

# *EXHIBIT B*

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Waverly at Hamlin Plantation Townhome Association, Inc.,

*Plaintiffs,*

vs.

John Wieland Homes and Neighborhoods of the Carolinas, Inc., et al.,

*Defendants.*

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stephen Denby, et al.,

*Plaintiff,*

vs.

John Wieland Homes and Neighborhoods of the Carolinas, Inc., et al.,

*Defendants.*

IN THE COURT OF COMMON PLEAS

C/A No.: 2013-CP-10-3326

**ORDER DENYING DEFENDANT JOHN WIELAND HOMES' MOTION FOR RECONSIDERATION**

IN THE COURT OF COMMON PLEAS

C/A No.: 2014-CP-10-4335

**RECEIVED**

APR 07 2017

SC Court of Appeals

FILED  
2017 MAR 17 AM 10:10  
JULIE J. ARMSTRONG  
CLERK OF COURT

Presiding Judge:  
Counsel for Plaintiff:

Counsel for John Wieland Homes:

Counsel for JMC Construction:  
Counsel for Sanchez Brothers Painting:  
Counsel for The Muhler Company:  
Date of Hearing:  
Court Reporter:

Hon. Deadra L. Jefferson  
John Hayes, IV, Esq.  
I. Keith McCarty, Esq.  
Mary Margaret Noland, Esq.  
Theodore Manos, Esq.  
Andrew Haselden, Esq.  
Andrew Cole, Esq.  
Sarah Fragale, Esq.  
Peter Gunnar Nistad, Esq.  
February 9, 2016  
Phyllis Norton

1023  
[Signature]

THIS MATTER came before the Court on Defendant John Wieland Homes' Motion for Reconsideration, filed March 10, 2017, and received by this Court on the same date. Defendant moves for this Court to reconsider an Order Denying Defendant John Wieland Homes' Motion for Enhanced Set-Off signed March 1, 2017 and subsequently filed March 3, 2017. Counsel for Plaintiff Waverly at Hamlin Plantation was given the opportunity to respond and instead relied on their previous written submissions and oral arguments from the hearing in opposing the motion. Having considered Defendant's Motion, as well as the various interests balanced by the Court at the time of the ruling, Defendant's Motion for Reconsideration is hereby denied.

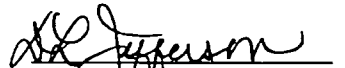
Rule 59(e) of the South Carolina Rules of Civil Procedure states that "(a) motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of entry of the order." Rule 59(e), SCRPC. The purpose of Rule 59(e), SCRPC, to alter or amend the judgment is to allow the parties liberal opportunity to move for the trial judge to reconsider matters properly encompassed in a decision on the merits, regardless of whether the issues and arguments have been previously presented. "A party may wish to file such a motion when she 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. 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." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphasis in original). "A party cannot use a motion to reconsider to present an issue he could have raised prior to judgment but did not." Anderson Memorial Hosp., Inc. v. Hagen, 313 S.C. 497, 498, 443 S.E. 2d 399, 400

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[Handwritten signature]

(Ct. App. 1994) (citing C.A.H. v. L.H., 315 S.C. 389, 434 S.E. 2d 268 (1993)). See Arnold v. State, 309 S.C. 157, 172-73, 420 S.E.2d 834, 842 (1992).

Defendant presented no novel facts, arguments, or theories in support of their Motion for Reconsideration. Moreover, Defendant has not highlighted any portions of the record this Court may have misunderstood, failed to fully consider, or perhaps failed to rule on. Accordingly, Defendant's Motion to Reconsider is hereby DENIED.<sup>1</sup>

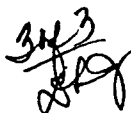
IT IS SO ORDERED.

  
Hon. Deadra L. Jefferson  
Presiding Judge  
Ninth Judicial Circuit

March 5, 2017  
Charleston, South Carolina  
At Chambers

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<sup>1</sup> This Motion is disposed of without the necessity of a hearing and decided on the record, written motion, and briefs. Rule 59(f), SCRCP; Pollard v. City of Florence, 314 S.C. 397, 401-402, 444 S.E.2d 534, 536 (Ct. App. 1994).



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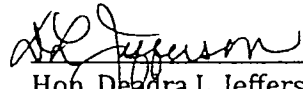
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