

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

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|--|---|---------------------------------------|
| VAN P. FINGER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 10-00192-KD-B |
| |) | |
| STATE FARM FIRE AND CASUALTY INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |

ORDER

This matter is before the Court on Defendant State Farm Fire and Casualty Insurance Company’s Motion to Alter, Amend or Vacate Judgment (Doc. 55) and Plaintiff Van P. Finger’s Response in opposition (Doc. 60). State Farm’s motion is brought pursuant to Federal Rule of Civil Procedure 59(e) and has been timely filed. State Farm requests that the Court vacate its order (Doc. 53) granting Finger’s motion for partial summary judgment and denying State Farm’s motion for summary judgment and that it consider certifying all claims to the Alabama Supreme Court.

The decision to grant or deny a motion to alter, amend or vacate is left to the discretion of the trial court. See, e.g., Shuford v. Fid. Nat’l Prop. & Cas. Ins. Co., 508 F.3d 1337, 1341 (11th Cir. 2007). “The only grounds for granting a Rule 59 motion are newly-discovered evidence or manifest errors of law or fact. A Rule 59(e) motion cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment.” Arthur v. King, 500 F.3d 1335, 1343 (11th Cir. 2007) (internal citations and quotations omitted).

State Farm has not provided grounds for granting its Rule 59 motion. It has not identified any controlling authority which indicates the Court committed manifest error of law in reaching

its decision on summary judgment. It has also not identified any manifest errors of fact, nor has it presented any newly-discovered evidence. The legal arguments and evidence it does present in support of its motion have already been raised and considered by the Court, or could have been raised prior to entry of the Court's order on summary judgment. Because State Farm has provided no reason to alter, amend or vacate the Court's order on summary judgment, the Court need not consider State Farm's suggestion to certify any question of law to the Alabama Supreme Court.

For these reasons, it is **ORDERED** that State Farm's Motion to Alter, Amend or Vacate Judgment (Doc. 55) is **DENIED**.

DONE and **ORDERED** this the **28th** day of **June, 2011**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE