

THE STATE OF SOUTH CAROLINA

In the Supreme Court

PETITION FROM THE COURT OF APPEALS

John C. Few, Chief Justice

RECEIVED

JUL - 8 2014

S.C. Supreme Court

Case No.: 2013-002491

Alexander Guice,.....Petitioner,

v.

US Food Service, Inc., and ACE American Insurance
Company c/o Gallagher Bassett Service, Inc.,.....Respondents.

PETITION FOR WRIT OF CERTIORARI

APPENDIX

Alexander Guice
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Petitioner, Pro Se

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Attorney for Respondents

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The South Carolina Court of Appeals

Alexander Guice, Appellant,

v.

US Food Service, Inc., and ACE American Insurance
Company c/o Gallagher Bassett Services, Inc.,
Respondents.

Appellate Case No. 2013-002491

ORDER

This appeal was dismissed on April 24, 2014. Appellant has filed a petition for reinstatement, which we construe as a petition to rehear the dismissal of this appeal. After careful consideration, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

John Cannon Jr

C.J.

John D. Bether

J.

Gregory W. Creceton

A.J.

Columbia, South Carolina

cc: Alexander Guice
Erin Leigh Hantske, Esquire

FILED
6/5/14

The South Carolina Court of Appeals

Alexander Guice, Appellant,

v.

US Food Service, Inc., and ACE American Insurance
Company c/o Gallagher Bassett Services, Inc.,
Respondents.

Appellate Case No. 2013-002491

ORDER

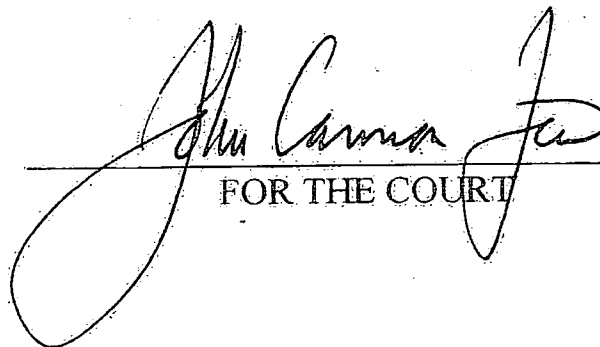
Respondents have filed a motion to dismiss, arguing the order Appellant has appealed from is not a final order. Appellant has filed a return. After careful consideration, we agree with Respondents that the order is not final, and thus not immediately appealable. As we will explain, we dismiss the appeal and remand it to the circuit court.

"[A]ppeals in administrative agency matters are handled differently than appeals in other cases." *Bone v. U.S. Food Serv.*, 399 S.C. 566, 574, 733 S.E.2d 200, 204 (2012), *adhered to on reh'g*, 404 S.C. 67, 744 S.E.2d 552 (2013). "An aggrieved party may obtain a review of any final judgment of the circuit court under this article by taking an appeal in the manner provided by the South Carolina Appellate Court Rules as in other civil cases." S.C. Code Ann. § 1-23-390 (2005).¹ "A final judgment disposes of the whole subject matter of the action or terminates the

¹ Although this statute was amended in 2006, the 2005 version applies because Appellant's injury occurred prior to July 1, 2007. See *Pee Dee Reg'l Trans. v. S.C. Second Injury Fund*, 375 S.C. 60, 62, 650 S.E.2d 464, 465 (2007) ("[T]he change regarding the appeal procedure . . . is only applicable to Workers' Compensation cases in which the injury occurred on or after July 1, 2007.").

particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined." *Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Envtl. Control*, 387 S.C. 265, 267, 692 S.E.2d 894, 895 (2010).

The circuit court's order was not a final judgment that is entitled to appellate review. See S.C. Code Ann. § 1-23-390 (2005) (noting the administrative procedures act allows an aggrieved party to appeal a *final judgment* of the circuit court); *Bone*, 399 S.C. at 574, 733 S.E.2d at 204 ("[A]ppeals in administrative agency matters are handled differently than appeals in other cases."). Although the circuit court dismissed Appellant's appeal, it noted Appellant may have an appeal once the full commission entered a final order. Appellant's case was still pending before the full commission on June 13, 2013, when the circuit court dismissed this appeal. On July 17, 2013, the full commission entered a final order. Appellant appealed the July 17, 2013 order to this court, and on December 6, 2013, this court transferred Appellant's appeal from the July 17, 2013 order to the circuit court. Thus, it appears Appellant currently has another appeal pending under the Workers' Compensation Commission (WCC) file number 0506205. See *Bone*, 399 S.C. at 575-76, 733 S.E.2d at 205 ("[P]iecemeal appeals in agency cases . . . would adversely affect judicial economy and compromise informed appellate review."). The fact that Appellant has an appeal pending in circuit court under WCC file number 0506205--the same WCC file number Appellant appealed from here--is evidence that the circuit court's June 13, 2013 order was not a final judgment. See *Charlotte-Mecklenburg Hosp. Auth.*, 387 S.C. at 267, 692 S.E.2d at 895 ("A final judgment disposes of the whole subject matter of the action or terminates the particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined."). Accordingly, Respondents' motion to dismiss is granted. This case is remanded to the circuit court, which shall consider the merits of this appeal in conjunction with Appellant's appeal from the commission's final order.


FOR THE COURT

Columbia, South Carolina

cc: Alexander Guice
Erin Leigh Hantske, Esquire


FILED
4/24/14

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-CP-32-1272

 US Foodservice, Inc. and Ace
American Insurance Company
c/o Gallagher Bassett Services, Inc.

Respondent,

v.

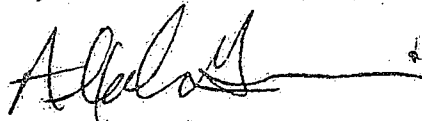
Alexander Guice,

Appellant.

NOTICE OF APPEAL

Alexander Guice appeals the order of the Honorable Thomas A. Russo dated June 10, 2013. Appellant received written notice of entry of the order denying Appellant's motion to reconsider on November 12, 2013.

November 13, 2013



Alexander Guice
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(813) 562-0547
Pro Se

Other Counsel of Record:
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NOV 18 2013

SC Court of Appeals

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-CP-32-1272

US Foodservice, Inc. and Ace
American Insurance Company
c/o Gallagher Bassett Services, Inc. Respondent,

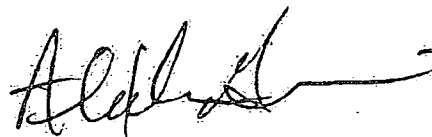
v.

Alexander Guice, Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal and Motion to proceed in *forma pauperis* on US Foodservice, Inc., and Ace American Insurance Company, c/o Gallagher Bassett Services, Inc. by depositing a copy of it in the United States Mail, postage prepaid, on November 13, 2013 addressed to the attorney of record, Erin L. Hantske, Post Office Box 650007, Mt. Pleasant, South Carolina 29465 on November 13, 2013.

November 13, 2013.



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SC Court of Appeals

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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-CP-32-1272

US Foodservice, Inc. and Ace
American Insurance Company
c/o Gallagher Bassett Services, Inc.

Respondent,

v.


Alexander Guice,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal, the order from the lower court, and six copies of a Motion to proceed *in forma pauperis* on the Court of Appeals by depositing the same in the United States Mail, postage prepaid, on November 13, 2013 addressed to SC Court of Appeals, Clerk of Court, Post Office Box 11629, Columbia, South Carolina 29211 on November 13, 2013.

November 13, 2013



Alexander Guice
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Tampa, Florida 33681
(813) 562-0547
Pro Se

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SC Court of Appeals

November 13, 2013

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

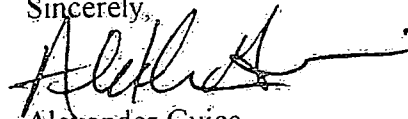
RE: US Foodservice, Inc. and Ace American Insurance Company c/o Gallagher
Bassett Services, Inc., Respondent, v. Alexander Guice, Appellant, Case
No. 2013-CP-32-1272

Dear Ms. Kitchings:

Enclosed for filing is a notice of appeal in the above case. Also enclosed
are the following:

- (1) Proof of service of the notice of appeal on the respondents.
- (2) A copy of the order which is to be challenged on appeal.
- (3) An original and six copies of a motion to proceed *in forma pauperis*.

Sincerely,



Alexander Guice
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Tampa, Florida 33681
(813) 562-0547
Pro Se

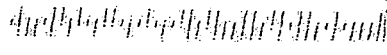
cc: Erin L. Hantske
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SC Court of Appeals

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Appeals

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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'.

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FEB 03 2014

SC Court of Appeals

INITIAL BRIEF OF APPELLANT

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 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). Appellant challenges the 'Order Granting Defendants' Motion to Dismiss' dated June 10, 2013 by the Honorable Thomas A. Russo, and as such, Appellant seeks the Court, pursuant to the *South Carolina Appellate Court Rules* and section 1-23-380 (6) of the *code of laws of South Carolina* (2008 annotated), to

REVERSE in part and MODIFY in part the same, by OPERATION OF LAW, and Appellant seeks the following REMEDIES, to include, but not limited to, the following:

A. That the Court Reverse the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 by setting aside the same WITH PREJUDICE;

B. That the Court Modify the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 by setting aside the Decision dated March 27, 2013 by Gary M. Cannon, Executive Director of S.C. Workers' Compensation Commission in regards to W.C.C. Case No. 0506205 WITH PREJUDICE;

C. That the Court Modify the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 by setting aside the "Settlement Agreement and Release" dated January 5, 2006 by Commissioner David W. Huffstetler of S.C. Workers' Compensation Commission in regards to W.C.C. Case No. 0506205 WITH PREJUDICE;

D. That the Court Modify the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 by Ordering the Respondent to immediately COMPLY with SC Code 42-9-260(F) (1996 annotated) and SC Regulation 67-506(D) (1997 annotated) and release withheld temporary total compensation payments to the Appellant, at the average weekly wage of \$1,161.00 per week, effective November 2, 2005 to date;

E. That the Court Modify the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 by Ordering the Respondent to COMPLY with SC Regulation 67-506(D) (1997 annotated) and immediately reinstate the Appellant's employment, effective November 2, 2005;

F. That the Court Modify the "Order Granting Defendants' Motion to Dismiss" dated June 10, 2013 by Ordering the Respondent to COMPLY with SC Code 42-9-260

(G) (1996 annotated) and immediately pay the 25% penalty on the withheld temporary total compensation payments to Appellant; and

G. For any and such other remedies this Court deems just and proper.

January 31, 2014



Alexander Guice
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Phone: (813) 562-0547
Appellant *pro se*

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STATEMENT OF ISSUES ON APPEAL

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3. SHALL THE COURT MODIFY THE ORDER OF THE LOWER COURT BY SETTING ASIDE THE SETTLEMENT AGREEMENT AND RELEASE BASED ON THE CLEAR VIOLATION OF STATUTORY PROVISIONS BY THE WORKERS' COMPENSATION COMMISSION?
4. SHALL THE COURT MODIFY THE ORDER OF THE LOWER COURT BY ORDERING THE RESPONDENTS' TO IMMEDIATELY COMPLY WITH SC 42-9-260(F) AND SC REGULATION 67-506(D) AND RELEASE TEMPORARY TOTAL COMPENSATION PAYMENTS BY OPERATION OF LAW?
5. SHALL THE COURT MODIFY THE ORDER OF THE LOWER COURT BY ORDERING THE RESPONDENTS' TO COMPLY WITH SC 42-1-620 AND SC REGULATION 67-506(D) AND IMMEDIATELY REINSTATE APPELLANT'S EMPLOYMENT EFFECTIVE NOVEMBER 2, 2005 BY OPERATION OF LAW?
6. SHALL THE COURT MODIFY THE ORDER OF THE LOWER COURT ORDERING THE RESPONDENTS' TO COMPLY WITH SC CODE 42-9-260

(G) AND IMMEDIATELY RELEASE THE 25% PENALTY ON THE WITHHELD COMPENSATION BY OPERATION OF LAW?

STATEMENT OF THE CASE

The Appellant sustained injuries to the Appellant's low back, right knee, and neck by accident arising out of and in the course and scope of employment with Respondents' on May 5, 2005, when Appellant was involved in a motor vehicle accident. At the time of the accident, Appellant's average weekly wage was \$1,161.00. Appellant was treated by the Respondents' selected treating physician, Dr. Alan Tamadon (Dr. Tamadon).

On or around May 11, 2005 the Appellant retained the law firm of Harry Pavilack and Associates and Robert G. Bacon, Esq. (Representative Bacon) to represent the Appellant with regards to the work-related injury.

On October 27, 2005 Dr. Tamadon; (1) opined maximum medical improvement (MMI); (2) assigned a 5% medical impairment rating to the whole person of the Appellant; (3) opined permanent lifting restrictions; and (4) reported to the respondents' that Appellant was unable to return to work at the same or other similar job. When Dr. Tamadon opined MMI on October 27, 2005 the Appellant had received temporary compensation payments from Respondents' for approximately 175 days, after and including the first 150 days. The parties never challenged or disputed the medical opinion or rationale of Dr. Tamadon.

The Respondents' verbally discharged the Appellant on or around November 2, 2005 on the grounds of "permanent lifting restrictions" and "no position available". The Respondents' never offered or afforded the Appellant suitable employment to accommodate the Appellant's incapacity prior to verbally discharging the Appellant. The

Appellant never refused suitable employment to accommodate the Appellant's incapacity, because no suitable employment was ever offered by the Respondents'.

The Respondents' failed to provide the Appellant with a written notice of the discharge. Appellant immediately informed Representative Bacon that the Respondents' discharged the Appellant; however Representative Bacon took no action on behalf of the Appellant to protect the Appellant's right to continued employment. The Respondents' terminated all payments to the Appellant following the discharge of the Appellant.

Appellant informed Representative Bacon that Appellant was not receiving any payments of any kind; however Representative Bacon took no action on behalf of the Appellant to protect Appellant's entitled right to continued compensation payments. At no time prior to terminating the Appellant's compensation payments did the Respondent request a hearing or receive permission from the Commission to reduce or terminate compensation payments to the Appellant.

On or around November 6, 2005 following the discharge of the Appellant, the Respondents' reduced the Appellant's compensation rate from \$1,161.00 to \$592.56, the maximum compensation rate in 2005. The Commission failed to perform its statutory responsibilities by ensuring the Respondents' actions with regards to discharging the Appellant and reducing the Appellant's average weekly wage was in accordance with the South Carolina Workers' Compensation Act (Act). On or around December 22, 2005 and under the advisement of Representative Bacon, and without any compensation payments received since being verbally discharged, the Appellant entered into a Settlement Agreement and Release or "clincher" with the Respondents' for \$20,000.00.

After Appellant entered into the clincher on December 22, 2005 Appellant

received an envelope from the Respondent containing three (3) compensation payment checks from on around November 2, 2005 to December 4, 2005. The clincher was approved by Commissioner David W. Huffstetler on January 5, 2006. Following the approval of the clincher, the Appellant received a check for \$13,333.33, as Representative Bacon received one third (1/3) of Appellant's clincher amount, or \$6,666.66.

The Appellant never attended a hearing, formal conference, or informal conference before the Commission, prior to, or anytime following, the approval of the clincher. Representative Bacon continued to represent the Appellant from on or around May 11, 2005 to on or around October 28, 2012. Appellant had an extreme novice understanding of the Act, as well as the civil and legal rights afforded to the Appellant, and relied heavily on the guidance and advisement of Representative Bacon in all actions and decisions made by the Appellant. On October 28, 2012 the Appellant relieved Representative Bacon of his duties as the representative for the Appellant. On December 7, 2012 Appellant filed a Form 50/Hearing Request.

Appellant filed a Form 20/Subpoena upon the Respondent requesting a copy of the Appellant's employment file. On or around December 7, 2012 Appellant filed a Form 20/Subpoena upon former Representative Bacon requesting a copy of the Appellant's client file to ascertain what actions, if any, did Representative Bacon take on the Appellant's behalf; however to date, former Representative Bacon has failed to comply with the Form 20 Subpoena and provide the Appellant a copy of the client file. On or around December 21, 2012 the Respondent complied with the Appellant's Form 20 Subpoena, and upon review of the requested Appellant's employment file, the Appellant received a copy of the discharge notice from November 2, 2005.

Appellant filed an Amended Form 50/Hearing Request on January 5, 2013 under the same Workers' Compensation Commission file number, 0506205. Respondents' timely filed a Form 51 and Amended Form 51, respectively, denying any entitlement to additional medical care or treatment, temporary total compensation payments, based upon the parties' previous Settlement Agreement and Release approved by the Commission on January 5, 2006. Appellant received a Notice of Hearing from the Commission dated January 29, 2013. The Notice of Hearing scheduled a hearing in this matter for March 28, 2013 in Summerville, South Carolina and assigned Commissioner Susan S. Barden (Commissioner Barden) as the presiding Commissioner.

The Notice of Hearing improperly listed the Respondents' address as 125 Fort Mill Parkway, Fort Mill, SC 29715 and placed the case for adjudication in the jurisdiction of 'District 4 (CHARLESTON)'. At the time the hearing was scheduled, Commissioner Barden was within the jurisdictional authority of "District 2 (ANDERSON)". Commissioner Barden was not scheduled to rotate into the jurisdictional authority of District 4 until March 1, 2013. On February 3, 2013 Appellant filed a 'Motion For Transfer of Jurisdiction' with the Commission, seeking the Commission to transfer jurisdiction of the case from District 4 to District 7 (RICHLAND), based on the Respondents' proper address of 120 Longs Pond Road, Lexington, SC 29072.

On February 13, 2013 Respondents' filed a 'Defendants' Reply to Claimant's Motion for Transfer of Jurisdiction' wherein the Respondents' mutually agreed that the Respondents' proper address in the matter of WCC # 0506205 was 120 Longs Pond Road, Lexington, SC and did not object to the transfer of jurisdiction and the issuance of a reset Hearing Notice by the Commission. On February 22, 2013, and while still within

the jurisdictional authority of District 2, Commissioner Barden issued an Order cancelling the previously scheduled March 28, 2013 hearing in this matter, on the grounds that Appellant settled his claim through a Final Settlement Agreement. In the Order dated February 22, 2013 Commissioner Barden also dismissed all motions filed by the parties in this matter.

On February 28, 2013 Appellant filed a Form 30/Request For Commission Review, seeking to challenge the Order of Commissioner Barden. On March 4, 2013 Appellant filed a "Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments", wherein Appellant asserted that the Respondents' unlawfully terminated the Appellant's entitled compensation payments, and Respondent unlawfully discharged Appellant's employment with the Respondents'. Appellant properly asserted the SC Regulation 67-506(D) and the like in support of Appellant's position.

On March 14, 2013 Respondents' filed a 'Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments. However, the Respondents' failed to "affirm or deny the averments contained in Appellants' motion dated March 4, 2013. On March 17, 2013 Appellant filed an 'Answer to Defendants' Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments' wherein Appellant asserted that the Appellant's averments contained in the Motion dated March 4, 2013 were admitted pursuant to the failure of Respondents' Attorney, namely, Representative Hantske to comply with Rule 8(b) SCRPC IAW Rule 8(d) SCRPC.

On March 18, 2013 Appellant filed a 'proposed Order Granting Claimant's

Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments'. On March 27, 2013 Gary M. Cannon, Executive Director of the Workers' Compensation Commission issued a Decision erroneously returning the Appellant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments, without the motion being adjudicated by the Workers' Compensation Commission, on the grounds that the "Commission does not have subject matter jurisdiction for the issues set forth in the Motion."

The decision by Mr. Cannon of the Commission was clearly an abuse of authority and clearly erroneous, due to the fact, that only "commissioners shall hear and determine all contested case before the commission" pursuant to SC Code 42-3-20(C) (2007). Mr. Cannon's decision prejudiced the Appellant, and has allowed the Respondents' to continue willfully violating SC Code 42-9-260(F), SC Regulation 67-506(D). Appellant appealed Mr. Cannon's decision with Lexington Court of Common Pleas. The Respondent filed a 'motion to dismiss' on the grounds that the Appellant has failed to exhaust administrative remedies within the Workers' Compensation Commission, which was erroneously granted by the lower court.

There are no administrative remedies that can be taken by a party, to appeal a decision of the executive director of the commission, under the South Carolina Workers' Compensation Act, and as such, the lower court's grounds for dismissing this action was erroneous and arbitrary and capricious in nature. The Respondents' continues to be in willful violation of the law. Taken in aggregate, the Appellant's entitled right to compensation and employment has been, and continues to be, egregiously violated by the Respondents' and the Workers' Compensation Commission, and the same has been exacerbated by the unlawful Order of the lower court.

FACTS

1. On October 1, 2001 Appellant was hired as a delivery driver by US Foodservice, Inc. (Respondent), located at 120 Longs Pond Road, Lexington, SC 29072. The parties are bound by the authority of the South Carolina Workers' Compensation Act IAW SC Code 42-1-310. On May 5, 2005 the Appellant was injured in an admitted motor vehicle accident in the course and scope of employment with Respondents'. Appellant notified Respondents' of the accident/injury on May 5, 2005. Appellant reported injuries to Appellant's neck, lower back, and right knee, and head. At the time of injury the parties agreed that the average weekly wage of the Appellant was \$1,161.00 (Rec.).

2. Appellant's work-related injuries was treated by Alan Tamadon, MD (Dr. Tamadon), the Respondent-selected authorized treating physician. Appellant reported to all medical appointments as directed. On October 27, 2005 Dr. Tamadon opined maximum medical improvement (MMI) and reported to the Respondents' that the Appellant incurred a 5% impairment rating to the whole person, incurred permanent lifting restrictions, and was unable to return to work at the same or other suitable job (Rec.).

3. On October 27, 2005 when Dr. Tamadon opined MMI and reported to the Respondents' that the Appellant was unable to return to work at the same or other suitable job, the Appellant had received temporary compensation payments from May 6, 2005 to October 27, 2005 for a total of 175 days, including and after the first 150 days (Rec.).

4. On or around November 2, 2005 the Respondent verbally discharged the

Appellant on the grounds of permanent lifting restrictions and no position available. The Respondent never offered or afforded suitable employment to accommodate the incapacity of the Appellant prior to the verbal discharge (Rec.).

5. Following the verbal discharge of the Appellant by the Respondent, on or around November 6, 2005 the Respondents' representative arbitrarily reduced the Appellant's average weekly wage from 1,161.00 to \$592.56 (Rec.).

6. Appellant entered into a Settlement Agreement and Release or 'Clincher' with Respondent to settle WCC# 0506205 for \$20,000.00 on December 22, 2005 and the clincher was approved by Commissioner David W. Huffstetler (Commissioner Huffstetler) on January 5, 2006 (Rec.).

7. No stop payment of compensation hearing, formal conference, or informal conference was ever convened by the Commission prior to, or anytime following, the parties entering into the clincher.

8. On December 7, 2012 Appellant filed a Form 50/Request for hearing. On January 5, 2012 Appellant filed an Amended Form 50/Request for hearing. *Inter Alia* the Appellant sought immediate payment of withheld temporary total compensation payments, at the average weekly wage of \$1, 161.00 effective November 2, 2005 to date; Reinstatement of employment with the Respondent effective November 2, 2005; and payment of the 25% penalty on withheld compensation payments (Contained in the File).

9. On December 27, 2012 and January 14, 2012 respectively, Respondents' filed a Form 51 and an Amended Form 51. On both Form 51's/Employer's Answer to Request for Hearing, the Respondent denied the Appellant's request for temporary total compensation and the like, on the grounds that "... he (Appellant) entered into a clincher

settlement agreement to resolve his claim related to his accident of May 5, 2005..."
(Contained in the File).

10. On January 29, 2013 the Commission issued a Notice of Hearing scheduling a hearing in the matter of WCC # 0506205 for March 28, 2013 in Summerville, South Carolina within the Commission's jurisdictional authority of District 4. The presiding commissioner named on the Notice of Hearing to preside over the hearing was Commissioner Susan S. Barden (Commissioner Barden). The Notice of Hearing listed the address of the employer as "125 Fort Mill Parkway Fort Mill, SC 29715" (Contained in the File).

11. On February 3, 2013 Appellant filed a 'Motion for Transfer of Jurisdiction' seeking to transfer jurisdiction of WCC # 0506205 from District 4 (CHARLESTON) to District 7 (LEXINGTON) based on the proper address of the employer, namely, 120 Longs Pond Road Lexington, SC 29072 (Contained in the File).

12. On February 13, 2013 Respondent filed a 'Defendants' Answer to Claimant's Motion for Transfer of Jurisdiction' wherein Respondent mutually agreed that the employer's proper address in the matter of WCC # 0506205 was 120 Longs Pond Road Lexington, SC and did not object to the transfer of jurisdiction from District 4 to District 7 and the issuance by the Commission of a reset Hearing Notice (Contained in the File).

13. On February 22, 2013 Commissioner Barden, while in the WCC jurisdictional authority of District 2 (ANDERSON) issued an Order wherein Commissioner Barden cancelled the March 28, 2013 hearing and dismissed any and all motions related to WCC # 0506205 on the grounds that the Appellant settled his claim by the Settlement Agreement and Release (Contained in the File).

14. On February 28, 2013 Appellant filed a Form 30 to request a review of the commissioner's decision (Contained in the File).

15. On March 4, 2013 Appellant filed a 'Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments (Contained in the File).

16. On March 14, 2013 Respondents' filed an 'Reply' to Appellant's Motion for Reinstatement dated March 4, 2013 (Contained in the File).

17. On March 17, 2013 Appellant filed a 'Answer' to Respondents' 'Reply' (Contained in the File).

18. On March 18, 2013 Appellant filed a proposed Order Granting Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments (Contained in the File).

19. On March 27, 2013 Executive Director Gary M. Cannon of the Commission issued a Decision summarily dismissing the Appellant's Motion for Reinstatement of Employment (Rec.).

20. On or around April 11, 2013 Appellant filed a 'Complaint' with the lower court (Contained in the File).

21. On or around May 2, 2013 Respondents' filed a 'Motion to Dismiss' (Contained in the File).

22. On or around June 10, 2013 the lower court issued an 'Order Granting Defendants' Motion to Dismiss' (Rec.).

23. Appellant filed a Motion to reconsider which was denied by the lower court on or around September 6, 2013 (Contained in the File).

ARGUMENT

1. BECAUSE MR. CANNON LACKED THE AUTHORITY TO RENDER A DECISION REGARDING A CONTESTED CASE BEFORE THE COMMISSON AND THERE ARE NO ADMINISTRATIVE REMEDIES TO APPEAL A DECISION FROM THE EXECUTIVE DIRECTOR OF THE COMMISSION, THE ORDER OF THE LOWER MUST BE REVERSED.

The decision dated March 27, 2013 and issued by Mr. Cannon, the Executive Director of the Commission was clearly erroneous because Mr. Cannon does not have the authority to render decision regarding contested cases before the commission pursuant to SC Code 42-3-20(C). Furthermore, the South Carolina Workers' Compensation Act does not provide a provision for a party to challenge or otherwise appeal a decision rendered by the executive director of the commission. The rationale of the lower court to grant the motion to dismiss, as stated, "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" is clearly erroneous.

SC Code 1-23-380(6)(a) & (e) affords the Court to reverse the order when the Appellant is prejudiced by the Order and the same is "*in violation of constitutional or statutory provisions*" and "*clearly erroneous...*". As such, the court must reverse the Order of the lower court by setting aside the same with prejudice.

2. BECAUSE THE DECISION RENDERED BY MR. CANNON OF THE COMMISSON EXCEEDED THE AUTHORITY OF THE OFFICE OF THE EXECUTIVE DIRECTOR OF THE COMMISSION AND PREJUDICED THE APPELLANT, THE ORDER OF THE LOWER COURT MUST BE MODIFIED TO

SET ASIDE THE MARCH 27, 2013 DECISION BY MR. CANNON WITH PREJUDICE.

As previously stated, Mr. Cannon's decision dated March 27, 2013 was unlawful, clearly erroneous, in excess of the authority of the executive director's duties and responsibilities (SC Code 42-3-80), and prejudiced the Appellant. SC Code 1-23-380(6)(a) & (e) affords the Court the ability to modify the order when the Appellant is prejudiced by the Order and the same is "*in violation of constitutional or statutory provisions*", "*in excess of the statutory authority*" and "*clearly erroneous...*". As such, the Court must modify the Order of the lower court by setting aside the decision of Mr. Cannon dated March 27, 2013 with prejudice.

3. BECAUSE THE SETTLEMENT AGREEMENT AND RELEASE ENTERED INTO BY THE PARTIES WAS IN VIOLATION OF STATUTORY PROVISIONS CONTAINED IN SC CODE 42-1-610, SC CODE 42-1-620, SC CODE 42-9-260 (F) AND SC REGULATION 67-506(D) & (E) THE ORDER OF THE LOWER COURT MUST BE MODIFIED BY SETTING ASIDE THE SETTLEMENT AGREEMENT AND RELEASE AS A MATTER OF LAW.

The parties entered into a Settlement Agreement and Release which was approved by Commissioner David W. Huffstetler of the Commission on January 5, 2006. (Contained in the File). However, a review of the record confirms that; (A) the treating physician reported to the Respondent that the Appellant was unable to return to work at the same or similar duties; (B) opined MMI and a 5 percent impairment rating; and (C) opined permanent lifting restrictions.

The Appellant received temporary compensation payments for 213 continuous days, including the first 150 days (Rec.). A further review of the record confirms that

no hearing of any kind, to include a stop payment hearing, has ever been convened in this matter. As it relates to the statutory duties of the employer's representative with respect to paying compensation payments to an injured worker after the first 150 days of continuous compensation payments, SC Code 42-9-260 (F) states in relevant part,

After the one-hundred-fifty-day period has expired, the commission shall provide by regulation the method and procedure by which benefits may be suspended or terminated for any cause, but the regulation must provide for an evidentiary hearing and commission approval prior to termination...

Furthermore, SC Code 42-1-620 states, *"No agreement by an employee to waive his rights to compensation under this Title shall be valid."*

SC Code 1-23-380(6)(a) & (e) affords the Court the ability to modify the order when the Appellant is prejudiced by the Order and the same is *"in violation of constitutional or statutory provisions"*, *"in excess of the statutory authority"* and *"clearly erroneous..."*. As such, the Court must modify the Order of the lower court by setting aside the Settlement Agreement and Release dated January 5, 2006 with prejudice.

4. BECAUSE THE RESPONDENTS' UNLAWFULLY TERMINATED COMPENSATION PAYMENTS TO THE APPELLANT IN VIOLATION OF SC CODE 42-9-260(F) AND SC REGULATION 67-506(D) THE ORDER OF THE LOWER COURT MUST BE MODIFIED BY ORDERING THE RESPONDENTS' TO IMMEDIATELY RELEASE WITHHELD COMPENSATION PAYMENTS TO THE APPELLANT AS A MATTER OF LAW.

As previously stated, the Respondents' unlawfully terminated compensation payments to the Appellant on the grounds that the Appellant entered into a Settlement

Agreement and Release, which is not lawful pursuant to SC Code 42-1-610, SC Code 42-1-620 and SC Regulation 67-506(D). A hearing must be convened, and the Commission must grant permission before the Respondents' Representative can reduce or terminate compensation payments.

SC Code 1-23-380(6)(a) & (e) affords the Court the ability to modify the order when the Appellant is prejudiced by the Order and the same is "*in violation of constitutional or statutory provisions*," "*in excess of the statutory authority*" and "*clearly erroneous*...". As such, the Court must modify the Order of the lower court by ordering the Respondents' Representative to immediately release the unlawfully withheld compensation payments to the Appellant as a matter of law.

5. BECAUSE THE RESPONDENTS' DISCHARGED THE APPELLANT ON THE UNLAWFUL GROUNDS OF 'PERMANENT LIFTING RESTRICTIONS' AND 'NO POSITION AVAILABLE' WHEREIN THE PERMANENT LIFTING RESTRICTIONS WERE A DIRECT RESULT OF THE INJURIES SUSTAINED IN THE ADMITTED WORK RELATED INJURY AND THE RESPONDENTS' NEVER OFFERED SUITABLE EMPLOYMENT TO ACCOMMODATE THE APPELLANT'S INCAPACITY, THE ORDER OF THE LOWER COURT MUST BE MODIFIED TO ORDER THE RESPONDENTS' TO IMMEDIATELY REINSTATE THE APPELLANT'S EMPLOYMENT.

Following the authorized treating physicians findings being released to the Respondents' on October 27, 2005, the Respondents' unlawfully discharged the Appellant on November 2, 2005 (Rec.). The grounds to substantiate the discharge of the Appellant, namely, "permanent lifting restrictions" and "no position available" were

unlawful. There is no provision, or law which affords an employer to discharge an injured worker when the injuries sustained were a direct result of an admitted work related injury, particularly when no suitable job was afforded or offered to the injured worker, and when the injured worker never refused suitable employment.

Furthermore, the Appellant's employment was protected by the Act. SC Regulation 67-506(D) 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.

SC Code 1-23-380(6)(a) & (e) affords the Court the ability to modify the order when the Appellant is prejudiced by the Order and the same is "in violation of constitutional or statutory provisions", "in excess of the statutory authority" and "clearly erroneous...". As such, the Court must modify the Order of the lower court by ordering the Respondents' to immediately reinstate the employment of the Appellant as a matter of law.

6. BECAUSE THE RESPONDENT HAS FAILED TO PAY COMPENSATION AS REQUIRED BY LAW, THE ORDER OF THE LOWER COURT MUST BE MODIFIED TO ORDER THE RESPONDENTS' REPRESENTATIVE TO PAY THE 25% PENALTY ON THE WITHHELD COMPENSATION PAYMENTS.

As previously stated, and confirmed by a review of the whole record, the Respondents' has failed to lawfully pay compensation to the Appellant IAW 42-9-260(F)

and SC Regulation 67-506(D). As it relates to the failure of the Respondent to lawfully pay compensation, SC Code 42-9-260(G) states,

Failure to comply with this section shall result in a twenty-five percent penalty imposed upon the carrier or employer computed on the amount of benefits withheld in violation of this section, and the amount of the penalty must be paid to the employee in addition to the amount of benefits withheld. However, the penalty does not apply if the employer or carrier has terminated or suspended benefits when the employee has returned to any employment at the same or similar wage.

The Appellant has been unemployed since being unlawfully terminated by the Respondents' on November 2, 2005.

Based on the unlawful termination of compensation payments by the Respondents' Representative, the Court must modify the Order of the lower court by ordering the Respondents' to immediately pay the 25% penalty on the unlawfully withheld compensation payments to the Appellant as a matter of law.

CONCLUSION

Based on the reasons stated, the Appellate Court should;

- a. Reverse the "Order Granting Defendants' Motion to Dismiss" by setting aside the same with prejudice;
- b. Modify the "Order Granting Defendants' Motion to Dismiss" by setting aside the decision of Gary M. Cannon of the Commission dated March 27, 2013 with prejudice;
- c. Modify the "Order Granting Defendants' Motion to Dismiss" by setting aside the Settlement Agreement and Release dated January 5, 2006 and approved by Commissioner David W. Huffstetler with prejudice;
- d. Modify the "Order Granting Defendants' Motion to Dismiss" by ordering

the Respondents' Representative to immediately release unlawfully withheld temporary total compensation payments, at the average weekly wage of \$1,161.00 effective November 2, 2005 to date;


e. Modify the "Order Granting Defendants' Motion to Dismiss" by ordering the Respondents' to immediately reinstate the employment of the Appellant effective November 2, 2005;

f. Modify the "Order Granting Defendants' Motion to Dismiss" by ordering the Respondents' Representative to immediately pay the 25% penalty on the unlawfully withheld compensation payments; and

g. For any such other remedies this Court deems just and proper.

January 31, 2014
Tampa, Florida

Respectfully submitted,



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

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Tampa, Florida 33681

Clerk, Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

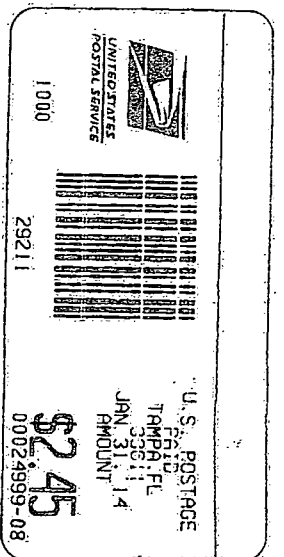
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The South Carolina Court of Appeals

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CLERK

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DEPUTY CLERK

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February 10, 2014

Alexander Guice
P. O. Box 13281
Tampa FL 33681

Re: Alexander Guice v. US Food Service (2)
Appellate Case No. 2013-002491

Dear Mr. Guice:

Upon reviewing your appellant's initial brief, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The cover does not meet the requirements of Rule 267, SCACR. The party submitting the brief must be listed with their contact information.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Erin Leigh Hantske, Esquire

Alexander Guice

P.O. Box 13281
Tampa, FL 33681
Phone: (813) 562-0547
Email: alguice@hotmail.com

February 15, 2014

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

RE: Alexander Guice v. US Foodservice, Inc., and Ace American Insurance Co.
c/o Gallagher Bassett Services, Inc.
Appellate Case Number: 2013-002491

Dear Ms. Kitchings:

Pursuant to the correspondence dated February 10, 2014 received from your office, please find enclosed an original and a copy of a corrected Initial Brief of Appellant cover page and proof of service in regard to the above captioned matter. Please file the same and return a date stamped copy to the undersigned in the prepaid self-addressed envelope enclosed for your convenience.

By copy of this letter I have provided a copy of the same to Erin L. Hantske, Esquire, the Representative for the Respondents', via regular mail with enclosures.

Should your office have any questions or require any additional information, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,



Alexander Guice
Appellant, *pro se*

cc: Erin L. Hantske, Esq. (via reg. mail w/encl.)

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FEB 25 2014

SC Court of Appeals

35

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.

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FEB 03 2014
SC Court of Appeals

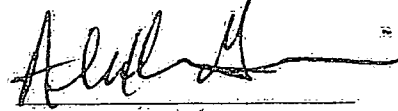
DESIGNATION OF MATTER

Respectfully, listed below, please find the requested documents to be included in the Record on Appeal in regard to the above captioned matter.

1. Settlement Agreement and Release dated January 5, 2006, Alexander Guice v. US Foodservice, Inc., et al. W.C.C. Case No. 0506205.
2. Decision dated March 27, 2013 Alexander Guice v. US Foodservice, Inc., and Ace American Insurance Co. c/o Gallagher Bassett Services, Inc. W.C.C. No. 0506205.
3. Order Granting Defendants' Motion to Dismiss dated June 10, 2013 Alexander Guice v. US Foodservice, Inc., and Ace American Insurance Co. c/o Gallagher Bassett Services, Inc. Case No. 2013-CP-32-01272.
4. First Report of Injury, Alexander Guice, dated May 16, 2005.

5. Medical Reports, Dr. Alan Tamadon, MD dated October 27, 2005.
6. Discharge Notice, Alexander Guice, dated November 2, 2005.
7. WCC Form 18 (Periodic Report), Alexander Guice, dated December 1, 2005.

January 31, 2014



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

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,

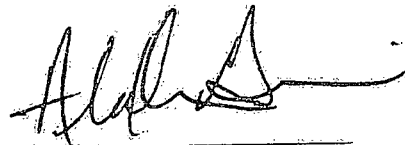
V.

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

DESIGNATION OF MATTER CERTIFICATE

Pursuant to Rule 209(c) SCACR I certify that the enclosed Designation of Matter contains no matter which is irrelevant to the appeal.

January 31, 2014



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

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SC Court of Appeals

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'.

PROOF OF SERVICE

I HEREBY CERTIFY to the Court of Appeals that I provided to the Respondent, by and through Erin L. Hantske, Esq., the Representative for the Respondents', true copies of a cover letter, an Initial Brief of Appellant; a Designation of Matter; a Designation of Matter Certificate; copies of the transcripts, and proof of service, by depositing the same in the U. S. Postal Service on January 31, 2014, postage prepaid, and addressed to: Erin L. Hantske, Esq. McAngus Goudelock & Courie, LLC P.O. Box 650007 Mt. Pleasant, SC 29465.

January 31, 2014



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

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SC COURT OF APPEALS



INSURANCE
DEFENSE

Reply To

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

February 28, 2014

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

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
Appellate Tracking No.: 2013-002491

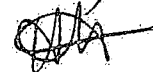
Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Motion to Dismiss, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return the clocked-in copies in the self-addressed, stamped envelope. Also enclosed is our firm's check in the amount of \$25 for filing the motion.

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

Very truly yours,


Erin L. Hantske



Enclosures

cc: Alexander Guice, pro se

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MAR 03 2014

SC Court of Appeals

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

Honorable Thomas A. Russo

Case No. 2013-002491

71419

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MAR 03 2014

SC Court of Appeals

Alexander Guice, Appellant,

v.

US Food Service, Inc. and
ACE American Insurance Company
c/o Gallagher Bassett Services, Inc., Respondents.

MOTION TO DISMISS APPEAL

Respondents US Food Service, Inc. and ACE American Insurance Company c/o Gallagher Bassett Services, Inc. hereby move to dismiss the appeal in the above-reverenced matter pursuant to Rule 260(a) SCACR. This appeal is improper because it does not involve a final order of the South Carolina Workers' Compensation Commission ("Commission") or a final order of the Circuit Court. Furthermore, at the time he filed his appeal with the Circuit Court, Appellant had not exhausted his administrative remedies. S.C. Code Ann. §§ 1-23-380 & 390; Nucor Steel v. South Carolina Pub. Serv. Comm'n, 312 S.C. 79, 439 S.E.2d 270 (1994). The Circuit Court's dismissal recognized that, "[u]pon exhaustion of all administrative remedies, [Appellant]

may have an appeal to the Circuit Court once [the Commission] has reached a final decision.” Furthermore, despite Appellant’s attempts to characterize a letter from the South Carolina Workers’ Compensation Commission’s Executive Director as a Commission Decision, it is simply a letter returning Appellant’s motion and attachments to him, and not a final order subject to appellate review by this Court. Therefore, neither the Commission nor the Circuit Court has issued a final order subject to this Court’s appellate review. Bone v. U.S. Food Serv., 399 S.C. 566, 733 S.E.2d 200 (2012); Charlotte-Mecklenburg Hosp. Auth. v. South Carolina Dept. of Health & Env’tl Control, 387 S.C. 265, 692 S.E.2d 894 (2010). The Circuit Court properly granted Respondents’ motion to dismiss and this Court should do likewise.

FACTUAL BACKGROUND

Appellant was employed by US Food Service, Inc. (“Employer”) when he was injured in the course of his employment on May 5, 2005. Employer provided medical treatment and temporary compensation payments. Appellant’s claim before the Commission was assigned Commission File No. 0506205. After Appellant reached Maximum Medical Improvement, Appellant and Employer entered into a Settlement Agreement and Release (“Settlement”), “in full and final satisfaction of all claims whatsoever as a result of the alleged accident.” Under the Settlement, dated December 22, 2005, the Employer paid \$20,000 (which was divided between Appellant and his counsel \$13,333.34/\$6,666.66 respectively). In return, Appellant released Employer and its workers’ compensation carrier¹ from “any and all claims, demands, actions or causes of action under the South Carolina Worker’s [sic] Compensation Act, on account of any

¹ At the time of the Settlement, Employer’s carrier was MAC Risk Management, Inc., which is now ACE American Insurance Company c/o Gallagher Bassett Services, Inc.

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, 2004..." The Settlement was "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..." Appellant signed this Settlement, which was filed with and, on January 5, 2006, approved by the Commission, pursuant to S.C. Code Ann. § 42-9-390. (Att. A). The Commission's approval of the Settlement was not timely appealed.²

On December 7, 2012, Appellant filed a Form 50 Request for Hearing and then an Amended Form 50 dated January 5, 2013,³ 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 accident, as well as attacking the validity of the Settlement and raising issues of unlawful termination of employment, unlawful reduction in his average weekly wage calculation, unlawful termination of temporary total compensation payments, inadequate legal representation, and seeking penalties. (Att. C). Appellant also filed two separate motions with the Commission. The first motion sought to transfer jurisdiction within the Commission

² Nearly six years later, on November 11, 2012, Appellant filed a Form 30, Request for Commission Review, alleging numerous issues on appeal, including that the approval of the Settlement violated the Workers' Compensation Act, the Settlement was the result of 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. (Att. B).

³ All of Appellant's recent filings with the Commission have been under the prior W.C.C. File No.: 0506205.

from Charleston County to Richland County, and the second was to conduct the hearing via telephone as he currently resides in Tampa, Florida. (Att. D).

Appellant's Form 50's were set for hearing on March 28, 2013. However, on February 22, 2013, Commissioner Susan S. Barden issued an Order ("February 22 Order"), holding that, as Appellant had "settled on a Full and Final basis on or about January 6, 2006, [Appellant's] hearing request is hereby denied." Commissioner Barden cancelled the hearing date and dismissed "any and all motions filed pertaining to WCC# 0506205." (Att. E).

At this point, Appellant began pursuing two separate avenues to have his claims heard. First, on February 28, 2013, he filed a Form 30 Request for Commission Review of Commissioner Barden's February 22 Order. In his notice of appeal to the Full Commission, he alleged seven different points of appeal, including whether Commissioner Barden had jurisdiction to decide his claim, whether the February 22 Order violated certain rules of civil procedure, and whether Appellant had been subjected to a conspiracy. (Att. F).⁴

Second, on March 4, 2013, before any action had been taken by the Commission on his Form 30 appeal, Appellant mailed a Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments ("Motion for Reinstatement") to the Commission. (Att. G). Styled as a circuit court complaint, Appellant's Motion for Reinstatement raised many of the same issues he raised in his Form 50's, including but not limited to: unlawful termination of his employment; unlawful reduction in his average weekly wage/compensation rate; unlawful termination of temporary total

⁴ Claimant's appeal at the Commission proceeded to a Full Commission hearing and Decision, dated July 17, 2013, (Att. M), which Appellant subsequently appealed to this Court. (Att. N).

compensation payments; challenges to the Settlement; complaints about his former legal counsel; and a request for penalties. Respondents opposed Appellant's Motion for Reinstatement. On March 18, 2013, Appellant mailed a proposed order granting his Motion for Reinstatement to the Commission. On March 27, 2013, Mr. Gary Cannon, Executive Director of the Commission, returned Appellant's Motion for Reinstatement, along with the filing fee submitted by Appellant. That letter stated that Mr. Cannon was "returning the Motion and the filing fee because the Commission does not have subject matter jurisdiction for the issues set forth in the Motion." (Att. H).

It is the March 27 letter that Appellant appealed to the Circuit Court, (Att. I), and now is appealing to this Court. Respondents moved to dismiss the appeal pending before the Circuit Court, (Att. J), which conducted a hearing on June 3, 2013. Although Appellant was notified of the hearing, he failed to attend or arrange to have counsel present. Based on the arguments and pleadings before it, the Circuit Court granted Respondents' motion to dismiss on the basis that the court lacked jurisdiction to hear the appeal, as Appellant had failed to exhaust all of his administrative remedies. The Circuit Court issued its Order on June 13, 2013. (Att. K). Appellant moved for reconsideration of that Order, which was denied in a Form 4 Order filed on September 6, 2013. (Att. L). Appellant timely appealed to this Court.

ARGUMENT

Appellant's appeal should be dismissed because he failed to exhaust his administrative remedies before filing his appeal with the Circuit Court and because neither the March 27 letter nor the Circuit Court Order is a final order for purposes of appeal.

The Administrative Procedures Act controls appeals from the Commission. Lark v. Bi-Lo, Inc., 276 S.C. 130, 276 S.E.2d 304 (1981). Section 1-23-280 provides, in pertinent part, that “[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review ...” S.C. Code Ann. § 1-23-280 (emphasis added). Section 1-23-290 limits further appellate review to “final judgments.” S.C. Code Ann. § 1-23-290; Bone, 399 S.C. at 576-77, 733 S.E.2d at 205 (the APA “governs appeals from the circuit court in Commission cases, *section 1-23-390*, [and] limits appeals to those from final judgments”). Thus, appeals are proper only where a party has exhausted all of his or her administrative remedies, and where the forum below has rendered a final judgment. Neither prong is satisfied in the instant appeal, which should be dismissed.

Appellant initiated the instant appeal of the March 27 letter after he had already filed a Form 30 appeal of Commissioner Barden’s dismissal of his claims to the Full Commission. That process was not final but, in fact, was pending at the time he appealed the March 27 letter. Commissioner Barden’s February 22 Order considered and dismissed the issues Appellant raised in his Form 50’s, all of which center on the same issues raised in his Motion for Reinstatement. (Atts. C, E & G). Where inter-connected issues are pending before a commission, a separate appeal of those issues is inappropriate because the claimant has not exhausted his or her administrative remedies. Nucor Steel, 312 S.C. at 84-85, 439 S.E.2d at 273.

In addition, despite Appellant’s attempts to characterize Mr. Cannon’s March 27 letter as a Commission Decision, it is not a final judgment for purposes of appeal. The letter is no more than correspondence from the Commission to Appellant, returning his

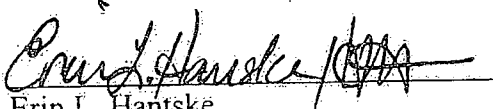
Motion for Reinstatement wherein Mr. Cannon attempted to explain to Appellant that the Commission lacked subject matter jurisdiction to consider his Motion for Reinstatement.⁵ The Circuit Court quite clearly indicated that, once Appellant exhausted his administrative remedies, he could then appeal the Commission's decision, if necessary, to that court. (Att. K). Therefore, the Circuit Court's order is not a final judgment for purposes of appellate review. Bone, 399 S.C. at 575, 733 S.E.2d at 204-05 (defining a final judgment as an order that disposes of "the whole subject matter of the action or terminate[s] the action, leaving nothing to be done but to enforce what has already been determined"); Charlotte-Mecklenburg, 387 S.C. at 267, 692 S.E.2d at 894-95 (same, and noting that "[a] judgment which determines the applicable law, but leaves open questions of fact, is not a final judgment"). At the time Appellant filed this appeal, the Commission was in the process of considering his Form 30 appeal of the February 22 Order. Regardless of what issues or claims he raised in his Form 30, allowing this appeal to go forward while Appellant is adjudicating his claim before the Commission will result in duplicative, potentially inconsistent and piecemeal resolution of this matter which, in turn, adversely affects judicial economy. Bone, 399 S.C. at 575-76, 733 S.E.2d at 205.

⁵ 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.

CONCLUSION

For all the reasons stated herein, Respondents move this Court to dismiss Appellant's appeal. In addition, Respondents request that this Court suspend the deadline for filing Respondents' initial brief until after this Motion has been decided.

Respectfully submitted,



Erin L. Hantske

S.C. Bar No.: 76313

McANGUS GOUDELICK & COURIE, LLC

Post Office Box 650007

735 Johnnie Dodds Blvd, Suite 200

Mt. Pleasant, South Carolina 29465

(843) 576-2900

Attorney for Respondents

February 28, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

Honorable Thomas A. Russo

Case No. 2013-002491

Alexander Guice, Appellant,

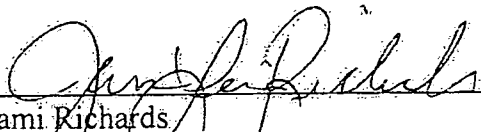
v.

US Food Service, Inc. and
ACE American Insurance Company
c/o Gallagher Bassett Services, Inc., Respondents.

PROOF OF SERVICE

I certify that I have served the **Respondents' Motion to Dismiss** on Alexander Guice, pro se, by depositing a copy of it in the United States Mail, postage prepaid, on February 28, 2014, addressed as follows:

Alexander Guice
P.O. Box 13281
Tampa, Florida 33681



Jami Richards
Legal Assistant to Erin L. Hantske
McANGUS GOUDELICK & COURIE LLC
735 Johnnie Dodds Blvd., Suite 200
PO Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

Attorneys for Respondents

Attachment A

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

MAY 5 2005

S. C. Workers' Comp. Comm.

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

Ex. 59 (1 of 9)

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 Utica Mohak 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

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.

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

22 day of December 2005.

Alexander Guico
Alexander Guico

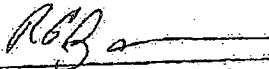
IN THE PRESENCE OF:

AB
Archie Christie

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

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.

Dated at Columbia, South Carolina on _____

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

/S/ David W. Huffstodler

BY: _____

I CONSENT:

Walter H. Barefoot

Walter H. Barefoot
Attorney for Employer and Carrier

[Faint, illegible stamp or signature]

EX. 59 (8 of 9)

Attachment B

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 #: 104/0000015899/01
Carrier Code #: 00461
Employer FEIN #: 363642294

Claimant's Name: Alexander Guice SSN: _____
Address: P.O. Box 8651
City: Tampa State: FL Zip: 33674
Home Phone: 813 335 4046 Work Phone: _____
Preparer's Name: Alexander Guice Law Firm: N/A
Employer's Name: US Food Service, Inc.
Address: 9399 West Higgins Road Suite 500
City: Rosemont State: IL Zip: 60018
Insurance Carrier: Mac Risk Management
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).

PLEASE SEE ADDITIONAL PAGES ATTACHED.

(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 Attention: JUDICIAL DEPARTMENT
Name:
South Carolina Workers' Compensation Commission P.O. BOX 1715 Columbia, SC 29202-1715

on the 1 day of November, 2012 by first class mail personal service certified mail.

Alexander Guice
Preparer's Signature CLAIMANT Title 11/01/2012 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.

60

1. Should a violation of a South Carolina Workers' Compensation Act committed by a South Carolina Workers' Compensation Commissioner, as it relates to approving a W.C.C. File Settlement Agreement and Release, waive the 14 day time limit for a Appellant to submit an Appeal?

Appellant's ANSWER: Yes, the 14 day time limit to file an Appeal should be waived or exempt if a South Carolina Workers' Compensation Commissioner approves a settlement that violates The South Carolina Workers' Compensation Act. In South Carolina Workers' Compensation Commission W.C.C. File No: 0506205 (W.C.C. File No: 0506205), Commissioner David W. Huffstettler (Commissioner Huffstettler) approved the settlement, although the language contained in W.C.C. File No: 0506205 was in violation of SC Code 42-1-610 - Agreement or regulation shall not limit liability of employer. Please see APPELLANT'S APPEAL of SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION W.C.C. FILE NO: 0506205 (Appellant's Appeal), section "F" and Exhibit 59.

2. Should an illegal settlement offer submitted by an Employer and Carrier, which is agreed upon by a Appellant represented by an Attorney, and approved by a South Carolina Workers' Compensation Commissioner be sufficient grounds to waive the 14 day time limit for a Appellant to submit an Appeal?

Appellant's ANSWER: Yes, the 14 day time limit to file an Appeal should be waived or exempt if an Employer provides an illegal settlement offer that is agreed to by a Appellant represented by an Attorney and the illegal settlement offer is approved by a

South Carolina Workers' Compensation Commissioner. In particular, the Appellant believes US FOODS Inc., formerly known as US Food Service, Inc. (Employer) the settlement offer of \$20,000.00 in exchange for relieving the Employer of all liability, that was agreed upon by the Appellant, on the advisement of Robert G. Bacon, Esquire (Appellant's Representative), and approved by Commissioner Huffstetler, was in violation of SC Code 42-1-610 - Agreement or regulation shall not limit liability of employer, and should waive or exempt the 14 day time limit for the Appellant to file an Appeal. Please see Appellant's Appeal, Section "A" and Exhibit 59.

3. Should an illegal settlement offer submitted by a Carrier which is agreed upon by a Appellant represented by an Attorney, and approved by a South Carolina Workers' Compensation Commissioner be sufficient grounds to waive the 14 day time limit for a Appellant to submit an Appeal?

Appellant's ANSWER: Yes, the 14 day time limit to file an Appeal should be waived or exempt if an Employer provides an illegal settlement offer that is agreed to by a Appellant represented by an Attorney and the illegal settlement offer is approved by a South Carolina Workers' Compensation Commissioner. In particular, the Appellant believes MAC Risk Management, Inc. (Carrier) settlement offer of \$20,000.00 in exchange for relieving the Carrier of all liability, that was agreed upon by the Appellant, on the advisement of Robert G. Bacon, Esquire (Appellant's Representative), and approved by Commissioner Huffstetler, was in violation of SC Code 42-1-610 - Agreement or regulation shall not limit liability of employer, and should waive or exempt the 14 day time limit for the Appellant to file an Appeal. Please see Appellant's Appeal, Section "A" and Exhibit 59.

4. Should the 14 day time limit to file an Appeal be waived or exempted on the grounds that a Represented Appellant, that was Mentally Incompetent, as defined by SC Code 42-15-50, did not become aware, until after the 14 day time limit to Appeal, of possible Criminal Acts committed by the Appellant's Representative?

Appellant's ANSWER: Yes, the 14 day time limit to file an Appeal should be waived or exempt on the grounds that the Represented Appellant that was Mentally Incompetent, as defined by SC Code 42-15-50, and did not become aware until after the 14 day time limit to Appeal, of possible Criminal Acts committed by the Appellant's Representative. In particular, at the time the Appellant agreed to settlement in W.C.C. File No: 0506205 under advisement of the Representative, the Appellant was taking prescribed medication(s) to include Hydrocodone, Flexeril, and Ibuprofen. Side effects of Hydrocodone include, but are not limited to; anxiety; drowsiness; lightheadedness; dizziness; sedation; and can impair thinking (<http://www.rxlist.com/vicodin-side-effects-drug-center.htm>). Side effects of Flexeril include, but are not limited to; feeling light-headed; confusion; weakness; lack of coordination; unusual thoughts or behavior; and hallucinations (<http://www.drugs.com/sfx/flexeril-side-effects.html>). Side effects of Ibuprofen include, but are limited to; dizziness; headache; and nervousness (<http://www.drugs.com/sfx/ibuprofen-side-effects.html>). The Appellant had been under the influence of the prescribed medications since the Appellant's injury that occurred on May 5, 2005, which left the Appellant HEAVILY SEDATED. Additionally, the Appellant's education level consisted of a eleventh (11th) grade education and a General Equivalency Diploma (GED). Additionally, several weeks after being terminated by the Employer, the Appellant's now ex-wife forced the Appellant out of the marital home

before the Appellant accepted the advice of the Representative and accepted illegal settlement offer. Based on the Appellant's lack of education, marital problems, and in particular, the side effects of prescribed medications from the Employer and Carrier's contracted workers' compensation physician, the Appellant met the definition of being Mentally Incompetent as defined by SC Code 42-15-50 and could not comprehend or understand the settlement offer the Appellant accepted under the advisement of the Representative, and the 14 day time limit to Appeal W.C.C. File No: 0506205 should be waived or exempted. The Appellant became aware of the improper, unfair, and illegal decision with regards to W.C.C. File No: 0506205 on 10/27/2012, and based on the Representatives' actions, the Appellant alleges that the Representative violated 18 U.S.C. § 371— Criminal Conspiracy, due to the fact that the Representative advised the Appellant to agree to an illegal settlement that was very favorable for the Employer, Carrier, and South Carolina Workers' Compensation Commission while extremely unfavorable to the Appellant. Please see Appellant's Appeal, sections "A thru E" and Exhibits 1 thru 62.

5. Was the Appellant injured on the job?

Appellant's ANSWER: Yes, the Appellant was injured in a tractor accident, while in the performance of the Appellant's duties on May 5, 2005. Please see Appellant's Appeal section "Background" and Exhibits 1 thru 62.

6. Did the Appellant incur permanent restrictions as a result of the injuries sustained in the May 5, 2005 accident?

Appellant's ANSWER: Yes, the Appellant sustained permanent restrictions as a direct result of the injuries sustained in the on the job accident that occurred on May 5,

2005. As a result of the injuries sustained by the Appellant, the Employer and Carrier's physician, Dr. Alan Tamadon, evaluated the Appellant and a five percent (5%) impairment rating of the whole body was recommended. Additionally, Dr. Tamadon modified the Appellant's work description with permanent restriction(s), to include; no lifting greater than 25 pounds occasionally; and no lifting greater than 10 pounds frequently or constantly. The permanent restrictions prohibited the Appellant from performing the duties of a delivery driver. Please see Appellant's Appeal, section "Background" and Exhibits 1 thru 5, 49 thru 58 and 61.

7. Did the Appellant receive Workers' Compensation benefits from the Employer and Carrier?

Appellant's ANSWER: Yes, the Appellant received Workers' Compensation benefits from the Employer and Carrier. The Appellant received the first payment of benefits from the Carrier on or around May 13, 2005. The Appellant received 'Light Duty' pay from the Employer at the sixty-six and two-thirds percent (66.6%) rate, or around \$768.80 with the thirty-three and one third percent (33.3%) or around \$385.20 being paid by the Carrier to arrive at the average weekly wage and payment to the Appellant in the amount of \$1154.00. Please see Appellant's Appeal, section "Background" and Exhibits 6 thru 47.

8. Did the Appellant make any good faith attempts to return to full duty following the Appellant's injury and medical treatment(s)?

Appellant's ANSWER: Yes, the Appellant made two (2) good faith attempts to return to full duty following medical treatments, however due to the pain experienced by

the Appellant in the Appellant's back, right knee, and neck, the Appellant was unable to return to full duty. Additionally please consider the evaluation by the Employer and Carrier's contracted Physical Therapist, James R. Cole. In the Physical Work Performance Evaluation Summary, Mr. Cole states, "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". Please see Exhibit 61. The Appellant was unable to perform the duties of a delivery driver as direct result of the job related injuries sustained on May 5, 2005.

9. Was the Appellant ever assigned, and in correspondence with, a South Carolina Workers' Compensation Commission Claims' Examiner?

Appellant's ANSWER: No, the Appellant was never assigned, or in correspondence with a South Carolina Workers' Compensation Commission Claims Examiner. Although the Appellant had Representation, the Appellant never received any correspondence from South Carolina Workers' Compensation Commission Claims' Examiner, to include Courtesy Copies to the Appellant of any written correspondence the Claims' Examiner would have had with the Employer, Carrier, or Representative. Please see Appellant's Appeal in its entirety.

10. Did the Employer commit Perjury with relation to the Appellant being unlawfully terminated as defined by 18 U.S.C. § 1621?

Appellant's ANSWER: Yes, the Employer committed Perjury as defined by 18 U.S.C. § 1621(2) with relation to the Appellant being unlawfully terminated. The Appellant was "verbally" terminated on or around the morning of November 3, 2005 by Michael Sanders, Transportation Manager for the Employer. The Appellant requested

written documentation related to the Employer's decision and justification to terminate the Appellant, and Mr. Sanders stated that the documentation would be mailed to the Appellant. Mr. Sanders stated to the Appellant that the Appellant was being terminated because the Appellant "could no longer perform the duties for which the Appellant was hired". The Appellant made several requests to the Employer to receive a written explanation regarding the Appellant's termination by the Employer. The Appellant Finally received a letter dated March 9, 2006 from the Employer, and in particular, Kellen K. Pollard, VP of Human Resources for the Employer. In the letter, Ms. Pollard and the Employer stated, "Mr. Guice left the company in 2005 because he could not longer perform the duties of a delivery driver". The Appellant did not leave the company; the Appellant was terminated by the Employer. Although the Employer and Ms. Pollard provided the Appellant with a false explanation as to why the Appellant was no longer employed, the Appellant obtained, through a written request of the Appellant's file from The Hartford©, a copy of an internal Employer email between Ms. Pollard and Rebecca L. Padgett, Human Resources Representative, dated November 29, 2005. In the email sent to Ms. Padgett, Ms. Pollard stated, "Please clarify the dates that Alex returned to work full duty, start and & end dates and dates light duty etc. see below." In Ms. Padgett's reply, Ms. Padgett stated, "They are as follows: ...11/2/05 Terminated with permanent restrictions." The Appellant believes the Employer and Ms. Pollard committed Perjury, as defined by 18 U.S.C. § 1621(2) by mailing the Appellant a false explanation regarding the Employer's decision and explanation to terminate the Appellant in March 2006, while the Employer was well aware that the Employer

unlawfully terminated the Appellant, based on the inter-agency email correspondence dated November 29, 2005. Please see Exhibits I and 58.

11. Did the Appellant ever recall filling out or signing any South Carolina Workers' Compensation Commission forms?

Appellant's ANSWER: The only South Carolina Workers' Compensation Commission form the Appellant recalls signing is WCC Form #61 – ATTORNEY FEE PETITION. The Appellant has a copy of a completed WCC Form that was completed and apparently submitted to the South Carolina Workers' Compensation Commission without the Appellant's signature by the Carrier. The WCC Form does not have a Form number attached to it. Please review Exhibit 48. Based on the Appellant never receiving any South Carolina Workers' Compensation Commission Forms to review and sign, the Appellant believes this was deliberate and willful actions taken by the Employer, Carrier, Representative, and South Carolina Workers' Compensation Commission with intent to deprive and defraud the Appellant out of Guaranteed Benefits per The South Carolina Workers' Compensation Act. Please see Appellant's Appeal in its entirety.

12. Was the W.C.C. File No: 0506205 Settlement Agreement and Release, which was approved by Commissioner Huffstettler, Fair to the Appellant?

Appellant's ANSWER: No, the W.C.C. File No: 0506205 agreed upon by the Appellant under the advisement of the Representative, and approved by Commissioner Huffstettler, was not fair for on several grounds. The agreement failed to address the illegal termination of the Appellant. Second, the settlement amount of \$20,000.00 was distressingly unfair to the Appellant. The Appellant's annual wages prior to the injuries that occurred to the Appellant in the performance of the Appellant's duties on 05/05/2005

was \$1154.00 a week, or \$55,392.00 a year. As a result of the permanent restrictions based on the Employer's and Carrier's contracted physician, Dr. Alan Tamadon, the Appellant was unable to ever work as a delivery driver again. Based on the Appellant's permanent restrictions which prohibited any labor-focused employment as well as the Appellant's limited education, and considering that at the time of settlement the Appellant was at the age of 34, the W.C.C. File No: 0506205 failed to consider how the Appellant would earn a living to support the Appellant and the Appellant's family after the \$20,000.00 was gone. As it relates to the \$20,000.00 settlement award, the Representative received thirty-three and one third percent (33.3 %) of the award, or \$6,666.66, which left the Appellant, after being involved in an on the job injury, with permanent restrictions, limited education, and inability to earn the prior annual wage of \$55,392.00, with \$13,333.34 and absolutely no plan or consideration for the Appellant's or in particular, the Appellant's dependent's financial security. Please see Appellant's Appeal, sections "A and B" and exhibit 59.

13. Did the Employer offer reasonable accommodations to the Appellant prior to terminating the Appellant?

Appellant's ANSWER: No, at no time prior to terminating the Appellant, did the Employer offer reasonable accommodations to the Appellant's permanent restrictions, prior to terminating the Appellant. In fact, the Appellant was terminated approximately six (6) days after the Appellant received the permanent lifting restriction from the Employer's and Carrier's contracted physician. The Appellant believes the failure of the Appellant to provide or offer reasonable accommodations to the Appellant, prior to terminating the Appellant, violated 42 USC § 12111(9), SC Code 42-9-260(D), and the

Americans with Disabilities Act of 1990. Please see Appellant's Appeal section "B" and Exhibits 1, 57 & 58.

14. Did the Appellant's Representative take any action to protect the Appellant's Employment?

Appellant's ANSWER: No, the Representative took no action to protect the Appellant's employment. On or around November 3, 2005 immediately after the Appellant was terminated by Michael Sanders, the Employer's Transportation Manager, the Appellant contacted the Representative and informed the Representative that the Employer had terminated the Appellant. The Representative did not take any action to protect the Appellant's employment. Please see Appellant's Appeal section "A".

15. Did the Employer, Carrier, and South Carolina Workers' Compensation Commission violate the Appellant's Civil Rights by failing to offer or provide Vocational Rehabilitation to the Appellant?

Appellant's ANSWER: Yes, the Employer, Carrier, and South Carolina Workers' Compensation Commission violated the Appellant's Civil Rights by failing to offer or provide the Appellant Vocational Rehabilitation. Based on the Appellant's eleventh (11th) grade education level and only possessing a GED, in addition to incurring permanent restrictions which prohibited future employment as a delivery driver, the Appellant should have been afforded and provided Vocational Rehabilitation training from the Employer, Carrier, and/or South Carolina Workers' Compensation Commission. The failure of the Employer, Carrier, or South Carolina Workers' Compensation Commission to offer or provide Vocational Rehabilitation to the Appellant violated the

Appellant's Civil Rights as defined in the Vocational Rehabilitation Act of 1973. Please see Appellant's Appeal Sections "A and B" and Exhibits 57 thru 60.

16. Did the Appellant's Representative take actions to protect the Appellant's Civil Right to Vocational Rehabilitation?

Appellant's ANSWER: No, the Representative took no actions to protect the Appellant's Civil Right to Vocational Rehabilitation. The Representative violated the Appellant's Civil Right to Vocational Rehabilitation, as defined by the Vocational Rehabilitation Act of 1973.

17. Was the Appellant's Civil Rights, as defined by the Civil Rights Act of 1991, violated on the basis of Race or Color by the Representative?

Appellant's ANSWER: Yes, the Appellant's Civil Rights were violated on the basis of Race and/or Color by the Representative. The Representative was aware that the Appellant is an African American Male, and the Appellant believes that the Representative intentionally provided Ineffective Representation to the Appellant with regards to failing to protect the Appellant's guaranteed right to employment, pursuant to South Carolina Workers' Compensation Acts, the Representative's failure to protect the Appellant's right to Vocational Rehabilitation, advising the Appellant to agree to a settlement offer that would release the Employer and Carrier of all liability, which was unlawful, and the Representative's failure to address the Employer's unlawful termination of the Appellant, was due to the Appellant's Race and Color. Please see Appellant's Appeal, section "A".

18. Has the Appellant been subjected to an Intentional Infliction of Emotional Distress by the Employer?

Appellant's ANSWER: Yes, the Appellant has been subjected to an Intentional Infliction of Emotional Distress by the Employer. Due to the Employer terminating the Appellant on November 2, 2005, without notification to the South Carolina Workers' Compensation Commission, which violated SC Code 42-9-260 (D), the Appellant was forced, due to Ineffective Representation and the Appellant's Mental Incompetency, to accept a mere fraction of the what the Appellant should have received in the settlement agreement, which has resulted in the Appellant experiencing extreme hardships and undue burdens as a direct result of actions taken by the Employer. The Employer's termination of the Appellant without affording reasonable accommodations so the Appellant could continue employment, and the failure of the Employer, Carrier, or South Carolina Workers' Compensation Commission to provide Vocational Rehabilitation to the Appellant, has also resulted in the Appellant being subjected to an Intentional Infliction of Emotional Distress. Please see Appellant's Appeal and all Exhibits in its entirety.

19. Has the Appellant been subjected to an Intentional Infliction of Emotional Distress by the Representative?

Appellant's ANSWER: Yes, the Appellant has been subjected to an Intentional Infliction of Emotional Distress by the Representative. The Representative knowingly and willfully advised the Appellant to accept a settlement offer that was unlawful based on the Employer's and Carrier's release of liability clause contained in W.C.C. File No: 0506205, in addition to the fact that the settlement offer amount was extremely insufficient, as the amount did not properly reflect the gravity of the Appellant's earning potential as a delivery driver that was lost as result of the incurred permanent restrictions

as direct result of the job related injury the Appellant incurred on May 5, 2005. The Representative also failed to protect the Appellant's employment with Employer. The Representative failed to ensure the Appellant received Vocational Rehabilitation through the Employer, Carrier, or South Carolina Workers' Compensation Commission. The Appellant has endured an extreme and unfair hardship as a direct result of the Intentional Infliction of Emotional Distress the Appellant was subjected to, by actions taken by the Representative. Please see Appellant's Appeal in its entirety.

20. Has the Appellant been subjected to an Intentional Infliction of Emotional Distress regarding the approval of W.C.C. File No: 0506205 by Commissioner Huffstettler and the South Carolina Workers' Compensation Commissioner?

Appellant's ANSWER: Yes, the Appellant has been subjected to an Intentional Infliction of Emotional Distress by the unlawful approval of W.C.C. File No: 0506205 by Commissioner Huffstettler and South Carolina Workers' Compensation Commission. Commissioner Huffstettler approved W.C.C. File No: 0506205, although the settlement award and release unlawfully relieved the Employer and Carrier of all liability to the Appellant's injury, which was in direct violation of SC Code 42-1-610. Please consider that Commissioner Huffstettler was the Facilitator for the illegal treatment the Appellant has been subjected to; if Commissioner Huffstettler would have disapproved W.C.C. File No: 0506205, the Representative may have been encouraged to start acting in the best interest of the Appellant instead of the Employer and Carrier. Commissioner Huffstettler knowingly and willfully approved W.C.C. File No: 0506205 although the settlement offer award amount of \$20,000.00 was extremely insufficient, as the amount did not properly reflect the gravity of the Appellant's earning potential as a delivery driver that was

forever lost, due to the incurred permanent restrictions as direct result of the job related injury the Appellant incurred on May 5, 2005, in addition to the Appellant's lack of education and extreme side effects to prescribed medication(s). Please see Appellant's Appeal in its entirety.

21. Was the Appellant's family subjected to an Intentional Infliction of Emotional Distress by the approval of W.C.C. File No: 0506205 by Commissioner Huffstettler and South Carolina Workers' Compensation Commission?

Appellant's ANSWER: Yes, the Appellant's family continues to be subjected to an Intentional Infliction of Emotional Distress by the approval W.C.C. File No: 0506205 by Commissioner Huffstettler and the South Carolina Workers' Compensation Commission. Money and Finances, or the lack thereof, is a major factor regarding divorce. The Appellant and Appellant's now ex-wife separated several weeks after the Appellant was terminated from the Employer on November 2, 2005. The Appellant was divorced in 2007. As a result of the unfair and illegal settlement agreement and release that was approved by Commissioner Huffstettler and South Carolina Workers' Compensation Commission, the Appellant's family has also been subjected to an Intentional Infliction of Emotional Distress. The Appellant has been unemployed, and unable to obtain gainful employment, since being unlawfully terminated by the Employer. W.C.C. File No: 0506205 failed to accurately address the future potential earnings the Appellant would have earned as Delivery Driver that was forever lost to the permanent restrictions the Appellant incurred. The Appellant has not been able to provide the needed financial support to the Appellant's Dependents. The Appellant's ex-wife, Pamela G. Guice, has been forced to be financially responsible for the Appellant's two (2) children, and the

Appellant's first ex-wife, Sondra D. Guice, has been forced to be financially responsible for the Appellant's oldest son. The Appellant's Dependents has, and continues to be, subjected to an Intentional Infliction of Emotional Distress, due to the actions of Commissioner Huffstettler and the South Carolina Workers' Compensation Commission. Please see Appellant's Appeal in its entirety.

22. Has the Appellant's family been subjected to an Intentional Infliction of Emotional Distress by the Employer?

Appellant's ANSWER: Yes, the Appellant's family, or Dependents, has been subjected to an Intentional Infliction of Emotional Distress by the Employer. The Employer's willful and illegal termination of the Appellant on November 2, 2005, with permanent restrictions, and failing to afford and provide suitable employment to accommodate the Appellant's permanent restrictions, in addition to failing to provide the Appellant Vocational Rehabilitation, subjected the Appellant's family to an Intentional Infliction of Emotional Distress. The actions of the Employer were deliberate in nature. Please see Appellant's Appeal in its entirety.

23. Did the Employer, Carrier, and Representative, with the approval of Commissioner Huffstettler and South Carolina Workers' Compensation Commission, willfully and deliberately place false information in W.C.C. File No: 0506205 with the intentions to defraud and deprive the Appellant out of protected guaranteed benefits, which constitutes Criminal Conspiracy, as defined by 18 U.S.C. § 371 and Perjury, as defined by 18 U.S.C. § 1621?

Appellant's ANSWER: Yes, the Employer, Carrier, and Representative, with the approval of Commissioner Huffstettler and the South Carolina Workers' Compensation

Commission, acted in a Criminal Conspiracy, and committed Perjury, against the Appellant, with the intentions of depriving and defrauding the Appellant out of protected guaranteed rights, pursuant to the South Carolina Workers' Compensation Acts. In W.C.C. File No: 0506205 the Appellant's average weekly wage is correctly identified at \$1154.00, however, the worker's compensation rate of \$592.56 listed in W.C.C. File No: 0506205 is FALSE. Pursuant to the South Carolina Workers' Compensation Act, the Appellant is entitled to sixty-six and two-thirds percent (66.6%) of the Appellant's average weekly rate prior to the injury sustained on May 5, 2005, which was \$768.00, not the \$592.56 that was stated in W.C.C. File No: 0506205. Additionally, while the Appellant received Workers' Compensation Benefits from the Employer and Carrier, the Appellant received the full average weekly wage of \$1154.00. The false and inaccurate compensation rate contained in the W.C.C. File No: 0506205 constitutes a violation of the South Carolina Workers' Compensation Act, 18 U.S.C. § 371- Criminal Conspiracy, and 18 U.S.C. § 1621(2) - Perjury, that was committed by the Employer, Carrier, Representative and South Carolina Workers' Compensation Commission, as well as, and as a result of, the approval of W.C.C. File No: 0506205 by Commissioner Huffstettler. Please see Appellant's Appeal in its entirety to include Exhibits 6 thru 48 and 59.

24. Did the Representative, Employer, Carrier, Commissioner Huffstettler and South Carolina Workers' Compensation Commission Conspire to violate the Appellant's protected guaranteed rights per the South Carolina Workers' Compensation Act?

Appellant's ANSWER: Yes, the Representative, Employer, Carrier, Commissioner Huffstettler and South Carolina Workers' Compensation acted in a conspiracy to violate and deprive the Appellant out of protected guaranteed rights as defined by the South

Carolina Workers' Compensation Act. The illegal actions of the aforementioned were carried out in a methodical, deliberate, and skilled manner with the same detailed precision as a surgeon with a scalpel. The Appellant is both shocked and outraged at what the Appellant discovered on October 27, 2012 with relation to the blatant disregard of ETHICS, INTEGRITY, and COMPLIANCE to both State and Federal Statutes and Regulations, by the Employer, Carrier, Representative, Commissioner Huffstettler and South Carolina Workers' Compensation Commission.

25. Based on the Appellant's Appeal and supporting documentation, Should W.C.C.

File No: 0506205 be Vacated?

Appellant's ANSWER: Yes, the South Carolina Workers' Compensation Commission W.C.C. File No: 0506205 should be vacated based on the Appellant's Appeal and supporting documentation. The actions of the Employer, Carrier, Representative, and approval of W.C.C. File No: 0506205 by Commissioner Huffstettler, based on the preponderance of evidence submitted by the Appellant, proves beyond a reasonable doubt, that the Appellant and Appellant's family was subjected to improper, unlawful, and criminal acts by the Employer, Carrier, Representative, and in particular, Commissioner Huffstettler and South Carolina Workers' Compensation Commission. Commissioner Huffstettler's actions, in particular, was especially egregious towards the Appellant, based on the fact that Commissioner Huffstettler and South Carolina Workers' Compensation Commission has a *fiduciary responsibility* to ensure that the approval of any settlement agreement was in compliance with SC Code 42-1-610 of The South Carolina Workers' Compensation Acts, and that all the information contained in said settlement agreement and release was correct and accurate, but failed to do so.

Commissioner Huffstetler was a willing participant to the Criminal Conspiracy and Perjury committed in W.C.C. File No: 0506205 by the Employer, Carrier, and Representative, with intent to deprive and defraud the Appellant out of the Appellant's protected guaranteed Employee Rights per The South Carolina Workers' Compensation Act, as well as a willful violation, by the aforementioned, of the Appellant's Civil Rights as defined by The Civil Rights Act of 1991, The Americans with Disabilities Act of 1990 and The Vocational Rehabilitation Act of 1973. W.C.C. File No: 0506205 should be immediately vacated. Please see Appellant's Appeal and all supporting Exhibits in their entirety.

26. Does the Appellant require Medical Treatment?

Appellant's ANSWER: Yes, the Appellant requires immediate medical treatment. Based on the illegal and criminal actions of the Employer, Carrier, Representative and South Carolina Workers' Compensation Commission, the Appellant has not received entitled medical treatment(s), to include physical therapy, medications and modalities in years. As a result of the outrageous conduct of the Employer, Carrier, Representative and in particular, Commissioner Huffstetler and the South Carolina Workers' Compensation Commission, the Appellant also requires psychological therapy. The Appellant believes the Appellant's South Carolina Workers' Compensation Claim should be immediately reopened, and transferred to the Appellant's home of record in Florida, so that the Appellant can be evaluated and receive medical treatments immediately. Please see Appellant's Appeal and all supporting Exhibits in their entirety.

27. Should the Appellant resume receiving Workers' Compensation Benefits Payments if W.C.C. File No: 0506205 is vacated?

Appellant's ANSWER: Yes, the Appellant should immediately resume receiving Workers' Compensation Benefit Payments if W.C.C. File No: 0506205 is vacated. Due to the fact the Appellant received the full average weekly wage of \$1154.00 from the Employer and Carrier while the Appellant was receiving Workers' Compensation Benefits, the Appellant should continue receiving Workers' Compensation Benefits at the compensation rate of \$1154.00, effective December 18, 2005 to PRESENT, with the deduction of \$13,333.34 the Appellant received from the illegal W.C.C. File No: 0506205 settlement agreement. The Appellant should not be liable for the \$6,666.66 received by the Representative, and the Representative should be liable for the repayment of the funds to the Employer and/or Carrier. As of November 1, 2012, the Appellant has endured approximately 2,509 days without Workers Compensation Benefits. 2,509 days divided by 7, the number of days in a week, equals 358.4 weeks the Appellant has gone without Workers' Compensation Benefits. At the average weekly Compensation rate of \$1154.00, multiplied by 358.4 weeks, the estimated amount of Workers' Compensation Benefits the Appellant should be entitled to is \$413,626.57, minus \$13,333.34 for an estimated total back payment in the amount of \$400,293.23. Please see Appellant's Appeal and all Exhibits in their entirety, to include Exhibits 6 thru 48.

Attachment C

Alexander Gulce

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

December 7, 2012

VIA FACSIMILE ONLY

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

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

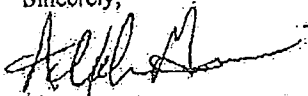
To Whom It May Concern:

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, Oudejock and Courie and Erlin 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 Gulce
Pro Se Claimant
ag

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

cc: Erlin L. Hantsko, Esquire

FILE

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 #: 0508206
Carrier File #: 104/0000016889/01
Carrier Code #: 00461
Employer FEIN #: 383642294

Claimant's Name: Alexander Gulco SSN: _____ Employer's Name: U. S. Food Service Inc.
Address: P.O. Box 8851 Address: 120 Longs Pond Road
City: Tampa State: FL Zip: 33874 City: Lexington State: SC Zip: 29072
Home Phone: (813) 335 - 4048 Work Phone: () Insurance Carrier: Mac Risk Management
Preparer's Name: Alexander Gulco Law Firm: N/A Preparer's Phone #: (813) 996 - 4048

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. Date of Injury or Illness: 05/05/2005

A claim for workers' compensation benefits is made based on the following ground(s):
 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 _____ county, state of _____.

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: 11/02/2006 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 Partial
 (3) Wage Loss 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 \$ 1,164.00, 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 11/02/2006

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 Tomason, MD 1709-B 80th 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.
Preparer's Signature: [Signature] Title: Pro Se Claimant Email: agulco@hotmail.com Date: 12/07/2012

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.
WCC Form # 50
Revised 9/07

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

82

Alexander Guice

P.O. Box 8651
Tampa, FL 33674
aguite@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

WCC FORM 50 - CONTINUED

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).

WCC Form 50 (continued)

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Alexander Guice

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

January 5, 2013

VIA Electronic Mail & Regular 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., and ACE American Insurance
Company c/o Gallagher Bassett Services, Inc.
Date of Accident: May 5, 2005
WCC File No.: 0506205
Claim No.: 004063-032175-we-01
Claimant's SSN: 263-55-6377

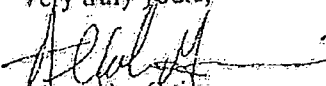
Dear Ms. Crocker:

Respectfully, IAW Regulation 67-610 of the Act, enclosed, please find a WCC Form 50, properly marked "AMENDED", three (3) pages, 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 electronic 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 email and regular mail w/encl.)

FILE

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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 #: 004063-032175-wc-01
 Carrier Code #:
 Employer FEIN #: 36-3642284

Claimant's Name: Alexander Guica SSN: _____ Employer's Name: US Foodservice, Inc.
 Address: Post Office Box 8651 Address: 120 Longs Pond Rd.
 City: Tampa State: FL Zip: 33674 City: Lexington State: SC Zip: 29072
 Home Phone: (813) 335-4046 Work Phone: () Insurance Carrier: ACE American Insurance Company c/o Gallagher Bassett Services, Inc.
 Preparer's Name: Alexander Guice Law Firm: Pro So 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. Date of Injury or Illness: 05/05/2005

A claim for workers' compensation benefits is made based on the following grounds: Injury Illness Repetitive Trauma

1a. The claimant sustained an injury to back, neck, right knee (Part(s) of Body Injured) on _____ (Month/Day/Year) in _____ county, state of SC.
 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 accident/injury

6. Due to injury, the claimant is in need of (check one):
 (a) medical examination and treatment for: _____
 (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 Partial (2) Specific Disability: Total Partial
 (3) Wage Loss 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: n/a

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 Tamedon, MD 1709-B South 18th Street Wilmington, NC 28401; Cathy Dayton, RN 3835 Executive Center Dr. Charlotte, NC 28217; James R. Cole, Physical Therapist (343) 240-1843

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: _____

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

Preparer's Signature: [Signature] Title: Pro So Claimant Email: alguica@hotmail.com Date: 01/05/2013

WCC FORM 50 AMENDED – CONTIUED

11a. Further grounds or unusual aspects of claim:

1. Claimant had spouse and three (3) dependents at time of injury; however Initial Injury Report falsely states Claimant had ZERO dependents.
2. Claimant submitted to Physical Work Performance Evaluation on 10/19/2005 by James R. Cole, Physical Therapist (PT Cole). Upon completion of evaluation, PT Cole determined Claimant 'do not match' requirements according to job description of Claimant's duties as delivery driver provided by the Carrier. Claimant received 5% overall impairment rating AND Permanent Lifting Restrictions on 10/27/2005 from Dr. Alan Tamadon.
3. Employer failed to offer or afford suitable employment to accommodate Claimant's capacity prior to terminating Claimant on 11/02/2005, six (6) days after Claimant received work injury-related permanent lifting restrictions related to injury sustained on May 5, 2005.
4. Employer terminated the Claimant for the reason of 'permanent lifting restrictions'.
5. Employer's reason for termination of Claimant violated section 42-9-190 of the South Carolina Workers' Compensation Law.
6. Employer's Representative unlawfully Terminated Compensation Benefits to the Claimant on or around November 2, 2005.
7. Employer's Representative improperly reduced Claimant's Weekly Compensation Rate from \$1154.00 to \$592.56.
8. Claimant immediately informed Claimant's representative, Robert G. Bacon that Employer terminated Claimant, but Attorney Bacon took no action on behalf of Claimant, and Claimant was unaware that Employer's termination of Claimant was unlawful.
9. Claimant seeks reinstatement of Claimant's employment with Employer effective November 2, 2005 on the grounds that Employer's termination of Claimant violated section 42-9-190 of the South Carolina Workers' Compensation Law.
10. Claimant informed Attorney Bacon that Claimant was not receiving any compensation benefit payments, but Attorney Bacon took no action.
11. Claimant was homeless, without any money, and under extreme duress when Claimant entered into settlement agreement under bad advisement by Claimant's former representative, Robert G. Bacon on December 22, 2005.
12. Claimant submitted a proper request for a copy of the Case File, and received a copy of the Case File on 12/07/2012 and confirmed that no medical reports were contained in the Case File.
13. Employer's Representative FAILED to file ANY MEDICAL REPORTS in the CASE FILE with the Commission, in violation of Regulation 67-1301(B) of the Act.

Alexander Guice v. U.S. Food Service, Inc. and ACE American Insurance Company

Date of Injury: May 5, 2005

WCC File No.: 0506205

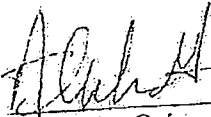
WCC FORM 50 AMENDED – CONTIUED

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14. Employer's Representative's failure to file the Medical Reports violated the Terms and Conditions of the clincher settlement.
15. Presiding Commissioner David W. Huffstetler never reviewed the Medical Reports prior to approving the clincher settlement.
16. Commissioner Huffstetler was never made aware that the Claimant was terminated by Employer on November 2, 2005, due to the termination of Claimant not contained in clincher settlement.
17. Commissioner Huffstetler was never aware that the Claimant incurred permanent lifting restrictions as a result of injuries sustained in May 5, 2005 accident due to permanent lifting restrictions incurred by Claimant not contained in clincher settlement, and no MEDICAL REPORTS were ever filed with the Commission for review and consideration by Employer's Representative.
18. Commissioner Huffstetler's failure to consider the Medical Reports prior to approving the clincher settlement violated the Terms and Conditions of the clincher settlement.
19. Commissioner Huffstetler failed to ensure the clincher settlement was fair and in accordance with the Act, which violated Regulation 67-803 (C) of the Act.
20. Claimant's copy of clincher settlement received from Employer's Representative has electronic signature of Commissioner Huffstetler, with Commissioner Huffstetler spelled as "Huffstetler" and electronic stamped signature of Gregory Line, Claims Administrator, while Case File Copy of clincher settlement has written signature of Commissioner Huffstetler with no signature of Gregory Line.
21. Claimant was subjected to gross misrepresentation by Claimant's former representative, Robert G. Bacon, Esquire.
22. Attorney Bacon FAILED to apprise the Claimant of Claimant's rights under the laws of the South Carolina Workers' Compensation Act which violated the Terms and Conditions of clincher settlement.
23. In addition to withheld Compensation Benefits, Claimant seeks an additional 25% penalty of unlawfully withheld compensation benefits IAW section 42-9-260 (G) of the South Carolina Workers' Compensation Law.

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, an AMENDED WCC Form 50 (3 pages) and Certificate of Service, on the party listed below.



Alexander Guice
Pro Se Claimant
Post Office Box 8651
Tampa, Florida 33674
(813) 335-4046 Phone
(813) 898-2908 Fax
alguice@hotmail.com

Mailed this 5th day of January 2013
Hillsborough County
Tampa, Florida

COPIES MAILED TO:

McAngus, Goudelock & Courie, LLC
Attn: Erin L. Hantske, Esquire
Post Office Box 65007
Mt. Pleasant, South Carolina 29465

Attachment D

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

IN THE MATTER OF W.C.C. FILE NO.: 0306205

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 F2d 1459 (11th Cir 1990), also See Hulse v. Owens 63 F3d 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.

GRONDS FOR TRANSFER OF JURISDICTION

Ex 9 (29 of 32)

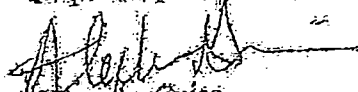
The Claimant asserts that the current Jurisdiction in this matter is IMPROPER based on the following grounds:

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

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
TELEPHONIC
HEARING

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 F2d 1459 (11th Cir1990), 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 of the Act, the Pro Se Claimant respectfully presents this Motion for Telephonic Hearing. Upon review of the grounds and supporting evidence contained herein, the Pro Se Claimant would move the South Carolina Workers' Compensation Commission (Commission) for an Order granting this motion and allowing the parties to convene this matter telephonically.

GROUND FOR TELEPHONIC HEARING

The Pro Se Claimant would move the Commission to convene this Hearing telephonically, based on the following grounds;

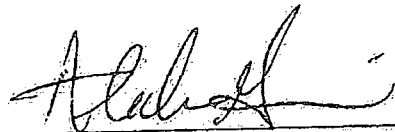
1. Disfigurement is not an issue in this matter; and the Claimant should not be required to appear in person on that basis.
2. The Claimant has been unemployed, and unable to obtain gainful employment, since the Claimant was terminated by U.S. Foodservice, Inc. (Employer) on November 2, 2005, which is one of the issue(s) in dispute related to this matter, and the Claimant cannot afford the travel cost associated with appearing at the Hearing in person. Please see Claimant's Exhibit 2.
3. The Claimant has been a resident of Tampa, Florida since 2011, and cannot afford the travel cost associated with appearing at the Hearing in person.
4. Although the Claimant is not represented by an attorney, the Claimant would assert that appearing telephonically would not prejudice the Claimant, or the Defendant(s) in this matter.
5. The Commission is required, pursuant to Policy Number 1.04 (A)(2) of the State of South Carolina Workers' Compensation Commission Administrative Policies and Procedures Manual, under the Subject of Staff Conduct and Behavior, Personal and Professional Code of Conduct, to "...serve each case with the highest concern for the client's welfare..." The Claimant asserts, respectfully, that denying the Claimant's Motion for Telephonic Hearing would place an undue hardship upon the Claimant, and place the Claimant's welfare in jeopardy, as the Claimant already continues to experience a significant undue hardship and burden.
6. The Claimant has duly served, upon the Defendant's Representative, on January 17, 2013, a copy of the List of Exhibits, and Exhibits, to be used by the Claimant at the Hearing, pursuant to Regulation 67-612 (B)(1) and Regulation 67-612 (G)(1) and (2) of

the Act, to include duly serving the Notice, to the Commission, on January 17, 2013, pursuant to Regulation 67-612 (C) of the Act, and upon receipt of additional Exhibits to be added to the Record, by the Defendant's Representative, if any, as well as any objections to the aforementioned Exhibits, with supporting grounds for the objections, if any, the parties shall submit the combined Record, with the written consent of both parties, to the Commission, within Ten (10) days of the scheduled Hearing, which would not prejudice the parties in any way with respect to the Commission convening a telephonic hearing to determine issues as set forth on Forms 50 and 51.

CONCLUSION

Based on the foregoing, the Claimant would respectfully move the Commission for an Order granting the Claimant's Motion for Telephonic Hearing.

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.

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Attachment E

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

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Attachment F

Alexander Guice

P.O. Box 43062
Tampa, FL 33677
nlguice@hotmail.com
(813) 335-4046 Phone
(813) 898-2908 Fax

February 28, 2013

VIA 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

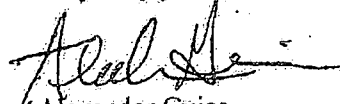
Dear Ms. Crocker:

Enclosed, please find an original and four (4) copies of Form 30 and an Order signed by Commissioner Susan S. Barden dated February 22, 2013; a Form 32, and certificate of service. Please forward to the appropriate person for filing, and return a file stamped copy to the Appellant in the enclosed prepaid self-addressed envelope provided for your convenience.

By copy of this letter, I have provided Erin L. Hantske, Esquire, the Attorney of Record for the Respondent, a copy of the same, via certified mail and regular mail, with enclosures. By copy of this letter, I have provided Gary M. Cannon, Executive Director, a copy of the same, via certified mail, with enclosures.

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

Very truly yours,



Alexander Guice
Appellant, *pro se*

/AG

Enclosures: As stated

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

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 #: 004083-032175-wc-01
Carrier Code #: _____
Employer FEIN #: 383642294

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

[Signature] 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.

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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 #: 004063-032175-wc-01
Carrier Code #:
Employer FEIN #: 383642294

Claimant's Name: Alexander Guice SSN: _____ 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: _____ Carrier: Ace American Insurance Company c/o Gallagher Bassett
Preparer's Name: Alexander Gulce Preparer's Phone #: 813 335 4046

Please provide all of the information requested. Incomplete forms will delay the review process.

REQUEST TO WAIVE APPEAL FILING FEE

1. Are you presently employed? Yes No
a. If yes, state the name and address of your employer and wages below.

b. If no, where did you last work, when did you stop working, and what were your wages?
US Foodservice, Inc., November 2, 2005, wages were \$1,154.00 per week
c. Is your spouse employed? Yes No If yes, where? N/A - Divorced
What are your spouse's wages? \$ _____
d. What is the total income of all working members of your household?

2. How many people are dependent on you for their support (include children and relatives)? 1
How much do you spend weekly for their support? \$35.34
3. List any money you have received in the past year other than that listed above and state from what source that money came (gift, inheritance, insurance, etc.)
\$1,375.00 - loan from family members; \$1,259.00 per month - VA Disability Benefits (unrelated to work related injury)
4. Do you have a checking or savings account? Yes No
If yes, what is the balance in each account? Checking: \$ _____ Savings: \$ _____
5. Do you rent or own your home? Rent Own Rent or mortgage payment: \$550.00 (one month behind)
6. Do you own a car? Yes No Payments: \$0.00
7. List the names of your creditors and amount of debt.
Citi Financial - \$17,000.00; Capital One - \$1200.00; Conway Medical Center - \$13000.00; Family members - \$11,375.00

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my financial condition. I request that the filing fee be waived.

[Signature]
Signature

02/28/2013
Date

For official use only. Fee Waived Waiver Rejected Other Disposition

Chair, S.C. Workers' Compensation Commission

File this form with a Form 30, Application for Commission Review. Refer to R.67-201 through R.67-711 for additional information. File this form with a Form 50, 52, 54, Requests for Motions, Consents and Settlements. Refer to R.67-207, R.67-208, R.67-215, R.67-803 and R.67-805.

WCC Form # 32
Rev. 7/03

32

REQUEST TO WAIVE APPEAL FILING FEE

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BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0506205

Alexander Guice,)
)
 Claimant,)
 vs.)
)
 US Food Service, Inc.,) ORDER
)
 Employer,)
)
 MAC Risk Management, Inc.)
)
 Carrier,)
 Defendants)

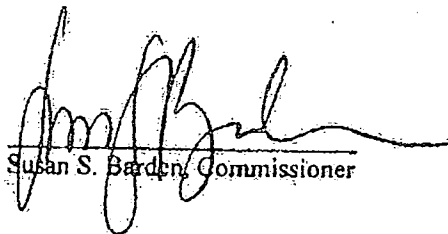
Claimant settled his claim (WCC# 0506205) through a Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006. A Form 19 was submitted by Defendants as well.

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

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 an original and four (4) copies of a Form 30 and Order of Commissioner Susan S. Barden dated 02/22/2013; a Form 32, and certificate of service, via certified mail and regular mail, with sufficient first class 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 28th Day of February, 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
Confirmation No.: 71023460000222942556

Virginia L. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202
Confirmation No.: 70123460000222942563

Gary M. Cannon, Executive Director
Office of the Executive Director
S.C. WORKERS' COMPENSATION COMMISSION
Post Office Box 1715
Columbia, South Carolina 29202
Confirmation No.: 70123460000222942570

Attachment G

Alexander Guice

P.O. Box 33067
Tampa, FL 33677
aguice@hotmail.com
(813) 335-4046 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

/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.)

EX. 50(3a of 134)

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 0506205

ALEXANDER GUICE,)	
)	
Employee,)	
)	
Claimant,)	MOTION FOR REINSTATEMENT OF
vs.)	EMPLOYMENT AND RELEASE OF
)	TEMPORARY TOTAL COMPENSATION
US FOODSERVICE, INC., Et. al.)	
)	PAYMENTS
Employer AND Carrier,)	
)	
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 *Hulsev v. Owens* 63 F3d 354 (5th Cir 1995). Also See In Re: HALL v. BELLMON-935 F.2d 1106 (10th Cir. 1994). 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

Ex 50 (33 of 134)

- 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 Pavlasek & 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. 1-7).
- 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. Huffsteiler 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, E.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 no 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).

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(B) 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 3% overall impairment rating ONLY (Please see 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 Hantsko 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. 3-8).
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

Ex. 50 (40 of 134)

(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 \$1,164.00 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

EX. 50 (42 of 134)

Attachment H

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,

Handwritten signature of Gary M. Cannon in cursive.

Gary M. Cannon
Executive Director

Cc: Brian Hanisko, Esq.

enclosures

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EX 50 (1 of 134)

Alexander Guice

P.O. Box 15062
Tampa, FL 33677
alexander.guice@wccsc.com
(813) 335-1046 Phone

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:

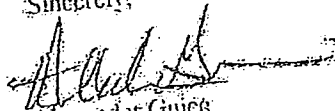
Enclosed herein, please find a proposed Order Granting Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments and certificate of service. Please forward to Commissioner Andrea C. Roche for review, and if approved, please return a file stamped copy of the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

By copy of this letter, I have served Erin L. Hainske, 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. Hainske, Esq. (via regular mail & certified mail w/encl.)
Gary M. Cannon, Executive Director (via regular mail w/encl.)

MAR 20 2013

S. C. WORKERS' COMP. COMMISSION
REGION

EX 50 (2 of 134)

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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. In-suitu to Rule 8(b) 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 filed 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 14, 2013

Columbia, South Carolina

Andren C. Roelke, Commissioner

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

ALEXANDER GUICE,

Employee,

Chalmers,

vs.


U.S. 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 of service, via regular mail and certified mail, with sufficient first class and certified postage attached, on the dates listed below.


Alexander Guice
Post Office Box 45062
Tampa, Florida 33677
(813) 333-8046
Chalmers, Inc

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. Flantsky, Esquire
McAngus, Gondeck & Courie, LLC
Post Office Box 650007
Mt. Pleasant, South Carolina 29163
Confirmation No.: 701234600010222942727

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

Ex. 30 (4 of 34)

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Please use the 140262751 check (340337576 payment) to clear the items listed below:

Document Invoice	Date	Discounts	Gross Amount	Note
000639599	03/22/2013	0.00	25.00	Sum Total
		0.00	25.00	

PURSUANT TO WARRANT OF
 RICHARD EKSTROM
 COMPTROLLER GENERAL

STATE OF SOUTH CAROLINA
Office of State Treasurer
 CURTIS M. LOFTIS, JR.
 STATE TREASURER

NO. 140262751 ¹¹²¹/₁₂₁₁

Date
 03/26/2013

Document NBR: 340337576

Agency NBR: 0080 - S.C. WORKERS' COMPENSATION COMM
 TWENTY-FIVE USD

PAY TO \$ ***** 25.00

Pay To: Alexander Guice
 PO BOX 45089
 Tampa, FL 33674

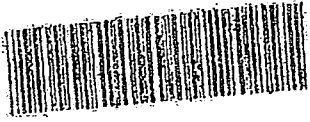
Curtis M. Loftis, Jr.
 CURTIS M. LOFTIS, JR. STATE TREASURER

CONTINGENCIES ACCOUNT
 WELLS FARGO BANK, NA

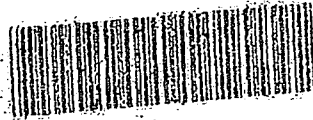
⑆140262751⑆ ⑆271000248⑆ 2003233043787⑆ EX. 50 (5 of 134)

120

MEMBERS' COMPENSATION COMMISSION
BOX 1715
COLUMBIA SC 29202-1715



Alexander Guice
PO Box 45062
Tampa FL 33674



140262751* R080 3403375776

Learn how to protect you, your family and business from identity theft.
Visit the State Treasurer's website at www.treasurer.sc.gov and
click on 'Financial Literacy'.
Curtis M. Loftis, Jr., State Treasurer

EX. 50 (6 of 134)

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South Carolina Bankers' Compensation Commission
1333 MAIN STREET, SUITE 500
P.O. Box 1715
COLUMBIA, SOUTH CAROLINA 29202-1715

RETURN SERVICE REQUESTED

Mr. Alexander Guice
PO Box 45062
Tampa, FL 33674

RECEIVED 53377

RECEIVED 53377

EX-50 (7 of 134)

Attachment I

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

ALEXANDER GUICE

IN THE COURT OF COMMON PLEAS

COPY

CIVIL ACTION COVERSHEET

FILED

Plaintiff(s)

2013 APR 11 A 9:59

-CP-

vs.

US FOODSERVICE, INC., ET AL

Defendant(s)

Submitted By: ALEXANDER GUICE
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)

2013 CP 3201272

*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: Constructions (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 #, Notice File 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), Minor 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), SCDOT (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:

[Handwritten Signature]

Date:

4/8/2013

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

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FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures, and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

FILED
2013 APR 11 A 9 55
JIM A. LARIBING
CLERK OF COURT
SOUTH CAROLINA

125

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT

Case No. 20 -CP-

Alexander Guice,

2013 APR 11 9:55

Plaintiff,
Versus

DETHA CARRIGG
CLERK OF COURT

SUMMONS

US Foodservice, Inc., et al,

Defendants.


2013CP3201272

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

126

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.

2013 APR 11

A-9-59

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SOUTH CAROLINA

COMPLAINT

2013CP3201272

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

127

COPY

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT

2013 APR 12

Case No.: 20 -CP- -

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

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON

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

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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.

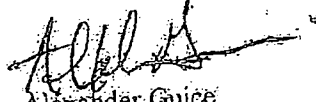
4. Cost related to this action incurred by the Plaintiff - As previously stated, the Plaintiff is unrepresented. The Plaintiff is also unemployed, living month to month from financial assistance from family members, and receiving entitled monthly Department of Veterans Affairs Disability Benefits regarding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

Respectfully submitted,



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

Tampa, Florida
April 8, 2013

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.

2013 APR 11 A 9 50
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

INDEX OF EXHIBITS

LISTED BELOW, Alexander Guice, the *pro se* Plaintiff, the Moving Party, presents this Index of Exhibits containing Reports, and the like, to be used with regards to the COMPLAINT and SUPPLEMENT in the above-referenced matter. The Reports are listed in reverse chronological order IAW the Administrative Procedures Act, to the best of the Plaintiff's ability.

LIST OF EXHIBITS

Exhibit Number	Description	Date(s)	Page(s)
50	S.C. Workers' Compensation Commission (Commission) Decision dated March 27, 2013	03/27/2013	1 THRU 7
50	Letter to Commission from Alexander Guice	03/27/2013	8 THRU 13
50	Letter to Commission from Erin L. Hantske, Esq. (Atty Hantske) Representative for Defendants	03/25/2013	14 THRU 16
50	Proposed Order Granting Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments	03/18/2013	17 Thru 19
50	Alexander Guice (Claimant) - Claimant's Answer to Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments	03/17/2013	20 Thru 25
50	Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments	03/14/2013	26 Thru 31
50 51	Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments	03/04/2013	32 Thru 134 1 Thru 11

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Respectfully submitted,



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

April 8, 2013
Tampa, Florida

Attachment J

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)

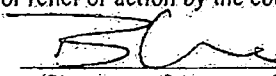
vs.

2013 MAY -3 P 4:13

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

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

Defendant(s)

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 other:
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> 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: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> 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 <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	May 2, 2013 Date submitted
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> 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: <input type="checkbox"/> Other:	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
<input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED

COPY

IN THE COURT OF COMMON PLEAS

2013 MAY 53 P 4: 14

ALEXANDER GUICE,

Claimant,

v.

US FOODSERVICE, INC.,

Employer,

and

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

Carrier,

Defendants.

BETHA CARRICO
CLERK OF COURT
LEXINGTON, SC

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.

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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)

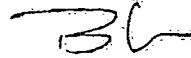
13. Defendants initially assert the issues presented in Claimant's appeal do not represent a "final agency decision" as contemplated by § 1-23-380.


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.

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

Attachment K

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP3201272

Alexander Guice	US Foodservice Inc	ACE American Insurance Co
PLAINTIFF(S)		DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
---------------	---

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.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit);
 Rule 43(k), SCRCP (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRCP; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- 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

This order ends does not end the case.

Additional Information for the Clerk:

141

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment falls due 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.

Circuit Court Judge	2141	6/14/2013
	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on n/a, and a copy mailed first class or placed in the appropriate attorney's box on 14th day of June 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Alexander Guice P O Box 45062 Tampa, FL 33677

ATTORNEY(S) FOR THE PLAINTIFF(S)

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

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/wh

Beth A. Carrigg - Clerk of Court

Court Reporter

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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ORIGINAL

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.,)

BETTY A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

2013 JAN 13 P 3:21

FILED

Carrier,)

Defendants.)

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.

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.

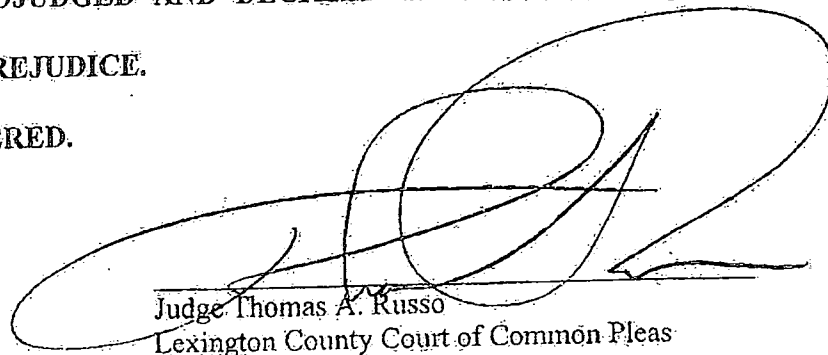
3. Upon exhaustion of all administrative remedies, the above-referenced Claimant may have an appeal to the Circuit Court once that agency has reached a final decision.

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

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Attachment L

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. CALVO
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.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 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

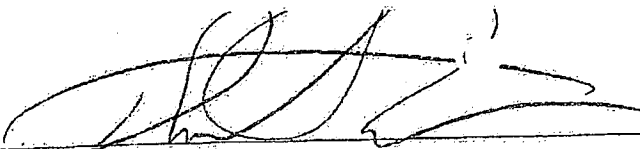
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

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.

147


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

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

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.

Attachment M

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. 67-701

Claimant/Appellant pro se

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

APPELLATE PANEL
DECISION AND ORDER
OF THE
S. C. WORKERS' COMPENSATION COMMISSION
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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. 67-701

Claimant/Appellant pro se

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

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

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 Commissioner 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) SCRPC?"

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.

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:

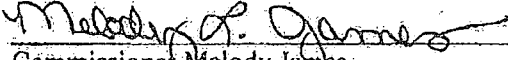
1. Pursuant to S.C. Reg. 67-801, Claimant settled his claim (WCC No. 0506205) through a Full and Final Settlement Agreement which was approved by the South Carolina Workers' Compensation Commission on January 5, 2006.
2. Pursuant to S.C. Code Reg. 67-801(E), the Employer and the Insurance Carrier are 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.

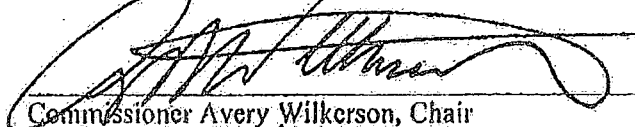
ORDER

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.

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 herof, postage paid, in the United States mail addressed to the attorney or attorneys for said parties.

This 17 day of July, 2013
By Valerie McDeller
Administrative Assistant to the Commissioner

Alexander Guice (Reg & Cert)
Eric L. Hartstee

Attachment N

2013: 12550

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION

FULL COMMISSION DECISION AND ORDER AFFIRMING THE ORDER OF

COMMISSIONER SUSAN S. BARDEN Dated February 25, 2013

W.C.C. Case No.: 0506205

US Food Service, Inc., et al,

Respondent,

v.

Alexander Guice,

Appellant.

NOTICE OF APPEAL

Alexander Guice appeals the decision of the Full Commission dated July 17, 2013. Appellant received written notice of entry of this decision on July 22, 2013.

August 19, 2013.



Alexander Guice
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Phone: (813) 335-4046
alguice@hotmail.com
Appellant, *pro se*

Erin L. Hantske, Esquire
McAngus Goudelock & Courie, L.L.C.
Post Office Box 650007
Mt. Pleasant, South Carolina 29465
Phone: (843) 576-2946
Attorney for Respondent

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

FULL COMMISSION DECISION AND ORDER AFFIRMING THE ORDER OF

COMMISSIONER SUSAN S. BARDEN Dated February 25, 2013

W.C.C. Case No.: 0506205

US Food Service Inc., et al,

Respondent;

v.

Alexander Guice,

Appellant.

PROOF OF SERVICE

I certify that I have served a copy of a Notice of Appeal and a copy of an Appellate Panel Decision and Order dated July 17, 2013 by depositing a copy of the same in the United States Mail, postage prepaid, on August 19, 2013 and addressed to: Erin L. Hantske, Esq., McAngus, Goudelock & Courie, LLC, P.O. Box 650007 Mt. Pleasant, SC 29465; SCWCC, Attn: Judicial Dept. P.O. Box 1715, Columbia, SC 29202; and SC Court of Appeals, P.O. Box 11629 Columbia, SC 29211.

August 19, 2013



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

RECEIVED

MAR 03 2014

SC Court of Appeals

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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

RECEIVED

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.

TABLE OF AUTHORITIES

CASES

<u>Alexander Guice v. US Foodservices, Inc., et al</u>	
Case No.: 2013-002491	1-27
<u>Alexander Guice v. US Foodservices, Inc., et al</u>	
Case No.: 2013-CP-32-01272	1-27

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Alexander Guice v. US Foodservice, Inc., et al

Case No.: 2014-CP-32-00399..... 1-27

Alexander Guice v. US Foodservice, Inc., et al

W.C.C. Case No.: 0506205..... 1-27

STATUTES

S.C. Code Ann. 1-23-380(5)..... 2,21,25
S.C. Code Ann. 42-1-610..... 12,24
S.C. Code Ann. 42-1-620..... 10,12,24
S.C. Code Ann. 42-3-20(C)..... 14,16,22,24
S.C. Code Ann. 42-3-80..... 14,16,19
S.C. Code Ann. 42-9-260(F)..... 9,10

REGULATIONS

S.C. Reg. 67-202(5) of the Act..... 10
S.C. Reg. 67-202(10) of the Act..... 10
S.C. Reg. 67-215 of the Act..... 13
S.C. Reg. 67-215(F) of the Act..... 14,20
S.C. Reg. 67-215(G) of the Act..... 14,16,21,22,24
S.C. Reg. 67-506(D) of the Act..... 9,10
S.C. Reg. 67-506(E) of the Act..... 9,10
S.C. Reg. 67-707 of the Act..... 14,19
S.C. Reg. 67-707(C)(2)(a) of the Act..... 13
S.C. Reg. 67-707(C)(2)(b) of the Act..... 13
S.C. Reg. 67-707(C)(2)(c) of the Act..... 14-16,19,21-24

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S.C. Reg. 67-707(C)(2)(d) of the Act..... 15,21

RULES

Rule 8(b) SCRCF..... 13,20

Rule 8(d) SCRCF..... 13,15,20-21

Rule 201 SCACR..... 17,20,22

Rule 208(a)(3) SCACR..... 3,26

Rule 208(a)(4) SCACR..... 3,26

Rule 240(c) SCACR..... 3,17,26-27

Rule 240(c)(2) SCACR..... 2,18;26-27

Rule 240(e) SCACR..... 1

Rule 240(g) SCACR..... 3,17-18

Rule 501(3)(B)(1), CJC, Rule 501, SCACR..... 14,16,21-22,24

OTHER AUTHORITIES

Haines v. Kerner 92 Sct 594..... 1

Power, 914 F2d 1459 (11th Cir1990)..... 1

Hulsey v. Ownes 63 F3d 354 (5th Cir 1995)..... 1

Alexander Guice
Post Office Box 13281
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Appellant, *pro se*

March 10, 2014

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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 Cir 1990), 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

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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 Goudeock & 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) SCRCP, 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

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“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.

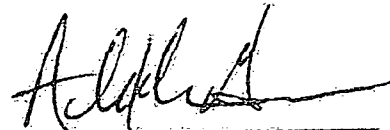
CONCLUSION

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-
CARRIER CLAIM #: 104000001589901
JURISDICTION CLAIM #: 0506205
SIC CODE:
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

EMPLOYEE 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 EMP'L'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

HERE 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

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

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EXHIBIT 1 191
PG. 1 OF 1

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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:

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

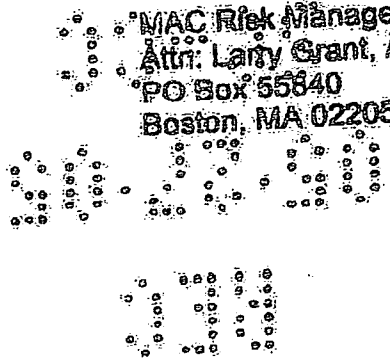


EXHIBIT 2
PAGE 1 OF 9

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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:

- | | | |
|--------------------------|--|-----------|
| <input type="checkbox"/> | First Report of Injury. | Form 12-A |
| <input type="checkbox"/> | Physicians's Report(s). | Form 14 |
| <input type="checkbox"/> | Agreement as to Compensation. | Form 15 |
| <input type="checkbox"/> | Settlement Agreement for Compensation. | Form 16 |
| <input type="checkbox"/> | Application to Stop Payment of Compensation. | Form 21 |
| <input type="checkbox"/> | Any other Information Contained in File. | |

Sincerely yours,

PAVILACK & ASSOCIATES, P.A.


Robert G. Bacon, Esq.

6175AA

RGB/lac

cc: Larry Grant

0000000000
0000000000
0000000000

Jan 29

EXHIBIT 2

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Alexander Guice

P.O. Box 8654
Tampa, FL 33674
alguice@hotmail.com
(813) 335-4046 F
(813) 898-2908 F

October 28, 2012

Bacon Law Firm, LLC
Robert G. Bacon, Esquire
1297 Professional Drive, Suite #01
Myrtle Beach, SC 29577

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

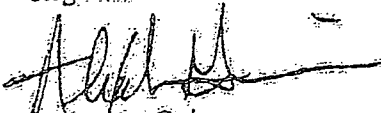
Mr. Bacon:

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

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PAGE 3 OF 9

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BACON LAW FIRM
A FIRM OF TRIAL ATTORNEYS

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

R.G. BACON, ESQ.
E. WHATLEY, ESQ.
S.L.E. EVANS, ESQ.
843-839-8013

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,

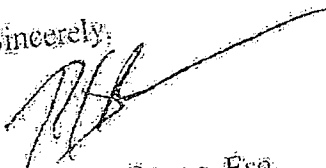

Robert G. Bacon, Esq.

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PAGE 4 OF 9

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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

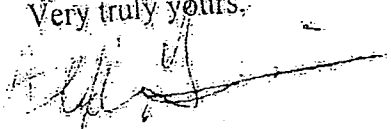
Dear Director Crocker or To Whom It May Concern:

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

EXHIBIT 2
PAGE 5 OF 9

cc: FILE

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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

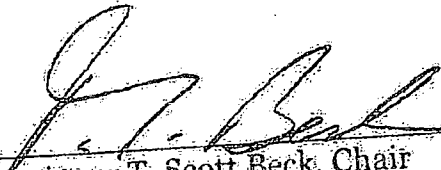
Regulations 67-1201 through 1203 govern appearances by Counsel before the Workers' Compensation Commission.

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
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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/t
Carrier Code #: 00461
Employer FEIN #: 363642294

Claimant's Name: Alexander Guice SSN: _____ 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.

[Signature]
ISSUING OFFICER'S SIGNATURE AND TITLE

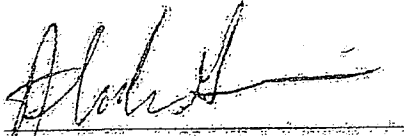
803 737 5675
PHONE NUMBER

Dec 7, 2012
DATE

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.

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

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*** 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:

Urgent For review Please comment Please reply Please recycle

EXHIBIT 2
PAGE 9 OF 9

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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:
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** | **RTWF 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.

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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 Biofreze, 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

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Vocational History:

Employer	Job Title	SOC Code	Years Employed	Salary Duration	Salary Amount	Job Title 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	

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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 for 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

DOB: 2/13/1971

PATIENT: Alex Guice
CHART #: T02447

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, Flexeril

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.

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Continued

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.

ldh

cc. Dr. Bauerle

EXHIBIT 4
PAGE 2 OF 6

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

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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	Client 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**	50 lbs**	No
Sitting	Occasionally	Frequently	No
Standing	Occasionally	Occasionally	Yes
Work arms over head-standing	Frequently	Frequently	Yes
Work bent over-standing/swiping	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-sitting	Occasionally	?	?
Climbing stairs	Occasionally	Frequently	No
Repetitive squatting	Occasionally	Frequently	No
walking	Frequently	Frequently	Yes
Creeping	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	8-11lb/l-104lb	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.

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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.

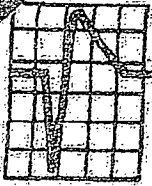
If you have any further questions after examining this summary, please contact me.

Sincerely,

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

EXHIBIT 4
PAGE 5 OF 6

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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 - LBP

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: _____

No lifting > 25 pounds

No lifting > 10 pounds frequently or constantly

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: 10/27/25

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EXHIBIT 4
PAGE 6 OF 6



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

EMPLOYEE STATUS NOTICE (rev. 03/2005)

(res/Changes/Transfers)

Effective Date	Employee ID (6 digits)	Name (First)	(Middle Initial)	(Last)
12/05	121674	Alexander		Guice
Action	Action(s)	Reason(s)	STD % (if applicable)	
1	Termination	IOA - NO POSITION AVAILABLE Permanent lifting restrictions		
Action	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)		Job Code (5 chars)		Business Unit (5 digits)
USF - Conway, S.C. site				
Position # (8 digits)		Grade		Position # (8 digits)
Grade				
Action	Delivery Driver		Job Title	
3	Same		Job Title	
Department # (10 digits) and name		Department # (10 digits) and name		
Transportation		Location (4 digits) and name		
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:
<input type="checkbox"/> Regular		<input type="checkbox"/> Standard (blank)		<input type="checkbox"/> Non-Union
<input type="checkbox"/> Temporary		<input type="checkbox"/> Commission		<input type="checkbox"/> Union
Full-time / Part-time:		<input type="checkbox"/> Stepdwn		Union Code:
<input type="checkbox"/> Full-time		<input type="checkbox"/> Incentive		
<input type="checkbox"/> Part-time				
Std. Work Hours				
Std. Work Hours				
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: <input type="checkbox"/> NAANNL (annual)		Comp. Rate Code: <input type="checkbox"/> NAANNL (annual)		<input type="checkbox"/> NAHRLY (hourly)
<input type="checkbox"/> 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: <input type="checkbox"/> Yes <input type="checkbox"/> No		Car Allowance: <input type="checkbox"/> Yes <input type="checkbox"/> No		Amount/pay period: \$
Amount/pay period: \$				
Other (describe): <input type="checkbox"/> Yes <input type="checkbox"/> No		Other (describe): <input type="checkbox"/> Yes <input type="checkbox"/> 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>[Signature]</i> 11-2-05	
R. A. Bennett		Date: 11/2/05	Zone or Region President (for exceptions or regional staff changes)	
<i>[Signature]</i>		Date:	Region HR VP (for exceptions or regional staff changes)	
Division President:		Date:	Processed by HR: <i>[Signature]</i>	
		Date:	Date: 11/4/05	
Approvals for DIVISION TRANSFERS - Sending Division				
Division HR (sending division)		Date:	Processed by Payroll:	
		Date:		

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

WCC File # 0506205
 Carrier File # 104000001589901
 Carrier Code # 00461
 Employer FEIN 383842294

Standard Guide
 Claimant's Name
15 Gaston Dr
 Address
756-6479
 Home Phone #
Larry Grant
 Preparer's Name

Us Foodservice
 Employer's Name
120 LONGS POND ROAD P.O. BOX B
120 LONGS POND ROAD P.O. BOX 828
 Address
 Location
SC
 State
29072
 Zip
 Insurance Carrier
781-298-4909
 Phone #

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

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

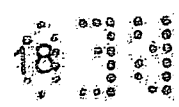
5. Total Amount Paid (a) Compensation: 10460.16
 (b) Medical (Include Nursing, Hospital Drugs, Etc.): 9387.57

6. Informal Conference is Requested: yes no
(check one)

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

Employer's Representative: Larry Grant Phone # 781-298-4909 Date December 01, 2005

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.



PERIODIC REPORT
EXHIBIT 6
 PAGE 1 OF 1

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Claimant's Name: Alexander Guico SSN:
Address: 2996 Gaston Dr
City: Loris State: SC Zip: 29569
Home Phone: 843-756-6479 Work Phone: 803-551-4200
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 #: 761-293-4909

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

Payment of Temporary Compensation Check one: Initial period Additional period Corrected compensation rate (choose A, B, or C).

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 15S with the Form 18, 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	\$
	x 66%	\$ 667
	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.

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.

PROCESSED

Signature of Claims Administrator

Date

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 sending a hearing request to SCWC 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.67-1803. 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.

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 C-1-9

S. C. Workers' Comp. Comm.

[Handwritten signature]

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

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00 6.6

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

EXHIBIT 8
PAGE 2 OF 8

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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 Utica Mohak 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

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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

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00 00
IN WITNESS WHEREOF, I have hereunto set my hand and seal at Myrtle Beach, this

22 day of December 2005

Alexander Guice
Alexander Guice

IN THE PRESENCE OF:

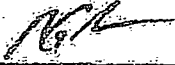
AG
James Christian

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

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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

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Dated at Columbia, South Carolina on _____

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

BY: _____

[Handwritten Signature]

4/5/06

I CONSENT:

Walter H. Barefoot

Walter H. Barefoot
Attorney for Employer and Carrier

EXHIBIT 8
PAGE 8 OF 8

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AOC Risk Management, Inc.

Mailing Address: P.O. Box 260001, Woodloch, GA 30189-0001

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

EXHIBIT 9
1 OF 3

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Risk Management, Inc.

Member, National Association of Insurance Commissioners

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 9
3 OF 3

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Alexander Guice

P.O. Box 8651
Tampa, FL 33674
alguice@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 MAC Risk Management
Date of Injury: May 5, 2005
WCC File No.: 0506205 - REQUEST FOR HEARING

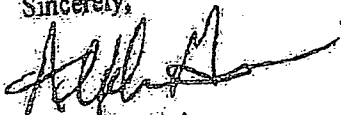
To Whom It May Concern:

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

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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 #: 1040000015899/01
 Carrier Code #: 00461
 Employer FEIN #: 363642294

Claimant's Name: Alexander Gulice SSN: _____
 Address: P.O. Box 8651
 City: Tampa State: FL Zip: 33874
 Home Phone: (813) 335-4046 Work Phone: _____
 Preparer's Name: Alexander Gulice Law Firm: N/A
 Employer's Name: U.S. Food Service Inc.
 Address: 120 Longs Pond Road
 City: Lexington State: SC Zip: 29072
 Insurance Carrier: Mac Risk Management
 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. Date of Injury or Illness: 05/05/2005

A claim for workers' compensation benefits is made based on the following grounds:
 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 _____ county, state of South Carolina.
 Body part(s) affected are: back, neck, right knee.
 1b. 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 Partial
 (3) Wage Loss 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:
Abiri Tinsadan, 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.

Preparer's Signature: [Signature] Title: Pro Se Claimant Email: agulice@hotmail.com Date: 12/07/2012
 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.

WCC Form # 50 Revised 9/07
 Employee's Notice of Claim and/or Request for Hearing

50 EXHIBIT 10
 2 OF 4

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Alexander Guice

P.O. Box 8651
Tampa, FL 33674
alguice@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 MAC Risk Management
Date of Injury: May 5, 2005
WCC File No.: 0506205

WCC FORM 50 - CONTIUED

IIa. 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

Attorney

Party

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

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

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
alexguice@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

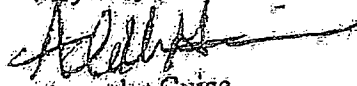
Dear Ms. Crocker:

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

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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 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). 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 1 2
2 OF 4

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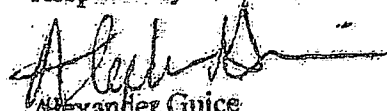
The Claimant asserts that the current Jurisdiction in this matter is IMPROPER based on the following grounds:

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:

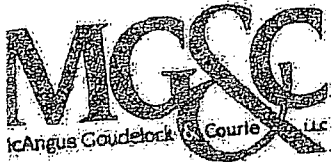
Virginia L. Crocker, Judicial Director
S.C. WORKERS' COMPENSATION COMMISSION
Judicial Department
Post Office Box 1715
Columbia, South Carolina 29202
Confirmation Number: 7012 2210 0001 7444 6980

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

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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

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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

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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
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 GOUELOCK & 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

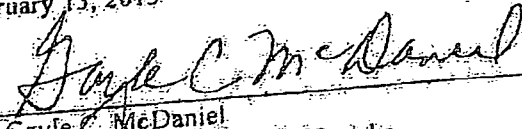

Gayle C. McDaniel
Legal Assistant to Erin L. Hantske

EXHIBIT 13
4 OF 4

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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
1 OF 1

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Appellant's Name: Alexander Guice SSN: _____ 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).

- Did Commissioner Susan S. Barden have proper jurisdictional authority to make any judgments regarding WCC# 0506205?
- Was Commissioner Barden's Order invalid due to no regulatory or statutory grounds stated to support cancelling the hearing?
- Did the Order signed by Commissioner Barden on 02/22/2013 violate Rule 5(b)(3)SCRCP?
- Did the Order signed by Commissioner Barden on 02/22/2013, with respect to cancelling the hearing, violate Rule 7(b)(1)SCRCP?
- Did Commissioner Barden's Order dated 02/22/2013 violate the Appellant's Right to a Hearing?
- 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 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 [Signature] first class mail personal service certified mail.
Appellant Title _____ Date February 28, 2013

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.

REQUEST FOR COMMISSION REVIEW

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EXHIBIT 15
1 OF 4

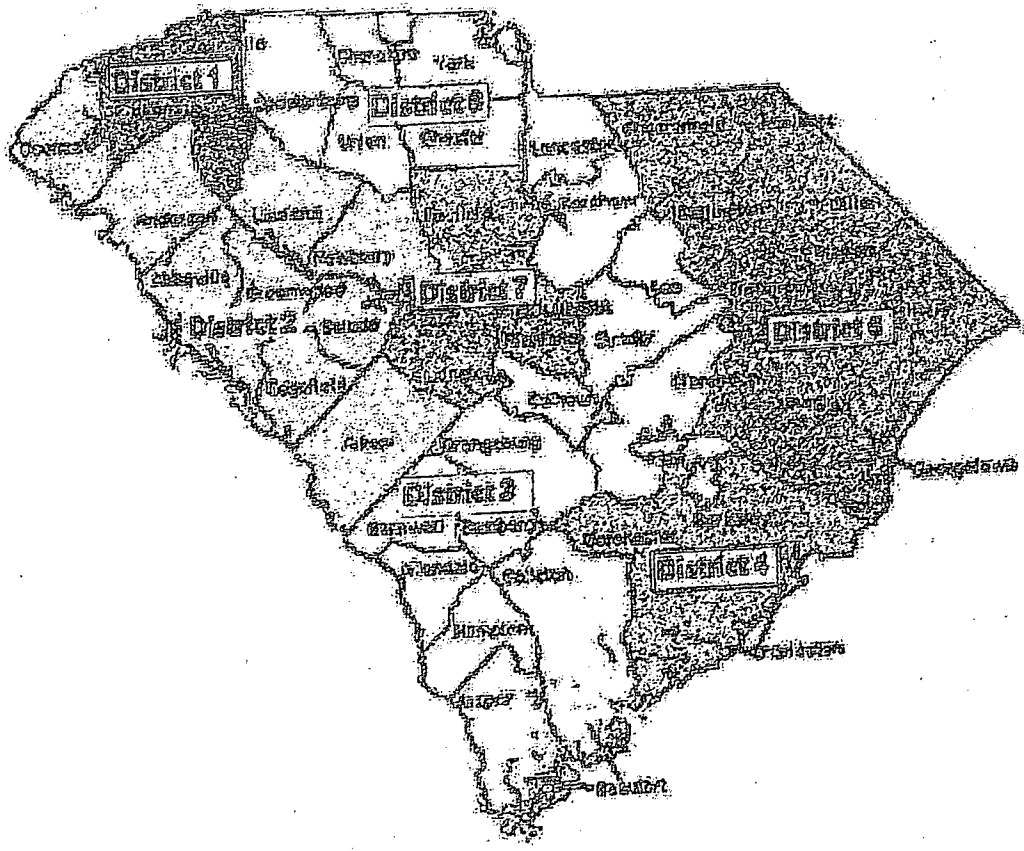
239

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
2 OF 4

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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

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SCWCC District Assignments

Charleston	triddle@wcc.sc.gov	ayoung@wcc.sc.gov	ahigbe@wcc.sc.gov
District 5 Florence	Amanda Young ayoung@wcc.sc.gov	Audra Higbe ahigbe@wcc.sc.gov	Tracy Riddle triddle@wcc.sc.gov
District 6 Spartanburg	Audra Higbe ahigbe@wcc.sc.gov	Tracy Riddle triddle@wcc.sc.gov	Amanda Young ayoung@wcc.sc.gov
District 7 Richland	Audra Higbe ahigbe@wcc.sc.gov	Tracy Riddle triddle@wcc.sc.gov	Amanda Young 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
alexguice@hotmail.com
(813) 375-4046 Phone
(813) 378-2908 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

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

RECEIVED

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,

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

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- 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. 1-7).
- 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 I, 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 I, 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 I, 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 I, 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 I, 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 see 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:
- 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;
 - 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;
 - 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
 - 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

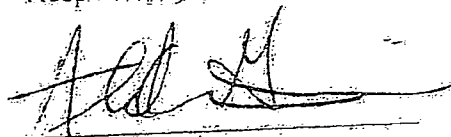
The Claimant was subjected to gross misrepresentation by Attorney Bacon and willful violation(s) of the Act by the Employer, Employer's Carrier(s), and the Employer's Representatives. The Claimant was unlawfully terminated by the Employer on November 2, 2005. The Employer never offered the Claimant suitable 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
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ATTORNEY 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.: 004063-032-175-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/gem

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)

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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
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

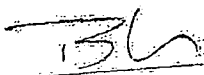
256

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,


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

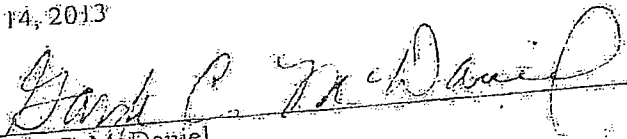

Gayle C. McDaniel
Legal Assistant to Erin L. Hantske

EXHIBIT 17
PAGE 4 OF 4

Alexander Guice

P.O. Box 45062
Tampa, FL 33677
aguice@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 3, 2003
WCC File No.: 0506205

Dear Ms. Crocker:

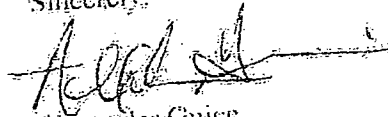
Enclosed herein, please find an original and a copy of Claimant's Answer to Defendant's Reply to Claimant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments; Exhibit 3(2pgs.) and certificate of service. Please provide to the appropriate person for filing and 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. Hanuske, 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. Hanuske, Esq. (via regular mail & certified mail w/encl.)
Gary M. Cannon, Executive Director (via regular mail w/encl.)

SCWCC
MAR 21 2013
JUDICIAL

EXHIBIT 18
PAGE 1 OF 4

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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) SCRCF.
 - 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

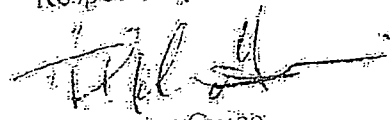
parties on December 22, 2005 and approved by the Commission on January 5, 2006,
and

- 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.

Certificate of Service

US FOODSERVICE, INC., ET AL

Employer AND Carrier,

Defendants.

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) 355-4946
Claimant, *pro se*

Signed this 17th 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.: 7012346000222942730

Emm L. Hantske, Esquire
McAngus, Goudelock & Courie, LLC
Post Office Box 650007
Mt. Pleasant, South Carolina 29465
Confirmation No.: 7012346000222942747

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

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Alexander Guice

P.O. Box 24002
Columbia, SC 29224
Tel: 803-739-1111
Fax: 803-739-1112

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

ENC

Enclosures: As stated

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

Mar 26 2013

EXECUTIVE DIRECTOR

EXHIBIT 19
PAGE 1 OF 3

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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(c) 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, Commissioneer

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

ALEXANDER GUICE,

Employee,

Claimant,

vs.


Certificate of Service

US FOODSERVICE, INC. ET AL

Employer AND Carrier,

Defendants.

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 & Conroy, LLC
Post Office Box 650007
Mt. Pleasant, South Carolina 29463
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

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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/vlj

Enclosure

cc:

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

CHARLESTON • COLUMBIA • GREENVILLE • MYRTLE BEACH • ASHEVILLE • CHARLOTTE • RALEIGH
735 JOHNSIE DODDS BLVD. SUITE 200 • POST OFFICE BOX 630907 • MT. PLEASANT, SC 29485 813-576-2600 PHONE 843-531-0605 FAX
WWW.MGCLAW.COM

21610

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

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MGC
McAnisus Gendelock & Co., Inc.



01 7147 4991 7031 8554 2327

McAnisus Gendelock & Co., Inc.
10000 N. Central Expressway, Suite 401, P.O. Box 1720, Miami, FL 33156-0172

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

2098.12550/ELH/WJ
Alexander Gutec
Post Office Box 45062
Tampa, Florida 33677

427

EXHIBIT 20
PAGE 3 OF 3

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State of South Carolina

1333 Main Street, 5th Floor
P.O. Box 4715
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

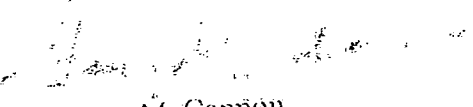
Re: Alexander Guice v. U.S. Food Service, Inc., et al
Date of Injury: May 5, 2005
WCC File No.: 0506205
Motion for Reinstatement of Employment and Release of Temporary Total
Compensation Payments

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.

EXHIBIT 21
PAGE 1 OF 1

enclosures

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COUNTY OF LEXINGTON

ALEXANDER GUICE

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 GUICE
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 - Efile 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: Chain of Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Immature Petitions: PCRE (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstatement - 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), Minor 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), SCDC (950), Workers Comp (960), Zoning Board (970), Public Service Comm. (980), Employment Security Comm (990), 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 (610)

Submitting Party Signature:

[Handwritten Signature]

Date: 4/8/2013

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

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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,

COMPLAINT

Versus

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

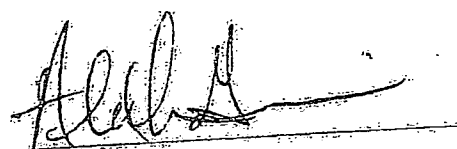
Defendants.

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

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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

2013 CP 3201272

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

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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 asser 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

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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

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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.

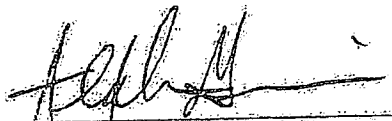
SUMMONS

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

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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

2013 APR 11 A 9 59

Certificate of Service

2013CP3201272

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

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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

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COPY

COUNTY OF LEXINGTON

ALEXANDER GUICE,

MOTION AND ORDER INFORMATION FORM AND COVER SHEET

Plaintiff(s)

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

vs.

FOODSERVICE, INC., EMPLOYER, and
AMERICAN INSURANCE COMPANY C/O
ALLACHER BASSETT SERVICES, INC.,
CARRIER,

Defendant(s)

Plaintiff's Attorney:
Alexander Guice, Pro Se Claimant Bar No.
Address:
Post Office Box 45062
Tampa, Florida 33677
Phone: 813-335-4046 fax: (813) 898-2908
Email: 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@migclaw.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, SCRPC)
- 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

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED COPY
IN THE COURT OF COMMON PLEAS
2013 MAY 23 P 4:14

ALEXANDER GUICE,

Claimant,

v.

US FOODSERVICE, INC.,

Employer,

and

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

Carrier,

Defendants.

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

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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.

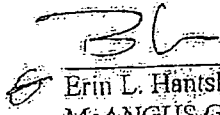
EXHIBIT 23

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.)

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

2013 JUN 13 P 3:21

FILED

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

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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.

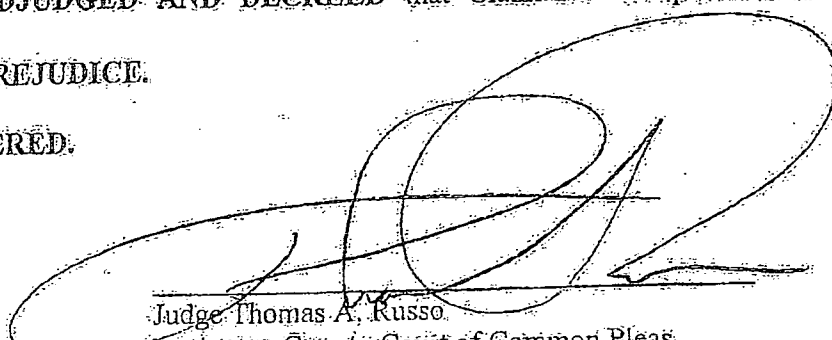
3. Upon exhaustion of all administrative remedies, the above-referenced Claimant may have an appeal to the Circuit Court once that agency has reached a final decision.

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

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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 35
PAGE 1 OF 6

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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

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) SCRCF?"

EXHIBIT 25
PAGE 3 OF 6

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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) SCRCP?"
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.

EXHIBIT 25

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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.

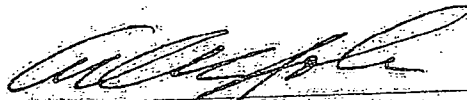
ORDER


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.

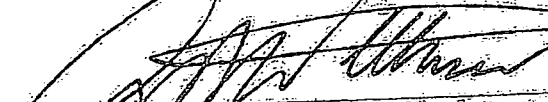
EXHIBIT 25
PAGE 5 OF 6

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AND IT IS SO ORDERED.


Commissioner Andrea C. Roche


Commissioner Melody James


Commissioner Avery Wilkerson, Chair

b m -

CERTIFICATE OF SERVICE

This is to certify that I, the undersigned, has this day served this order in the above entitled action upon parties to this case 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 St. Deher

Administrative Assistant to the Commissioner

Alexander Guice (Reg. Cert)
Eva L. Hartske

EXHIBIT 25
PAGE 6 OF 6

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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. SAUNDERS
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.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Other: _____
- ACTION STRICKEN (CHECK REASON): Rule 43(k), SCRPC (Settled); 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.

THIS ORDER 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. GUISE'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)

EXHIBIT 26

PAGE 1 OF 2

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[Handwritten Signature]
Circuit Court Judge

2141
Judge Code

09/06/2013
Date

For Clerk of Court Office Use Only

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

Alexander Guice P O Box 45062 Tampa, FL 33677

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

ORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg

Beth A. Carrigg - Clerk of Court

rt Reporter

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.

EXHIBIT 26
PAGE 2 OF 2

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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-wc-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

PAGE 1 OF 1

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

March 18, 2014

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

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
Appellate Tracking No.: 2013-002491

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Reply to Appellant's Return and Counterclaim, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return the clocked-in copies in the self-addressed, stamped envelope

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

Very truly yours,


Erin L. Hantske

Enclosures

cc: Alexander Guice, pro se

RECEIVED
MAR 21 2014
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

Honorable Thomas A. Russo

Case No. 2013-002491

RECEIVED

MAR 21 2014

SC Court of Appeals

Alexander Guice, Appellant,

v.

US Food Service, Inc. and
ACE American Insurance Company
c/o Gallagher Bassett Services, Inc., Respondents.

RESPONDENTS' REPLY TO
APPELLANT'S RETURN AND COUNTERCLAIM

Respondents US Food Service, Inc. and ACE American Insurance Company c/o Gallagher Bassett Services, Inc. hereby respond to Appellant Alexander Guice's Return and Counterclaim ("Return and Counterclaim") to Respondents' Motion to Dismiss the appeal in the above-reverenced matter. Respondents were served with Appellant's Return and Counterclaim by mail on March 13, 2014.

First, Appellant has failed to counter Respondents' arguments that: 1) he has not exhausted his administrative remedies, pursuant to S.C. Code Ann. §§ 1-23-380 & 390; Nucor Steel v. South Carolina Pub. Serv. Comm'n, 312 S.C. 79, 439 S.E.2d 270 (1994), or 2) that the orders he is attempting to appeal are not final orders, pursuant to Bone v. U.S. Food Serv., 399 S.C. 566, 733 S.E.2d 200 (2012); Charlotte-Mecklenburg Hosp.

Auth. v. South Carolina Dept. of Health & Env'tl Control, 387 S.C. 265, 692 S.E.2d 894 (2010). Instead, his Memorandum With Citation of Authorities in Support of Appellant's Return and Counterclaim to Respondents' Motion to Dismiss argues the merits of his appeal, rather than respond to the substantive issues raised in Respondents' Motion to Dismiss. The closest Appellant comes to addressing the finality issue is to state, without any support whatsoever, that "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." (Return p. 20). This assertion is incorrect, completely unsupported and, as such, should be rejected. See First Savings Bank v. McLean, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (failure to provide legal support for argument is deemed an abandoned of the issue).

Second, Appellant asserts that Respondents' Motion to Dismiss failed to comply with certain of this Court's rules regarding motions practice, in particular that the motion and attachments are not properly numbered and that Respondents did not file a separate memorandum. To begin with, Respondents are in compliance with Rule 240(c): the pages of the Motion to Dismiss are consecutively numbered and the exhibits are also numbered consecutively as Exhibits A-N. Respondents included a clearly defined "Argument" within their Motion, setting forth concisely the reasons why this appeal is not properly before this Court for appellate review, which includes citations to appropriate legal authority. Appellant's attempt to play a hyper-technical game of "gotcha" should be rejected. Appellate rules should not be interpreted "to create a trap for unwary lawyers." In re: November 4, 2008, Bluffton Town Council Election, 385 S.C. 632, 641, 686 S.E.2d 683, 688 (2009). Instead, to the extent this Court finds any

noncompliance with its rules, which Respondents dispute, this Court should deem the Motion sufficiently compliant. Respondents note that Appellant did not allege any prejudice to him or to this Court resulting from the alleged imperfections he attempts to raise.

Third, Appellant's Return and Counterclaim is a thinly-disguised attempt to have this Court decide not only the substance of this appeal, but also the merits of his appeal of the July 17, 2013 Commission Decision which he erroneously appealed directly to this Court and which has been remanded to the Circuit Court, where it remains pending. (Att O (Remand Order)). The fact that Respondents pointed out the fact that Appellant's appeal of the July 17, 2013 Commission Decision is pending before the Circuit Court does not somehow bestow jurisdiction over that appeal back in this Court, as Appellant appears to believe. Instead, Appellant's continual appeal of non-final orders and attempts to raise matters pending before other forums to this Court is indeed "a gross waste of the Court's, Agency's and parties' time, resources, and materials ..." (Return and Counterclaim, p. 21). This Court should reject Appellant's invitation to "act in a preemptive manner," (*id.*, p. 24), and decline to address the substance of either the instant appeal or the previously appealed and remitted July 17, 2013 Commission Decision.¹

Finally, Respondents have not missed the deadline to file their initial brief and designation of matter. Respondents not only requested that this Court suspend the

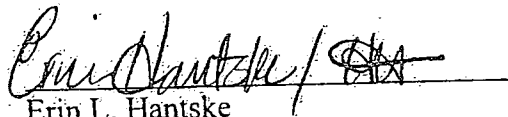
¹ Appellant erroneously argues that dismissing the instant appeal will result in a miscarriage of justice. (Return and Counterclaim, pp. 16-17). Although he is correct that the Commission's regulations allow for motions to be filed with the Commission, "[t]he Commission will not address a motion involving the merits of the claim ..." S.C. Code Reg. § 67-215(B). Thus, his Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments, clearly a motion involving the merit of his claim, was not proper and there has been no miscarriage of justice.

deadline by which they must file their initial brief until their Motion to Dismiss has been decided, but this Court's rules provide for the same. Rule 240(b), SCACR, provides, in pertinent part, that "[a] motion to dismiss an appeal automatically stay[s] the time limits for perfecting the appeal until the motion is decided." Appellant's arguments against the same are unfounded and unsupported. First Savings Bank, 314 S.C. at 363, 444 S.E.2d at 514.

CONCLUSION

For all the reasons stated herein and in Respondents' Motion to Dismiss, Respondents move this Court to suspend the briefing schedule in this appeal until after the Motion to Dismiss has been decided, and to dismiss Appellant's appeal.

Respectfully submitted,



Erin L. Hantske

S.C. Bar No.: 76313

McANGUS GOUDELOCK & COURIE, LLC

Post Office Box 650007

735 Johnnie Dodds Blvd, Suite 200

Mt. Pleasant, South Carolina 29465

(843) 576-2900

Attorney for Respondents

March 18, 2014

Att. 0

The South Carolina Court of Appeals

Alexander Guice, Employee, Claimant, Appellant,

v.

U.S. Food Service, Inc., Employer, and Gallagher Bassett
Services, Inc., Carrier, Defendants, Respondents.

Appellate Case No. 2013-001804

ORDER

Appellant has filed a notice of appeal from an order of the Full Commission of the South Carolina Workers' Compensation Commission. Because Appellant's injury occurred prior to July 1, 2007, Appellant should have filed this appeal with the Court of Common Pleas. See *Pee Dee Regional Transp. v. S.C. Second Injury Fund*, 375 S.C. 60, 62, 650 S.E.2d 464, 465 (2007). Accordingly, this Court transfers this appeal to the circuit court. See Rule 204(a), SCACR ("In the event the notice of appeal is filed in the wrong appellate court, the appellate court in which the matter is filed shall issue an order transferring the case to the appropriate appellate court."); *In re November 4, 2008 Bluffton Town Council Election*, 385 S.C. 632, 641, 686 S.E.2d 683, 688 (2009) (invoking Rule 204(a) and transferring the case to the circuit court because it was the proper appellate forum).


FOR THE COURT

Columbia, South Carolina

cc:

Alexander Guice
Erin Leigh Hantske
Virginia L. Crocker

FILED
12/6/13

301

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

Honorable Thomas A. Russo

Case No. 2013-002491

Alexander Guice, Appellant,

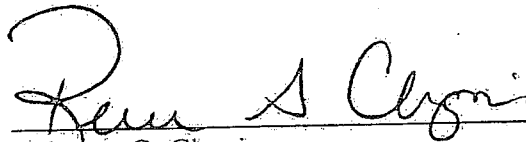
v.

US Food Service, Inc. and
ACE American Insurance Company
c/o Gallagher Bassett Services, Inc., Respondents.

PROOF OF SERVICE

I certify that I have served the Respondents' Reply to Appellant's Return and Counterclaim on Alexander Guice, pro se, by depositing a copy of it in the United States Mail, postage prepaid, on March 18, 2014, addressed as follows:

Alexander Guice
P.O. Box 13281
Tampa, Florida 33681



Rebecca G. Chapin
Legal Assistant to Erin L. Hantske
McANGUS GOUDELOCK & COURIE LLC
735 Johnnie Dodds Blvd., Suite 200
PO Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

Attorneys for Respondents

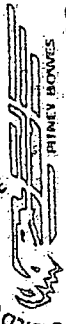
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MAR 21 2014

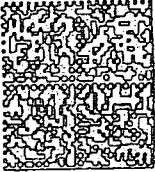
SC Court of Appeals

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SC Court of Appeals

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

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Alexander Guice

P.O. Box 13281
Tampa, FL 33681
Phone: (813) 562-0547
Email: alguice@hotmail.com

March 22, 2014

VIA PRIORITY MAIL

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

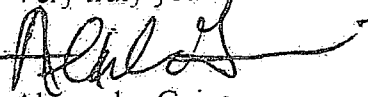
Re: Alexander Guice v. U.S. Food Service, Inc. and ACE American Insurance Company c/o
Gallagher Bassett Services, Inc.
Appellate Case No.: 2013-002941

Dear Ms. Kitchings:

Please find enclosed an original and seven (7) copies of the Appellant's Reply to Respondents' "Reply" to Appellant's Return and Counterclaim to Respondents' Motion to Dismiss and Memorandum with Citation of Authorities in Support of same in regard to the above captioned matter. Please also find enclosed a proof of service. Please forward to the appropriate individual for filing and return a date stamped copy of the same to the Appellant in the prepaid self-addressed envelope enclosed for your convenience.

By copy of this letter the Respondents' by and through the Respondents' counsel of record has been served a copy of the same via priority mail with enclosures.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,

Alexander Guice
Appellant, *pro se*

/AG

Enclosures: As stated

cc: Erin L. Hantske, Esq. (via priority mail w/encl.)

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MAR 25 2014

SC Court of Appeals

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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'

MEMORANDUM WITH CITATION OF AUTHORITIES
IN SUPPORT OF APPELLANT'S REPLY TO RESPONDENTS' "REPLY" TO
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 Reply to Respondents' "Reply" to 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..

TABLE OF AUTHORITIES

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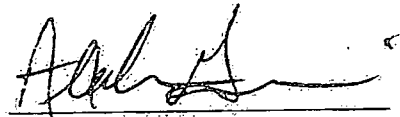
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Alexander Guice
Post Office Box 13281
Tampa, Florida 33681
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Appellant, *pro se*

March 22, 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

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MAR 25 2014

SC Court of Appeals

Alexander Guice, Appellant,

V.

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

APPELLANT'S REPLY TO RESPONDENT'S "REPLY" TO APPELLANT'S
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 particular, Respondent's improperly filed a "Reply" to Appellant's Return and Counterclaim to Respondent's Motion to Dismiss; when in fact, Respondents should have filed a "Return" to Appellant's Counterclaim and a Reply to Appellant's Return to Respondent's Motion to Dismiss. Appellant was served a copy of the Respondent's "Reply" (Reply) to Appellant's Return and Counterclaim dated March 18, 2014 via regular mail on March 22, 2014.

First, Rule 240(c)(2) states in relevant part that each motion SHALL include "a memorandum with citation of authorities in support of the motion." Upon review of the

Respondent's Motion to Dismiss, the Court will confirm that Respondents failed to include a memorandum as to the citation of authorities in support of the Respondents Motion to Dismiss. All case law and authorities contained in Respondents Motion to Dismiss was required to be contained in a memorandum included with the Respondents aforementioned motion to dismiss; however, the Respondents failed to comply. Rule 240(g) SCACR establishes that "Failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition." As such, Appellant continues to assert the Respondent's motion to dismiss must be deemed abandoned, due to the Respondents failure to include the required memorandum, and the time limits must not be stayed to file an initial brief due to the defective and abandoned motion to dismiss filed by the Respondents.

Second, Respondents assert that "Respondents are in compliance with Rule 240(c): the pages of the Motion to Dismiss are consecutively numbered and the exhibits are also numbered consecutively as A-N" (Reply p. 2). However, Rule 240(c) does not establish that supporting documents may be consecutively LETTERED. Further, based on the numerous unnumbered documents associated with each "letter" or "attachment", it was difficult to establish what particular document the Respondents were attempting to assert within each lettered attachment of the Respondents motion to dismiss. Again, Rule 240(g) clearly establishes that the failure of the moving party to perform any act required may be deemed an abandonment of the motion or petition. As such, for a second cause, the Court must deem the Respondents motion to dismiss abandoned, due to the failure of the Respondents to consecutively "number" their supporting documents or attachments, and the time limits must not be stayed due to a defective motion to dismiss filed by the Respondent.

Third, the Respondents "Reply" dated March 18, 2014 is also defective. In particular, Respondents have cited more case law and other authorities, but has again failed to include a memorandum as to the citation of authorities asserted in support of the Respondents "Reply". Respondents "Reply" has failed to comply with Rule 240(c)(2). Further, the Respondents "Reply" continues to provide consecutively 'lettered' attachments, instead of the required consecutively "numbered" attachments, in violation of Rule 240(c). Appellant asserts pursuant to Rule 240(g) the Respondents "Reply" must also be deemed abandoned, and the time limits must not be stayed to file an initial brief due to the defective motion(s) filed by the Respondents.

Fourth, the Respondents erroneously states, "...his Memorandum With Citation of Authorities in Support of Appellant's Return and Counterclaim to Respondents' Motion to Dismiss argues the merits of his appeal, rather than respond to the substantive issues raised in Respondents' Motion to Dismiss (Reply p. 2)"; however, the Respondents are incorrect. The aforementioned Appellant's "Memorandum with Citation of Authorities" which was included with Appellant's Return and Counterclaim made no arguments, as the same was included pursuant to Rule 240(c)(2).

Fifth, although a rebuttal or counter is not required to an "abandoned" motion, Appellant submits that Respondents improperly asserted the Appellant "failed to counter Respondents' arguments" (Reply p. 1) with regards to the March 27, 2013 "Decision" not being a final order, or that Appellant failed to exhaust the Appellant's administrative remedies. As contained in Appellant's "Return and Counterclaim" Appellant asserted the fact that: (1) Worker' Compensation Commission Jurisdictional Commissioner Andrea C. Roche failed to perform her adjudicative responsibilities, pursuant to S.C. Reg. 67-

707, and the like, and adjudicate the Appellant's "Motion for Reinstatement" dated March 4, 2013 which met the criteria for appeal regarding the March 27, 2013 decision per S.C. Code Ann. 1-23-380(5)(a); (2) Executive Director Gary M. Cannon (Mr. Cannon), who issued the disputed March 27, 2013 decision, lacked the authority to "hear and determine contested cases before the commission", which is reserved to commissioners only (S.C. Code Ann. 42-3-20(C)) which met the criteria for appeal regarding the same per S.C. Code Ann. § 1-23-380(5)(b); (3) Mr. Cannon's March 27, 2013 Decision prejudiced the substantial rights of the Appellant, based on the fact that the Motion for Reinstatement was never lawfully adjudicated by a commissioner, and the same met the criteria for appeal pursuant to S.C. Code Ann. 1-23-380(5)(a)-(f); and (5) the Act provides no administrative remedies with respect to decisions rendered by the executive director in a contested case before the commission which met the criteria for appeal regarding the same per S.C. Code Ann. § 1-23-380(5)(c) & (d).

Sixth, the Appellant is not attempting "to play a hyper-technical game of "gotcha" (Reply p. 2) with Respondents. Appellant would assert that it is the Respondents who continue to be evasive and demonstrate deliberate ignorance and negligence to the ADMITTED FACT that Respondents are in **willful violation** of S.C. Code Ann. § 42-9-260(F) and corresponding S.C. Reg. 67-506(D) of the Act. The Respondents were afforded another opportunity, pursuant to the Respondents' "Reply" to:

(A) deny or counter the Appellant's assertion, and supporting documentation, that Appellant received temporary compensation payments for the first 213 days, to include the first 150 days, prior to the Respondents unlawful termination of Appellant's employment and compensation payments (Return and Counterclaim, p. 5, pp. 13), but failed to do so;

(B) deny or counter the Appellant's assertion that Respondents failed to lawfully request a required hearing before the commission, pursuant to S.C. Code Ann. § 42-9-260(F) and S.C. Reg. 67-506(E) of the Act, in particular, to obtain the required permission from the commission, via a required hearing, to terminate compensation payments to the Appellant (Return and Counterclaim, p. 6, pp. 15) but failed to do so;

(C) deny or counter the Appellant's assertion, and supporting documents and law, that the grounds used to discharge the Appellant's employment on November 2, 2005 were unlawful, but failed to do so (Return and Counterclaim, p. 4, pp. 7 and Exhibit 5);

(D) deny or counter the Appellant's assertion, pursuant to S.C. Code Ann. § 42-1-610 and S.C. Code Ann. § 42-1-620 of the Act that the "Settlement Agreement and Release" entered into by the parties and approved by the commission on January 5, 2006

CANNOT lawfully serve to relieve the Respondents obligation to continue compensation payments to the Appellant or provide (or offer) suitable employment to accommodate the Appellant's incapacity (Return and Counterclaim, p. 23-24, pp. 4(A)) but failed to do so;

(E) deny or counter the Appellant's assertion, pursuant to S.C. Code Reg. § 67-707, S.C. Code Ann. § 42-3-20(C) of the Act and Rule 501(3)(B)(1), CJC, Rule 501 SCACR that jurisdictional Commissioner Roche failed to perform her adjudicative responsibilities and issue a written order regarding the Appellant's 'Motion for Reinstatement' (Return and Counterclaim, p. 19-22, pp. 3 (A)-(N)) but failed to do so;

(F) deny or counter the Appellant's assertion, pursuant to S.C. Code Ann. § 42-3-20(C) and S.C. Code Ann. § 42-3-80 of the Act that Executive Director Gary M. Cannon lacked the authority to render a decision in a contested case before the commission (Return and Counterclaim p. 19-22, pp. 3 (A)-(N)) but failed to do so;

(G) deny or counter the Appellant's assertion, that the "Decision and Order" dated July 17, 2013 by the Full Commission is clearly erroneous (Return and Counterclaim p. 22-25, pp. 4), but failed to do so;

(H) deny or counter the Appellant's assertion, pursuant to S.C. Reg. 67-202(5) & (10) of the Act, that the commission, and not the Appellant, are both **liable and responsible** for the more than eight (8) years the Respondents have been allowed to willfully violate S.C. Code Ann. § 42-9-260(F) and S.C. Reg. 67-506(D) of the Act (Return and Counterclaim, p. 10), but failed to do so; and

(I) deny or counter the Appellant's assertion the Appellant was afforded ineffective counsel by Robert G. Bacon, Esq. and Harry Pavilack and Associates, LLC and the Bacon Law Firm, LLC from May 2005 to November 2012 (Return and Counterclaim, p. 4, pp. 4; p. 11-12), but failed to do so.

Appellant asserts it would appear the Respondents are relying upon this Court to disregard the undisputed and uncontested facts in this matter, as contained above, to include the unlawful termination of the Appellant's employment, the unlawful termination of the Appellant's compensation payments, the ineffective counsel the Appellant was afforded, the failure of the commission to perform its statutory duty and ensure the Respondents' compliance to the Act, and the Respondents' documented erroneous grounds used to justify the Appellant's unlawful termination of employment and unlawful termination of the Appellant's compensation payments, namely, the Settlement Agreement and Release.

Finally, in the Respondents Reply, the Respondents' state,

Appellant erroneously argues that dismissing the instant appeal will result in a miscarriage of justice. (Return and Counterclaim, pp. 16-17). Although he is

correct that the Commission's regulations allow for motions to be filed with the Commission, "[t]he Commission will not address a motion involving the merits of the claim..." S.C. Code Reg. § 67-215(B). Thus, his Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments, clearly a motion involving the merits of his claim, was not proper and there has been no miscarriage of justice (Reply, p. 3).

Appellant disagrees with Respondents' rationale on several grounds. The aforementioned rationale of the Respondents was not properly contained in the Respondents' Reply to Appellant's Motion for Reinstatement (Return and Counterclaim, Exhibit 17), and Appellant asserts this argument is both untimely as well as an improper attempt by the Respondents' to submit an argument to the Appellant's Motion for Reinstatement. Additionally, if the jurisdictional commissioner would have complied with the Act and issued a written order with respect to the Appellant's Motion for Reinstatement, S.C. Code Reg. § 67-215(B) would have been a MOOT POINT, in favor of the Respondents' failure to comply with S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) & (E). Further, Appellant's argument of a continuing MISCARRIAGE OF JUSTICE is proper.

In particular, the Commission, pursuant to the unlawful and clearly erroneous March 27, 2013 Decision by Mr. Cannon, and the clearly erroneous Decision and Order of the Full Commission dated July 17, 2013, confirms the Commission's deliberate negligence to perform its statutory duties, pursuant to S.C. Code Reg. § 67-202(5) & (10) and compel the Respondents' to comply with S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) & (E). The Full Commission's "Conclusions of Law", in

particular, that pursuant to S.C. Code Reg. § 67-801 and S.C. Code Reg. § 67-801(E) that the Settlement Agreement and Release relieved the Employer and Carrier from any further responsibility for payment of compensation is in deliberate contradiction to S.C. Code Ann. § 42-1-610, S.C. Code Ann. § 42-1-620, S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) (Return and Counterclaim, Exhibit 25). Similarly, the lower court Order dated June 10, 2013 and subsequent Form 4 dated September 6, 2013 also confirms the lower court's negligence in failing to compel the Respondents' to comply with S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) (Return and Counterclaim, Exhibits 24 and 26).

As such, it would appear that this Court must ensure the "administration of justice" with respect to compelling the Respondents to comply with S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) & (E) of the Act based on the gross negligence and lack of control by the Commission, and the lower court, and if this Court fails to do so, a MISCARRIAGE OF JUSTICE shall continue.

CONCLUSION

The Respondents' Motion to Dismiss dated February 28, 2014 and subsequent Respondents' Reply to Appellant's Return and Counterclaim failed to comply with Rule 240(c) SCACR and Rule 240(c)(2) SCACR, based on the fact that the Respondents' exhibits were consecutively 'lettered' instead of consecutively numbered, and no memorandum with citation of authorities were included with the Respondents' aforementioned motions and must therefore be deemed abandoned. The Appellant **did not** fail to exhaust his administrative remedies within the workers' compensation commission; the Single Jurisdictional Commissioner failed to perform her adjudicative

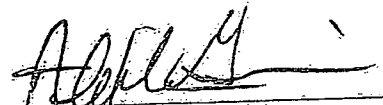
duties, pursuant to S.C. Code Ann. § 42-3-20(C), S.C. Code Reg. § 67-707 of the Act, and the like, by failing to adjudicate the Appellant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments. The executive director of the commission lacked the authority, pursuant to S.C. Code Ann. § 42-3-80 of the Act to intervene in a contested case before the commission. The March 27, 2013 decision from Executive Director Gary M. Cannon was not an order or final order based on the fact Mr. Cannon does not have the authority to issue the same; however the **March 27, 2013 decision** was unlawfully executed with intent deprive and defraud the Appellant, prejudiced the substantial rights of the Appellant, and meets the criteria for appeal pursuant to Rule 201 SCACR and S.C. Code Ann. § 1-23-380(5). The commission has demonstrated **gross negligence** in failing to perform its statutory duties pursuant to S.C. Code Reg. § 67-202(5) & (10) of the Act with respect to the **intentional and deliberate violation** S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) & (E) of the Act by the Respondents', now for more than **eight (8) years**.

The Appellant received temporary compensation payments for approximately **213 consecutive days**, to include the **first 150 days**. The Respondents' **never** filed a Form 21 requesting a hearing before the commission to seek permission to terminate compensation payments to the Appellant, as required, pursuant to S.C. Code Reg. § 67-506(E). No hearing before the commission has ever been convened to consider termination of compensation payments to the Appellant. Therefore, Appellant **did not** settle or waive his rights to compensation on a full and final basis through the Settlement Agreement and Release approved by the commission on January 5, 2006, pursuant to S.C. Code Ann. § 42-1-610, S.C. Code Ann. § 42-1-620, S.C. Code Ann. § 42-9-260(F)

and S.C. Code Reg. § 67-506(D), and as such, Respondents are **not** relieved from any further responsibility or obligation to pay compensation to Appellant or provide suitable employment to accommodate the Appellant's incapacity.

The Settlement Agreement and Release entered into by the parties on December 22, 2005 and approved by the Commission on January 5, 2006 **must** be aside, pursuant to S.C. Code Ann. § 42-1-610 and S.C. Code Ann. § 42-1-620. Based on the substantial rights of the Appellant being violated and prejudiced, by the Respondents' and the commission, for more than 8 years, this Court must perform the required statutory duty, pursuant to S.C. Code Ann. § 1-23-380(5), that the lower court and the commission has **unlawfully** failed to, and **unlawfully** refuses, to perform: **COMPEL THE RESPONDENTS' TO COMPLY WITH S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) of the Act.**

WHEREFORE, based on the foregoing, to include the Appellant's Return and Counterclaim to Respondents' Motion to Dismiss, Appellant moves the Court to deem the Respondents' aforementioned motions abandoned and deny the same, modifying the March 27, 2013 decision by Gary M. Cannon of the commission by granting the Appellant's 'Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments', setting aside the Decision and Order of the Full Commission dated July 17, 2013 and setting aside the Order of the lower court dated June 10, 2013.


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Phone: (813) 562-0547
Appellant, *pro se*

March 22, 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.
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MEMORANDUM WITH CITATION OF AUTHORITIES
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LISTED BELOW, and in accordance with Rule 240(c)(2) SCACR, please find the citation of authorities used in support of the Appellant's Reply to Respondents' "Reply" to 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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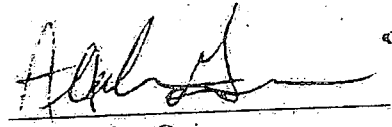
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March 22, 2014

320

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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SC Court of Appeals

Alexander Guice, Appellant,

V.

US Foodservice, Inc., and Ace American Insurance Co.
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APPELLANT'S REPLY TO RESPONDENT'S "REPLY" TO APPELLANT'S
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 particular, Respondent's improperly filed a "Reply" to Appellant's Return and Counterclaim to Respondent's Motion to Dismiss; when in fact, Respondents should have filed a "Return" to Appellant's Counterclaim and a Reply to Appellant's Return to Respondent's Motion to Dismiss. Appellant was served a copy of the Respondent's "Reply" (Reply) to Appellant's Return and Counterclaim dated March 18, 2014 via regular mail on March 22, 2014.

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Respondent's Motion to Dismiss, the Court will confirm that Respondents failed to include a memorandum as to the citation of authorities in support of the Respondents Motion to Dismiss. All case law and authorities contained in Respondents Motion to Dismiss was required to be contained in a memorandum included with the Respondents aforementioned motion to dismiss; however, the Respondents failed to comply. Rule 240(g) SCACR establishes that "Failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition." As such, Appellant continues to assert the Respondent's motion to dismiss must be deemed abandoned, due to the Respondents failure to include the required memorandum, and the time limits must not be stayed to file an initial brief due to the defective and abandoned motion to dismiss filed by the Respondents.

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Third, the Respondents "Reply" dated March 18, 2014 is also defective. In particular, Respondents have cited more case law and other authorities, but has again failed to include a memorandum as to the citation of authorities asserted in support of the Respondents "Reply". Respondents "Reply" has failed to comply with Rule 240(c)(2). Further, the Respondents "Reply" continues to provide consecutively "lettered" attachments, instead of the required consecutively "numbered" attachments, in violation of Rule 240(c). Appellant asserts pursuant to Rule 240(g) the Respondents "Reply" must also be deemed abandoned, and the time limits must not be stayed to file an initial brief due to the defective motion(s) filed by the Respondents.

Fourth, the Respondents erroneously states, "...his Memorandum With Citation of Authorities in Support of Appellant's Return and Counterclaim to Respondents' Motion to Dismiss argues the merits of his appeal, rather than respond to the substantive issues raised in Respondents' Motion to Dismiss (Reply p. 2)"; however, the Respondents are incorrect. The aforementioned Appellant's "Memorandum with Citation of Authorities" which was included with Appellant's Return and Counterclaim made no arguments, as the same was included pursuant to Rule 240(c)(2).

Fifth, although a rebuttal or counter is not required to an "abandoned" motion, Appellant submits that Respondents improperly asserted the Appellant "failed to counter Respondents' arguments" (Reply p. 1) with regards to the March 27, 2013 "Decision" not being a final order, or that Appellant failed to exhaust the Appellant's administrative remedies. As contained in Appellant's "Return and Counterclaim" Appellant asserted the fact that: (1) Worker' Compensation Commission Jurisdictional Commissioner Andrea C. Roché failed to perform her adjudicative responsibilities, pursuant to S.C. Reg. 67-

707, and the like, and adjudicate the Appellant's "Motion for Reinstatement" dated March 4, 2013 which met the criteria for appeal regarding the March 27, 2013 decision per S.C. Code Ann. 1-23-380(5)(a); (2) Executive Director Gary M. Cannon (Mr. Cannon), who issued the disputed March 27, 2013 decision, lacked the authority to "hear and determine contested cases before the commission", which is reserved to commissioners only (S.C. Code Ann. 42-3-20(C)) which met the criteria for appeal regarding the same per S.C. Code Ann. § 1-23-380(5)(b); (3) Mr. Cannon's March 27, 2013 Decision prejudiced the substantial rights of the Appellant, based on the fact that the Motion for Reinstatement was never lawfully adjudicated by a commissioner, and the same met the criteria for appeal pursuant to S.C. Code Ann. 1-23-380(5)(a)-(f); and (5) the Act provides no administrative remedies with respect to decisions rendered by the executive director in a contested case before the commission which met the criteria for appeal regarding the same per S.C. Code Ann. § 1-23-380(5)(c) & (d).

Sixth, the Appellant is not attempting "to play a hyper-technical game of "gotcha" (Reply p. 2) with Respondents. Appellant would assert that it is the Respondents who continue to be evasive and demonstrate deliberate ignorance and negligence to the ADMITTED FACT that Respondents are in willful violation of S.C. Code Ann. § 42-9-260(F) and corresponding S.C. Reg. 67-506(D) of the Act. The Respondents were afforded another opportunity, pursuant to the Respondents "Reply" to:

(A) deny or counter the Appellant's assertion, and supporting documentation, that Appellant received temporary compensation payments for the first 213 days, to include the first 150 days, prior to the Respondents unlawful termination of Appellant's employment and compensation payments (Return and Counterclaim, p. 5, pp. 13), but failed to do so;

(B) deny or counter the Appellant's assertion that Respondents failed to lawfully request a required hearing before the commission, pursuant to S.C. Code Ann. § 42-9-260(F) and S.C. Reg. 67-506(E) of the Act, in particular, to obtain the required permission from the commission, via a required hearing, to terminate compensation payments to the Appellant (Return and Counterclaim, p. 6, pp. 15) but failed to do so;

(C) deny or counter the Appellant's assertion, and supporting documents and law, that the grounds used to discharge the Appellant's employment on November 2, 2005 were unlawful, but failed to do so (Return and Counterclaim, p. 4, pp. 7 and Exhibit 5);

(D) deny or counter the Appellant's assertion, pursuant to S.C. Code Ann. § 42-1-610 and S.C. Code Ann. § 42-1-620 of the Act that the "Settlement Agreement and Release" entered into by the parties and approved by the commission on January 5, 2006

CANNOT lawfully serve to relieve the Respondents obligation to continue compensation payments to the Appellant or provide (or offer) suitable employment to accommodate the Appellant's incapacity (Return and Counterclaim, p. 23-24, pp. 4(A)) but failed to do so;

(E) deny or counter the Appellant's assertion, pursuant to S.C. Code Reg. § 67-707, S.C. Code Ann. § 42-3-20(C) of the Act and Rule 501(3)(B)(1), CJC, Rule 501 SCACR that jurisdictional Commissioner Roche failed to perform her adjudicative responsibilities and issue a written order regarding the Appellant's 'Motion for Reinstatement' (Return and Counterclaim, p. 19-22, pp. 3 (A)-(N)) but failed to do so;

(F) deny or counter the Appellant's assertion, pursuant to S.C. Code Ann. § 42-3-20(C) and S.C. Code Ann. § 42-3-80 of the Act that Executive Director Gary M. Cannon lacked the authority to render a decision in a contested case before the commission (Return and Counterclaim p. 19-22, pp. 3 (A)-(N)) but failed to do so;

(G) deny or counter the Appellant's assertion, that the "Decision and Order" dated July 17, 2013 by the Full Commission is clearly erroneous (Return and Counterclaim p. 22-25, pp. 4), but failed to do so;

(H) deny or counter the Appellant's assertion, pursuant to S.C. Reg. 67-202(5) & (10) of the Act, that the commission, and not the Appellant, are both **liable and responsible** for the more than eight (8) years the Respondents have been allowed to willfully violate S.C. Code Ann. § 42-9-260(F) and S.C. Reg. 67-506(D) of the Act (Return and Counterclaim. p. 10), but failed to do so; and

(I) deny or counter the Appellant's assertion the Appellant was afforded ineffective counsel by Robert G. Bacon, Esq. and Harry Pavilack and Associates, LLC and the Bacon Law Firm, LLC from May 2005 to November 2012 (Return and Counterclaim, p. 4, pp. 4; p. 11-12), but failed to do so.

Appellant asserts it would appear the Respondents are relying upon this Court to disregard the undisputed and uncontested facts in this matter, as contained above, to include the unlawful termination of the Appellant's employment, the unlawful termination of the Appellant's compensation payments, the ineffective counsel the Appellant was afforded, the failure of the commission to perform its statutory duty and ensure the Respondents' compliance to the Act, and the Respondents' documented erroneous grounds used to justify the Appellant's unlawful termination of employment and unlawful termination of the Appellant's compensation payments, namely, the Settlement Agreement and Release.

Finally, in the Respondents Reply, the Respondents' state,

Appellant erroneously argues that dismissing the instant appeal will result in a miscarriage of justice. (Return and Counterclaim, pp. 16-17). Although he is

correct that the Commission's regulations allow for motions to be filed with the Commission, "[t]he Commission will not address a motion involving the merits of the claim..." S.C. Code Reg. § 67-215(B). Thus, his Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments, clearly a motion involving the merits of his claim, was not proper and there has been no miscarriage of justice (Reply, p. 3).

Appellant disagrees with Respondents' rationale on several grounds. The aforementioned rationale of the Respondents was not properly contained in the Respondents' Reply to Appellant's Motion for Reinstatement (Return and Counterclaim, Exhibit 17), and Appellant asserts this argument is both untimely as well as an improper attempt by the Respondents' to submit an argument to the Appellant's Motion for Reinstatement. Additionally, if the jurisdictional commissioner would have complied with the Act and issued a written order with respect to the Appellant's Motion for Reinstatement, S.C. Code Reg. § 67-215(B) would have been a MOOT POINT, in favor of the Respondents' failure to comply with S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) & (E). Further, Appellant's argument of a continuing MISCARRIAGE OF JUSTICE is proper.

In particular, the Commission, pursuant to the unlawful and clearly erroneous March 27, 2013 Decision by Mr. Cannon, and the clearly erroneous Decision and Order of the Full Commission dated July 17, 2013, confirms the Commission's deliberate negligence to perform its statutory duties, pursuant to S.C. Code Reg. § 67-202(5) & (10) and compel the Respondents' to comply with S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) & (E). The Full Commission's "Conclusions of Law", in

particular, that pursuant to S.C. Code Reg. § 67-801 and S.C. Code Reg. § 67-801(E) that the Settlement Agreement and Release relieved the Employer and Carrier from any further responsibility for payment of compensation is in deliberate contradiction to S.C. Code Ann. § 42-1-610, S.C. Code Ann. § 42-1-620, S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) (Return and Counterclaim, Exhibit 25). Similarly, the lower court Order dated June 10, 2013 and subsequent Form 4 dated September 6, 2013 also confirms the lower court's negligence in failing to compel the Respondents' to comply with S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) (Return and Counterclaim, Exhibits 24 and 26).

As such, it would appear that this Court must ensure the "administration of justice" with respect to compelling the Respondents to comply with S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) & (E) of the Act based on the gross negligence and lack of control by the Commission, and the lower court, and if this Court fails to do so, a MISCARRIAGE OF JUSTICE shall continue.

CONCLUSION

The Respondents' Motion to Dismiss dated February 28, 2014 and subsequent Respondents' Reply to Appellant's Return and Counterclaim failed to comply with Rule 240(c) SCACR and Rule 240(c)(2) SCACR, based on the fact that the Respondents' exhibits were consecutively 'lettered' instead of consecutively numbered, and no memorandum with citation of authorities were included with the Respondents' aforementioned motions and must therefore be deemed abandoned. The Appellant did not fail to exhaust his administrative remedies within the workers' compensation commission; the Single Jurisdictional Commissioner failed to perform her adjudicative


duties, pursuant to S.C. Code Ann. § 42-3-20(C), S.C. Code Reg. § 67-707 of the Act, and the like, by failing to adjudicate the Appellant's Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments. The executive director of the commission lacked the authority, pursuant to S.C. Code Ann. § 42-3-80 of the Act to intervene in a contested case before the commission. The March 27, 2013 decision from Executive Director Gary M. Cannon **was not** an order or final order based on the fact Mr. Cannon does not have the authority to issue the same; however the **March 27, 2013 decision** was unlawfully executed with intent deprive and defraud the Appellant, prejudiced the substantial rights of the Appellant, and meets the criteria for appeal pursuant to Rule 201 SCACR and S.C. Code Ann. § 1-23-380(5). The commission has demonstrated **gross negligence** in failing to perform its statutory duties pursuant to S.C. Code Reg. § 67-202(5) & (10) of the Act with respect to the **intentional and deliberate** violation S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) & (E) of the Act by the Respondents', now for more than **eight (8) years**.

The Appellant received temporary compensation payments for approximately **213 consecutive days**, to include the **first 150 days**. The Respondents' **never** filed a Form 21 requesting a hearing before the commission to seek permission to terminate compensation payments to the Appellant, as required, pursuant to S.C. Code Reg. § 67-506(E). No hearing before the commission has ever been convened to consider termination of compensation payments to the Appellant. Therefore, Appellant **did not** settle or waive his rights to compensation on a full and final basis through the Settlement Agreement and Release approved by the commission on January 5, 2006, pursuant to S.C. Code Ann. § 42-1-610, S.C. Code Ann. § 42-1-620, S.C. Code Ann. § 42-9-260(F)

and S.C. Code Reg. § 67-506(D), and as such, Respondents are not relieved from any further responsibility or obligation to pay compensation to Appellant or provide suitable employment to accommodate the Appellant's incapacity.

The Settlement Agreement and Release entered into by the parties on December 22, 2005 and approved by the Commission on January 5, 2006 must be aside, pursuant to S.C. Code Ann. § 42-1-610 and S.C. Code Ann. § 42-1-620. Based on the substantial rights of the Appellant being violated and prejudiced, by the Respondents' and the commission, for more than 8 years, this Court must perform the required statutory duty, pursuant to S.C. Code Ann. § 1-23-380(5), that the lower court and the commission has unlawfully failed to, and unlawfully refuses, to perform: **COMPEL THE RESPONDENTS' TO COMPLY WITH S.C. Code Ann. § 42-9-260(F) and S.C. Code Reg. § 67-506(D) of the Act.**

WHEREFORE, based on the foregoing, to include the Appellant's Return and Counterclaim to Respondents' Motion to Dismiss, Appellant moves the Court to deem the Respondents' aforementioned motions abandoned and deny the same, modifying the March 27, 2013 decision by Gary M. Cannon of the commission by granting the Appellant's 'Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments', setting aside the Decision and Order of the Full Commission dated July 17, 2013 and setting aside the Order of the lower court dated June 10, 2013.



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

March 22, 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,

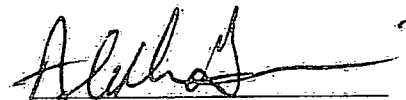
V.

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

PROOF OF SERVICE

I HEREBY CERTIFY I provided the Respondents' a copy of the Appellant's Reply to Respondents' "Reply to Appellant's Return and Counterclaim to Respondents' Motion to Dismiss, a Memorandum with Citation of Authorities in Support of the same and proof of service by depositing the same in the U.S. Postal Service on March 22, 2014 via priority mail, with sufficient priority postage affixed and addressed to: Erin L. Hantske, Esq. McAngus Goudelock & Courie, LLC Post Office Box 650007 Mt. Pleasant, SC 29465 on this 22nd day of March 2014.

March 22, 2014



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

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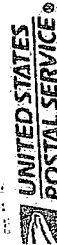
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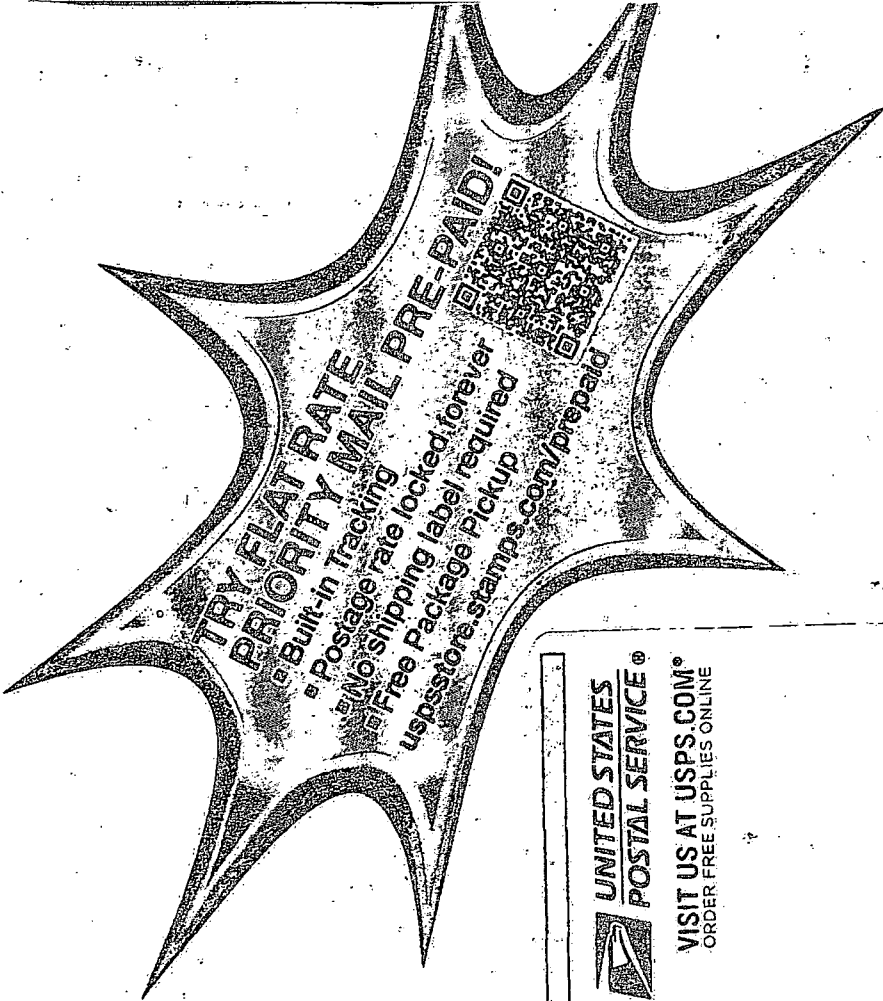


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Alexander Guice

P.O. Box 13281
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May 1, 2014

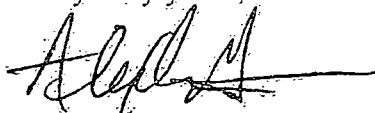
The Honorable Jenny A. Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Alexander Guice v. U.S. Food Service, Inc. and ACE American Insurance Company c/o
Gallagher Bassett Services, Inc.
Appellate Case No.: 2013-002941

Dear Ms. Kitchings:

1. Please find enclosed an original and copy of a Petition for Reinstatement and proof of service in regard to the above captioned matter. Please find a \$25.00 money order for the motion filing fee. Please date stamp the Appellant's copies and return in the prepaid self-addressed envelope enclosed for your convenience.
2. By copy of this letter a copy of the same with enclosures has been furnished to Erin L. Hantske, the counsel of record for the Respondents.
3. Should you have any questions or concerns, please do not hesitate to contact the undersigned. Thank you for your assistance in this matter.

Very truly yours,



Alexander Guice
Appellant, *pro se*

Enclosure(s): As stated

cc: Erin L. Hantske (via reg. mail w/encl.)

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MAY 05 2014

SC Court of Appeals

333

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

72088

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

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MAY 05 2014

Thomas A. Russo, Circuit Court Judge

SC Court of Appeals

Case No.: 2013-002491

Alexander Guice, Appellant,

V.

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

PETITION FOR REINSTATEMENT

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. Pursuant to Rule 240-SCACR Appellant submits this Petition for Reinstatement seeking the Court to reconsider the Order issued in the above captioned matter dated April 24, 2014 wherein the Court granted the Motion to Dismiss filed by the Respondents, on the following grounds:

1. The Order dated April 24, 2014 failed to properly state or adjudicate the Appellant's ground(s) in support of denying the Respondents' Motion to Dismiss. Appellant asserts the aforementioned Order issued by the Court dated April 24, 2014 failed to properly state or adjudicate any of the grounds properly asserted by the Appellant to deny the Respondents' Motion to Dismiss, to include;

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- (A) The failure of the Respondents' to comply with Rule 240(c)(2) SCACR ("*a memorandum with citation of authorities in support of the motion*") to dismiss, which the Respondents' failed to do, as required (*Appellant's Return and Counterclaim, paragraph 2, previously submitted*);
- (B) The failure of the Respondents' to comply with Rule 240(c) SCACR ("*The pages of the motion or petition and all supporting documents shall be consecutively numbered.*") (*Appellant's Return and Counterclaim, paragraph 1, previously submitted*);
- (C) The failure of Commissioner Andrea C. Roche to adjudicate the Appellant's "Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments" which was also not addressed or adjudicated by the Full Commission or the lower court (*Appellant's Return and Counterclaim, paragraph 3, subsections "B" & "L", previously submitted*); and
- (D) The alleged improper action of Commission Executive Director Gary M. Cannon to issue the March 27, 2013 decision regarding the aforementioned "Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments" (*Appellant's Return and Counterclaim, paragraph 3, subsections "C-G", previously submitted*).

Appellant asserts none of the aforementioned arguments or grounds properly asserted by Appellant, as contained above, were stated or adjudicated in the Order dated April 24, 2014, which was required, pursuant to Rule 501(B)(1), CJC, Rule 501 SCACR. As such, Appellant asserts the aforementioned Order dated April 24, 2014 must be set aside to provide a proper adjudication of the Appellant's grounds in support of denying the Respondents' Motion to dismiss which was improperly absent from the same.

2. The Order dated April 24, 2014 remanded this action back to the lower court when in fact the lower court has previously issued an opinion in this matter. The lower court rendered a decision in this matter on June 10, 2013. As asserted by the Appellant, the Order dated June 10, 2013 failed to properly cite a statute, rule, or case law in support of the Order. Appellant asserts it would be improper for this Court to remand this action back to the lower court when the lower court has previously rendered a decision in this matter (*Appellant's Return and Counterclaim, paragraph 3, subsections "O", & "P", previously submitted*). As such, Appellant asserts the aforementioned Order dated April 24, 2014 must be set aside to provide a proper final adjudication of the Appellant's Appeal, by this Court, subsequent to the previous decision issued in this matter by the lower court.

3. The Order dated April 24, 2014 failed to state or adjudicate the Appellant's proper assertion of Error(s) of Law with respect to the Commissions' unlawful approval of the "Settlement Agreement and Release". As contained in the "Appellant's Return and Counterclaim", paragraph 4, subsection "A" and "Appellant's Reply to Respondents' "Reply" to Return and Counterclaim", pages, 4-5, sections "A" through "D" the Settlement Agreement and Release approved by the Commission on January 5, 2006 in this matter violated SC Code Ann. §42-1-610 and SC Code Ann. §42-1-620, in particular, based on the fact the Appellant had received compensation payments for more than, and including, the First 150 days IAW SC Code Reg. §67-506(D) and therefore the Appellant's lawful right to compensation payments could not be settled, waived, or the like, by way of Settlement Agreement and Release. Appellant also notes that the Respondents' did not deny or counter this FACT when afforded the opportunity to do so.

As such, Appellant asserts the Order dated April 24, 2014 must be set aside to provide a proper adjudication of the Appellant's aforementioned assertion of error(s) not stated or adjudicated in the same, which was required, pursuant to Rule 501(B)(1), CJC, Rule 501 SCACR.

4. **The Order dated April 24, 2014 granted the Respondents' Motion to Dismiss on grounds citing case law, but failed to challenge the Appellant's assertion of appealability pursuant to Rule 201 SCACR.** The Court granted the Respondents' Motion to Dismiss, in particular, by affirming the Respondents' position that the March 27, 2013 decision issued by Commission Executive Director Gary M. Cannon (Mr. Cannon) was not a final order, to include the citing of several cases in support of the Order of the Court. However, as contained in the Appellant's Return and Counterclaim, paragraph "3", subsection "P", Appellant asserted the lawful right to appeal the March 27, 2013 decision issued by Mr. Cannon. Rule 201 SCACR in relevant part states,

"Judgments, Orders and Decisions Subject to Appeal. Appeal may be taken, as provided by law, from any final judgment, appealable order or decision."

Appellant properly asserted that the March 27, 2013 decision rendered by Mr. Cannon summarily served as a final judgment due to the fact that neither the Commission in their "Decision and Order" dated July 17, 2013 nor the lower court in the Order dated June 10, 2013 rendered an opinion regarding the March 27, 2013 decision of Mr. Cannon. Further, Rule 201 SCACR clearly affords a party the legal right to challenge decisions, in addition to Final Judgments, Orders, and Final Orders before this Court.

Still further, application of the Court Rules controls or supersedes application of case law, as established in Rule 268 SCACR. Appellant asserts before the Court could

consider applicable case law proffered by the Respondents' in support of the Motion to Dismiss, the Court should have properly stated and adjudicated the Appellant's challenge of the appealability of the March 27, 2013 Decision of Mr. Cannon pursuant to Rule 201 SCACR; however, the Court failed to do so. As such, Appellant asserts the Order dated April 24, 2014 must be set aside to properly state and adjudicate the Appellant's proper challenge of the March 27, 2013 Decision of Mr. Cannon based on the proper assertion of Rule 201 SCACR.

5. The Order dated April 24, 2014 is biased towards the Appellant and prejudiced the substantial rights afforded to the Appellant. As it directly relates to the grounds asserted by the Appellant to deny the Respondents' Motion to Dismiss, the aforementioned April 24, 2014 Order states, "**Appellant filed a return.**" The Order fails to state or adjudicate any of the Appellant's grounds, with specificity, asserted in support of denying Respondents' Motion to Dismiss.

As it relates to the aforementioned Order dated April 24, 2014 failing to state or adjudicate any of the Appellant's grounds properly asserted in support of denying the Respondents' Motion to Dismiss, Rule 501(3)B(5), CJC, Rule 501 SCACR states in relevant part, "*A judge shall perform judicial duties without bias or prejudice.*" Based on the error of the Court to state or adjudicate the grounds properly asserted by the Appellant in support of denying the Respondents' Motion to Dismiss, Appellant's lawful right to be heard has substantially been prejudiced, pursuant to the Order dated April 24, 2014.


As such, Appellant asserts the Order dated April 24, 2014 must be set aside to properly state and adjudicate the Appellant's properly submitted grounds in support of

denying the Respondents' Motion to dismiss, as required, pursuant to Rule 501(3)B, CJC, Rule 501 SCACR

CONCLUSION

WHEREFORE, based on the foregoing, Appellant moves the Court to grant this Petition for Reinstatement by immediately setting aside the Order dated April 24, 2014, with prejudice, and issuing a revised Order regarding the Respondents' Motion to Dismiss **BECAUSE**:

1. **The Order dated April 24, 2014 failed to properly state or adjudicate the Appellant's ground(s) in support of denying the Respondents' Motion to Dismiss;**
2. **The Order dated April 24, 2014 remanded this action back to the lower court when in fact the lower court has previously issued an opinion in this matter;**
3. **The Order dated April 24, 2014 failed to state or adjudicate the Appellant's proper assertion of Error(s) of Law with respect to the Commissions' unlawful approval of the "Settlement Agreement and Release";**
4. **The Order dated April 24, 2014 granted the Respondents' Motion to Dismiss on grounds citing case law, but failed to challenge the Appellant's assertion of appealability pursuant to Rule 201 SCACR; and**
5. **The Order dated April 24, 2014 is biased towards the Appellant and prejudiced the substantial rights afforded to the Appellant.**



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

April 28, 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'.

PROOF OF SERVICE

I HEREBY CERTIFY to the Clerk of Court that a copy of a 'Petition of Reinstatement' and proof of service was provided to the Respondents' by depositing the same in the US Postal Service on May 1, 2014 with sufficient postage to the Respondents' counsel of record, Erin L. Hantske and addressed to: Erin L. Hantske, Esq., McAngus Goudelock & Courie, LLC P.O. Box 650007 Mt. Pleasant, SC 29465 on this 1st day of May 2014.



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

May 1, 2014

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Reply To

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

May 8, 2014

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

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
Appellate Tracking No.: 2013-002491

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Return in Opposition to Appellant's Petition for Reinstatement, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return the clocked-in copies in the self-addressed, stamped envelope.

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

Very truly yours,


Erin L. Hantske

Enclosures

cc: Alexander Guice, pro se

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MAY 14 2014

SC Court of Appeals

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

Honorable Thomas A. Russo

Case No. 2013-002491

Alexander Guice, Appellant,

v.

US Food Service, Inc. and
ACE American Insurance Company
c/o Gallagher Bassett Services, Inc., Respondents.

RESPONDENTS' RETURN
IN OPPOSITION TO
APPELLANT'S PETITION FOR REINSTATEMENT

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MAY 14 2014

SC Court of Appeals

Respondents US Food Service, Inc. and ACE American Insurance Company c/o Gallagher Bassett Services, Inc. hereby oppose Appellant Alexander Guice's Petition for Reinstatement ("Petition"). Appellant presents no valid reason for this Court to reinstate his appeal, and nothing in his Petition alters the basis of this Court's dismissal, i.e., that this appeal does not involve a final order of the Circuit Court. Bone v. U.S. Food Serv., 399 S.C. 566, 733 S.E.2d 200 (2012); Charlotte-Mecklenburg Hosp. Auth. v. South Carolina Dept. of Health & Env't'l Control, 387 S.C. 265, 692 S.E.2d 894 (2010). As this Court noted, the Circuit Court's June 14, 2013 dismissal specifically recognized that,

“[u]pon exhaustion of all administrative remedies, [Appellant] may have an appeal to the Circuit Court once [the Commission] has reached a final decision.” In addition, as this Court explained, the South Carolina Workers’ Compensation Commission issued a final order on July 17, 2013, which Appellant has appealed to the Circuit Court under the same workers’ compensation file number that is the subject of this appeal, W.C.C. No. 0506205.

Appellant’s various arguments are without merit. In Sections No. 1 and 3, he asserts that this Court failed to “properly state or adjudicate” the various grounds stated by Appellant in his Return. However, the first two grounds listed by Appellant in Section No. 1 involve this Court’s procedural rules, with which Respondents’ Motion to Dismiss adequately complied. The final two grounds asserted in Section No. 1 and in Section No. 3 involve the substance of Appellant’s claim and do not serve as a basis to reinstate his appeal of a non-final order. This Court’s Order disposed of all the arguments raised by both sides and, thus, is in full compliance with Canon 3(b)(1), CJC, Rule 501, SCACR.¹

In Section No. 2, Appellant erroneously argues that remand is improper because the Circuit Court has already rendered a decision. The Circuit Court has not rendered a decision on the merits of this claim but, instead, dismissed Appellant’s previous appeal on the ground that Appellant failed to exhaust his administrative remedies. Thus, it is entirely proper for this Court to remand to the Circuit Court for consideration of his entire appeal in one forum. Bone, 399 S.C. at 575-76, 733 S.E.2d at 205 (discouraging piecemeal litigation of appeals).

¹ Although Appellant’s citation is somewhat unclear, Respondents assume this is the provision he intends to reference, which provides that “[a] judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

In Section No. 4, Appellant attempts to challenge the substance of this Court's Order, i.e., that this appeal does not involve a final order. Although Appellant focuses on the letter written to him by Mr. Cannon, this Court's appellate jurisdiction is based on whether the Circuit Court's June 14, 2013 Order is final – as that is the forum from which this appeal arises. As this Court and the Supreme Court have explained, a final judgment is one that “dispose[s] of the whole subject matter of the action or terminate[s] the action, leaving nothing to be done but to enforce what has already been determined.” Bone, 399 S.C. at 575, 733 S.E.2d at 204-05, citing Charlotte-Mecklenburg, 387 S.C. at 267, 692 S.E.2d at 895.² As the Circuit Court's June 14, 2013 Order dismissed his appeal on the basis that Appellant had not exhausted his administrative remedies and noted that Appellant “may have an appeal to the Circuit Court once that agency has reached a final decision,” it clearly was not a final order disposing of the whole subject matter of Appellant's claim.

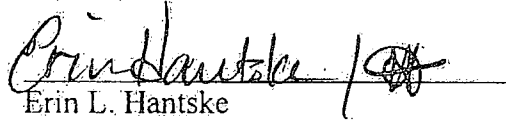
Finally, the allegations in Section No. 5 of Appellant's Petition are completely meritless and unsupported. Although Canon 3(B)(5), CJC, Rule 501, SCACR, addresses prejudice or bias in the courtroom, that Canon makes it clear that it is directed at and intended to prevent bias or prejudice based on such characteristics as “race, sex, religion, national origin, disability or age” There is no evidence whatsoever that Appellant has been subjected to any such bias or prejudice by this Court. Furthermore, as the Preamble to the Code of Judicial Conduct states, the “Code is designed to provide guidance to judges,” and was not intended to be “invoked by lawyers for mere tactical advantage in a proceeding.” Preamble, CJC, Rule 501, SCACR.

² Appellant clearly misunderstands the purpose and application of Rule 268, SCACR, which does not set up the priority or order of precedence for the authorities listed therein, but simply provides

CONCLUSION

For all the reasons stated herein, this Court should deny Appellant's Petition.

Respectfully submitted,



Erin L. Hantske

S.C. Bar No.: 76313

McANGUS GOUDELICK & COURIE, LLC

Post Office Box 650007

735 Johnnie Dodds Blvd, Suite 200

Mt. Pleasant, South Carolina 29465

(843) 576-2900

Attorney for Respondents

May 8, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

Honorable Thomas A. Russo

Case No. 2013-002491

Alexander Guice, Appellant,

v.

US Food Service, Inc. and
ACE American Insurance Company
c/o Gallagher Bassett Services, Inc., Respondents.

PROOF OF SERVICE

I certify that I have served the **Respondents' Return in Opposition to Appellant's Petition for Reinstatement** on Alexander Guice, pro se, by depositing a copy of it in the United States Mail, postage prepaid, on May 8, 2014, addressed as follows:

Alexander Guice
P.O. Box 13281
Tampa, Florida 33681



Sharon Strubel
Legal Assistant to Erin L. Hantske
McANGUS GOUDELOCK & COURIE LLC
735 Johnnie Dodds Blvd., Suite 200
PO Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

Attorneys for Respondents

RECEIVED

MAY 14 2014

SC Court of Appeals

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mgc | **INSURANCE
DEFENSE**

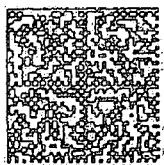
POST OFFICE BOX 650007
MOUNT PLEASANT, SC 29465

2098.12550/ELH/rgc
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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MAY 14 2014

SC Court of Appeals



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Alexander Guice

P.O. Box 13281
Tampa, FL 33681
Phone: (813) 562-0547
Email: alguice@hotmail.com

May 12, 2014

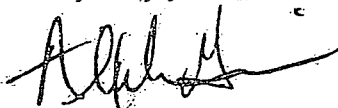
The Honorable Jenny A. Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Alexander Guice v. U.S. Food Service, Inc. and ACE American Insurance Company c/o
Gallagher Bassett Services, Inc.
Appellate Case No.: 2013-002941

Dear Ms. Kitchings:

1. Please find enclosed an original and copy of Reply to Respondents' Return in Opposition to Appellant's Petition for Reinstatement, Memorandum with citation of authorities in support of reply to Respondents' Return in Opposition to Appellant's Petition for Reinstatement, and proof of service in regard to the above captioned matter. Please date stamp the Appellant's copies and return in the prepaid self-addressed envelope enclosed for your convenience.
2. By copy of this letter a copy of the same with enclosures has been furnished to Erin L. Hantske, the counsel of record for the Respondents.
3. Should you have any questions or concerns, please do not hesitate to contact the undersigned. Thank you for your assistance in this matter.

Very truly yours,



Alexander Guice
Appellant, *pro se*

Enclosure(s): As stated

cc: Erin L. Hantske (via reg. mail w/encl.)

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MAY 15 2014

SC Court of Appeals

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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MAY 15 2014

SC 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'

**MEMORANDUM WITH CITATION OF AUTHORITIES
IN SUPPORT OF REPLY TO RESPONDENTS' RETURN IN
OPPOSITION TO APPELLANT'S PETITION FOR REINSTATEMENT**

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

TABLE OF AUTHORITIES

CASES

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Rule 240(c)(2) SCACR..... 1


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Liberty Mutual Insurance Company v. South Carolina Second Injury Fund, 363 S.C. 612, 611 S.E.2d 297 (Ct. App. 2005)..... 8

Frame v. Resort Services, Inc., 357 S.C. 520, 593 S.E.2d 491 (Ct. App. 2004)..... 8
Corbin v. Kohler Company, 351 S.C. 613, 571 S.E.2d 92 (Ct. App. 2002)..... 8
Grant v. Grant Textiles, 361 S.C. 188, 191, 603 S.E.2d 858, 859 (Ct. App. 2004)..... 8
Stokes v. First National Bank, 298 S.C. 13, 377 S.E.2d 922 (S.C. App. 1988)..... 9



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

May 12, 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

RECEIVED
MAY 15 2014
SC Court of Appeals

Case No.: 2013-002491

Alexander Guice, Appellant,

V.

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

**REPLY TO RESPONDENTS' RETURN IN OPPOSITION TO APPELLANT'S
PETITION FOR REINSTATEMENT**

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. Appellant was served with a copy of the Respondents' Return in Opposition to Appellant's Petition For Reinstatement dated May 8, 2014 via regular mail with service of the same to the Appellant on May 12, 2014. Pursuant to Rule 240 SCACR Appellant submits this Reply to Respondents' Return in Opposition to Appellant's Petition For Reinstatement, and would further state as follows:

1. **The Respondents return is without merit.** The Respondents, by way of Erin L. Hantske, Esquire (Attorney Hantske), asserts that the Respondents 'Motion to Dismiss' "adequately complied" with Rule(s) 240(c) and (c)(2) SCACR; however, a review of the Respondents Motion to Dismiss confirms the absence of a Memorandum of Citations in support

of the motion. Additionally, none of the supporting documents submitted by Respondents were “consecutively numbered”, which was also a requirement. If the Motion to Dismiss filed by the Respondents were in compliance with the South Carolina Appellate Court Rules, then Appellant asserts the April 24, 2014 Order dismissing this action should have stated as much, but failed to do so.

Furthermore, the Respondents, and the Court, continues to act with DELIBERATE IGNORANCE regarding the FACT that the “Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments” (**Return and Counterclaim, Exhibit “16” previously submitted**) filed by the Appellant with the workers’ compensation commission dated March 4, 2013 was never adjudicated by the Commission or the lower court. The Court Order dated April 24, 2014 failed to adjudicate whether Commission Executive Director Gary M. Cannon had the authority to issue a decision regarding a contested case before the commission, or address the fact that the Respondents filed a proper ‘Reply’ (**Return and Counterclaim, Exhibit “17” previously submitted**) to the aforementioned “Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments” wherein Attorney Hantske failed to “affirm or deny” the arguments contained in the aforementioned motion.

Still further, Attorney Hantske MADE NO MENTION, as evidenced in the Respondents ‘Return in Opposition to Appellant’s Petition for Reinstatement’, to the Appellant’s VALID ARGUMENT that Mr. Cannon’s letter dated March 27, 2013 returning the aforementioned “Motion for Reinstatement of Employment and Release of Temporary Total Compensation Payments” to the Appellant, un-adjudicated by the jurisdictional commissioner on the grounds “the Commission does not have subject matter jurisdiction for the issues set forth in the

Motion” (Return and Counterclaim, Exhibit “21” previously submitted) constituted a DECISION that is in fact appealable pursuant to Rule 201 SCACR. The aforementioned March 27, 2013 decision by Mr. Cannon prejudiced the substantial rights afforded to the Appellant, AND TO DATE, the aforementioned motion HAS NEVER BEEN LAWFULLY ADJUDICATED. Attorney Hantske cites the grounds asserted by the lower court order dated June 14, 2013 to dismiss this matter, although the order dated June 14, 2013 contains NO STATUTE, RULE, or CITATION OF CASE LAW in support of the opinion (*Return and Counterclaim, Exhibit “24” previously submitted*).

Additionally, the Respondents through Attorney Hantske asserts “The Circuit Court has not rendered a decision on the merits of this claim but, instead, dismissed Appellant’s previous appeal on the grounds that Appellant failed to exhaust his administrative remedies” (Respondents Return to Petition for Reinstatement, p. 2); however, the Appellant poses this question for the Appellate Court to consider, which respectfully should have been properly addressed and adjudicated in the April 24, 2014 Order: WHAT ADMINISTRATIVE REMEDIES UNDER THE ACT ARE AFFORDED TO A PARTY WITH RESPECT TO THE LEGAL RIGHT TO APPEAL OR OTHERWISE CHALLENGE A DECISION IN A CONTESTED CASE BEFORE THE COMMISSION THAT IS RENDERED BY THE EXECUTIVE DIRECTOR OF THE COMMISSION?

The lower court order dated June 14, 2013 as well as the April 24, 2014 Order from this Court reflects a pattern of deliberate ignorance with respect to hearing and deciding all matters brought before the Court with respect to the failure of the Commission to adjudicate the aforementioned motion for reinstatement of employment and release of temporary total compensation payments and instant actions of executive director Gary M. Cannon of the

Commission, and demonstrates a clear departure from the essential requirements of law.

Finally, it is more than understandable and expected that the Respondents would agree with the April 24, 2014 Order of this Court. However, it is the firm position of the Appellant that if the April 24, 2014 Order would have been favorable to the Appellant, and with respect to the arguments submitted the Respondents, the aforementioned Order only referenced the Respondents arguments by stating "RESPONDENTS FILED A RETURN" that the Respondents would have valid grounds to challenge that Order. The Order dated April 24, 2014 dismissing this action is CLEARLY BIASED to the Appellant, and the Respondents "Return" in opposition to Reinstatement of this matter is without merit.

2. **The Appeal must be reinstated based on the failure of the April 24, 2014 Order to adjudicate the Appellant's proper argument challenging the validity of the Settlement Agreement and Release.** The 'Respondents Return in Opposition to Appellant's Petition For Reinstatement' MAKES NO REFERENCE OR ARGUMENT in opposition to Appellant's assertion that the Settlement Agreement and Release entered into by the parties on December 22, 2005 and approved by the Commission on January 5, 2006 (*Return and Counterclaim, Exhibit "8", previously submitted*) is in willful violation of S.C. Code Ann. §42-1-620 and therefore must be invalidated by this Court.

Appellant asserts every Order rendered in this matter from the Commission favorable to the Respondents is predicated on the presumption that the Settlement Agreement and Release approved by the Commission, and in particular, Commissioner David W. Huffstetler, is valid. However, Appellant presented UNDISPUTED EVIDENCE which constitutes ABSOLUTE PROOF, NEVER DENIED OR CHALLENGED BY THE RESPONDENTS, that at the time the Respondents terminated the Appellant's compensation payments on December 4, 2005 the

Appellant had IN FACT received compensation payments for approximately 213 CONSECUTIVE DAYS, to include the FIRST 150 DAYS pursuant to the WCC Form 18 – Periodic Report filed with the commission by the Respondents Representative. (*Return and Counterclaim, Exhibit “6”, previously submitted*).

SC Code Ann. § 42-1-610 (1962) states in relevant part,

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 (emphasis added).

SC Code Ann. § 42-1-620 (1962) states in relevant part,

No agreement by an employee to waive his rights to compensation under this Title shall be valid (emphasis added).

Furthermore, S.C. Code Ann. §42-9-260(F) & (G) (1996) states in relevant part,

(F) After the one-hundred-fifty-day period has expired, the commission shall provide by regulation the method and procedure by which benefits may be suspended or terminated for any cause, but the regulation must provide for an evidentiary hearing and commission approval prior to termination or suspension unless such prior hearing is expressly waived in writing by the recipient or the circumstances identified in Section 42-9-260(B)(1) or (B)(2) are present. Further, the commission may not entertain any application to terminate or suspend benefits unless and until the employer or carrier is current with all payments due.

(G) Failure to comply with this section shall result in a twenty-five percent penalty imposed upon the carrier or employer computed on the amount of benefits withheld in violation of this section, and the amount of the penalty must be paid to the employee in addition to the amount of benefits withheld. However, the penalty does not apply if the employer or carrier has terminated or suspended benefits when the employee has returned to any employment at the same or similar wage (emphasis added).

Still further, S.C. Code Reg. § 67-506(D) & (E) (1997) states in relevant part,

D. 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 (emphasis added).

E. To request a hearing for permission to terminate temporary compensation, the employer's representative shall file a Form 21 with the Judicial Department.

(1) The employer's representative shall serve a copy of the Form 21 on the claimant according to R.67-211.

(2) The employer's representative shall certify temporary compensation is current or no hearing will be set (emphasis added).

Therefore, Appellant could not legally settle, waive, or in any manner agree to terminate compensation payments received by the Appellant, or agree to relieve the Respondents continuing obligation to pay compensation benefit payments to the Appellant; (1) once the Appellant received compensation payments after 150 days; and (2) when the authorized health care provider, namely, Dr. Alan Tamadon, assigned an impairment rating, and reported to the Respondents that the Appellant was unable to perform the same or similar job due to the Appellant's work-related incapacity (*Return and Counterclaim, Exhibit "4", previously submitted*).

As such, this clearly erroneous Settlement Agreement and Release which violates S.C. Code Ann. § 42-1-620 (1962) is the only grounds asserted by the Respondents with respect to failing to comply with S.C. Code Ann. § 42-9-260(F) & (G) (1996) as well as S.C. Code Reg. §67-506(D) (1997), based on the fact that no STOP PAYMENT HEARING HAS EVER BEEN LAWFULLY REQUESTED BY THE RESPONDENTS OR CONVENED IN THIS MATTER BY THE COMMISSION, AS REQUIRED, and the fact that the Appellant duly challenged the validity of the Settlement Agreement and Release as contained in "*paragraph 4 (A)*", *pages 24-25* of the Appellant's 'Return and Counterclaim to Respondents Motion to Dismiss' which was previously submitted. This Court must reinstatement this matter and issue an opinion regarding the validity of the aforementioned Settlement Agreement and Release approved by the Commission on January 5, 2006 which was properly challenged by the Appellant.

Should the Court issue an opinion that the aforementioned Settlement Agreement and

Release is in fact **not valid** with respect for use by the Respondents to continue unlawfully termination of temporary total compensation payments, which the Appellant's argument of the illegality of the "clincher" was **never** contested by, but used in support of not paying compensation to the Appellant, by the Respondents (*See Exhibit "1, pages 2 & 5" enclosed herein ("Defendants deny that the Claimant is entitled to any additional benefits under the S.C. Workers' Compensation Act as he entered into a clincher settlement agreement to resolve his claim related to his accident of May 5, 2005 and this settlement was approved by the Commission")*), then Appellant asserts the Respondents would be lawfully required to **immediately** comply with S.C. Code Ann. § 42-9-260(F)&(G) (1996) and S.C. Code Reg. § 67-506(D) (1997) by immediately releasing illegally withheld temporary total compensation payments to the Appellant, at the mutually agreed upon average weekly wage of **\$1,161.00** (*Return and Counterclaim, Exhibit "1", previously submitted*) with the carrier responsible for **66 and 2/3 percent** of the weekly wage, the employer responsible for **33 1/3 percent** of the weekly wage, effective **November 2, 2005** to date, plus the **25% penalty** on the illegally withheld compensation payments.

Further, the Court's proper and legal invalidation of the Settlement Agreement and Release or "clincher" would **automatically** result in the **vacating** of the invalid Order dated February 22, 2013 by Commissioner Susan S. Barden (*Return and Counterclaim, Exhibit "14", previously submitted*); the invalid "Decision and Order" dated July 17, 2013 by the Full Commission (*Return and Counterclaim, Exhibit "25", previously submitted*); the invalid March 27, 2013 decision by Executive Director Gary M. Cannon, the invalid June 14, 2013 Order of the lower court, and result in the immediate administrative dismissal of the current appeal before the lower court regarding the aforementioned July 17, 2013 "Decision and Order"

of the Full Commission, under Case Number 2014-CP-32-00399 before the Lexington County Court of Common Pleas.

CONCLUSION

Under Standard of Review, the South Carolina Administrative Procedures Act establishes the standard for judicial review of decisions of the workers' compensation commission. Hargove v. Titan Textile Co., 360 S.C. 454, 617 S.E. 2d 369 (Ct. App. 2005). A reviewing court may reverse or modify a decision of an agency if the findings, inferences, conclusions, or decisions of that agency are "clearly erroneous in view of the reliable, probative and substantial evidence on the whole record." Brusey v. South Carolina Department of Health & Environmental Control, 360 S.C. 135, 141, 600 S.E. 2d 80, 84 (Ct. App. 2004). S.C. Code Ann. § 1-23-380(A)(6)(e). Under the scope of review established by the S.C. Administrative Procedures Act (APA), the Appellate Court may not substitute its judgment for that of the appellate panel as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law. Liberty Mutual Insurance Company v. South Carolina Second Injury Fund, 363 S.C. 612, 611 S.E. 2d 297 (Ct. App. 2005); Frame v. Resort Services, Inc., 357 S.C. 520, 593 S.E. 2d 491 (Ct. App. 2004).

The substantial evidence rule of the APA governs the standard of review in a workers' compensation decision. Frame, 357 S.C. at 527, 593 S.E. 2d at 494; Corbin v. Kohler Company, 351 S.C. 613, 571 S.E. 2d 92 (Ct. App. 2002). In the instant case, and pursuant to the APA, the Appellate Court's review is limited to deciding whether the agency's decision to approve the Settlement Agreement and Release is unsupported by substantial evidence or is controlled by some error of law. Grant v. Grant Textiles, 361 S.C. 188, 191, 603 S.E.2d 858, 859 (Ct. App. 2004) ("A reviewing court will not overturn a decision by the workers' compensation

commission unless the determination is unsupported by substantial evidence or is affected by an error of law"). A review of the record clearly establishes that the Appellant received compensation payments for a period of 213 consecutive days, including the first 150 days. As such, the Respondents were, and remains obligated to pay temporary total compensation payments to the Appellant, at the mutually agreed average weekly wage of \$1,161.00 pursuant to S.C. Code § 42-9-260 (F) and S.C. Code Reg. § 67-506 (D). The Respondents have never applied for permission to terminate temporary total compensation payments to the Appellant by filing a WCC Form 21 in this matter with the Commission pursuant to S.C. Code Reg. § 67-506 (E).


The Commission has never convened a stop payment hearing, and therefore has never lawfully granted permission to the Respondents to terminate compensation payments to the Appellant. The Settlement Agreement and Release entered into by the parties on December 22, 2005 and approved by the workers' compensation commission **could not** serve in any way to settle, waive, resolve or terminate the Appellant's legal right to continue receiving temporary total compensation payments. Pursuant to S.C. Code Ann. § 42-1-610 (1962) and S.C. Code Ann. § 42-1-620 (1962) the Appellate Court must vacate the aforementioned Settlement Agreement and Release.

In Stokes v. First National Bank, 298 S.C. 13, 377 S.E.2d 922 (S.C. App. 1988) this Court determined "Compensation laws constitute of form of social legislation and were enacted primarily for the benefit, protection and welfare of working men and their dependents; and such laws should be construed liberally in favor of the employees and their dependents, in furtherance of the beneficent purposes for which they were enacted and to avoid any incongruous or harsh results." The Appellant has been unlawfully deprived access to entitled compensation benefits,

to include access to medical, dental and compensation payments since November 2, 2005, more than eight (8) years. The Appellant has been unemployed and unable to obtain any employment since being unlawfully terminated by the employer on or around November 2, 2005 (*Return and Counterclaim, Exhibit "5", previously submitted*). The actions of both the workers' compensation commission and the Respondents have had "incongruous" and "harsh" results upon the Appellant.

WHEREFORE, based on the foregoing, to include all pleadings and supporting documents filed in this action, Appellant moves the Court to deny the relief sought by the Respondents, REINSTATE this appeal, and **AGGRESSIVELY ACT** to vacate the Settlement Agreement and Release approved by the workers' compensation commission, and the like, relied upon by the Respondents to continue unlawful withholding of temporary total compensation payments to the Appellant **BECAUSE**;

1. **The Respondents Return in Opposition to Appellant's Petition for Reinstatement is without merit;**
2. **The Appeal must be reinstated based on the failure of the April 24, 2014 Order to adjudicate the Appellant's proper argument challenging the validity of the Settlement Agreement and Release; and**
3. **The grounds asserted in support of Reinstatement reflect valid issues previously argued by the Appellant which the April 24, 2014 Order failed to clearly address or adjudicate.**


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

May 12, 2014

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 GOUDELICK & 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
Post Office Box 8651
Tampa, Florida 33674

South Carolina Worker's Compensation Commission
1333 Main Street, Suite 500 Post Office Box 1715
Columbia, South Carolina 29202-1715

DOCUMENT: Amended Form 51

DATE OF MAILING: January 14, 2013



Holly Hart
Legal Assistant to Erin L. Flantske

EXHIBIT
1 OF 6

363

SC Workers' Compensation Commission

333 Main Street, suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
803)737-5723



WCC File #: 0506205

Carrier File #: 004063-032175-wc-01

Carrier Code #:

Employer FEIN #: 36-3642294

Alexander Guice
Claimant's Name SSN
Post Office Box 8651
Tampa, Florida 33674
Address City State Zip
(813) 335-4046
Home Phone #
Erin L. Hantske
Preparer's Name
Work Phone #
McAngus Goudelock & Courie
Law Firm

US Foodservice, Inc.
Employer's Name
Employer Address
Address City State Zip
ACE American Insurance Company c/o Gallagher Bassett
Services, Inc.
Insurance Carrier
(843) 576-2946
Phone Number

Date of Accident: 5/5/05

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part.
The employer-insurance carrier in answer to the claim, respectfully shows:

1. It is **admitted** that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: Defendants admit claimant suffered a compensable injury by accident in the course and scope of his employment on or about May 5, 2005.
2. It is **admitted** that both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: _____
3. It is **admitted** that the relationship of employer and employee existed at the time in question. The reasons for denial are: _____
4. It is **admitted** that at the time in question the employee was performing service growing out of and incidental to his employment. The reasons for denial are: _____
5. It is **admitted** that notice of injury was given to the employer. The reasons for denial are: _____
6. It is **denied** that the employee needs/is entitled to additional medical care as a result of the injury. The reasons for denial are: The parties entered into a settlement agreement to clincher the claim and this clincher was approved by the S.C. Workers' Compensation Commission in 2006.
7. It is **denied** that the employee is entitled to temporary total disability for the period(s) of: See No. 6 above.
8. It is **denied** that the employee is permanently disabled. The reasons for denial are: See No. 6 above.
9. It is **denied** that the employee has a serious disfigurement.
10. It is **contended** that an average weekly wage of \$1,154.00 applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: Defendants deny that the Claimant is entitled to any additional benefits under the S.C. Workers' Compensation Act as he entered into a clincher settlement agreement to resolve his claim related to his accident of May 5, 2005, and this settlement was approved by the Commission. The Commission closed their file pursuant to a filed Form 19 on January 17, 2006.
12. Time needed for hearing: 30 minutes

I certify that I have served this document pursuant to R.67-211 by delivering a copy to:

Alexander Guice South Carolina Workers' Compensation Commission
Post Office Box 8651 P. O. Box 1715
Tampa, Florida 33674 Columbia, SC 29202-1715

on the 14th day of January, 2013, by first class mail; personal service; certified mail.

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

Preparer's Signature: [Signature] Attorney for Employer/Carrier: erin.hantske@mgclaw.com Date: January 14, 2013
Title: _____ Email: _____

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 Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

364



ATTORNEYS AT LAW

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

Amy - 2/10/13

January 14, 2013

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. 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 Amended Form 51 on behalf of the employer and carrier in the above matter for filing in your office.

By copy of this letter, we are serving a copy of the Amended Form 51 on the Pro Se Claimant, Alexander Guice.

Very truly yours,

Erin L. Hantske

9555
OF

ELH/hah
Enclosures

cc: Alexander Guice (w/encl.) (via Certified Mail & U.S. Mail)
Don Merritt, Gallagher Bassett Services, Inc. (w/encl.)

SCWCC
JPH
JAN 16 2013
JUDICIAL

EXHIBIT 1
3 OF 6

365

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 GOUDELCK & 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 Certified Mail and U.S. Mail)
Post Office Box 8651
Tampa, Florida 33674

Robert C. Bacon, Esquire
Bacon Law Firm
1297 Professional Drive, Suite 101
Myrtle Beach, South Carolina 29577

South Carolina Worker's Compensation Commission
1333 Main Street, Suite 500 Post Office Box 1715
Columbia, South Carolina 29202-1715

DOCUMENT: Form 51

EXHIBIT 1

4 OF 4

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SC Workers' Compensation Commission
 333 Main Street, Suite 500 Post Office Box 1715
 Columbia, South Carolina 29202-1715
 (803)737-5723



WCC File #: 0506205

Carrier File #: 004063-032175-wc-01

Carrier Code: #

Employer FEIN #: 363642294

Alexander Guice
 Claimant's Name SSN
 Post Office Box 8651
 Tampa, Florida 33674

Address City State Zip
 (813) 335-4046

Home Phone # Work Phone #
 Erin L. Hantske McAngus Goudelock & Goulet

Preparer's Name Law Firm

U.S. Foodservice, Inc.

Employer's Name
 Employer Address

Address City State Zip

ACE American Insurance Company c/o Gallagher Bassett
 Services, Inc.

Insurance Carrier
 (843) 576-2946

Phone Number

Date of Accident: 5/5/05

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part.
 The employer-insurance carrier in answer to the claim, respectfully shows:

1. It is admitted that the employee sustained an injury on or about the date set forth in the application. The reasons for denial are: Defendants admit claimant suffered a compensable injury by accident in the course and scope of his employment on or about May 5, 2005.
2. It is admitted that both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: _____
3. It is admitted that the relationship of employer and employee existed at the time in question. The reasons for denial are: _____
4. It is admitted that at the time in question the employee was performing service growing out of and incidental to his employment. The reasons for denial are: _____
5. It is admitted that notice of injury was given to the employer. The reasons for denial are: _____
6. It is denied that the employee needs/is entitled to additional medical care as a result of the injury. The reasons for denial are: The parties entered into a settlement agreement to clincher the claim and this clincher was approved by the S.C. Workers' Compensation Commission in 2006.
7. It is denied that the employee is entitled to temporary total disability for the period(s) of: See No. 6 above.
8. It is denied that the employee is permanently disabled. The reasons for denial are: See No. 6 above.
9. It is denied that the employee has a serious disfigurement.
10. It is contended that an average weekly wage of \$1,154.00 applies, according to attached accounting of employee's earnings as provided by law.
11. Further contentions or grounds of defense are: Defendants deny that the Claimant is entitled to any additional benefits under the S.C. Workers' Compensation Act as he entered into a clincher settlement agreement to resolve his claim related to his accident of May 5, 2005, and this settlement was approved by the Commission. The Commission closed their file pursuant to a filed Form 19 on January 17, 2006.
12. Time needed for hearing: 30 minutes.

I certify that I have served this document pursuant to R. 67-211 by delivering a copy to:

Alexander Guice South Carolina Workers' Compensation Commission
 Post Office Box 8651 P. O. Box 1715
 Tampa, Florida 33674 Columbia, SC 29202-1715

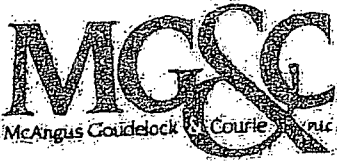
Robert G. Bacon, Esquire
 Bacon Law Firm
 1297 Professional Drive, Suite 101
 Myrtle Beach, South Carolina 29577

EXHIBIT I
 5 OF 6

on the 27th day of December, 2012 by first class mail; personal service; certified mail.
 I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature: [Signature] Attorney for Employer/Carrier: erh.hantske@mcclaw.com December 27, 2012
 Title: _____ Email: _____ 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 Judicial Department. Pursuant to R. 67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.



ATTORNEYS AT LAW

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

December 27, 2012

Virginia Crooker, 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. Crooker:

This firm has been retained to represent the employer and carrier in the matter referenced above. Please find enclosed the Form 51 on behalf of the employer and carrier in the above matter for filing in your office.

By copy of this letter, we are serving a copy of the Form 51 on the Pro Se Claimant, Alexander Guice.

Very truly yours,

Erin L. Hantske

ELH/gcm
Enclosures

cc: Alexander Guice (w/encl.) (via Certified Mail & U.S. Mail)
Robert G. Bacon, Esquire, Bacon Law Firm (w/encl.)
Don Merritt, Gallagher Bassett Services, Inc. (w/encl.)

EXHIBIT 1

6 OF 6

368

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

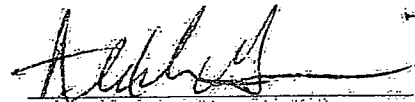
Alexander Guice, Appellant,

v.

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

PROOF OF SERVICE

I HEREBY CERTIFY to the Clerk of Court that a copy of a 'Reply to Respondents' Return in Opposition to Appellant's Petition for Reinstatement'; a Memorandum with citations of authorities in support of Reply to Respondents' Return in Opposition to Appellant's Petition for Reinstatement and proof of service was provided to the Respondents' by depositing the same in the U.S. Postal Service on May 12, 2014 and addressed to: Erin L. Hantske, McAngus Goudelock and Courie, LLC P.O. Box 650007 Mt. Pleasant, SC 29465 on this 12th day of May 2014.



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

May 12, 2014

369

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

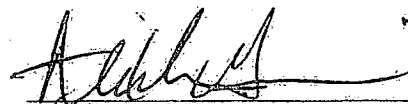
Alexander Guice, Appellant,

V.

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

PROOF OF SERVICE

I HEREBY CERTIFY to the Clerk of Court that a copy of a 'Reply to Respondents' Return in Opposition to Appellant's Petition for Reinstatement'; a Memorandum with citations of authorities in support of Reply to Respondents' Return in Opposition to Appellant's Petition for Reinstatement and proof of service was provided to the Respondents' by depositing the same in the U.S. Postal Service on May 12, 2014 and addressed to: Erin L. Hantske, McAngus Goudelock and Courie, LLC P.O. Box 650007 Mt. Pleasant, SC 29465 on this 12th day of May 2014.



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

May 12, 2014

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SC Court of Appeals

370

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MAY 15 2014

SC Court of Appeals

371

THE STATE OF SOUTH CAROLINA

In the Supreme Court

PETITION FROM THE COURT OF APPEALS

John C. Few, Chief Justice

Case No.: 2013-002491

Alexander Guice,.....Petitioner,

v.

**US Food Service, Inc., and ACE American Insurance
Company c/o Gallagher Bassett Service, Inc.,.....Respondents.**

CERTIFICATE

I hereby certify the documents contained herein are not irrelevant material, were submitted by the parties in the instant case on appeal, and the same is in compliance with Rule 242(e) of the South Carolina Appellate Court Rules to the best of my knowledge and ability.



Alexander Guice
Post Office Box 13281
Tampa, FL 33681
(813) 562-0547
Petitioner, Pro Se

July 5, 2014