

Mar 21 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Reid Fleming,

Plaintiff,

v.

The Planet Vape, LLC; SCECIGARETTE, LLC; LG Chem Ltd; John Doe Distributor #1; John Doe Distributor #2; and John Doe Distributor #3,

Defendants.

IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2021-CP-10-01663

ORDER DENYING MOTION TO RECONSIDER PURSUANT TO RULE

59(e)

The Plaintiff filed a motion asking this Court to reconsider its Order dated February 7, 2022. Specifically, Plaintiff asks this Court to reconsider the order and argues that the written ruling is based on a misunderstanding and / or misrepresentations of fact regarding LG Chem Ltd.’s products and LG’s South Carolina contacts; and it effectively leaves plaintiff with no forum in which to seek recourse against the entity that manufactured the product that harmed him. For the reasons set forth below, the motion to reconsider is DENIED.

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

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.”).

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 the parties’ memorandums, Plaintiff’s Motion to Reconsider is DENIED.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Charleston Common Pleas

Case Caption: Reid Fleming VS Planet Vape Llc The , defendant, et al

Case Number: 2021CP1001663

Type: Order/Other

It is so ordered.

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