

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Don Stegall,

Plaintiff,

v.

Joshua Clay Hillis, Sr.,

Defendant.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

C.A. No. 2019-CP-04-02598

**DEFENDANT'S SUPPLEMENTAL
RULE 59(e) MOTION TO RECONSIDER**

Defendant Joshua Clay Hillis, Sr. (hereinafter "Defendant"), by and through his attorneys, respectfully moves this Court pursuant to Rule 59(e), SCRPC and other applicable law, to reconsider, alter, or amend the "ORDER ON PLAINTIFF'S MOTION FOR INJUNCTION OR RESTRAINING ORDER" rendered by the Honorable R. Scott Sprouse on February 14, 2020 (hereinafter the "Order"), and in furtherance thereof, Defendant would aver as follows:

1. On January 28, 2020, Judge Sprouse rendered a Form 4 Order to grant Plaintiff's Motion for an Injunction or Restraining Order (hereinafter "Plaintiff's Motion") with no bond required.
2. On February 6, 2020, Defendant filed a Motion to Reconsider said Form 4 Order.¹
3. On February 14, Judge Sprouse filed another Order granting Plaintiff's Motion without bond which enjoined Defendant from disposing or encumbering a substantial amount of assets.²
4. Regardless of the Defendant's continued possession and use of the items, the Order must be amended to require a bond if the Plaintiff's injunction remains in place. See Rule 65(c) ("no restraining order or temporary injunction shall issue except upon the giving of security by

¹ As of filing this Motion, the Defendant's previous Motion to Reconsider, which was filed before the Order at issue in this Motion, may still be pending. The terms and substance of Defendant's prior Motion to Reconsider are incorporated herein by reference and the Defendant respectfully requests a hearing to consider both Motions.

² Paragraph 7 of Plaintiff's Complaint alleges that the items in question are worth over \$339,000. See Compl., ¶7.

the applicant") (emphasis added); see also Atwood Agency v. Black, 374 S.C. 68, 646 S.E.2d 882, 884 (2007) ("The circuit court's order requiring only a nominal security bond does not satisfy Rule 65(c) because it erroneously assumes the injunction is proper instead of providing an amount sufficient to protect appellants in the event the injunction is ultimately deemed improper.")

5. If Plaintiff's Motion is granted, the Order must also be amended to provide a more specific description, "in reasonable detail, and not by reference to the complaint[,]" the various real and personal property items being enjoined. Rule 65(d), SCRPC.

6. For the reasons discussed in Sections 3 and 4 of the Defendant's prior Motion to Reconsider, Defendant avers that the Order should be altered to deny Plaintiff's Motion because the disputed facts in this case are distinguishable from Grosshuesch v. Cramer, 367 S.C. 1, 623 S.E.2d 833 (2005) and the Plaintiff has an "adequate remedy at law." Id. at 834.

7. Additionally, Defendant avers that the Order must be amended to expressly identify, weigh, and balance the "equities of both sides" based on the "particular facts" of this case. County of Richland v. Simpkins, 348 S.C. 664, 671, 560 S.E.2d 902 (S.C. App. 2002) (citation omitted).

For the reasons stated above and in the Defendant's previous Motion to Reconsider which was filed on February 6, 2020, Defendant Joshua C. Hillis, Jr. respectfully moves the Court to reconsider, alter, and amend its Order issued on February 14, 2020 concerning Plaintiff's Motion.

Respectfully Submitted,

BRUMBACK & LANGLEY, LLC

/s/ John H. Scully

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February 18, 2020
 Greenville, South Carolina