

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

The Bank of New York Mellon f/k/a The)
Bank of New York, as Trustee for the)
benefit of Certificateholders of Popular)
ABS, Inc. Mortgage Pass-Through)
Certificates Series 2006-E,)

Civil Action No. 2011-CP-43-0167

RECEIVED

PROPOSED ORDER

JUL 22 2016

SC Court of Appeals

Plaintiff,)
)
)

vs.)
)
)

Charles Taylor; Burgess Brogdon Bldg.)
Supply; Palmetto Health Alliance,)
)

Defendants.)
)
)

BEFORE THE COURT is Defendant Charles Taylor’s (“Defendant”) Rule 59(e) Motion (the “Motion”) asking the Court reconsider its dismissal of the counterclaims and to allow him to amend his Answer and Counterclaim pursuant to Rule 15, SCRCF. In Defendant’s Motion, he appears to argue that Rule 15, SCRCF requires leave to be freely given, outlines several purported causes of action he seeks to pursue against the Plaintiff, and asks this Court to dismiss Plaintiff The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the benefit of Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2006-E’s (“Plaintiff”) foreclosure suit or, alternatively, allow amendment of the Answer and Counterclaim.

The Court hereby **DENIES** the Motion, and declines the relief requested by Defendant, as follows:

1. In South Carolina, a Motion to Reconsider pursuant to Rule 59(e), SCRCF, is appropriate in two basic situations. First, “[a] party *may* wish to file such a motion when [he] believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” *Elam. v. S.C.*

Dep't of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original). Second, “[a] party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.” *Id.*

2. In this case, Defendant’s Motion restates the same arguments he raised during the May 16, 2016, hearing on his Motion to Amend Pleadings and Plaintiff’s Motion to Dismiss Counterclaims and Strike Improper Pleadings. In the June 8, 2016 Order, this Court considered Defendant’s arguments, declined the same, and ruled in favor of Plaintiff. Accordingly, the June 8, 2016 Order evidences that there were no misunderstandings by this Court and no argument that this Court has not ruled upon. For these reasons, the Court hereby **DENIES** Defendant’s Motion in its entirety.

NOW, THEREFORE, Defendant Charles Taylor’s Rule 59(e) Motion filed on June 13, 2016, is hereby **DENIED** and the case will proceed in its ordinary course.

IT IS SO ORDERED, this _____ day of _____, 2016.

The Honorable Michael G. Nettles
Presiding Judge

_____, South Carolina



Sumter Common Pleas

Case Caption: Bank Of New York Mellon VS Charles Taylor , defendant, et al
Case Number: 2011CP4300167
Type: Order/Other

s/ Michael Nettles 2140

Michael Nettles

Electronically signed on 2016-07-07 14:31:34 page 3 of 3