

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

THE STATE OF DELAWARE, UPON )  
THE RELATION OF THE SECRETARY )  
OF THE DEPARTMENT OF )  
TRANSPORTATION, )

Plaintiff, )

v. )

MELPAR, LLC, 1,776,195 SQUARE )  
FEET (0.0408 ACRES) OF LAND, )  
711,978.88 SQUARE FEET (0.0163 ACRES) )  
OF LAND, 3,598,771.2 SQUARE FEET )  
(0.0826 ACRES) PART OF TAX MAP )  
AND PARCEL NUMBER )  
234-23.00-269.14 SITUATE IN INDIAN )  
RIVER HUNDRED. )

Defendant. )

C.A. No.: S21C-03-017 FJJ

Submitted: January 12, 2023

Decided: January 24, 2023

**ORDER**

*Upon Consideration of Defendant's  
Motion for Reargument*

**DENIED.**

*Bradley Eaby, Esquire, Deputy Attorney General, Delaware Department of Justice,  
Wilmington, Delaware. Attorney for the State of Delaware,*

*Richard L. Abbott, Esquire, The Abbott Law Firm, Hockessin, Delaware. Attorney  
for Defendant Melpar, LLC.*

**Jones, J.**

This 24<sup>th</sup> day of January, upon consideration of the Motion for Reargument brought by Defendant Melpar, LLC (“Melpar”), it appears to the Court that:

1. The Court issued an Opinion and Order in this condemnation case resolving Melpar’s Motion for Fees and Costs on December 28, 2022. Melpar now moves for reargument of the December Opinion. Upon careful review,<sup>1</sup> the Motion must be **DENIED**.
2. Here, Melpar submits the Court misread the operative language of 10 *Del. C.* § 6111(2), which awards a prevailing party costs and fees “actually incurred because of the condemnation trial.”<sup>2</sup> According to Melpar, the Court narrowly interpreted the language as a restrictive clause, as opposed to a nonessential clause that merely provides examples of litigation expenses.
3. The Court will only grant reargument when it has overlooked controlling precedent or legal principles, or misapprehend the law or facts in a way that would have changed the outcome of the underlying decision.<sup>3</sup> Reargument is not an opportunity for a party to revisit arguments already decided by the Court.<sup>4</sup>
4. The Court did not overlook a controlling precedent or legal principle, or misapprehend the law or facts in a manner affecting the outcome

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<sup>1</sup> The Court carefully reviewed the parties’ written submissions and arguments. The State requested permission to file its Response later than the date prescribed by the scheduling order. Melpar did not oppose the request, so the Court considered the State’s Response in Opposition to the Motion, as well. *See In re Dingee*, 316 A.2d 555 (Del. 1974).

<sup>2</sup> 10 *Del. C.* § 6111(2).

<sup>3</sup> *See Peters ex rel. Peters v. Texas Instruments, Inc.*, 2012 WL 1622396, at \*1 (Del. Super. May 7, 2012), *aff’d*, 58 A.3d 414 (Del. 2013), as revised (Jan. 9, 2013).

<sup>4</sup> *See id.*

of the decision. Nor did the Court misinterpret the language of 10  
*Del. C. § 6111(2)*.

5. Therefore, Melpar's Motion is DENIED.

**IT IS SO ORDERED.**

*/s/ Francis J. Jones, Jr.*  
Francis J. Jones, Jr., Judge

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