

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 RANJIV SAINI )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ARNETT CONSTRUCTION, LLC; )  
 ATLANTIC ENGINEERING, LLC; FORD )  
 PLUMBING, LLC; COHEN’S DRYWALL )  
 COMPANY, INC.; ROBERT WASSON, )  
 d/b/a WASSON ELECTRIC; BARBARA P.)  
 RUSS d/b/a WASSON HEATING & AIR )  
 SERVICES; AND DANIEL J. MURPHY, )  
 III, d/b/a PERFECTLY PAINTED; JOHN C.)  
 SULLIVAN; and S.ARCH+STUDIO, LLC, )  
 CUSTOM DESIGNERS, LLC; ENVIRO- )  
 FOAM TECHNOLOGIES, INC., and )  
 BARANOV FLOORING, LLC, )  
 )  
 Defendants, )  
 )  
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IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT  
 CASE NO.: 2018-CP-10-5468

**ORDER DENYING  
 PLAINTIFF’S MOTION TO  
 RECONSIDER AND ALTER OR  
 AMEND THE COURT’S ORDER  
 GRANTING BARANOV FLOORING,  
 LLC’S MOTION FOR SUMMARY  
 JUDGMENT**

**RECEIVED**  
**Aug 01 2022**  
**SC Court of Appeals**

This matter is before the Court on the Plaintiff’s Motion to Reconsider and Alter or Amend the Court’s Order Granting Baranov Flooring, LLC’s Motion for Summary Judgment. Having carefully reviewed submissions by both counsel for the Plaintiff and Baranov Flooring, LLC, the Plaintiff’s motion is DENIED.

**BACKGROUND**

This case arises from alleged construction defects relating to the renovation of Plaintiff’s condominium unit located at 5112 Sea Forest Drive on Kiawah Island. The Plaintiff entered an agreement with Arnett Construction, LLC to perform extensive renovation work to the interior of the Plaintiff’s unit, which took place between late 2016 and early 2017. Arnett retained Baranov to perform tile installation work in the two bathrooms. The Plaintiff does not have a written agreement with Baranov.

According to the original Complaint, the Amended Complaint, and the Second Amended Complaint, “Arnett was told multiple times since May 1, 2017 of defects that needed repair.” (Paragraph 134 of Complaint filed November 14, 2018, paragraph 134 of Amended Complaint

filed December 10, 2019, and paragraph 138 of the Second Amended Complaint). In addition, the Plaintiff presented a punch list dated June 16, 2017 to Arnett Construction. These are the same items about which Plaintiff still complains.

Plaintiff initiated this lawsuit on November 14, 2018 by filing a 44-page, 331 paragraph Complaint against multiple defendants. Notably excluded from this filing, however, was Baranov. Plaintiff then requested and obtained consent from the parties to amend the Complaint. Plaintiff filed his Amended Complaint on December 10, 2019. Once again, Baranov was not included as a defendant. Further, in either of those pleadings Plaintiff could have requested punitive damages, but Plaintiff failed to do so. On June 16, 2020, Defendant Arnett filed its Second Amended Answer, Cross-Claims and Third-Party Complaint against Baranov and others. On March 2, 2021, Plaintiff moved to amend his Complaint for a second time to bring direct claims against Baranov and others, as well as to assert an additional claim for punitive damages against all defendants, and the Second Amended Complaint was served on August 6, 2021.

Baranov filed its Motion for Summary Judgment as to Plaintiff's claims against it on or about December 22, 2021. Plaintiff submitted its brief in opposition thereto on January 13, 2022. Baranov's Motion for Summary Judgment was heard on or about January 19, 2022. On or about May 2, 2022, this Court notified all counsel of record that it was granting Baranov's Motion for Summary Judgment, and requested counsel for Baranov to prepare the Order consistent with the Court's stated reasons therefore, submit to counsel for the Plaintiff for review and approval, and submit for signature to this Court. The Order Granting Baranov's Motion for Summary Judgment was filed May 13, 2022. Thereafter, on or about May 23, 2022, Plaintiff filed his Motion to Reconsider and Alter or Amend the Court's Order Granting Baranov Flooring, LLC's Motion for Summary Judgment<sup>1</sup>, to which Baranov responded in opposition on or about May 31, 2022.

### STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." *U.S. ex rel. Becker v. Washington Savannah River Co.*, 305 F.3d 284, 290 (4<sup>th</sup> Cir. 2002). "A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been

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<sup>1</sup> This motion is disposed of without the necessity of a hearing and decided on the record and briefs. Rule 59(f), SCRPC.

raised, but not ruled on, in order to preserve it for appellate review.” *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original).

### CONCLUSIONS OF LAW

Having considered the arguments set forth by both Plaintiff and Baranov, the Court makes the following conclusions of law.

First, the original Order granting Baranov summary judgment with respect to the Plaintiff’s claims against it issued on May 13, 2022 is affirmed for the reasons set forth therein. Next, this Court rejects Plaintiff’s argument that his claims against Baranov are saved because Plaintiff’s Second Amended Complaint relates back to Defendant Arnett’s Third-Party Complaint under Rule 15, SCRCP, and holds that the Plaintiff is not permitted to piggyback upon another party’s compliance with the applicable statutory or procedural rules. As a result, the Court finds that a Third-Party Complaint is a separate pleading to which the Plaintiff’s Second Amended Complaint may not relate back pursuant to SCRCP Rule 15(c).

### CONCLUSION

For the reasons set forth herein, Plaintiff’s Motion to Reconsider and Alter or Amend the Court’s Order Granting Baranov Flooring, LLC’s Motion for Summary Judgment is DENIED.

IT IS SO ORDERED.

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Judge Edgar W. Dickson  
First Judicial Circuit

June \_\_, 2022  
Orangeburg, South Carolina



Charleston Common Pleas

**Case Caption:** Ranjiv Saini , plaintiff, et al VS Arnett Construction LLC , defendant,  
et al  
**Case Number:** 2018CP1005468  
**Type:** Order/Other

So Ordered

s/ Edgar W. Dickson #2153