

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

CIVIL ACTION NO. 99-92

GENERAL ELECTRIC COMPANY,

PLAINTIFF,

v.

ORDER

LATIN AMERICA IMPORTS SA, et al.,

DEFENDANTS.

This matter is before the court upon the defendants' motion for a new trial (No. 343). The court, having reviewed the record and being otherwise sufficiently advised, will deny the motion.

The defendants did not object to the comments they now claim deprived them of a fair trial. Therefore, they may not receive a new trial because of those comments. *See Segal v. Cook*, 329 F.2d 278, 279 (6th Cir. 1964). Even if the defendants had made a timely objection, they would be entitled to a new trial only if the comments of plaintiffs' counsel caused an error that was "so fundamental that gross injustice would result." *U.S. v. Watson*, 909 F.2d 915, 924 (6th Cir. 1990). Such an error would be found where "there is a reasonable probability that the verdict of a jury has been influenced" by the allegedly improper comments. *Cleveland v. Peter Kiewit Sons' Co.*, 624 F.2d 749, 756 (6th Cir. 1980). In this case, however, because the court admonished the jury not to consider the defendant's nationality or his ability to speak English without a translator, and repeatedly instructed the jury to base its verdict solely on the evidence without regard to prejudice or sympathy, no such probability exists. *See Smith v. Travelers Ins. Co.*, 438 F.2d 373, 375-377 (6th Cir. 1971), *cert. denied*, 404 U.S. 832 (1971)(Where plaintiff's attorney

twice remarked that the defendant insurers were “[n]ot even from Tennessee” and exhorted the jury to “send [the defendants] back up to Hartford and let them know how we feel about it in Tennessee,” there were no grounds for a new trial in light of the court’s curative instructions). Accordingly,

IT IS ORDERED that the defendants’ motion for a new trial (No. 343) is **DENIED**.

This the _____ day of _____, 2002.

JENNIFER B. COFFMAN, JUDGE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY