

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Karolina Richardson and Krista Richardson,)
)
 PLAINTIFFS,)
)
 v.)
)
 Mt. Pleasant Square Associates, II, LLC)
 d/b/a Oyster Park Apartments, Dewberry)
 Capital Corporation, and GREP)
 Southeast, LLC,)
)
 DEFENDANTS.)
 _____)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2018-CP-10-03286

ORDER DENYING DEFENDANTS’
 MOTION TO ALTER OR AMEND
 ORDER AND/OR MOTION TO
 RECONSIDER

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 SC Court of Appeals

Defendants filed a Motion to Reconsider this Court's Order granting Plaintiff's Motion for Sanctions which took place immediately prior to the jury trial of this case. The motion to reconsider was heard before this court on January 19, 2023 in the virtual courtroom. “The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits.” Arnold v. State, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). “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 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). “A party cannot use a motion to reconsider to present an issue he could have raised prior to judgment but did not.” Anderson Memorial Hosp., Inc. v. Hagen, 313 S.C. 497, 498, 443 S.E. 2d 399, 400 (Ct. App. 1994) (citing C.A.H. v. L.H., 315 S.C. 389, 434 S.E. 2d 268 (1993)); *See also* Arnold v. State, 309 S.C. 157, 172-73, 420 S.E.2d 834, 842 (1992).

In their Motion, Defendants state that this court erred by not "requir[ing] the Plaintiff to present admissible evidence that there were documents produced on July 15, 2022, that had not been previously produced and available to Plaintiffs' counsel." At the time of trial, it was presented to this court, and agreed upon by Defense counsel, that documents sought during the course of discovery and ultimately ordered via cumbersome technology searches, were actually available in notebooks which sat in the office of the apartment complex at issue. Defense counsel presented to the court that she became aware of the existence of the documents, for the first time, when she was talking to an office employee in preparation for trial the Thursday before trial. Defense counsel also indicated that she was not the first counsel of record for the Defendants. Additionally, Plaintiff's counsel agreed that she immediately made him aware of the documents and produced them as soon as possible thereafter, but nonetheless

days before trial. While the court appreciates the position Defense counsel found herself in immediately prior to trial, as well as her candor to the court, it was apparent to the court that a long and tenuous discovery exploration was launched that should not have been.

Defendants also argue that paralegal fees should not be reimbursed, pursuant to O'Shields v. Columbia Automotive, LLC, 435 S.C. 319 (Ct. App. 2021).¹ This court's reading of that language in the O'Shields case, however, reveals the court's emphasis on the word "redundant," as the context provides that the Court of Appeals was addressing the issue of recovery of fees on multiple claims. The case does not address the validity of paralegal fees.

As to the Defendants' argument that this court had no authority to place a time limitation on the Defendant's payment, the deadline was not an effort to circumvent any party's ability to appeal. It merely served as a deadline to pay.

Accordingly, Defendant's motion is hereby DENIED.

AND IT IS SO ORDERED.

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¹ "The circuit court may exclude fees incurred after the date of the September 2016 settlement offer. The circuit court should eliminate any redundant fees, improper cost, and paralegal fees as it had in the previous award." O'Shields v. Columbia Auto., LLC, 435 S.C. 319, 340, 867 S.E.2d 446, 457 (Ct. App. 2021), reh'g denied (Oct. 26, 2021), cert. granted (Sept. 7, 2022).



Charleston Common Pleas

Case Caption: Karolina Richardson , plaintiff, et al VS Mt Pleasant Square Associates II LLC , defendant, et al

Case Number: 2018CP1003286

Type: Order/Other

So Ordered

s/Jennifer B. McCoy #2764