

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Steven Kirkland,
Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Group Holdings, Inc.,
John Doe #1, John Doe #2, & John Does 3-
40,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00382

**ORDER DENYING
PLAINTIFF'S MOTIONS FOR
RECONSIDERATION**

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Oct 13 2023

SC Court of Appeals

This matter came before the Court upon Plaintiff's Motion for Reconsideration of this Court's Order Granting John Doe 1's Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. filed on January 19, 2022 ("Motion for Reconsideration").¹ After careful review and consideration, this Court denies Plaintiff's Motion for Reconsideration.

ORDER

South Carolina's Rules of Civil Procedure "contemplate two basic situations in which a party should consider filing a Rule 59(e) motion." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). "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." Id. "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." Id. "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." Hickman v.

¹ Order Granting John Doe 1's Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. filed on January 4, 2022.

Hickman, 301 S.C. 455, 456-57, 392 S.E.2d 481, 482 (Ct. App. 1990). “A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.” Rule 59(e), SCRCP.

As a preliminary matter, Plaintiff’s Motion for Reconsideration is untimely as it was served more than 10 days after Plaintiff’s receipt of written notice of the entry of the Order Granting John Doe 1’s Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. (“Order”). In the Motion for Reconsideration, Plaintiff erroneously states that the Motion for Reconsideration was not required to be served within 10 days of written notice of the entry of the Order because Rule 6(e), SCRCP, provides that an additional five days shall be added to the period prescribed for response by the South Carolina Rules of Civil Procedure when the notice or paper is served upon him by mail. Plaintiff, however, ignores the unambiguous language of Rule 6(b), SCRCP, which provides that “[t]he time for taking any action under rules 50(b), 52(b), 59, and 60(b) may not be extended except to the extent and under the conditions stated in them.” Rule 6(b), SCRCP. As a result, Plaintiff’s Motion for Reconsideration is untimely and this Court cannot grant Plaintiff’s Motion for Reconsideration. In addition, Plaintiff’s motion fails to identify any issue or argument raised but not ruled upon or which this Court has misunderstood or failed to consider. Plaintiff, instead, revisits previously raised arguments and allegations. Accordingly, this Court denies Plaintiff’s Motion for Reconsideration because Plaintiff’s motion fails to identify any issue or argument raised but not ruled upon or which this Court has misunderstood or failed to fully consider.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff’s Motion for Reconsideration of this Court’s Order Granting John Doe 1’s Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. filed on January 19, 2022, is **DENIED** in accordance with the above order.

AND IT IS SO ORDERED.

The Honorable Donald B. Hocker

July ____, 2022



Newberry Common Pleas

Case Caption: Jefferson Davis Jr VS Chad Connelly , defendant, et al

Case Number: 2020CP3600382

Type: Order/Quash

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167