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S.C. SUPREME COURT

**FORM 6
NOTICE OF APPEAL FROM
ADMINISTRATIVE TRIBUNAL**

THE STATE OF SOUTH CAROLINA

In the Supreme Court

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JUN 28 2023

SC Court of Appeals

**APPEAL FROM THE RICHLAND COUNTY
Court of Appeals**

**JUDGE PAULA H. THOMAS, JUDGE STEPHANIE P. MCDONALD,
AND JUDGE BLAKE A. HEWITT**

APPELLATE CASE No. 2023-000512

**ALICIA MONIQUE SMITH, Claimant
Alicia Monique Ruffin**

**Appellant,
Equitable Beneficiary,**

v.

**SCWCC
Builders First Source, Inc. Employer, and
Liberty Mutual Insurance Corp., Carrier**

Respondent,

WRIT OF CERTIORAI

**Alicia Ruffin appeals the Order of Dismissal of the Honorable Paula H. Thomas,
Honorable Stephanie P. McDonald, and Honorable Blake A. Hewitt filed on June 15, 2023.
Appellant received an email notice of entry of the order on June 15, 2023.**

June 28, 2023,

**s/ALICIA MONIQUE SMITH,
Alicia Monique Ruffin, jus personarum
Equal Beneficiary
563 Duncan Station Drive
Greenville, South Carolina 29334
(864) 814-8350
Representative for Appellant**

TABLE OF AUTHORITIES

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APPELLANT'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT TO APPELLANT'S RIGHT'S TO SUBROGATION

I. INTRODUCTION

Appellant, the United States of America ("Appellant" or the "United States, respectfully I require the Court to recognize I am here in special appearance as the Beneficial Equitable title Holder" on this matter involving the Name Trust in this. I also require this Court to take notice my Bill of Complaint in Equity and notice that I appear only in the Capacity of one who is at the Age of Majority. As such. I therefore direct you to fulfill your fiduciary duty to settle all accounts as trustee Per the BILL OF COMPLAINT IN EQUITY I SUBMIT AND RECONGIZE MY RIGHT OF SUBROGATION ON THIS MATTER. Appellant wish to state claim that Court of Appeal err in not stating that Workers Compensation did not have Jurisdiction in this proceeding nor did the Respondent's Opposing Counsel. On the mention of these facts, with the supporting Authorities of facts Makes all alleged hearings, statement and facts of the Respondent's void.

ARGUMENTS

ISSUES RAISED BY WRIT OF CERTIORARI

I. DID THE SC COURT OF APPEALS ERR TO RULE APPELLANT FAILING TO PROVIDE PROOF OF TIMELY SERVICE? Under Rule 6(i) *Amendment*. *At any time in its discretion and upon terms it deems just, the court may, by written order, allow any process or proof of service to be amended, unless it clearly appears that material prejudice would result to be substantial rights of the party against whom the process issued.* The Respondent did not file Motion for Failure to Provide Proof of Service. The Court of Appeal filed Dismissal for failure to provide proof of service. The Appellant has just come to recognize that Appellant did serve the same individuals under the 2022-001394. The Appellant wishes to provide an OFFER OF PROOF.. The attorneys are representing the same case matter the Court of Appeals issued 2 Case numbers to the same case matter. The Appellant wishes to combine both case numbers. Motion filed to REVERSE on June 20, 2023. (Pending)

II. BY FAILING TO IDENTIFY ERRORS ON THE PART OF THE SC WORKERS COMPENSATION COMMISSION, DID THE COURT OF APPEALS VIOLATE THEIR FIDUCIARY TRUST?

The Appellant wishes to provide the Supreme Court with an OFFER OF PROOF to show Principle of Law or Material facts that the Court of Appeals missed while reviewing the RESPONDENTS/SOUTH CAROLINA WORKERS COMMISSION failed to establish proof of Jurisdiction, *"The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings."* Hagans v. Lavine 415 U.S. S 533*

*"Jurisdiction of court may be challenged at any stage of the proceeding, and also may be challenged after...execution of judgement by way of writ of habeas corpus. *U.S.S. v Anderson ,328 U.S. 699(1946) The Appellant wish to demurer to Court of Appeals decisions, since the court had "no jurisdiction of the defendant or the subject of the action."*

"An officer may be held liable in damages to any person injured in consequences of breach of any of he or her duties connected with his office...The liability for nonfeasance, misfeasance, and for malfeasance in office is in his individual, not his office capacity," 70Am. Jru.2nd Sec. 50 VII Civil Liability" The Appellant wish to show an Offer of Proof; of the repeated examples that Respondents along with South Carolina Workers' Comp. Commissioners with the exception of Commissioner Cynthia Dooley has participated by way of decisions or testimony of given false or misleading statements to either SSA or the Court of Appeal to obstruct the Appellant from receiving benefits desperately need to care for Appellant 5 Occupational Diseases at Builders First Source and Liberty Mutual Doctors cased. According to Atty. Amanda Neely's Amended, (Appellant wish to OFFER OF PROOF) (MOTION TO CERTIFY FORM 19) She admits to filing a Form 21, on February 19, 2020 to Request for Hearing to stop payment of temporary disability benefits and more..... Atty. Neely stated that she was given instructions on October 15, 2020, from Commissioner T. Scott Beck and in alleging that Commissioner Beck instructed the Undersigned to draft the Decision and Order. Thus, giving Merit to Appellant argument that Commissioner T. Scoot Beck violated SC Section 8-3-10 *"Oath and commission prerequisite to assumption of duties. served as Attorney for Liberty Mutual while he also presided over the hearing."* A Commissioner cannot serve as a Witness, Attorney, and/or Commissioner.

"Knowing failure to disclose material information necessary to prevail statement from being misleading, or making representation despite knowledge that it is no reasonable basis, is in fact are actionable as fraud under law, Rubinstein v. Collins, 20F. 3d 160 (5th Cir. 1994)*

The Commission continued to report to SSA that the Appellant was receiving benefits has the after the December 10, 2020, Order by Commissioner T. Scott Beck; the Appellant attempted file appeal in December, but the SCWCC dismissed the claim for Failure of Timely Services.

On January 13, 2021; the Appellant filed for Motion for Reinstatement; Atty. Mary Kate-Littlejohn responded and submitted emails that were altered tampered. And this was accepted by the South Carolina Workers Compensation Commission. According to Atty. Neely's testimony, she did not know what was filed or when it was filed. She said, *"At some time after the Decision and Order was entered, Claimant filed some sort of attempt at an appeal. The Claimant's Form 30 Request for Commission Review was dismissed by the Commission on January 6, 2021, as the Claimant failed to comply with the requirements of S.C. Code 42-17-50, and S. C. Regulation 67-701. See Commissions' file.* The Appellant never filed a Form 30 Commission Review on January 6, 2021, nor did Atty. Neely ever report to any Branch of Court concerning this case; that she would be away on Maternity Leave. When the Appellant filed a Motion to Reinstate and the Motion was denied without a statement of Material facts or Principle of law; Executive Director, Gary Cannon confirmed it via email statement. Atty. Neely's MOTION TO CERTIFY FORM 19 (Please read page 2. Since the Appellant is representing her own interest, the Appellant should have a copy of what is in the Commission's file. But she does not have a copy.

The Court of Appeals err by allowing the testimony of Attorney South Lewis II on record. "An attorney for the (Plaintiff or Defendant) cannot admit evidence to the court. He is either an attorney or a witness.) *Trainey v. Pagliaro, D.C Pa 1964, 299 F. Supp.647)

*"The prosecutor is not a witness, and he should not be permitted to add to the record either by subtle or gross improprieties. Those who have experienced the full thrust of the power government when level against them know that the only protection the citizens has is in the requirement for a fair trial." *Donnelly v. Dechristoforo, 1974. S CT416 U.S. 617*

III. WAS THE RESPONDENT'S REQUEST AND SC WORKERS' COMPENSTION DECISION OF RES JUDICATA VALID?

The doctrine res adjudicata in the strict sense of that time-honored Latin phrase had its origin in the principle that it is in the public interest that there should be an end of litigation and that no one should be twice sued for the same cause of action. First Natl Bank v. United States Fid. & Guar. Co., 207 S.C. 15, 24, 35 S.E.2d 47, 56 (1945). Under this doctrine, a final judgement on the merits in a prior action will conclude the parties and their privies in a second action based on the same claim as to the issues litigated and as to issues that might have been litigated in the first action.

On May 27, 2022, in front of Commissioner Gene McGaskill was the first time the Appellant met Respondent's Atty. South Lewis II and his position attempting to barred testimony of the Appellant's Injuries; he was allowed to use Res Judicata. The hearing was conducted; *"No testimony was taken on record."* Violates SC Code Regs § 67-611; *The Form 58 or (prehearing) shall remain in the Commission's File but does not constitute evidence or become part of the record of the hearing."* Commissioner Gene McGaskill rendered decision

on August 3, 2022, the Appellant could not Appeal because, "No testimony was taken." Violating SC Code Reg §67-611 a judged can be rendered, if no testimony is taken. The Appellant request litigate her injuries barred for the 1st time "Res Judicata" Atty. South Lewis used Res Judicata... So Appellant file a Form 50 to request for a hearing on August 8, 2022. The Respondent was supposed to reply with a Form 51 and failed to do so. To prevent Atty. South Lewis's claim from being in Default for Failure to Respond to the Appellant Form 50 Request for a Hearing. Commissioner Avery Wilkerson re-submitted Commissioner McCaskill's August 3, 2022, Order again; added September 7, 2022, date to the Order. Commissioner Wilkerson stated that the matter came before the Commission on August 8, 2022, but time there was no hearing, and no testimony was taken. Again, violating SC Coded Regs §67-611. The Respondents Atty. South Lewis II used the claim of 2nd time of Res Judicata. The Appellant could not Appeal the September 7, 2023, Order, because again there was no testimony. So, the Appellant had no choice but to file a request for Judicial Review. "*A court has no jurisdiction to determine its own jurisdiction ..for basic issue in any case before a tribunal is its powers to act, and a court must have the authority to decide that questions the first instance,*" - Rescue Army v. Municipal Court of Los Angeles, 331 U.S. 549 (1947) The reason for this law is to protected it's citizens, in turn Commissioner Michael Campbell served on the Judicial Review and a portion of the complaint was concerning him. On December 19, 2022, at the Appellant was barred from submitting the evidence that was entered by Motion; that show the fraudulent reporting of TTD funds from SC Workers Compensation to the Social Security Administration amounting to over \$80,000. the Respondent's barred the Appellant from litigating her injuries again for the 3rd time citing Res Judicata. Due to the actions of the Respondent's and the SC Workers' Comp. Commission

The Panel of Commissioners falsely stated that the Supreme Court denied the Appellant's petition for certiorari, but they left out that the Claim was remitted back to SCWCC. In addition, South Carolina Workers' Comp. 3 Panel left out their 02/14/2023 Order; that while the Appellant's Writ of Certiorari dated Nov. 22, 2021, was pending the Respondents, Atty Amanda Neely moved to have the Appellant's Case Dismissed under Form 19. on October 22, 2021, Commissioner Mike Campbell held FORM 19 at abeyance pending remittitur of the claim after disposition by the Supreme Court and because the Appellant reported to SCWCC that Atty Amanda Neely was IN Contempt of the 12/10/2020 ORDER for not issuing the settlement payment to the Appellant. The Appellant wishes to make an OFFER OF PROOF; Atty Neely held the first check past its expiration because it was issued to the Appellant and Atty. Mary-Kate Littlejohn dated 03/15/21. Atty. Neely had to hold the check because it would identify who was representing the interest of Liberty Mutual and during what time. She perjured herself before the Court of Appeals for their Sept. 15, 2021, decision; she falsely stated that she was not properly process served. The Appellant did not know at the time; once you serve notice to one attorney and they are of the same firm you did not have to serve more than one. A new check was issued on 03/01/2022 in care of the Appellant and Atty. Neely Commissioner Mike Campbell Certified the FORM 19 on March 8, 2022, to have Appellant's Case Dismissed even after the Appellant had filed a Form 50 just prior on February 24, 2022. (Read Commissioner McGaskill Order) The Commission stated on page 6, NUMBER 3 *"The Commission adjudicated Defendant's motion to certify the form 19 and NUMBER 4. February 24, 2022, pleading was administratively dismissed by the Single Commissioner of August 3, 2022. The reason why the final order reads differently from Commissioner McCaskill's order is because Commissioner Mike Campbell served on the*

December 19, 2022, Judicial Review Panel of 3 commissioners, which was a DIRECT CONFLICT OF INTEREST, since the part of procedures under question was that of Commissioner Mike Campbell. Commissioner Campbell knew well in advance because the Appellant brought to the attention of the Judicial Director, Amy Bracy. (Email date Sept 19-Sept 23, 2022)

*“Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but rather, should dismiss the action.” Melo v. US . 505 F.sd 1026 (8th Cir. 1974) *Fraud in its (Fundament) elementary common law sense of deceit...includes the deliberate concealment of material information in setting of fiduciary obligation. A public official is a fiduciary toward the public...and if he deliberately conceals material information from them; he is guilty of fraud.* McNally v. U.S.,483 483 U.s> 350, 371-372, Quoting U.S. v Holzer, 316 F. sd. 304,307 *Judge is a Fiduciary Trust!!!* The Appellant has spent Thousands of in filing fees Appeals and Motions in hopes to **EQUAL ACCESS TO JUSTICE and** compel someone will stop the Respondents, Liberty Mutual and the South Carolina Workers Compensation Commission. Due to their actions the Appellant was been force to choose between fighting them and her health; The Appellant has not been unable seek all the prescriptions and treatment necessary for all 5 Occupational Diseases; (CRPS, Algoneurodystrophy, Cervical Myelopathy, PTSD, Major Depressive Disorder).(Buprenorphine 7.5 patch weekly, Methocarbamol 750 mg x 6 times per day, Lyrica 75mg x 4 times per day, and Oxycodone 75.5/325 x 3 times per day.) The Appellant was recently diagnosed with Diabetes and is getting treatment for weight loss and Diabetes meds. The Appellant cannot afford to get treatment for the Major Depressive Order and PTSD, that she desperately needs. The actions of South Carolina Workers Compensation, Liberty Mutual and their Attorneys for the past 4 years has been in violation of SC code § 38-*

55-540 False statement or misrepresentation. *Means a statement or representation made by a person that is false, material, made with the person's knowledge of the falsity of the statement and made with the...intention to deny or cause another to deny any benefit or payment in connection with an insurance transaction, and such shall constitute fraud.* Their misinformation blocked the Appellant from receiving Disability, when it was first determined that she was Disabled due to injury as of October 4, 2018. The Appellant did not receive SSD benefits until 05/10/2023.

Appellant just discovered on 06/22/2023, that the Court of Appeals was correct when it was assessed on Order filed on June 15, 2023 that "On April 28, 2023, Appellant filed a Motion for Reinstatement of the Appeal," It was the Appellant that mis-construed as petition for rehearing. After reading, Court of Case No.: 2022-001394 statement, *that there was no longer going to be associated with the SCWCC Case number 181744 and both Case Numbers,* would be combined under one Court of Appeals number and that number was Appellate Case No.: 2023-000512.

But, while finding out that, that was not the case; and Case No. 2022-001394 was remittitur provided under Rule 221 the Appellant realized that the South Carolina Workers Compensation Commission deceived the Court of Appeals in to believing that appeal arise for an a "Order of the Single Commissioner." The Commissioner testified to a false claim of blaming or accusing the "Order of the Single Commissioner" The Appellant wish to courts COMPELL SCWCC to provide the Oral recording and typed transcripts for hearing dates that Respondents' Attorneys and SC Workers' Compensation Commissioners stated that have taken place on December 10, 2020, January 6, 2021, February 24, 2022, May 27, 2022, August

3, 2022, and September 7, 2022, and lastly the Judicial Review of December 19, 2022. The Court of Appeals should have been compelled to state the fraudulent and misleading actions of 6 different Commissioners not just the "One Commissioner".

III. CONCLUSION

In conclusion, this case represents a critical examination of the application of the principles of law, the role of the court, and the interpretation of the rights of the parties involved. As the appellant, I affirm my belief that there have been significant discrepancies in the application of the law and the handling of this case by the South Carolina Workers Compensation Commission and the South Carolina Court of Appeals.

In regard to courts of infer jurisdiction, "if the record does not show upon its face the facts necessary to give jurisdiction, they will be presumed not to have existed. "Norman v. Zieber. 3 Ot et 202-03 in the first issue raised, it appears that there has been a procedural oversight, wherein the court dismissed the case due to an alleged failure to provide proof of service. However, I maintain that I did serve the necessary individuals and that the failure lies not with my actions, but with the court's interpretation of them.

In the second issue, is noticeable that the Court of Appeals failed in their Fiduciary responsibility to the TRUST, TO THE APPELLANT. it seems that there has been a misinterpretation or overlooking of material facts and principles of law, which resulted in the rejection of my request for a rehearing. I maintain that the use of the doctrine of res

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judicata in this case has been flawed, and that the court did not fully consider my arguments, or the evidence presented. This is a BREACH OF TRUST.

I would like to emphasize the strain and distress these proceedings have caused me, both in terms of financial burden and the impact on my health. Despite these challenges, I remain steadfast in my commitment to seek justice. The issues I have highlighted are not merely about the outcome of a single case, but touch on the broader principles of fairness, due process, and the rule of law. SCWCC through the Liberty Mutual physicians has inflicted harm physically and mentally and by means of the Commission Economically and Non-economically in the past 4 years nearly 5 years. The begs for relief by executing judgment to protect the Appellant and her interest.

I therefore urge the court to consider these points in a fair and unbiased manner, to review the procedures and rulings that have been applied in this case, and to provide an opportunity for my case to be heard and for justice to be served. I also request the court to compel the South Carolina Workers' Compensation Commission to provide the oral recordings and typed transcripts for the mentioned hearing dates. And grant the Appellant's request for Subrogation.

Finally, I reiterate my request for a thorough examination of the actions and decisions of the South Carolina Workers Compensation Commission and the Respondents. Such scrutiny is critical not only for the resolution of my case, but for upholding the principles of justice and fairness that form the backbone of our legal system.

Thank you for your consideration.

DATE: June 28, 2023

Respectfully Submitted,
Appellant, United States

By: Alicia Monique ^{Smith} "s" Alicia Monique Ruffin

/s/ ALICIA MONIQUE SMITH
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