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May 14 2024
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
The Honorable Bently Price

Common Pleas Case No. 2022-CP-10-5277

Simply Green Landscaping, LLC.....Appellant,

v.

Alan M. Craig.....Respondent.

NOTICE OF APPEAL

Appellant Simply Green Landscaping, LLC appeals the Orders of the Honorable Bentley Price, South Carolina Circuit Judge, dated March 13, 2024 and April 16, 2024, copies of which are attached hereto. Appellant received written notice of entry of final order denying Appellant’s motion for reconsideration on April 16, 2024.

LUZURIAGA MIMS, LLP

s/ W. Chase McNair

Kevin W. Mims
W. Chase McNair
J. Hayden Grooms
1156 King Street
Charleston, SC 29403
kmims@lmlawllp.com
cmcnair@lmlawllp.com
hgrooms@lmlawllp.com

ATTORNEYS FOR APPELLANT

Dated: May 14, 2024

Other Counsel of Record:

Jeff Buncher, Jr.
Matthew Thomas Reitz
Uricchio Howe Krell Jacobson Toporek & Keith, P.A.
PO Box 399
Charleston, South Carolina
29402

Attorneys for Plaintiff/Respondent

Kathy Carlsten
Copeland, Stair, Valz & Lovell, LLP
40 Calhoun St., Ste. 400
Charleston, South Carolina
29401

Davis Jaren Andrew Diethrich
5555 Eagle Ct .
Liberty Twp, Ohio
45011

Attorneys for Troy Perez Tolbert and Comcast of Carolina, LLC (incorrectly identified as Comcast Corporation)

Alan M Craig
PLAINTIFF(S)

Jeremiah Shawn Harrell 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:

After a concise review of all filed memoranda and orders and a review of the Court's notes in this, it is evident that the order granting the defendant's motion to reconsider and its motion to set aside entry of default, electronically signed on January 29, 2024, was entered in error and is therefore rescinded. The plaintiff's motion to reconsider is moot.

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 03/13/2024 .

Comcast of Carolina 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), SCRCP.

ELECTRONICALLY FILED - 2024 Mar 13 11:06 AM - CHARLESTON - COMMON PLEAS - CASE#2022CP1005277
ELECTRONICALLY FILED - 2024 May 14 11:03 AM - CHARLESTON - COMMON PLEAS - CASE#2022CP1005277



Charleston Common Pleas

Case Caption: Alan M Craig VS Comcast Corporation , defendant, et al

Case Number: 2022CP1005277

Type: Order/Electronic Form 4

IT IS SO ORDERED!

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

Electronically signed on 2024-03-13 11:02:55 page 3 of 3

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2022-CP-10-05277

Alan M. Craig,

Plaintiff,

vs.

Comcast Corporation and Troy Perez Tolbert;
Simply Green Landscaping, LLC, and
Jeremiah Shawn Harrell

Defendants.

**ORDER DENYING DEFENDANTS'
MOTION FOR RECONSIDERATION**

The Defendants filed a Motion for Reconsideration pursuant to Rule 59(e), SCRCP, on March 21, 2024, asking this Court to reconsider its March 13, 2024 Order which rescinded its prior Order granting Defendant's Motion to Reconsider because the prior Order was entered in error.

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 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.

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.").

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 Defendants’ Motion and review of all filed memoranda and orders in this case, the Court hereby DENIES Defendants’ Motion for Reconsideration.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Charleston Common Pleas

Case Caption: Alan M Craig VS Comcast Corporation , defendant, et al

Case Number: 2022CP1005277

Type: Order/Form 4

IT IS SO ORDERED!

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

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