

Form 13
BRIEF OF APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM COUNTY OF COLLETON
COURT OF COMMON PLEAS

Honorable Marvin H. Dukes III, 14th Judicial Circuit



COURT OF APPEALS CASE # 2026-000840

REGINALD P. JOHNSTON AND SHONDA D. JOHNSTON, Appellant,

vs.

THE CITY OF WALTERBORO, Respondent.

RECEIVED

AUG 07 2026

SC Court of Appeals

CORRECTED - INITIAL BRIEF OF APPELLANT

Reginald P. Johnston
Shonda D. Johnston
832 Hunter Hill Road
Camden, SC 29020-1637
(732) 673-7700
(609) 805-7949

TABLE OF CONTENTS

Table of Authorities.....	ii
Statement of Issues.....	1
Statement of Case.....	1
Standard of Review.....	2
Arguments.....	2, 3, & 4
1. Because the error was prejudicial, it negatively impacted the outcome of the case. The circuit judge granted summary judgment based on a legally flawed premise.	
2. Because the city attorney committed a misrepresentation of fact/law by applying the State of South Carolina "Developer" definition to an infill residential site. The undisputed facts directly contradict the definition the city attorney presented.	
3. Because the summary judgment should be set aside on the grounds the city attorney intentionally misled the court regarding Walterboro's statutory definitions to secure the ruling. Under Rule 60(b)(3) SCRPC allows a court to relieve a party for "...fraud, misrepresentation, or other misconduct of an adverse party...".	
Conclusion.....	5

TABLE OF AUTHORITIES

CASES

S.C. In The Supreme Court, In the Matter of Mark R. Calhoun, Respondent. Opinion No. 25384 Submitted October 30, 2001 - Filed December 3, 2001

S.C. In The Supreme Court, STATE v. BRANDT (2011), The STATE, Respondent, v. Donald M. BRANDT, Appellant. No. 27014. Decided: July 25, 2011

V.A. State Bar, ex rel. Second District Committee, Appellee, Judith Mara Cofield, Appellant, against Record No. 181603 Circuit Court No. CL18-2692

STATUTES

S.C. Code Section 6-29-1510 through 6-29-1560 (eff. July 1, 2005)

S.C. Code Section 6-31-10(b)(2), (3) (history 1993)

S.C. Code Section 6-31-20(2), (3), (4) (history 1993)

S.C. Code Section 6-31-60(b) (history 1993)

S.C. Code Section 44-55-820 (1975)

Walterboro Unified Development Ordinance 11.2.2 Application Procedures & Approval Process

Walterboro Code of Ordinances Section 34-185 (2003)

Walterboro Code of Ordinances Section 34-187(b) (2003)

Walterboro Code of Ordinances Section 34-188(a) (2003)

OTHER AUTHORITIES

United States Constitution Fourteenth Amendment Section 1

South Carolina Constitution Article 1 Section 3 (US 14th Section 1) and 13

South Carolina Rules of Civil Procedure 60(b)(3)

South Carolina Code of Laws Section 6-11-435 (2003)

TABLE OF AUTHORITIES

CASES

S.C. In The Supreme Court, In the Matter of Mark R. Calhoun, Respondent. Opinion No. 25384
Submitted October 30, 2001 - Filed December 3, 2001

S.C. In The Supreme Court, STATE v. BRANDT (2011), The STATE, Respondent, v. Donald M.
BRANDT, Appellant. No. 27014. Decided: July 25, 2011

V.A. State Bar, ex rel. Second District Committee, Appellee, Judith Mara Cofield, Appellant,
against Record No. 181603 Circuit Court No. CL18-2692

STATUTES

S.C. Code Section 6-29-1510 through 6-29-1560 (eff. July 1, 2005)

S.C. Code Section 6-31-10(b)(2), (3) (history 1993)

S.C. Code Section 6-31-20(2), (3), (4) (history 1993)

S.C. Code Section 6-31-60(b) (history 1993)

S.C. Code Section 44-55-820 (1975)

Walterboro Unified Development Ordinance 11.2.2 Application Procedures & Approval Process

Walterboro Code of Ordinances Section 34-185 (2003)

Walterboro Code of Ordinances Section 34-187(b) (2003)

Walterboro Code of Ordinances Section 34-188(a) (2003)

OTHER AUTHORITIES

United States Constitution Fourteenth Amendment Section 1

South Carolina Constitution Article 1 Section 3 (US 14th Section 1) and 13

South Carolina Rules of Civil Procedure 60(b)(3)

South Carolina Code of Laws Section 6-11-435 (2003)

Plaintiff respectfully submits this Motion for appeal pursuant to Rule 208 and 209, SCRCP. In support of this Memorandum, Appellants shows the Court as follows:

STATEMENT OF ISSUES ON APPEAL

1. Did the Court of Common Pleas err in admitting into evidence the statement of the Respondent, which was not authenticated as required by Rule 405, SCACR?
2. Did the Court of Common Pleas misinterpret the statute at issue, thereby depriving the Appellant of a fair summary judgment?
3. Did the Court of Common Pleas improperly grant summary judgement without addressing the Appellant's counterclaim?

STATEMENT OF THE CASE

Appellants brought this action to court on September 29, 2022, regarding water and sewer service connection for a personal residence in the Oak Lawn Subdivision. Oak Lawn Subdivision went through the developer process decades ago and the final phase completed in 1946 (Block G Lot 41 is a prior homesite that previously had service). Appellants received a building permit duplex zoned MDR which indicates a single home and duplex are treated the same, paid all of the fees (water service deposit and tap fees-water/sewer) required under the code of law in 2022.

The City of Walterboro employees made verbal arbitrary demands for additional money to cover the cost of two (2) service connections and associated materials. However, service connections are the responsibility of the service provider not the homeowner. The City of Walterboro employees also refrained from providing a genuine bill with justification for their demand for funds which is outside of the City of Walterboro's fee schedule.

However, the ruling by the Circuit Court Judge on March 9, 2026, was made based on a "Developer" of a subdivision needing a water main line extension which was misrepresented to the Court by the Respondent's attorney. Our bank will not provide funding from our home construction loan to fund a City of Walterboro obligation and responsibility, I believe this action would be misappropriation of funds.

STANDARD OF REVIEW

The applicable standard is *de novo*. "De novo" review requires the appellate court to examine the legal question from the beginning, without deference to the Court of Common Pleas interpretation. The court independently determines the correct rule of law and its application to the facts, ensuring that legal errors are corrected regardless of the Court of Common Pleas conclusions.

ARGUMENT

1. Declaratory Judgment

By labeling Appellant a "Developer" without providing a written engineering requirement or citing an ordinance, the city attorney shift the standard, from routine water service deposits and tap fees (water/sewer) into a major capital improvement demand that is not required for Appellant's home and is only beneficial to the City of Walterboro to service other homeowners.

The language of the S.C. Code of Laws Section 6-31-10 and Section 6-31-20 provides a much clearer understanding of "Development" and "Developer." A "Developer" is synonymous with the "Development" of a subdivision. Developers must be licensed by the State of South Carolina Labor Licensing Regulation (LLR) see, **Exhibit 1**. Locally, the City of Walterboro must issue a Business License and a "Development Permit" must also be issued. The Unified Development Ordinance 11.2.2 (2019) - Application Procedures & Approval Process must be followed - see, **Exhibit 2**. Appellants do not hold any such license, permit, and was not required to follow the Application Procedures & Approval Process. Please also be advised Appellants do not have the skill set to act as a Developer. The Appellants are not Developers and also be advised that no main line extension is needed because the water main line is already in place - see, item 3. This case is related to service connection Code of Ordinance Section 34-185 and Section 34-187 see, **Exhibit 3**. Developers are issued commercial loans (business) while the Appellants were issued a residential loan (owner occupied).

2. Breach of Contract

As per the City of Walterboro's Code of Ordinance Section 34-188(a) Appellants entered into a contract for water and sewer for a new construction personal residence in an already existing subdivision (Block G Lot 41) see, **Exhibit 4** with supporting pages. Under the South Carolina Vested Rights Act, starting at Section 6-29-1510, see, **Exhibit 9** - the issuance of a building permit firmly locks in the regulations, codes, and fee schedule in place at the time of issuance (2022). Since 2022, after the issuance of the building permit (01/14/2022), the City of Walterboro official's have made verbal arbitrary demands for additional money outside of the fee schedule, retroactively applied newly approved fees (2025), the Utility Director unilaterally overstepped his authority by making policy to deny service connections while Appellants have met all requirements, and has held Appellants home hostage since 2022 by not completing the process that will allow a Certificate of Occupancy to be issued.

3. Gross Negligence

Refer again to the South Carolina Vested Rights Act violation in section 2 Breach of Contract. The infrastructure (water main line) is already in place and within 250 feet from Block G Lot 41 (prior homesite with service) Section 34-185 and Section 34-187. Appellants received a building permit duplex zoned MDR which indicates a single home and duplex are treated the same- see, **Exhibits 3, 5, 6, 7, and 8**. It is our understanding the City of Walterboro allocates funds each year to maintain the infrastructure that is owned by the City of Walterboro. That being said and the fact Block G Lot 41 is a prior homesite, the City of Walterboro needs to reconnect a meter to the maintained infrastructure and simply add a second meter. Appellants have made numerous good-faith attempts to rectify this matter and the City of Walterboro has refrained from acting accordingly.

4. Inverse Condemnation

Cornell Law School

"...Inverse condemnation is a remedy for property owners when a government takes or damages a property for public use without having brought an eminent domain proceeding. To successfully bring an action for inverse condemnation, the property owner must show that the a government's taking has failed to promote substantial governmental interests or has deprived the owner of the economic value of their property. A government that takes private property for public use may be required to provide just compensation even when there is **no physical invasion of property, such as in regulatory taking where a government permanently deprives the property owner of all beneficial uses of their property.** Fair market value of the property is generally used to assess damages for inverse condemnation actions..."

CONCLUSION

Appellant respectfully requests that this Court reconsider granting Order/Summary Judgment in favor of Respondent, March 9, 2026. This appeal motion is filed to request relief from final judgment under Rule 60(b)(3) SCRPC for misrepresentation because the city attorney intentionally misled the Court to secure the ruling.

We alledge, City of Walterboro officials corroborated to circumvent the law and hold our home hostage since 2022. We also alledge the behavior of the Walterboro officials goes beyond being just a civil matter. The ongoing decisions being made by the City of Walterboro have ripple effects that extend far beyond its municipal boundaries - depriving Appellants the right to honest services:

- Appellants home - deprive use, expired warranties, degradation repairs, carrying costs.
- Appellants rights denied to equal protection under the law
- Appellants rights to property under "Due Process of Law"
- Appellants rights to Compellable Services under "Due Process of Law"
- Construction loan (residential) - Out of Compliance - loan should have closed early 2022
- Insurance Policy - Out of Compliance - home should have been occupied since early 2022
- The builder - business disruption (income)
- Lost property tax revenue that helps fund Local, County, and State programs

(Property tax is the foundation of funding for South Carolina public schools)

For the reasons stated, we respectfully request this Court to reverse the judgment of the Court of Common Pleas.



Reginald P. Johnston

Peden Brown McLeod, Jr., Esquire
McLeod, Fraser & Cone, LLC
Post Office Drawer 230
Walterboro, SC 29488-0003
(843) 549-2516
Attorneys for Respondent



Shonda D. Johnston

Respectfully submitted
Reginald P. Johnston
Shonda D. Johnston
832 Hunter Hill Road
Camden, SC 29020-1637
(732) 673-7700
(609) 805-7949

FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Marvin H. Dukes III, Circuit Court Judge

Appellate Case No. 2026-000840

Reginald P. Johnston and Shonda D. Johnston, Appellant,

v.

City of Walterboro,

Respondent.

PROOF OF SERVICE

I certify that I have served the Motion to Correct Initial Brief of Appellant and Corrected Initial Brief on the City of Walterboro by depositing a copy of it in the United States Mail, postage prepaid, on August 7, 2026, addressed to his attorney of record, Peden Brown McLeod, Jr., Post Office Box 230, Walterboro, South Carolina 29488-0003.

9589 0710 5270 2257 9394 75

August 7, 2026


Reginald P. Johnston and Shonda D. Johnston
832 Hunter Hill Road
Camden, South Carolina 29020-1637
(732) 673-7700
Appellant



RECEIVED

AUG 07 2026

SC Court of Appeals