

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

RECEIVED
JUN 17 2015
SC Court of Appeals

S.C.C.A. Case No. 2013 - 000371

Trial Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers..... Appellants

v.

Shelly K. All Law Firm; Cezar E. McKnight; Ms. Willie O.W. McFadden-Myers;
& Latonya Hobson Respondents

**APPELLANT's NOTICE OF MOTION AND MOTION TO
SUPPLEMENT THE (amended) RECORD ON APPEAL**

Jerome Myers
Gloria Myers
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COUNSEL OF RECORD:

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Atty for Cezar E. McKnight; Willie O.W. McFadden-Myers, and Latonya Hobson

**APPELLANT's NOTICE OF MOTION AND MOTION TO
SUPPLEMENT THE (amended) RECORD ON APPEAL**

COMES NOW THE APPELLANTS with this **APPELLANT's NOTICE OF MOTION AND MOTION TO SUPPLEMENT THE (amended) RECORD ON APPEAL** as their **RETURN** to the Respondent Shelly K. All's Motion to Correct Amended Record on Appeal AND Respondent Shelly K. All's Motion for an Extension of Time.

The Appellants take no objection to the Respondent's Motion for the Extension of Time.

The Respondents four (1,2,3 & 4) items listed as their Designation of Matter were presented with their INITIAL BRIEF OF RESPONDENT signed by them August 21, 2013 are as follows:

1. Motion to Amend Complaint filed August 22, 2011;
2. Order Granting Plaintiffs' Motion to Amend their Complaint and Denying Plaintiff's Motion for Summary Judgment dated October 26, 2011;
3. Notice of Motion and Motion to Reconsider and Relief from Error in the Court's Order filed November 7, 2011;
4. Order Denying Plaintiff's Motion to Reconsider and/or to Vacate Order Under Rule 59(e) and 60 SCRCPC dated April 24, 2012.

The Appellant's ask the Court to refer to the FILED Amended RECORD ON APPEAL at page No. **122 to locate Respondent's Item No. 1** above; and

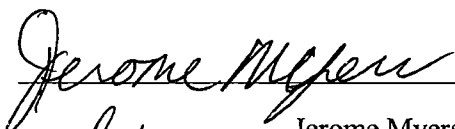
The Appellant's simply ask the Court to refer to the FILED Amended RECORD ON APPEAL at pages No. 141 to 143 to **locate the Respondent's Item No. 2** above; [. . . *Judge. Roger Young status conference with defendants without the plaintiffs pro se held prior to the hearing that created the ORDER dismissing Parties was the "...manifest injustice" as plead in this Motion by these Appellants*]; and

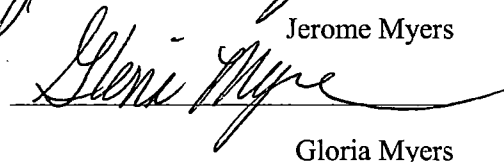
The Appellant's simply ask the Court to refer to the FILED Amended RECORD ON APPEAL at pages No. 133 to 135 to locate the Respondent's Item No. 3; [*Its ORDER is at the ROA at pages No.s 108 to 110*]; and

The Appellant's MOVE for the Court to **SUPPLEMENT** to the Amended RECORD ON APPEAL at Item No. 4 above with the two pages Judge Roger Young's ORDER dated April 24, 2012; these are herein attached as R.O.A. 157 & R.O.A.158 ; [this Item No.4 above] was requested by the parties and makes ripe the issue that the lower court held a unscheduled status conference with the defendants who are all attorneys making it appear these appellants were simply late to the hearing, the contrary was timely made in their motion [this Item No. 3 above] to Judge Roger Young.

JUNE 15, 2015

BY:


Jerome Myers


Gloria Myers

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JEROME MYERS and GLORIA MYERS

Plaintiffs,

v.

SHELLY K. ALL; CEZAR E. MCKNIGHT; MS. WILLIE O.W. MCFADDEN-MYERS; and LATONYA HOBSON

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 2011-CP-10-2026

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ORDER DENYING PLAINTIFFS'
MOTION TO RECONSIDER AND/OR
TO VACATE ORDER UNDER RULE
59(e) AND 60 SCRPC

FILED
2012 APR 27 AM 10:13
JULIE J. ARMSTRONG
CLERK OF COURT
BY [Signature]

This matter came before this Court upon Plaintiffs' Motion to Reconsider and/or to Vacate this Court's Order Granting Plaintiffs' Motion to Amend Their Complaint and Denying Plaintiffs' Motion for Summary Judgment dated October 26, 2011. At the time the motion was called, Plaintiffs were not present in the courtroom. Attorneys for the Defendants requested a brief meeting to relay the procedural history of the case, which took place off the bench. After a recap of the cases history, parties returned to the courtroom where the Plaintiffs had arrived. All parties were present at the hearing on the motion and this Court entertained and considered oral arguments.

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

[Handwritten Signature]

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, 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).

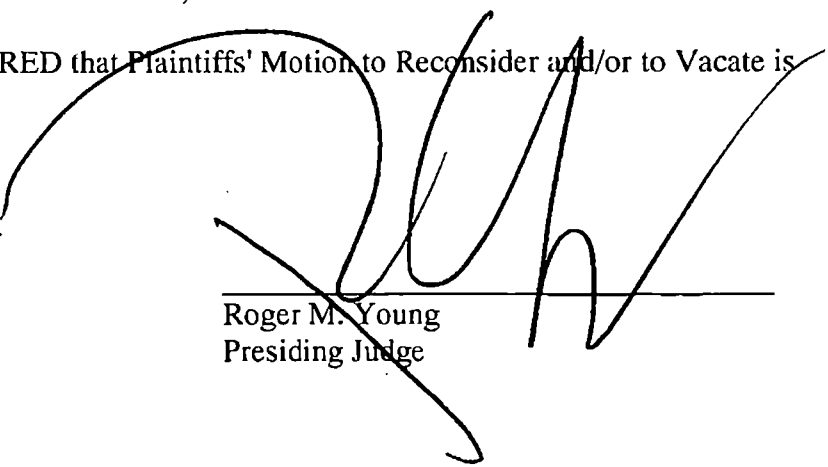
I have thoroughly considered the Plaintiffs' Motion, supporting and opposing material and arguments, and based on same deny Plaintiffs' Motion to Reconsider and/or to Vacate this Court's Order Granting Plaintiffs' Motion to Amend Their Complaint and Denying Plaintiffs' Motion for Summary Judgment dated October 26, 2011.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Reconsider and/or to Vacate is DENIED.

AND IT IS SO ORDERED.

4/24, 2012

Charleston, South Carolina.



Roger M. Young
Presiding Judge

THE STATE OF SOUTH CAROLINA

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PROOF OF SERVICE

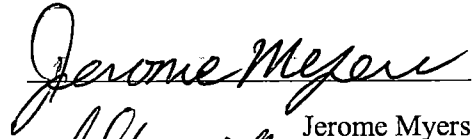
The Appellant's, Jerome Myers and Gloria Myers, certify that I have served the APPELLANT's NOTICE OF MOTION AND MOTION TO SUPPLEMENT THE (amended) RECORD ON APPEAL on Respondents by depositing one copy in the United States mail, postage prepaid, addressed to:

Shelly K. All (& Dennis Christensen) Law Firm,
260 W. Coleman Blvd., Ste D
Mt. Pleasant, SC 29464
(843) 971-1199
Counsel for Shelly K. All, and Dennis Christensen

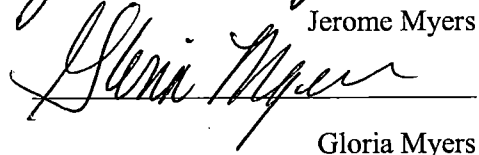
Cezar E. McKnight
106 East Main St.
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Counsel for Cezar E. McKnight; Willie O.W. McFadden-Myers,
and Latonya Hobson

JUNE 15, 2015

BY:



Jerome Myers



Gloria Myers

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DED*

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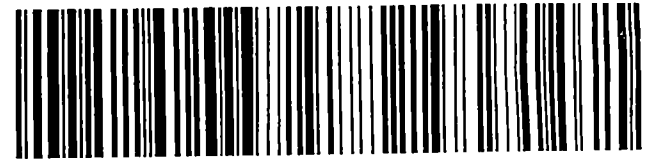
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SC Court of Appeals

FROM:

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TO:

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1015 Sumter Street