

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
Alexander Burns,)
)
)
Plaintiff,)
)
vs.)
)
Brays Island Plantation Colony, Inc., &)
Brays Island Realty, LLC,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
Civil Action No. 2017-CP-07-00265

**ORDER DENYING PLAINTIFF'S
MOTION TO RECONSIDER**

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SC Court of Appeals

This Court heard oral argument on Plaintiff's motion for partial summary judgment as well as Defendant's motion for summary judgment on August 22nd, 2017. On September 21st, 2017, this Court entered an order denying Plaintiff's motion and granting Defendant's motion. On September 27th, 2017, Plaintiff filed a Motion for Reconsideration of Order Pursuant to Rule 59, SCRPC.

STANDARD OF REVIEW

"The power to open, modify or vacate a judgment is possessed solely by the court that rendered judgment." Coleman v. Dunlap, 306 S.C. 491, 494; 413 S.E.2d 15, 17 (1992). A Rule 59(e) motion is the proper "vehicle to request the trial court 'alter or amend the judgment,'" and "to seek 'reconsideration' of issues and arguments." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 21; 361 S.E.2d 772, 778 (2004). The Fourth Circuit has held "that Rule 59(e) motions can be successful in only three situations: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Zinkand v. Brown, 478 F.3d 634, 637 (4th Cir. 2007) (internal citations omitted).

CONCLUSION

Having considered the arguments, supporting and opposing documents, and based on the same, this Court DENIES Defendant's Motion for Reconsideration of the September 21, 2017 Order.

AND IT IS SO ORDERED.

RG
October 11, 2017
Charleston, SC



Honorable Roger M. Young, Sr.
S.C. Circuit Court Judge #2134