

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

William P. Keesley, Successor Circuit Court Judge

Case No. 2013-CP-32-01272
Case No. 2014-CP-32-00399

Appellate Case No. 2015-001821

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

WCC Case No. 0506205

Alexander Guice, Appellant,

v.

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

NOTICE TO THE COURT

TO: Chief Justice Honorable James E. Lockemy:

Please be advised that the undersigned self-represented Appellant submits this Notice to respectfully express his utter disappointment and lack of confidence in the ability to be afforded a fair and unbiased determination of the above-entitled action by this Court, and specifically, due to alleged discretionary abuses by the Honorable James E. Lockemy, Chief Justice ("C.J. Lockemy"), based on several relevant factors.

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SC Court of Appeals

First, the nine (9) word Order issued in this matter by C.J. Lockemy, dated June 24, 2016, which provides no analysis or cited authority to support the denial of the Appellant's aforementioned Motion to Strike, respectfully reflects a clear departure from the requirements of Rule 220, SCACR, and the Appellant's entitled Due Process Right to be Heard, pursuant to both the South Carolina Constitution and the United States Constitution, respectively, particularly where the Order does not expressly state the issues raised by Appellant; the authorities relied upon by Appellant; or expressly provide the grounds in support of C.J. Lockemy's decision to deny Appellant's Motion to Strike while in performance of C.J. Lockemy's official judicial duties. *Id.*

Furthermore, the vague, ambiguous and unsupported Order denying Appellant's Motion to Strike was similar in composition to the Order issued by C.J. Lockemy dated March 3, 2016 denying the Appellant's "Motion for Summary Judgment", which opined,

"After careful consideration, Appellant's motion for summary judgment and stay pending adjudication is denied. This court notes the merits of this appeal shall be decided after final briefing is complete." *Id.*

In both aforementioned Orders, C.J. Lockemy did not provide any analysis or authority relied upon to support the denial(s) of Appellant's properly filed motions, on behalf of the Court, which Appellant contends violated Appellant's Due Process Right to be heard in a meaningful manner and may constitute an abuse of discretion by C.J. Lockemy.

In clear contrast, however, this Court has demonstrated what appears to be a prejudicial and biased disposition when it comes to issuing Orders on Motions filed by the Respondents' Counsel, namely, Erin L. Hantske, Esq. ("Attorney Hantske"). Specifically, in determining the Respondents' "Motion for Correction and/or Clarification of Appellant's Designation of Matter", in the Court Order dated December 18, 2015 and

issued by the Honorable Jasper M. Cureton¹, Appellate Justice ("Justice Cureton"), His Honor provided an overview of the issue(s) raised by Respondents'; an analysis to explain His Honor's rationale; and a cited authority in support of His Honor's decision. Dec. 18, 2015 Non-dispositional Order, contained within the record.

Moreover, in the prior related matter of Guice v. US Foodservice, Inc., et al, Appellate Case No. 2013-002491, and specifically, in the dismissal Order dated April 24, 2014 granting Respondents' Counsel's Motion to Dismiss, this Court, by way of the Honorable John Cannon Few, former Chief Justice ("C.J. Few"), did not issue a vague, ambiguous and conclusory order simply stating "after careful consideration, Respondents motion to dismiss is granted". Instead, C.J. Few² provided a two-page opinion which provided an excellent analysis of cited Workers' Compensation settled law; other doctrine; and statutes in support of C.J. Few's decision issued on behalf of the Court. April 24, 2014 Order, Appellate Case No. 2013-002491, contained within the record.

To be clear, Appellant does not take issue with the authority of C.J. Lockemy to deny Appellant's Motion to Strike; however, Appellant takes issue with C.J. Lockemy's Order failing to; 1) expressly state the issues raised in Appellant's Motion to Strike; 2) expressly state the undisputed evidence advanced in support of the issues raised; 3)

¹ Appellate Justice Cureton was the first African American to graduate from the University of South Carolina's School of Law since Reconstruction.

² In former Chief Justice Few's April 24, 2014 Order granting Respondents' Motion to Dismiss, C.J. Few *properly* declined to state Appellant's contentions set forth in Appellant's Return, because as Attorney Hantske properly advanced in her Reply, *with cited authority*, Appellant's contentions were not supported by citation of authority, which required C.J. Few to deem Appellant's contentions abandoned, which may explain why C.J. Few only stated that Appellant filed a return in the 04/24/2014 Order.

expressly state the cited authorities relied upon by Appellant set forth in the motion; and
4) provide a detailed analysis providing an explanation, for the record, to include holding authorities relied upon by C.J. Lockemy, in performing His Honor's official duties on behalf of the Court, to support the decision to deny the Motion to Strike, which C.J. Lockemy declined to do, wherein Appellant respectfully contends said declination may have constituted a deprivation of Appellant's due process rights, by C.J. Lockemy, while acting under *color of state law*, a possible violation of 18 U.S.C. § 242³.

Second, Appellant contends the aforementioned Order issued by C.J. Lockemy may constitute an Obstruction of Justice. Specifically, as set forth in Appellant's verified Motion to Strike, Appellant advanced several allegations, to include, but not limited to:

- Allegation(s) of a **conspiracy to commit insurance fraud; insurance fraud; admission of intentional false statements and misrepresentation** against Respondents' former counsel, namely, Walter Hilton Barefoot, Esq., and Appellant's former counsel, namely, Robert Glenn Bacon, Esq.⁴;
- Allegation(s) of **fraud; insurance fraud; intentional false statements and misrepresentation** against Respondents' current counsel, namely, Erin Leigh Hantske, Esq.; and
- Requesting, pursuant to S.C. Code Ann. § 42-9-440 (1994), that this Court report the allegations against the above-referenced officers of the court to the

³ To act "under color of state law" means to act beyond the bounds of lawful authority, but in such a manner that the unlawful acts were done while the official was purporting or pretending to act in the performance of his official duties. In other words, the unlawful acts must consist of an abuse or misuse of power which is possessed by the official only because he is an official. "Misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law." *United States v. Classic*, 313 U.S. 299, 326 (1941).

⁴ In an apparent "unrelated matter", our Supreme Court recently suspended (administratively) Robert G. Bacon, Esq., Appellant's former attorney of record in this matter from on or around May 2005 to on or around December 2012, from the practice of law by way of Order dated May 5, 2016, for Mr. Bacon apparently failing to meet his continuing legal education (MCLE) requirements.

Insurance Fraud Division, Office of the Attorney General, for (criminal) investigation. Appellant's Motion to Strike, previously filed.

However, a review of the June 24, 2016 Order issued in this matter by C.J. Lockemy, acting in His Honor's official judicial capacity, indicates that in denying the Appellant's Motion to Strike, C.J. Lockemy did not; 1) grant the equitable relief Appellant is entitled to; or 2) direct the Clerk to provide true copies of the documents contained within the record to the Insurance Fraud Division, Office of the Attorney General, for investigation, which Appellant contends was required, pursuant to § 42-9-440, whether C.J. Lockemy disagreed with Appellant's allegations or not, which C.J. Lockemy apparently failed to do upon review of the Order, which respectfully may have constituted an "obstruction of a criminal investigation", a potential violation of 18 U.S.C. § 1510. *Id.* June 24, 2016 Order. § 42-9-440 ("The commission [court] **shall report all cases of suspected false statement or misrepresentation**, as defined in Section 38-55-530(D), to the Insurance Fraud Division of the Office of the Attorney General for investigation and prosecution, if warranted, pursuant to the Omnibus Insurance Fraud and Reporting Immunity Act.") (Emphasis added)⁵.

Third, due to Appellant's financial circumstances, which precludes his ability to pay the required \$25.00 motion filing fee seeking disqualification of C.J. Lockemy, as Appellant funds his appeal solely based upon receipt of U.S. Department of Veterans Affairs (VA) Monthly Disability Compensation Benefits, the undersigned injured and moving Appellant respectfully has no confidence in the integrity of C.J. Lockemy to perform His Honor's official judicial duties in this matter fairly or impartially, which

⁵ Appellant points out that the crime of obstruction of justice generally includes crimes committed by judges, prosecutors, attorneys general, and elected officials. It is considered as a misfeasance, malfeasance or nonfeasance in the conduct of the office.

Appellant contends is reasonably based upon the alleged two (2) vague, ambiguous, legally deficient and conclusory Orders denying Appellant's Motion for Summary Judgment and Motion to Strike, and the apparent failure of C.J. Lockemy to report Appellant's allegations of insurance fraud, etc., to the Attorney General's Office for mandatory criminal investigation.

As such, and in the interest of the administration of justice, Appellant respectfully pleads with C.J. Lockemy to consider "voluntarily" recusing himself from any further participation in the above-entitled action, as Appellant reasonably fears that any further participation in this matter by His Honor may serve to **further** prejudice and infringe upon the substantial Due Process Rights presumptively afforded to Appellant⁶.

Respectfully submitted,

By: 

Alexander Guice
Honorable Disabled Veteran
Post Office Box 13281
Tampa, FL 33681
(813) 562-0547
alguice@hotmail.com
Appellant, Pro Se

July 3, 2016

⁶ If the injured African American Appellant would have known back in November 2012 that instead of challenging Respondents, through counsel, for entitled employment and unlawfully withheld entitled workers' compensation benefits, that Appellant would indirectly and apparently also be challenging the "fair and impartial" South Carolina judicial apparatus, Appellant may have never initiated this action in the first place. Further, if the "**Black Codes**" (Jim Crow Laws) are still clandestinely in effect in South Carolina, please immediately dismiss this matter and bring to an end this apparent farce of a judicial process.

THE STATE OF SOUTH CAROLINA
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Appellate Case No. 2015-001821

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION
WCC Case No. 0506205

Alexander Guice, Employee, Appellant,

v.

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

PROOF OF SERVICE

I hereby certify that the Respondents, through Counsel, were provided a true copy of a cover letter to the Clerk; a 'Notice to the Court'; a 'Motion for Correction and/or Clarification of Respondents' Designation of Matter' and a proof of service, by depositing the same in the US Postal Service, via Priority Mail, and addressed to: **Erin L. Hantske, Esq., P.O. Box 650007 Mt. Pleasant, SC 29465** on this 3rd day of July, 2016.



Alexander Guice
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Appellant, Pro Se

July 3, 2016

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Via Priority Mail

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

Re: Alexander Guice v. US Foodservice, Inc., et al
Appellate Case No. 2015-001821

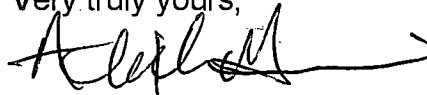
Dear Ms. Kitchings:

Please find enclosed with this cover letter an original and seven (7) copies of a 'Notice to the Court'; a 'Motion for Correction and/or Clarification of Respondents' Designation of Matter' and a proof of service in regards to the above-entitled action. Please also find enclosed a \$25.00 Money Order for the motion filing fee. Please forward to the appropriate personnel for processing, and please return clocked copies of the same to the undersigned in the pre-paid self-addressed envelope enclosed for your convenience.

By copy of this correspondence, Erin L. Hantske, Esq., the Respondents' Counsel of record, has been provided a copy of the same via priority mail with enclosures.

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

Very truly yours,



Alexander Guice
Appellant, *pro se*

Enclosures: As stated

cc: Erin L. Hantske, Esquire
Hon. Alan Wilson, Attorney General

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