

Mar 27 2023

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Ronald Soles,

Plaintiff,

vs.

Ioan Gherman d/b/a USA Auto Transport, LLC
and Jason Brockman d/b/a JNJ Transport,
LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2022-CP-23-05403

**ORDER DENYING THE DEFENDANT,
JASON BROCKMAN'S, MOTION FOR
NEW TRIAL; IN THE ALTERNATIVE,
MOTION TO AMEND/ALTER
JUDGMENT UNDER SCRPC 59(a)(2)
and 59(e); & MOTION TO SET SURETY
AND STAY ENFORCEMENT OF THE
ORDER**

The Defendant, Jason Brockman, filed a Motion for New Trial Pursuant to SCRPC Rules 59(a)(2) and 59(e) dated March 1, 2023, asking this Court to reconsider its February 24, 2023 ruling reflected in its Order signed February 28, 2023 denying Defendant's Motion for Summary Judgment due to newly discovered evidence. In the alternative, Defendant asked this Court to amend its previous judgment. Additionally, the Defendant filed a Motion to Set Surety Under SC Code Section 8-9-150 and Stay Enforcement of the Order on March 1, 2023 asking this Court to allow the Defendant to post a reasonable surety bond for the vehicle at issue in this matter.

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

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.").

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 Defendant’s Motions, arguments made during the initial hearing, and consideration of arguments made at a virtual hearing before this Court held on March 23, 2023, the Court hereby DENIES both Defendant’s Motion for New Trial or, in the alternative, Motion to Amend/Alter Judgment and Defendant’s Motion to Set Surety and Stay Enforcement of the Order. Furthermore, the Court finds that the motions brought by the Defendant were frivolous and sole for the purpose of delay and therefore it is ORDERED that the Defendant, Jason Brockman, individually, pay Plaintiff’s counsel \$2,500.00 by Monday, April 3, 2023. The Court finds that the Defendant is in direct violation of this Court’s previous Order to return the car to the owner and if not returned by Monday, April 3, 2023, the Court will entertain any and all motions by the Plaintiff to enforce the Court’s Order and impose further sanctions.

AND IT IS SO ORDERED.



Greenville Common Pleas

Case Caption: Ronald Soles vs. Ioan Gherman , defendant, et al

Case Number: 2022CP2305403

Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766