

State of South Carolina	)	
	)	In the Court of Common Pleas
County of Aiken	)	
John Drew Johnson,	)	
	)	CA No. 2022CP0201085
Appellant,	)	
	)	NOTICE OF MOTION AND
vs.	)	MOTION TO DISMISS
	)	
Gary Smith Aiken Attorney, Aiken	)	
City Council, Mayor Rick Osbon,	)	
City Manager Stuart Bedenbaugh,	)	
	)	
Respondents.	)	
_____	)	

PLEASE TAKE NOTICE THAT Gary Smith, Aiken City Council, Rick Osbon and Stuart Bedenbaugh, through the undersigned counsel, will move before the Court, at such time and place as is hereinafter directed, notice of which will be given to you, for an Order of this Court dismissing with prejudice the above-referenced matter, and upon the following grounds:

LACK OF SUBJECT MATTER JURISDICTION

1. This matter is not a civil action commenced in accordance with the provisions of Rule 3, SCRCF, and served upon the named Respondents in accordance with Rule 4, SCRCF.
2. Instead, Mr. Johnson seeks to “appeal” the enactment of City of Aiken Ordinance No. 05092022B, which was duly considered and lawfully voted upon and passed by the members of Aiken City Council on May 9, 2022.
3. Mr. Johnson was present at the public meeting of the Aiken City Council on May 9, 2022 and expressed his opposition to the enactment of the Ordinance by the members of such Council.

4. The enactment of the Ordinance by Aiken City Council does not constitute a final judgment of a Court, and from which an appeal may be undertaken pursuant South Carolina law. See S.C. Code Ann. §18-7-10, et seq. (1976); see also S.C. Const. Art. V, § 11.

5. For this reason this Court, respectfully, does not have subject matter jurisdiction in this case and it should be dismissed with prejudice.

RECOVERY OF ATTORNEY'S FEES, COSTS AND EXPENSES

6. The Appellant's filing herein is without merit.

7. In the event that this Court grants the relief set forth in this Motion, those named as defending parties herein respectfully reserve the right to later petition this Court for recovery of those attorney's fees, costs and expenses they have incurred as part of this matter, and pursuant to S.C. Code Ann. §15-36-10, et seq. (1976).

Respectfully Submitted,

NANCE & MCCANTS

s/ Clarke W. McCants, III
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Aiken City Council, Rick Osbon
and Stuart Bedenbaugh

Dated: May 31, 2022