

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

5 Star Life Insurance Co.,)

2018-CP-23-01639

Plaintiff)

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION,
RELIEF FROM ENTRY OF DEFAULT,
AND RELIEF FROM DEFAULT
JUDGMENT**

vs.)

Peek Performance, Inc.,)

RECEIVED

NOV 28 2018

Defendant.)

SC Court of Appeals

This Court has reviewed the Plaintiff's Motion for Reconsideration this Courts Order of September 12, 2018, For Entry of Default and Default Judgment on the Counterclaim, the memoranda of law submitted by both parties, and *South Carolina Civil Procedure*, Second Edition, James F. Flanagan (Counterclaims and Cross-Claims, p. 105). "Rule 7(a) requires a responsive pleading to a 'counterclaim denominated as such' while Rule 8(c) permits, but does not require, a responsive pleading to an affirmative defense. Thus, the designation, rather than its legal content, determines whether another pleading is required. A party receiving a 'counterclaim' should file a response even if there is ground to believe it is an affirmative defense". Mauro v. Clabaugh, 299 S.C. 184, 383 S.E. 2d (Ct. App. 1989).

After careful consideration of the Defendant's Motion, this Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds

no error of law or facts not appropriately considered. Accordingly, this Court hereby DENIES Plaintiff's Motion pursuant to Rule 59(e) SCRCF to Alter, Amend, or Reconsider the Order For Entry of Default and Default Judgment on the Counterclaim entered on September 12, 2018. Pursuant to Rule 59(f), the Court is of the opinion that oral argument is not necessary.

AND IT IS SO ORDERED.

G. Thomas Cooper, Jr.
Presiding Judge, Thirteenth Judicial Circuit

October 28, 2018



Greenville Common Pleas

Case Caption: 5 Star Life Insurance Company vs. Peek Performance Inc

Case Number: 2018CP2301639

Type: Order/Other

So Ordered

s/ Honorable G. Thomas Cooper, Jr. Circuit
Judge 2126

Electronically signed on 2018-10-28 16:21:41 page 3 of 3