

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
2021-CP-12- 00121

Starbella, LLC,

Plaintiff,

vs.

Lillie Rovira and Roberto Rovira,

Defendants.

**MOTION TO RECONSIDER,
ALTER OR AMEND ORDER
GRANTING DISMISSAL**

Plaintiff Starbella, LLC (“Plaintiff”) hereby MOVES under South Carolina Rule of Civil Procedure 59, and other applicable law and court rules, for reconsideration, and to alter or amend the Form 4 Order filed June 18, 2021 granting the Defendants’ Motion to Dismiss (the “Order”), and seeks rulings on the issues raised, on the following grounds:

1. Plaintiff filed a Complaint in this matter asserting valid claims against its landlords, Defendants, for faulty septic and plumbing conditions on the rented premises that could not have been discovered until after the Plaintiff was able to open its business.
2. Defendants filed a Motion to Dismiss that fails to assert a legal basis for dismissal, and fails to state with particularity the grounds therefor. In fact, the Motion merely states that the same parties were involved in a previous lawsuit concerning rent. While correct, the previous lawsuit has no bearing on this subsequent case with completely different facts and legal issues. The septic and plumbing problems were never mentioned in any way in the previous lawsuit, nor could they have been because they could not have been discovered until after the settlement of the first case was

complete. One of the terms of the settlement of the first case was for Plaintiff to obtain a license to operate its business. Until Plaintiff was able to operate its business, it was not aware of the septic and plumbing problems in the rented facility.

3. For the previous case to be a basis for dismissal of the present case, res judicata (and all elements thereof) would have to be proven by Defendants. It was not even argued, nor could the elements have been satisfied. Further, the Defendants did not produce evidence of a release. And indeed they could not have done so because there was no release executed by the parties.

4. The Defendants produced a settlement agreement between the parties relating to the previous rent case, but that document provides no basis for dismissal of the subsequent lawsuit. It is undisputed that all terms of the settlement were fulfilled, and the previous case was dismissed. It is also undisputed that the septic and plumbing problems that were discovered by Plaintiff *after* the terms of the settlement were fully completed were not known or referenced in any manner in the previous lawsuit. Plaintiff filed and submitted at the hearing a memorandum in “Opposition to Motion to Dismiss,” which is incorporated herein by reference. The facts set forth in that Memorandum are not disputed and reveal that no legal basis exists for dismissal of this case.

5. Plaintiff Starbella, LLC requests the Court to withdraw the Form 4 Order granting Motion to Dismiss.

WHEREFORE, Plaintiff respectfully requests the Court to reconsider, alter, amend and withdraw the Order, rule on the issues raised herein and in the motion and memorandum in Opposition, and to deny the motion so that the Plaintiff may have the

process to which it is due under applicable law and constitutions, and for such other and further relief as the Court deems just and appropriate.

RESPECTFULLY SUBMITTED, this the 21st day of June, 2021.

McCOY LAW FIRM, LLC

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