

STATE OF SOUTH CAROLINA  
COUNTY OF CLARENDON  
PALMETTO AIR PLANTATION  
HOMEOWNERS ASSOCIATION, INC.,

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2017-CP-14-00127

Plaintiff,

v.

KIM E. BEVIER,

Defendant

**RECEIVED**  
ORDER DENYING DEFENDANT'S  
MOTION FOR RECONSIDERATION  
NOV 01 2024  
SC Court of Appeals

A bench trial in this matter was heard on April 1, 2024. Defendant seeks reconsideration of the court's final order in this matter, filed July 17, 2024. After considering Defendant's Motion and Plaintiff's Reply, the motion is denied.

**LEGAL STANDARD**

The purpose of Rule 59(e), SCRCP, 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). 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. *See Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 22, 602 S.E.2d 772, 779 (2004). A party may wish to file such a motion when he believes the court misunderstood, failed to fully consider, or failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. *Elam*, 361 S.C. at 24, 602 S.E.2d at 779.

Defendant argues that Plaintiff is not a valid entity to enforce the covenants against Defendant, and that the Covenants themselves are invalid. The court finds Defendant's argument is barred by the doctrine of *res judicata*, as the S.C. Court of Appeals has already ruled that

Defendant's property is subject to these Covenants. In its opinion upholding the Circuit Court's order granting partial summary judgment in favor of Plaintiff, the Court of Appeals stated:

The circuit court granted partial summary judgment in favor of Palmetto Air, finding the Declaration of Covenants was enforceable against Bevier. Specifically, the circuit court determined that the restrictive covenants were created when Mid-Eastern executed and recorded the Declaration of Covenants. It further determined Bevier had actual and constructive knowledge of the Declaration of Covenants. . . . Moreover, Bevier had constructive notice of the restrictive covenants because the Declaration of Covenants was property recorded within his chain of title when Mid-Eastern filed and recorded it with the Clarendon County Register of Deeds office before it conveyed the land to Palmetto Air.

The doctrine of *res judicata* operates to bar a litigant "from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." *Hilton Head Center v. S.C. Pub. Serv. Comm'n*, 294 S.C. 9, 362 S.E.2d 176 (1987). Both the Circuit Court and the Court of Appeals addressed Plaintiff's Motion for Summary Judgment on the issue of whether Defendant's property is subject to the Covenants at issue in this suit, and both found that the Covenants at issue here were enforceable against Defendant. Defendant could have raised this issue before Judge Cothran or the Court of Appeals. Defendant was represented by very able counsel both at the Summary Judgment stage and at the Court of Appeals. Defendant cannot keep silent before the circuit court on the very issue before it, wait until the issue has gone all the way up to the Court of Appeals, only to advance a different argument on the exact same issue after the Court of Appeals has made its ruling.

Defendant has not shown that the court misunderstood, failed to fully consider, or failed to rule on an argument or issue before the court. As such, the motion is DENIED.

AND IT IS SO ORDERED.

\_\_\_\_\_  
Circuit Court Judge

\_\_\_\_\_, 2024



Clarendon Common Pleas

**Case Caption:** Palmetto Air Plantation Homeowners Associations, Inc VS Kim E  
Bevier  
**Case Number:** 2017CP1400127  
**Type:** Order/Other

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

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