

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Jared S. O'Connell and Harmony A.
O'Connell,

Plaintiffs,

Vs.

House Therapy Holdings, LLC; Amanda F. Dempsey; William T. Phillips; Matthew B. Swain; Daniel Ravenel Company Sotheby's International Realty; Artis Construction, LLC; Oceanaire, LLC; Hero Heating & Air; Custom Climate Heating & Air, Inc.; P.J. Sanchez Masonry, LLC; Donnix Construction, LLC; Guillen Carpentry, LLC; Charleston Exteriors, LLC Ashley Oak Contracting, LLC; H2O Pro, LLC; La Roca Masonry, LLC; Apex Contractors, LLC; South Point Hardwood Floor, LLC; Bluetape Solutions, LLC; Carolina Climate Control, LLC; Movar, LLC; and ECL Design, LLC,

Defendants.

Artis Construction, LLC,

Third-Party Plaintiff,

Vs.

Brian R. Wells, PE, LLC; Perryman Engineering, LLC; PJ Sanchez Masonry, LLC; Donnix Construction, LLC; Guillen Carpentry, LLC; Charleston Exteriors, LLC; Ashley Oak Contracting, LLC; H2O Pro, LLC; La Roca Masonry, LLC; Apex Contractors, LLC; and South Point Hardwood Floor, LLC;

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2021-CP-10-03090

**ORDER DENYING ARTIS
CONSTRUCTION, LLC'S MOTIONS TO
RECONSIDER, ALTER, AND/OR
AMEND**

RECEIVED

NOV 30 2023

SC Court of Appeals

House Therapy Holdings, LLC, Amanda F. Dempsey, William T. Phillips, and Matthew B. Swain,

Third-Party Plaintiffs,

Vs.

Carolina Climate Control, LLC and Bluetape Solutions, LLC,

Third-Party Defendants.

Artis Construction, LLC, (“Artis”) filed a Motion to Reconsider, Alter, and/or Amend the Order entitled “Order Denying Artis Construction, LLC’s Motion for Summary Judgment as to Plaintiffs,” filed into the Court’s record on September 1, 2023 at 10:58 AM, denying Artis’ Motion for Summary Judgment as to Plaintiffs’ Claims Against Artis for Unfair Trade Practices. Additionally, Artis filed a Motion to Reconsider, Alter, and/or Amend the Order entitled “Order Denying Motion for Summary Judgment,” filed into the Court’s record on September 1, 2023 at 10:54 AM, denying Artis’ Motion for Summary Judgment as to Artis’ claims against Defendants House Therapy Holdings, LLC (“HTH”), Amanda F. Dempsey, Matthew B. Swain, and William T. Phillips (collectively the “HTH Defendants”).

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

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.”).

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 Artis’ Motions, the Court hereby DENIES Artis’ Motion to Reconsider, Alter, and/or Amend as to Plaintiffs and the same as to HTH Defendants.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Charleston Common Pleas

Case Caption: Jared S O'Connell , plaintiff, et al VS Amanda F Dempsey , defendant,
et al
Case Number: 2021CP1003090
Type: Order/Other

IT IS SO ORDERED!

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

Electronically signed on 2023-11-08 10:32:25 page 4 of 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP1003090

Jared S O'Connell et al
PLAINTIFF(S)

Amanda F Dempsey et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

The following three orders were signed and filed due to clerical errors and are therefore vacated:
 •ORDER DENYING ARTIS CONSTRUCTION, LLC'S MOTION FOR SUMMARY JUDGMENT AS TO PLAINTIFFS Filed 9/1/23 at 11:00am
 •ORDER DENYING ARTIS CONSTRUCTION, LLC'S MOTION FOR SUMMARY JUDGMENT AS TO PLAINTIFFS Filed 9/1/23 at 11:02am
 •Form 4 Order vacating ORDER DENYING ARTIS CONSTRUCTION, LLC'S MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS HOUSE THERAPY HOLDINGS, LLC; AMANDA F. DEMPSY; WILLIAM T. PHILLIPS; AND MATTHEW B. SWAIN" Filed 9/19/23 at 4:00pm.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/27/2023 .

Charleston Exteriors Llc
 La Roca Masonry LLC
 Bearden Contracting Services Llc
 H2O Pro Llc
 Guillen Carpentry LLC
 Brian R Wells PE LLC
 Artis Construction LLC
 Apex Contractors Llc
 Pj Sanchez Masonry Llc
 Charleston Exteriors Llc
 Ashley Oak Contracting Llc
 Matthew B Swain
 William T Phillips
 Amanda F Dempsey
 House Therapy Holdings Llc
 Bluetape Solutions, Llc

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



Charleston Common Pleas

Case Caption: Jared S O'Connell , plaintiff, et al VS Amanda F Dempsey , defendant,
et al
Case Number: 2021CP1003090
Type: Order/Electronic Form 4

IT IS SO ORDERED!

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