

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Cary E. Fechter, MD,

Plaintiff,

vs.

Leon Martin Ortner, The Ortner Law Firm,
LLC, Gerald Rosenthal, and Rosenthal, Levy,
Simon, and Ryles,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
Civil Action No. 2017-CP-10-04371

RECEIVED

JUL 24 2019

SC Court of Appeals

ORDER DENYING DEFENDANTS'
MOTION TO RECONSIDER, ALTER, OR
AMEND JUDGMENT

FILED
2019 JUN 28 AM 9:50
JULIE J. ARMBRISTER
CLERK OF COURT

Presiding Judge:
Plaintiff's Attorney:
Defendants' Attorneys:

Hon. Deadra L. Jefferson
Melvin Bannister, Esq.
Justin P. Novak, Esq.
M. Dawes Cooke, Jr., Esq.

Date of Hearing:
Court Reporter:

January 9, 2019
Karen Andersen

THIS MATTER comes before this Court by way of Defendants Leon Martin Ortner and The Ortner Law Firm, LLC's ("Defendants") Motion to Reconsider, Alter, or Amend, filed April 18, 2019, asking this Court to alter or amend its Order Denying Defendants' Motion to Dismiss, filed January 8, 2018. Defendants served their Motion to Reconsider, Alter, or Amend (hereinafter "Motion to Reconsider") on April 18, 2019. The Plaintiff served its response in opposition to the Motion on April 30, 2019.¹ 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 is hereby denied.²

¹ Plaintiff's Counsel forwarded an e-mail to this office acknowledging receipt of the Defendants' Motion and opposing the same relying on his previous filings and memorandum filed with the Court.

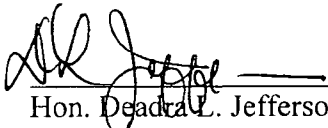
² This Motion is disposed of without the necessity of a hearing and decided on the record and briefs. Rule 59(f), SCRCP; Pollard v. City of Florence, 314 S.C. 397, 401-402, 444 S.E.2d 534, 536 (Ct. App. 1994).

1 of 2
[Signature]

“The purpose of Rule 59(e), SCRC, 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. 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. Accordingly, the Motion to Reconsider is hereby DENIED.

IT IS SO ORDERED.



Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

26th day of June, 2019
Charleston, South Carolina

2 2019
2019