

STATE OF SOUTH CAROLINA

COUNTY OF MARION

Brittany Gwen Bryant,

Plaintiff,

v.

V&V Group, LLC, Maksat Duisheev, RUL
Transport, LLC, Borderline Motorsports,
LLC,

Defendant.

IN THE COURT OF COMMON PLEAS

TWELFTH JUDICIAL CIRCUIT

C/A # 2025-CP-33-00120

ORDER

RECEIVED

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SC Court of Appeals

COMES NOW before the Court, Defendants V&V Group, LLC, Maksat Duisheev, and Borderline Motorsports, LLC's (collectively, "Defendants") Motion to Reconsider, Alter or Amend the Court's May 13, 2026 Order (hereinafter, the "May 13 Order") pursuant to Rule 59, SCRCP. Specifically, Defendants ask this Court to vacate the May 13 Order, which struck Defendants' answers to Plaintiff's Requests for Admission, deemed those matters admitted, struck Defendants' Answer, placed Defendants in default, and awarded Plaintiff the attorneys' fees and costs associated with her Motion for Rule to Show Cause. Defendant RUL Transport, LLC is in default and is not a party to the Rule 59(e) Motion.

Plaintiff Brittany Gwen Bryant filed her Memorandum in Opposition on June 19, 2026.

After careful review of the Rule 59(e) Motion, Plaintiff's Memorandum in Opposition, the May 13 Order, the entire record in this matter, and the applicable law, and for the reasons set forth herein, the Court **DENIES** Defendants' Rule 59(e) Motion.

LAW

Rule 59(e), SCRCP, allows a court to alter or amend a judgment upon a party's timely motion. *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 602 S.E.2d 772 (2004). Specifically, Rule 59 permits a party to move for reconsideration of a prior order; however, the South Carolina Rules of Civil Procedure plainly state that (1) the moving party must file the motion with twenty (20) days, (2) the presiding judge maintains jurisdiction of the action, and (3) the moving party *shall* provide the presiding judge with a copy of its 59(e) Motion "within ten (10) days after the filing of the motion." SCRCP Rule 59(e)-(g).

Rule 59 motions should only be granted if the circuit court finds that there has been an intervening change of controlling law, that new evidence has become available, or that there is a need to correct a clear error or prevent manifest injustice." *Robinson v. Wix Filtration Corp., LLC*, 599 F.3d 403, 411 (4th Cir. 2010).

Compliance with Rule 59(g) is mandatory, and the failure to comply is, standing alone, a sufficient basis on which to deny a Rule 59(e) motion. *Smith v. Fedor*, 422 S.C. 118, 809 S.E.2d 612 (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 . . . a trial court may deny the motion solely on the basis of the rule.") (citing *Gallagher v. Evert*, 353 S.C. 59, 63-64, 577 S.E.2d 217, 219 (Ct. App. 2002)).

The imposition of sanctions for discovery abuse is committed to the sound discretion of the trial court. *Kershaw Cnty. Bd. of Educ. v. U.S. Gypsum Co.*, 302 S.C. 390, 395, 396 S.E.2d 369, 372 (1990). Sanctions should be imposed to protect the rights of discovery provided by the Rules. *Id.* (citing *Downey v. Dixon*, 294 S.C. 42, 45, 362 S.E.2d 317, 318 (Ct. App. 1987)). In selecting the appropriate sanction, the trial court

must consider the nature of the discovery refused, the discovery stage of the case, willfulness, and prejudice. *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 655, 916 S.E.2d 320 (2025). Striking a party's pleadings is an extreme sanction, but it "is a specific response our rules endorse," and "[a]ny sanction imposed must be sufficient to vindicate the important rights the discovery rules guarantee and the essential tools they provide to allow lawyers to prepare their clients' cases for trial." *Id.* at 655–56 (citing Rule 37(b)(2)(C), SCRCP).

PROCEDURAL BACKGROUND

The Court incorporates by reference the findings of fact set forth in its May 13 Order as though fully restated herein. In summary, this action arises out of a September 19, 2024 collision in Marion County, South Carolina, in which Defendant Duisheev, operating a commercial motor vehicle, collided with Plaintiff's vehicle. Plaintiff commenced this action on February 18, 2025. Defendants were served with written discovery; received multiple extensions; failed to serve responses; failed to respond to a Rule 11 letter; and were ultimately ordered by this Court, by Order dated September 23, 2025, to provide "complete and non-evasive responses" on or before October 15, 2025. The responses Defendants served on the eve of that deadline were incomplete, evasive, and largely non-responsive, and their responses to Plaintiff's Requests for Admission contained improper objections and improper general denials premised on a purported lack of knowledge or information.

Following a videoconference hearing held April 14, 2026, this Court entered the May 13 Order granting Plaintiff's Motion to Strike Defendants' answers to Plaintiff's Requests for Admission and Plaintiff's Motion for Rule to Show Cause. The Court

expressly found that Defendants' conduct was "more than just a discovery violation – it is a pattern of willful and intentional conduct by Defendants to obstruct, delay, and frustrate the discovery process, and in gross indifference to the rights of the Plaintiff and the Order of this Court."

Pursuant to the May 13 Order, Plaintiff's counsel filed an affidavit of attorneys' fees and costs on May 21, 2026, and Defendants were required to reimburse Plaintiff within fifteen (15) days thereafter, or by June 5, 2026.

Defendants' Rule 59(e) Motion was filed on June 1, 2026.

FINDINGS OF FACT

Defendants' aver that "the Order should be altered or amended because: (1) the sanction of striking Defendants' Answer and placing them in default is disproportionate to any discovery deficiency; (2) the Court's order fails to adequately consider lesser sanctions that would vindicate the discovery rules without depriving Defendants of their day in court; and (3) Defendants are prepared to fully comply with all outstanding discovery obligations and can cure any prejudice to Plaintiff through immediate supplementation and other appropriate remedies."

Notably, Defendants' Motion does not assert that there has been an intervening change in the controlling law or assert that new evidence has become available. As such, the Motion's premise falls under the "need to correct clear error or prevent manifest injustice" review.

I. DEFENDANTS' RULE 59(e) MOTION IS PROCEDURALLY DEFECTIVE.

Defendants filed their Rule 59(e) Motion on June 1, 2026. Under Rule 59(g), SCRCP, Defendants were required to provide the presiding judge with a copy of the

Motion no later than June 11, 2026. Defendants did not do so. That requirement is not a mere courtesy; it is a mandate of the South Carolina Rules of Civil Procedure since the 1998 amendment to the rule. Our Court of Appeals has expressly held that a trial court may deny a Rule 59(e) motion solely on the basis of a movant's failure to comply with 59(g). *Smith v. Fedor*, 422 S.C. 118, 809 S.E.2d 612 (Ct. App. 2017); *Gallagher v. Evert*, 353 S.C. 59, 63-64, 577 S.E.2d 217, 219 (Ct. App. 2002).

Defendants' did not provide the undersigned with its Motion to Reconsider on or before June 11, 2026, as required by the South Carolina Rules of Civil Procedure. To date, Defendants have still not provided the Motion to the undersigned. The arguments advanced in Defendants' Rule 59(e) Motion are therefore unpreserved.

The Court finds that Defendants' failure to comply with Rule 59(g), SCRPC, is an independent and sufficient ground for denial of the Rule 59(e) Motion. The Court notes, moreover, that this failure is of a piece with the pattern of disregard for deadlines and procedural obligations documented at length in the May 13 Order. Nevertheless, in an abundance of caution, the Court addresses the substance of Defendants' Motion below.

II. DEFENDANTS IDENTIFY NO CHANGE IN CONTROLLING LAW, NO NEW EVIDENCE, AND NO ERROR OF LAW OR FACT.

As previously noted, Defendants' Rule 59(e) Motion does not identify any intervening change in controlling law, present any new evidence, nor does it identify any point of law or fact that this Court misunderstood, overlooked, or failed to rule upon.

Defendants advance three grounds for the instant motion: (1) that the sanctions imposed are disproportionate to any discovery deficiency; (2) that the Court failed to adequately consider lesser sanctions; and (3) that Defendants are now prepared to

comply with their outstanding discovery obligations. The first two contentions were squarely presented to and resolved by this Court in the May 13 Order.

As Defendants' own Motion acknowledges, this Court applied the correct legal standard, expressly weighing the nature of the discovery refused, the discovery posture of the case, Defendants' willfulness, and the prejudice to Plaintiff. See *Welch*, 445 S.C. at 655. The Court expressly recognized the gravity of the relief it granted, describing such sanctions as "harsh medicine, reserved for episodes of discovery misconduct displaying bad faith, willful disobedience, or a callous indifference to the rights of other parties and the discovery process," and found that Defendants' "pattern of willful and intentional conduct" warranted that medicine. The Court affirms that the sanctions awarded were warranted and proportionate to the Defendants' conduct and discovery deficiencies.

Defendants' argument that the Court failed to consider lesser sanctions or the proportionality of its ruling therefore ignores the May 13 Order itself. The May 13 Order devoted separate analysis to each of the factors and concluded not only that each weighed heavily in favor of severe sanctions, but that less severe sanctions than those ultimately imposed would "only serve to reward this obstructionist behavior and erode South Carolinian's faith in the judicial system." To the extent that the May 13 Order is unclear, the Court considered the gamut of sanctions available. In the Court's discretion, however, after reviewing the conduct and the record, the Court found and maintains that Defendants' conduct warranted the sanctions ordered and no lesser sanction would suffice.

The Court further observes that Defendants had, and squandered, the benefit of graduated relief it now seeks. The September 23, 2025 Order compelling "complete and

non-evasive responses" was itself a lesser sanction and a final opportunity to comply. Defendants disobeyed it and by Defendants' own admission have continued to disobey this Order in the three hundred and twenty-one (321) days since it was entered. A conditional order of the sort Defendants now propose would do no more than repeat an experiment this Court has already run, at Plaintiff's continued expense. Defendants' conduct in this matter, or lack thereof, are blatant violations and disregard of the South Carolina Rules of Civil Procedure and the rule of law.

The Court's discretionary selection of sanctions followed a detailed analysis of the nature of the discovery refused, the discovery stage of the case, Defendant's willfulness, and the prejudice to Plaintiff. Defendants' Motion asserts that this matter is distinguishable because Defendants provided some responses to written discovery once they were ordered to provide full and complete responses. Defendants acknowledge that the Court referenced this fact in the May 13 Order.¹ As such, by admission, this argument is not that the Court committed a clear error of law or fact; rather, the argument is that the Defendants disagree with the discretion exercised in light of that argument. However, mere disagreement with the Court's exercise of its discretion is not a ground for relief under Rule 59(e). See *Kershaw Cnty. Bd. of Educ.*, 302 S.C. at 395, 396 S.E.2d at 372. For the reasons set forth in the May 13 Order, the Court finds that the sanctions imposed do not result in manifest injustice and are supported by the record and case law.

¹ The Court also cited other reasons in support of the May 13 Order.

III. DEFENDANTS' PRESENT OFFER TO COMPLY IS UNAVAILING AND IS BELIED BY THEIR CONTINUING NON-COMPLIANCE.

Defendants' third ground — that they now stand ready to comply — is without merit. Assuming *in arguendo* that this is a proper basis on which the Court could reconsider its prior Order, the Court rejects this argument. Defendants were afforded repeated opportunities to meet their discovery obligations over the course of this litigation and failed to do so at every turn. Even now, Defendants offer no explanation whatsoever for their failure to comply with the rules or an order of this Court and instead request a further twenty-one (21) days from the date of any amended order.² The Court views the Rule 59(e) Motion as what the record shows it to be: a further effort to delay this matter and to avoid the consequences of Defendants' own inaction.

Defendants' conduct since entry of the May 13 Order confirms that assessment. Defendants do not ask this Court to reconsider the award of attorneys' fees and costs. Plaintiff's counsel filed the affidavit of attorneys' fees and costs on May 21, 2026, and Defendants were required to reimburse Plaintiff on or before June 5, 2026. Indeed, a review of the record reveals that Plaintiff filed a Motion to Compel / Rule to Show Cause regarding said monetary sanction on July 31. As of at least July 31, Defendants have not reimbursed Plaintiff. Defendants thus ask this Court to consider lesser sanctions "such as monetary penalties" while simultaneously disregarding the monetary sanction this Court has already imposed.

Litigants who are presently in violation of the very Order they ask the Court to soften have given the Court no reason to believe that one more chance would be honored.

² Defendants did not file a memorandum in opposition to Plaintiff's Motion to Compel, Plaintiff's Motion for Rule to Show Cause, or reply brief to Plaintiff's memorandum in opposition to Defendants' Motion to Reconsider.

This apparent willingness now, nearly a year and a half into litigation, to comply comes after the deadlines fixed by Rules 33, 34, and 36, SCRCP, multiple extensions, a Rule 11 letter, multiple filed motions, and an Order of this Court was disobeyed. This conduct reflects, as the Court previously found, "a deliberate and willful disobedience to the letter and purpose of the South Carolina Rules of Civil Procedure, and a contemptuous disregard for the authority of this Court." Since February of 2025, Defendants have been afforded every opportunity and given every reasonable lifeline to comply even when they had already let deadlines expire, violated the rules of civil procedure, and disobeyed a court order. The Court is unpersuaded by Defendants' Motion.

CONCLUSION

Defendants' Rule 59(e) Motion is procedurally defective under Rule 59(g), SCRCP, and that defect alone warrants denial. Substantively, the Motion identifies no intervening change in controlling law, no newly available evidence, no clear error, no manifest injustice, and raises no argument that this Court did not fully consider before entering the May 13 Order. Rather, it reflects Defendants' dissatisfaction with that ruling, which is not a ground for relief under Rule 59(e).

The Court reaffirms its finding that Defendants' cavalier disregard for the South Carolina Rules of Civil Procedure and an Order of this Court justifies the severe sanctions issued in this matter. The sanctions imposed in the May 13 Order remain necessary and appropriate to vindicate the rights the discovery rules guarantee.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendants' Motion to Reconsider, Alter, or Amend Pursuant to Rule 59(e), SCRCP, is **DENIED**.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court's Order filed May 13, 2026, remains in full force and effect in all respects, including that Defendants' answers to Plaintiff's Requests for Admission are struck and those matters are deemed admitted; that Defendants' Answer is struck; and that Defendants V&V Group, LLC, Maksat Duisheev, and Borderline Motorsports, LLC are in default.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this matter shall proceed to a hearing on the issue of damages, to be scheduled by the Court upon Plaintiff's request.

IT IS SO ORDERED!

The Honorable William H. Seals, Jr.
Presiding Judge

This ____ day of ____, 2026.

_____, SC.



Marion Common Pleas

Case Caption: Brittany Bryant VS Borderline Motorsports, Llc , defendant, et al
Case Number: 2025CP3300120
Type: Order/Other

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

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