

PAMELA HOLLIDAY WALLIN, MARK BENNETT HOLLIDAY, KINGSLEY K. HOLLIDAY, SARA JANE HOLLIDAY, and JOHN C. HOLLIDAY

Petitioners,

vs.

ROSS SAMUEL HOLLIDAY, PERSONAL REPRESENTATIVE OF THE ESTATE OF WARREN PHILLIP HOLLIDAY, ROSS SAMUEL HOLLIDAY, individually, WARREN LEA HOLLIDAY, individually, 2233 HIGHWAY 17 NORTH, LLC, 2237 HIGHWAY 17 NORTH, LLC, 2805 HIGHWAY 17 NORTH, LLC, 1606 MEETING STREET, LLC, BACONS BRIDGE ROAD, LLC, 4687 FRANCHISE STREET, LLC, ZEEZROM PROPERTIES, LLC, JOHN DOE LEASED VEHICLE, 1905 NORTH MAIN STREET, SUMMERVILLE, LLC, 815 FOLLY ROAD, LLC, 832 COLEMAN BLVD., LLC, 2189 DISCHER AVENUE, LLC, NEW SPACE SCIENCE, LLC, PIRATES PLUNDER, LLC, , SAWGRASS TECHNOLOGIES, INC., HOLLIDAY AMUSEMENT COMPANY, INC. and THE REVOCABLE TRUST AGREEMENT BETWEEN WARREN P. HOLLIDAY AS SETTLOR AND AS TRUSTEE

Respondents.

IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO.: 2019-CP-10-2430

**ORDER DENYING PETITIONERS' MOTION PURSUANT TO RULE 59, SCRPC, TO ALTER OR AMEND ORDER GRANTING SUMMARY JUDGMENT**

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**May 05 2022**  
**SC Court of Appeals**

The Petitioners filed a motion asking this Court to reconsider its Order entered on March 3, 2022 (the "Order"), granting summary judgment to Respondents. Specifically, Petitioners asked the Court to reconsider: (1) whether the Court should have found that Petitioners' claims were time barred by S.C. Code Ann. § 62-7-604 and/or the doctrine of laches; (2) whether the Court

misapplied the applicable standard of review; (3) whether the Court erred in finding that Warren Holliday had revoked his revocable trust prior to September 15, 2016; (4) whether the Court failed to find material questions of fact regarding Warren Holliday’s testamentary capacity when he executed a Revocation of Trust on September 15, 2016; (4) whether the Court failed to find material questions of fact regarding Petitioners’ claims of undue influence regarding Warren Holliday’s execution of the Revocation of Trust on September 15, 2016; and (5) whether the Court erroneously found that Petitioners remaining causes of action all depended on Petitioners showing of undue influence and, therefore, granted summary judgment as to those claims.

This matter came for a hearing on April 17, 2022. After reviewing the parties’ submittals and hearing argument from both Petitioners and Respondents, the Court has determined that Petitioners’ motion should be 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 (4<sup>th</sup> Circ. 2002) (stating that simple disagreements with the court’s ruling will not support Rule 59(e) relief).<sup>1</sup> A motion for reconsiderations is not an opportunity 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). “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).

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<sup>1</sup> SCRCP, 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).

After consideration of the issues raised in Petitioners' motion, the Court hereby DENIES Petitioners' Motion Pursuant to Rule 59, SCRPC, to Alter or Amend Order Granting Summary Judgment.

AND IT IS SO ORDERED.

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Charleston Common Pleas

**Case Caption:** Pamela Holliday Wallin , plaintiff, et al VS Ross Samuel Holliday ,  
defendant, et al  
**Case Number:** 2019CP1002430  
**Type:** Order/Other

IT IS SO ORDERED!

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