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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

RECEIVED

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

JUL 25 2016

William P. Keesley, Successor Circuit Court Judge

SC Court of Appeals

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.

**VERIFIED MOTION TO RECUSE AND/OR DISQUALIFY  
CHIEF JUSTICE HONORABLE JAMES E. LOCKEMY**

Please take notice, that Alexander Guice, the self-represented Employee and undersigned Appellant in this matter presents this pleading in *propria persona*, wherein pleadings are to be considered without regard to technicalities. Hulsey v. Ownes, 63 F3d 354 (5<sup>th</sup> Cir 1995); also see Conley v. Gibson, 355 U.S. 41 at 48 (1957). Pursuant to Rule 240, SCACR; Cannon 3E, Code of Judicial Conduct ('CJC'), Rule 501, SCACR;

and/or other applicable laws, Appellant submits this Motion seeking the recusal and/or disqualification of the Honorable James E. Lockemy, Chief Justice ("C.J. Lockemy"), from any further participation in the instant appeal. Having been duly sworn, the undersigned Appellant/Affiant would allege as follows:

#### FACTUAL BACKGROUND

On around January 3, 2016 Appellant duly filed and served a "Motion for Summary Judgment and Stay Pending Adjudication" (Motion for Summary Judgment) in the instant appeal. Motion for Summary Judgment dated 01/03/2016, previously filed. On or around January 12, 2016 Respondents', through Counsel, duly filed and served a "Respondents' Return in Opposition to Motion for Summary Judgment and Stay Pending Action" (Return to Motion for Summary Judgment). Return to Motion for Summary Judgment, previously filed. On or around January 20, 2016 Appellant filed and served a "Reply to Return to Motion for Summary Judgment and Leave to Stay" (Reply to Return to Motion for Summary Judgment). Reply to Return to Motion for Summary Judgment, previously filed.

On or around March 3, 2016 C.J. Lockemy, acting on behalf of the Court, issued an "Order" on the Motion for Summary Judgment, wherein C.J. Lockemy 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."*

Order, *supra*, dated 03/03/2016. Attachment "A".

On or around March 8, 2016 Appellant duly filed and served a "Motion to Strike Respondents' Initial Brief and Leave to Stay" (Motion to Strike). Motion to Strike, previously filed. On or around March 17, 2016 Respondents' duly filed and served a

“Respondents’ Return in Opposition to Appellant’s Motion to Strike Respondents’ Initial Brief” (‘Return to Motion to Strike’). Return to Motion to Strike, previously filed. On or around March 26, 2016 Appellant filed and served a “Reply to Return to Motion to Strike Respondents’ Initial Brief” (Reply to Return to Motion to Strike). Reply to Return to Motion to Strike, previously filed.

On June 24, 2016 C.J. Lockemy, acting on behalf of the Court, issued an “Order” on Appellant’s Motion to Strike, wherein C.J. Lockemy opined:

*“After careful consideration, the motion to strike is denied.”*

Order, supra, dated June 24, 2016. Attachment “**B**”. On or around July 3, 2016 Appellant duly filed and served a “Notice to the Court”. On or around July 10, 2016 Appellant submitted a “Request for Investigation – Chief Justice Hon. James E. Lockemy” to the Honorable Alan Wilson, South Carolina Attorney General. Request for Investigation, Chief Justice Lockemy, dated July 10, 2016 from Appellant to S.C. Attorney General. Attachment “**C**”. This motion follows.

#### STANDARD OF REVIEW

“The Due Process Clause demarks only the outer boundaries of judicial disqualifications. Congress and the states, of course, remain free to impose more rigorous standards for judicial disqualification than those we find mandated here today. Because the codes of judicial conduct provide more protection than due process requires, most disputes over disqualification will be resolved without resort to the Constitution.” Caperton v. A.T. Massey Coal Co., 129 S. Ct. 2252, 2267 (2009). It is well settled judges should recuse themselves where questions of impartiality or impropriety are raised. Parker v. Shecut, 340 S.C. 460, 531 S.E.2d 546 (Ct. App.

2000). The Code of Judicial Conduct requires a judge to “disqualify himself in a proceeding in which his impartiality might reasonably be questioned.” Canon 3(E)(1), CJC, Rule 501, SCACR. “A judge must exercise sound judicial discretion in determining whether his impartiality might reasonably be questioned”. Christy v. Christy, 317 S.C. 145, 452 S.E.2d 1 (Ct. App. 1994).

## ARGUMENT

**1. Chief Justice Lockemy should recuse/disqualify himself from the instant appeal because His Honor’s impartiality is reasonably questioned by the Appellant.**

Appellant contends C.J. Lockemy should be recused/disqualified from further participation in the instant appeal on grounds His Honor’s impartiality is reasonably questioned, by Appellant, based on several relevant factors.

**I. Failure of C.J. Lockemy to adjudicate Appellant’s Motion(s) in accordance with Rule 220(b), SCACR.**

A review of the record confirms Appellant recently filed two motions; a ‘Motion for Summary Judgment and Stay Pending Adjudication’ dated January 3, 2016; and a ‘Motion to Strike Respondents’ Initial Brief’, dated March 8, 2016. Motion for Summary Judgment. Motion to Strike. In both motions, Appellant raised numerous well pled arguments, advanced exhibited documentation, and cited appropriate authorities and well settled law in support of the motions. *Id.* Both motions filed by Appellant were adjudicated by C.J. Lockemy acting in His Honor’s official capacity for the Court.

In the March 3, 2016 Order issued by C.J. Lockemy on Appellant’s ‘Motion for Summary Judgment, C.J. Lockemy 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.*” Att. **A.**

Moreover, in the June 24, 2016 Order issued by C.J. Lockemy on Appellant's Motion to Strike, C.J. Lockemy opined, "After careful consideration, the motion to strike is denied." Att. **B**. In applying the standard of elements required to be contained within every decision issued by C.J. Lockemy, on behalf of the Court, Rule 220(b), SCACR, provides in part:

**Decision by the Court.** In every decision rendered by an appellate court, every point distinctly stated in the case which is necessary to the decision of the appeal and fairly arising upon the record of the court **must** be stated in writing and **must**, with the reason for the court's decision, be preserved in the record of the case. (Emphasis added). *Id.*

With respect to Rule 220(b), Appellant contends the respective orders issued by C.J. Lockemy on Appellant's Motion for Summary Judgment and Motion to Strike were legally insufficient because they departed from Rule 220(b) in terms of the orders failing to include; (a) a required written statement of the issues, points and Appellant's relied upon authorities distinctly and fairly arising from Appellant's motion(s) on appeal; and (b) a mandatory reason or explanation, to include the authority relied upon by C.J. Lockemy in support of His Honor's decision to deny both of Appellant's Motions while performing His Honor's adjudicative responsibilities on behalf of the Court. Motion for Summary Judgment. Motion to Strike. Order dated 03/06/16. Order dated 06/24/16. Rule 220(b), SCACR.

However, in clear contrast, this Court, via other appellate court justices, has demonstrated strict compliance with Rule 220(b) in the performance of their adjudicative responsibilities, in deciding the Orders issued on Motions filed by the Respondents' Counsel of record, namely, Erin L. Hantske, Esq. ("Attorney Hantske"), wherein the undersigned Appellant contends C.J. Lockemy's orders on motions issued by Appellant,

which clearly departed from Rule 220(b), was biased and prejudicial towards Appellant.

Specifically, in deciding the Respondents' "Motion for Correction and/or Clarification of Appellant's Designation of Matter" dated September 30, 2015, a review of the Court Order dated December 18, 2015 and issued by the Honorable Appellate Justice Jasper M. Cureton ("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 granting Respondents' Motion. Motion for Correction and/or Clarification of Appellant's Designation of Matter, dated September 30, 2015; *supra*, previously filed. Order, *supra*, dated Dec. 18, 2015, Att. "D".

Moreover, in the prior related matter of Guice v. US Foodservice, Inc., et al, Appellate Case No. 2013-002491, Attorney Hantske filed and served a "Motion to Dismiss" dated February 8, 2014. Motion to Dismiss, dated February 8, 2014, Appellate Case No. 13-002491, previously filed. In the Order dated April 24, 2014 granting Respondents' Motion to Dismiss, this Court, by way of the Honorable John Cannon Few, former Chief Justice ("C.J. Few"), His Honor did not issue a vague, ambiguous and conclusory order simply stating "after careful consideration, Respondents motion to dismiss is granted" without citation of authority. Instead, C.J. Few provided a two-page opinion which included an excellent analysis of cited Workers' Compensation settled law; other doctrine; and authorities in support of C.J. Few's decision issued on behalf of the Court, again, in strict compliance with Rule 220(b). *Id.* Order dated 04/24/2014, Appellate Case No. 2013-002491, Attachment "E".

The 03/03/2016 Order and 06/24/2016 Order on Appellant's aforementioned motions, issued by C.J. Lockemy on behalf of the Court, failed to meet the obligatory

requirements and elements set forth in Rule 220(b), in terms of stating the issues and cited authorities relied upon by Appellant and providing a reason with cited authority to support His Honor's decisions denying Appellant's motions. *Id.* The record establishes that other appellate court justices fully complied with the required elements set forth in Rule 220(b) in the respective Orders issued on motions filed by Respondents' Counsel. *Id.*

C.J. Lockemy's legally insufficient Orders denying Appellant's aforementioned motions were unfairly favorable to Respondents. Appellant contends C.J. Lockemy's actions reflect an impropriety, or the appearance of an impropriety, in violation of Cannon 2(A); Appellant has lost confidence in the integrity of C.J. Lockemy; and Appellant reasonably questions the fairness and impartiality of C.J. Lockemy in the instant appeal. *Id.*

As such, His Honor should immediately consider recusing/disqualifying himself from any further participation in the instant appeal, by way of issuance of an appropriate order, in the interest of the administration of justice, pursuant to Cannon 3(E)(1); this Court's holding authorities as set forth in Parker, *supra*; Christy, *supra*; and the U.S. Supreme Court's (USSC) holding authority as set forth in Caperton, *supra*. *Id.*

II. **The June 24, 2016 Order issued by C.J. Lockemy constitutes an Obstruction of a Criminal Investigation (Obstruction of Justice).**

A review of Appellant's March 8, 2016 Motion to Strike confirms *inter alia* that appellant alleged, with supporting evidentiary documentation; well pled arguments; and cited authorities, of;

- Allegation(s) of a **conspiracy to commit insurance fraud; insurance fraud; intentional false statements and intentional misrepresentation** against Respondents' former counsel, namely, **Walter Hilton Barefoot**,

**Esq.**, and Appellant's former counsel, namely, **Robert Glenn Bacon, Esq.**;

- Allegation(s) of **fraud; insurance fraud; intentional false statements; and intentional misrepresentation** against Respondents' current counsel, namely, **Erin Leigh Hantske, Esq.**; and
- Moving this Court, pursuant to S.C. Code Ann. § 42-9-440 (1994), that this Court report Appellant's allegations against the above-referenced officers of the court to the Insurance Fraud Division, Office of the Attorney General, for (criminal) investigation. *Id.* 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 failed to 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 criminal investigation, which Appellant contends was required, pursuant to § 42-9-440, whether C.J. Lockemy agreed with Appellant's allegations or not. 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).

Appellant contends C.J. Lockemy's failure to report the aforementioned allegations to the Attorney General's Office constitutes the unlawful interference with the administration or process of law, and specifically, the required criminal investigation of the named officers of the court, by the Attorney General's Office, per § 42-9-440. *Id.* Motion to Strike. June 24, 2016 Order.

In terms of C.J. Lockemy's failure to report Appellant's aforementioned

allegations of fraud, insurance fraud, intentional false statements, etc., to the Attorney General's Office, 18 U.S.C. § 503(a), *Influencing or injuring officer or juror generally*, provides in part:

Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate, in the discharge of his duty, or injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, magistrate judge, or other committing magistrate in his person or property **on account of the performance of his official duties**, or corruptly or by threats or force, or by any threatening letter or communication, influences, **obstructs**, or **impedes**, or **endeavors to influence, obstruct, or impede, the due administration of justice**, shall be punished as provided in subsection (b). If the offense under this section occurs in connection with a trial of a criminal case, and the act in violation of this section involves the threat of physical force or physical force, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case. *Id.*

To put it in another way, C.J. Lockemy has neither the power nor the authority to determine whether the aforementioned allegations of *fraud; conspiracy to commit insurance fraud; intentional misrepresentation; and intentional false statements* regarding the aforementioned officers of the court warrant prosecution or not; our Supreme Court and our legislature has previously established that this authority alone presides with the Attorney General and Executive Branch of our Government. § 42-9-440. State v. Thrift, 312 S.C. 307, 440 S.E.2d 355 (1994)(holding "the power constitutionally granted to the Attorney General to supervise the prosecution of criminal cases includes the power to decide which cases to prosecute").

Appellant contends C.J. Lockemy's actions, with respect to failing to report Appellant's allegations of intentional misrepresentation; intentional false statements,

etc., to the Attorney General's Office pursuant to § 42-9-440 in the June 24, 2016 Order, reflects nonfeasance as well as an impropriety or the appearance of an impropriety, in violation of Cannon 2(A). *Id.* Appellant has therefore lost confidence in the integrity of C.J. Lockemy, and Appellant reasonably questions the fairness and impartiality of C.J. Lockemy in the instant appeal.

As such, His Honor should consider immediately recusing/disqualifying himself from any further participation in the instant appeal, by way of issuance of an appropriate order, in the interest of the administration of justice, pursuant to Cannon 3(E)(1); this Court's holding authorities as set forth in Parker, *supra*; Christy, *supra*; and the USSC's holding authority as set forth in Caperton, *supra*. *Id.*

**III. The June 24, 2016 Order issued by C.J. Lockemy constitutes a failure to grant entitled relief due to Appellant (Obstruction of Justice).**

Appellant contends in issuing the nine-word-sentence-conclusory 06/24/2016 Order denying Appellant's Motion to Strike ("After careful consideration, the motion to strike is denied"), which provided neither a reason nor cited authority in support of the same, C.J. obstructed justice, as Appellant should have prevailed based on the merits of the Motion to Strike. *Id.* Specifically, in reviewing the well pled arguments raised in the Motion to Strike, Appellant meritoriously established the following FACTS, to include, but limited to:

- **The Respondent-Employer knowingly and willfully failed to report the May 27, 2004 Compensable Work-related injury sustained to Appellant's Back to the Workers' Compensation Commission;**
- **The Respondent-Employer subjected Appellant to a Retaliatory Discharge on November 2, 2005 for "permanent lifting restrictions" because Employer failed to establish the required "independent intervening cause" to explain Appellant's permanent lifting**

restrictions other than Appellant's two compensable injuries sustained to his Back on 05/27/2004 and 05/05/2005; and

- **The Employment Relationship between the parties ceased to exist subsequent the Employer's termination of Appellant on November 2, 2005, which unbounded the parties' required compliance with the Worker's Compensation Act at the time the parties entered into the Settlement Agreement on December 22, 2005 and divested the Workers' Compensation Commission of jurisdiction over the subject matter of the claim and the parties at the time it approved the aforementioned agreement on January 5, 2006. Motion to Strike, previously filed.**

The failure of C.J. Lockemy, in performing His Honor's official duties for the Court, to take the required actions of granting Appellant's Motion to Strike, reflects obstruction of justice, malfeasance as well as an impropriety or the appearance of an impropriety, in violation of 18 U.S.C. § 503(a), and Cannon 2(A). *Id.* Appellant has therefore lost confidence in the integrity of C.J. Lockemy, and Appellant reasonably questions the fairness and impartiality of C.J. Lockemy in the instant appeal.

As such, His Honor should consider immediately recusing/disqualifying himself from any further participation in the instant appeal, by way of issuance of an appropriate order, in the interest of the administration of justice, pursuant to Cannon 3(E)(1); this Court's holding authorities as set forth in Parker, *supra*; Christy, *supra*; and the USSC's holding authority as set forth in Caperton, *supra*. *Id.*

**IV. The Orders issued by C.J. Lockemy on Motions filed by Appellant violates the Due Process Clause.**

Appellant contends in addition to violating Rule 220(b), C.J. Lockemy's 03/03/2016 and 06/24/2016 respective Orders denying Appellant's Motion for Summary Judgment and Motion to Strike, C.J. Lockemy violated Appellant's protected Due Process Rights as set forth in both the U.S. and S.C. Constitutions. S.C. Const. art. I, §

22 (“No person shall be finally bound by a judicial or quasi judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard...”). U.S. const. amend. XVI, § 1 (“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”). Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Ogburn-Matthews, 332 S.C. at 562, 505 S.E.2d at 603 (“The requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review.”).

In terms of analyzing both aforementioned Orders issued by C.J. Lockemy respective of the Due Process Clause, and specifically, that element regarding the “opportunity to be heard in a meaningful way” (Ogburn-Matthews, *supra*), the phrase “after careful consideration”, which appears in both the 03/03/2016 and 06/24/2016 Orders issued by C.J. Lockemy, fails to meet the requirement necessary for due process, as the phrase is vague and ambiguous, and does not provide accurately the required written statement of the issues raised in Appellant’s motions; the authorities relied upon by Appellant set forth in the motions; the required reasoning or analysis by C.J. Lockemy or the required citation to authority relied upon by C.J. Lockemy to support denying the motions. Motion for Summary Judgment. 03/03/2016 Order. Motion to Strike. 06/24/2016 Order. Mullane, *supra*. Ogburn-Matthews, *supra*. U.S. const. amend. XVI, § 1. S.C. const. art. I, § 22.

Still further, the aforementioned Orders issued by C.J. Lockemy fails the Due Process Clause test in terms of failing to provide the required accurate representation of the issues set forth in the aforementioned Motions, to include the basis or reasoning for His Honor's decision to deny the aforementioned motions to preserved for judicial review. Motion for Summary Judgment. 03/03/2016 Order. Motion to Strike. 06/24/2016 Order. Mullane, supra. Ogburn-Matthews, supra. U.S. const. amend. XVI, § 1. S.C. const. art. I, § 22.

Specifically, if the Court were to affirm the July 17, 2015 Circuit Court Order on appeal, upon Appellant's timely motion for rehearing to this Court; a potential petition for a writ of certiorari either to our Supreme Court or the U.S. Supreme Court, the respective courts would be unable to perform a judicial review of C.J. Lockemy's orders because the orders lack the required elements for the aforementioned courts to perform their judicial review functions. 03/03/2016 Order. 06/24/2016 Order. Mullane, supra. Ogburn-Matthews, supra. U.S. const. amend. XVI, § 1. S.C. const. art. I, § 22.

Finally, the alleged violation of Appellant's Due Process Rights, by C.J. Lockemy, while in the performance of His Honor's official duties, first in the 03/03/2016 Order and second in the 06/24/2016 Order, reflects a clear pattern of bias towards the Appellant, by C.J. Lockemy, which was personal in nature, as clearly distinguished from judicial in nature. Parker, supra.

The failure of C.J. Lockemy, in performing His Honor's official duties for the Court, in terms of violating the Appellant's Due Process Rights, reflects an impropriety or the appearance of impropriety and clear violations of U.S. const. amend. XVI, § 1; S.C. const. art. I, § 22; and Cannon 2(A). *Id.* Appellant has therefore lost confidence in

the integrity of C.J. Lockemy, and Appellant reasonably questions the fairness and impartiality of C.J. Lockemy in the instant appeal.

As such, His Honor should consider immediately recusing/disqualifying himself from any further participation in the instant appeal, by way of issuance of an appropriate order, in the interest of the administration of justice, pursuant to Canon 3(E)(1); this Court's holding authorities as set forth in Parker, *supra*; Christy, *supra*; and the USSC's holding authority as set forth in Caperton, *supra. Id.*

**V. Appellant has filed a Request for Investigation regarding C.J. Lockemy's actions taken in the instant appeal with the Office of the Attorney General.**

Appellant contends C.J. Lockemy should consider recusing/disqualifying himself from further participation in the instant appeal because the undersigned Appellant submitted a formal Request for Investigation regarding C.J. Lockemy's actions taken in the instant appeal with Office of the Attorney General. Request for Investigation, C.J. Lockemy, dated July 10, 2016. Att. "C".

Specifically, where the Attorney General's Office has yet to conduct and conclude an investigation into the good-faith complaint alleging unlawful acts taken by C.J. Lockemy with respect to the instant appeal, and in particular, the two aforementioned orders issued in this matter by C. J. Lockemy, it would be inappropriate for C.J. Lockemy to take any further actions in the instant appeal, and to do so would reflect a clear violation of Canon 2(A) ("A JUDGE SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE'S ACTIVITIES"). *Id.*

Thus, C.J. Lockemy should consider immediately recusing/disqualifying himself from any further participation in the instant appeal, by way of issuance of an appropriate

order, in the interest of the administration of justice, pursuant to Cannon 3(E)(1). *Id.*  
Parker, supra; Christy, supra.

**VI. The Order(s) issued by C.J. Lockemy on Appellant's Motions are consistent with the application of the "Black Codes" or "Jim Crow" Laws.**

Appellant contends a review of C.J. Lockemy's orders denying Appellant's Motions for Summary Judgment and to Strike Respondents' Initial Brief are consistent with the application of the "Black Codes" or "Jim Crow" Laws, based on several relevant factors. Before Appellant provides an analysis of C.J. Lockemy's orders in comparison to Jim Crow Laws, it is first necessary to provide a brief background of Jim Crow Laws.

**A. Brief Background of the "Black Codes" or "Jim Crow" Laws.**

The term "Jim Crow," a minstrel character popular during the early 1820s, is the namesake of an American system of discrimination and segregation towards African Americans or Blacks which was prevalent in the Southern states, to include South Carolina. (Tafari, Tsahai. (2002). "A National Struggle: The Rise and Fall of Jim Crow Laws." Accessed from [http://www.pbs.org/wnet/jimcrow/struggle\\_president.html](http://www.pbs.org/wnet/jimcrow/struggle_president.html)).

The "Black Codes" of the Reconstruction era and railroad segregation laws (1865-1877) foreshadowed the birth of the system of Jim Crow, but the Compromise of 1877 can be considered the political event that allowed Jim Crow to come into full power. Following the end of the Civil War (1861-1865), the federal government remained in Southern states to continue enforcement of the rights of newly freed African-American or Black slaves (Tafari, *supra*).

By the election of 1876, the federal government had withdrawn from all but three Southern states, leaving blacks at the mercy of state and local governments. The

Compromise of 1877, in which election-winning electoral votes were exchanged for the end of federal intervention in the Southern states of Louisiana, South Carolina and Florida, marked an era of complicity between Northern and Southern politicians in the abandonment of the issue of civil rights for blacks. Southern Democrats accepted Republican Rutherford B. Hayes' election in exchange for the promise of more federal aid for rebuilding the Southern infrastructure and less federal intervention in Southern politics. As a result, many of the civil rights blacks enjoyed during the Reconstruction era (1865-1877) were summarily revoked (Tafari, *supra*).

## **B. The Five Pillars of Jim Crow Laws**

According to Russell G. Brooker, PhD, a Professor of Political Science, the five (5) pillars of Jim Crow Laws are:

### **1) Economic Oppression**

The Jim Crow system was originally established by middle-class and upper-class whites who were afraid of poor blacks and poor whites working together. In order to keep the poor people from threatening the power of the ruling whites, new laws were made that separated the poor of both races.

Blacks were given the worst jobs for the lowest pay. Certain good jobs were set aside for whites only. Workers of both races were stopped if they tried to form labor unions. Many blacks, and few whites, were arrested and forced to work as slaves in plantations and mines.

### **2) Political Oppression**

After the Civil War, poor black and poor white farmers worked together to elect politicians who supported them. The politicians they elected gave them better

government, better roads, and better working conditions. One major goal of Jim Crow was to ensure that poor whites and poor blacks would never unite again.

To stop the black political threat, blacks were “disenfranchised”, or not allowed to vote. Lack of voting power made blacks unable to remove elected officials they did not like. It also made them easy targets for politicians who wanted to distract the white voters’ attention from unfair taxes and corrupt governments.

### **3) Legal Oppression**

Legal oppression went along with political oppression. Blacks had very difficult times in courts. All the judges and almost all juries were white. In most cases, black witnesses were not allowed to testify against whites.

### **4) Social Oppression**

Through racial segregation, blacks and whites were kept apart as much as possible. Laws forced blacks and whites to be separate from each other in a variety of public accommodations, to include;

- Separate black and white restrooms, drinking fountains, and waiting rooms;
- Blacks sat in the balcony of movie theaters or in separate theaters for blacks only;
- Blacks could not order food at the front of restaurants. Many restaurants simply refused to serve blacks at all;
- Blacks and whites went to county fairs on different days; and
- Blacks were not allowed to use public libraries.

Segregation is the most famous part of Jim Crow. The Jim Crow system is often called “the segregation system”.

### **5) Personal Oppression**

Black people were rarely shown common courtesy by white people. In fact, whites often picked out individual blacks for harassment. White people could threaten,

beat, rape, torture, and kill blacks with little fear of punishment (Brooker, Russell, PhD.) "The Five Pillars of Jim Crow". America's Black Holocaust Museum. Accessed from <http://abhmuseum.org/the-five-pillars-of-jim-crow/>).

**C. Prohibition of Jim Crow Laws**

In 1964, the Congress of the United States passed the landmark Civil Rights Act of 1964. The Civil Rights Act of 1964 was the culmination of the fight by a courageous few. These patriots sought to undo a century of careful construction of a social structure designed to prevent racial equality from becoming a reality following the dismantlement of slavery.

The law, which ended legal segregation in the United States, may well have been the most remarkable and culturally revolutionary legislation ever enacted in the history of the United States. As a consequence, laws that mandated racial separation, commonly known as Jim Crow laws, were now in violation of federal law. Manning, E., Smith, B. & Jackson, D. (2008). *The Law, The Courts, and Jim Crow: Lesson Plans*. SC Supreme Court Institute.

The undersigned Appellant, who is an African American Citizen, would allege that C.J. Lockemy's Orders denying Appellant's Motion for Summary Judgment and Motion to Strike Respondents' Initial Brief, reflects a consistent application of the previously-abolished Jim Crow Laws, based on several relevant factors.

First, in denying Appellant's Motions, where C.J. Lockemy failed to meet the required elements of what must be contained within every decision issued by the Court pursuant to Rule 220(b); the fact C.J. Lockemy violated Appellant's Due Process Rights in terms of failing to affording Appellant the right to be heard in a meaningful way and

ensure the record was accurately represented for purposes of judicial review, His Honor's actions constitutes "**Legal Oppression**" of the Appellant, by C.J. Lockemy, a pillar of Jim Crow laws. Brooker, *supra*. Motion for Summary Judgment. 03/03/2016 Order. Motion to Strike. 06/24/2016 Order. Mullane, supra. Ogburn-Matthews, supra. U.S. const. amend. XVI, § 1. S.C. const. art. I, § 22.

Second, the failure of C.J. Lockemy to grant Appellant's Motion to Strike in the legally insufficient 06/24/2016 Order, which would have warranted the immediate reinstatement of Appellant's employment, as well as immediate release of more than **\$760,000.00** in unlawfully withheld and entitled Temporary Total Disability (TTD) Benefits to Appellant by Respondents (Motion to Strike, *supra*), His Honor's actions constitutes "**Economic Oppression**" of the Appellant, by C.J. Lockemy, a pillar of Jim Crow laws. Brooker, *supra*. Motion to Strike. 06/24/2016 Order. Mullane, supra. Ogburn-Matthews, supra. U.S. const. amend. XVI, § 1. S.C. const. art. I, § 22.

Finally, in failing to report Appellant's well pled allegations of *fraud; conspiracy to commit insurance fraud; intentional misrepresentation; and intentional false statements*, committed against the undersigned African American Appellant, by **Walter H. Barefoot, Esq., Robert G. Bacon, Esq., and Erin L. Hantske, Esq.**, who by the way are all White or Caucasian American Citizens, to the Insurance Fraud Division, Office of the Attorney General, for mandatory criminal investigation pursuant to § 42-9-440 (Motion to Strike, *supra*), C.J. Lockemy's actions constitutes "**Personal Oppression**" of the Appellant, by C.J. Lockemy, wherein it appears C.J. Lockemy is not only complicit in the alleged fraud committed against the Appellant by the aforementioned officers of the court, C.J. Lockemy has utilized His Honor's authority and power to prevent, obstruct and conceal

the mandatory criminal investigation, by His Honor's actions, wherein the aforementioned officers of the court may face no punishment for their unlawful and criminal actions. Brooker, *supra*. Motion to Strike. 06/24/2016 Order. Mullane, *supra*. Ogburn-Matthews, *supra*. U.S. const. amend. XVI, § 1. S.C. const. art. I, § 22.

Appellant contends the Orders issued by C.J. Lockemy reflect the application of Jim Crow Laws, in violation of The Civil Rights Act of 1964. Appellant has therefore lost confidence in the integrity of C.J. Lockemy, and Appellant reasonably questions the fairness and impartiality of C.J. Lockemy in the instant appeal.

As such, His Honor should consider immediately recusing/disqualifying himself from any further participation in the instant appeal, by way of issuance of an appropriate order, in the interest of the administration of justice, pursuant to Cannon 3(E)(1); this Court's holding authorities as set forth in Parker, *supra*; Christy, *supra*; and the USSC's holding authority as set forth in Caperton, *supra. Id.*

**2. This Motion seeking to Recuse and/or Disqualify C.J. Lockemy from further participation in the instant appeal is submitted in good faith.**

Appellant certifies this motion seeking to recuse and/or disqualify C.J. Lockemy is submitted in good faith, and certainly is not submitted as a means to arbitrarily attack the professional character of His Honor simply because the undersigned disagrees with the two orders denying Appellant's aforementioned Motions.

To the contrary, Appellant has the absolute highest respect and admiration for C.J. Lockemy, and all judges holding office, as it is Appellant's firm conviction that C.J. Lockemy, and all justices in our state, and country, represent the living and breathing manifest embodiment of the U.S. Constitution to wit Appellant swore a solemn and sacred oath to protect and defend while in service and defense of our country while

Appellant served in the U.S. Army, from November 6, 1990 to October 8, 1997, which Appellant continues to be bound by to this day.

Further, a review of the Biography of C.J. Lockemy, as provided on the S.C. Judicial Department website, provides nothing less than an excellent background of education and civil service, specifically, C.J. Lockemy's decision to accept a position as Legislative Assistant to U.S. Senator (and former Presidential Candidate) Strom Thurmond, as well as C.J. Lockemy's service in defense of our country in the U.S. Army, and later, in the South Carolina Army National Guard, achieving the rank of Major General. SC Judicial Department Website.

<http://www.judicial.state.sc.us/appeals/displayJudge.cfm?judgeID=1138>

Thus, this application seeking the recusal and/or disqualification is submitted by the undersigned African American Appellant in good faith, wherein C.J. Lockemy "must exercise sound judicial discretion in determining whether his impartiality might reasonably be questioned". Christy, supra.

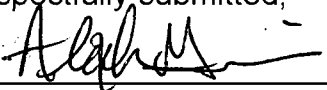
#### CONCLUSION

For all the foregoing reasons, Appellant moves the Court for an appropriate order recusing and/or disqualifying Chief Justice Honorable James E. Lockemy from any further participation in the instant appeal. Further, Appellant request that the Court suspend all further actions in the instant appeal, to include suspending the adjudication of Appellant's Motion for Correction and/or Clarification of Respondents' Designation of Matter, until such time as the Court has issued a ruling on this motion.

#### VERIFICATION


I, **Alexander Guice**, the named and undersigned self-represented African American Appellant in this matter, do hereby swear, under penalty of perjury, that I prepared, read

and reviewed the information contained herein, said information is submitted in good faith, and believe it to be true and correct to the best of my knowledge and ability. Respectfully submitted,

By: 

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

Sworn to before me this  
21 day of July, 2016

  
Notary Public of Florida  
My commission expires 8/13/17

July 21, 2016.



CHRIS BANASZAK  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF045304  
Expires 8/13/2017

# ATTACHMENT "A"

# The South Carolina Court of Appeals

Alexander Guice, Appellant,

v.

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

Appellate Case No. 2015-001821

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## ORDER

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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.



FOR THE COURT

Columbia, South Carolina

cc:

Alexander Guice

Erin Leigh Hantske, Esquire

**FILED**

March 3, 2016

# ATTACHMENT "B"

# The South Carolina Court of Appeals

Alexander Guice, Appellant,

v.

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

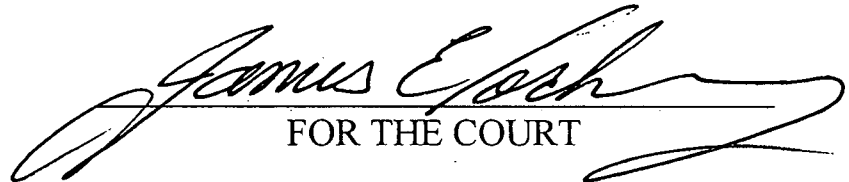
Appellate Case No. 2015-001821

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ORDER

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After careful consideration, the motion to strike is denied.

  
FOR THE COURT

Columbia, South Carolina

cc:  
Alexander Guice  
Erin Leigh Hantske, Esquire

**FILED**

June 24, 2016

# ATTACHMENT "C"

July 10, 2016

**Via Priority Mail**

The Honorable Alan Wilson  
Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211

**Re: Request for Investigation – Chief Justice Hon. James E. Lockemy**

Dear Attorney General Wilson:

Please be advised that I, Alexander Guice, the undersigned U.S. African American Citizen and self-represented moving Appellant in the matter of Alexander Guice v. US Foodservice, Inc., et al, Appellate Case No. 2015-001821, request that a criminal investigation be initiated into alleged criminal actions (i.e. **obstruction of justice, obstruction of a criminal investigation**) by **Chief Justice Honorable James E. Lockemy** ("C.J. Lockemy"). Specifically, the undersigned would allege unto that C.J. Lockemy has violated:

**A. 18 U.S.C. § 24, by way of;**

- 1) Intentionally abusing His Honor's discretionary authority and power while acting "under color of state law", by **a)** issuing an erroneous and legally insufficient Order dated June 24, 2016 denying the undersigned's verified "Motion to Strike Respondents' Initial Brief and Designation of Matter" respective of Appellate Case No. 2015-001821 (a stamped copy of which has already been duly filed to your office, via the Insurance Fraud Division, by the undersigned); **b)** failing to grant entitled relief pursuant to the well pled arguments set forth in the Motion to Strike including vacating all previous orders, reinstating the undersigned's employment and ordering the immediate release of entitled and unlawfully withheld compensation payments to the undersigned; and
- 2) Intentionally abusing His Honor's discretionary authority and power while acting "under color of state law" by issuing an erroneous and legally insufficient Order dated March 3, 2016 denying the undersigned's verified "Motion for Summary Judgment" (a copy of which is contained on file for public viewing on the S.C. Judicial Department's website via "C-Track").

**B. 18 U.S.C. § 1510, by way of;**


- 1) Intentionally abusing His Honor's discretionary authority and power in the

performance of His Honor's official duties, by failing to comply with S.C. Code Ann. § 42-9-440 (1994), in terms of failing to report to your Office, for a criminal investigation, the undersigned's well pled allegations that:

- **Walter Hilton Barefoot, Esq., and Robert Glenn Bacon, Esq.,** engaged in a **Conspiracy to Commit Insurance Fraud; Insurance Fraud;** and admission(s) of **Intentional False Statements and Intentional Misrepresentation, with intent,** to obtain and secure a fraudulent settlement agreement and release from the undersigned's Workers' Compensation Claim No. 0506205;
- **Erin L. Hantske, Esq.,** engaged in **Fraud, Insurance Fraud, and Intentional False Statements and Intentional Misrepresentation, with intent,** to obtain and secure affirmance of the aforementioned fraudulent settlement agreement and release; and
- Respondent-Employer, **US Foodservice, Inc. ("US Foods"),** intentionally failed to report a **May 27, 2004 admitted compensable workplace injury sustained to the undersigned's Back** to the Workers' Compensation Commission (See Motion to Strike, previously filed with your Office via the Insurance Fraud Division).

A copy of the Order(s) dated June 24, 2016 and March 3, 2016 issued by C.J. Lockemy, respectively, has been enclosed herein for review and consideration in support of this formal Request for Investigation. Should your Office require any additional documents or information from the undersigned, which may not be available through C-Track per Appellate Case No. 15-001821, please contact the undersigned at any time. By copy of this correspondence, true copies of the same has been provided *inter alia* to Erin Leigh Hantske, Esq., attorney of record for US Foodservice, Inc., et al, and the Honorable Jenny Abbott Kitchings, Clerk of Court for the Court of Appeals. Thank you for your attention and assistance in this most serious matter.

Very truly yours,



Alexander Guice

U.S. African American Citizen

Honorable Disabled Veteran

/ag

Enclosures: As stated

Notice to the Court, Appellate Case No. 15-001821 dated 07/03/2016

cc: Hon. Jenny Abbott Kitchings

Dr. Lonnie Randolph, Jr., President, S.C. NAACP

Steve Goldberg, Esq., President, Injured Workers' Advocates

Erin Leigh Hantske, Esq.

*"If you are a normal, white American, the truth is you don't understand being black in America and you instinctively underestimate the level of discrimination and the level of additional risk."* – Newt Gingrich 07/07/2016

# ATTACHMENT "D"

# The South Carolina Court of Appeals

Alexander Guice, Appellant,

v.

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

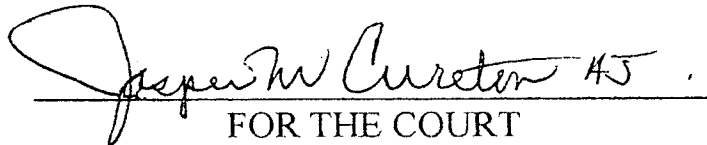
Appellate Case No. 2015-001821

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## ORDER

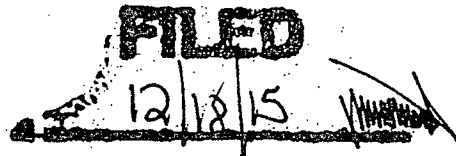
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Respondents' motion for correction or clarification of Appellant's designation of matter is granted to the extent that Appellant shall serve and file an amended designation of matter within twenty days that includes dates for all dated documents Appellant intends to include in the record on appeal. *See* Rule 209(b), SCACR (providing the designation must clearly identify what the party desires to have included in the record on appeal). Respondents' initial brief and designation of matter shall be served and filed within thirty days of receipt of Appellant's amended designation of matter.

 45  
\_\_\_\_\_  
FOR THE COURT

Columbia, South Carolina

cc:  
Alexander Guice  
Erin Leigh Hantske, Esquire



# ATTACHMENT "E"

# 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

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## ORDER

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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.

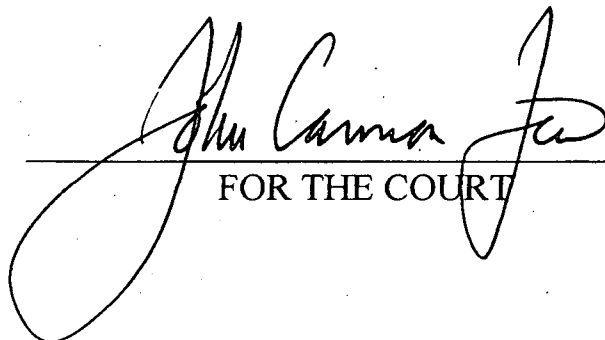
"[A]ppeals in administrative agency matters are handled differently than appeals in other cases." *Bone v. U.S. Food Serv.*, 399 S.C. 566, 574, 733 S.E.2d 200, 204 (2012), *adhered to on reh'g*, 404 S.C. 67, 744 S.E.2d 552 (2013). "An aggrieved party may obtain a review of any final judgment of the circuit 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).<sup>1</sup> "A final judgment disposes of the whole subject matter of the action or terminates the

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<sup>1</sup> 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

Alexander Guice

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

July 21, 2016

Via Priority Mail

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

RECEIVED

JUL 25 2016

SC Court of Appeals

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 'Verified Motion to Recuse and/or Disqualify Chief Justice Honorable James E. Lockemy; an original and seven (7) copies of a 'Reply to Return to 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.

**Please immediately forward the Motion to Recuse and/or Disqualify Chief Justice Lockemy to His Honor for review and adjudication.**

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  
Dr. Lonnie Randolph, Jr., President, S.C. NAACP  
Steve Goldberg, Esq., President, Injured Workers' Advocates

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keeslèy, Successor Circuit Court Judge

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

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Appellate Case No. 2015-001821

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

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Alexander Guice, Employee, Appellant,

v.


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

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**PROOF OF SERVICE**

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I hereby certify that the Respondents, through Counsel, were provided a true copy of a cover letter to the Clerk; a 'Verified Motion to Recuse and/or Disqualify Chief Justice Honorable James E. Lockemy'; a 'Reply to Return to 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 **21<sup>st</sup>** day of July, 2016.



Alexander Guice  
U.S. African American Citizen  
P.O. Box 13281  
Tampa, FL 33681  
(813) 562-0547  
Appellant, Pro Se

July 21, 2016

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