

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS
CASE NO.: 2022-CP-12-00389

Wilmington Savings Fund Society FSB as
Trustee of Stanwich Mortgage Loan Trust I,

ORDER

Plaintiff,

v.

Ebonee D. Brown; Georgia M. Brown; South
Carolina Department of Motor Vehicles,

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Mar 11 2024

Defendants.

SC Court of Appeals

Having found Plaintiff, Wilmington Savings Fund Society FSB as Trustee of Stanwich Mortgage Loan Trust I, (“Plaintiff”), entitled to judgment as a matter of law, this Court entered an Order Granting Summary Judgment and for Reference on January 11, 2024. Thereafter, Defendants Ebonee D. Brown and Georgia M. Brown, (“Defendants”), timely filed a Motion to Reconsider pursuant to Rule 59(e). After considering the Motion, Plaintiff’s Memorandum in Opposition, and the pleadings of record, Plaintiff’s Motion to Reconsider is denied.

Defendants’ motion is brought pursuant to Rule 59(e), SCRPC. “A motion under Rule 59(e) long has been viewed as ‘motion for reconsideration’ despite the absence of those words from the rule. Consequently, a party usually is allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented.” *Elam v. South Carolina Department of Transportation*, 361 S.C. 9, 21, 602 S.E.2d 772 (2004). “[SCRPC] Rule 59 is substantially the Federal Rule.” Rule 59, SCRPC, *Note*. “A Rule 59(e) motion is discretionary. It need not be granted unless the [trial] court finds that there has been an intervening change of controlling law, that new evidence has become available, or that there is a need to correct a clear error or prevent manifest injustice.” *Robinson v. Wix Filtration Corp. LLC*, 599 F.3d 403, 411 (4th Cir. 2010) citing *Ingle ex rel. Estate of Ingle v. Yelton*, 439 F.3d 191, 197 (4th Cir.2006).

In the instant case, there has been no change in controlling law, nor have Defendants proffered any new evidence. Instead, Defendants rely upon the prior pleadings and argument at hearing, which this Court did not find persuasive or sufficient. “The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRCF. *See also Wells v. City of Lynchburg*, 331 S.C. 296, 301, 501 S.E.2d 746, 749 (Ct.App.1998); *Tupper v. Dorchester County*, 326 S.C. 318, 325, 487 S.E.2d 187, 191 (1997).

Once the moving party carries its initial burden, the party opposing summary judgment cannot simply rest on mere allegations or denials contained in the pleadings. *George v. Empire Fire & Marine Ins. Co.*, 545 S.E.2d 500 (2001). “When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.” Rule 56(e), SCRCF. Unsupported allegations or assertions will not withstand a motion for summary judgment. “The adverse party’s response, including affidavits or as otherwise provided by the rule, must set forth specific facts showing there is a genuine issue for trial.” *SSI Medical Services, Inc. v. Cox*, 301 S.C. 493, 497 (1990).

Defendants Ebonee and Georgia Brown have not demonstrated that the Court erred in granting Plaintiff’s Motion for Summary Judgment, and the matters raised in Defendants’ Motion have been fully considered and previously heard by this Court.

IT IS THEREFORE ORDERED that the Defendant's Motion to Reconsider pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure is DENIED.

Signature page to follow.



Chester Common Pleas

Case Caption: Wilmington Savings Fund Society, Fsb, As Trustee Of Stanwich ,
plaintiff, et al VS Ebonee D. Brown , defendant, et al
Case Number: 2022CP1200389
Type: Order/Amend

IT IS SO ORDERED

s/ J. Mark Hayes, II #2132