

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

JOHN PURNELL,)	
Plaintiff,)	
)	
v.)	C.A. No. N13C-07-349 ALR
)	
PREFERRED INVESTMENT SERVICES,)	
INC., & EDWIN J. SWAN,)	
Defendants,)	
)	
v.)	
)	
BAIL BOND AGENCY, INC., a Delaware)	
corporation, & JOHN PURNELL,)	
an individual.)	
Defendants.)	

*Upon Plaintiff's Motion for Reargument
And/or Application for Interlocutory Appeal*
DENIED

Submitted: August 12, 2014
Decided: September 5, 2014

By Order dated July 22, 2014, the Court dismissed several of Plaintiff's claims after consideration of the parties' legal arguments and written submissions. Specifically, the Court dismissed Plaintiff's claim alleging a violation of the covenant of good faith and fair dealing (Count IV – Breach of the Duty of Good Faith and Fair Dealing) because it did not meet the minimum pleading standards to survive the motion to dismiss; the Court dismissed all claims against Defendant John Purnell individually; the Court dismissed Plaintiff's tort claims (Count I –

Conversion, Count II – Fraud, Count III – Misrepresentation, Count V – Negligence, Count VII – Negligent Bailment, Count VIII – Unjust Enrichment); and the Court dismissed Plaintiff’s claim of conspiracy (Count IX – Conspiracy).

On July 28, 2008, Plaintiff filed a Motion for Reargument and/or Application for Interlocutory Appeal; and Defendants oppose Plaintiff’s requests for relief.

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 opinion or decision.”¹ The standard for a Rule 59(e) motion is well defined under Delaware law.² A motion for reargument will be denied unless the Court has overlooked precedent or legal principle that would have controlling effect, or misapprehended the law or the facts such as would affect the outcome of the decision.³ Motions for reargument should not be used merely to rehash the arguments already decided by the court,⁴ or to present new arguments not previously raised.⁵ Such tactics frustrate the efficient use of judicial resources, place the opposing party in an unfair position,

¹ Super. Ct. Civ. R. 59(e).

² *Kennedy v. Invacare Corp.*, C.A. No. 04C-06-028, 2006 WL 488590, at *1 (Del.Super. Jan. 31, 2006).

³ *Woodward v. Farm Family Cas. Ins. Co.*, C.A. No. 00C-08-066, 2001 WL 1456865, at *1 (Del.Super.Aug.24, 2001).

⁴ *Id.*

⁵ *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).

and stymie “the orderly process of reaching closure on the issues.”⁶ The Court has not overlooked a controlling precedent or legal principle or misapprehended the law or facts such as would have changed the outcome of the underlying decision.

Supreme Court Rule 42(b) provides the criteria for determining whether an issue should be certified for an interlocutory appeal. No interlocutory appeal will be certified unless the order of the trial court determines a substantial issue, establishes a legal right, and meets one or more of the five criteria set forth in Supreme Court Rule 42(b)(i)-(v). Under Rule 42(b)(i), the Court may look to the criteria established by Rule 41. This case will proceed to trial in the ordinary course. Plaintiffs have failed to demonstrate that any Delaware Supreme Court Rule 42(b) criteria require that the Court exercise its discretion to certify an interlocutory appeal. There is no reason why this issue should not be subject to appellate review at the conclusion of the litigation.

NOW, THEREFORE, this 5th day of September 2014, Plaintiff’s Motion for Reargument And/Or Application for Interlocutory Appeal is hereby DENIED.

IT IS SO ORDERED.

Andrea L. Rocanelli

Honorable Andrea L. Rocanelli

⁶ *Plummer*, 2004 WL 63414, at *2.