

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

Paulette Walker as Personal Representative of
the Estate of Albert Walker,

Plaintiff,

Versus

Hallmark Longterm Care, LLC d/b/a Hallmark
Healthcare Center and Durena Stinson,

Defendants.

) IN THE COURT OF COMMON PLEAS

) C/A No. 2020-CP-18-01027

) **ORDER DENYING DEFENDANT'S**
) **MOTION FOR RECONSIDERATION**) **RECEIVED**) **Jun 04 2021**) **SC Court of Appeals**

This matter came before the Court on Defendant Hallmark Longterm Care, LLC d/b/a Hallmark Healthcare Center's Motion to Reconsider, filed March 29, 2021. After careful consideration of the record, as well as the various interests balanced by the Court at the time of the ruling, the Defendants' Motion to Reconsider is heard and respectfully Denied.

STANDARD OF REVIEW

"The purpose of Rule 59(e), SCRPC, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." Arnold v. State, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "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. 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." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original). "A party cannot use a motion to reconsider to present an issue he could have raised prior to judgment but did not." Anderson Memorial Hosp., Inc. v. Hagen, 313 S.C. 497, 498, 443 S.E.2d 399, 400 (Ct. App. 1994) (citing C.A.H. v. L.H., 315 S.C. 389, 434 S.E.2d 268 (1993)); See also Arnold v. State, 309 S.C. 157, 172-73, 420 S.E.2d 834, 842 (1992).

CONCLUSIONS OF LAW

The Court finds that this Court's Order filed March 19, 2021 sufficiently addresses all issues that were raised by both parties' written submissions, as well as those issues raised at oral argument. Albert Walker himself did not sign the arbitration agreement. Paulette Walker, who signed the arbitration agreement, did not have actual or apparent authority to bind Albert Walker to arbitration. The Defendant is a sophisticated business entity frequently interacting with residents and their families during the nursing home admission process. If the Defendants wished to have an enforceable arbitration agreement, they should have asked for supporting legal documentation for any signatory other than Albert Walker himself. They failed to do so, and as such, the arbitration agreement is invalid.

Defendants have put forth no evidence that Albert Walker was unable or lacked capacity to execute the arbitration agreement or admissions paperwork himself. In fact, in the days after his admission to the Defendants facility, Mr. Walker executed a valid durable power of attorney. As such, the presumption is that Mr. Walker had the capacity to sign the arbitration agreement himself, which did not happen. Further, Defendants have put forth no evidence that Paulette Walker had authority to execute the arbitration agreement at the time it was signed.

CONCLUSION

Based on the reasons set forth above, the Court respectfully denies the Defendant's Motion to Reconsider. Defendant's Motion to Compel Arbitration is Denied.

IT IS SO ORDERED!

April _____, 2021
St. George, South Carolina

Hon. Maite Murphy



Dorchester Common Pleas

Case Caption: Paulette Walker , plaintiff, et al VS Hallmark Longterm Care Llc ,
defendant, et al

Case Number: 2020CP1801027

Type: Order/Other

So Ordered

s/ Maite Murphy 2166