

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Richard W. and Rebecca A. Drier, et al.,

Plaintiff,

vs.

Americo Roofing, Inc., et al.,

Defendants.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2018-CP-07-00911

**ORDER DENYING DEFENDANT D.R.
HORTON, INC.,’S MOTION TO ALTER
OR AMEND JUDGMENT**

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SC Court of Appeals

The Defendant D.R. Horton Inc. filed a motion asking this Court to alter or amend its November 16, 2021 bench ruling dismissing D.R. Horton Inc.’s cross-claims.

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).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 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 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

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.”).

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 Defendant D.R. Horton, Inc.’s motion, the Court hereby DENIES Defendant D.R. Horton, Inc.’s Motion to Alter or Amend Judgment.

AND IT IS SO ORDERED.

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Beaufort Common Pleas

Case Caption: Richard W Dreier , plaintiff, et al VS Atlas Surveying Inc , defendant,
et al
Case Number: 2018CP0700911
Type: Order/Other

IT IS SO ORDERED!

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

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