

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Carolina Neurosurgery & Orthopaedics,)
Inc.,)
)
Plaintiff,)
vs.)
)
Michael A. Maucher, Esq. and DeLuca &)
Maucher, LLP,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2021-CP-10-03379

**DEFENDANTS’ MOTION TO RECONSIDER
COURT’S JUNE 18, 2025 ORDER DENYING
SANCTIONS**



Defendants Michael A. Maucher, Esq. and Deluca & Maucher, LLP, by and through their undersigned counsel, move this Court pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, to reconsider its June 18, 2025 Order denying Defendants’ Motion for Sanctions without a response from Plaintiff and without any findings of fact. **Ex. 1.**

INTRODUCTION

Plaintiff, a medical practice owned and operated by Jason Highsmith, M.D., has pursued numerous baseless claims trying to force a law firm and lawyer to pay for a shared client’s medical costs totaling more than \$125,000. Plaintiff also sued the client—whom an attorney in Defendants’ office represented pro bono—abandoning that case on the eve of trial and then asserting as damages against the law firm and lawyer Plaintiff’s approximate \$90,000 of attorney’s fees incurred suing the client. After getting all of the claims dismissed, Defendants timely moved for sanctions under Rule 11 and the Frivolous Civil Proceedings Sanctions Act (the Act). This Court denied the motion but declined to hold a hearing on the motion, plaintiff did not submit a response, and the Court did not make any findings of fact.

SUMMARY OF FACTS

The facts of this case are outlined with supporting exhibits in Defendants' Motion for Sanctions, filed May 12, 2025, and are incorporated by reference. After that motion, this Court denied Plaintiff's Motion for Reconsideration of its Order granting Defendants' Motion for Summary Judgment. Without a hearing or any response in opposition, this Court denied the Motion for Sanctions. Defendants ask this Court to reconsider its ruling and make findings of fact on the Motion for Sanctions, predominantly to preserve the issue for appeal in response to Plaintiff's appeal.

STANDARD

A motion for reconsideration is appropriate when "the court has misunderstood, failed to fully consider, or . . . failed to rule on an argument or issue." *Elam v. S.C. Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). "A party is usually allowed to ask the court to reconsider its decision even if it means rehashing an argument previously presented." *Id.* at 21, 602 S.E.2d at 778-79. Motions for reconsideration are a vehicle to call the court's attention to a possible misapprehension of an argument, and "to revisit a previously raised argument." *Id.*, 602 S.E.2d at 779.

ARGUMENT

- I. **This Court should reconsider its Order and find sanctions are appropriate because Plaintiff did not respond to the motion and it is effectively uncontested, or in the alternative, at least make findings of fact to support a decision on sanctions.**

When a prevailing party at summary judgment moves for sanctions under the Act, "the court shall proceed to determine if the claim or defense was frivolous." S.C. Code Ann. § 15-36-10(C)(1). After notification, a party has 30 days to respond to the allegations as that person considers appropriate. S.C. Code Ann. § 15-36-10(D). In determining whether sanctions are appropriate, "the court shall take into account" a list of seven specific factors. S.C. Code Ann. § 15-36-10(E)(1)-(7).

First, this Court should reconsider its order and award sanctions against Plaintiff because Defendants' motion was supported by the facts and law. The preponderance of the evidence shows that Plaintiff made frivolous claims or filings to unnecessarily prolong litigation, and the claims were ultimately found lacking, as explained in the Motion for Sanctions. Plaintiff had 30 days to respond to the Motion for Sanctions and failed to do so. Because Plaintiff did not respond to the Motion for Sanctions within the time allotted, the motion was effectively uncontested, and this Court was without any argument or evidence contrary to what was presented in the Motion for Sanctions. Without Plaintiff contesting the motion, this Court should have granted the sanctions requested therein.

In addition, Plaintiff's failure to respond to the Motion for Sanctions should be considered a waiver. "Waiver is a voluntary and intentional abandonment or relinquishment of a known right." *Skipper v. Perrone*, 382 S.C. 53, 62, 674 S.E.2d 510, 514 (Ct. App. 2009). "It may be expressed or implied by a party's conduct." *Id.* Litigants are charged with knowledge of the law. *See Labruce v. City of N. Charleston*, 268 S.C. 465, 467, 234 S.E.2d 866, 867 (1977). Here, the law for frivolous proceedings sanctions gives a party accused of violating the statute an opportunity to respond to the allegations within 30 days. S.C. Code Ann. § § 15-36-10(D). By not responding and presumably knowing of the right to respond, Plaintiff has waived its right to respond to the Motion for Sanctions. Accordingly, even without a hearing, this Court should find that Plaintiff's conduct as detailed in the Motion for Sanctions violated the Act, awarding Defendants the relief requested in the motion.

In the alternative, this Court should reconsider its order and make findings of fact to support a decision on the sanctions motion. The language in the Act uses the mandatory language "shall" that requires the Court to consider specific factors to determine whether sanctions should or should not be awarded. Without a hearing to discuss those factors, and without findings of fact and analysis on the issues, it is unclear exactly what the Court

considered when denying the Motion for Sanctions. Furthermore, on an appeal of an order on sanctions, the appellate court finds facts in accordance with its own view of the preponderance of the evidence. *Site Prep, L.L.C. v. Atl. Coast Builders & Contractors, L.L.C.*, 394 S.C. 97, 104, 713 S.E.2d 650, 653 (Ct. App. 2011). If the appellate court agrees with the circuit court's findings of fact, the appellate court reviews the decision under an abuse of discretion standard. *Id.*, 713 S.E.2d at 654. Without the trial court making findings of fact on the sanctions motion, the appellate court cannot review the trial court's findings to fulfill its review function of such motions. Thus, this Court should reconsider its order and make findings to support a decision on the Motion for Sanctions.

Plaintiff is appealing the orders on the motion to dismiss and motion for summary judgment, and Defendants submit this Motion for Reconsideration to protect the record in response to Plaintiff's appeal.

This 30th day of June, 2025.

Respectfully submitted,

COPELAND, STAIR, VALZ & LOVELL, LLP

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