

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

Thomas A. Russo, Circuit Court Judge

Case No.: 2013-002491

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MAR 13 2014

SC Court of Appeals

Alexander Guice, ...Appellant,

V.

US Foodservice, Inc., and Ace American Insurance Co.
c/o Gallagher Bassett Service, Inc., ...Respondents'.

**MEMORANDUM WITH CITATION OF AUTHORITIES
IN SUPPORT OF APPELLANT'S RETURN AND COUNTERCLAIM
TO RESPONDENTS' MOTION TO DISMISS**

LISTED BELOW, and in accordance with Rule 240(c)(2) SCACR, please find the citation of authorities used in support of the Appellant's Return and Counterclaim to Respondents' Motion to Dismiss, to include the citation of authority and corresponding page(s) the authorities can be reviewed as contained in the aforementioned motion..

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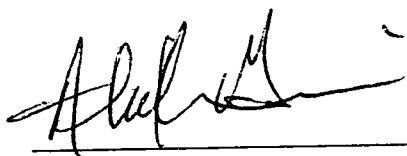
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Appellant, *pro se*

March 10, 2014

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

Thomas A. Russo, Circuit Court Judge

Case No.: 2013-002491

Alexander Guice, ...Appellant,

V.

US Foodservice, Inc., and Ace American Insurance Co.
c/o Gallagher Bassett Service, Inc., ...Respondents'.

**APPELLANT'S RETURN AND COUNTERCLAIM
TO RESPONDENTS' MOTION TO DISMISS**

PLEASE TAKE NOTICE that ALEXANDER GUICE, the APPELLANT, proclaims the pleadings in this case are being filed by Appellant in *Propria Persona*, wherein pleadings are to be considered without regard to technicalities. In *Propria*, pleadings are not to be held to the same high standards of perfection as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11th Cir1990), also See Hulsey v. Ownes 63 F3d 354,(5th Cir 1995). Pursuant to Rule 240(e) SCACR Appellant presents this Return and Counterclaim to Respondents' Motion to Dismiss dated February 28, 2014, which Appellant was served via regular mail on March 4, 2014. By way of Return, Appellant OBJECTS to the Respondents' motion to dismiss, denies the averments contained in the same, asserts the same is without merit, and moves the Court to issue an Order denying the Respondents' motion to dismiss.

By way of Return, Appellant asserts the "Decision and Order" dated July 17, 2013 by the Full Commission in this matter is clearly erroneous and Appellant moves the Court for an Order setting aside the same with prejudice and awarding, to the Appellant, any and all cost and fees incurred with respect to the Form 30 dated February 28, 2013 with respect to Workers' Compensation Commission (W.C.C.) case number 0506205 and Civil Case number 2014-CP-32-00399 currently pending appeal in the Lexington County Court of Common Pleas.

By way of Counterclaim, Appellant asserts the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 and subsequent Form 4 dated September 6, 2013 from the lower court, and in particular, the Honorable Thomas A. Russo (Judge Russo) with respect to the March 27, 2013 Decision by Gary M. Cannon, executive director of the commission (Mr. Cannon) with respect to Appellant's "Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments" dated March 4, 2013 is clearly erroneous, and prejudiced the substantial rights of the Appellant which is currently on appeal in this Court. For reasons of judicial economy and pursuant to S.C. Code Ann. 1-23-380(5) Appellant moves the Court for an Order setting aside the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 and subsequent Form 4 dated September 6, 2013 WITH PREJUDICE.

By way of Counterclaim, Appellant asserts the March 27, 2013 Decision by Mr. Cannon with respect to the Appellant's "Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments" dated March 4, 2013 was clearly erroneous and prejudiced the substantial rights of the Appellant. For reasons of judicial economy and pursuant to S.C. Code Ann. 1-23-380(5) Appellant moves the for Order

MODIFYING the March 27, 2013 Decision from Mr. Cannon currently pending appeal before this Court, by GRANTING the Appellant's "Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments" dated March 4, 2013.

By way of Counterclaim, Appellant asserts the Respondents' aforementioned 'Motion to Dismiss' failed comply with Rule 240(c) SCACR, and the Court must deem the aforementioned motion to dismiss filed by the Respondents' as "abandoned" pursuant to Rule 240(g) SCACR.

By way of Counterclaim, Appellant asserts the Respondents' aforementioned 'Motion to Dismiss' failed comply with Rule 240(c)(2) SCACR, and the Court must deem the aforementioned motion to dismiss filed by the Respondents' as "abandoned" pursuant to Rule 240(g) SCACR.

By way of Counterclaim and in the alternative, Appellant asserts the Respondents' failure to comply with Rule 240(c) SCACR and Rule 240(c)(2) SCACR has resulted in the failure of the Respondents' to timely file the Respondents' initial brief and designation of matter pursuant to Rule 208(a)(3) SCACR. Pursuant to Rule 208(a)(4) SCACR

Appellant moves the Court for an Order declaring the expiration of time for the filing of the Respondents' initial brief and designation of matter and Ordering the filing and service of the final brief of Appellant and Record on Appeal. The reasons in support of the Appellant's Return and Counterclaim, to include the requested relief and/or remedies, are contained below.

FACTS

1. Appellant was hired by US Foodservice, Inc., located at 120 Longs Pond

Road, Lexington, SC 29072 as a delivery driver on October 1, 2001 (**EXHIBIT 1**).

2. Appellant was involved in an admitted work-related traffic accident within the scope of Appellant's official duties while on the job on May 5, 2005 which was timely reported to the employer and the Workers' Compensation Commission (Commission) and assigned case number 0506205 (**EXHIBIT 1**).

3. Appellant's mutually agreed average weekly wage at the time of the May 5, 2005 work-related injury was \$1,161.00 (**EXHIBIT 1**).

4. Appellant was represented by Robert Glenn Bacon and Harry Pavilack and Associates, LLC and the Bacon Law Firm, LLC (Representative Bacon) from May 2005 to November 2012. On December 7, 2012 Appellant duly served a Form 27 (Subpoena) upon Representative Bacon to provide a copy of the Appellant's client file. To date, Representative Bacon has failed to comply with the Form 27 (**EXHIBIT 2**).

5. Appellant's educational level consisted of a General Equivalency Diploma or "G.E.D." and Appellant was under the prescribed medications(s) of Hydrocodone, Flexiril, and Ibuprofen by the authorized treating physician, Dr. Alan Tamadon (**EXHIBIT 3**).

6. On October 27, 2005 the authorized treating physician, Alan Tamadon, MD opined maximum medical improvement, assigned a five (5) percent impairment rating to the whole person of the Appellant, assigned permanent lifting restrictions to the Appellant, and reported to the employer and carrier that the Appellant was no longer able to perform the duties of a delivery driver (**EXHIBIT 4**).

7. On November 2, 2005 the employer discharged the Appellant on the grounds of "permanent lifting restrictions" and "no position available" (**EXHIBIT 5**).

8. Prior to discharging the Appellant, the employer never afforded or offered the Appellant suitable employment to accommodate the Appellant's work-related incapacity.

9. On November 2, 2005 when the employer discharged the Appellant, the Appellant had received temporary compensation payments for approximately 181 consecutive days, including the First 150 Days (**EXHIBIT 6**).

10. On November 2, 2005 when Appellant was discharged, Appellant immediately informed Representative Bacon, who took no action on behalf of Appellant to protect Appellant's legal right to continued employment.

11. On November 7, 2005 the employers' representative reduced the Appellant's average weekly wage from \$1,161.00 to \$592.56 per week, without a hearing or permission from the commission (**EXHIBIT 7**).

12. After Appellant was discharged, Appellant stopped receiving compensation payments. Appellant informed Representative Bacon, who took no action on behalf of Appellant.

13. On December 4, 2005 the employer's representative terminated compensation payments to the Appellant without a hearing or permission from the commission. At the time the employer's representative terminated compensation payments, the Appellant had received temporary compensation payments for approximately 213 consecutive days, including the First 150 Days (**EXHIBIT 6**)

14. On December 22, 2005 under the advisement of Representative Bacon, Appellant entered into a Settlement Agreement and Release which was approved by the Workers' Compensation Commission (Commission), and in particular, Commissioner David W. Huffstetler on January 5, 2006 (**EXHIBIT 8**).

15. Commissioner Huffstetler never convened a hearing, formal conference, or informal conference with the parties prior to Commissioner Huffstetler approving the Settlement Agreement and Release on January 5, 2006.

16. After the Appellant entered into the Settlement Agreement and Release on December 22, 2005, Appellant received an envelope from the employer's representative containing three (3) separate envelopes which contained 3 compensation checks and the checks were dated December 2, 2005 or prior (**EXHIBIT 9**).

17. On December 7, 2012 Appellant filed a Form 50 requesting a hearing with the commission in the matter of W.C.C. case number 0506205 (**EXHIBIT 10**).

18. On January 29, 2013 the Commission issued a Notice of Hearing scheduling the Appellant's Form 50 to be heard before the Commission, and in particular, Commissioner Susan S. Barden (Commissioner Barden) on March 28, 2013. The Notice of Hearing stated the employer's address as "125 FORT MILL PARKWAY FORT MILL, SC 29715" (**EXHIBIT 11**).

19. On February 3, 2013 Appellant filed and served a "Motion to Transfer Jurisdiction" seeking to transfer jurisdictional authority of the case from District 4 (Charleston) to District 7 (Richland) based on the proper address of the employer (**EXHIBIT 12, exhibits to motion not included**).

20. On February 13, 2013 Respondents' filed and served a "Defendants' Reply to Claimant's Motion to Transfer Jurisdiction" and mutually agreed with the Appellant that employer's proper address was 120 Longs Pond Road Lexington, SC 29072 and had no objection to the transfer of jurisdiction from District 4 to District 7 (**EXHIBIT 13**).

21. On February 22, 2013 Commissioner Susan S. Barden, while within the jurisdictional authority of District 2 (Anderson) issued an Order in the matter of Workers' Compensation Commission (W.C.C.) case number 0506205 (**EXHIBIT 14**).

22. On February 28, 2013 Appellant filed and served a Form 30 appealing the single commissioner's Order dated February 22, 2013 (**EXHIBIT 15**).

23. On March 4, 2013 Appellant filed and served a "Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments (Motion for Reinstatement)" with regards to W.C.C. Case No.: 0506205 (**EXHIBIT 16, exhibits to motion not included**).

24. On March 14, 2013 Respondents' filed and served a "Defendants' Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments (Reply)" (**EXHIBIT 17, exhibit to motion not included**).

25. On March 17, 2013 Appellant filed and served a "Claimant's Answer to Defendants' Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments (Answer)" (**EXHIBIT 18, exhibits to motion not included**).

26. On March 18, 2013 Appellant filed and served a proposed "Order Granting Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments" (**EXHIBIT 19**).

27. On March 25, 2013 Respondents' submitted *ad hoc* "Motion for Reinstatement" correspondence to the Commission, and in particular, jurisdictional Commissioner Andrea C. Roche (**Appellant's EXHIBIT 20**).

28. On March 27, 2013 Gary M. Cannon, Executive Director of the Workers'

Compensation Commission (Mr. Cannon), issued a Decision returning the Appellant's "Motion for Reinstatement", un-adjudicated by the jurisdictional Commissioner, on the grounds that the "Commission does not have subject matter jurisdiction" (**EXHIBIT 21, enclosures not included**).

29. On April 8, 2013 Appellant filed a "Appeal/Complaint" regarding the March 27, 2013 Decision of Mr. Cannon with the Lexington County Court of Common Pleas and the same was served upon the Respondents' on April 22, 2013 under Civil Action No.: 2013-CP-32-01272 (**EXHIBIT 22, exhibits to the complaint not included**).

30. On May 2, 2013 Respondents' filed and served a "Defendants' Motion to Dismiss" (**EXHIBIT 23, exhibits to the motion not included**).

31. On June 10, 2013 the Honorable Thomas A. Russo (Judge Russo) issued an "Order Granting Defendants' Motion to Dismiss" (**EXHIBIT 24**).

32. On July 17, 2013 the Full Commission issued a "Decision and Order" affirming the Order of the single commissioner dated February 22, 2013 with respect to Appellant's Form 30 dated February 28, 2013 (**EXHIBIT 25**).

33. On September 6, 2013 Judge Russo issued a Form 4 affirming his previous Order dated June 10, 2013 regarding Civil Action No.: 2013-CP-32-01272 (**EXHIBIT 26**).

34. On December 10, 2013 Appellant requested that Respondents' consent to mediation under Pilot Program for the Voluntary Mediation of Workers' Compensation Appeals; however the Respondents' denied the Appellant's Request on December 16, 2013 (**EXHIBIT 27**).

35. Appellant has been unemployed since the discharge of Appellant's

employment by Respondents' on November 2, 2005.

STATEMENT OF THE CASE

The grounds asserted by the Respondents' to seek a dismissal of this appeal is without merit. The Respondents' continue to be in willful noncompliance with S.C. Code Ann. 42-9-260(F) of the Act and corresponding S.C. Reg. 67-506(D) of the Act with respect to the unlawful discharge of the Appellant's employment on November 2, 2005 and unlawful reduction and subsequent termination of Appellant's temporary compensation payments on November 7, 2005 and December 4, 2005, respectively, based on the fact that at the time Respondents' discharged the Appellant from employment and reduced/terminated the Appellant's temporary compensation payments, as of November 2, 2005 (EXHIBIT 5) the Appellant had received temporary compensation payments for approximately 181 consecutive days, including the first 150 days (EXHIBIT 6). S.C. Reg. 67-506(D) of the Act in relevant part states,

After the one hundred fifty day period, when the claimant is receiving temporary compensation and the authorized health care provider assigns an impairment rating and reports the claimant is unable to return to work at the same or other suitable job, the employer's representative must continue payment of temporary compensation until the Commission finds the employer's representative may terminate temporary compensation.

Additionally, NO HEARING TO STOP COMPENSATION PAYMENTS HAS EVER BEEN REQUESTED BY THE RESPONDENTS' PURSUANT TO S.C. REG. 67-506(E) OF THE ACT; THE COMMISSION HAS NEVER CONVENED A HEARING TO CONSIDER TERMINATION OF APPELLANT'S COMPENSATION

PAYMENTS; AND THE COMMISSION HAS NEVER GRANTED PERMISSION TO THE RESPONDENTS' TO REDUCE OR TERMINATE TEMPORARY COMPENSATION PAYMENTS TO THE APPELLANT AS REQUIRED PURSUANT TO S.C. CODE ANN. 42-9-260 (F) OF THE ACT AND S.C. REG. 67-506(D) & (E) OF THE ACT. The commission failed to perform its required regulatory responsibilities pursuant to S.C. Reg. 67-202 (5) & (10) of the Act in 2005, and has continued to fail to perform its required regulatory duties to ensure that the Respondents' are in compliance with S.C. Code Ann. 42-9-260(F) and S.C. Reg. 67-506(D) of the Act with respect to continuing to pay temporary compensation to the Appellant.

The grounds used to discharge the Appellant by the Respondents', in particular, **"No position available"** and **"permanent lifting restrictions"** is in willful noncompliance of S.C. Code Ann. 42-1-620 of the Act; S.C. Code Ann. 42-9-260(F) of the Act; and S.C. Reg. 67-506(D) of the Act. The comments as stated on the discharge notice, in particular, **"Termination of Employment-Released from Doctor with permanent lifting restrictions not compatible with job duties"** (emphasis added) (EXHIBIT 5) reflects a blatant disregard to comply with the Act.

The Appellant was afforded gross misrepresentation and ineffective counsel from Representative Bacon, who took no actions on behalf of the Appellant to protect both the Appellant's legal right to continued employment AND the Appellant's continued legal right to temporary compensation. The employer NEVER afforded or offered suitable employment to accommodate the Appellant's incapacity prior to discharging the Appellant on November 2, 2005 after the authorized treating physician opined maximum medical improvement, assigned permanent lifting restrictions, assigned a 5 percent

impairment rating and reported to the Respondents' that the Appellant could no longer perform the duties of a delivery driver on October 27, 2005 (**EXHIBIT 4**).

THE COMMISSION, THE RESPONDENTS' AND THE APPELLANT'S FORMER REPRESENTATIVE ABUSED THE APPELLANT'S MENTAL INCAPACITY BASED ON THE FACT THE APPELLANT'S EDUCATION LEVEL CONSISTED OF A G.E.D. AND THE APPELLANT WAS UNDER THE MEDICAL TREATMENT OF THE PRESCRIBED MEDICATIONS OF HYDROCODONE, FLEXIRIL AND IBUPROFEN BY THE AUTHORIZED TREATING PHYSICIAN, DR. ALAN TAMADON (**EXHIBIT 3, pages 3-4; EXHIBIT 4, page 1**). The Appellant was unaware and uninformed, pursuant to the gross misrepresentation received by Representative Bacon, and the LACK OF AGENCY CONTROL BY THE COMMISSION, of the Appellant's legal right to continued employment and continued temporary compensation payments.

As it relates to the Settlement Agreement and Release entered into by the parties on December 22, 2005 and approved by the Commission, and in particular, Commissioner David W. Huffstetler, the Appellant entered into the aforementioned agreement under the advisement of Representative Bacon and under EXTREME DURESS. The Appellant was forced out of the Appellant's marital home by the Appellant's now ex-wife; the Respondents' Representative stopped paying temporary compensation payments after Appellant was unlawfully discharged by the employer on November 2, 2005 (**EXHIBIT 5, 9**); and the Appellant was homeless, sleeping in Appellant's vehicle when Representative Bacon advised the Appellant to enter into the Settlement Agreement and Release.

Former Representative Bacon has deliberately failed to provide the Appellant with a copy of the Client File pursuant to the FORM 27 (Subpoena) served duly served upon Mr. Bacon which continues to prejudice the Appellant as the Appellant is unable to ascertain what actions, if any Mr. Bacon took on behalf of the Appellant regarding the more than seven (7) years the Appellant was represented by Mr. Bacon.

Additionally, upon review of the Settlement Agreement and Release, there is no clear and specific language wherein the parties agreed that the \$20,000.00 settlement was to act as severance pay for the Appellant's employment AND final payment for Appellant's entitled compensation payments (**EXHIBIT 8**). The Settlement Agreement and Release was a schedule award for the Appellant's 5 percent impairment rating ONLY. Further, the Act specifically establishes that an injured worker cannot waive his rights to compensation by agreement. S.C. Code Ann. 42-1-620 of the Act states, "No agreement by an employee to waive his rights to compensation under this Title shall be valid."

Additionally, S.C. Code Ann. 42-1-610 of the Act prohibits the employer from attempting to neglect their obligation to provide suitable employment to accommodate an injured worker by agreement. S.C. Code Ann. 42-1-610 of the Act states,

No contract or agreement, written or implied, and no rule, regulation or other device shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this Title except as otherwise expressly provided in this Title.

Still further, the Appellant's former Representative approved the unlawful Settlement Agreement and Release (**EXHIBIT 8, page 6**). Based on the fact the

Respondents' has unlawfully relied on the aforementioned Settlement Agreement and Release as the only grounds in support of the unlawful discharge of the Appellant's employment on November 2, 2005 (**EXHIBIT 17 page 3; EXHIBIT 27**) and the unlawful reduction and subsequent termination of the Appellant's temporary compensation payments, the Settlement Agreement and Release must be deemed **INVALID BY THIS COURT.**

As it relates to the appeal currently pending before this Court, the appeal is directly related to the March 27, 2013 decision issued by Mr. Cannon of the commission, directly related to the "Motion for Reinstatement". In particular, Appellant properly filed the Motion for Reinstatement dated March 4, 2013 (**EXHIBIT 16**) in accordance with S.C. Reg. 67-215 of the Act and S.C. Reg. 67-707 (C)(2)(a) & (b) of the Act.

The Respondents', through counsel of record, namely, McAngus Goudelock & Courie, LLC and Erin L. Hantske (Representative Hantske), filed a proper "Reply" to the Motion for Reinstatement (**EXHIBIT 17**); however, Representative Hantske failed to "affirm or deny" the averments contained in the Appellant's aforementioned "Motion for Reinstatement" pursuant to Rule 8(b) SCRCF. Appellant properly asserted the failure of the Respondents' "Reply" to affirm or deny the averments contained in Appellant's "Motion for Reinstatement" and properly asserted Rule 8(d) SCRCF, in the Appellant's "Answer" (**EXHIBIT 18**) to Respondents' "Reply", in particular, that the effect of the Respondents' failure to deny the averments contained in the Appellant's "Motion for Reinstatement" was that the averments contained in the Appellant's "Motion for Reinstatement" were "admitted when not denied in the responsive pleading".

Appellant filed and served a proposed Order (**EXHIBIT 19**) with the commission granting the aforementioned "Motion for Reinstatement". The Respondents', in willful

noncompliance of S.C. Reg. 67-215 (F) of the Act, proceeded to submit **unrequested** additional correspondence to the commission regarding the “Motion for Reinstatement”, and in particular, the jurisdictional commissioner, namely, Commissioner Andrea C. Roche (Commissioner Roche), on March 25, 2013 (**EXHIBIT 20**). The Commission, and in particular, jurisdictional Commissioner Roche, erred by failing to adjudicate the aforementioned “Motion for Reinstatement” pursuant to S.C. Reg. 67-215(G) of the Act; S.C. Reg. 67-707(C)(2)(c) of the Act; S.C. Code Ann. 42-3-20(C) of the Act; and Rule 501(3)(B)(1), CJC, Rule 501 SCACR.

Mr. Cannon, the executive director of the commission, acted outside the scope and authority of the office of the executive director of the commission, as established in S.C. Code Ann. 42-3-80 of the Act, when Mr. Cannon issued the Decision dated March 27, 2013 (**EXHIBIT 21**). Mr. Cannon’s aforementioned Decision prejudiced the substantial rights of the Appellant, and summarily concealed the failure of the Respondents’, and in particular, Representative Hantske, to “affirm or deny” the averment(s) contained in the Appellant’s aforementioned “Motion for Reinstatement” and the failure of the “Motion for Reinstatement” to be properly adjudicated by the jurisdictional commissioner.

Furthermore, S.C. Reg. 67-707 of the Act clearly establishes the procedures as to how a duly filed and served motion is to be processed and adjudicated by the commission after a Form 30 has been filed in a case before the commission. The “Motion for Reinstatement” constituted “additional and newly discovered evidence”, based on the fact that prior to the issuance of the aforementioned Order dated February 22, 2013 by Commissioner Barden, **no hearing, formal conference, or informal conference** had

ever been convened regarding W.C.C. Case No. 0506205. Still further, when the Respondents' "Reply" to the "Motion for Reinstatement" failed to deny the averments contained in the same, the averments were admitted in the record, pursuant to the Appellant's proper application and assertion of Rule 8(d) SCRCF as contained in the Appellant's "Answer" to Respondents' "Reply" to the "Motion for Reinstatement", and as such, the "Motion for Reinstatement" should have been GRANTED by the commission. S.C. Reg. 67-707(C)(2)(d) of the Act clearly establishes in relevant part that if the motion is granted, "the commission review hearing is stayed".

The err of the Commission to adjudicate the aforementioned "Motion for Reinstatement" pursuant to S.C. Reg. 67-707(C)(2)(c) of the Act, and the like, constitutes ABSOLUTE PROOF that the "Decision and Order" dated July 17, 2013 of the Full Commission, **as introduced in this matter by the Respondents'**, is clearly erroneous. The aforementioned "Decision and Order" of the Full Commission dated July 17, 2013 is currently pending judicial review via appeal under Civil Case No. 2014-CP-32-00399 before the Lexington County Court of Common Pleas, and as such, for the purpose of "Judicial Economy", this Court must issue an Order setting aside the "Decision and Order" dated July 17, 2013, WITH PREJUDICE, to include awarding any and all cost and fees incurred be reimbursed to the Appellant, by the Respondents', to include the Form 30 dated February 28, 2013 before the commission and the current appeal pending before the Lexington County Court of Common Pleas under the aforementioned Civil Case No. 2014-CP-32-00399.

As it directly relates to the Order dated June 10, 2013 issued by the lower court, and in particular, the Honorable Thomas A. Russo (Judge Russo), which is currently under appeal in this Court, Judge Russo's opinion that **"The Claimant in the above-**

referenced case has failed to exhaust all administrative remedies within the workers' compensation forum prior to initiating this appeal in the Court of Common Pleas" (emphasis added) (**EXHIBIT 24**) reflects a clearly erroneous opinion, pursuant to the failure of the commission to adjudicate the Appellant's "Motion for Reinstatement" pursuant to S.C. Code Ann. 42-3-20(C) of the Act; S.C. Reg. 67-215 (G) of the Act; S.C. Reg. 67-707(C)(2)(c) of the Act; Rule 501 (3)(B)(1), CJC, Rule 501 SCACR; and the unlawful actions of Mr. Cannon with respect to the March 27, 2013 Decision.

Appellant asserts if the Court grants the Respondents' Motion to Dismiss, a MISCARRIAGE OF JUSTICE shall continue, and a disturbing precedent would be set. In particular, every time an attorney representing an employer and carrier is in a contested case before the commission, and the injured worker is self-represented, and duly files and serves a proper motion before the commission (**EXHIBIT 16**), and in the Reply (**EXHIBIT 17**), the Respondents' attorney fails to comply with a civil procedure which could potentially adversely affect the employer and carrier (**EXHIBITS 18, 19**), then the jurisdictional commissioner will be able to arbitrarily neglect to perform their adjudicative responsibilities with respect to issuing a written Order (S.C. Code Ann. 42-3-20 (C) and S.C. Reg. 67-215 (G) of the Act and Rule 501 (3)(B)(1), CJC, Rule 501 SCACR), the executive director of the commission will be allowed to intervene and act outside the scope of their expressed statutory duties, responsibilities, and authority (S.C. Code Ann. 42-3-80 of the Act) and unlawfully render a Decision in a contested case before the commission (**EXHIBIT 21**) which prejudices the substantial rights of the injured worker, and the lower court will be able to issue a clearly erroneous Order to protect the unlawful actions and conduct of the same (**EXHIBIT 24**).

As such, Appellant asserts the Decision issued by Mr. Cannon dated March 27, 2013 and subsequent Order(s) of the lower court are appealable pursuant to Rule 201 SCACR in this Court. The Respondents' motion to dismiss is not only defective, it is without merit.

ARGUMENT

1. **The Respondents' Motion to Dismiss failed to comply with Rule 240 (c) SCACR.** The Respondents' Motion to Dismiss, with respect to the supporting documents, which the Respondents' referred to as "Attachments", was not consecutively numbered (**Please refer to Respondents' Motion to Dismiss, Attachments "A" through "N"**). Rule 240(c) SCACR in relevant part states, "The pages of the motion or petition and all supporting documents shall be consecutively numbered."

A. Appellant asserts the Respondents' by way of and through Representative Hantske, an attorney certified by the South Carolina Bar, had a procedural responsibility to ensure the motion to dismiss filed on February 28, 2014 in this matter was in compliance with Rule 240(c) SCACR, and in particular, that all the "attachments" filed as supporting documents, were consecutively numbered, but failed to do so.

B. Appellant asserts the Respondents', through Representative Hantske, must be held to highest standards of technical expertise and perfection as counsel to the Respondents'.

Pursuant to Rule 240(g) SCACR Appellant asserts the Motion to Dismiss filed by Respondent must be denied and deemed "Abandoned" due the Respondents' Motion to Dismiss failing to comply with Rule 240(c) SCACR.

2. **The Respondents' Motion to Dismiss failed to comply with Rule 240**

(c)(2) SCACR. Appellant asserts the Respondents' Motion to Dismiss failed to include a memorandum with a citation of authorities used in support of the motion (**Please see Respondents' Motion to Dismiss**) as required pursuant to Rule 240 (c)(2) SCACR. Rule 240(c)(2) SCACR in relevant part states, "Each motion or petition shall include the following:... A memorandum with citation of authorities in support of the motion."

A. Appellant asserts the Respondents', by way of and through Representative Hantske, an attorney certified by the South Carolina Bar, had a procedural responsibility to ensure the motion to dismiss filed on February 28, 2014 in this matter was in compliance with Rule 240(c)(2) SCACR, and in particular, that a memorandum containing the citation of authorities in support of the motion was included with the motion, but failed to do so.

B. Appellant asserts the Respondents', through Representative Hantske, must be held to highest levels of technical expertise and perfection as counsel to the Respondents'.

Pursuant to Rule 240(g) SCACR Appellant asserts the Motion to Dismiss filed by Respondent must be denied and deemed "Abandoned" due the Respondents' Motion to Dismiss failing to comply with Rule 240(c)(2) SCACR.

3. **The Respondents' Motion to Dismiss is without merit.** As it relates to the March 27, 2013 Decision (**EXHIBIT 21**) issued by Mr. Cannon of the Commission regarding the Appellant's "Motion for Reinstatement", in the Respondents' Motion to Dismiss, on page seven (7) under "Citation 5", the Respondents' states,

"Although Appellant correctly pointed out to the Circuit Court that there is no process at the Commission to appeal the March 27, letter, that does not transform the letter into a final order or mean that he has exhausted his

administrative remedies. Instead, Appellant's proper course of action was to appeal the February 22 Order dismissing all of his claims and motions to the Full Commission."

A. Appellant disagrees with the Respondents' rationale. Although there are no procedures within the Act to appeal the March 27 Decision from Mr. Cannon, the Act provides a required procedural process, pursuant to S.C. Reg. 67-707 of the Act, with regards to the Commission adjudicating the Appellant's "Motion for Reinstatement" dated March 4, 2013 after the Form 30 was filed by the Appellant on February 28, 2013, which the commission failed to comply with.

B. Appellant asserts the commission, and in particular, jurisdictional Commissioner Andrea C. Roche, had an adjudicative responsibility, pursuant to S.C. Reg. 67-707 (C)(2)(c) of the Act, and the like, to adjudicate the Appellant's Motion for Reinstatement, but failed to do so.

C. Appellant asserts the intervention of Mr. Cannon with regards to the issuance of the March 27 Decision was a clear unlawful action taken outside the scope and authority of the executive director of the commission pursuant to S.C. Code Ann 42-3-80 of the Act.

D. Appellant asserts the March 27, 2013 Decision issued by Mr. Cannon prejudiced the substantial rights of the Appellant.

E. Appellant asserts the Respondents' reference to the March 27 Decision by executive director Mr. Cannon regarding the Appellant's Motion for Reinstatement as a "letter" is not accurate.

F. Appellant asserts the effect of the March 27 "letter" summarily dismissed

the Appellant's Motion for Reinstatement, on the grounds, as stated by Mr. Cannon, the commission "does not have subject matter jurisdiction" and the same was never lawfully adjudicated by jurisdictional Commissioner Roche as required by the Act.

G. Appellant asserts the March 27 "letter" rendered by Mr. Cannon in fact had the weight of and was a "Decision" which is appealable pursuant to Rule 201 SCACR.

H. Appellant asserts the Court must consider the "Reply" dated March 14, 2013 (**EXHIBIT 17**) filed by the Respondents', through Representative Hantske, to the Appellant's "Motion for Reinstatement", which conveniently was not submitted as supporting affidavits or an attachment in the Respondents' Motion to Dismiss.

I. Appellant asserts the Respondents' were not required to file a responsive pleading to Appellant's "Motion for Reinstatement". S.C. Reg. 67-215(F) of the Act in relevant part states that a failure to respond to a motion "is deemed a general denial".

J. Appellant asserts once the Respondents' chose to file a responsive pleading to the Appellant's Motion for Reinstatement, the Respondents', and in particular, Representative Hantske, was required to "affirm or deny" the averments contained in Appellant's Motion for Reinstatement, as required, pursuant to Rule 8(b) SCRCF, which Representative Hantske failed to do (**EXHIBIT 17**).

K. Appellant asserts Appellant properly asserted the failure of the Respondents' to comply with Rule 8(b) SCRCF and properly asserted Rule 8(d) SCRCF as contained in Appellant's "Answer" (**EXHIBIT 18**) to Respondents' "Reply" to Appellant's Motion for Reinstatement, which clearly establishes in relevant part that "averments in a pleading to which a responsive pleading is required... are admitted when not denied in the responsive pleading..."

L. Appellant asserts if the jurisdictional commissioner, and in particular, Commissioner Andrea C. Roche, would have properly adjudicated the aforementioned Motion for Reinstatement pursuant to S.C. Reg. 67-215 (G)(2) of the Act; S.C. Reg. 67-707(C)(2)(c) of the Act; and Rule 501(3)(B)(1), CJC, Rule 501 SCACR, and in particular, based on the “admitted” averments contained in Appellant’s Motion for Reinstatement pursuant to Rule 8(d) SCRCR, the Motion for Reinstatement (**EXHIBIT 16**) would have been GRANTED (**EXHIBIT 19**), “before the review hearing is held” (S.C. Reg. 67-707(C)(2)(c) of the Act), and the May 21, 2013 Commission review hearing with respect to the Form 30 dated February 28, 2013 and filed by the Appellant would have been “stayed” pursuant to S.C. Reg. 67-707(C)(2)(d) of the Act, and subsequently withdrawn or adjudicated in favor of the Appellant.

M. Appellant asserts ALL ACTIONS taken in this matter subsequent to the failure of jurisdictional Commissioner Roche to adjudicate the Appellant’s aforementioned “Motion for Reinstatement” has resulted in a gross waste of the Court’s, Agency’s and parties’ time, resources, and materials, as well as an intentional and deliberate delay, by the commission, in the Appellant receiving entitled compensation benefits payments and proper reinstatement of Appellant’s employment to include IMMEDIATE ACCESS TO NEEDED MEDICAL BENEFITS, which continues to injure and burden the Appellant.

N. Appellant asserts the March 27, 2013 Decision by Mr. Cannon, the executive director of the commission, pursuant to S.C. Code Ann. 1-23-380(5) was; “...(a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of

law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;”... AND “...(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion” and the Court must modify the March 27, 2013 Decision based on the fact the “substantial rights of the appellant have been prejudiced...”

O. Appellant asserts as it directly relates to the Order dated June 10, 2013 issued by the lower court, and the like, and in particular, Judge Russo, which is currently under appeal in this Court, Judge Russo’s opinion that **“The Claimant in the above-referenced case has failed to exhaust all administrative remedies within the workers’ compensation forum prior to initiating this appeal in the Court of Common Pleas”** (emphasis added) (**EXHIBIT 24**) reflects a clearly erroneous opinion, pursuant to the failure of the commission to adjudicate the Appellant’s “Motion for Reinstatement” pursuant to S.C. Code Ann. 42-3-20(C) of the Act; S.C. Reg. 67-215(G) of the Act; S.C. Reg. 67-707(C)(2)(c) of the Act; Rule 501(3)(B)(1), CJC, Rule 501 SCACR; and the unlawful actions of Mr. Cannon with respect to the March 27, 2013 Decision.

P. Appellant asserts the lower Court’s opinion(s) dated June 10, 2013 and September 6, 2013, respectively, in addition to the March 27, 2013 Decision rendered by Mr. Cannon of the commission, is appealable pursuant to Rule 201 SCACR.

Based on the foregoing, Appellant asserts the Respondents’ Motion to Dismiss is without merit, and must be denied.

4. **The “Decision and Order” dated July 17, 2013 by the Full Commission is clearly erroneous and must be set aside.** Appellant asserts the

“Decision and Order” dated July 17, 2013 by the Full Commission (**EXHIBIT 25**) with respect to the Form 30 dated February 28, 2013 (**EXHIBIT 15**) filed by the Appellant is clearly erroneous based on the fact that the Appellant’s aforementioned “Motion for Reinstatement” was never properly adjudicated by the commission, and in particular, jurisdictional Commissioner Andrea C. Roche, prior to the Commission Review regarding the Form 30 on May 21, 2013 and subsequent Decision and Order dated July 17, 2013.

A. Appellant asserts in addition to the aforementioned Decision and Order of the Full Commission being set aside by this Court on the grounds that the Appellant’s aforementioned “Motion for Reinstatement” was never properly adjudicated prior to the Commission Review convened on May 21, 2013 pursuant to S.C. Reg. 67-707(C)(2)(c) of the Act, and the like, the aforementioned Decision and Order is also “clearly erroneous” based on the fact(s) that; (a) the “Findings of Fact” section of the Decision and Order dated July 17, 2013 failed to include relevant facts and factors, as the same begins with the approval of the Settlement Agreement and Release on January 5, 2006 and summarily omits ALL relevant facts and factors relevant to the case prior to **January 5, 2006 (EXHIBITS 1-7)**; (b) the failure of the Full Commission to adjudicate ANY of the seven (7) arguments submitted by the Appellant in the proper form of questions as stated on Appellant’s Form 30 dated February 28, 2013 (**EXHIBIT 15**); (c) the clearly erroneous “Conclusions of Law” reached by the Full Commission which is based on the omitted facts and factors from the “Findings of Fact” section of the same; and (d) the clearly erroneous Order, as a Settlement Agreement and Release cannot lawfully be utilized to terminate entitled compensation benefit payments or employment of an injured

worker pursuant to S.C. Code Ann. 42-1-610 of the Act and S.C. Code Ann. 42-1-620 of the Act.

B. Appellant asserts that Commissioner Andrea C. Roche, the jurisdictional commissioner who failed to perform her adjudicative responsibilities pursuant S.C. Code Ann. 42-3-20(C) of the Act; S.C. Reg. 67-215(G) of the Act; S.C. Reg. 67-707(C)(2)(c) of the Act; and Rule 501(3)(B)(1), CJC, Rule 501 SCACR, with respect to adjudicating the Appellant's aforementioned Motion for Reinstatement, was one of the Appellate Commissioners who considered the Commission Review convened on May 21, 2013 and ratified the clearly erroneous "Decision and Order" of the Full Commission on July 17, 2013 (**EXHIBIT 25, page 6**).

C. Appellant asserts the Respondents', by way of the Respondents' Motion to Dismiss, introduced the "Decision and Order" of the Full Commission dated July 17, 2013 in this matter, to this Court, and it is both proper and reasonable for this Court to consider the validity of the same.

D. Appellant asserts it would be in the best interests of all parties, and in particular, the lower court, for this Court to act in a preemptive manner, to immediately set aside the aforementioned "Decision and Order" dated July 17, 2013 by the Full Commission, currently pending appeal before the lower court, to prevent and ensure no further erroneous Orders being issued in this matter from the lower court.

E. Appellant asserts upon service of an Order by this Court setting aside the aforementioned "Decision and Order" dated July 17, 2013 by the Full Commission, to include a proper award for the reimbursement of cost and fees incurred by the Appellant to be reimbursed by the Respondents', with respect to the February 28, 2013 Form 30

before the commission and the cost and fees associated with the current appeal pending before the Lexington County Court of Common Pleas, the Appellant would immediately file a copy of the same upon both the commission and lower court so the current appeal before the lower court can be administratively delayed and/or withdrawn.

F. Appellant asserts if this Court decides not to take immediate action and set aside the aforementioned "Decision and Order" dated July 17, 2013 by the Full Commission, which is currently pending appeal before the Lexington County Court of Common Pleas under Civil Action No.: 2014-CP-32-00399, that should the lower court issue an Order affirming the aforementioned "Decision and Order" by the Full Commission, Appellant would immediately file a Notice of Appeal to appeal the same before this Court.

Based on the foregoing, and pursuant to S.C. Code Ann. 1-23-380(5) and the like, Appellant moves the Court for an Order setting aside the "Decision and Order" dated July 17, 2013 by the Full Commission, to include the award of all cost and fees incurred by Appellant to reimbursed by the Respondents' with respect to both the Form 30 dated February 28, 2013 with the commission and the appeal currently pending before the Lexington County Court of Common Pleas under Civil Action No.: 2014-CP-32-00399.

5. **The thirty (30) day time limit to file the Respondents' initial brief and designation of matter has expired and cannot be stayed or extended based on a defective and abandoned motion to dismiss filed by the Respondent.** Appellant asserts the Appellant's Initial Brief and Designation of Matter were filed on January 31, 2014. Affording five (5) days of service by mail to the Respondents' and 30 days to file the Respondents' initial brief and designation of matter, Appellant asserts the

Respondents' initial brief and designation of matter should have been filed and served upon the Court and the Appellant no later than March 7, 2014.

A. Appellant asserts the Respondents' Motion to Dismiss was filed on February 28, 2014; however, as previously stated, the Respondents' Motion to Dismiss failed to comply with Rule 240(c) SCACR and Rule 240(c)(2) SCACR.

B. Appellant asserts the time limits to file the Respondents' initial brief and designation of matter cannot be stayed or extended pursuant to Rule 208(a)(3) SCACR when the Respondents' Motion to Dismiss has failed to comply with Rule 240(c) SCACR and Rule 240(c)(2) SCACR.

C. Appellant asserts the time limits have expired for the Respondents' to file the initial brief and designation of matter.

Based on the foregoing and pursuant to Rule 208 (a)(4) SCACR, Appellant moves the Court for an Order declaring the time limits to file the Respondents' initial brief and designation of matter expired and ordering the Appellant to move forward with the filing and service of the Final Brief of Appellant and Record on Appeal.

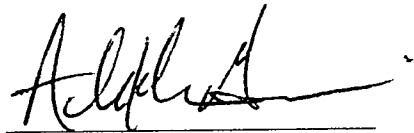
CONCLUSION

Appellant properly requested the Respondents' consent to mediation regarding this matter under the **Pilot Program for the Voluntary Mediation of Workers' Compensation Appeals** on December 10, 2013; however the Respondents' denied the Appellant's request on December 16, 2013. Based on the foregoing, and by way of Return and Counterclaim to the Respondents' Motion to Dismiss, Appellant moves the Court for an Order deeming the Respondents' Motion to Dismiss abandoned; denying the Respondents' Motion to Dismiss, setting aside the "Decision and Order" dated July 17,

2013 by the Full Commission; setting aside the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 and the like, from the lower Court, Modifying the March 27, 2013 Decision from Mr. Cannon of the Commission by Granting the Appellant's "Motion for Reinstatement"; OR declaring the time limits for the Respondents' to file and serve the initial brief and designation of matter expired, and ordering the Appellant to move forward with the filing and service of the Final Brief of Appellant and Record on Appeal because;

1. **The Respondents' Motion to Dismiss failed to comply with Rule 240(c) SCACR;**
2. **The Respondents' Motion to Dismiss failed to comply with Rule 240(c)(2) SCACR;**
3. **The Respondents' Motion to Dismiss is without merit;**
4. **The "Decision and Order" dated July 17, 2013 by the Full Commission is clearly erroneous; and**
5. **The thirty (30) day time limit to file the Respondents' initial brief and designation of matter has expired and cannot be stayed or extended based on a defective and abandoned motion to dismiss filed by the Respondents'.**

Respectfully submitted,



Alexander Guice
Post Office Box 13281
Tampa, Florida 33681
Phone: (813) 562-0547
Appellant, *pro se*

March 10, 2014

SOUTH WORKERS' COMPENSATION EMPLOYER'S FIRST REPORT OF INJURY OR ILLNESS
CAROLINA CONTAINS ALL ITEMS REQUIRED BY OSHA FORM 101 (Enter all dates in MM/DD/YY format)

EMPLOYER: US FOODSERVICE
120 LONGS POND ROAD P O BOX 8
120 LONGS POND ROAD P O BOX 8
LEXINGTON SC 29072-
SIC CODE:
CARRIER CLAIM #: 104000001589901
JURISDICTION CLAIM #: 0506205
UNEMPLOY/FED. TAX I.D. NO.: 363642294

INSURANCE ACE
CARRIER 45 DAN ROAD
CANTON MA 02021-2852
CC#: 952371728 00461
POLICY/SELF-INSURED#:
POLICY PERIOD: TO
SELF INSURED: N

EMPLOYER NAME (Last, First, Middle)
GUICE ALEXANDER
SOCIAL SECURITY NUMBER
PHONE NO. (A/C No)
(843) 756-6479

ADDRESS: 2996 GASTON DR
LORIS SC 29569-
DATE OF BIRTH: 02/13/1971 MARITAL STATUS: M
MALE/FEMALE: M # DEPENDENT CHILDREN: 00

DATE OF HIRE: 10/01/01
OCCUPATION: DRIVER

WAGE INFORMATION
RATE: \$1,161.00 WEEKLY
FULL PAY FOR DAY OF INJURY? N
DATE RETURN(ED) TO WORK:
DID SALARY CONTINUE? N

OCCURRENCE
PLACE OF ACCIDENT OR OCCURRENCE: 29405-
CHARLESTON
DATE OF INJ: 05/05/05 TIME OF INJ: 06 AM
EMPLOYER'S PREMISES?: N LAST WORKDATE: 05/05/05 DATE EMPL'R NOTIF'D: 05/05/05

DESCRIBE NATURE OR INJURY OR ILLNESS IN DETAIL

CAUSE: STRUCK BY
NATURE: SPRAINS/BRUISES/CONTUSIONS
LOCATION: HEAD/FACE

DESCRIBE EMPLOYEE'S ACTIVITIES WHEN INJURY OCCURED WITH DETAILS OF HOW EVENT OCCURRED

THERE WAS A BROKEN DOWN VEH WITHOUT ANY WARNING

IF FATAL, GIVE DATE OF DEATH:

ELECTRONIC FILING. Original date sent: 05/21/05 Date processed: 05/24/05

Trading Partner: MAC RISK MANAGEMENT
P O BOX 9227
BOSTON MA 02209-9935

EXHIBIT 1
PG. 1 OF 1

05 00 0000

Harry Pavilack & Associates, P.A.
Attorneys at Law
PO Box 2740
Myrtle Beach, SC 29578-2740
Office: 843-448-9471 • Fax: 843-626-0003

by Pavilack, SC FL

ert S. Haight, Jr., PA, SC, NC
ies M. Robbins, SC
ra S. Harpe, NC, SC
affer L. Lineback, GA

Cynthia M. Lover, SC
Jeffrey A. Keenan, SC
Robert G. Bacon, SC
John Ahn, SC

May 23, 2005

South Carolina Worker's Compensation Commission
Judicial Department
Post Office Box 1715
Columbia, SC 29202-1715

#0506205

RE: WCC FILE NO.:

Employee: Alexander Guice
Employee's Address: 2996 Gaston Drive
Loris, SC 29569
Employee's Telephone No.: (843) 756-6479
Employee's SSN: 263-55-6377

Date of Injury: 05/05/05
Type of Injury/Part of Body: back, knee and neck

Description of Accident: Motor vehicle accident while operating company vehicle.

Location of Accident: Charleston, SC

Employer: U.S. Food Service
Employer's Address: 1687 Highway 501-East
Conway, SC 29526

Employer's Telephone No.: (843) 347-4691

Carrier: MAC Risk Management, Inc.
Attn: Larry Grant, Adjuster
PO Box 55840
Boston, MA 02205-5840

0506205

0506205

EXHIBIT 2

PAGE 1 OF 9

Judicial Department
Page 2
May 11, 2005

Sir/Madam:

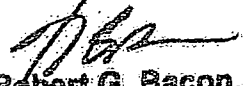
The injured employee has retained this firm for representation in a claim for injuries covered by the Workers' Compensation Act, and to establish a claim prior to the expiration of the Statutes of Limitations.

I am requesting the following documents if a claim has been established:

- | | | |
|--------------------------|--|-----------|
| ☐ | First Report of Injury. | Form 12-A |
| ☐ | Physicians's Report(s). | Form 14 |
| ☐ | Agreement as to Compensation. | Form 15 |
| ☐ | Settlement Agreement for Compensation. | Form 16 |
| ☐ | Application to Stop Payment of Compensation. | Form 21 |
| ☐ | Any other Information Contained in File. | |

Sincerely yours,

PAVILACK & ASSOCIATES, P.A.


Robert G. Bacon, Esq.

6175AA

RGB/lac

cc: Larry Grant

00405
00200
000

Jim

EXHIBIT 2

PAGE 2 OF 9

Alexander Guice

P.O. Box 8651
Tampa, FL 33674
aguice@hotmail.com
(813) 335-4046 T
(813) 898-2908 F

October 28, 2012

Bacon Law Firm, LLC
Robert G. Bacon, Esquire
1297 Professional Drive, Suite 101
Myrtle Beach, SC 29577

Re: Relief of Counsel – South Carolina Workers' Compensation Claim

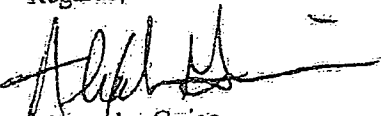
Mr. Bacon:

Due to ineffective representation, you, Robert G. Bacon, Esquire, and Harry Pavilack and Associates, LLC, are hereby now and forever, relieved as my attorney of record with regards to the South Carolina Workers' Compensation Claim, W.C.C. File No.: 0506205, and the like.

I request a complete copy of my File. Please mail the copy of the file to the address listed above.

Should you have any questions or concerns, contact me through written correspondence only.

Regards,


Alexander Guice
Claimant

ag

cc: FILE

EXHIBIT 2
PAGE 3 OF 9

BACON LAW FIRM
A FIRM OF TRIAL ATTORNEYS

ROBERT G. BACON, ESQ.
H. E. WHATLEY, ESQ.
AEL E. EVANS, ESQ.
TE: 843-839-8013

1297 PROFESSIONAL DRIVE
SUITE 101
MYRTLE BEACH, SC 29577
FAX: 843-839-8014

November 5, 2012

Alexander Guice
PO Box 8651
Tampa, FL 33674

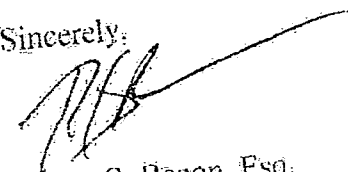
Re: WCC File No.: 0506205

Dear Mr. Guice:

I am writing in regards to your letter dated October 28, 2012 in which you relieved me of your counsel and requested your file. As of October, 2007, I resigned from Pavilack Law Firm and opened the Bacon Law Firm. According to the records that were sent to our office regarding your appeal, the above-referenced case settled on December 22, 2005. Upon my resignation from Pavilack Law Firm, any closed files were left in the firm's possession. To obtain this file, you will have to contact the Pavilack Law Firm directly.

If you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



Robert G. Bacon, Esq.

EXHIBIT 2

PAGE 4 OF 9

Alexander Guice

P.O. Box 8651
Tampa, FL 33674
alexguice@hotmail.com
(813) 335-4046 T
(813) 898-2908 F

November 15, 2012

VIA CERTIFIED MAIL

South Carolina Workers' Compensation Commission
Attn: Judicial Department
P.O. Box 1715
Columbia, South Carolina 29202

RE: WCC No.: 0506205 – NOTICE OF RELIEF OF COUNSEL

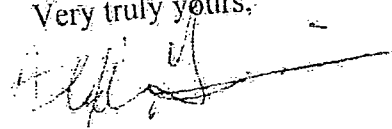
Dear Director Crocker or To Whom It May Concern:

Respectfully, please be advised that effective **October 28, 2012**, I, Alexander Guice, the Claimant, have relieved Attorney Robert G. Bacon and the Pavilack Law Firm, LLC, as my representative with relation to the above referenced Claim. For your review and filing, I have enclosed a copy of the Relief of Counsel letter as well as the certificate of service.

Until further written notice, I will proceed with the above referenced claim self-represented.

If you require any additional information or have any questions, please do not hesitate to contact me.

Very truly yours,


Alexander Guice
Claimant
ag

Enclosure(s): As stated

cc: FILE

EXHIBIT 2
PAGE 5 OF 9

STATE OF SOUTH CAROLINA

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

Claimant Alexander Guice
v

SCWCC: 0506205

Employer U.S. Foodservice, Inc.

MOTION AND ORDER
TO BE RELIEVED AS COUNSEL

Insurer. Ace American Insurance Company

MOTION

On behalf of the Claimant.

The Claimant in the above captioned matter has moved to release the attorney of record by letter to the Commission. See attached letter. The attorney may submit a Form 16A, if applicable.

ORDER

Regulations 67-1201 through 1203 govern appearances by Counsel before the Workers' Compensation Commission.

It appears the Attorney for the Claimant/Employer/Carrier wishes to be released as counsel in the above captioned matter.

Now, therefore; **IT IS ORDERED** the attorney be and is hereby released as Counsel for the Claimant/Employer/Carrier herein.

AND IT IS SO ORDERED.

Dated: 12/10/12


Commissioner T. Scott Beck, Chair
SC WORKERS' COMPENSATION COMMISSION

Columbia, South Carolina

EXHIBIT 2

PAGE 6 OF 9

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
803-737-5675



WCC File #: 0506205
Carrier File #: 104/0000015899/
Carrier Code #: 00461
Employer FEIN #: 363642294

Claimant's Name: Alexander Guice SSN: 263-55-6377 Employer's Name: U.S. Food Service Inc.
Address: P.O. Box 8651 Address: 120 Longs Pond Road
City: Tampa State: FL Zip: 33674 City: Lexington State: SC Zip: 29072
Home Phone: (813) 335-4046 Work Phone: N/A Insurance Carrier: Mac Risk Management
Preparer's Name: Alexander Guice Law Firm: N/A Preparer's Phone #: (813) 335-4046

SUBPOENA

To: Robert G. Bacon, Esquire
1297 Professional Drive, Suite 101
Myrtle Beach, SC 29577

☐ YOU ARE COMMANDED to appear before the above-named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY:

ROOM:

DATE AND TIME:

☐ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:

DATE AND TIME:

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below.

LIST OF DOCUMENTS: COPIES OF ALL DOCUMENTS CONTAINED IN WCC FILE NO.: 0506205

PLACE: ALEXANDER GUICE
P.O. BOX 8651
TAMPA, FL
33674

DATE AND TIME: ON OR BEFORE
DECEMBER 21, 2012

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES:

DATE AND TIME:

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE FOLLOWING ISSUING OFFICER.

ISSUING OFFICER'S SIGNATURE AND TITLE: [Signature]

PHONE NUMBER: 803 737 5677

DATE: Dec 7, 2012

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department at 803-737-5765.

WCC Form # 27
Rev. 3/96

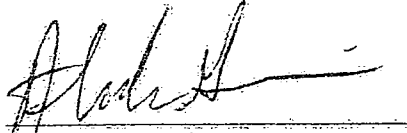
27

EXHIBIT 2
PAGE 7 OF 9

SUBPOENA

CERTIFICATE OF SERVICE

This certifies that I, Alexander Guice, the Claimant, did submit, via facsimile, a signed copy of WCC Form 27, cover letter, and certificate of service, on the party listed below.



Alexander Guice
Pro Se Claimant
P.O. Box 8651
Tampa, Florida 33674
(813) 335-4046 T
(813) 898-2908 F
alguice@hotmail.com

Faxed this 7th day of December 2012
Hillsborough County
Tampa, Florida

COPIES FAXED TO:

Bacon Law Firm, LLC
Attn: Robert G. Bacon, Esquire
1297 Professional Drive, Suite 101
Myrtle Beach, SC 29577
Fax No.: 843-839-8014

EXHIBIT 2
PAGE 8 OF 9

*** TX REPORT ***

TRANSMISSION COMPLETED

TX/RX NO. 0177
DESTINATION NUMBER 8438398014
DESTINATION ID
ST. TIME 12/07 16:56
COMMUNICATION TIME 00:38
PAGES SENT 4
RESULT OK

P.O. Box 8651
Tampa, FL 33674

facsimile transmittal

To: Bacon Law Firm LLC
Robert G. Bacon, Esq.
From: Alexander Gulce
Re: WCC File No.: 0506205
Cc: FILE

Fax: 843-839-8014

Date:

12/07/2012

Pages:

X Urgent

For review

Please comment

Please reply

Please recycle

EXHIBIT 2
PAGE 9 OF 9



Initial Report: Medical Case Management

Report Date: September 23, 2005

Larry Grant
MAC Risk Management, Inc.
P O Box 200001
Woodstock, GA 30189-0400

Claimant Name: Alexander Guice
Social Security Number: 265-55-6377
Claim #: 104/0000/5899/01-US
GENEX Case #: CNG38B
Employer: U S Food Service
Date of Injury: 05-May-2005
Date of Referral: 31-Aug-2005
Activity Dates: August 31st to September 23rd, 2005
Customer Name: MAC Risk Management, Inc.
GENEX Branch #: 141
Line of Insurance: Workers' Compensation
Case Type: FCM
Diagnosis:

846	SPRAINS&STRAINS.SACROILIAC REGION
-----	-----------------------------------

Date of Disability	RTWM Date	RTWE Date
---------------------------	------------------	------------------

Referral Reason: Medical case management services are requested to facilitate approved, appropriate, cost effective medical care and return the client to work.

Anticipated Case Results:

Results	Target Date	Completed Date
The Claimant will return to work in their pre-injury position with the insured	10/1/2005	
The Claimant will reach MMI	11/30/2005	

Case

Management

Interventions:

Activity Date: 31-Aug-2005 - 23-Sep-2005

Activity Date	Activity Note
8/31/2005	An introductory and disclosure letter was mailed to the client. The confirmation letter was sent to the carrier.
9/2/2005	I spoke to the adjuster and was advised that the EMG had been authorized. She requested I speak with LEEANNE, paralegal for Mr. Bacon regarding authorization to contact the client.

EXHIBIT 3

9/2/2005	I spoke with LEEANNE, paralegal for Mr. Robert Bason, and received authorization to call and meet with the client. She stated that the client's concerns were the TTE checks, and she agreed to continue working on that concern.
9/2/2005	I spoke with Becky Padgett, who confirmed that the client is working light duty as a receiver in the Conway Warehouse. She stated that "permanent light duty" is not available, and that the client's light duty availability will expire in November. She stated that the client had been employed with them as a driver/deliverer since 2001. She agreed to provide a written job description.
9/2/2005	I received and reviewed the 6-page job description.
9/2/2005	I called Dr. Tamadon's office and confirmed the September 15 th follow-up appointment for Mr. Alexander Guise.
9/2/2005	I attempted to call the client and received a busy signal.
9/14/2005	I called to confirm the client's follow up appointment. He will have the EMG and then I can meet with the client and Dr. Tamadon.
9/14/2005	I spoke with Mr. Guice and reminded him of the appointment for the EMG with Dr. Tamadon. I agreed to meet him at the appointment, and the location was confirmed. He continues to have right low back pain, headaches and neck pain, and right knee pain.
9/15/2005	I drove to the appointment to meet with Mr. Guice and Dr. Tamadon.
9/15/2005	I received and reviewed 12 pages of medicals dated June 16 th , July 7 th and 21 st , August 18 th and 25 th , from Dr. Tamadon.
9/15/2005	I met with Mr. Guice and he agreed to discuss his medical condition with me, but declined signing the medical release authorization form. Mr. Guice continued working full time light duty, being paid at a different wage than his full time position. He is sending the adjuster copies of his check stub. Mr. Guice continues reporting right low back pain, which radiates to the buttocks. His pain increases with bending. He also has right neck pain, which worsens with turning his head to the right. He has headaches in the back of his head, and has right hand and knee pain.
9/15/2005	Dr. Tamadon diagnosed "head/neck pain, right knee pain, and right low back pain". I provided Dr. Tamadon with a copy of the full time job description. He recommended Mr. Guice return to work without restrictions on September 19 th , 2005. Dr. Tamadon advised that physical therapy, oral medications and job modifications have been tried. He stated the EMG showed right carpal tunnel syndrome. He stated that if Mr. Guice continued to decline, that permanent restrictions may be necessary. A five-week follow-up appointment was coordinated for October 19 th at 10:30 AM.
9/16/2005	I received and reviewed the September 15 th EMG study, and September 15 th office documentation from Dr. Tamadon. The EMG shows "no electrodiagnostic evidence of acute cervical or lumbosacral motor radiculopathy; right carpal tunnel syndrome, and no evidence of other peripheral neuropathy, mononeuropathy, or plexopathy".
9/17/2005	I received a call from Alex (assistant to Dr. Tamadon), to confirm my receipt of the medicals. I rescheduled the follow up appointment for Mr. Guice to October 13 th at 9:45AM.
9/19/2005	I provided a detailed update to the carrier, and agreed to forward a brief written

	medical update.
9/23/2005	I spoke to the client who reported an increase in his pain and muscle soreness, since being back at work for the past week. He is taking the Ibuprofen three times per day, but not always with meals. He reports some gastrointestinal irritation, and I advised him to always take the Ibuprofen with food. He is taking two Hydrocodone in the evening and is doing his exercises. He reported continued headaches and shoulder muscle tightness, and moist heat and exercises were recommended. He stated that he uses Bengay and Biofreeze, which helps with his pain. He voiced concern of not being as fast with deliveries & quot as before. I advised Mr. Guice that he should see a gradual improvement with his symptoms and muscle strength, with time. I informed Mr. Guice of the change in appointments for October 13, 2005. He agreed to attend.
9/23/2005	A medical update was prepared for the carrier.
9/23/2005	The medical update was faxed to the adjuster.
9/23/2005	The medical update was faxed to Mr. Robert Bacon, attorney.
9/23/2005	Correspondence was forwarded to the client to keep him apprised of the follow up appointment with Dr. Guice.
9/23/2005	The initial report was completed.

Current Medical Status: Mr. Guice continues with cervical and lumbar pain, headaches, muscle spasms, right knee pain, headaches, and right arm pain. He was working full time light duty, and returned to work without restrictions on September 19th. He reports an increase in his symptoms since the limitations have been lifted.

Past Medical History: Mr. Guice smokes a pack of cigarettes per week, and has an occasional alcohol beverage. He has asthma and uses an over the counter inhaler.

Current Treatment Plan:

Provider	Service	Frequency	Cost	Start Date	Anticipated Duration	End Date
Dr. Tamadon		Monthly			NA	10/05

Name	Dosage	Purpose	Prescribing Physician	End Date
Flexeril	10 mg	muscle relaxant	Dr. Tamadon	11/30/2005
Hydrocodone	10/650	pain management	Dr. Tamadon	11/30/2005
Ibuprofen	200 mg	anti-inflammatory	Dr. Tamadon	11/30/2005

ADL/Safety: Mr. Guice denied any safety issues.

Socioeconomic: Mr. Guice is married to Pamela.

Current Work Status: Full Duty

EXHIBIT 3

PAGE 3 OF 5



Vocational History:

Employer	Job Title	SOC Code	Years Employed	Salary Duration	Salary Amount	Job at Time of Injury	Job Functions
U S Foods	driver/delivery		4			N	Drives 32'-38' trailer and delivers food products.
Creek Carrier	truck driver		1			N	long haul driver
Transport America			1 1/2			N	truck driver

Institution	Degree/Diploma/Certification	Years Attended
Brandon High School	none obtained	11
Technical College	GED	1

Legal: Mr. Guice is represented by Mr. Robert Bacon.

Case Management Plan

Case Management Issues:

Issue	Date Identified	Date Resolved
Long term treatment needs to be identified.	9/15/2005	
Work restrictions, if any, need to be clarified.	9/15/2005	
MMI and PPI need to be defined.	9/15/2005	

Case Management Goals:

Goals	Target Date	Completed Date
LTG: The Claimant will return to their pre-injury position with the insured.	10/1/2005	
STG: The Claimant will verbalize understanding of treatment plan.	10/15/2005	
LTG: The Claimant will reach MMI/PPI	11/30/2005	

EXHIBIT 3
PAGE 4 OF 5



Case Management Recommendations:

1. I will maintain contact with the client to assess his response to the current treatment plan, by September 30, 2005.
2. I will discuss any employment issues with the insured by September 30, 2005.
3. I will attend the October 13th appointment with Dr. Tamadon and the client to confirm long term treatment, work restrictions, MMI and PPI.
4. I will copy all reports and correspondence to Mr. Bacon and be available for4 phone consultation should the need arise by October 15, 2005.
5. I will provide an update to the adjuster and discuss file direction by October 14, 2005.

Next Report Date: October 15, 2005

Submitted By: Cathy Dayton, RN, CCM
(704)-568-7187, 3623

Supervised By: Debra Gray, BA, M Ed, CRC, CCM

CD/sbm

cc. Robert Bacon
P O Box 2740
Myrtle Beach, SC 29578-2740

EXHIBIT 3
PAGE 5 OF 5

REHABILITATION MEDICINE SERVICES, P.C.

4237 River Hills Drive, Suite 130

Little River, S.C. 29566

(910) 362-1112

Fax (910) 362-1115

PATIENT: Alex Guice
CHART #: T02447

DOB: 2/13/1971

OUTPATIENT FOLLOW-UP
October 27, 2005

CC: Neck and low back pain, stable.

HPI: Mr. Guice presents here in follow-up of his work-related injuries. He states that, as work restrictions have been once again incorporated, his pain is under acceptable control. He occasionally has bouts of pain for which he resorts to prescription medications provided. He reports to be comfortable today.

REVIEW OF SYSTEMS:

Patient denies any bowel or bladder changes, saddle dysesthesias, or new onset weakness.

CURRENT MEDICATIONS:

Ibuprofen, hydrocodone, Flexcril

SOCIAL HISTORY:

Patient was placed on a 25 lb work restriction and no truck driving previously.

PAST MEDICAL HISTORY:

Reviewed.

PHYSICAL EXAM:

General: Patient is well developed, well nourished, in no acute distress.

Gait: Gait is physiologic with physiologic arm swing and velocity.

Neurologic: Cranial nerves II through XII are grossly intact. Memory, insight, and judgment are within normal limits. Patient is alert and oriented x 4.

Neck: On inspection, no asymmetry is noted. Range of motion is within functional limits with pain on the extremes of motion. Myofascial pain is noted in the cervical and trapezius region. Provocative maneuvers are negative.

Upper limbs: Range of motion is full. Sensation is intact to light touch. Strength is graded as overall good. Neurovascular exam is otherwise intact.

Back: On palpation, once again, myofascial pain is noted. Lumbosacral range of motion is within functional limits with pain reported on the extremes of motion. No frank muscle spasm is noted on today's visit.

Continued . . .

EXHIBIT 4
PAGE 1 OF 6

PATIENT: Alex Guice
CHART #: T02447
October 27, 2005
Page 2

PHYSICAL EXAM (Continued).

Lower limbs: Seated straight leg raise test is negative. Strength is graded as overall good. Patient is able to walk on heels and toes. Deep squats are associated with right knee pain. Range of motion of the right knee is within normal limits with full extension and flexion greater than 120 degrees. No varus or valgus laxity or ankylosis is noted. Neurovascular exam is otherwise intact.

ASSESSMENT:

- (1) Neck pain.
- (2) Low back pain.
- (3) Right knee pain.
- (4) Other medical problems per chart, stable.

PLAN/DISCUSSION:

Approximately 45 minutes was spent with patient face to face out of which greater than 50% was for counseling. Functional Capacity Evaluation done was reviewed. Patient was made aware of the good effort placed and the results to be valid. Indeed, the results have yielded performing physical work at light level as defined by US Department of Labor. For this reason, he will be placed on permanent restrictions of no lifting greater than 25 lbs occasionally and no lifting greater than 10 lbs if to be done constantly or frequently. Medications were reviewed. Patient has adequate refills for the present time, however, may continue with these medications as needed in the future and is able to contact this office for refills on an as needed basis. With patient's permission, case manager was asked to enter the room for rehab nurse conference.

REHAB NURSE CONFERENCE:

Cathy Dayton, RN, patient's case manager, was made aware of the permanent restrictions. She was further made aware that patient is at maximal medical improvement. Subject of rating was raised. MRI results of the right knee were reviewed. It is noted that right knee MRI was essentially within normal limits with the exception of quadriceps which showed evidence of mild tendinitis. Electrodiagnostic studies were reviewed which showed no evidence of radiculopathy or otherwise nerve impingement and, indeed, an improvement from last comparison study done. In view of such findings, recommend a five percent (5%) impairment rating of the whole person for neck, low back, and right knee pain as a result of this injury. All other questions were answered. His follow-up is left open.

Alan Tamadon, M.D.

/dlr

cc. Dr. Bauerle

EXHIBIT 4
PAGE 2 OF 6

Summary Letter

Physical Work Performance Evaluation Summary

Date: 10-19-05

Re: Mr. Alexander Guice

EXHIBIT 4

PAGE 3 OF 6

Dear Dr. Tamadon:

The following letter provides a summary of the results of the Physical Work Performance Evaluation administered to your client, Mr. Alexander Guice. The results of this evaluation are substantiated by reliability and validity research conducted at the University of Alabama at Birmingham.¹ The comprehensive Physical Work Performance Evaluation consists of 36 tasks divided into 7 sections. However, this evaluation was administered with respect to the work demands of "delivery driver" with U.S. Foods. This letter provides a summary of your client's performance on these essential functions.

Overall Level of Work:

Based on the information summarized in the Dynamic Strength, Position Tolerance, and Mobility sections of the evaluation, the client is capable of performing physical work at the light level, as defined by the U.S. Department of Labor in the Dictionary of Occupational Titles. Based on this evaluation, the client is capable of sustaining the light level of work for an 8-hour day.

Overall Level of Client Participation:

Throughout the evaluation, participation was determined by comparing the client's willingness to exert a maximal effort to the evaluator's observations of client effort. Based on the Dynamic Strength, Position Tolerance, and Mobility sections of the evaluation, the client:

Participated fully in 17 out of 21 tasks.

Demonstrated self-limiting participation by stopping on 4 out of 21 tasks.

Self-limiting participation during the evaluation means that the client stopped the task before specific physical signs of a safe maximal effort were observed. The values reported for the 4 tasks in which the client self-limited represent, therefore, what the client was willing to do rather than a safe maximum physical effort. The values for the remaining tasks represent the client's maximum physical effort.

Self-limiting participation may be due to one, or any combination, of several factors. Some common factors contributing to self-limiting participation are: pain, fear of pain, fear of injury/re-injury, depression, anxiety, lack of familiarity with a safe physical maximum, and lack of motivation to perform maximally secondary to perceived financial gain. The client's reported reason(s) for self-limiting participation was/were low back pain, neck pain, fear of re-injury or new injury.

The Physical Work Performance Evaluation is a test of physical abilities and cannot be used to assess the complex factors underlying self-limiting participation. However, the research substantiating this evaluation suggests a correlation between the number of self-limiting tasks and these factors. If your client self-limited on 4 or fewer tasks, overall participation is considered to be good and does not warrant further evaluation. If your client self-limited on 5 to 7 of the tasks, further evaluation of the psychosocial and motivational aspects of

¹ Lechner DE, et al. *Journal of Occupational Medicine*. September 1994 Volume 36, No. 9: pages 997-1004.

Summary Letter

participation may be warranted. If your client self-limited on 8 or more of the tasks, further evaluation of the psychosocial and motivational aspects of participation is recommended.

Occasional Lifting Limits, other Specific Abilities and Limits, and Job Match Information:

The client's job match information is based on a job description provided by Ms. Cathy Dayton of MacRisk Management.

Activity	Physical Abilities*	Job Demand	Match?
Floor to waist lift	40 lbs	100 lbs	No
Waist to eye level lift	27 lbs	40 lbs	No
Two handed carrying	30 lbs	100 lbs	No
One handed carrying	27 lbs	? lbs	?
Pushing	33 lbs**	40 lbs**	No
Pulling	13 lbs**	90 lbs**	No
Sitting	Occasionally	Frequently	No
Standing	Occasionally	Occasionally	Yes
Work arms over head-standing	Frequently	Frequently	Yes
Work bent over-standing/sloping	Occasionally	Frequently	No
Work kneeling	Occasionally	Occasionally	Yes
Work bent over-sitting	Occasionally	Frequently	No
Work squatting/crouching	Occasionally	Frequently	No
Work arms over head-supine	Occasionally	?	?
Climbing stairs	Occasionally	Frequently	No
Repetitive squatting	Occasionally	Frequently	No
Walking	Frequently	Frequently	Yes
Crawling	Occasionally	Never	Yes
Climbing a ladder	Occasionally	?	?
Repetitive trunk rotation-standing	Occasionally	Frequently	No
Repetitive trunk rotation-sitting	Occasionally	Frequently	No
Balance on level surfaces	Adequate	Frequently	Yes
Balance on uneven surfaces	Inadequate	Frequently	No
Balance on ladder	Inadequate	?	?
Balance on beam/scaffold	Inadequate	?	?
Grip Strength	R. 11lb/L. 10lb	65lb	No

* The Dictionary of Occupational Titles (D.O.T.) defines Occasionally as up to 1/3 of the day, Frequently 1/3 to 2/3 of the day, and Constantly as 2/3 to the full day. The weights reported above are for the Occasional category. The following algorithms, derived from unpublished research, are used by the D.O.T. to extrapolate Frequent or Constant lifting from Occasional lifting: Frequent lifting equals 50% (1/2) of Occasional and Constant lifting equals 20% (1/5) of Occasional. PLEASE NOTE: the D.O.T. extrapolations from Occasional to Frequent and Constant lifting were not studied in the research validating the Physical Work Performance Evaluation.

** Pounds of force is the amount of force the client exerted during the pushing and pulling tasks. If your client is required to push or pull for any work activities, the force required for the job task should be measured with a force gauge and compared to the abilities documented above.

EXHIBIT 4

PAGE 4 OF 6

Summary Letter

Factors Underlying Limitations:

Based on this evaluation, the factors underlying the client's limitations appear to be:

1. Pain: primary site low back, secondary sites neck and right knee
2. Fear of re-injury or new injury
3. Decreased trunk strength

Job Match:

According to the job description provided by Mac Risk Management, the client's abilities do not match the job requirements, with the areas of discrepancy noted in prior table.

Interventions for Consideration:

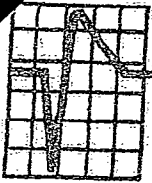
Mr. Quice may benefit from a physical therapy program which emphasized strengthening of his lower and upper extremities and trunk, and stretching for his cervical spine, right shoulder, legs, and back. He may also benefit from modalities and manual therapy in conjunction with the exercise program. He did receive physical therapy for 9-16-05 to 8-17-05 with noted improvement, however it does not appear he reached a level of functioning that would prepare him for the work demands of delivery driver. I would encourage him to continue light duty work with physical therapy three times per week for 3 to 4 weeks. After this period he could be re-evaluated on the tasks he is currently deficient in compared to the job demands of driver.

If you have any further questions after examining this summary, please contact me.

Sincerely,

James R. Cole
James R. Cole, PT
Phone: (843) 249-1843

EXHIBIT 4
PAGE 5 OF 6



Rehabilitation Medicine Services, P.C.

Musculoskeletal Injury, Electrodiagnostics
Workers Compensation and Coordination of Care

1709-B South 16th Street
Wilmington, N.C. 28401
Phone: (910) 362-1112
Fax: (910) 362-1115

215-A Station Street
Jacksonville, N.C. 28546
Phone: (910) 577-4300
Fax: (910) 577-6630

Notice of Work Status

Employee: Alex Guice

DOB: _____

Diagnosis: Neck & LSP

Next Appt: open

Date: _____ Time: _____

☐ Return to work without restriction on _____

☐ Off balance of this shift only

☐ Temporary total disability until: _____

☒ Modified work description. Please describe: _____

(permanent)

No lifting > 25 pounds

No lifting > 12 pounds frequently or consistently

☐ Physical / Occupational Therapy: ☐ YES ☒ NO

Next Appointment: _____

Frequency: _____ days per week, for _____ weeks.

☐ Patient referred to specialist for: _____

Physician: _____ Specialty: _____

Phone #: _____ Appt Date: _____

☐ Patient referred for: _____

☒ Patient Released

Physician Signature: _____

Alan Tamadon, MD

Date: 10/27/15

EXHIBIT 4

PAGE 6 OF 6

Revised 09/04



ROUTE TO:
1) Human Resources
2) Payroll (if applicable)

EXHIBIT 5
PAGE 1 OF 1

EMPLOYEE STATUS NOTICE

(rev 03/2005)

Hires/Changes/Transfers)

Effective Date	Employee ID (6 digits)	Name (First)	(Middle Initial)	(Last)
1/2/05	121674	Alexander		Guice
Section 1	Action(s)	Reason(s)	STD % (if applicable)	
1	Termination	IOA - NO POSITION AVAILABLE Permanent lifting restrictions		
Section 2	Comments/Special Processing:			
2	Termination of Employment - Released from Doctor with permanent lifting restrictions not comparable with job duties			
Job Information - Present (A)		Job Information - Proposed (B)		
Business Unit (5 digits)		Business Unit (5 digits)		Job Code (5 chars)
USF - Conway, S.C. site				
Position # (8 digits)		Grade		Position # (8 digits)
Delivery Driver		Grade		
Job Title		Job Title		
Same				
Department # (10 digits) and name:		Department # (10 digits) and name:		
Transportation				
Location (4 digits) and name:		Location (4 digits) and name:		
Conway, S.C.				
General Employment Information - Complete if new hire, rehire, or changing				
Reg/Temp:		Empl Class:		Union Code:
☐ Regular		☐ Standard (blank)		☐ Non-Union
☐ Temporary		☐ Commission		☐ Union
Full time / Part time:		☐ Stepdown		Union Code:
☐ Full time		☐ Incentive		
Std Work Hours				Employee Type:
☐ Part time				☐ Salaried
Std Work Hours				☐ Hourly
				☐ Exception Hourly (only commissioned)
Current Pay Group:		Current Tax Location (4 digits):		Proposed Pay Group:
				Proposed Tax Location (4 digits):
Compensation - Current (A)		Compensation - Proposed (B)		
Comp Rate Code: ☐ NAANNL(annual)		Comp Rate Code: ☐ NAANNL(annual)		
☐ NAHRLY(hourly)		☐ NAHRLY(hourly)		
Comp Rate (annual amount or hourly rate)		Target Bonus %		Comp Rate (annual amount or hourly rate)
				% Chg
				Target Bonus %
Additional Pay - Present (A)		Additional Pay - Proposed (B)		
Car Allowance: ☐ Yes ☐ No		Car Allowance: ☐ Yes ☐ No		
Amount/pay period: \$		Amount/pay period: \$		
Other (describe): ☐ Yes ☐ No		Other (describe): ☐ Yes ☐ No		
Amount/pay period: \$		Amount/pay period: \$		
APPROVALS (some changes may require only some of the signatures indicated)				
Immediate Supervisor: Mike Sanders		Date: 11/2/05	Division HR: <i>K. Pollard</i> 11-2-05	
R. A. Bennett		Date: 11/2/05	Zone or Region President (for exceptions or regional staff changes)	
Division President: <i>RAB</i>		Date: 11/2/05	Region HR VP (for exceptions or regional staff changes)	
Division HR (sending division)		Date:	Processed by HR: <i>Greg D. Middleton</i>	
Approval for DIVISION TRANSFERS - Sending Division		Date:	Processed by Payroll:	

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803)737-5700

WCC 0506205

Carrier File # 1040000015899/01

Carrier Code # 00461

Employer FEIN 363842294

Alexander Gulce
Claimant's Name
2996 Gaston Dr.
Address
843-756-6479
Home Phone #
263-55-6377
SSN
Loris
City
SC
State
29569
Zip
803-951-4200
Work Phone #

Us Foodservice
Employer's Name
120 LONGS POND ROAD P.O. BOX 8
120 LONGS POND ROAD P.O. BOX 869
Lexington
City
SC
State
29072
Zip
Mac
Insurance Carrier

Larry Grant
Preparer's Name

781-298-4909
Phone #

1. Date of Injury: 05/05/2005
month day year

2. Total Weeks of Compensation Paid: 10460.16

3. Type of Compensation Paid (TP or TTY) Periods of Payment:

Type: TTD	From: 5/6/05	To: 6/19/05
Type: TPD	From: 6/20/05	To: 11/6/05
Type: TTD	From: 11/7/05	To: 12/4/05

4. Date of First Payment: 5/13/05
month day year

5. Total Amount Paid (a) Compensation: 10460.16

(b) Medical (Include Nursing, Hospital Drugs, Etc.): 9387.57

6. Informal Conference Is Requested: ☐ yes ☒ no
(check one)

7. Use these lines to send a memo to the Commission:

Larry Grant
Employer's Representative

781-298-4909
Phone #

December 01, 2005
Date

Type or print all information. File this form 6 months after the alleged injury date and each 6 months until the Commission's file is closed. Form 18 must be filed whether or not compensation is ongoing. Check "yes" after number 6 to request an informal conference. Refer to R-67-413, R-67-507, and R-67-804 for further information.

WCC FORM # 18 REV. DATE 3/96

18

PERIODIC REPORT
EXHIBIT 6
PAGE 1 OF 1

SC Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715

File #: 0506205
Carrier File #: 1047000015999/01
Carrier Code #: 00461
Employer FEIN #: 363642204

Claimant's Name: Alexander Guice SSN: 263-55-6377
Address: 2996 Gaston Dr
City: Loris State: SC Zip: 29569
Home Phone: 843-756-6479 Work Phone: 803-951-4200
Preparer's Name: Lany Grant

Employer's Name: Us Foodservice
Address: 120 LONGS POND ROAD P.O. BOX 8
City: Lexington State: Zip:
Carrier: Mac
Preparer's Phone #: 781-299-4909

Date of injury: 05/05/2005 Date of Notice to Employer of Injury: 05/05/2005

I. Payment of Temporary Compensation
(choose A, B, or C).

Check one: ☐ Initial period ☒ Additional period ☐ Corrected compensation rate

☒ A. Temporary Total at the compensation rate of \$ 592.56 per week. For this period of disability, disability began on 11/7/05 and the date of first payment was 11/15/05.

☐ B. Temporary Partial at the compensation rate of \$ per week. Note: When the Temporary Partial compensation rate will vary, report the first payment here. Supplement this report throughout the period of Temporary Partial compensation by filing a Form 155 with the Form 13, which shall be filed six months after the date of injury and each six months thereafter until the file is closed. For this period of disability, disability began on 11/7/05 and the date of first payment was

Calculation of Temporary Partial rate: Average weekly wage before injury \$ 1161.00
Current weekly wage \$
Difference in wages before injury and now \$ 6667
Temporary Partial Compensation Rate \$

☐ C. Salary in lieu of Temporary ☐ Total ☐ Partial compensation in the amount of \$ per week.
(Choose one)

For this period of disability, disability began on and the date of first payment of salary in lieu of temporary compensation was

THIS SECTION MAY BE USED ONLY WITHIN 150 DAYS AFTER NOTICE TO EMPLOYER OF INJURY.
ATTACH DOCUMENTATION AS TO THE REASON OF THE TERMINATION.

II. Termination of Temporary Compensation Temporary compensation payments were stopped on for the following reason:

- ☐ Claimant has returned to work at least 15 days and no temporary partial compensation is due.
☐ Claimant agrees he/she is able to return to work and has signed a Form 17.
☐ Based on a good faith investigation, the claim is denied. Reason for denial:
☐ Claimant has been released to return to work without restrictions and employment has been offered.
☐ Claimant has been released to return to work at limited duty and employer has provided limited duty work consistent with the terms upon which the Employee has been released.
☐ Claimant has refused medical treatment, examination, or evaluation. Note: Benefits must be resumed if claimant accepts the treatment, examination, or evaluation. Additional report must be filed if compensation is resumed.

certify that this form has been served on the claimant per R.67-211.

Signature of Claims Administrator

Date

III. Notice to Injured Worker or Legal Representative when Temporary Compensation Has Been Stopped:

The employer's representative may stop temporary compensation within 150 days of the date of notice of injury for the above reasons. However, if you believe that the temporary compensation should not have been stopped, you may request a hearing by filing a hearing request with the SCWCC Judicial Department at the address at the top of this form. A hearing will be held within 60 days of receipt of your request. If temporary compensation has been properly terminated

MY SIGNATURE BELOW INDICATES THAT I DO NOT AGREE WITH THE TERMINATION OF TEMPORARY COMPENSATION.
I REQUEST A HEARING TO DETERMINE WHETHER I AM ENTITLED TO FURTHER TEMPORARY COMPENSATION PAYMENTS.

Check one: Form 15(II) ☐ Has ☐ Has not been received.

Signature of Claimant or legal representative

Date

Employer's representative must complete and file Form 15 with Claims Department within 150 days after compensation begins or is terminated. Employer's representative must serve the Form 15 on the claimant when compensation begins per R.67-211. Employer's representative must prepare and serve Form 20 within thirty days of beginning compensation per R.67-1603. Employer's representative must serve per R.67-211 a copy of the Form 15 on claimant immediately on termination of compensation with documentation attached as to the reason for the termination. Injured worker may contest termination of compensation by completing section III of the Form 15 and filing it with Judicial Department.

NCC FORM #15

Created 3/97
Rev. 10/04

15

TEMPORARY COMPENSATION REPORT

EXHIBIT 7

PAGE 1 OF 1

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOOD SERVICE, INC.

Employer,

AND

MAC RISK MANAGEMENT, INC.,

Carrier,

Defendants.

SETTLEMENT AGREEMENT
AND RELEASE

APPROVED

JAN 5 2006

S. C. Workers' Comp. Comm.

C-1-9
H. C. C.

WHEREAS, the undersigned, Alexander Guice, hereinafter referred to as Claimant, alleges to have sustained an injury to his low back, right knee and neck, by accident arising out of and in the course of his employment with US Food Service, Inc., hereinafter referred to as Employer, on or about May 5, 2005 when he allegedly was involved in a motor vehicle accident; and

WHEREAS, MAC Risk Management, Inc., hereinafter referred to as Carrier, is the Insurance Carrier for the Employer; and

WHEREAS, the average weekly wage is \$1,154.00; and the compensation rate is \$592.56; and

WHEREAS, all parties are operating under and are subject to the provisions of the South Carolina Workers' Compensation Act; and

WHEREAS, the Claimant contends that that he has sustained a permanent impairment in excess of the rating(s) of the physician(s); and the Employer and Carrier deny the same; and

EXHIBIT 8
PAGE 1 OF 8

WHEREAS, the Claimant has been treated and/or evaluated by Dr. Alan Tamadon, who found the Claimant at maximum medical improvement on October 27, 2005 and who rated the Claimant's permanent impairment at five (5%) percent to the whole person. The Claimant has also been treated and/or evaluated by Dr. Wayne B. Bauerle, Doctor's Care of Conway, Genex and Long Bay Diagnostic Imaging; and

WHEREAS, there is a bona fide dispute between the Claimant and the Employer and Carrier as set forth above; and

WHEREAS, on account of the doubts that exist as to what benefits, if any, the Claimant would be adjudged to be entitled to recover under the Workers' Compensation Act, the Claimant and the Employer and Carrier, with the approval of the South Carolina Workers' Compensation Commission, have deemed it advisable, proper and in the best interests of all parties to compromise and settle all possible liabilities and controversies between them, now and in the future, the basis of such settlement being as follows:

WHEREAS, in consideration of the sum of Twenty Thousand and 00/100 Dollars (\$20,000.00), the undersigned, Alexander Guice, does hereby release and forever discharge US Food Service, Inc. and MAC Risk Management, Inc. from any and all claims, demands, actions or causes of action under the South Carolina Worker's Compensation Act, on account of any and all injuries, disability, disfigurement, specific loss, death, operations, medical, hospital or like expense, continuances, recurrences, aggravations, changes of condition, ailments, illnesses, and diseases or other damages, consequences or results, past, present or future in any way connected with, or arising from the alleged injury sustained by the Claimant on or about May 5, 2005, and does hereby acknowledge that US Food Service, Inc. and MAC Risk Management, Inc. have fully, finally and completely paid and discharged each and every of their obligations, liabilities and responsibilities under the South Carolina Workers' Compensation Act and that the sum set forth above is being paid to, and received by, the undersigned, Alexander Guice, in full and final satisfaction of all claims whatsoever as a result of the alleged accident described above and that US Food Service, Inc. and/or

MAC Risk Management, Inc. shall not henceforth be liable for the payment of any amount whatsoever; and

WHEREAS, without in any way affecting the overall terms of this settlement insofar as the Defendants are concerned, and with the Claimant and the Claimant's attorney acknowledging that the Defendants make no representations as to the effect such allocation may have on the Claimant's receipt of other benefits, the Claimant and his attorney hereby request this Commission to approve the allocation of the proposed settlement sum of \$20,000.00; and

Prior to the trial of this case being held before the South Carolina Workers' Compensation Commission, the parties commenced settlement negotiations and, in view of the real dispute which exists between the parties, the parties agreed upon a full, final and complete settlement and termination of all claims by the Claimant against the Defendants, for any and all claimed injuries or accidents heretofore sustained in connection with the Claimant's employment by the named employer, subject to the approval of the South Carolina Worker's Compensation Commission, the terms of the settlement agreement between the parties being that the Defendants will pay to the Claimant in lump sum, with the Defendants expressly waiving all rights to commutation thereof, the sum of \$20,000.00 in full and final satisfaction for any and all compensation benefits or other payments under the Worker's Compensation Act to be allocated as follows:

\$13,333.34 in compromise settlement of disputed future disability benefits at the rate of \$6,489 per week commencing on December 15, 2005, for a period of 39.51 years representing the Claimant's life expectancy pursuant to Section 19-1-150 of the South Carolina Code of Law (1976), and pursuant to Section 42-9-10 and 42-9-20 of the 1976 Code of Laws as interpreted by the South Carolina Supreme Court decision of Ulica Mobak Mills v. Orr, 277 S.C. 226, 87 SE 2d 593; Sciarotta v. Bowen, 837 F 2d 135; Lemire v. Secretary of Health and Human Services, 682 F. Supp. 102 (D.C.N.H. 1988) and Hatch v. Heckler, 626 F. Supp. 1367 (N.D. California 1986); and \$6,666.66 as attorney's fees pursuant to a written agreement between the Claimant and his attorney;

and

EXHIBIT 8
PAGE 3 OF 8

WHEREAS, the Employer and Carrier have paid or have agreed to pay authorized medical expenses through December 1, 2005 incurred as a result of the alleged accident described above, in such amounts as may be approved by the South Carolina Workers' Compensation Commission; and

WHEREAS, this Settlement Agreement and Release is full, final and complete regardless of whether the Claimant is able to keep any employment whatsoever, or is able to earn any wages at any time in the future; and

WHEREAS, full and complete medical reports are on file with the South Carolina Workers' Compensation Commission and these are duly considered by it in approving this Settlement Agreement and Release.

WHEREAS, the Claimant represents that he has been fully advised of his rights under the South Carolina Workers' Compensation Act and that he is of the opinion that the proposed settlement is reasonable and fair, and requests that the South Carolina Workers' Compensation Commission approve this settlement as set forth in this Settlement Agreement and Release. The parties acknowledge that the Commission relies upon the representation of counsel for the claimant that the claimant has been fully apprised of his rights under the laws of the South Carolina Workers' Compensation Act and that he believes the settlement is reasonable and fair and thus requests that the South Carolina Workers Compensation Commission approve this settlement as set forth herein.

NOW THEREFORE, upon approval of this settlement by the South Carolina Workers' Compensation Commission, the Claimant hereby relinquishes and releases each and every claim related to this accident, which he now has, or may hereafter have, so that he shall not henceforth have any other or future claim or demand related to this accident, as a result of the alleged accident described above, nor shall anyone on his behalf or claiming by, through or under him or as dependent, have any claim or demand on account of this accident; as a result of the alleged accident described above; and

The undersigned further acknowledges that the consideration herein expressly recited is the sole and only consideration for the execution hereof, and that no promise, agreement or suggestions of any other or additional consideration has been made to, or received by, me.

EXHIBIT 8
PAGE 4 OF 8

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Myrtle Beach, this

22 day of December 2005


Alexander Guice

IN THE PRESENCE OF:

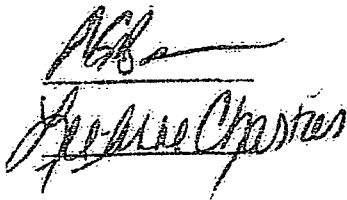
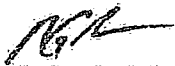


EXHIBIT 8
PAGE 5 OF 8

ATTORNEY'S CERTIFICATE

I, Robert G. Bacon, Esquire, a practicing attorney of Myrtle Beach, South Carolina, do hereby certify that I represent Alexander Guice and as his attorney and with his approval, I negotiated and secured the foregoing Agreement for the payment of the amount recited therein, on the conditions and terms and for the reasons therein stated, and that as attorney for Alexander Guice it is my opinion that such disposition is for the best interest of Alexander Guice, under all circumstances and that the consideration as recited in Agreement is full and adequate under the circumstances, and that as his attorney, I approve the Agreement, and I further certify that, before Alexander Guice signed and executed the above Agreement, the same was read over and explained to him and understood by him, and was executed freely and voluntarily on his part, and that the consideration therein recited is the sole and only consideration for the execution thereof.

Dated at Myrtle Beach, South Carolina, this 22 day of December, 2005.



Robert G. Bacon, Esquire
Attorney for Claimant

EXHIBIT 8
PAGE 6 OF 8

ORDER AND AWARD

Upon examination and consideration of the foregoing Agreement and Release, the Attorney's Certificate of Robert G. Bacon, Esquire, and the Workers' Compensation Commission File No. 0506205, and it appearing that the settlement set forth in the Agreement and Release is proper and complies with the requirements of the South Carolina Workers' Compensation Act;

Further, upon representation of the claimant and his counsel that his rights have been fully explained to him and that he understands them, that the settlement is reasonable and fair, and that it is the claimant's desire that the settlement as set forth herein be approved;

IT IS ORDERED AND AWARDED that the Settlement Agreement and Release be, and the same hereby is, approved and made the Order and Award of the South Carolina Workers' Compensation Commission, and that upon the payment of the amount recited, the Employer, US Food Service, Inc., and the Carrier, MAC Risk Management, Inc., be, and are forever discharged from each and every liability or responsibility under the South Carolina Workers' Compensation Act on account of the Claimant's injuries on or about May 5, 2005, whether for compensation, disfigurement or for medical or related services or for any account whatsoever and each and every consequence or result thereof, past, present or future, whether for continuation, aggravation, recurrence or otherwise as a result of this accident.

The sum set forth in the Settlement Agreement and Release shall be paid to the Claimant in a lump sum without commutation; whereupon, the Employer and Carrier are authorized to close their files in this matter and the Commission's files shall be, and they are hereby finally closed.

All orders, awards, and opinion heretofore issued by the South Carolina Workers' Compensation Commission in this case are hereby set aside, abrogated, and nullified.

EXHIBIT 8
PAGE 7 OF 8

Dated at Columbia, South Carolina on _____

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

BY: _____

[Signature]
6/5/06

I CONSENT:

Walter H. Barefoot

Walter H. Barefoot
Attorney for Employer and Carrier

EXHIBIT 8
PAGE 8 OF 8

00002-00002

AAC Risk Management, Inc.

Mailing Address: P.O. Box 300001 Woodstock, GA 30159-0001

RD

GUICE, ALEXANDER
2996 GASTON DR
LORIS, SC 29569

Check No. 0000678272
Check Date 12/01/2005
Check Amount \$2,370.24
Reference No. 104/0000015899

CLAIM #	LOSS DATE	CLAIMANT	LOCATION	REMARKS	AMOUNT
0000015899	05/05/05	GUICE, ALEXANDER	5D	FROM 11/07/05 TO 12/04/05	2,370.24

PAGE 1/1

EXHIBIT 9
1 OF 3

US

GUICE, ALEXANDER
2996 GASTON DR
LORIS, SC 29569Check No. 0000680044
Check Date 12/02/2005
Check Amount \$578.74
Reference No. 104/0000015899

CLAIM #	LOSS DATE	CLAIMANT	LOCATION	REMARKS	AMOUNT
0000015899	05/05/05	GUICE, ALEXANDER	5D	FROM 07/07/05 TO 10/27/05	578.74

EXHIBIT 9
2 OF 3

US

GUICE, ALEXANDER
2996 GASTON DR
LORIS, SC 29569

Check No. 0000680043
Check Date 12/02/2005
Check Amount \$1,185.12
Reference No. 104/0000015899

CLAIM #	LOSS DATE	CLAIMANT	LOCATION	REMARKS	AMOUNT
0000015899	05/05/05	GUICE, ALEXANDER	5D	FROM 12/05/05 TO 12/17/05	1,185.12

EXHIBIT
3 OF 3

9

Alexander Guice

P.O. Box 8651
Tampa, FL 33674
alguice@hotmail.com
(813) 335-4046 P
(813) 898-2908 F

December 7, 2012

VIA FACSIMILE ONLY

South Carolina Workers' Compensation Commission
Attn: Judicial Department
Post Office Box 1715
Columbia, South Carolina 29202

RE: Alexander Guice v. U.S. Food Service, Inc. and MAC Risk Management
Date of Injury: May 5, 2005
WCC File No.: 0506205 - REQUEST FOR HEARING

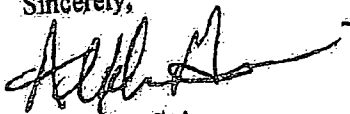
To Whom It May Concern:

Enclosed, please find a WCC Form 50 - Request for Hearing and WCC Form 32 - Request to Waive Filing Fee. Please also find a continued page for WCC Form 50 with regards to question 11a, and certificate of service.

By copy of this letter, I am serving McAngus, Goudelock and Courie and Erin L. Hantske, Esquire, the new attorney(s) of record for the Employer and Carrier, a copy of the same.

If you require any additional information, or have any questions, please do not hesitate to contact me.

Sincerely,



Alexander Guice
Pro Se Claimant
ag

Enclosure(s):
WCC Form 50 (2pgs.)
WCC Form 32
Certificate of Service

cc: Erin L. Hantske, Esquire

FILE

EXHIBIT 10
1 OF 4

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov



WCC File #: 0506205
Carrier File #: 104/0000015899/01
Carrier Code #: 00461
Employer FEIN #: 383642294

Claimant's Name: Alexander Guice SSN: 263-556377 Employer's Name: U. S. Food Service Inc.
Address: P.O. Box 8651 Address: 120 Longs Pond Road
City: Tampa State: FL Zip: 33674 City: Lexington State: SC Zip: 29072
Home Phone: (813) 335 - 4046 Work Phone: () - Insurance Carrier: Mac Risk Management
Preparer's Name: Alexander Guice Law Firm: N/A Preparer's Phone #: (813) 335 - 4046

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: 05/05/2005

☒ Injury ☐ Illness ☐ Repetitive Trauma

1a. The claimant sustained an injury to back, neck, right knee (Part(s) of Body Injured) On 05/05/2005 (Month/Day/Year) in South Carolina county, state of South Carolina

1b. Body part(s) affected are: back, neck, right knee

Briefly describe how the accident occurred: Tractor-trailer accident

2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

3. The relationship of employer and employee existed at the time of injury.

4. At the time of the injury the claimant was performing services arising out of and in the course of employment.

5. Notice of the accidental injury was given to the Employer on 05/05/2005 (Month/Day/Year) in the following manner:

Claimant called the Employer immediately following the accident.

☒ 6. Due to injury, the claimant is in need of (check one):

☒ (a) medical examination and treatment for: back, neck, and right knee

☒ (b) additional medical examination and treatment for: Headaches and numbness in extremities.

☒ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: 11/02/2005 to present

☒ 8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):

☐ (1) General Disability:

☐ Total

☒ (2) Specific Disability:

☒ Total

☐ (3) Wage Loss

☐ Partial

☐ Partial

☐ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:
N/A

10a. At the time of the injury, the Claimant was paid weekly wages of \$ 1,154.00, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
U.S Food Service Inc. until termination on 11/02/2005

11a. Further grounds or unusual aspects of claim:

Please SEE Attached.

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
Alan Tamaddon, MD 1709-B South 16th Street Wilmington, NC 28401

11c. To the best of your knowledge, did you have any prior permanent disability? No
If yes, describe:

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

☐ 13a. I am filing a claim. I am not requesting a hearing at this time.

☒ 13b. I am requesting a hearing. A \$25 fee is required.

14. Estimated time needed for hearing: 30 minutes

I verify the contents of this form are accurate and true to the best of my knowledge.

Alexander Guice
Preparer's Signature

Pro Se Claimant
Title:

alguice@hotmail.com
Email

12/07/2012
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

Employee's Notice of Claim and/or Request for Hearing

WCC Form # 50
Revised 9/07

50 EXHIBIT 10
2 OF 4

Alexander Guice

P.O. Box 8651
Tampa, FL 33674
aiguice@hotmail.com
(813) 335-4046 F
(813) 898-2908 F

December 7, 2012

VIA FACSIMILE ONLY

South Carolina Workers' Compensation Commission
Attn: Judicial Department
Post Office Box 1715
Columbia, South Carolina 29202

RE: Alexander Guice v. U.S. Food Service, Inc. and MAG Risk Management
Date of Injury: May 5, 2005
WCC File No.: 0506205

WCC FORM 50 - CONTIUED

11a. Further grounds or unusual aspects of claim:

- a. Employer terminated temporary benefits of Claimant AFTER 150 days of notice of accident / injury by Claimant, which violated R. 67-506(D);
- b. Employer failed to file WCC form 21 to request hearing to terminate temporary compensation benefits;
- c. Claimant entered into an unofficial settlement agreement and release with Employer and Carrier's former attorney of record, Walter H. Barefoot, on advisement of Claimant's former attorney, Robert Bacon;
- d. Unofficial Settlement Agreement and Release was allegedly approved by former Commissioner David W. Huffstetler although Claimant never met Commissioner Huffstetler at a formal or informal hearing;
- e. Claimant never received a certified copy of the Settlement Agreement and Release Order from South Carolina Workers' Compensation Commission;
- f. Eugenia Hollmon, SC Workers' Compensation Commission Judicial Department Officer, confirmed, on November 15, 2012, that the Settlement Agreement and Release entered into by the Claimant and Employer was not proper due to no hearing of any kind taken place regarding WCC File No.: 0506205 which was required prior to the parties entering into a Settlement Agreement and Release;
- g. Employer failed to file form WCC 21 with the Commission to get authorization to terminate temporary compensation payments and benefits;
- h. Employer never offered Claimant suitable accommodations of Claimant's permanent restrictions;
- i. Employer never offered Claimant Vocational Rehabilitation;
- j. Employer unlawfully terminated Claimant's employment on 11/02/2005 with permanent restrictions; and
- k. Claimant seeks additional compensation and penalties imposed on Employer per R. 67-510 (A).

CERTIFICATE OF SERVICE

This certifies that I, Alexander Guice, the Claimant, did submit, via facsimile, a signed copy of WCC Form 50 (2pgs.); WCC Form 32, cover letter, and certificate of service, on the parties listed below.



Alexander Guice
Pro Se Claimant
P.O. Box 8651
Tampa, Florida 33674
(813) 335-4046 T
(813) 898-2908 F
alguice@hotmail.com

Faxed this 7th day of December 2012
Hillsborough County
Tampa, Florida

COPIES FAXED TO:

South Carolina Workers' Compensation Commission
Attn: Judicial Department
Post Office Box 1715
Columbia, South Carolina 29202
Fax No.: (803) 737-1281

McAngus, Goudelock, and Courie, LLC
Attn: Erin L. Hantske, Esquire
Post Office Box 650007
Mt. Pleasant, South Carolina 29465
Fax No.: (843) 534-0605

EXHIBIT 10
4 OF 4

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: 0506205

Carrier File #:

January 29, 2013

NOTICE OF HEARING

ALEXANDER GUICE
P.O. Box 45062
Tampa, FL 33674

ALEXANDER GUICE v. US FOOD SERVICE INC., et al

Subject: To determine issues as set forth on Forms 50 and 51.
Date: March 28, 2013 at 12:30 PM
Location: County Services Bldg., 500 N. Main St., Council Chambers
SUMMERVILLE, SC 29483

South Carolina Regulations 67-601 through 67-615 govern hearings before the South Carolina Workers' Compensation Commission. The claimant must attend when not represented by an attorney or when disfigurement is involved. Corporations must be represented by an attorney, and uninsured employers must attend.

Attorneys must file a Form 58 with proof of service pursuant to Regulation 67-611. Postponements are only granted pursuant to Regulation 67-613. Please visit www.wcc.sc.gov/Commissioners to view Commissioners' Preferences. If you have questions regarding this matter, please contact the office of the undersigned Jurisdictional Commissioner.

Commissioner Susan S. Barden
803-737-5660, klove@wcc.sc.gov

CERTIFICATE OF SERVICE – This is to certify the undersigned has served this notice in the above entitled action upon all parties to this cause by sending a copy hereof by electronic mail or United States mail.

By: Kristi L. Love, SC Workers' Compensation, January 29, 2013

Party

Employee: ALEXANDER GUICE
P.O. Box 45062
Tampa, FL 33674

Employer: U.S. FOODSERVICE, INC.
Carrier: Ace American Insurance Company

Attorney

Erin L. Hantske
erin.hantske@mgclaw.com
843-576-2946

Employer: US FOOD SERVICE INC.
125 FORT MILL PARKWAY
125 FORT MILL PARKWAY
FORT MILL, SC 29715

EXHIBIT 11
1 OF 1

Alexander Guice

P.O. Box 45062
Tampa, FL 33677
agguice@hotmail.com
(813) 335-4046 Phone
(813) 898-2908 Fax

February 3, 2013

VIA Certified Mail

Virginia Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

RE: Alexander Guice v. U.S. Food Service, Inc., et al
Date of Injury: May 5, 2005
WCC File No.: 0506205

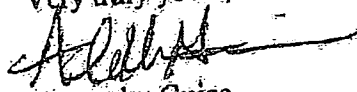
Dear Ms. Crocker:

Respectfully, IAW Regulation 67-215 of the Act, enclosed, please find a Motion to Transfer Jurisdiction, Exhibit 1 (7 pages), a \$25.00 money order and certificate of service.

By copy of this letter, I am serving Erin L. Hantske, Esq., the Representative for the Employer and Carrier in the above-referenced case, a copy of the same, via certified mail and regular mail.

If you have any questions or require any additional information, please do not hesitate to contact me. Thank you.

Very truly yours,



Alexander Guice
Pro Se Claimant

ag

Enclosure(s): As stated

Cc: Erin L. Hantske, Esq. (via certified mail and regular mail w/encl.)

FILE

EXHIBIT 12
1 OF 4

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
IN THE MATTER OF W.C.C. FILE NO.: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOODSERVICE, INC., Et. al,

Employer AND Carrier,

Defendants.

MOTION
FOR
TRANSFER OF
JURISDICTION

PLEASE TAKE NOTICE THAT Alexander Guice, the Claimant, the *PRO SE* Claimant, PROCLAIMS that pleadings in this matter are being filed by the Claimant in *Propria Persona*, wherein pleadings are to be considered without regard to technicalities. In *Propria*, pleadings are not to be held to the same high standards of perfection as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F.2d 1459 (11th Cir 1990), also See Hulsey v. Ownes 63 F.3d 354 (5th Cir 1995). Also See In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991). In particular, the Claimant DISPUTES the JURISDICTION in this matter. Pursuant to Regulation 67-215 of the Act, the Pro Se Claimant respectfully presents this Motion for Transfer of Jurisdiction, as the Claimant asserts that the above referenced matter's proper jurisdiction is RICHLAND, or District 7 instead of CHARLESTON, or District 4. Upon review of the this motion and supporting evidence, the Claimant seeks an ORDER from the South Carolina Workers' Compensation Commission (Commission) Transferring the Jurisdiction in this matter from District 4 to District 7.

GRONUDS FOR TRANSFER OF JURISDICTION EXHIBIT 12
2 OF 4

The Claimant asserts that the current Jurisdiction in this matter is IMPROPER based on the following grounds;

1. In the filings in this matter, to include all correspondence received by the Claimant, U.S. Foodservice, Inc. (Employer) has always listed the Employer's address as 120 Longs Pond Road, Lexington, South Carolina 29072. Please see Exhibit 1.
2. The Employer's address, in particular, 125 Fort Mill Parkway, Fort Mill, South Carolina 29715 has never been used related to this matter by the Employer before, with exception for purposes of scheduling the NOTICE OF HEARING in this matter, and is improper.
3. The Employer's proper address, as stated in paragraph 1 above, would place the proper jurisdiction with respect to the Commission adjudicating this matter, in District 7.
4. The Employer has failed to show good cause as to why the Employer's address has suddenly changed.

CONCLUSION

Based on the foregoing, the Claimant would respectfully move the Commission for an Order transferring the jurisdiction in this matter from District 4 to District 7, and submitting a modified NOTICE OF HEARING to reflect the above matter being heard within the jurisdiction of District 7.

Respectfully submitted,



Alexander Guice
Pro Se Claimant
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046 Phone
(813) 898-2908 Fax
alguice@hotmail.com

February 3, 2013.

EXHIBIT 12
3 OF 4

CERTIFICATE OF SERVICE

This certifies that I, Alexander Guice, the Pro Se Claimant, did mail, with sufficient first class postage, through the U.S. Postal Service, via certified mail, a Motion for Transfer of Jurisdiction ; Exhibit 1 (7 pages); a \$25.00 money order; and a Certificate of Service, on the parties listed below.



Alexander Guice
Pro Se Claimant
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046 Phone
(813) 898-2908 Fax
alguice@hotmail.com

Mailed this 3rd day of February 2013
Hillsborough County
Tampa, Florida

COPIES MAILED TO:

Virginia L. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Judicial Department
Post Office Box 1715
Columbia, South Carolina 29202
Confirmation Number: 7012 2210 0001 7444 6980

McAngus, Goudelock & Courie, LLC
Attn: Erin L. Hantske, Esquire
Post Office Box 650007
Mt. Pleasant, South Carolina 29465
Confirmation Number: 7012 1010 0003 6156 0135

EXHIBIT 12

4 OF 4



ATTORNEYS AT LAW

Reply To
ERIN L. HANTSKE
Direct Dial: (843) 576-2946
erin.hantske@mgclaw.com
CHARLESTON

February 13, 2013

Virginia L. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

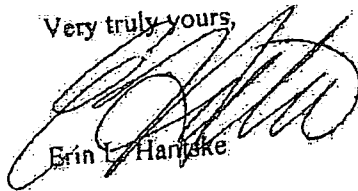
RE: Alexander Guice v. U.S. Food Service, Inc. and ACE American Insurance Company c/o
Gallagher Bassett Services, Inc.
Date of Accident: May 5, 2005
WCC File No.: 0506205
Our File No.: 2098-12550
Claim No.: 004063-032175-wc-01

Dear Ms. Crocker:

Please find enclosed the original and one (1) copy of Defendants' Reply to Claimant's Motion to Transfer Jurisdiction in the above-referenced matter. Please return a clocked copy to us in the enclosed self-addressed, stamped envelope provided for your convenience.

By copy of this letter to Alexander Guice, *pro se* Claimant, we are serving a copy of the Reply upon him by U.S. Mail and Certified Mail.

Very truly yours,



Erin L. Hantske

ELH/gcm
Enclosures

cc: Alexander Guice (w/encl.) (via U.S. Mail & Certified Mail-Return Receipt Requested)
Lisa Purvis, US Foods, Inc. (w/encl.) (via e-mail)
Cheryl McLaughlin, US Foodservice, Inc. (w/encl.) (via e-mail)
Don Merritt, Gallagher Bassett Services, Inc. (w/encl.) (via e-mail)

EXHIBIT 13
OF 4

CHARLESTON | COLUMBIA | GREENVILLE | MYRTLE BEACH | ASHEVILLE | CHARLOTTE | RALEIGH
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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOODSERVICE, INC.,

Employer,

AND

ACE AMERICAN INSURANCE
COMPANY C/O GALLAGHER BASSETT
SERVICES, INC.

Carrier,

Defendants.

DEFENDANTS' REPLY TO
CLAIMANT'S MOTION FOR
TRANSFER OF JURISDICTION

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
ALEXANDER GUICE, PRO SE CLAIMANT:

YOU WILL PLEASE TAKE NOTICE that Defendants, US Foodservice, Inc. and ACE American Insurance Company c/o Gallagher Bassett Services, Inc., by and through their undersigned attorney, Erin L. Hantske, Esquire, hereby respond to the Claimant's Motion dated February 3, 2013, based on the following grounds:

1. The Claimant suffered an injury by accident on May 5, 2005, when he was involved in a motor vehicle accident while working for US Foodservice. The Employer is located at 120 Longs Pond Road in Lexington, South Carolina.

EXHIBIT 13
2 OF 4

2. The parties recently received a Hearing Notice for a hearing scheduled on the Claimant's Form 50 and Defendants' Form 51. The hearing is set for March 28, 2013, in Summerville, South Carolina, with Commissioner Susan Barden.

3. Defendants have no objection to the Claimant's request for a transfer of jurisdiction in light of the location of the accident and prior Commission filings.

Based on the above, Defendants have no objection to the request to transfer jurisdiction and the Claimant's request for a reset Hearing Notice.



ERIN L. HANTSKE
MCANGUS GOUDELOCK & COURIE, L.L.C.
Post Office Box 650007
735 Johnnie Dodds Blvd, Suite 200
Mt. Pleasant, South Carolina 29465
(843) 534-0101
Attorneys for the Employer/Carrier

Charleston, South Carolina
February 13, 2013

EXHIBIT 13
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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOODSERVICE, INC.,

Employer,

AND

ACE AMERICAN INSURANCE COMPANY
C/O GALLAGHER BASSETT SERVICES,
INC.,

Carrier,

Defendants.

CERTIFICATE
OF
SERVICE

The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO:

Alexander Guice
(via U.S. Mail & Certified Mail-Return Receipt Requested)
Post Office Box 45062
Tampa, Florida 33677

South Carolina Workers' Compensation Commission
P. O. Box 1715
Columbia, SC 29202-1715

DOCUMENT

Defendants' Reply to Claimant's Motion to Transfer Jurisdiction

DATE OF
MAILING:

February 13, 2013

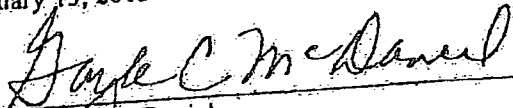

Gayle C. McDaniel
Legal Assistant to Erin L. Hantske

EXHIBIT 13
4 OF 4

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506205

Alexander Guice,

Claimant,
vs.

US Food Service, Inc.,

Employer,

MAC Risk Management, Inc.

Carrier,
Defendants

ORDER

Claimant settled his claim (WCC# 0506205) through a Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. A Form 19 was submitted by Defendants as well.

In January 2013, Claimant filed a Form 50 relating to the claim (WCC# 0506205) which he previously settled.

As this case was settled on a Full and Final basis on or about January 6, 2006, Claimant's hearing request is hereby denied, and the hearing set for March 28, 2013 in Summerville, South Carolina is cancelled. Further, any and all motions filed pertaining to WCC# 0506205 are hereby dismissed as well.

AND IT IS SO ORDERED.

Columbia, SC


Susan S. Barden, Commissioner

February 22, 2013

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States mail addressed to any unrepresented party.

By Kristi Love on February 22, 2013

EXHIBIT 14
OF 1



Claimant's Name: Alexander Guice SSN: 26355-6377 Employer's Name: US Foodservice, Inc.
Address: Post Office Box 45062 Address: 120 Longs Pond Road
City: Tampa State: FL Zip: 33677 City: Lexington State: SC Zip: 29072
Home Phone: 813 335 4046 Work Phone: Insurance Carrier: Ace American Insurance Company
Preparer's Name: Alexander Guice Law Firm: self-represented Preparer's Phone #: 813 335 4046

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ claimant ☐ employer (check one) Date of injury: 05/05/2005

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

1. Did Commissioner Susan S. Barden have proper jurisdictional authority to make any judgments regarding WCC# 0506205?
2. Was Commissioner Barden's Order invalid due to no regulatory or statutory grounds stated to support cancelling the hearing?
3. Did the Order signed by Commissioner Barden on 02/22/2013 violate Rule 5(b)(3)SCRCP?
4. Did the Order signed by Commissioner Barden on 02/22/2013, with respect to cancelling the hearing, violate Rule 7(b)(1)SCRCP?
5. Did Commissioner Barden's Order dated 02/22/2013 violate the Appellant's Right to a Hearing?
6. Was the Appellant subjected to a conspiracy involving Commissioner Barden, Virginia L. Crocker, Judicial Director, and Erin L. Hantske, Esquire, the Representative for the Respondent? 7. Is Commissioner Barden's conduct subject to be reported to the SC Ethics Commission (AW Rule 501(3)(D)(1) SCACR with respect to the Order dated 02/22/2013?

Check one) Oral argument ☐ is ☒ is not requested. Appellant's request for oral argument is waived if not indicated on this form.

I certify that I have served this document pursuant to R.67-211 by delivering a copy to SCWCC Judicial Department P.O. Box 1715

Columbia, SC 29202 and Erin L. Hantske, Esq., Respondent's Representative P.O. Box 650007 Mt. Pleasant, SC 29465.

on the 28 day of February, 2013 by ☐ first class mail ☐ personal service ☒ certified mail.

Alexander Guice Appellant February 28, 2013
Preparer's Signature Title Date

Check this box if you are not represented by an attorney. ☒

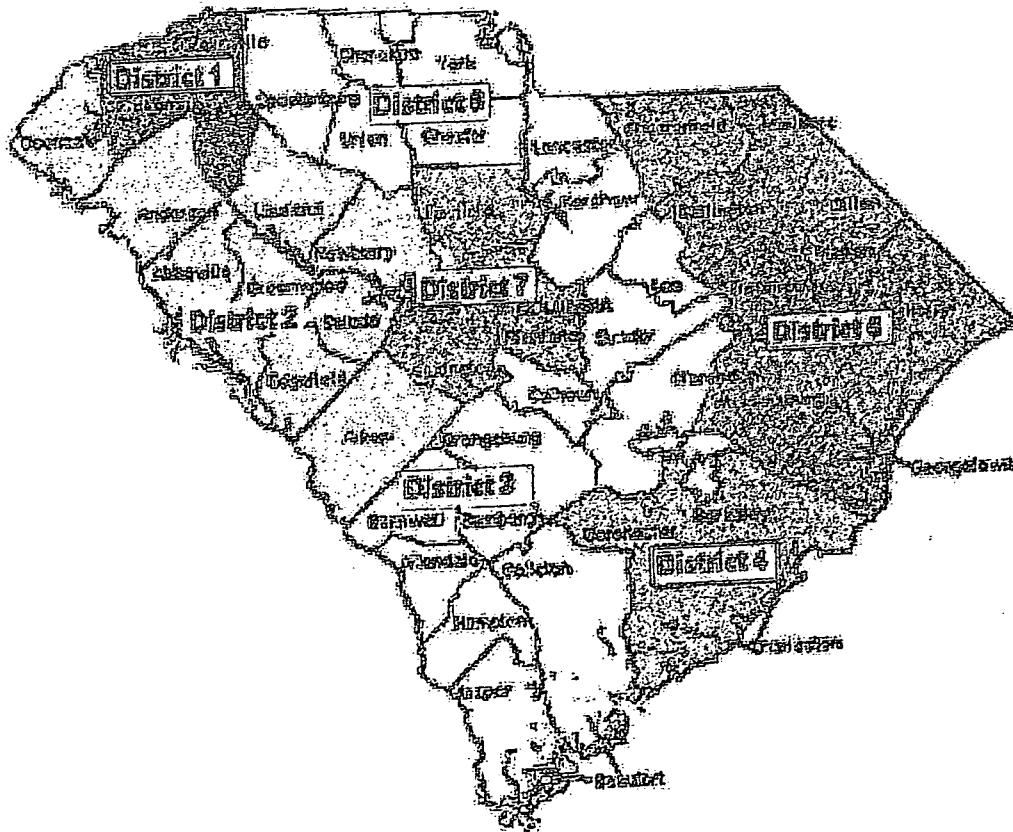
If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and four copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-701 and R.67-205. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

SCWCC HEARING DISTRICTS AND HEARING DISTRICTS MAP

Hearing Districts

- District 1 - Greenville
- District 2 - Anderson
- District 3 - Orangeburg
- District 4 - Charleston
- District 5 - Florence
- District 6 - Spartanburg
- District 7 - Richland

Hearing Districts Map



Retrieved from SCWCC website: <http://www.wcc.sc.gov/commissioners/Pages/HearingDistricts.aspx>
on February 27, 2013.

Prepared by: Alexander Guice, Appellant

EXHIBIT 15

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SCWCC District Assignments

Districts	Jan/Feb 2013	Mar/Apr 2013	May/June 2013
District 1 Greenville	Commissioner Wilkerson	Commissioner James	Commissioner Beck
District 2 Anderson	Commissioner Barden	Commissioner Taylor	Commissioner James
District 3 Orangeburg	Commissioner McCaskill	Commissioner Beck	Commissioner Wilkerson
District 4 Charleston	Commissioner Beck	Commissioner Barden	Commissioner McCaskill
District 5 Florence	Commissioner Roche	Commissioner McCaskill	Commissioner Barden
District 6 Spartanburg	Commissioner James	Commissioner Wilkerson	Commissioner Roche
District 7 Richland	Commissioner Taylor	Commissioner Roche	Commissioner Taylor

Case Managers

Districts	Jan/Feb 2013	Mar/Apr 2013	May/June 2013
District 1 Greenville	Tracy Riddle triddle@wcc.sc.gov	Amanda Young ayoung@wcc.sc.gov	Audra Higbe ahigbe@wcc.sc.gov
District 2 Anderson	Amanda Young ayoung@wcc.sc.gov	Audra Higbe ahigbe@wcc.sc.gov	Tracy Riddle triddle@wcc.sc.gov
District 3 Orangeburg	Tracy Riddle triddle@wcc.sc.gov	Audra Higbe ahigbe@wcc.sc.gov	Amanda Young ayoung@wcc.sc.gov
District 4	Tracy Riddle	Amanda Young	Audra Higbe

EXHIBIT 15
3 OF 4

SCWCC District Assignments

Charleston	triddle@wcc.sc.gov	ayoung@wcc.sc.gov	ahigbe@wcc.sc.gov
District 5	Amanda Young	Audra Higbe	Tracy Riddle
Florence	ayoung@wcc.sc.gov	ahigbe@wcc.sc.gov	triddle@wcc.sc.gov
District 6	Audra Higbe	Tracy Riddle	Amanda Young
Spartanburg	ahigbe@wcc.sc.gov	triddle@wcc.sc.gov	ayoung@wcc.sc.gov
District 7	Audra Higbe	Tracy Riddle	Amanda Young
Richland	ahigbe@wcc.sc.gov	triddle@wcc.sc.gov	ayoung@wcc.sc.gov

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Retrieved from SCWCC Website:
<http://www.wcc.sc.gov/commissioners/Pages/DistrictAssignments.aspx> on
 February 25, 2013

By: Alexander Guice, *pro se* Appellant

ACKNOWLEDGEMENT

I, Alexander Guice, do swear that the information contained herein was retrieved from the South Carolina Workers' Compensation Commission website on February 25, 2013 and none of the stated information was altered or changed in any way.

Alexander Guice / Appellant
 Printed Name / Title


 Signature

Date: February 28, 2013.

EXHIBIT 15
 4 OF 4

Alexander Guice

P.O. Box 45062
Tampa, FL 33677
alguice@yahoo.com
(813) 335-4646 Phone
(813) 898-2908 Fax

March 4, 2013

VIA Priority/Certified Mail

Virginia L. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

RE: Alexander Guice v. U.S. Food Service, Inc., et al
Date of Injury: May 5, 2005
WCC File No.: 0506205

Dear Ms. Crocker or To Whom It May Concern:

Enclosed please find the original and a copy of a Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments; a Form 32; an Index of Exhibits; Exhibit 1 (36 pgs.); Exhibit 2 (16 pgs.); Exhibit 3 (39 pgs.); Exhibit 4 (8 pgs.) and a certificate of service. Please forward the documents to the appropriate person for filing and return file stamped copy of the Claimant's motion in the enclosed, prepaid self-addressed envelope for your convenience.

Based on the Employer's proper address of 120 Longs Pond Road Lexington, SC 29072, I would respectfully assert that the assignment of this motion should be within the jurisdiction of District 7 and Commissioner Andrea C. Roche.

By copy of this letter, I have provided Erin L. Hantske, Esq., the attorney of record for the Employer/Carrier, a copy of the same, via priority/certified mail with enclosures. By copy of this letter, I have provided Gary M. Cannon, Executive Director, a copy of the same, via priority/certified mail, with enclosures.

Should you have any questions or concerns, please do not hesitate to contact me.

Respectfully submitted,

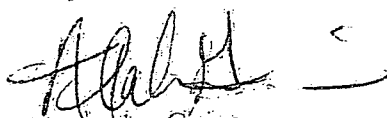

Alexander Guice
Claimant, *pro se*

EXHIBIT 16
PAGE 1 OF 12

/AG

Enclosures: As stated

cc: Erin L. Hantske, Esq. (via priority/certified mail w/encl.)
Gary M. Cannon, Executive Director (via priority mail w/encl.)

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 0506205

ALEXANDER GUICE,	)	
	)	
Employee,	)	
	)	
Claimant,	)	MOTION FOR REINSTATEMENT OF
vs.	)	
	)	EMPLOYMENT AND RELEASE OF
US FOODSERVICE, INC., Et. al,	)	
	)	TEMPORARY TOTAL COMPENSATION
Employer AND Carrier,	)	
	)	PAYMENTS
Defendants.	)	
	)	

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND ERIN L. HANTSKE, ESQUIRE, REPRESENTATIVE FOR DEFENDANTS:

PLEASE TAKE NOTICE, that Alexander Guice, the *pro se* Claimant, PROCLAIMS that pleadings in this case are being filed by Claimant in *Propria Persona*, wherein pleadings are to be considered without regard to technicalities. In *Propria*, pleadings are not to be held to the same high standards of perfection as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11th Cir 1990), also See Hulsey v. Ownes 63 F3d 354 (5th Cir 1995). Also See In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991). Pursuant to Regulation 67-215 (A) of the South Carolina Workers' Compensation Act (Act), the *pro se* Claimant presents this MOTION FOR REINSTATEMENT OF EMPLOYMENT AND RELEASE OF TEMPORARY TOTAL COMPENSATION PAYMENTS demanding an ORDER:

- a. Reinstating Claimant's employment with US Food Service, Inc. (Employer) effective November 2, 2005;
- b. Immediate release of unlawfully withheld Temporary Total Compensation Payments at the average weekly wage/compensation rate amount of \$1,154.00 per week effective November 2, 2005;
- c. Immediate release of 25% penalty of unlawfully withheld Temporary Total Compensation Payments effective November 2, 2005; and
- d. Any and such other relief and actions the Commission deems just and proper.

STATEMENT OF FACTS IN SUPPORT OF

EXHIBIT 16

PAGE 2 OF 12

- I. The Claimant was injured in a work related injury on May 5, 2005 (Please see Claimant's Exhibit 1, page 36).
- II. South Carolina Workers' Compensation Commission has continuing subject matter jurisdiction in W.C.C. Case No.: 0506205.
- III. The Claimant was represented by Robert G. Bacon of Harry Pavilack & Associates, P.A. (Attorney Bacon) from on or around May 23, 2005 to on or around December 10, 2012 (Please see Claimant's Exhibit 1, pgs. 33-34 and Exhibit 4, pgs. 5-8).
- IV. The Claimant was treated by several employer referred physicians and health care officials to include but not limited to:
 - a. Alan Tamadon, MD (Dr. Tamadon);
 - b. Cathy Dayton, RN, CCM (RN Dayton); and
 - c. James R. Cole, Physical Therapist (PT Cole) (Please see Claimant's Exhibit 3, pgs. 1-39).
- V. The Claimant received a five percent (5%) impairment rating and permanent lifting restrictions on October 27, 2005 (Please see Claimant's Exhibit 3, pgs. 4-7).
- VI. The Employer terminated the Claimant on November 2, 2005 for the reasons of "109 – No Position Available and Permanent lifting restrictions" (Please see Claimant's Exhibit 2, pg. 3).
- VII. From May 5, 2005 to November 2, 2005, the Claimant's average weekly wage/compensation rate was one thousand one hundred fifty-four and 00/100 dollars (\$1,154.00) per week as mutually agreed by the parties (Please see Claimant's Exhibit 1, pg. 24).
- VIII. From May 5, 2005 to November 2, 2005, the Claimant received a combination of Temporary Partial Compensation and Temporary Total Compensation payments for approximately one hundred eighty – one (181) days; thirty – one (31) days after and including the first one hundred fifty (150) days as mutually agreed by the parties (Please see Claimant's Exhibit 1, pg. 23).
- IX. Claimant's Temporary Total Compensation was reduced from \$1,154.00 to five hundred ninety-two and 56/100 dollars (\$592.56) per week on November 7, 2005 (Please see Claimant's Exhibit 1, pg. 28).
- X. Claimant's Temporary Total Compensation Payments was terminated by Employer's

- Representative on December 4, 2005 (Please see Claimant's Exhibit 1, pg. 23).
- XI. The Parties entered into a Settlement Agreement and Release on December 22, 2005 which was approved by Commissioner David W. Huffstetler on January 5, 2006 (Please see Claimant's Exhibit 1, pgs. 12-19).
- XII. The Employer/Carrier was formerly represented by Walter H. Barefoot of Turner, Padgett, Graham & Laney, P.A. (Representative Barefoot) from on or around May 5, 2005 to January 14, 2013. The Employer/Carrier has been represented by Erin L. Hantske of McAngus, Goudelock & Courie, L.L.C. from January 14, 2013 to present (Please see Claimant's Exhibit 4, pgs. 1-2).
- XIII. The Claimant has been unemployed since being terminated by the Employer on November 2, 2005 (Please see Claimant's Exhibit 4, pgs. 3-4).

ARGUMENT IN SUPPORT OF

FOR A FIRST CAUSE

(Unlawful Termination of Claimant by Employer)

1. The Employer unlawfully terminated the Claimant. The reasons used by the Employer to terminate the Claimant, in particular, permanent lifting restrictions and no position available, were unlawful justifications used by the Employer, pursuant to the Act (Please see Claimant's Exhibit 2, pg. 3).
2. The Employer failed to offer or provide to the Claimant, reasonable employment to accommodate the Claimant's incapacity prior to terminating the Claimant (Please see Claimant's Exhibit 4, pgs. 3-4).
3. The Claimant never refused suitable employment to accommodate the Claimant's incapacity due to the Employer never offering suitable employment to the Claimant (Please see Claimant's Exhibit 4, pgs. 3-4).
4. The permanent lifting restrictions the Claimant received from the Employer and Carrier's selected treating physician, Dr. Tamadon, were imposed upon the Claimant as a direct result of injuries sustained in the work related injury on May 5, 2005 (Please see Claimant's Exhibit 3, pg. 1).

FOR A SECOND CAUSE

(Failure of Employer to provide written notice of termination to Claimant)

5. The Employer never provided the Claimant a copy of the termination notice at the time the Employer terminated the Claimant on or around November 2, 2005

- (Please see Claimant's Exhibit 4, pgs. 3-4).
6. The Claimant was verbally terminated by Michael L. Sanders, Transportation Manager for the Employer, on or around November 2, 2005 (Please see Claimant's Exhibit 4, pgs. 3-4).
 7. The Claimant did not receive a copy of the written notice of termination from the Employer until the Claimant duly served a Form 21 (Subpoena) upon the Employer Representative to receive a copy of the Claimant's employer file from the employer which was received by the Claimant on or around **December 21, 2012** (Please see Claimant's Exhibit 2, pgs. 1-16).

FOR A THIRD CAUSE

(False Statement from Employer regarding Claimant's termination)

8. As previously stated in paragraph five (5) above, the Claimant was never provided a copy of the written notice of termination from the Employer.
9. After repeated phone calls to the Employer requesting a copy of the notice of termination, the Claimant received a letter from dated March 9, 2006 from Kellen K. Pollard, Vice President, Human Resources, US Food Service, Inc. (VP Pollard) (Please see Claimant's Exhibit 2, pg. 2).
10. In the aforementioned letter, VP Pollard falsely stated that the Claimant "... left the company in 2005 because he could not longer perform the duties of a delivery driver" (Please see Claimant's Exhibit 2, pg. 2).
11. The Claimant asserts that VP Pollard willfully submitted the false statement as it relates to the Claimant's factual cause of the Claimant's release from the Employer, in particular, that the Claimant was terminated, in an attempt to conceal the Employer's unlawful termination of the Claimant (Please see Claimant's Exhibit 2, pgs. 2-3).

FOR A FOURTH CAUSE

(Unlawful reduction of Claimant's average weekly wage/compensation rate by Employer's Representative/Carrier)

12. The Employer's Representative unlawfully reduced the Claimant's Temporary Total Compensation amount (Please see Claimant's Exhibit 1, pgs. 23, 28).
13. At the point the Employer could not accommodate the Claimant's capacity and had 'no position available' on or around November 2, 2005, the Claimant had received a combination of Temporary Total and Temporary Partial Compensation for approximately 181 days, after, and including, the first 150 days (Please see Claimant's Exhibit 1, pg. 23).
14. The mutually agreed average weekly wage and/or Compensation Rate of the

- Claimant, as of November 2, 2005, was \$1,154.00 per week (Please see Claimant's Exhibit 1, pg. 24).
15. On November 7, 2005 the Claimant's average weekly wage/compensation rate was improperly reduced from \$1,154.00 to \$592.56 per week (Please see Claimant's Exhibit 1, pg. 28).
16. Pursuant to Regulation 67-506 (D) of the Act, the Employer's Representative, and in particular, Representative Barefoot, was compelled to continue paying the Claimant Temporary Total Compensation at the average weekly wage/compensation rate of \$1,154.00, but failed to do so.
17. The Employer Representative was compelled, pursuant to Regulation 67-506(E) of the Act, to file a Form 21 and request a hearing before the Commission, to seek the Commission's permission to reduce the Claimant's compensation rate, but failed to do so.
18. The Employer Representative, in particular, Representative Barefoot and Representative Hantske, were compelled to continue the obligation of paying Temporary Total Compensation Payments at the average weekly wage of \$1,154.00, and ensure that payments were current prior to the hearing, IAW Regulation 67-506 (E) of the Act, but failed to do so.
19. To date, no hearing has been convened, granting permission by the Commission, to allow the Employer Representative to reduce the Temporary Total Compensation Payments to the Claimant (Please see Claimant's Exhibit 1, pgs. 1-36).

FOR A FIFTH CAUSE

(Unlawful termination of Temporary Total Compensation Payments on December 4, 2005 by Employer Representative)

20. The Employer's Representative unlawfully terminated the Claimant's Temporary Total Compensation on December 4, 2005 (Please see Claimant's Exhibit 1, pg. 23).
21. At the point the Employer could not accommodate the Claimant's capacity and had "no position available" on or around November 2, 2005, the Claimant had received a combination of Temporary Total and Temporary Partial Compensation Payments for approximately 181 days, after, and including, the first 150 days.
22. The mutually agreed average weekly wage/compensation rate of the Claimant as of November 2, 2005 \$1,154.00 per week (Please see Claimant's Exhibit 1, pg. 24).

EXHIBIT 16
PAGE 6 OF 12

23. Pursuant to Regulation 67-506 (D) of the Act, the Employer's Representative, and in particular, Representative Barefoot, was compelled to continue paying the Claimant Temporary Total Compensation Payments at the average weekly wage/compensation rate of \$1,154.00, but failed to do so.
24. The Employer Representative was compelled, pursuant to Regulation 67-506(E) of the Act, to file a Form 21 and request a hearing before the Commission, to seek and receive the Commission's permission to terminate the Temporary Total Compensation payments to the Claimant, but failed to do so.
25. The Employer Representative, in particular, Representative Barefoot and Representative Hantske, were/are compelled to continue the obligation of paying Temporary Total Compensation Payments to the Claimant, at the average weekly wage of \$1,154.00, and ensure that payments were/are current prior to a hearing, but have failed to do so.
26. To date, no hearing has been convened, granting permission by the Commission, to allow the Employer Representative to terminate Temporary Total Compensation Payments to the Claimant (Please see Claimant's Exhibit 1, pgs. 1-36).

FOR A SIXTH CAUSE

(Settlement Agreement and Release entered into by the Parties not related to Employer Representative's continuing obligation to pay Temporary Total Compensation to Claimant)

27. Settlement Agreement and Release entered into by the parties on December 22, 2005 and approved by Commissioner David W. Huffstetler is/was not related to the Employer Representative's continuing obligation to pay Temporary Total Compensation to the Claimant (Please see Claimant's Exhibit 1, pgs. 12-19).
28. The Settlement Agreement and Release entered into by the Parties on December 22, 2005 was related to schedule award for the Claimant's 5% overall impairment rating ONLY (Please Claimant's Exhibit 1, pgs. 12-16).
29. No hearing, formal conference, or informal conference was ever convened by Commissioner Huffstetler prior to Commissioner Huffstetler approving the Settlement Agreement and Release entered into by the parties on January 5, 2006

(Please see Claimant's Exhibit 1, pgs. 1-36).

30. The Claimant never mutually agreed that the twenty thousand and 00/100 dollars (\$20,000.00) received pursuant to the Settlement Agreement and Release would serve as both final payment for the 5% overall impairment rating AND severance pay of employment from employer (Please see Claimant's Exhibit 1, pgs. 12-16).
31. The Claimant asserts that the Employer, the Employer's Carrier(s), Representative Barefoot, and Representative Hantske continue to unlawfully use the Settlement Agreement and Release, entered into by the parties on December 22, 2005 and approved by Commissioner Huffstetler on January 5, 2006, as justification to willfully violate Regulation 67-506 (D) of the Act and violate the Claimant's legal right to employment with the Employer.

FOR A SEVENTH CAUSE

(Failure of Employer's Representative to Comply with Regulation 67-1301(B) of the Act and the Terms and Conditions of the Settlement Agreement and Release)

32. As contained in the Settlement Agreement and Release entered into by the parties on December 22, 2005, in particular, page four (4), paragraph three (3),
"WHEREAS, full and complete medical reports are on file with the South Carolina Workers' Compensation Commission and these are duly considered by it in approving this Settlement Agreement and Release..." (Please see Claimant's Exhibit 1, pg. 15).
33. As of December 7, 2012 no medical reports of the Claimant were contained in the Commission's Case File of W.C.C. # 0506205 (Please see Claimant's Exhibit 1, pgs. 1-36 and Exhibit 3, pgs. 1-39).
34. Pursuant to Regulation 67-1301 (B) of the Act, and the Terms and Conditions of the Settlement Agreement and Release entered into by the parties on December 22, 2005 and approved by Commissioner Huffstetler on January 5, 2006, the Employer's Representative, and in particular, Representative Barefoot, was compelled to provide the medical reports to Commission, but failed to do so.
35. The Claimant asserts unto the Commission, that the failure of Representative Barefoot, to comply with Regulation 67-1301(B) of the Act, and the Terms and Conditions of the Settlement Agreement and Release as entered into by the parties

on December 22, 2005 and approved by Commissioner Huffstetler on January 5, 2006, renders the aforementioned Settlement Agreement and Release NULL and VOID.

FOR A EIGHTH CAUSE

(Misrepresentation of the Claimant by Attorney Robert G. Bacon)

36. At the time of the Claimant's injury, termination of the Claimant's employment by the Employer, improper reduction of the Claimant's average weekly wage/compensation rate, improper termination of the Claimant's Temporary Total Compensation payments and entrance into the Settlement Agreement and Release, the Claimant was represented by Attorney Bacon (Please see Claimant's Exhibit 1, pgs. 33-34 and Exhibit 4, pgs. 5-8).
37. Due to the Claimant's limited education, complete unawareness of Claimant's civil and legal rights under the South Carolina Workers' Compensation Act, and side effects of prescribed medications of Ibuprofen, Hydrocodone, and Flexiril, the Claimant relied heavily on the IL advisement and ineffective counsel of Attorney Bacon (Please see Claimant's Exhibit 3, pgs. 1, 16-19).
38. The Claimant asserts that Attorney Bacon misrepresented the Claimant in the following manner:
- a. Attorney Bacon took no action to protect the employment of the Claimant when the Employer unlawfully terminated the Claimant on or around November 2, 2005;
 - b. Attorney Bacon took no action to protect the Claimant's lawful amount of average weekly wage/compensation rate when the Employer's Carrier/Representative unlawfully reduced the Claimant's average weekly wage/compensation rate from \$1,154.00 to \$592.56 per week on November 7, 2005;
 - c. Attorney Bacon took no action to protect the Claimant's legal right to continued receipt of Temporary Total Compensation Payments, at the average weekly wage/compensation rate of \$1,154.00 per week, after the Employer Representative unlawfully terminated payment of Temporary Total Compensation to the Claimant on December 4, 2005; and
 - d. Attorney Bacon failed to ensure that the Employer Representative filed the Claimant's medical reports to the Commission prior to, or any time after, the parties entered into the Settlement Agreement and Release on December 22, 2005 which was approved by Commissioner Huffstetler on January 5, 2006.

FOR A NINTH CAUSE

EXHIBIT 16
PAGE 9 OF 12

(Reporting Claimant's allegations of Misrepresentation, Fraud, and Unlawful termination to the South Carolina Attorney General)

39. The Claimant respectfully demands that the allegations that the Employer unlawfully terminated the Claimant, the false statement of the Employer, the Employer's Representative/Carrier unlawful reduction of the Claimant's average weekly wage/compensation rate amount on November 7, 2005, the Employer Representative's unlawful termination of the Claimant's Temporary Total Compensation Payments on December 4, 2005, the Employer Representative's failure to provide the medical reports to the Commission, and the gross misrepresentation received by the Claimant from Attorney Bacon, be reported to the Insurance Fraud Division of the Office of the Attorney General for investigation and possible prosecution, pursuant to section 42-9-440 of the South Carolina Workers' Compensation Law.

CONCLUSION

The Claimant was subjected to gross misrepresentation by Attorney Bacon and willful violation(s) of the Act by the Employer, Employer's Carrier(s), and the Employer's Representatives. The Claimant was unlawfully terminated by the Employer on November 2, 2005. The Employer never offered the Claimant suitable employment to accommodate the Claimant's capacity prior to terminating the Claimant. The Claimant's average weekly wage/compensation rate was unlawfully reduced by the Employer's Representative on November 7, 2005. The Employer Representative unlawfully terminated the Claimant's entitled Temporary Total Compensation Payments on December 4, 2005. The Commission never granted permission to the Employer Representative to reduce or terminate Temporary Total Compensation Payments to the Claimant. The Employer Representative failed to comply with the Act and the Terms and Conditions of the Settlement Agreement and Release entered into by the parties on December 22, 2005 and approved by the Commission on January 5, 2006, by failing to file the medical reports with the Commission. The Claimant's former Attorney, Robert G. Bacon, took no action to protect the Claimant's protected civil and legal rights. The Claimant has been unemployed and unable to obtain gainful employment since the unlawful termination of the Claimant by the Employer on November 2, 2005.

Based on the foregoing, the *pro se* Claimant respectfully Demands an ORDER from the

COMMISSION;

- a. Reinstating Claimant's employment with US Food Service, Inc. (Employer) effective November 2, 2005;
- b. Immediate release of unlawfully withheld Temporary Total Compensation Payments at the average weekly wage/compensation rate amount of \$1,154.00 per week effective November 2, 2005;
- c. Immediate release of 25% penalty of unlawfully withheld Temporary Total Compensation Payments effective November 2, 2005; and
- d. Any and such other relief and actions the Commission deems just and proper.

Respectfully submitted,



Alexander Guice
Claimant, *pro se*
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046 Phone
(813) 898-2908 Fax
alguice@hotmail.com

Tampa, Florida
March 4, 2013.

EXHIBIT 16
PAGE 11 OF 12

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

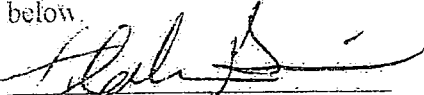
US FOODSERVICE, INC., Et. al,

Employer AND Carrier,

Defendants.

**CERTIFICATE
OF
SERVICE**

This certifies that I, Alexander Guice, the *pro se* Claimant, did serve a Motion For Reinstatement of Employment and Release of Temporary Total Compensation Payments; a Form 32; an Index of Exhibits; Exhibit 1 (36 pgs.); Exhibit 2 (16 pgs.); Exhibit 3 (39 pgs.); Exhibit 4 (8 pgs.) and certificate of service, via priority certified mail, with sufficient priority and certified postage affixed, upon the parties listed below.



Alexander Guice
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046 Phone
(813) 898-2908 Fax
alguice@hotmail.com
Claimant, *pro se*

Signed this 4th Day of March, 2013
Hillsborough County, Florida

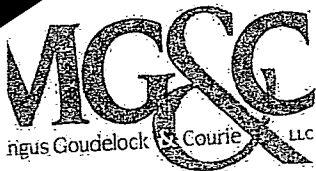
COPIES MAILED TO:

McAngus, Goudelock & Courie, LLC
Attn: Erin L. Hantske, Esquire
Post Office Box 650007
Mt. Pleasant, South Carolina, 29465

Virginia L. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202

Gary M. Cannon, Executive Director
Office of the Executive Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202

EXHIBIT 16
PAGE 12 OF 12



RNEYS AT LAW

Reply To
ERIN L. HANTSKE
Direct Dial: (843) 576-2946
erin.hantske@mgclaw.com
CHARLESTON

March 14, 2013

Virginia L. Crocker, Judicial Director
S. C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

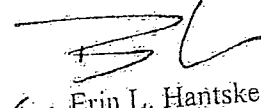
RE: Alexander Guice v. U.S. Food Service, Inc. and ACE American Insurance Company c/o
Gallagher Bassett Services, Inc.
Date of Accident: May 5, 2005
WCC File No.: 0506205
Our File No.: 2098-12550
Claim No.: 004063-032175-wc-01

Dear Ms. Crocker:

Please find enclosed the original and one (1) copy of Defendants' Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments in the above-referenced claim. Please file the original and return a clocked copy to us in the enclosed self-addressed, stamped envelope. By copy of this letter we are serving a copy of same upon the *pro se* Claimant.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,


Erin L. Hantske

ELH/gcm

Enclosures

cc: Alexander Guice (w/encl.) (via US Mail & Certified Mail)
Lisa Purvis, US Foods, Inc. (w/encl.) (via e-mail)
Cheryl McLaughlin, US Foodservice, Inc. (w/encl.) (via e-mail)
Don Merritt, Gallagher Bassett Services, Inc. (w/encl.) (via e-mail)

EXHIBIT 17
PAGE 1 OF 4

CHARLESTON | COLUMBIA | GREENVILLE | MYRTLE BEACH | ASHEVILLE | CHARLOTTE | RALEIGH
735 JOHNSIE DODDS BLVD, SUITE 200 POST OFFICE BOX 650007 MT. PLEASANT, SC 29465 843-576-2900 PHONE 843-531-0505 FAX
WWW.MGCLAW.COM

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOODSERVICE, INC.,

Employer,

AND

ACE AMERICAN INSURANCE
COMPANY C/O GALLAGHER BASSETT
SERVICES, INC.

Carrier,

Defendants.

DEFENDANTS' REPLY TO
CLAIMANT'S MOTION FOR
REINSTATEMENT OF
EMPLOYMENT AND RELEASE OF
TEMPORARY TOTAL
COMPENSATION PAYMENTS

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND
ALEXANDER GUICE, *PRO SE* CLAIMANT:

YOU WILL PLEASE TAKE NOTICE that Defendants, US Foodservice, Inc. and ACE American Insurance Company c/o Gallagher Bassett Services, Inc., by and through their undersigned attorney, Erin L. Hantske, Esquire, hereby respond to Claimant's Motion based on the following grounds:

1. Claimant suffered a compensable injury by accident in the course and scope of his employment on or about May 5, 2005, while working for U.S. Food Services, when he was involved in a motor vehicle accident.

2. Claimant received all causally related medical treatment related to his accident and was released at maximum medical improvement by the authorized treating physician, Dr. Alan Tamadon on October 27, 2005.

EXHIBIT 17

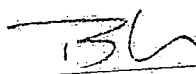
PAGE 2 OF 4

3. The parties subsequently entered into a clincher settlement agreement signed by the Claimant and the attorney for the Employer/Carrier on December 22, 2005. The clincher was approved by the South Carolina Workers' Compensation Commission on January 5, 2006.

4. In response to the Claimant's recent Form 50 and subsequent Motions filed with the Commission, Commissioner Susan S. Barden issued an Order on February 22, 2013, indicating that the Claimant settled his claim through a full and final settlement agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. In light of the full and final settlement agreement, the Commission denied the Claimant's previous hearing request and cancelled the hearing scheduled for March 28, 2013. Furthermore, Commissioner Barden indicated that any and all Motions filed pertaining to WCC No. 0506205 are hereby dismissed as well. (Exhibit A).

Based on the above, Defendants respectfully request that the Commission deny the Claimant's motion and dismiss the same pursuant to Commissioner Barden's Order of February 22, 2013.

Respectfully submitted,


fe ERIN L. HANTSKE
MCANGUS GOUDELOCK & COURIE, L.L.C.
Post Office Box 650007
735 Johnnie Dodds Blvd, Suite 200
Mt. Pleasant, South Carolina 29465
(843) 534-0101
Attorneys for the Employer/Carrier

Charleston, South Carolina
March 14, 2013

EXHIBIT 17
PAGE 3 OF 4

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOODSERVICE, INC.,

Employer,

AND

ACE AMERICAN INSURANCE COMPANY
C/O GALLAGHER BASSETT SERVICES,
INC.,

Carrier,

Defendants.

CERTIFICATE
OF
SERVICE

The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Alexander Guice
(via US Mail & Certified Mail-Return Receipt Requested)
Post Office Box 45062
Tampa, Florida 33677

TO: S.C. Workers' Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202

DOCUMENT: Defendants' Reply to Claimant's Motion for Reinstatement of
Employment and Release of Temporary Total Compensation
Payments

DATE OF
MAILING:

March 14, 2013

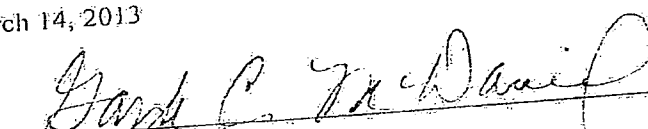

Gayle C. McDaniel
Legal Assistant to Erin L. Hantske

EXHIBIT 17
PAGE 4 OF 4

Alexander Guice

P.O. Box 45062
Tampa, FL 33677
alexguice@hotmail.com
(813) 335-4046 Phone

March 17, 2013

Via Certified Mail

Virginia Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

RE: Alexander Guice v. U.S. Food Service, Inc., et al
Date of Injury: May 5, 2005
WCC File No.: 0506205

Dear Ms. Crocker:

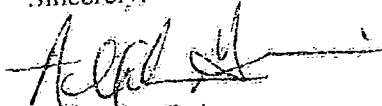
Enclosed herein, please find an original and a copy of Claimant's Answer to Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments, Exhibit 3(2pgs.) and certificate of service. Please provide to the appropriate person for filing and return a file stamped copy of the Claimant's copies in the pre-paid self-addressed envelope enclosed for your convenience.

By copy of this letter I have served Erin L. Hantske, Esquire, the Attorney of record for the Defendants, a copy of the same, via regular mail and certified mail with enclosures.

By copy of this letter, and by request, I have provided Gary M. Cannon, Executive Director, a copy of the same, via regular mail, with enclosures.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Alexander Guice
Claimant, pro se

/AG

Enclosures: As stated

cc: Erin L. Hantske, Esq. (via regular mail & certified mail w/encl.)
Gary M. Cannon, Executive Director (via regular mail w/encl.)

SCWCC
MAR 17 2013
JUDICIAL

EXHIBIT 18

PAGE 1 OF 4

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO. 0506205

ALEXANDER GUICE,

Employee,

Claimant.

vs.

US FOODSERVICE, INC. ET AL.

Employer AND Carrier,

Defendants.

CLAIMANT'S ANSWER TO
DEFENDANT'S REPLY TO CLAIMANT'S
MOTION FOR REINSTATEMENT
OF EMPLOYMENT AND RELEASE OF
TEMPORARY TOTAL COMPENSATION
PAYMENTS

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND ERIN L.
HANTSKE, ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

PLEASE TAKE NOTICE THAT Alexander Guice, the Claimant, hereby presents this Answer to the Defendants Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments and would answer in the following manner:

1. The Claimant admits to the averments contained in paragraphs 1 thru 4 as contained in Defendants reply.
2. Claimant asserts, respectfully, that the Order dated February 22, 2013 signed by Commissioner Susan S. Barden (Commissioner Barden) was improper and should not be considered with regards to Claimant's motion for reinstatement of employment and release of temporary total compensation payments on the following grounds:
 - a. Commissioner Barden lacked jurisdictional authority to issue the Order dated February 22, 2013 -- on February 22, 2013 when Commissioner Barden issued the Order, Commissioner Barden's jurisdictional authority was in District 2 (Anderson) (Please see Claimant's Exhibit 3) and as mutually agreed by the parties, the proper jurisdictional authority to adjudicate WCC # 0506205 rested exclusively in District 7 (Richland);
 - b. Commissioner Barden's Order with respect to denying the Claimant's request for hearing, particularly when a hearing was previously scheduled, was not supported by motion from either of the parties, which violated Rule 7(b)(1) SCRCP;
 - c. Commissioner Barden's Order prejudiced the Claimant's entitled right to a hearing, as no hearing, formal conference, or informal conference has ever been convened in this matter, to include the Settlement Agreement and Release entered into by the

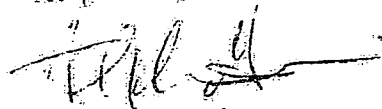
parties on December 22, 2005 and approved by the Commission on January 5, 2006;
and

- d. Commissioner Barden failed to provide the parties with copy of Commissioner Barden's proposed order for review and consideration prior to Commissioner Barden signing the Order, pursuant to Rule 5(b)(3) SCRCF.
3. The Claimant asserts that the Defendant's Attorney, Erin L. Hantske, Esquire (Representative Hantske), failed to file a proper responsive pleading to the Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments, pursuant to Rule 8 (b) SCRCF. Representative Hantske was required to "...admit or deny the averments upon which the adverse party relies..." but failed to do so. Additionally, Representative Hantske could have generally denied all the averments contained in the Claimant's aforementioned motion, but failed to do so.
4. Pursuant to Rule 8 (d) SCRCF, the Claimant asserts that all averments contained in paragraphs 1 thru 35 of Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments are ADMITTED.

Based on the foregoing, Claimant respectfully moves the Commission for an Order:

- a. Reinstating Claimant's employment with US Food Service, Inc. (Employer) effective November 2, 2005;
- b. Immediate release of unlawfully withheld Temporary Total Compensation Payments at the average weekly wage/compensation rate amount of \$1,154.00 per week effective November 2, 2005;
- c. Immediate release of 25% penalty of unlawfully withheld Temporary Total Compensation Payments effective November 2, 2005;
- d. Denying the Defendant's pleadings contained in the Defendant's Reply; and
- e. For any and such other relief and actions the Commission deems just and proper.

Respectfully submitted,



Alexander Guice
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046
Claimant, *pro se*

March 17, 2013

Tampa, Florida

EXHIBIT 18

PAGE 3 OF 4

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOODSERVICE, INC., Et. AL

Employer AND Carrier,

Defendants.

Certificate of Service

This certifies that Alexander Guice, the Claimant, did mail a Claimant's Answer to Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments, Exhibit 3 (2 pgs.) and certificate service, via regular mail and certified mail, with sufficient first class and certified postage attached, on the parties listed below.



Alexander Guice
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046
Claimant, *pro se*

Signed this 17th Day of March, 2013
Hillsborough County, Florida

Copies Mailed To:

Virginia E. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715
Confirmation No.: 70123460000222942730

Erin L. Hantske, Esquire
McAngus, Goudelock & Courie, LLC
Post Office Box 630007
Mt. Pleasant, South Carolina 29465
Confirmation No.: 70123460000222942747

Gary M. Cannon, Executive Director
Office of the Executive Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

EXHIBIT 18
PAGE 4 OF 4

File

Alexander Guice

P.O. Box 1715
Columbia, SC 29202-1715
alexander.guice@sc.wcc.com
(803) 335-0010

March 18, 2013

Via Certified Mail

Virginia Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

RE: Alexander Guice v. U.S. Food Service, Inc., et al
Date of Injury: May 5, 2005
WCC File No: 0506205

Dear Ms. Crocker:

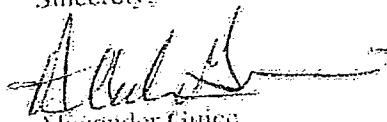
Enclosed herein, please find a proposed Order Granting Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments and certificate of service. Please forward to Commissioner Andrea C. Roche for review, and if approved, please return a file stamped copy of the Order in the pre-paid self-addressed envelope enclosed for your convenience.

By copy of this letter, I have served Erin L. Haniske, Esquire, the Attorney of record for the Defendants, a copy of the same, via regular mail and certified mail, with enclosures.

By copy of this letter, and by request, I have provided Gary M. Cannon, Executive Director, a copy of the same, via regular mail, with enclosures.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Alexander Guice
Claimant, pro se

LAG

Enclosures: As stated

cc: Erin L. Haniske, Esq. (via regular mail & certified mail w/encl.)
Gary M. Cannon, Executive Director (via regular mail w/encl.)

MAR 26 2013

SC WORKERS' COMP. COMMISSION
DIRECTOR

EXHIBIT 19

PAGE 1 OF 3

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOODSERVICE, INC. Et Al,

Employer AND Carrier,

Defendants.

**ORDER GRANTING CLAIMANT'S
MOTION FOR REINSTATEMENT
OF EMPLOYMENT AND RELEASE OF
TEMPORARY TOTAL COMPENSATION
PAYMENTS**

Claimant filed a Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments on March 4, 2013. The Defendants, by and through their Attorney, Erin L. Hantske, Esquire, filed a Reply to the Claimant's aforementioned motion on March 14, 2013. The Claimant filed an Answer to the Defendant's Reply to Claimant's aforementioned motion on March 17, 2013. The Defendant's Reply dated March 14, 2013 failed to deny the averments contained in the aforementioned Claimant's motion dated March 4, 2013 in accordance with Rule 8(b) of the South Carolina Rules of Civil Procedure. Pursuant to Rule 8(d) of the South Carolina Rules of Civil Procedure, the averments contained in the Claimant's aforementioned motion dated March 4, 2013 are hereby ADMITTED.

IT IS THEREFORE ORDERED that the Claimant's employment with US Food Service, Inc. is hereby reinstated at the effective date of November 2, 2005.

IT IS FURTHER ORDERED that the Defendants motion to dismiss Claimant's motion dated March 4, 2013 is hereby denied.

IT IS FURTHER ORDERED that the Defendants Representative, Erin L. Hantske, Esquire, shall immediately release to the Claimant all withheld temporary total compensation payments at the compensation rate of \$1,154.00 per week, effective November 2, 2005 within fifteen (15) days of service of this Order.

IT IS FURTHER ORDERED that Representative Hantske shall immediately release to the Claimant the 25% penalty on the withheld temporary total compensation payments effective November 2, 2005 within fifteen (15) days of service of this Order.

IT IS FURTHER ORDERED that should the Defendants fail to comply with this Order, the Commission may on its own, or by motion from the Claimant, issue a Rule to Show Cause upon the Defendants to show good cause before the Commission why the Defendants have failed to comply with the Orders of the Commission.

AND IT IS SO ORDERED.

March __, 2013

Columbia, South Carolina

Andrea C. Roche, Commissioner

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 0506205

ALEXANDER GUICE,

Employee,

Claimant,

vs.

US FOODSERVICE, INC. ET AL.

Employer AND Carrier,

Defendants.

Certificate of Service

This certifies that Alexander Guice, the Claimant, did mail a proposed Order Granting Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments, and certificate service, via regular mail and certified mail, with sufficient first class and certified postage attached, on the parties listed below.


Alexander Guice
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046
Claimant, pro se

Signed this 18th Day of March, 2013.
Hillsborough County, Florida

Copies Mailed To:

Virginia L. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715
Confirmation No.: 70123460000222942716

Erin L. Hantske, Esquire
McAngus, Goudelock & Conrie, LLC
Post Office Box 650007
Mt. Pleasant, South Carolina 29465
Confirmation No.: 70123460000222942723

Gary M. Cannon, Executive Director
Office of the Executive Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

EXHIBIT 19
PAGE 3 OF 3



ATTORNEYS AT LAW

Reply To
ERIN L. HANTSKE
Direct Dial: (843) 576-2946
erin.hantske@mgclaw.com
CHARLESTON

March 25, 2013

Virginia L. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202-1715

RE: Alexander Guice v. U.S. Food Service, Inc. and ACE American Insurance Company c/o
Gallagher Bassett Services, Inc.
Date of Accident: May 5, 2005
WCC File No.: 0506205
Our File No.: 2098.12550
Claim No.: 004063-032175-wc-01

Dear Ms. Crocker:

I am writing in response to the claimant's letter dated March 18, 2013, regarding his proposed Order granting claimant's Motion for reinstatement of employment and release of temporary total compensation payments. Please find enclosed a copy of the Order from Commissioner Barden signed and dated February 22, 2013. The claimant previously settled his claim through a full and final settlement agreement which was approved by the South Carolina Worker's Compensation Commission on January 5, 2006. As such Commissioner Barden dismissed the claimant's prior hearing request and any and all motions filed pertaining to WCC No. 0506205.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me. Please note that by copy of this letter to the claimant, I am notifying him of this correspondence.

With kind regards, I remain

Very truly yours,

Erin L. Hantske

ELH/wlj
Enclosure

cc: Lisa Purvis, U.S. Food Service, Inc. (w/encl.) (via email)
Cheryl McLaughlin, U.S. Food Service, Inc. (w/encl.) (via email)
Don Merritt, Gallagher Bassett Services, Inc. (w/encl.) (via email)
Commissioner Andrea C. Roche, S.C. Workers' Compensation Commission (w/encl.)
Alexander Guise, Pro Se Claimant (w/encl.) Via U.S. Mail and Certified Mail

CHARLESTON • COLUMBIA • GREENVILLE • MYRTLE BEACH • ASHEVILLE • CHARLOTTE • RALEIGH
735 JOHNNIE DODDS BLVD. SUITE 200 • POST OFFICE BOX 650907 • MT PLEASANT, SC 29565 843-576-2946 PHONE 843-531-0605 FAX
WWW.MGCLAW.COM

EXHIBIT 20
PAGE 1 OF 3

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506205

Alexander Guice,

Claimant,
vs.

US Food Service, Inc.,

Employer,

MAC Risk Management, Inc.

Carrier,
Defendants

ORDER

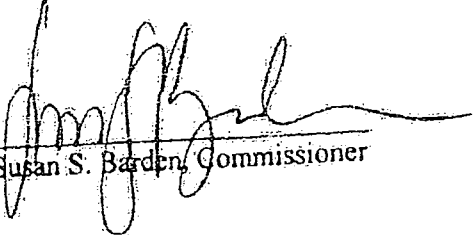
Claimant settled his claim (WCC# 0506205) through a Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. A Form 19 was submitted by Defendants as well.

In January 2013, Claimant filed a Form 50 relating to the claim (WCC# 0506205) which he previously settled.

As this case was settled on a Full and Final basis on or about January 6, 2006, Claimant's hearing request is hereby denied, and the hearing set for March 28, 2013 in Summerville, South Carolina is cancelled. Further, any and all motions filed pertaining to WCC# 0506205 are hereby dismissed as well.

AND IT IS SO ORDERED.

Columbia, SC


Susan S. Barden, Commissioner

February 22, 2013

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States mail addressed to any unrepresented party.

By Kristi Love on February 22, 2013

EXHIBIT 20
PAGE 2 OF 3



APR 1998 10:11 AM

McAngus Gouldstock Courier, Inc. 401 N. Oak Street, Fort 401, P.O. Box 1540, Miami Beach, FL 33133



91 7198 9992 7031 8551 8324

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

2098.12550/ELH/wlj
Alexander Guico
Post Office Box 45062
Tampa, Florida 33677

2/27

EXHIBIT 20
PAGE 3 OF 3

2098.12550/ELH/wlj

State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 1715
Columbia, S.C. 29202-1715



TEL: (803) 737-5700
www.wcc.sc.gov

Workers' Compensation Commission

March 27, 2013

Mr. Alexander Guice
P.O. Box 45062
Tampa, FL 33674

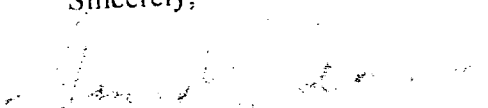
Re: Alexander Guice v. U.S. Food Service, Inc., et al
Date of Injury: May 5, 2005
WCC File No.: 0506205
Motion for Reinstatement of Employment and Release of Temporary Total
Compensation Payments

Dear Mr. Guice:

Enclosed please find the original Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments and a check in the amount of \$25.00.

I am returning the Motion and the filing fee because the Commission does not have subject matter jurisdiction for the issues set forth in the Motion.

Sincerely,


Gary M. Cannon
Executive Director

Cc: Erin Hantske, Esq.

enclosures

EXHIBIT 21
PAGE 1 OF 1

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

ALEXANDER GUIJCE

Plaintiff(s)

vs.

US FOODSERVICE, INC., ET AL

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013 -CP- 32 - 1272

Submitted By: ALEXANDER GUIJCE

Address: P.O. Box 45062

Tampa, FL 33677

SC Bar #:

Pro Se

Telephone #:

(813) 335-4046

Fax #:

(813) 898-2908

Other:

E-mail:

alguice@hotmail.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|--|---|
| Contracts
☐ Construction (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 - CP -
☐ Notice of Intent Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault-Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Immune Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture--Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Affirm Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOJ (950)
☒ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of-State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature:



Date:

4/8/2013

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

EXHIBIT 22
PAGE 1 OF 9

COPY

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT

Case No.: 2013-CP-32-1272

Alexander Guice,
P.O. Box 45062
Tampa, Florida 33677
(813) 335-4046

Plaintiff,

Versus

US Foodservice, Inc., et al,
P.O. Box 869
Lexington, South Carolina 29072
(803) 951-4200

Defendants.

COMPLAINT

I, Alexander Guice, the Plaintiff in this civil action do make the following claim(s):

1. I believe the Defendant(s), US Foodservice, Inc., an employer located in Lexington County is within the jurisdiction of the Eleventh Judicial Circuit, and this Complaint is properly filed with the LEXINGTON CIRCUIT COURT.
2. I make this Complaint on the following: The South Carolina Workers' Compensation Commission erred by issuing a decision dated March 27, 2013 denying to adjudicate the Plaintiff's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments (Please see Supplement and supporting evidentiary documents).
3. I believe, because of the above information, that I am entitled to and do request a judgment to REVERSE the aforementioned decision dated March 27, 2013 and REMAND the Plaintiff's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments to South Carolina Workers' Compensation Commission for adjudication, and the reimbursement of any and all costs resulting from this action.

I state under penalty of perjury that the above is correct and truthful, except those based on my information and belief.

Date: April 8, 2013

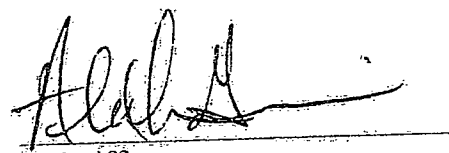

Plaintiff, pro se

EXHIBIT 22

PAGE 2 OF 9

COPY

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT

Case No. 20 -CP- -

Alexander Guice,
P.O. Box 45062
Tampa, Florida 33677
(813) 335-4046

Plaintiff,

Versus.

US Foodservice, Inc., et al,
P.O. Box 869
Lexington, South Carolina 29072
(803) 951-4200

Defendants.

SUPPLEMENT

2013CP3201272

BACKGROUND

Plaintiff filed a Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments on March 4, 2013 (Please see Exhibit 50, pages 32 thru 134 and Exhibit 51, pages 1 thru 11). Defendants filed a Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments on March 14, 2013 (Please see Exhibit 50, pages 26 thru 31). Plaintiff filed an Answer to Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments on March 17, 2013 (Please see Exhibit 50, pages 20 thru 25). Plaintiff filed a proposed Order Granting Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments on March 18, 2013 (Please see Exhibit 50, pages 17 thru 19). Defendants submitted comments regarding Plaintiff's proposed Order on March 25, 2013 (Please see Exhibit 50, pages 14 thru 16). Plaintiff submitted reply to Defendant's comments regarding proposed Order on March 27, 2013 (Please see Exhibit 50, pages 8 thru 13). South Carolina Workers' Compensation Commission (Commission) submitted a Decision returning the Plaintiff's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments on the grounds that "the Commission does not have subject matter jurisdiction" dated March 27, 2013 (Please see Exhibit 50, pages 1 thru 7).

ARGUMENT

1. The grounds used not to adjudicate the Plaintiff's aforementioned Motion dated March 4, 2013 by the Commission is not supported by the South Carolina Workers' Compensation Act (Act) - The Plaintiff's motion is seeking an order from the Commission to reinstate the Plaintiff's employment with the Defendant, as the Plaintiff has asserted that the grounds used by the Defendant to terminate the Plaintiff were unlawful. Additionally, the Plaintiff is also seeking by way of motion that the Commission orders the Defendants to release temporary total compensation payments, as the Plaintiff asserted that the Defendants

EXHIBIT 22

PAGE 3 OF 9

unlawfully terminated temporary total compensation payments, failing to comply with R. 67-506(D) of the Act. As the Plaintiff's employment was with the Defendant within the state of South Carolina, section 42-1-310 (1996) of the South Carolina Workers' Compensation Laws states,

Every employer and employee, except as stated in this chapter, shall be presumed to have accepted the provisions of this title respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment and shall be bound thereby.

Furthermore, the parties mutually agreed that the Plaintiff's admitted work related injury and issues related to compensation payments were actionable under the provisions of the South Carolina Workers' Compensation Laws. The "subject matter jurisdiction" reason used by the Commission was vague in nature, and lacked the specificity and clearly expressed cause(s) to substantiate the Commission's actions. Because the grounds used by the Commission to return the aforementioned Motion dated March 4, 2013 was without merit, the Plaintiff would move this Court for a judgment reversing the Decision of the Commission dated March 27, 2013 and remanding the aforementioned motion dated March 4, 2013 to the Commission to be adjudicated.

2. **The Commission's Decision dated March 27, 2013 failed to advise the Plaintiff of his Appellate Rights** – Absent from the Commission's Decision dated March 27, 2013 was the required disclosure advising the Plaintiff of the civil and legal right to appeal the Commission's decision if the Plaintiff did not agree with the determination of the Commission. As it relates to the Commission's failure to disclose the Plaintiff's Appellate Rights, Policy No.: 1.04 (A)(1) under the Subject: Staff Conduct and Behavior of the State of South Carolina Workers' Compensation Commission Administrative Policies and Procedures Manual(2011) states, **"Employees shall respect and protect the civil and legal rights of all clients."** Furthermore, the Plaintiff asserts that the failure of the Commission to disclose to the Plaintiff the Plaintiff's right to appeal is even more egregious, based on the fact that Plaintiff is self-represented, and has had no formal legal training or education. Because the Commission failed to disclose to the Plaintiff the Plaintiff's Right to Appeal in the Decision dated March 27, 2013, the Plaintiff would move this Court for a judgment reversing the Decision of the Commission dated March 27, 2013 and remanding the aforementioned motion dated March 4, 2013 to the Commission to be adjudicated.
3. **The Commission's Decision dated March 27, 2013 was not supported by motion or pleading from either of the parties** – Neither the Plaintiff nor the Defendant filed motions or pleadings arguing that the Commission did not have jurisdiction to adjudicate the aforementioned motion dated March 4, 2013. In fact, the Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation

Payments dated March 14, 2013, as evidenced in Exhibit 50, pages 26 thru 31, failed to admit or deny the averments contained in the Plaintiff's aforementioned motion dated March 4, 2013, which violated Rule 8(b) of the South Carolina Rules of Civil Procedure (SCRCP). As stated in the Plaintiff's Claimant's Answer to Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments (Exhibit 50, pages 17 thru 19), the Plaintiff asserted that all averments contained in the Plaintiff's aforementioned motion dated March 4, 2013 were admitted due to the Defendant's failure to comply with Rule 8(b) SCRCP pursuant to Rule 8(d) SCRCP. The Plaintiff believes that the Decision dated March 27, 2013 from the Commission was a deliberate and blatant attempt to defraud and deprive the Plaintiff out of the Plaintiff's entitled employment and unlawfully withheld temporary total compensation payments while simultaneously protecting what can only be described as the epic error by the Defendant's retained counsel, Erin L. Hantske of McAngus Goudelock & Courie, LLC. Because the Commission's Decision dated March 27, 2013 was not supported by motion from either of the parties, the Plaintiff would move this Court for a judgment reversing the Decision of the Commission dated March 27, 2013 and remanding the aforementioned motion dated March 4, 2013 to the Commission to be adjudicated.

4. **Cost related to this action incurred by the Plaintiff** – As previously stated, the Plaintiff is unrepresented. The Plaintiff is also unemployed, living month to month from financial assistance from family members, and receiving entitled monthly Department of Veterans Affairs Disability Benefits regarding an unrelated matter. The Plaintiff has incurred the following expenses in presenting this action;
- a. Copying expenses - \$74.00
 - b. Postage expenses - \$30.00 (estimate) and
 - c. 13 hours preparing documents and the like.

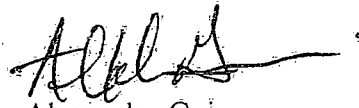
Although the Plaintiff is not an attorney, the Plaintiff asserts that Pro se litigants may be entitled to Attorney fees and costs under the Civil Rights Attorney's Fee Award Act of 1976, 90 Stat. 2641, as amended 42 USC 1988. The Plaintiff would respectfully yield to the discretion of the Court with respect to a proper hourly rate the Court would assert to the Plaintiff's time incurred with regards to preparing and submitting this action, through no fault of the Plaintiff.

CONCLUSION

Based on the foregoing, the Plaintiff would move this Court for a judgment awarding the Plaintiff costs incurred resulting from this action, reversing the Decision of the Commission dated March 27, 2013, and remanding the Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments dated March 4, 2013 to the Commission for adjudication.

EXHIBIT 22
PAGE 5 OF 9

Respectfully submitted,



Alexander Guice

Post Office Box 45062

Tampa, Florida 33677

(813) 335-4046

Plaintiff, *pro se*

Tampa, Florida
April 8, 2013

EXHIBIT 22

PAGE 6 OF 9

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

) IN THE CIRCUIT COURT OF THE
) ELEVENTH JUDICIAL CIRCUIT

) Case No.: 20 13-CP-32-1272

Alexander Guice,

)
)
) Plaintiff,

) Versus

)
) US Foodservice, Inc., et al,

)
)
) Defendants.

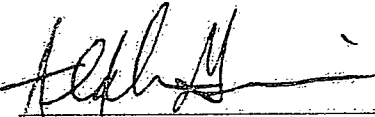
SUMMONS

TO: ERIN L. HANTSKE, ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon: **Clerk of Court, 205 East Main Street Lexington, South Carolina 29072**. You must also serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within ten (10) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Tampa, Florida

April 8, 2013


Plaintiff, *pro se*

Address:
P.O. Box 45062
Tampa, Florida 33677

EXHIBIT 22
PAGE 7 OF 9

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT

Case No. 20 -CP- -

Alexander Guice,

Plaintiff,

Versus

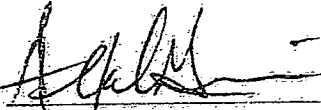
US Foodservice, Inc., et al,

Defendants.

Certificate of Service

2013 CP 3201272

I, Alexander Guice, do certify, that I served an original and three (3) copies of a Civil Action Coversheet; Complaint; Supplement; Index of Exhibits; Summons; Exhibit 50 (134 pages); Exhibit 51 (11 pages); a prepaid self-addressed priority envelope, and certificate of service, by depositing it in a priority envelope, certified mail, through the U.S. Postal Service, with sufficient priority and certified postage attached, on the party listed below.



Alexander Guice
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046
Plaintiff, *pro se*

Signed this 8th Day of April, 2013
Hillsborough County, Florida

COPIES MAILED TO:

Clerk of Court
205 East Main Street
Lexington, South Carolina 29072

EXHIBIT 22
PAGE 8 OF 9

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

) IN THE CIRCUIT COURT OF THE
) ELEVENTH JUDICIAL CIRCUIT
) Case No. : 2013-CP-32-1272

Alexander Guice,

)
)
) Plaintiff,

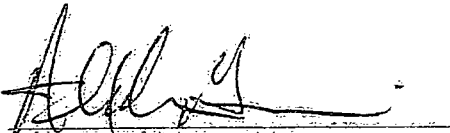
)
) Versus

)
) US Foodservice, Inc., et al,

)
) Defendants.
)

Certificate of Service

I, Alexander Guice, do certify, that I served a Civil Action Coversheet; Complaint; Supplement; Index of Exhibits; Summons; Exhibit 50 (134 pages); Exhibit 51(11 pages); and certificate of service, by depositing it in an envelope, certified mail, through the U.S. Postal Service, with sufficient regular and certified postage attached, on the party listed below.



Alexander Guice
Post Office Box 45062
Tampa, Florida 33677
(813) 335-4046
Plaintiff, *pro se*

Signed this 22nd Day of April, 2013
Hillsborough County, Florida

COPIES MAILED TO:

Erin L. Hantske, Esq.
McAngus Goudelock & Courie, LLC
Post Office Box 650007
Mt. Pleasant, South Carolina 29465
Confirmation No.: 70121010000361590712

EXHIBIT 22
PAGE 9 OF 9

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

ALEXANDER GUICE,

IN THE COURT OF COMMON PLEAS

COPY

MOTION AND ORDER INFORMATION FORM
AND COVER SHEET

Plaintiff(s)

vs.

US FOODSERVICE, INC., EMPLOYER, and
ACE AMERICAN INSURANCE COMPANY C/O
GALLAGHER BASSETT SERVICES, INC.,
CARRIER,

Defendant(s)

C/A No: 2013-CP-32-01272

Plaintiff's Attorney:

Alexander Guide, Pro Se Claimant Bar No.

Address:

Post Office Box 45062

Tampa, Florida 33677

phone: 813-335-4046 fax: (813) 898-2908

e-mail: alguice@hotmail.com

other:

Defendant's Attorney:

Erin L. Hantske Bar No. 76313

Address: McAngus, Goudelock & Courie, LLC

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

(843) 576-2900

Direct number: (843) 576-2946 Fax: (843) 534-0605

e-mail: erin.hantske@mgclaw.com com other:

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Defendants' Motion to Dismiss

Estimated Time Needed: 30 minutes Court Reporter Needed: ☐ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant

May 2, 2013

Date submitted

SECTION III: Motion Fee

☒ PAID - AMOUNT: \$25.00

☐ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court, or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Date Filed:

Collected by:

☐ MOTION FEE COLLECTED:

☐ CONTESTED - AMOUNT DUE:

EXHIBIT 23
PAGE 1 OF 5

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

ALEXANDER GUICE,

Claimant,

v.

US FOODSERVICE, INC.,

Employer,

and

ACE AMERICAN INSURANCE
COMPANY C/O GALLAGHER
BASSETT SERVICES, INC.,

Carrier,

Defendants.

FILED

2013 MAY 13 2 4: 14

COPY

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-32-01272

DEFENDANTS'
MOTION TO DISMISS

YOU WILL PLEASE TAKE NOTICE that pursuant to S.C. Code of Laws §1-23-380 and §42-17-30, Defendants, by and through their undersigned attorney, hereby move to dismiss the appeal filed by Claimant Alexander Guice on April 8, 2013, and served upon Defendants April 22, 2013. This motion is based on the following grounds:

1. Claimant suffered a compensable injury by accident arising out of and in the course and scope of his employment on or about May 5, 2005, while working for U.S. Food Services, when he was involved in a motor vehicle accident.

2. Claimant received causally related medical treatment related to his accident and was released at maximum medical improvement by the authorized treating physician, Dr. Alan Tamadon on October 27, 2005.

EXHIBIT 23

PAGE 2 OF 5

3. The parties subsequently entered into a clincher settlement agreement signed by the Claimant and the attorney for the Employer/Carrier on December 22, 2005. The clincher was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. (Exhibit "A")

4. Claimant subsequently filed a Form 30, Request for Commission Review, on November 11, 2012, alleging numerous issues on appeal, including an illegal settlement offer submitted by the Employer/Carrier, criminal conspiracy on the part of the Employer/Carrier, and a request that the Commission vacate the settlement agreement. (Exhibit "B")

5. Claimant then filed a Form 50, Request for Hearing, dated December 7, 2012, alleging entitlement to additional medical examination and treatment, temporary total disability benefits, and permanent disability as a result of injuries sustained arising out of his May 5, 2005, work-related motor vehicle accident while working for U.S. Food Services, Inc. (Exhibit "C")

6. The Claimant then filed two separate motions. The first was to transfer jurisdiction from Charleston County to Richland County since that was the location of the accident, and the second was to conduct the hearing via telephone as he currently resides in Tampa, Florida. (Exhibit "D")

7. In response to Claimant's Form 50, and motions filed with the Commission, Commissioner Susan S. Barden issued an Order on February 22, 2013, indicating that the Claimant settled his claim through a full and final settlement agreement, which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. In light of the full and final settlement agreement, the Single Commissioner denied Claimant's Hearing Request and indicated any and all motions filed pertaining to Claimant's workers' compensation claim are hereby dismissed. (Exhibit "E")

8. Claimant then filed an appeal with the Court of Common Pleas in the county of Lexington alleging the South Carolina Workers' Compensation Commission erred by issuing an Order dismissing Claimant's prior motions.

9. Defendants assert that the Court of Common Pleas in the county of Lexington is without proper jurisdiction to hear Claimant's appeal as Claimant has not exhausted all administrative remedies

prior to filing an appeal with the Circuit Court, and Claimant's proper recourse is to file an appeal with the Full Commission prior to filing any potential subsequent appeal with the Circuit Court as required by S.C. Code Ann. §§42-17-40, 42-17-50 and 42-17-60 (Supp. 1993).

10. Pursuant to the above cited sections of law and relevant case law, a decision of a Single Commissioner cannot be taken directly to the Circuit Court on appeal without first being reviewed by the Full Commission. See, Janhrette v. Union Camp Paper Corp., 293 S.C. 59, 358 S.E.2d 704 (1987).

11. As such, Defendants assert Claimant has not exhausted his administrative remedies or followed the requisite procedure outlined in the South Carolina Workers' Compensation Act to properly appeal a decision of a Single Commissioner, and request Claimant's appeal be dismissed.

12. In the alternative, pursuant to S.C. Code Ann. § 1-23-380, which governs the appellate procedure for administrative agencies, including the Workers' Compensation Commission, "[a] preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision does not provide an adequate remedy." (emphasis added)

13. Defendants initially assert the issues presented in Claimant's appeal do not represent a "final agency decision" as contemplated by § 1-23-380.

14. Moreover, Claimant has already appealed by way of Form 30, Request for Commission Review, to the Full Commission and is able to seek an adequate remedy through that appellate process.

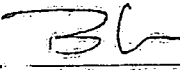
15. Because an adequate remedy is available, Claimant's appeal of the denial of his motion is improper. The filing of two appeals concerning the same matter and subject matter is not in the interest of judicial economy and, in fact, could potentially lead to inconsistent results. Claimant's appeal in the Court of Common Pleas is not proper in this instance, as Claimant has an adequate remedy for addressing the Single Commissioner's Order by a proper appeal to the Full Commission of the South Carolina Workers' Compensation Commission.

EXHIBIT 23

PAGE 4 OF 5

WHEREFORE, Defendants respectfully request that the appeal filed by Claimant on April 8, 2013, be dismissed.

Respectfully submitted,


Erin L. Hantske, Esquire
McANGUS GOUDELOCK & COURIE, LLC
Post Office Box 650007 (29465)
735 Johnnie Dodds Blvd, Suite 200
Mt. Pleasant, South Carolina 29465
(843) 576-2900

ATTORNEY FOR DEFENDANTS

May 1, 2013

EXHIBIT 23
PAGE 5 OF 5

ORIGINAL

1

STATE OF SOUTH CAROLINA
COUNTY OF Lexington

IN THE COURT OF COMMON PLEAS

ALEXANDER GUICE,

Civil Action No. 2013-CP-32-01272

Claimant,

v.

US FOODSERVICE, INC.,

ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS

Employer,

and

ACE AMERICAN INSURANCE
COMPANY C/O GALLAGHER
BASSETT SERVICES, INC.,

Carrier,

Defendants.

FILED
2013 JUN 13 P 3:27
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

This matter came before the Court on June 3, 2013, upon Defendants' US Foodservice, Inc. and their workers' compensation insurance carrier by and through defense counsel for an Order dismissing this claim for lack of proper jurisdiction as the above-referenced Claimant has failed to exhaust his administrative remedies within the workers' compensation forum. Present at the hearing was Erin L. Hantske, Esquire, on behalf US Foodservice, Inc. and their workers' compensation insurance carrier. The *pro se* Claimant was not present at the hearing. The *pro se* Claimant had been provided notice of the hearing by the Lexington County Clerk of Court. Prior to the hearing, the *pro se* Claimant's name was called without an answer. At the call of the case, the *pro se* Claimant was not present or accounted for.

EXHIBIT 24
PAGE 1 OF 2

After reviewing the submissions including the Complaint, the Motion to Dismiss and the Memorandum in Support of Defendants' Motion to Dismiss, and listening to the arguments of counsel, I find the following:

1. The Claimant in the above-referenced case has failed to exhaust all administrative remedies within the workers' compensation forum prior to initiating this appeal in the Court of Common Pleas.

2. As such, the Court of Common Pleas does not have jurisdiction to hear the matters presented before it.

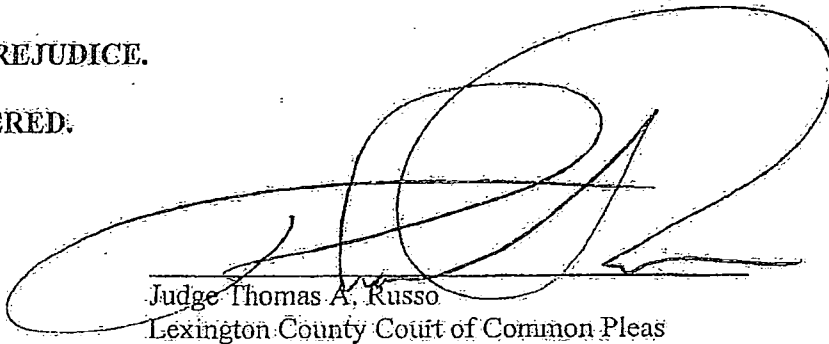
3. Upon exhaustion of all administrative remedies, the above-referenced Claimant may have an appeal to the Circuit Court once that agency has reached a final decision.

4. I find that Defendants' US Foodservice, Inc. and their workers' compensation insurance carrier's Motion to Dismiss is GRANTED and this matter is dismissed WITH PREJUDICE.

Based upon a review of the submissions and Defendants' Motion to Dismiss, it is therefore

ORDERED, ADJUDGED AND DECREED that Claimant's Complaint is hereby **DISMISSED WITH PREJUDICE.**

IT IS SO ORDERED.



Judge Thomas A. Russo
Lexington County Court of Common Pleas

Date: 6/10/13

EXHIBIT 24
PAGE 2 OF 2

APPELLATE PANEL
DECISION AND ORDER
OF THE

S. C. WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO. 0506205

ALEXANDER GUICE

EMPLOYEE,
CLAIMANT/APPELLANT,

vs.

U.S. FOOD SERVICE, INC.,

EMPLOYER,

AND

GALLAGHER BASSETT SERVICES, INC.,

CARRIER,
DEFENDANTS/RESPONDENTS.

Appellate Panel Review held in Columbia, South
Carolina, on May 21, 2013, per notices timely and
properly served upon all parties of interest.

Appellate Panel Decision and Order filed
7-17, 2013

APPEARANCES:

This matter was decided without oral arguments
pursuant to Reg. 67-70.1

Claimant/Appellant pro se

Defendants/Respondents represented by Erin L.
Hantske, Esquire, Charleston, South Carolina

EXHIBIT 25
PAGE 1 OF 6

STATEMENT OF THE CASE

The Appellant alleges sustaining injury to his low back, right knee, and neck by accident arising out of and in the course and scope of his employment with Respondents on or about May 5, 2005, when he was allegedly involved in a motor vehicle accident. At the time of his alleged accident, Appellant had an average weekly wage of \$1,154.00, and a corresponding compensation rate of \$592.56 (maximum compensation rate for injuries sustained in 2005). Appellant was treated by Dr. Allen Tamadon, who opined that Appellant reached maximum medical improvement on October 27, 2005, and assigned a 5% medical impairment rating to the whole person.

Subsequent to Appellant's release at maximum medical improvement, the parties entered into a Settlement Agreement and Release resolving Appellant's South Carolina Workers' Compensation File No. 0506205 on a full and final clincher basis for a lump sum payment of \$20,000.00. This Settlement Agreement was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. Thereafter, the file was closed with the South Carolina Workers' Compensation Commission pursuant to a filed Form 19.

Appellant then filed a Form 50/Hearing Request dated December 7, 2012 and an Amended Form 50/Hearing Request on January 5, 2013, under the same Workers' Compensation Commission file number, 0506205, alleging a date of accident of May 5, 2005, and injury to the back, neck and right knee. Appellant requested additional medical examination and treatment for the alleged injuries, temporary total disability benefits from November 2, 2006 through the present and permanent partial disability benefits. Respondents timely filed a Form 51 denying any entitlement to additional medical care or treatment, temporary total disability benefits, or permanent disability benefits based upon the parties' previous Settlement Agreement to clincher

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the claim approved by the South Carolina Workers' Compensation Commission on January 5, 2006. A hearing was scheduled for March 28, 2013 in Summerville, South Carolina before Commission Susan S. Barden. Prior to the scheduled hearing, Appellant submitted two motions: one requesting a telephonic hearing, and the other requesting a change of jurisdiction. On February 22, 2013, Commissioner Barden issued the following Order:

Claimant settled his claim (WCC No. 0506205) through a Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. A Form 19 was submitted by Defendants as well.

In January 2013, Claimant filed a Form 50 relating to the claim (WCC No. 0506205) which he previously settled.

As this case was settled on a Full and Final basis on or about January 6, 2006, Claimant's hearing request is hereby denied, and the hearing set for March 28, 2013 in Summerville, South Carolina is cancelled. Further, any and all motions filed pertaining to WCC No. 0506205 are hereby dismissed as well.

AND IT IS SO ORDERED.

Within the statutory period, the pro se Claimant filed an Application for Review in the case setting forth his reasons, copies of which were furnished to all interested parties. Appellant requested this matter be heard without oral arguments. All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered to the individual members of the Appellate Panel and has since been under study and consideration. By appeal, Claimant submitted the following:

1. "Did Commissioner Susan S. Barden have proper jurisdictional authority to make any judgments regarding WCC No. 0506205?"
2. "Was Commissioner Barden's Order invalid due to no regulatory or statutory grounds stated to support canceling the hearing?"
3. "Did the Order signed by Commissioner Barden on 02/22/13 violate Rule 5(b)(3) SCRCPP?"

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4. "Did the Order signed by Commissioner Barden on 02/22/13, with respect to cancelling the hearing, violate Rule 7(b)(1) SCRCF?"
5. "Did Commissioner Barden's Order dated 02/22/13 violate the Appellant's Right to a Hearing?"
6. "Was the Appellant subjected to a conspiracy involving Commissioner Barden, Virginia L. Crocker, Judicial Director, and Erin L. Hantske, Esquire, the Representative for the Respondent?"
7. "Is Commissioner Barden's conduct subject to be reported to the South Carolina Ethics Commission IAW Rule 501(3)(D)(1) SCACR with respect to the Order dated 02/22/13?"

In an Appellant Review, the Appellate Panel shall, pursuant to S.C. Code Ann. Section 42-17-50 (1995), review the Award, weigh the evidence as presented, and, if good grounds be shown therefore, make its own Findings of Fact and reach its own Conclusions of Law consistent with or inconsistent with those of the Single Commissioner.

After careful review in the instance case, the Commission, by unanimous vote, has determined that the Single Commissioner's Order was correct in its entirety. Accordingly, the Appellate Panel has issued a **FULL AFFIRMATION** of the Single Commissioner's Order.

FINDINGS OF FACT

Based upon the documentary evidence submitted by the respective parties pursuant to the Administrative Procedures Act and the Commission file relative to this claim, we, the Appellate Panel, issue the following Order:

1. Claimant settled his claim (WCC No. 0506205) through a Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. A Form 19 was submitted by Defendants as well.
2. In January 2013, Claimant filed a Form 50 relating to the claim (WCC No. 0506205) which he previously settled.

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3. As this case was settled on a Full and Final basis on or about January 6, 2006, Claimant's hearing request is hereby denied, and the hearing set for March 28, 2013 in Summerville, South Carolina was appropriately cancelled. Further, any and all motions filed pertaining to WCC No. 0506205 are hereby dismissed as well.

CONCLUSIONS OF LAW

Under the South Carolina Workers' Compensation Act and other applicable law, it is the determination and conclusion of the Appellate Panel that:

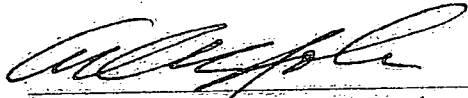
1. Pursuant to S.C. Reg. 67-801, Claimant settled his claim (WCC No. 0506205) through a Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006.
2. Pursuant to S.C. Code Reg. 67-801(E), the Employer and the Insurance Carrier are relieved from any further responsibility for payment of compensation or medical expenses, and by signing the Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission, the Claimant does not have the right to ask for additional payments in the future. As such, the hearing request and motions of the Claimant were appropriately denied.

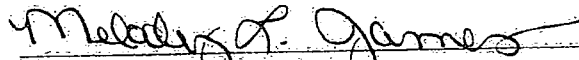
ORDER

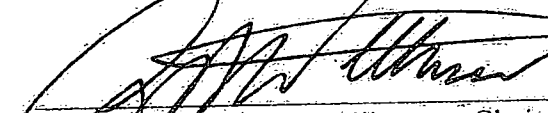
IT IS THEREFORE ORDERED that the Order of the Single Commissioner is hereby **FULLY AFFIRMED** and the above Findings of Fact and Conclusions of Law are the decision of the Workers' Compensation Commission.

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AND IT IS SO ORDERED.


Commissioner Andrea C. Roche


Commissioner Melody James


Commissioner Avery Wilkerson, Chair

b JR -

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served this order in the above-entitled action upon parties to this cause by depositing a copy hereto, postage paid, in the United States mail addressed to the attorney or attorneys for said parties.

This 17 day of July, 2013
By Valerie M. Deher

Administrative Assistant to the Commissioner

Alexander Guice (Reg & Cert)
Gina L. Hartstke

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ORIGINAL

FORM 4

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP3201272

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
THE COURT OF COMMON PLEAS
Alexander Guice

US Foodservice Inc

ACE American
Insurance Co

2013 SEP -6 P 4 30

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SC

PLAINTIFF(S)

DEFENDANT(S)

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

Submitted by:

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information. ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Other: _____
- ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court.

ORDER INFORMATION

MOTION FOR RECONSIDERATION WAS HEARD ON SEPTEMBER 3, 2013 @10 AM. MR GUICE FAILED TO APPEAR FOR THIS HEARING. PRESENT WAS BEN CRUISE ON BEHALF OF ERIN HANTSKE FOR US FOOD SERVICE. MR. GUICE'S MOTION FOR RECONSIDERATION IS DENIED.

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

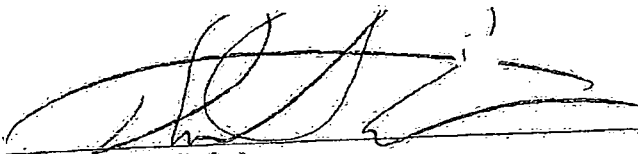
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

CPFORM4Cm
SCCA-SCRPC Form 4C (Revised 3/2013)

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Circuit Court Judge

2141

Judge Code

09/06/2013

Date

For Clerk of Court Office Use Only

This judgment was entered on 6th of September 2013, and a copy mailed first class or placed in the appropriate attorney's box on 6th of September 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Alexander Guice P O Box 45062 Tampa, FL 33677

TORNEY(S) FOR THE PLAINTIFF(S)

Erin Leigh Hantske PO Box 650007 Mt. Pleasant, SC 29465

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg

Court Reporter

Beth A. Carrigg - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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ATTORNEYS AT LAW

Reply To
ERIN L. HANTSKE
Direct Dial: (843) 576-2946
erin.hantske@mgclaw.com
CHARLESTON

December 16, 2013

Alexander Guice
Post Office Box 13281
Tampa, Florida 33681

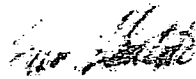
RE: Alexander Guice v. U.S. Food Service, Inc. and ACE American Insurance Company c/o
Gallagher Bassett Services, Inc.
Date of Accident: May 5, 2005
WCC File No.: 0506205
Our File No.: 2098.12550
Claim No.: 004063-032175-we-01

Dear Mr. Guice:

I am in receipt of your "Request to Consent to Mediation" dated December 10, 2013. Please be advised that the carrier/employer is not in agreement to mediate this claim as you settled your case regarding your accident of May 5, 2005, on a full and final clincher basis which was stamped and approved by the Commission in January 2006. As such, you are not entitled to any further benefits under the South Carolina Workers' Compensation Act.

With kind regards, I remain

Very truly yours,


Erin L. Hantske

ELH/bhg
cc: Rexann Huneycutt, Gallagher Bassett Services, Inc.
Lisa Purvis, US Foods, Inc.
Cheryl McLaughlin, US Foodservice, Inc.

EXHIBIT 27

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