

81816

**STATE OF SOUTH CAROLINA**  
In the Court of Appeals

---

**APPEAL FROM RICHLAND COUNTY**  
Court of Common Pleas for the Third Judicial Circuit  
G. Thomas Cooper, Circuit Court Judge

---

Docket No. 2011-CP-40-6705

---

**FRANK J. CUMBERLAND, JR.,**  
**JENNIFER B. GARDNER**  
**AND MICHAEL A. LETTS,**

Appellants,

vs.

**CITY OF COLUMBIA,**

Respondent.

**RECEIVED**  
DEC 05 2016  
SC Court of Appeals

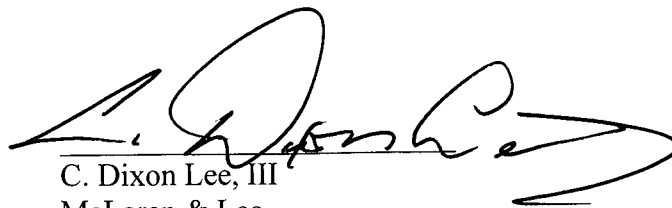
---

**NOTICE OF APPEAL**

---

Frank J. Cumberland, Jr., Jennifer B. Gardner and Michael A. Letts appeal (1) the Order Granting Defendant's Motion to Alter or Amend and Granting Defendant's Motion to Strike issued by the Honorable G. Thomas Cooper, Jr. dated October 17, 2016 and filed October 17, 2016; and, (2) the Order Denying Plaintiff's Motion to Reconsider issued by the Honorable J. Honorable G. Thomas Cooper, Jr. dated November 2, 2016 and filed November 3, 2016. Appellants received written notice of entry of the November 2, 2016 Order Denying Plaintiffs' Motion for Reconsideration on November 3, 2016.

Dated December 5, 2016 at Columbia, South Carolina.



C. Dixon Lee, III  
McLaren & Lee  
1508 Laurel Street  
Post Office Box 11809  
Columbia, SC 29211-1809  
(803) 799-3074 (voice)  
(803) 252-3548 (facsimile)  
[dlee@mclarenandlee.com](mailto:dlee@mclarenandlee.com)

Gene M. Connell, Jr.  
The Courtyard, Suite 209  
1500 U. S. Highway 17 North  
Post Office Drawer 14547  
Surfside Beach, South Carolina 29587-4547  
(843) 238-5648 (voice)  
(843) 238-5050 (facsimile)  
[gconnell@classactlaw.net](mailto:gconnell@classactlaw.net)

Attorneys for Appellants

Other Counsel of Record:

M. McMullen Taylor, Esquire  
Mullen Taylor LLC  
Post Office Box 8567  
Columbia, South Carolina 29202  
(803) 254-1344  
[Mullen.Taylor@mgclaw.com](mailto:Mullen.Taylor@mgclaw.com)

Peter M. Balthazor, Esquire  
Riley Pope & Laney, LLC  
Post Office Box 11412  
Columbia, SC 29211  
(803) 799-9993  
[peteb@rplfirm.com](mailto:peteb@rplfirm.com)

Attorneys for Respondent

STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas for the Third Judicial Circuit  
G. Thomas Cooper, Circuit Court Judge

RECEIVED  
DEC 05 2016  
SC Court of Appeals

Docket No. 2011-CP-40-6705

FRANK J. CUMBERLAND, JR., JENNIFER B. GARDNER  
AND MICHAEL R. UGINO,

Appellants,

vs.

CITY OF COLUMBIA,

Respondent.

PROOF OF SERVICE

The undersigned hereby certifies that on the 5<sup>th</sup> day of December 2016  
he/she did serve one (1) copy of the Appellants Frank J. Cumberland, Jr., Jennifer  
B. Gardner and Michael R. Ugino's Notice of Appeal on opposing counsel by  
depositing the same in the United States Mail, sufficient first class postage  
prepaid addressed as follows:

M. MCMULLEN TAYLOR ESQUIRE  
MULLEN TAYLOR LLC  
POST OFFICE BOX 8567  
COLUMBIA, SOUTH CAROLINA 29202

PETER M. BALTHAZOR ESQUIRE  
RILEY POPE & LANEY, LLC  
POST OFFICE BOX 11412  
COLUMBIA, SC 29211

Dated this 5<sup>th</sup> day of January 2016 at Columbia, South Carolina.



**McLAREN & LEE**  
ATTORNEYS AND COUNSELORS AT LAW  
POST OFFICE BOX 11809 (29211)  
1508 LAUREL STREET  
COLUMBIA, SOUTH CAROLINA 29201

James T. McLaren\*+  
C. Dixon Lee, III\*~

Phone (803) 799-3074  
Fax (803) 252-3548  
www.mclarenandlee.com

jmclaren@mclarenandlee.com  
dlee@mclarenandlee.com

~ALSO ADMITTED IN NC

December 5, 2016

**VIA HAND DELIVERY**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RECEIVED**

DEC 05 2016

SC Court of Appeals

Re: *Joseph S. Azar, et. al. v. City of Columbia*  
Docket No. 2011-CP-40-6705

Dear Mr. Kitchings:

Enclosed, I am having hand delivered to you for filing the following:

1. Original Notice of Appeal on behalf of Appellants Frank J. Cumberland, Jr., Jennifer B. Gardner and Michael A. Letts.
2. Copies of the following Orders which are being appealed:
  - a. the Order Granting Defendant's Motion to Alter or Amend and Granting Defendant's Motion to Strike issued by the Honorable G. Thomas Cooper, Jr. dated October 17, 2016 and filed October 17, 2016;
  - b. the Order Denying Plaintiff's Motion to Reconsider issued by the Honorable J. Honorable G. Thomas Cooper, Jr. dated November 2, 2016 and filed November 3, 2016;
3. Original Proof of Service evidencing service of one (1) copy of the enclosed Notice of Appeal on both opposing counsel.
4. A check payable to "South Carolina Court of Appeals" in the amount of \$100.00, which is tendered as the filing fee for this appeal.

There were no court hearings for either Order being appealed, so there are no trial transcripts to be ordered or requested.



I am also mailing a copy of this letter and a copy of the enclosed Notice of Appeal to the Richland County Clerk of Court for filing in compliance with Rule 203(d)(1), *SCACR*.

Should you have any questions regarding this matter, please feel free to contact me.

Yours very truly,



C. Dixon Lee, III

CDL,III/mms

enclosures as stated

cc: Clerk of Court, Richland County, South Carolina via U.S. mail  
M. McMullen Taylor, Esquire via U.S. mail and e-mail  
Peter M. Balthazor, Esquire via U.S. mail and e-mail  
Gene McCain Connell Jr., Esquire via U.S. mail and e-mail

**McLAREN & LEE**

ATTORNEYS AT LAW  
1508 LAUREL STREET  
POST OFFICE BOX 11809  
COLUMBIA, SOUTH CAROLINA 29211-1809

**RECEIVED**

DEC 05 2016

**SC Court of Appeals**

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211