

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Dana Stortz and John Stortz,)
)
 Plaintiffs,)
)
 v.)
)
 The State of South Carolina, City of North)
 Charleston, County of Charleston,)
 Department of Health and Environmental)
 Control, South Carolina Department of)
 Transportation, John Doe (Engineering)
 Firm/Engineer), Coosaw Creek Owners')
 Association, Inc.,)
)
 Defendants.)
)

IN THE COURT OF COMMON PLEAS
 C.A. NO.: 2017-CP-10-4947

**ORDER ON PLAINTIFF'S
 MOTION FOR RECONSIDERATION**

FILED
 2019 OCT -7 PM 3:11
 JULIE J. GIBSON
 CLERK OF COURT

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SC Court of Appeals

This matter is before the Court based on Plaintiffs Motion for Reconsideration pursuant to SCRCP 59(e), and filed on December 17, 2018. Plaintiffs have asked this Court to reconsider its Order Denying Plaintiffs' Motion to Consolidate and Granting Defendants' Motion to Dismiss issued on December 7, 2018.

Plaintiffs filed their initial Complaint in this matter on September 27, 2017. Subsequently, an Amended Complaint was filed on December 18, 2017. This lawsuit arises out of the design and development of the Palmetto Commerce Parkway ("Parkway") in North Charleston, South Carolina. Plaintiffs own real property located within the Coosaw Creek Subdivision, which is adjacent to the Parkway. Plaintiffs assert negligent design, construction and maintenance of the Parkway has resulted in the continual flooding and damage of Plaintiffs' property.

In response to Plaintiffs' Amended Complaint, all responding Defendants filed a Motion to Dismiss, including Charleston County, State of South Carolina, City of North Charleston, Department of Health and Environmental Control, South Carolina Department of Transportation,

and Coosaw Creek Owners Association, Inc. Department of Health and Environmental Control and South Carolina Department of Transportation filed motions to dismiss pursuant to Rule 12(b)(1), (4), and (5). Charleston County, State of South Carolina, City of North Charleston, and Coosaw Creek Owners Association, Inc., filed motions to dismiss pursuant to Rule 12(b)(6).

On or about May 23, 2018, Plaintiffs moved for consolidation, for discovery purposes only, of the instant action with 44 other cases arising out of similarly situated property in the Pepperhill Subdivision. Plaintiffs argued consolidation is appropriate because the defendants in the Pepperhill matters are the same, except for Coosaw Creek Owners Association, Inc., and that the matters arise out of the same construction project and flooding events.

On September 28, 2018, Plaintiffs filed a new lawsuit, *C.A. No. 2018-CP-10-4691*, against the same parties to the instant action, except for Coosaw Creek Owners Association, Inc., with nearly identical allegations and causes of action surrounding the negligent design, construction, and maintenance of the Parkway.

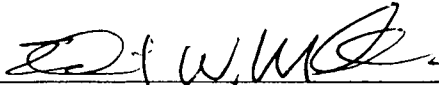
The Motion to Consolidate and Motions to Dismiss were heard by the Court on October 28, 2018, and the Court's rulings were memorialized in a subsequent Order issued on December 7, 2018.

The purpose of Rule 59(e), SCRPC, 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 Rule 59(e) motion is not only the proper vehicle to request a court to alter or amend a judgment, but also to seek reconsideration of issues and arguments previously presented. Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 21 602 S.E.2d 772, 778 (S.C. 2004). An issue may not be raised for the first time in a motion to reconsider. Johnson v. Sonoco Prod. Co., 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009). A party may wish

to file a 59(e) motion when the party 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. Elam, 361 S.C. at 24, 602 S.E.2d at 780.

The Court has thoroughly and exhaustively considered each argument presented in the Plaintiffs' Motion for Reconsideration, supporting material, and based on same deny Plaintiffs Motion for Reconsideration of its Order Denying Plaintiffs Motion for Consolidation and Granting Defendants' Motion to Dismiss.

NOW, THEREFORE, IT IS THEREFORE ORDERED that Plaintiffs' Motion for Reconsideration is DENIED.


The Honorable Edward W. Miller
Presiding Judge

Dated this 2 day of October, 2019