STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE MATTER OF:

Estate of Paul Brandon Barringer, II.

Hampton B. Luzak,

Plaintiff,

vs.

Merrill B. Light ET AL.,

Defendants.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-07-1919

ORDER DENYING PLAINTIFF'S MOTION TO RECONSIDER AND AMEND ORDER GRANTING DEFENDANT MERRILL LIGHT SUMMARY JUDGMENT AS TO FEBRUARY 8 [sic], 2012, WILL AND FIRST AMENDMENT TO THE PAUL B. BARRINGER, II, REVOCABLE TRUST, DATED DECEMBER 4, 1998

The Plaintiff Hampton Luzak filed a motion asking this Court to reconsider its Order entered on July 6, 2021. Specifically, Plaintiff asks the Court to reconsider: (1) whether Defendant sought summary judgment on issues previously decided by Judge Mullen (2) whether the Court should have found Defendants were estopped from asserting the validity of the February 28, 2012 wills and trust (3) whether the February 28, 2012 will and trust were valid (4) whether the Court used the correct standard as to the burden of proof for summary judgment and (5) if the Plaintiff alleged sufficient facts to withstand summary judgment.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." U.S. ex rel. Becker v. Washington Savanah River Co., 305 F.3d 284, 290 (4th Cir. 2002) (stating that simple disagreements with the court's ruling will not support Rule 59(e) relief).[1] Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not

[1] Rule 59 is substantially the same as the Federal Rule. *See* Elam v. S.C. Dep't of Transp., 361 S.C. 9, 21, 602 S.E. 2d 772, 779 (2004) ("Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.").

available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Hutchinston v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Importantly, a motion for reconsideration is not a vehicle to re-litigate previously raised issues or "to raise argument or present evidence that could have been presented prior to the entry of judgment." Dash v. Mayweather, C/A No. 3:10-1036-JFA, 2010 U.S. Dist. LEXIS 95277, *2 (D.S.C. Sept. 13, 2010) (quoting Exxon Shipping Co. v. Baker, 554 U.S. 471, n.5 (2008)). In other words, "[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not." Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does "[a] party's mere disagreement with the court's ruling . . . warrant a Rule 59(e) motion." In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig., 269 F.Supp. 3d 685, 691 (D.S.C. 2017); *see also* Lyons v. Fid. Nat'l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

After consideration of the issues raised in Plaintiff's motion, the Court hereby DENIES Plaintiff Hampton Luzak's Motion for Reconsideration.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW

Beaufort Common Pleas

Case Caption: Hampton B Luzak VS Merrill B Light , defendant, et al

Case Number: 2016CP0701919

Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766