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Nov 17 2021

SC Court of Appeals

ELECTRONICALLY FILED - 2021 Nov 02 9:27 AM - CHARLESTON - COMMON PLEAS - CASE#2019CP1005392

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Kevin Staveley-O'Carroll,

Plaintiff,

v.

Fenix Automotive, LLC,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

C/A NO.: 2019-CP-10-05392

**ORDER DENYING MOTION TO  
ALTER OR AMEND A JUDGEMENT  
PURSUANT TO RULE 59(e)**

The Plaintiff Kevin Staveley-O'Carroll filed a motion asking this Court to reconsider its Order dated October 6, 2021. Specifically, Plaintiff asks this Court to reconsider the following findings within the Order: 1) in awarding damages, the Court based some or all of its calculations on monetary figures supplied by the Defendant in his proposed order of judgment; the Court declined to award punitive damages based on Plaintiff's negligence claim or conversion claim.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." U.S. ex rel. Becker v. Washington Savannah 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).<sup>1</sup> 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 available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Importantly, a motion for reconsideration is not

<sup>1</sup> 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.")

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, Plaintiff’s Motion to Alter or Amend a Judgment is DENIED.

AND IT IS SO ORDERED.

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Charleston Common Pleas

**Case Caption:** Kevin Staveley O'Carroll VS Fenix Automotive Llc

**Case Number:** 2019CP1005392

**Type:** Order/Amend

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134