STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON William Haynes, as Personal Representative of the Estate of Elizabeth Varner, Plaintiff, v. Fundamental Administrative Services LLC, And Fundamental Clinical and Operational Services, LLC, and Jerrolyn Montgomery-Smalls., Defendants.	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO.: 2021-CP-10-01754 & 10-02744 **ORDER DENYING MOTION FOR RECONSIDERATION PURSUANT TO RULE 59(e)**
STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON William Haynes, as Personal Representative of the Estate of Elizabeth Varner, Plaintiff, v. THI of South Carolina at Charleston, LLC d/b/a Riverside Health and Rehab, Defendant.	

The Plaintiff filed a motion asking this Court to reconsider its Order dated February 24, 2022 granting Defendants' Motions to Stay and Compel Arbitration. Specifically, Plaintiff asks this Court to reconsider the order and argues that the Arbitration Agreement is unenforceable for multiple reasons and that the Stays are improper under the Federal Arbitration Act. For the reasons set forth below, the motion to reconsider is DENIED.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." U.S. ex rel. Becker v. Washington Savanah 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." Hutchinston 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 the parties' memorandums, Plaintiff's Motion to Reconsider pursuant to Rule 59(e) is DENIED.

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.").

Charleston Common Pleas

Case Caption: William Haynes , plaintiff, et al VS Thi Of South Carolina At Charleston , defendant, et al

Case Number: 2021CP1001437

Type: Order/Other

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134