

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

Louis Alexander & Mary Alexander, et al	)	
Plaintiffs,	)	Civil No. 323/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
Defendants.	)	
Kevin Manbodh, et al	)	
Plaintiffs,	)	Civil No. 324/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
Defendants.	)	
Josephat Henry, et al	)	
Plaintiffs,	)	Civil No. 328/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
Defendants.	)	
Arthur Paul, et al	)	
Plaintiffs,	)	Civil No. 329/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
Defendants.	)	
Joseph King, et al.	)	
Plaintiffs,	)	Civil No. 400/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
Defendants.	)	
Logan N. Joseph, et al.	)	
Plaintiffs,	)	Civil No. 417/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
Defendants.	)	
Hector Martinez, et al	)	
Plaintiffs,	)	Civil No. 513/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
Defendants.	)	
Francis Laurencin, et al	)	
Plaintiffs,	)	Civil No. 514/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
Defendants.	)	

Ralph Soodeen, et al.	)	
	)	
Plaintiffs	)	Civil No. 563/1997.
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
	)	
Defendants	)	
Roy Clement, et al.	)	
	)	
Plaintiffs	)	Civil No. 687/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
	)	
Defendants	)	
Rahamut Ali & Ameena Ali, et al.	)	
	)	
Plaintiffs	)	Civil No. 688/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	
	)	
Defendants	)	
Florencio Rodriguez & Lucy Rodriguez, et al.	)	
	)	
Plaintiffs	)	Civil No. 690/1997
v.	)	
HOVIC, Amerada Hess Corp. et al.	)	<u>NOT FOR PUBLICATION</u>
	)	
Defendants	)	

MEMORANDUM OPINION
(January 23, 1998)

THIS MATTER is before the court on plaintiffs motion for reconsideration of the court's December 12, 1997 order which severed plaintiffs claims for improper joinder. As support for their motion plaintiffs state that they do not believe themselves improperly joined as there exist common questions of law and fact in each claim which require their joinder. In the alternative, plaintiffs request further instructions and assistance from the court regarding the refiling and service of their complaints and an additional sixty days from December 12, 1997 to accomplish the required refilings. For reasons that follow, plaintiffs' motion will be granted in part and denied in part.

DISCUSSION:

This matter concerns 235 plaintiffs filing a total of 13 cases against 30 defendants. In each case plaintiffs alleged employment at the Hess Oil refinery on St. Croix between the years of 1971 and 1990 which exposed them to asbestos and resulted in asbestos-related physical injuries. Rule 20 of The Federal Rules of Civil procedure provides for joinder when persons assert any right to relief, whether jointly, severally or in the alternative, their cause of action arises out of the same transaction, occurrences, or series of occurrences, *and* a question of fact or law common to all these persons will arise in the action. In other words, not only must there be a common question, but also the right to relief must arise from the same transaction, occurrences or series of transactions or occurrences. The court found plaintiffs' allegations therein an insufficient basis for joinder under Rule 20 of the Federal Rules of Civil Procedure because their causes of action did not arise out of the same transaction, occurrences or series of occurrences and ordered the claims severed. Plaintiffs were ordered to refile individual claims against defendants within thirty days of December 12, 1997 or face dismissal of all claims. Their motion for reconsideration followed.

A motion for reconsideration is appropriate only when necessary to correct manifest errors of law or fact or to present newly discovered evidence. *In Re Tutu Wells*, 32 V.I. 349, 362 (D.C.V.I. 1995); *Harsco Corp. V. Zlotnicki*, 779 F.2d 906, 909, (3d Cir. 1985). *Cert. Denied*, 476 U.S. 1171, 90 L.Ed. 2d 982, 106 S.Ct. 2895 (1986). Consequently, a motion for reconsideration is improper when it is used to ask the court to rethink what it had already thought through -- rightly or wrongly. *See: Oritani S & L v. Fidelity & Deposit*, 744 F.Supp 1311, 1314 (D.N.J. 1990) *rev'd on other grounds*, 989 F.2d 635 (3d Cir. 1993).

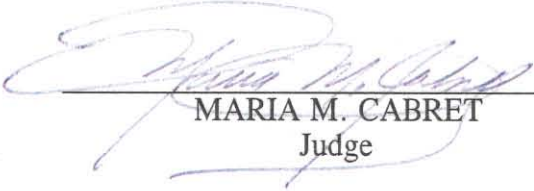
Plaintiffs motion for reconsideration is improper as a court's power to sever claims for separate treatment is well established. *American Fidelity Fire Ins. Co. v. Construcciones Werl, Inc* 407 F.Supp 164, 190, (D.V.I. 1975). Both requirements of Rule 20(a) must be satisfied in order to sustain a party joinder under that rule. *Desert Empire Bank v. Insurance Co. Of North America*. 623 F.2d 1371 (C.A.9th 1980). The court weighs several factors in determining whether to allow the permissive joinder of a party, but the determination of severance is committed to the broad discretion of the trial judge. *Rodriguez by Rodriguez v. Abbott*

Laboratories, (S.D.N.Y. 1993); Hohlbein v. Heritage Mutual Ins. Co. 106 F.R.D. 83 (1985).

Still, severance at an early stage does not prevent joint trials at a later date.

CONCLUSION:

In sum, the court finds plaintiffs motion for reconsideration of its December 12, 1997 order inappropriate as the court acted well within its discretion when it severed the claims and plaintiffs do not present any newly discovered evidence which necessitates a change in the court's original order. Plaintiffs' motion for reconsideration will therefore be denied.¹



MARIA M. CABRET
Judge

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1. The court points out that severance does not require the filing of an amended complaint. Gonzalez v. Fireman's Fund Ins. Co. 385 F.Supp.140 (D.C.P.R. 1974). Plaintiffs are therefore required only to refile complaints individually as ordered and thereafter give notice of new filings to all interested parties.