

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF KERSHAW) THE FIFTH JUDICIAL CIRCUIT

Melissa Branham and Shane Newman,) Civil Action No.: 2023CP2800460
Individually and in their fiduciary)
capacities on behalf of the estate of)
C.N.)

Plaintiff,)

v.)

Zach Cameron, Trent Mathis, Circle)
K, Inc. d/b/a Circle K Stores, Inc.)
#2723242, John Doe Entity 2, John)
Doe Entity 3, John Doe Entity 4 &)
John Doe Entity 5)

DEFENDANT CIRCLE K STORES, INC.'S
MOTION TO RECONSIDER, ALTER, OR
AMEND PURSUANT TO RULE 59(e)

Defendant.)

YOU WILL PLEASE TAKE NOTICE the undersigned, as attorney for Defendant, Circle K Stores, Inc. #2723242 ("Defendant"), will move before the Presiding Judge of the Kershaw County Court of Common Pleas, at the Kershaw County Courthouse, on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, to move this Honorable Court, pursuant to South Carolina Rule of Civil Procedure 59(e), to reconsider its Order entered on June 23, 2025 whereby the Court denied Defendant's Motion for Protective Order seeking to limit Plaintiff's discovery requests, and in particular, those for production of documents and topics for a 30(b)(6) deposition.

A Rule 59(e) motion acts as "a vehicle to seek reconsideration of issues and arguments." *Elam v. The South Dept. of Transp.*, 361 S.C. 9, 602 S.E. 2d 772 (2004). "A motion under Rule 59(e) long has been viewed as motion for reconsideration despite the absence of those words from the rule." With this in mind, a party has traditionally been allowed to ask the Court to reconsider its

decision even if it means rehashing all or part of an argument previously presented. *Id.* (citing *Arnold v. State*, 309 S.C. 157, 420 S.E. 2d 834 (1992)). “There is nothing inherently unfair in allowing the party one final chance not only to call the court’s attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity.” *Id.*

In the matter presented before this Court, there are two reasons to bring this Motion to Reconsider. First, the Court indicates within its Order (attached hereto as Exhibit 1) that the discovery requests are “relevant” to both the document production and 30(B)(6) topics. However, the Court has not provided further indication as to exactly how such requests are relevant. The Order only indicates that alcohol was involved even though alcohol was not a factor in the incident giving rise to this litigation. Without additional indication or clarity concerning relevance, this creates an unduly burdensome situation for Defendant and brings us to the second issue.

Second, the discovery sought is not completely limited to the store at issue. Both document production and deposition topics as indicated under the current Order of this Court will require research and analysis of up to 5,930 different store locations of Defendant. This is certainly not only unduly burdensome on its face but also will, of course, bring us back to the first issue of relevance noted above. As the Court can see, these two issues are intertwined and creates a situation requiring further Court support and direction in at least providing some degree of clarification or limitation.

Pursuant to Rule 11 of the South Carolina Rules of Civil Procedure, this office has communicated with opposing counsel since publication of the Order in an attempt to narrow some of these requests. However, Court intervention is still required in order for Defendant to be able to comply since Plaintiff’s expectations remain unduly burdensome as they relate for upwards of 5,930

different store locations of Defendant (*which are not individually identified as parties to this litigation*).

For these reasons, the Defendant respectfully requests that the Court reconsider its decision of June 23, 2025 and either approve Defendant's Motion or provide clarity to assist Defendant in proper and relevant discovery production.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

s/ Brian L. Craven

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June 27, 2025