



**GAFFNEY LEWIS  
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November 28, 2017

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

**RECEIVED**  
NOV 29 2017  
SC Court of Appeals

**Re: *Lisa Randolph v. Dolgencorp, LLC d/b/a Dollar General Store #76751, a/k/a Dollar General, and Cherokee County, and Blacksburg Police Department, Defendants,***

***Of whom Dolgencorp, LLC d/b/a Dollar General Store #76751, a/k/a Dollar General is the Respondent.***

**Appellate Case No.: 2016-001751**

Dear Ms. Kitchings:

Enclosed please find the Order Granting I Part and Denying In Part Plaintiffs' Motion for Reconsideration. Should you any questions or need additional information, please do not hesitate to contact our office.

Sincerely,

Kelli F. Hall  
Paralegal

Enclosure(s)

Cc: Fletcher N. Smith, Jr., Esq. (w/enc)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

COUNTY OF CHEROKEE

Civil Action No. 2014-CP-11-0052

Lisa Randolph and George Randolph,

**RECEIVED**

Plaintiffs,

NOV 29 2017

vs.

SC Court of Appeals

Dolgencorp, LLC, d/b/a Dollar General Store  
#76751, a/k/a Dollar General,

**ORDER  
GRANTING IN PART AND DENYING  
IN PART PLAINTIFFS' MOTION FOR  
RECONSIDERATION**

Defendant.

This matter was before the Court on February 17, 2017, upon Plaintiff's Motion for Reconsideration pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure (hereinafter "Motion"), filed in response to the Court's granting summary judgment in favor of Defendant Dolgencorp, LLC, d/b/a Dollar General Store #76751, a/k/a, Dollar General (hereinafter "Dollar General"), as memorialized in the Court's Order filed July 25, 2016. Randi Lynn Roberts, Esquire appeared on behalf of Defendant Dollar General. Plaintiff Lisa Randolph appeared *pro se*. For the reasons set forth herein, the Court grants in part, and denies in part, Plaintiffs' Motion.

**FACTS**

On or about December 7, 2013, Mrs. Randolph entered the Dollar General store located at 500 West Cherokee Street in Blacksburg, South Carolina. Following her selection of items in the store, including three boxes of cat litter, Mrs. Randolph proceeded to a cash register and purchased the selected items. However, Plaintiffs allege that during the checkout process, the store charged a higher price for the boxes of cat litter than the price that was advertised on the shelf for the product, thereby unlawfully taking money from Plaintiff Lisa Randolph. Following

a discussion with store employees regarding the pricing of the boxes of cat litter, Mrs. Randolph called law enforcement and asked them to report to the subject store. During Mrs. Randolph's telephone call, the store manager also called law enforcement dispatch to report Mrs. Randolph's irate behavior. Following an on-scene investigation by Blacksburg Police Department during which no evidence of improper conduct was found, the store issued a notice of trespass to Mrs. Randolph. She was then asked to leave the premises.

Plaintiffs filed their Complaint on January 24, 2014.<sup>1</sup> They asserted the following causes of action: (1) larceny; (2) breach of trust with fraudulent intent; (3) official misconduct, abuse of authority, breach of duty (hereinafter collectively referred to as "official misconduct"); (4) conspiracy to commit larceny; (5) violations of civil rights, consumer rights, and due process; (6) violations of the South Carolina Victims' Bill of Rights; (7) abuse of process; (8) libel and slander; and (9) loss of society. Dollar General filed a Motion for Summary Judgment on May 31, 2016, requesting dismissal of all Plaintiffs' causes of action against it. After due consideration of all the evidence and arguments presented by the parties on Dollar General's Motion for Summary Judgment, this Court dismissed Plaintiff's Complaint in its entirety in its Order filed July 25, 2016. Subsequently, Plaintiffs filed the subject Motion for Reconsideration.

### LAW

A Rule 59(e) motion is a vehicle to request the alteration or amendment of judgment as well as a vehicle to seek reconsideration of issues presented at the initial hearing or trial. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004); *see, e.g., Arnold v. State*, 309 S.C. 157, 420 S.E.2d 834 (1992) (finding the "purpose of Rule 59(e), SCRCP, to alter or amend

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<sup>1</sup> Plaintiff also named Cherokee County and Blacksburg Police Department as defendants in their initial Complaint; however, the trial court dismissed Plaintiffs' Complaint against them in its entirety. Thereafter, in *Randolph v. Dolgencorp. LLC et al.*, 2014-000981 (Ct. App. March 30, 2016), the South Carolina Court of Appeals affirmed the trial court's dismissal of all of Plaintiffs' claims against Cherokee County and Blacksburg Police Department.

the judgment is to request the judge to reconsider matters properly encompassed in a decision on the merits”). “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.” *Id.* at 24, 602 S.E.2d at 780 (emphasis in original). “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.” *Id.* (emphasis in original).

### **I. Libel and Slander**

As to Plaintiffs’ cause of action for libel and slander, the Court finds that based upon the evidence appropriately in the record and the parties’ arguments, Dollar General’s Motion for Summary Judgment as to this cause of action is premature as the facts underlying this claim need to be further developed.<sup>2</sup> Thus, the Court grants Plaintiff’s Motion for Reconsideration as to the sole cause of action for libel and slander.

### **II. Plaintiffs’ Remaining Causes of Action**

As to Plaintiffs’ causes of action for (1) larceny; (2) breach of trust with fraudulent intent; (3) official misconduct, abuse of authority, breach of duty (hereinafter collectively referred to as “official misconduct”); (4) conspiracy to commit larceny; (5) violations of civil rights, consumer rights, and due process; (6) violations of the South Carolina Victims’ Bill of Rights; (7) abuse of process; and (8) loss of society, the Court finds that based upon the evidence appropriately in the record and the parties’ arguments, Plaintiffs do not present any evidence, issues, or facts that warrant the Court’s altering, amending, or reconsidering its dismissal of Plaintiffs’ causes of action for these causes of action. Thus, the Court hereby incorporates fully by reference its ruling as set forth in the Order dated November 16, 2016, including all citations therein to the

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<sup>2</sup> As written discovery has not yet been conducted in this matter, the Court’s ruling as to libel and slander as set forth in this Order does not preclude Dollar General from filing a dispositive motion following completion of discovery.

relevant case and statutory law, as it pertains to these remaining causes of action and denies Plaintiff's Motion for Reconsideration as to such claims.

**CONCLUSION**

Based on the foregoing, this case will proceed solely on Plaintiffs' cause of action for libel and slander as all remaining causes of action are dismissed. ACCORDINGLY, it is hereby ORDERED, ADJUDGED and DECREED that Plaintiff's Motion for Reconsideration is GRANTED in part and DENIED in part.

**IT IS SO ORDERED.**

\_\_\_\_\_  
The Honorable J. Mark Hayes, II  
Presiding Circuit Court Judge

\_\_\_\_\_, 2017  
Spartanburg, South Carolina



Cherokee Common Pleas

**Case Caption:** Lisa Randolph VS Dolgencorp, Llc D/B/A , defendant, et al  
**Case Number:** 2014CP1100052  
**Type:** Order/Summary Judgment

IT IS SO ORDERED

s/ J. Mark Hayes, II #2132



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