

STATE OF SOUTH CAROLINA)

COUNTY OF Horry)

HAROLD F. JONES d/b/a BUTCH JONES BODY SHOP,)

Plaintiff,)

vs.)

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY and CLINT CUDD,)

Defendants.)

IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT

Civil Action No. 2015-CP-26-0902

RECEIVED

AUG 24 2016

SC Court of Appeals

MOTION AND ORDER INFORMATION FORM AND COVER SHEET

Pro Se Plaintiff:

Harold F. Jones
P.O. Box 1068
Myrtle Beach, SC 29572
Phone: (843) 267-5254

Defendants' Counsel:

Charles R. Norris
Nelson Mullins Riley & Scarborough LLP
151 Meeting Street, Suite 600
Charleston, SC 29401
Phone: (843) 853-5200; Fax: (843) 534-4392
Email: charles.norris@nelsonmullins.com;

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Order Denying Motion for Reconsideration

Estimated Time Needed:

Court Reporter Needed: Yes / No

SECTION II: Motion Type

- Written motion attached
Form Motion—I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff/Defendant

July 22, 2016
Date submitted

SECTION III: Motion Fee

- PAID—AMOUNT:
EXEMPT: Rule to Show Cause in Child or Spousal Support, Domestic Abuse or Abuse and Neglect, Indigent Status, Sexually Violent Predator Act, Motion for Stay in Bankruptcy, Motion for Publication, State Agency v. Indigent Party, Post-Conviction Relief, Motion for Execution (Rule 69, SCRCP)

Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
Other:

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
Other:

JUDGE

CODE: Date:

CLERK'S VERIFICATION

Collected by: (print name)

DATE FILED

- MOTION FEE COLLECTED:
CONTESTED - AMOUNT DUE:

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

HAROLD F. JONES d/b/a BUTCH)
JONES BODY SHOP,)
)
Plaintiff,)

Civil Action No. 2015-CP-26-0902

vs.)

ORDER

STATE FARM MUTUAL)
AUTOMOBILE INSURANCE)
COMPANY and CLINT CUDD,)
)
Defendants.)

HORRY COUNTY
2016 JUL 26 AM 8:17
CLERK OF COURT

On April 26, 2016 this Court granted summary judgment to the Defendants on all causes of action in the Plaintiff's complaint. On May 16, 2016 the Plaintiff filed a motion for reconsideration and/or to alter or amend the order granting summary judgment. Although this motion did not reference the rule of procedure under which it was filed, this Court will consider the motion as being pursuant to SCRCP 59(e). For the following reasons this motion is denied.

The Plaintiff's motion for reconsideration argues that this Court applied the wrong Statute of Limitations, and that the Court allowed counsel for the Defendants to reference documents and evidence the Defendants failed to produce in discovery and deliberately withheld from the Plaintiff. As to the Statute of Limitations, this Court did apply the correct two (2) year Statute of Limitations to the Plaintiff's first cause of action alleging defamation. The Statute of Limitations for libel or slander is two (2) years. Section 15-3-550 of the South Carolina Code of Laws; Jones v. City of Folly Beach, 483 S.E.2d 770 (S.C. App. 1997); Harris v. Tietex International Limited, South Carolina Court of Appeals opinion no. 5418 filed June 29, 2016. Accordingly, this Court

did apply the correct Statute of Limitations to the Plaintiff's first cause of action alleging defamation.

Second, this Court granted summary judgment on the Plaintiff's defamation claim on two additional grounds not challenged by the Plaintiff's motion for reconsideration – namely, (1) the alleged defamatory statements were subject to a qualified or conditional privilege and the Plaintiff did not create a question of facts as to whether the qualified privilege was exceeded, and (2) the Plaintiff failed to establish a connection between the alleged defamatory statements and the Plaintiff's damages and, therefore, failed to create a question of fact as to causation which is an element of every tort. Because there are two (2) separate, independent grounds upon which this Court granted summary judgment on the defamation claim which the Plaintiff has not contested in his motion for reconsideration, the motion for reconsideration must be denied.

Third, the Plaintiff's argument that this Court applied the incorrect Statute of Limitations is now argued for the first time. When contesting the Defendants' motion for summary judgment the Plaintiff did not argue that the two (2) year Statute of Limitations of § 15-3-550 was inapplicable. Accordingly, this issue is not preserved because a party may not raise an issue in a motion to reconsider, alter or amend a judgment that could have been presented prior to the judgment. Hotel and Motel Holdings v. BJC Enterprises, 780 S.E.2d 263, footnote 12 (S.C. App. 2015).


As to the second ground of the Plaintiff's motion for reconsideration, the Plaintiff did not make a formal motion to continue the hearing on summary judgment, nor did the Plaintiff specify how he would be prejudiced if summary judgment was granted. This Court's order of April 26, 2016 cites seven (7) cases for the proposition that for a non-moving party to avoid summary judgment because further discovery is needed to defend the motion for summary

judgment, the non-moving party must make both a formal motion for continuance and specify how the non-moving party will be prejudiced if summary judgment is granted. The non-moving party must demonstrate the likelihood that further discovery will uncover additional relevant evidence and that the party is not merely engaged in a fishing expedition. Dawkins v. Fields, 580 S.E.2d 433, 439 (S.C. 2003) Here, the Plaintiff neither moved for a continuance nor informed this Court that further discovery would uncover additional relevant evidence. Accordingly, the second ground in the Plaintiff's motion for reconsideration is not a basis for this Court to reverse its order granting summary judgment to the Defendants.

Additionally, this Court's order of April 26, 2016 granting summary judgment did so on the other causes of action for *respondeat superior* and for injunctive relief. The Plaintiff's motion for reconsideration does not contest these parts of the Court's order, nor does the Plaintiff's motion contest the part of the Court's order granting the Defendants' motion for summary judgment on the Plaintiff's claim for damages concerning the Deonta Dawson claim or the Mikol claim.

Finally, SCRCP 59(g) requires that a party filing a motion under this rule provide a copy of the motion to the judge within ten (10) days after filing the motion. Although the Plaintiff's motion for reconsideration was filed on May 16, 2016, the Plaintiff did not provide this Court with a copy of the motion and, therefore, failed to comply with SCRCP 59(g).

For all of these reasons the Plaintiff's motion for reconsideration is denied. ALL OF WHICH IS SO ORDERED.



D. Craig Brown, Presiding Judge
Twelfth Judicial Circuit

Florence, South Carolina
July 20, 2016

HAROLD F. JONES
PO BOX 1068
MYRTLE BEACH, SC 29572

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AUG 24 2016

SC Court of Appeals

August 23, 2016


The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

**Re: Harold F. Jones, individually and d/b/a Butch Jones Body Shop,
Appellant vs. State Farm Mutual Automobile Insurance Company and
Clint Cudd, Respondents
Case No.: 2015-CP-26-902**

Dear Ms. Gee:

Pursuant to your letter of August 19, 2016, enclosed please find a filed copy of the Order of the Circuit Court filed on July 26, 2016 which I am appealing. By copy of this letter, I am providing State Farm's lawyer with a copy of the Order as well. Please let me know if I need to file anything else.

Yours very truly,


Harold F. Jones

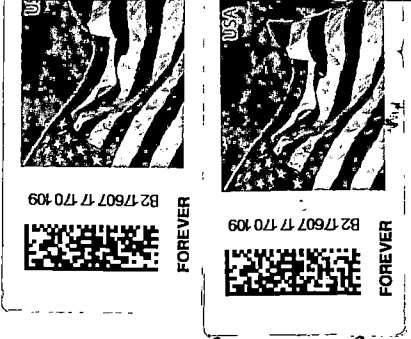
Enclosures

CC:

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Charleston, SC 29401

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Myrtle Beach, S.C.
29578

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SC Court of Appeals

The HONORABLE Tanya Gee
Clerk, South Carolina Court of Appeals
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Columbia, S.C. 29211

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