

RECORDED  
JUN 24 2014

SC COURT OF APPEALS

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )  
 )  
The Protestant Episcopal Church In The )  
Diocese Of South Carolina; The Trustees of )  
The Protestant Episcopal Church in South )  
Carolina, a South Carolina Corporate Body; )  
et al., )

PLAINTIFFS, )

v. )

The Episcopal Church (a/k/a, The )  
Protestant Episcopal Church in the )  
United States of America); The Episcopal )  
Church in South Carolina )

DEFENDANTS. )

Case No. 2013-CP-18-00013

2014 JUN -6 PM 3:00  
CERTIFIED COPY  
Clerk of Court  
DORCHESTER CO.

**ORDER DENYING TECSC'S MOTION  
TO RECONSIDER THE MAY 20, 2014  
ORDER DENYING TECSC'S MOTION  
TO JOIN ADDITIONAL PARTIES**

This matter came before the court upon the Defendants' Twenty-nine (29) page Motion to Reconsider the May 20, 2014 Order Denying TECSC's Motion to Join Additional Parties.<sup>1</sup> For the reasons set forth herein, the motion to reconsider is denied.

**DISCUSSION**

The purpose of a Rule 59(e) motion 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, 843 (1992). A Rule 59(e) motion is used to a) preserve those issues that have been raised to the trial court but not ruled upon, see e.g., Bailey v. Segars, 346 S.C. 359, 365, 550 S.E.2d 913 (Ct. App. 2001), b) correct factual errors in an order, see e.g., Doe v. Doe, 324 S.C. 492, 502, 478 S.E.2d 854, 859 (Ct. App. 1996); and c) correct the application of the law.

<sup>1</sup> Pursuant to Rule 59(f), SCRCP, the court determines the motion on the briefs, without oral argument. *See Pollard v. County of Florence*, 314 S.C. 397, 444 S.E.2d 534, 536 (Ct. App. 1994).

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This is the fourth time the Defendants have asked this court to join these 4 individuals. In the three preceding requests, the Court denied both the first motion (Order of October 1, 2013) and the motion to reconsider (Order of December 31, 2013). The Defendants' first motion, resolved by this Court's order of October 1, 2013, sought the joinder of 23 counterclaim Defendants. The four additional counterclaim defendants which are the subject of the present Motion to Reconsider were among the 23 already considered by this court's October 2013 and December 31, 2013 orders.

Additionally, in the present Motion to Reconsider, the Court is asked to consider new grounds not previously advanced. It is well settled that a party cannot use a Rule 59(e), SCRPC motion to present to the trial court an issue or argument that the party could have raised prior to judgment but did not. See e.g., C.A.H. v. L.H., 315 S.C. 389, 434 S.E.2d 268, 270 (1993); Gartside v. Gartside, 383 S.C. 35, 43, 677 S.E.2d 621, 625 (Ct. App. 2009); MailSource, LLC v. M.A. Bailey & Assocs, Inc., 356 S.C. 370, 374, 588 S.E.3d 639, 641 (Ct. App. 2003); Anonymous v. State Board of Medical Examiners, 323 S.C. 260, 473 S.E.2d 870, 880 (Ct. App. 1996); Crary v. Djebelli, 321 S.C. 38, 467 S.E.2d 128, 131, 32 (Ct. App. 1995), reversed on other grounds, 329 S.C. 385, 496 S.E.2d 21 (1998); Patterson v. Reid, 318 S.C. 183, 456 S.E.2d 436, 437 (Ct. App. 1995); Anderson Memorial Hospital, Inc. v. Hagan, 313 S.C. 497, 443 S.E.2d 399, 400 (Ct. App. 1994).

The additional grounds raised by the Defendants would have been available to them when:

- a) the first Motion and Memorandum of Law in Support thereof to Amend the caption to in Additional Counterclaim Defendants was filed on May 2, 2013;

- b) the Reply in Support of Its Motion to Amend the caption to Join Additional Counterclaim Defendants and Proposed Order was submitted on May 30, 2013;
- c) the Order Denying Defendants' Motion to Join Additional Counterclaim Defendants was filed on October 1, 2013;
- d) TECSC moved for reconsideration of the Order dated October 1, 2013 denying Defendants' Motion to Join Counterclaim Defendants;
- e) the Order Denying Defendants' motion to reconsider the Order Denying Defendants' Motion to Join Additional Counterclaim Defendants was filed on December 31, 2013;
- f) the second Motion to Join Additional Parties<sup>2</sup> was filed on November 25, 2013; and
- g) the hearings held on the above motions.

Lastly, as illustrated in Defendants Twenty-nine (29) page Motion to Reconsider and as previously discussed by this court in its May 20, 2014 Order Denying TECSC's Motion to Join Additional Parties, the Defendants argument for the addition four new counterclaim Defendants and new counterclaims not alleged against the current Plaintiffs would unduly complicate this matter, especially at this stage of the litigation.

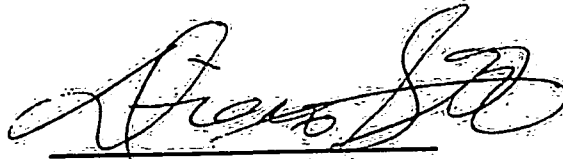
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<sup>2</sup> The four individuals Defendants sought to join as "counterclaim defendants" in the second motion were included in the first motion to join twenty-three "counterclaim defendants".

**CONCLUSION**

As a result, having reviewed the May 20, 2014 Order Denying TECSC's Motion to Join Additional Parties and the Defendants' Motion for Reconsideration, the Court denies the Defendants' Motion for Reconsideration of the order denying joinder of the four individuals.

**AND IT IS SO ORDERED.**



Judge Diane S. Goodstein  
First Judicial Circuit

June 6, 2014

