

STATE OF SOUTH CAROLINA )  
 COUNTY OF BERKELEY )  
 )  
 North Pleasant, LLC, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 SC Coastal Conservation League, )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT  
 Civil Action No.: 2010-CP-08-1771

**RECEIVED**

JAN 27 2014

**ORDER DENYING MOTION TO RECONSIDER**

SC Court of Appeals

2014 JAN 17 PM 3:58  
 MARY B. BROWN  
 CLERK OF COURT  
 BERKELEY COUNTY, SC

FILED

This matter originally came before this Court as a jury trial that was held the week of December 9, 2013 in the Berkeley County Court of Common Pleas. At the close of Plaintiff's case in chief, this Court directed a verdict for the Defendant as to all causes of action. Now comes the Plaintiff's Motion to Reconsider this Court's Order.

**STANDARD OF REVIEW**

Power to open, modify or vacate a judgment is possessed solely by the court that rendered judgment. *Coleman v. Dunlap*, 413 S.E.2d 15 (S.C. 1992). A Rule 59(e) motion is not only the proper vehicle to request a court to alter or amend a judgment, but also to seek reconsideration of issues and arguments previously presented. *Elam v. South Carolina Dept. of Transp.*, 361 S.E.2d 772 (S.C. 2004). It is well established that a Rule 59(e) motion can be successful in only three situations: (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. *Zinkand v. Brown*, 478 F.3d 634 (4th Cir. 2007).

Relief from an order or judgment is granted for good cause shown under Rule 60(b) of the South Carolina Rules of Civil Procedure. Grounds for relief include mistake, inadvertence,

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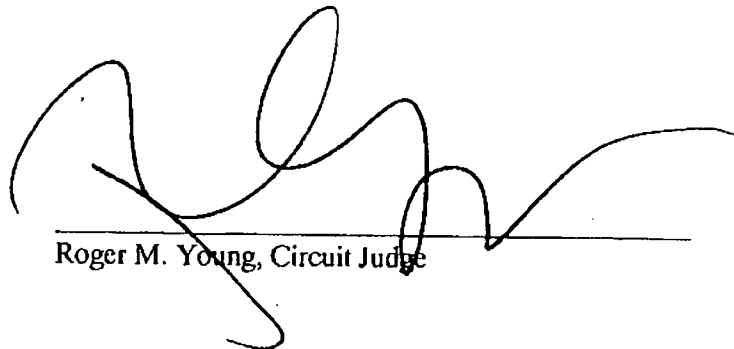
surprise, or excusable neglect; misrepresentation or other misconduct of the plaintiff; or void judgment. In determining whether relief should be granted, the court considers the promptness with which relief is sought, reasonable explanations for failing to act promptly, the existence of a meritorious defense, and prejudice to the other parties if relief is granted. S.C. R. Civ. P. 60(b); Micronics, Inc. v. S.C. Dep't of Revenue, 345 S.C. 506, 548 S.E.2d 223 (Ct. App. 2001).

I have thoroughly considered Plaintiff's motion, supporting material, evidence produced at trial, and arguments and based on the same deny Plaintiff's Motion to Reconsider.

**IT IS THEREFORE ORDERED** that Plaintiff's Motion to Reconsider this Court's December 12, 2013 Order is **DENIED**.

**IT IS SO ORDERED!**

January 14, 2014  
Berkeley, South Carolina



Roger M. Young, Circuit Judge