

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Therese A. Johnson

Plaintiff,

vs.

Barnyard of Columbia Holdings, LLC

Defendant.

IN THE COURT OF COMMON PLEAS

Case Number: 2025CP3205386

**ORDER DENYING MOTION FOR
RECONSIDERATION****RECEIVED****Oct 19 2026****SC Court of Appeals**

This matter is before the Court on Defendant's Motion for Reconsideration pursuant to Rule 59(e) SCRCPP ("the Motion"), which was timely filed on September 1, 2026. The Motion asks this Court to alter, amend, or reconsider its Form 4 that struck certain defenses filed August 13, 2026.

After reviewing the applicable law and considering arguments raised in the Motion, the court is unable to discover any material fact or principle of law that has either been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Therefore, the Motion to Alter, Amend, or Reconsider is DENIED.

First, the Court notes that its earlier ruling struck the defenses without prejudice. This makes the Court's order far less drastic than Defendant contends.

Rotec Servs., Inc. v. Encompass Servs. Inc., 359 S.C. 467, 473, 597 S.E.2d 88, 884 (Ct. App. 2004) plainly supports the Court's earlier striking of the Defenses at issue here. There, the South Carolina Court of Appeals wrote:

Rule 8(b), SCRCPP, requires that a defendant provide a statement "in short and plain terms [of] the facts constituting his defenses to each cause of action asserted." The Rule further mandates that a pleading contain "ultimate facts" rather than "evidentiary facts" to state a cause of action. *Watts v. Metro Sec. Agency*, 346 S.C. 235, 240, 550 S.E.2d 869, 871 (Ct.App.2001). "Ultimate facts fall somewhere between the verbosity of evidentiary facts and the sparsity of 'legal conclusions.'" *Id.* The trial court's decision to strike a defense as insufficiently pled will not be disturbed absent an abuse of discretion. *Slack v. James*, 356 S.C. 479, 482, 589 S.E.2d 772, 774 (Ct.App.2003).

In asserting the defense of privilege, Encompass's allegation in its answer reads in its entirety: "Defendant pleads the affirmative defense of privilege." This statement alone is purely a legal conclusion and clearly falls below the standard mandated by Rule 8. Therefore, we find no abuse of discretion in the trial court's striking this defense

Here, the stricken defenses are written in essentially the same boilerplate language as the stricken privilege defense in *Rotec*. That is to say, these defenses are not a short and plain statement of the facts as Rule 8(b) requires, but instead are bare legal conclusions.

The Court understands the Defense's concerns regarding the potential waiver of these defenses. However, the Court notes that grants for leave to amend are strongly encouraged and leave shall generally be granted freely. *Patton v. Miller*, 420 S.C. 471, 489-90, 804 S.E.2d 252, 261-62 (2017). Thus, the Court is not persuaded that Defense's concerns regarding waiver allows them to plead defenses in a manner that does not comply with Rule 8(b)'s plain requirements.

Pursuant to the discretion afforded by Rule 59 and *Pollard v. County of Florence*, concludes that a hearing is not necessary to rule on the Motion. *See* Rule 59(f), SCRCP (stating a Rule 59(e) motion "may in the discretion of the court be determined on the briefs filed by the parties without oral argument"); *see also Pollard*, 314 S.C. 397, 401-02, 444 S.E.2d 534, 536 (Ct. App. 1994) (holding there was "no merit in Pollard's assertion that the circuit court committed reversible error in denying her motion to alter or amend the judgment under Rule 59(e) SCRCP, without first conducting a hearing or allowing [the parties] 'to fully brief' the issues raised in [the] motion").

AND IT IS SO ORDERED

September 16, 2026

Judge D. Shawn Graham



Lexington Common Pleas

Case Caption: Therese A. Johnson VS Barnyard Of Columbia Holdings, Llc
Case Number: 2025CP3205386
Type: Order/Other

So Ordered

**Judge D. Shawn Graham, Circuit
Court Judge, 11th Judicial Circuit**
