

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

In the Matter of Alice Shaw-Baker,

Betty Fisher and Lisa Fisher

Plaintiffs,

vs.

Bessie Huckabee, Kay Passailague
Slade, Sandra Byrd, Henry McMaster
in his capacity as Attorney General of
South Carolina, State Budget and Control
Board, and South Carolina Retirement
Systems, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS

Case No. 2009-CP-10-03010

ORDER DENYING PLAINTIFFS'
MOTION FOR RECONSIDERATION

RECEIVED

OCT 24 2017

SC Court of Appeals

FILED
2017 OCT 23 PM 9:01
JULIE J. HARRIS
CLERK OF COURT

Presiding Judge:
Plaintiffs' Attorneys:

Defendants' Attorneys:

Hon. Deadra L. Jefferson
John Hughes Cooper, Esq.
Lisa Fisher, Esq.
W. Westbrook Wills, Esq.
Jessica Crowley, Esq.
Mary Frances Jowers, Esq.

THIS MATTER is before the Court on Plaintiffs' Motion for Reconsideration, an unsigned and unfiled copy of which was received by the Court and served upon Opposing Counsel via electronic correspondence on October 20, 2017¹. Plaintiffs move for this Court to Reconsider its Order denying Plaintiffs' Motion to Change Venue, Vacate the Date of Trial, and Stay all

¹ Counsel for Plaintiffs, John Hughes Cooper, Esq., notified the Court that Plaintiffs would tender their Motion for Reconsideration by 3:00 PM on October 20, 2017. However, the Court did not receive a copy of Plaintiffs' Motion for Reconsideration until 4:27 PM on October 20, 2017. Counsel for Plaintiffs advised the Court that they would file their Motion for Reconsideration with the Clerk of Court on Monday, October 23, 2017.

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Proceedings, signed and filed on October 19, 2017. Counsel for Defendants were given the opportunity to respond by the Court and indicated that they stand by the Memoranda submitted in opposition to Plaintiffs' Motion to Change Venue as well as the arguments propounded by Counsel at the October 18, 2017 hearing. Having considered Plaintiffs' Motion, as well as the various interests balanced by the Court at the time of the ruling, the Plaintiffs' Motion for Reconsideration is hereby denied.

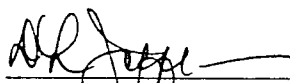
Rule 59(e) of the South Carolina Rules of Civil Procedure states that "(a) motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of entry of the order." Rule 59(e), SCRCP. The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to allow 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 (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).

Plaintiffs have not presented any novel facts, arguments, or theories in support of their Motion for Reconsideration. Nor have Plaintiffs presented any argument or theory that could not have been raised in their original Motion to Vacate, Vacate the Date of Trial, and Stay all

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Proceedings. Moreover, Plaintiffs have not highlighted any portions of the record this Court may have misunderstood, failed to fully consider, or perhaps failed to rule on. Accordingly, Plaintiffs' Motion for Reconsideration is hereby DENIED.² This case will proceed to trial before the Honorable Thomas L. Hughston on October 23, 2017 in Charleston County.³

IT IS SO ORDERED.



Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

October 20, 2017
Charleston, South Carolina

² 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).

³ The Court held a phone conference with the parties on October 20, 2017 at 5:08 PM regarding receipt of the unfiled motion as well as the disposition of the motion. The Court advised the parties that any new matters raised regarding a Motion for Recusal are appropriately addressed by the trial court.

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