

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
Frank Perrelli, Jr., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Vacation Inspirations, Destination )  
Travel, LLC, Joseph Shirley, Randy )  
Gardner, and Jeffery Pumilia, )  
 )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Case No.: 2024CP1004606

**ORDER ON PLAINTIFF'S  
MOTION TO RECONSIDER**

**RECEIVED**

**Jan 08 2026**

**SC Court of Appeals**

Presiding Judge: Hon. Deadra L. Jefferson  
Plaintiff's Attorney(s): David W. Wolf, Esq.  
Abigail E. Saunders, Esq.  
Defendants' Attorney(s): John A. Massalon, Esq.  
Barry Krell Esq.  
Date of Hearing: N/A  
Court Reporter: N/A

This matter comes before the Court on Plaintiff's Motion to Reconsider the Court's Order Compelling Arbitration and Staying Proceedings Under Rules 52(b) and 59(e) filed on August 2, 2025. The Court received Plaintiff's Motion to Reconsider on August 2, 2025. Plaintiff's Motion is in the nature of a Memorandum. Defendants filed a responsive memorandum on August 15, 2025, and filed an Amended Memorandum on September 4, 2025. Plaintiff submitted a Reply Memorandum on September 10, 2025. Plaintiff is represented by David W. Wolf, Esq., and Abigail E. Saunders, Esq. Defendants are represented by John A. Massalon, Esq., and Barry Krell Esq. This matter previously came before the Court on March 27, 2025, for a hearing on Defendants' Motion to Compel Arbitration and Stay Proceedings in this Case until Completion of Arbitration filed on November 12, 2024. The Court issued its Order granting Defendants' Motion

on July 23, 2025. After consideration of the record, as well as the various interests balanced by the Court at the time of the ruling, the Plaintiff's Motion to Reconsider is heard and Denied.<sup>1</sup>

### **CONCLUSIONS OF LAW**

“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 309 S.C. 157 at 172–73, 420 S.E.2d 834 at 842.

“A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.” Rule 59(e), SCRPC. “[T]he ten-day deadline in Rule 59(e) is an absolute deadline. A trial court does not have the power to alter or amend a final order if more than ten days passes and no Rule 59(e) motion has been served, nor does a trial court have any power to grant the moving party an extension of time in which to file a Rule 59(e) motion.” Overland, Inc. v. Nance, 423 S.C. 253, 256-57, 815 S.E.2d 431, 433 (2018) (citation omitted) (citing Leviner v. Sonoco Prods. Co., 339 S.C. 492, 530 S.E.2d 127 (2000)). “A party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days

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<sup>1</sup> This Motion is disposed of without the necessity of a hearing and decided on the record and briefs. Rule 59(f), SCRPC; Pollard v. City of Florence, 314 S.C. 397, 401–402, 444 S.E.2d 534, 536 (Ct. App. 1994).

after the filing of the motion.” Rule 59(g), SCRPC; See also Smith v. Fedor, 422 S.C. 118, 126, 809 S.E.2d 612, 161 (Ct. App. 2017) (“Rule 59(g) would lack any purpose if trial courts committed error by denying the motion for failure to comply with the rule. Further, our language in Gallagher v. Evert, 353 S.C. 59, 63-64, 577 S.E.2d 217, 219 (Ct. App. 2002) implies a trial court may deny the motion solely on the basis of the rule.”).

Plaintiff’s Motion is timely under Rule 59(e), SCRPC, because it was filed ten (10) days after receiving notice of the entry of the Order, which is within the required ten (10) day period. Plaintiff’s Motion is timely under Rule 59(g) since the Court was provided with a copy of the motion the same day Defendants filed the motion, which is within the required ten (10) day period.

Plaintiff asks this Court to reconsider, alter, or amend the Court’s Order entered on July 25, 2025, which granted Defendants’ Motion and stayed all proceedings pending the outcome of arbitration. Plaintiff argues that the Order overlooked the impact of the lack of discovery responses from Defendants. Additionally, Plaintiff argues that the Court applied the wrong standard of review in its Order.<sup>2</sup> Plaintiff failed to raise the foregoing issues in prior filings and memoranda, and the law clearly bars Plaintiff from using their motion to reconsider to present issues they could have raised prior to judgment but did not. See Anderson Memorial Hosp., Inc., 313 S.C. at 498, 443 S.E. 2d at 400.

Rule 52(b), SCRPC, states:

Upon motion of a party made not later than 10 days after receipt of written notice of entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly, and the motion may be made with a timely motion for a new trial. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the trial

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<sup>2</sup> Plaintiff’s counsel conceded during the hearing on Defendants’ Motion to Compel Arbitration and Stay Proceedings Until the Completion of Arbitration on March 27, 2025, that the applicable standard in determining the issue of arbitrability is the FAA. Therefore, the correct standard was applied.

court an objection to such findings or has made a motion to amend them or a motion for judgment.

Plaintiff's motion identifies no factual finding that is clearly erroneous, incomplete, or unsupported by the record, nor does it show any legal conclusion that requires alteration. Green v. Johnson, 446 S.C. 326, 919 S.E.2d 894 (2025).

After fully considering the Plaintiff's Motion to Reconsider, the Court finds that Plaintiff seeks only to reargue the issues on the same basis previously presented to the Court and presents no novel facts, arguments, or theories in support of its position. Plaintiff has not highlighted any portions of the record this Court may have misunderstood, failed to fully consider, or perhaps failed to rule on. Accordingly, the Motion to Reconsider is heard and respectfully Denied.

**AND IT IS SO ORDERED.**

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Hon. Deadra L. Jefferson  
Presiding Judge  
Ninth Judicial Circuit

Charleston, South Carolina  
December 12, 2025



Charleston Common Pleas

**Case Caption:** Frank Perrelli Jr VS Vacation Inspirations , defendant, et al

**Case Number:** 2024CP1004606

**Type:** Order/Other

IT IS SO ORDERED.

s/D.L. Jefferson Ninth Judicial Circuit Judge 2128