

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RONALD L. JONES and GAYLE LANGLEY JONES, THOMAS HUGUENIN GAILLARD, as Trustee of The Thomas Huguenin Gaillard Revocable Trust, Dated April 3, 2007, and THOMAS W. CONE, JR., as Trustee of The Thomas W. Cone, Jr. Revocable Trust, Dated April 3, 2007,

Plaintiffs,

vs.

ROGERS TOWNSEND & THOMAS, P.C.; LISA HOSTETLER; ALEXANDER C. PEABODY; and, PEABODY & ASSOCIATES, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
Civil Action No. 2018-CP-08-00817

RECEIVED

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SC Court of Appeals

ORDER DENYING DEFENDANT'S
MOTION TO ALTER/AMEND
JUDGMENT

Presiding Judge:	Hon. Deadra L. Jefferson
Plaintiffs' (Trustees) Attorney:	Jay Hulst, Esq.
Plaintiffs' (Jones) Attorney:	Robert Maring, Esq.
Defendants' (RT&T) Attorney:	Warren Powell, Esq.
Defendants' (Hostetler) Attorney:	Warren Powell, Esq.
Defendants' (Peabody) Attorney:	Ryan Earhart, Esq.
Date of Hearing:	May 7, 2019
Court Reporter:	Dayton Grainger

THIS MATTER comes before this Court by way of Defendants, Rogers Townsend & Thomas, PC and Lisa Hostetler's (hereinafter "Defendants") Motion for Reconsideration, Alter or Amend, filed May 20, 2019, asking this Court to alter or amend its Order Granting Plaintiffs Thomas H. Gaillard and Thomas W. Cone's ("Plaintiffs") Motion for Nonjoinder, filed May 9, 2019. Defendants forwarded a copy of their Motion via e-mail and a filed copy was received by this office on May 20, 2019. Plaintiffs served their response in opposition to the Defendants' Motion on May 30, 2019, and filed the same on May 29, 2019. Having considered the Defendants'

Motion, as well as the various interests balanced by the Court at the time of the ruling, the Defendants' Motion to Reconsider, Alter or Amend Judgment is hereby denied.¹

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." Arnold v. State, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "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 also Arnold v. State, 309 S.C. 157, 172-73, 420 S.E.2d 834, 842 (1992).

The Defendants' motion seeks to reargue the issue on the same basis previously presented, presents no novel facts, arguments, or theories in support of the Motion to Reconsider, Alter or Amend the Judgment. The Defendants have not highlighted any portions of the record this Court may have misunderstood, failed to fully consider, or perhaps failed to rule on. However, the Defendants' motion seeks to have the Court make additional findings of fact and conclusions of law wholly unrelated to the interpretation and application of Rule 21, SCRCP. As such the Court declines to make any additional findings of fact unrelated to the motion originally before it. Further, the Court would note as it did in the original Order that nothing in the ruling

¹ This Motion is disposed of without the necessity of a hearing and decided on the record 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).

has a preclusive effect on the Defendants pursuing any of its causes of action or defenses.

Accordingly, the Motion to Reconsider, Alter or Amend is hereby DENIED.

IT IS SO ORDERED.

Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

____ day of _____, 2019
Charleston, South Carolina
At Chambers



Berkeley Common Pleas

Case Caption: Ronald L. Jones VS. Rogers Townsend & Thomas P.C.

Case Number: 2018CP0800817

Type: Order/Amend

IT IS SO ORDERED.

s/D.L. Jefferson, Ninth Judicial Circuit Judge 2128