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SC Court of Appeals

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

FILED-RECEIVED

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2016CP4601001

IN THE COURT OF COMMON PLEAS **FEB 20 AM 9:31**

Alfred Jenkins	Mary Jenkins	Ferrara Buist Company LLC	Custom Crafted Homes
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DAVID HAMILTON  
C.C.C.P. & GS  
YORK COUNTY, SC

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**
  - Rule 12(b), SCRPC;
  - Rule 41(a), SCRPC (Vol. Nonsuit);
  - Rule 43(k), SCRPC (Settled);
  - Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**
  - Rule 40(j) SCRPC;
  - Bankruptcy;
  - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
  - Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
  - Affirmed;
  - Reversed;
  - Remanded;
  - Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order; (formal order to follow)  Statement of Judgment by the Court:

This matter came before me on February 16, 2017, upon Defendant's motion pursuant to Rule 59(e), SCRPC, asking the Court to alter or amend the Court's Order filed November 28, 2016. Representing the parties were: Herbert W. Hamilton for Plaintiffs; and, Paul B. Ferrara for Defendant.

The purpose of Rule 59(e), SCRPC, to alter or amend the judgment, 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, 842 (1992) (Citations omitted). A party cannot use a motion to reconsider, alter or amend a judgment to present an issue that could have been raised prior to the judgment, but was not. See *Johnson v. Sonoco Products Co.*, 381 S.C. 172, 672 S.E.2d 567 (2009); and, *Poch v. Bayshore Concrete Products/South Carolina, Inc.*, 386 S.C. 13, 686 S.E.2d 689 (Ct. App. 2009).

Defendant argues that while Plaintiffs' motion was for partial summary judgment, the Court's ruling did not specify such relief. Notwithstanding this contention, all argument and the ruling on the motion was based on the precise grounds stated in the motion, and Defendant argued against those grounds fully. The Order granted Plaintiffs' relief as requested in the motion. Thus, Defendant's assertion has no merit.

Upon reviewing the record presented, and considering the arguments of counsel, I find no matter presented that was not addressed expressly, or by clear implication, in the prior order. I further find no basis for reconsideration or amendment of the ruling rendered in the prior order.

Therefore, it is ordered that Defendant's Motion pursuant to Rule 59(e), SCRPC, be denied.

AND IT IS SO ORDERED.

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

*[Handwritten signature]*

**INFORMATION FOR THE JUDGMENT INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

**Note: Title abstractors and researchers should refer to the official court order for judgment details.**  
**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

*M. Kimbell*

Special Circuit Court Judge 3065 2/16/2017  
Judge Code Date

**For Clerk of Court Office Use Only**

This judgment was entered on 2/20/17, and a copy mailed first class or placed in the appropriate attorney's box on 2/20/17, to attorneys of record or to parties (when appearing pro se) as follows:

Herbert W. Hamilton PO Box 10940 Rock Hill, SC 29731

Paul B. Ferrara III 2300 Otranto Rd. N. Charleston, SC 29406-9603

\_\_\_\_\_  
 ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
 ATTORNEY(S) FOR THE DEFENDANT(S)  
*David Hamilton*

Court Reporter: Shirley Broom

David Hamilton - Clerk of Court

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.**

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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