

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Gary Keisler, individually and as Class Representative, John Does (1-50) and Jane Does (1-50)

Plaintiffs,

vs.

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; et al.,
Defendants.

RP Falcon Properties, LLC (f/k/a JW Homes, LLC); RP Falcon Land, LLC (f/k/a JW Land Investment, LLC); RP Falcon Realty, LLC (f/k/a Wieland Realty, LLC); Residential Partners, LLC,

Third- Party Plaintiffs,

Vs.

COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2019-CP-15-0949

**ORDER DENYING RP COMPANIES'
MOTION TO RECONSIDER**

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SC Court of Appeals

The Third-Party Plaintiffs “RP Companies,” filed a motion asking this Court to reconsider its May 10, 2022 Order.

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 (4th Cir. 2002) (stating

that simple disagreements with the court’s ruling will not support Rule 59(e) relief).¹ Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Importantly, a motion for reconsideration is not a vehicle to re-litigate previously raised issues or “to raise argument or present evidence that could have been presented prior to the entry of judgment.” Dash v. Mayweather, C/A No. 3:10-1036-JFA, 2010 U.S. Dist. LEXIS 95277, *2 (D.S.C. Sept. 13, 2010) (quoting Exxon Shipping Co. v. Baker, 554 U.S. 471, n.5 (2008)). In other words, “[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.” Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does “[a] party’s mere disagreement with the court’s ruling . . . warrant a Rule 59(e) motion.” In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig., 269 F.Supp. 3d 685, 691 (D.S.C. 2017); *see also* Lyons v. Fid. Nat’l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

After consideration of the issues raised in Plaintiff’s motion, the Court hereby DENIES Plaintiff RP Companies’ Motion for Reconsideration.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW

¹ Rule 59 is substantially the same as the Federal Rule. *See Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 21, 602 S.E. 2d 772, 779 (2004) (“Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.”).