STATE OF SOUTH CAROLINA COUNTY OF DILLON	IN THE COURT OF COMMON PLEAS FOR THE FOURTH JUDICIAL CIRCUIT
John Hamilton and Erin Hamilton, Plaintiffs, v. Connie W. Page, Donna W. Eslick, Albert Jason Watson, Ray K. Watson, Jr., Crystal Darline Newmon (aka Newman, John K. Sims, Pee Dee Pest Pros, LLC, David McLaurin and David McLaurin Appraiser, LLC, Defendants.	Civil Action No.: 2024-CP-17-00017 **ORDER DENYING PLAINTIFFS' MOTION TO RECONSIDER**

This matter comes before the Court on Plaintiff John Hamilton's and Plaintiff Erin Hamilton's (collectively, "Plaintiffs"') Motion to Reconsider this Court's May 22, 2025, Order dismissing Plaintiffs' claims against Defendants David McLaurin and David McLaurin LLC. Plaintiffs argue that the Court erred in finding Plaintiffs did not justifiably rely on the subject appraisal and failed to recognize a developing legal trend toward imposing a tort-based duty of care on appraisers when a prospective purchaser relies on the appraisal. For the reasons set forth below, Plaintiffs' Motion to Reconsider is **DENIED**.

BACKGROUND

This case arises from a residential real estate transaction between Plaintiffs and Defendant sellers, Connie W. Page, Donna W. Eslick, Albert Jason Watson, Ray K. Watson,

Jr., and Crystal Darline Newmon. (*See* Pl.'s Compl.). Defendants David McLaurin and David McLaurin LLC ("Appraiser Defendants") were hired by the lender for the transaction, Coast2Coast Mortgage, and the Department of Veteran Affairs to perform an appraisal of the subject property. (*See* Pl.'s Compl.; Ex. D). Plaintiffs' Complaint asserts claims for negligence and negligent misrepresentation against Appraiser Defendants based on the allegation that they negligently conveyed false information in the appraisal report. (Pl.'s Compl. ¶¶ 47-61).

Defendants filed a motion to dismiss and argued that appraisers do not owe a tort-based duty of care to prospective purchasers of residential real estate under existing South Carolina law. (Mot. to Dismiss.) Plaintiffs filed a memorandum of law in opposition and argued that there is currently a national trend in the law supporting the imposition of tort-based duties on appraisers when their appraisal report contains false information. (Pl.'s Mem. in Opp. to Mot. to Dismiss, p. 8-10). This Court granted Defendants' motion to dismiss pursuant to the South Carolina Court of Appeals' holding in *Robertson v. First Union Nat'l Bank*, 350 S.C. 339, 350, 565 S.E.2d 309, 315 (Ct. App. 2002).

Plaintiffs timely filed a motion to reconsider, arguing that Plaintiffs were entitled to rely on the subject appraisal. Plaintiffs contend their justified reliance on the appraisal report created a tort-based duty of care for the Appraiser Defendants and also restated their position regarding a perceived national trend towards recognizing such a duty.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." *U.S. ex rel. Becker v. Washington Savanah 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). 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. *Hutchinston 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. Baker*, 554 U.S. 471, n.5 (2008)). 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).

LAW & DISCUSSION

I. The Court finds that existing South Carolina precedent is controlling in this case, regardless of the trend of the law in other jurisdictions.

To prove a negligence claim in South Carolina, whether sounding in simple negligence or negligent misrepresentation, the plaintiff must prove that the alleged tortfeasor owed her a duty of care. *Bishop v. S.C. Dep't of Mental Health*, 331 S.C. 79, 86, 502 S.E.2d 78, 81 (1998) (holding that "[w]ithout a duty, there is no actionable negligence"); *Hurst v. Sandy*, 329 S.C. 471, 481, 494 S.E.2d 847, 852 (Ct. App. 1997) (explaining a plaintiff asserting a negligent misrepresentation claim must prove that the defendant owed a duty of care to communicate truthful information to the plaintiff). Ordinarily, the issue of whether a duty of care exists is a question of law for the trial court to decide. *Houck v. State Farm Fire & Cas. Ins. Co.*, 366 S.C. 7, 11-12, 620 S.E.2d 326, 329 (2005).

This Court finds that existing South Carolina law does not impose a duty on Defendants in the factual scenario plead in Plaintiffs' Complaint. In *Robertson v. First Union National Bank*, the South Carolina Court of Appeals affirmed the dismissal of a plaintiff homebuyers' claim for negligent misrepresentation against an appraiser. Like Defendants in

this case, the *Robertson* appraiser was hired by a lender to perform an appraisal in connection with financing for a residential real estate transaction. The *Robertson* appraisal, like the one here, was performed after the parties agreed to a contract price for the residential real estate at issue. Plaintiffs have not offered any arguments that materially distinguish *Robertson* from the facts of this case. Accordingly, *Robertson* is controlling and Plaintiffs' claims against Defendants fail as a matter of law.[1]

Plaintiffs allege the Appraiser Defendants served as an appraiser retained by the lender for the real estate transaction. Plaintiffs identified the McLaurin appraisal report in their Complaint and incorporated it by reference. Plaintiffs allege that the language of the appraisal report provides that they may rely on it such that it supports a cause of action for negligence or negligent misrepresentation.

As evidenced by the McClaurin appraisal report, Appraiser Defendants were hired solely on behalf of Coast2Coast Mortgage and the Department of Veteran Affairs. (See Pl.'s Compl. ¶ 50; Ex. D 1, 4). Notably, the McLaurin appraisal report states that the lender, not the potential homeowner, is the intended user of the appraisal, and notes that the appraisal is not a home inspection and was not prepared by a home inspector. (Ex. D. 4). The Court finds that Plaintiffs' allegations fail to establish that Appraiser Defendants owed Plaintiffs a duty of care. The Appraiser Defendants were employed on behalf of the lender, not the

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[1] This Court can discern only one substantive difference between *Robertson* and this case. Here, Plaintiffs obtained financing through the Department of Veteran Affairs, and the subject appraisal was subject to the VA's Minimum Property Requirements. Plaintiffs therefore attempt to use the VA's Minimum Property Requirements as evidence that the Appraiser Defendants owed Plaintiffs a duty to ensure the property complied with the VA requirements. However, South Carolina law, including those cases cited by Plaintiffs, holds that internal policies may not serve as an independent basis of a duty of care; rather, they can only be used to "establish the contours of the standard of care once a duty has been established." *Estate of Parrott v. Sandpiper Independent and Assisted Living-Delaware, LLC*, 443 S.C. 405, 418, 904 S.E.2d 455, 462 (Ct. App. 2024).

Plaintiffs. Thus, Plaintiffs' claims for negligence and negligent misrepresentation against the Appraiser Defendants fail as a matter of law.

Plaintiffs invite this Court to consider the "trend of the law," including that of the "majority of other jurisdictions." This Court is not persuaded by authority from other jurisdictions when a South Carolina case is directly on point. *Cf. Williams v. Morris*, 320 S.C. 196, 200, 464 S.E.2d 97, 99 (1995) ("When there is no South Carolina case directly on point, our courts may look to persuasive authority from other jurisdictions."). Moreover, this Court has considered the "trend of the law," including those cases from other jurisdictions, and concludes that neither impacts the holding in *Robertson* as applied to the facts of this case.

CONCLUSION

Based on the foregoing and after thorough review of the issues raised in the parties' memorandums, Plaintiffs' Motion to Reconsider is **DENIED.**

IT IS SO ORDERED.

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The Honorable George M. McFaddin, Jr.
Presiding Judge, Fourth Judicial Circuit

Dillon Common Pleas

Case Caption: John Hamilton , plaintiff, et al VS Connie W. Page , defendant, et al

Case Number: 2024CP1700017

Type: Order/Other

So Ordered

S/George M. McFaddin, Jr., #2759