

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

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

v.

KRONOS INCORPORATED,

Defendant.

09mc0079

**ELECTRONICALLY  
FILED**

Order on Motion for Reconsideration or, in the Alternative, to Alter or Amend Judgment

This Court has received, and reviewed in detail, the EEOC's motion to partially reconsider several paragraphs of the March 21, 2011 Order of Court. Doc. No. 53. Petitioner requests the Court to modify paragraphs one and three, and to replace six and eight with a newly created paragraph five, for the reasons set forth in its accompanying brief. Doc. No. 54.

"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). The United States Court of Appeals for the Third Circuit has observed that a prior judgment may be altered or amended if the party seeking reconsideration of that judgment can establish: (1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the judgment in question was entered; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice. *Max's Seafood Cafe v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999).

“A motion for reconsideration is not to be used as a means to reargue matters already argued and disposed of or as an attempt to relitigate a point of disagreement between the Court and the litigant.” *Ogden v. Keystone Residence*, 226 F.Supp.2d 588, 606 (M.D. Pa. 2002).

“Reconsideration of a previous order is an extraordinary remedy to be employed sparingly in the interests of finality and conservation of judicial resources.” *Ehrheart v. Lifetime Brands, Inc.*, 498 F.Supp.2d 753, 757 (E.D.Pa.2007) (quoting *Moyer v. Italwork*, 1997 WL 312178, at \*3 (E.D. Pa. June 3, 1997)).

Petitioner presents no new factual information, no newly discovered evidence, manifest error of law, or manifest injustice. Rather, Petitioner seeks primarily to relitigate points of disagreement between the Court and the Petitioner. Accordingly, Petitioner’s motion for reconsideration is DENIED. However, the Court will modify the March 21, 2011 Order as follows: (The additions are highlighted below).

1. Kronos shall produce any and all documents and data constituting or related to validation studies or validation evidence pertaining to Unicru and/or Kronos assessment tests purchased by The Kroger Company, including but not limited to such studies or evidence as they relate to the use of the tests as personnel selection or screening instruments, **even if created or performed for other customer(s), if such studies or evidence were relied upon in creating or implementing the tests for Kroger. The names/identity of any other customer(s) should be deleted/redacted.** [Said document production is limited to information relating to disabilities, persons with disabilities, or adverse impact upon persons with disabilities.]
  
6. EEOC will not disclose any documents or information derived from documents produced pursuant to this Order (hereinafter, collectively referred to as “Confidential Information”) to Vicky Sandy or her agents, or any non-EEOC person or entity, during the investigation of her charge; nor will EEOC disclose such Confidential Information to Vicky Sandy or her agents, or any non-EEOC person or entity, after closing the investigation. Any EEOC person to whom the Confidential Information is disclosed must agree in writing to this Order and submit to the personal jurisdiction of this Court for the purpose of enforcement. The Confidential Information shall be used solely for the Sandy Charge or any amendment thereof. **Once document production occurs pursuant to this Order of Court, should the EEOC believe that good cause exists to lift the**

**“Confidential Information” designation for any particular document(s), the EEOC may file a motion in that regard, and the Court will conduct the proper inquiry.**

**SO ORDERED** this 3rd day of May, 2011.

s/Arthur J. Schwab  
Arthur J. Schwab  
United States District Judge

cc: All Registered ECF Counsel and Parties