

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
THE CHARLESTON SCHOOL OF)
LAW, LLC,)
)
Plaintiff,)
)
vs.)
)
CITY OF CHARLESTON AND)
OMSHERA HOTEL GROUP, LLC,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Civil Action No. 2021-CP-10-05645

**ORDER DENYING DEFENDANT’S
MOTION TO RECONSIDER OR IN
THE ALTERNATIVE STAY**

RECEIVED

Jan 12 2024

SC Court of Appeals

This matter came before the Court on Defendant City of Charleston’s (the “City”) Motion to Reconsider pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure filed on November 30, 2023. The City’s motion asks this Court to reconsider its Order dated November 20, 2023, withdraw the Order, and issue a new Order denying Plaintiff’s Motion for Judgment on the Pleadings in full. For the reasons set forth below, the City’s 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 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 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

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.”).

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 considering the issues raised in the City’s motion, this Court hereby **DENIES** Defendant City of Charleston’s Motion to Reconsider.

AND IT IS SO ORDERED.

[Electronic Signature Page to Follow]



Charleston Common Pleas

Case Caption: Charleston School Of Law Llc The VS Charleston City Of ,
defendant, et al
Case Number: 2021CP1005645
Type: Order/Other

It is so ordered.

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