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5-25-2004

## 2660 Woodley Road v. ITT Sheraton Corp

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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Nos. 02-1297/1418

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2660 WOODLEY ROAD JOINT VENTURE;  
WOODLEY ROAD ASSOCIATES, INC.;  
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY;  
\*SUMITOMO LIFE REALTY (N.Y.) INC.

v.

ITT SHERATON CORPORATION;  
SHERATON OPERATING CORPORATION;  
WASHINGTON SHERATON CORPORATION\*\*

ITT Sheraton Corporation,  
Sheraton Operating Corporation and  
Washington Sheraton Corporation,\*\*  
Appellant No. 02-1297

(\*Dismissed per the Clerk Order of 5/23/02)  
(\*\*Dismissed per the Court Order of 9/25/02)

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2660 WOODLEY ROAD JOINT VENTURE;  
WOODLEY ROAD ASSOCIATES, INC.;  
JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY;  
\*SUMITOMO LIFE REALTY (N.Y.) INC.  
Appellants No. 02-1418

v.

ITT SHERATON CORPORATION;  
SHERATON OPERATING CORPORATION;  
WASHINGTON SHERATON CORPORATION\*\*

(\*Dismissed per the Clerk Order of 5/23/02)  
(\*\*Dismissed per the Court Order of 9/25/02)

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On Appeal From the United States District Court  
For the District of Delaware  
(D.C. Civ. No. 97-cv-00450)  
Chief District Judge: Hon. Joseph J. Farnan, Jr.

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BEFORE: ALITO and McKEE, Circuit Judges, and SCHWARZER, \* Senior District Judge

**ORDER AMENDING OPINION**

**IT IS HEREBY ORDERED**, that the Slip Opinion filed in this case on May 25, 2004, be amended as follows:

On page 7, footnote 7, delete “Hancock also alleges that the rebate scheme put it at a competitive disadvantage to Sheraton-owned hotels because. According to Hancock, “the rebate scheme impacted the Hotel differently than it did Sheraton-owned hotels: The rebate program increased the costs of the goods and services [Hancock] purchased on behalf of the Hotel, whereas the rebate scheme did not impose a real cost on Sheraton-owned hotels, which simply ‘paid’ the kickback to their corporate parent.” Replace it with “Hancock also alleges that the rebate scheme put it at a competitive disadvantage to Sheraton-owned hotels because, according to Hancock, “the rebate scheme impacted the Hotel differently than it did Sheraton-owned hotels: The rebate program increased the costs of the goods and services [Hancock] purchased on behalf of the Hotel, whereas the rebate scheme did not impose a real cost on Sheraton-owned hotels, which simply ‘paid’ the kickback to their corporate parent.”

At page 9, delete “The carpenters’ unions may well have had a cause of action under other statutes or common law, and a different plaintiff may have had a cause of action under the antitrust statutes.” Replace it with “The carpenters’ unions may well have had a cause of action under other statutes or common law, and a different plaintiff may have had a cause of action under the antitrust statutes.”

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\*Honorable William W. Schwarzer, Senior United States District Judge, Northern District of California, sitting by designation.

At page 9, delete “In arriving at that decision, the Court read the antitrust statutes in light of their common law background and read a “proximate cause element into § 4 [Clayton Act] actions.” *Greater Rockford Energy*, 998 F.2d at 394.” Replace it with “In arriving at that decision, the Court read the antitrust statutes in light of their common law background and read a “proximate cause element into § 4 [Clayton Act] actions.” *Greater Rockford Energy*, 998 F.2d at 394.”

At page 13, delete “The jury found that Hancock suffered \$250,000 in damages related to the purchasing services program and it also awarded \$1,100,00 for Sheraton’s breach of fiduciary duty.” Replace it with “The jury found that Hancock suffered \$250,000 in damages related to the purchasing services program and it also awarded \$1,100,000 for Sheraton’s breach of fiduciary duty.”

**IT IS SO ORDERED.**

BY THE COURT:  
/s/ Theodore A. McKee  
Circuit Judge

Dated: May 25, 2004

CLC\cc: Robert L. Bronston, Esq.  
Andrew L. Frey, Esq.  
Evan M. Tager, Esq.  
Thomas A. Arena, Esq.  
John W. Shaw, Esq.  
William E. Wallace III, Esq.