphasis added). Implicit in our Memorandum is the possibility that Ada may have sufficient minimum contacts with Pennsylvania that would satisfy the Justice O'Connor test. Accordingly, even if Ada were correct, we would nevertheless permit Plaintiff to engage in jurisdictional discovery in order to determine if Justice O'Connor's stream of commerce plus theory applies.

IV. CONCLUSION

For the foregoing reasons, Ada's Motion for Reconsideration will be denied. An appropriate Order follows.

BY THE COURT:

R. BARCLAY SURRICK, J.