

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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AUG 10 2015
SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable DeAndrea Gist Benjamin, Circuit Court Judge

C.A. No. 2014-CP-40-05634

Liberty Mutual Insurance Company, Carrier..... Appellant,

v.

South Carolina Second Injury Fund, Carrier,Respondent,

In Re: David Bunker, WCC File No. 0128696

NOTICE OF APPEAL

Pursuant to Rule 203, SCACR, Liberty Mutual Insurance Company (“Appellant” or “Carrier”), by and through its undersigned attorney, does hereby appeal from the Order of the Honorable DeAndrea Gist Benjamin, Circuit Court Judge of the Fifth Judicial Circuit. Appellant submits that the Court erred in concluding that it lacks jurisdiction to compel an expedited decision in cases pending before the South Carolina Workers' Compensation Commission before a final judgment has been entered with respect to its request that an appeal involving reimbursement from the South Carolina Second Injury Fund (“Respondent” or “the Fund”) be

adjudicated by the South Carolina Workers' Compensation Full Commission Appellate Panel pursuant to §42-17-50. The Order of the Circuit Court was filed on July 1, 2015. Appellant received a copy of the Order from the Circuit Court on July 15, 2015.

The Circuit Court's Order is appealed on the following grounds:

1. The Circuit Court has appellate jurisdiction for correction of errors of law in law cases when an Order affects a substantial right of a party and prevents a judgment for which an appeal might be taken pursuant to S.C. Code Ann. §1-23-390 (2015) and S.C. Code Ann. §14-3-330 (2015).
2. The Circuit Court erred in finding that it did not have jurisdiction to compel the South Carolina Workers' Compensation Commission to process an appeal because of the Commission's Order granting an indefinite stay was not appealable, the error being that such a conclusion is contrary to South Carolina Law and violates the Administrative Procedures Act, Article I, §22 of the South Carolina Constitution, Section 42-17-50 of the South Carolina Workers' Compensation Act and South Carolina Code Ann. Section 1-23-380 (A)(5)(f).
3. The Circuit Court erred in concluding that it does not have jurisdiction to compel the South Carolina Workers' Compensation Commission to adjudicate appeals involving the Second Injury Fund when the Second Injury Fund is subject to closure in 2018.
4. The Fund's closure and the Commission's failure to process the appeals will deprive Appellant of a substantial right to property as afforded to it

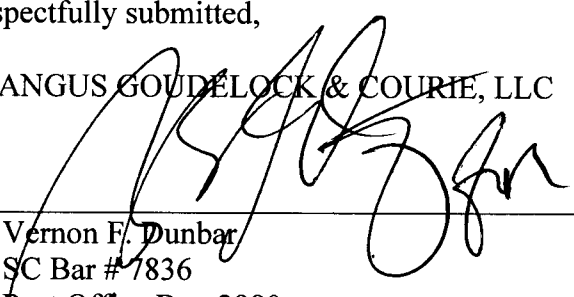
pursuant to Section 42-9-400, which in turns provides the Circuit Court to act on Appellant's request.

Respectfully submitted,

McANGUS GOUDELOCK & COURIE, LLC

August 7, 2015

By:



Vernon F. Dunbar
SC Bar # 7836
Post Office Box 2980
55 East Camperdown Way, Suite 300 (29601)
Greenville, South Carolina 29602
(864) 239-4000

Attorneys for Appellant

Other Counsel of Record:

LaTonya Dilligard Edwards, Esq.
3790 Fernandina Road, Suite 103
Columbia, South Carolina 29210

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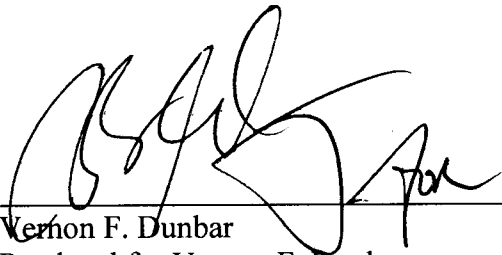
In Re: David Bunker, WCC File No. 0128696

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the attorney of record for David Bunker, by depositing a copy of it in the United States Mail, postage prepaid, on the 7th day of August, 2015 addressed to his attorney of record,

LaTonya Dilligard Edwards, Esq.
3790 Fernandina Road, Suite 103
Columbia, South Carolina 29210

August 7, 2015



Vernon F. Dunbar
Paralegal for Vernon F. Dunbar
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Attorneys for Appellant

REPLY TO

VERNON F. DUNBAR
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SC Court of Appeals

August 7, 2015

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RE: Liberty Mutual v. Second Injury Fund
(In Re: David Bunker v. Yuasa Exide, Inc.)
C.A. No. 2014-CP-40-05634

Dear Ms. Kitchings:

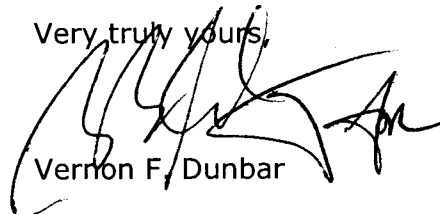
Enclosed for filing in the above referenced matter are a Notice of Appeal and Proof of Service, and the required filing fee together with a copy of the Order being appealed. By copy of this letter, I am filing copies of the same documents with the South Carolina Workers' Compensation Commission and Circuit Court of Richland County.

Also, by copy of this letter, I am serving a copy of the same on LaTonya Dilligard Edwards, Esquire, attorney for the Second Injury Fund.

Please return a copy of the filed Notice of Appeal in the self-addressed stamped envelope enclosed. If you have additional questions regarding the enclosed information, please do not hesitate to contact me.

With kind regards,

Very truly yours,



Vernon F. Dunbar

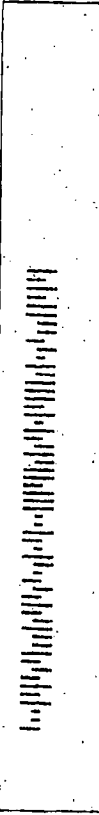
VFD:pd

Enclosures

cc: The Honorable Jeanette McBride, Richland County Clerk of Court
Latonya D. Edwards, Dilligard Edwards, LLC
Steven Reynen, Liberty Mutual

mgc | INSURANCE
DEFENSE


POST OFFICE BOX 2880
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20113.14166/VFD/rhd
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