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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

Circuit Case No. 2013-CP-32-01272

Appellate Case No. 2013-002491

Alexander Guice,Appellant,

v.

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

REPLY TO RETURN TO PETITION FOR REHEARING

Alexander Guice, the named Appellant in the above style caption, received a copy of the 'Respondents' Return In Opposition To Appellant's Petition For Rehearing' (Return to Petition for Rehearing), dated December 11, 2014 on December 15, 2014 via regular mail. Pursuant to Rule 240(f), SCACR, Appellant presents this Reply to Return to Petition for Rehearing, and would further state as follows:

I. The Respondents failed to affirm or deny the averments contained in Argument(s) I & II of Appellant's Petition for Rehearing.

Rule 8(d), SCRCP, provides: "Averments in a pleading

to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading..." Due to the failure of the Respondents to "affirm or deny" the averments as contained in argument(s) "I and II" of Appellant's Petition, Appellant asserts the averments contained in argument(s) "I & II" as contained in Appellant's Petition for Rehearing are admitted.

II. The Respondents' rationale that the Court should reject the Petition for Rehearing pursuant to Rule 240(i), SCACR, is without merit.

Rule 222(d), SCACR, provides: "A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion requesting that costs be assessed under this Rule." Rule 222(e), SCACR, provides: "Costs on appeal shall be taxed only in the appellate court."

In the instant appeal, the Court issued the Remittitur in this matter on September 8, 2014. Appellant received the Remittitur on September 13, 2014 and timely filed the Motion for Costs on September 22, 2014. The Court denied the Motion for Costs on November 25, 2014. If the Court denies or rejects this petition, Appellant shall not be able to lawfully seek reimbursement for the costs incurred in filing this appeal at a later date, by Appellant, pursuant to Rule 222(e), SCACR, wherein said costs were incurred by Appellant through no fault of his

own.

It should be noted that any further actions regarding the matter currently before the lower court which may or may not hypothetically require a pleading to be filed by either party in this court, would require the assignment of a new appellate case number by the Clerk, pursuant to the September 8, 2014 Remittitur previously issued in this action by the Court.

The November 25, 2014 Order of this Court denying Appellant's Motion for Costs did in fact have the effect of finally deciding the instant appeal. As such, the Respondents application of Rule 240(i), SCACR, and rationale, that, "This Court's November 25, 2014 Order did not dismiss or finally decide this appeal..." (Return to Petition for Rehearing, p. 1), is without merit, not supported by law or fact, and should be rejected by the Court.

CONCLUSION

Accordingly, for all the reasons stated above, the Appellant respectfully submits that the Court should grant the Petition for Rehearing.

Respectfully submitted,

Alexander Guice

By: 

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

December 17, 2014

Appellant, Pro Se

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM LEXINGTON COUNTY
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V.

US Foodservice, Inc., and
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PROOF OF SERVICE

I HEREBY DO CERTIFY that a true copy of the foregoing
Reply to Return to Petition for Rehearing and proof of
service was provided to the attorney of record for the
Respondents, by depositing a copy of the same in the U.S.
Postal Service, via Priority Mail, with sufficient postage
affixed, and addressed to: **Erin L. Hantske, Esq. P.O. Box
650007 Mt. Pleasant, SC 29465** on this 17th day of December,
2014.

By: 

Alexander Guice
P.O. Box 13281
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Appellant, Pro Se

December 17, 2014

Alexander Guice

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December 17, 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

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DEC 22 2014
SC Court of Appeals

Re: Alexander Guice v. U.S. Food Service, Inc., et al
Appellate Case No. 2013-002941

Dear Ms. Kitchings:

Please find enclosed an original and seven (7) copies of a 'Reply to Return to Petition for Rehearing' and 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, 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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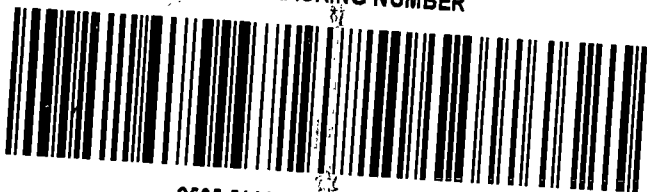
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