

IN THE COURT OF COMMON PLEAS IN THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

LINDA A. KENNEDY,)	
)	C.A. No. 05-08-0066
Plaintiff,)	
)	
v.)	
)	
EDWARD A. CONNELL,)	
)	
Defendant.)	
)	
EDWARD A. CONNELL,)	C.A. No. 05-11-0119
)	
Plaintiff,)	
)	
v.)	
)	
LINDA A. KENNEDY,)	
)	
Defendant.)	

Upon Plaintiff's Motion for Reargument

Submitted: January 6, 2006

Decided: January 9, 2006

The Motion is denied.

Maggie Clausell, Esquire, 9 East Loockerman Street, Suite 205, Dover, Delaware 19901,
Attorney for Linda Kennedy

Edward a. Connell, 3911 Nantucket Circle, Grovetown, Georgia 30813, Pro Se.

Trader, J.

In the above-captioned case the plaintiff, Linda A. Kennedy (Kennedy), has filed a motion for reargument of the Court's decision dated December 29, 2005. After a trial of this case, I ruled that Kennedy has a right to contribution from Edward A. Connell (Connell) for the sum of \$5,000.00 less the sum of \$546.75 for the attachment of Connell's wages in Delaware and sum of \$400.00 for the value of personal property withheld by Kennedy. Accordingly, I entered a judgment in behalf of Kennedy for \$4,053.25. For a statement of the facts, see my opinion in *Kennedy v. Connell*, C.C.P. Kent County (Dec. 29, 2005).

"A motion for reargument is not a device for raising new arguments . . . It will be denied unless the Court has overlooked a controlling precedent or legal principles, or the Court has misapprehended the law or facts such as would have changed the outcome of the underlying decision." *Beatty v. Smedley*, 2003 Del. Super. LEXIS 437, at *5-6 (Del. Super. March 12, 2003) (citations omitted).

Kennedy in her motion for reargument asserts that she is entitled to contribution for the \$16,067.23 payment made by her former husband, Brian Kennedy. She contends that this money was advanced as a loan and she is required to repay it. Although plaintiff's counsel during final argument asserted that this money was advanced as a loan, Kennedy did not testify at trial that the money Brian Kennedy paid to Edwina Theies constituted a loan to her. (See transcript attached hereto.) Therefore, I did not misapprehend any of the facts in this case.

Additionally, assuming *arguendo* that Kennedy received a loan from her husband, there is no testimony that she paid any money on the loan that would entitle her to contribution. Kennedy is only entitled to contribution for the sum she has paid on the

judgment. The right of contribution is enforceable only after one pays more than his or her equitable share of the debt. 18 Am Jur 2d *Contribution* Sec. 13.

Kennedy's motion for reargument is without merit and is denied.

IT IS SO ORDERED.

Merrill C. Trader
Judge