

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

SC Court of Appeals

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, Employee, Appellant,

v.

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

**REPLY TO RETURN MOTION FOR CORRECTION OF
RESPONDENTS' DESIGNATION OF MATTER**

Pursuant to Rule 240(f), SCACR, Appellant submits this Reply to 'Respondents' Return in Opposition to Appellant's Motion for Correction and/or Clarification of Respondents' Designation of Matter' ("Reply"), dated July 11, 2016 and received by Appellant via US regular mail on July 16, 2016, in *propria persona*, and therefore should be considered without regard to technicalities. Hulsey v. Ownes, 63 F3d 354 (5th Cir

1995). In reply to Respondents' Return, Appellant would allege as follows:

1. Clarification/Correction of Item No. 1 of Respondents' Designation "Employment Status Notice dated Nov. 4, 2005"

A review of Respondents' Return indicates that their designation of Item No. 1, and specifically, the "Employer Status Notice dated Nov. 4, 2005" does not exist. Instead, Respondents provide a conclusory defense alleging their Item No. 1 designation, which is clearly dated Nov. 2, 2005 in the top left corner of the document, was dated by Respondents as "Nov. 4, 2005" due to the latest date the aforementioned Employee Status Notice was verified by a certifying Employer Agent (Respondents' Return, p. 2).

However, Respondents provide no cited authority, either from Respondent Employer's handbook or settled law, wherein the date of documents issued by the Employer are to be determined based on "the date of the latest signature appearing on the document" (Respondents' Return, p. 2), wherein said contention must be deemed abandoned by the Court. First Sav. Bank v. McLean, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting when a party fails to cite authority or when the argument is simply a conclusory statement, the party is deemed to have abandoned the issue on appeal).

Furthermore, Respondents' advanced copy of the document at issue (Respondents' Return, Att. "A"), fails to provide an accurate representation of the Employee Status Notice, as it appears difficult to translate and omits critical data from the top left portion of the document. Respondents' Return, Att. "A", previously submitted. Although Appellant previously filed the same as Att. "Q" to the 'Reply to Return to Appellant's Motion for Summary Judgment', Appellant provides a copy of the

same as an attachment hereto which clearly reflects that in the top left corner of the document, and under the heading “**Effective Date**” the date “**11/2/05**” clearly appears on the disputed designation, rendering Respondents’ contention categorically meritless. Employment Status Notice, dated Nov. 2, 2005, ROA; Reply to Return to Motion for Summary Judgment, Att. “**Q**”, previously filed. Resubmitted herein as Attachment “**1**”.

Where this Court has previously granted Respondents’ prior ‘Motion for Correction and/or Clarification of Appellant’s Designation of Matter’ by way of Order on grounds Appellant did not “clearly identify what the party desires to have included in the record on appeal”, this Court should impartially issue an appropriate order for Respondents to submit an amended designation on grounds that the ‘Employee Status Notice dated Nov. 4, 2005’ as advanced as Item No. 1 by Respondents’, does not exist, and Respondents’ did not “clearly identify what the party desires to have included in the record on appeal” as was required pursuant to Rule 209(b), SCACR. Rule 209(b), SCACR. Court Order dated Dec. 18, 2005, *supra*; enclosed herein as Att. “2”.

2. Redundant designations contained within Respondents’ Designation of Matter.

Appellant concedes Respondents’ rebuttal argument to the extent that if Item Nos. 10 and 31 contained within their Designation are also set forth in Appellant’s Designation, that this issue may be resolved by way of Appellant including only one copy of a particular item to be contained within the record on appeal (Respondents’ Return, p. 2).

However, Appellant would point out that Respondents’ Item No. 10 Designation - “Letter from A. Guice to E. Hantske, dated January 17, 2013, transmitting a List of Exhibits & Exhibit 1 (36 pages)” – does not state with any specificity or clarity as to what

was contained on the 36 pages Respondents were referring to, and Appellant only assumes Respondents were designating the documents set forth in Appellant's amended Designation as Item No. "74". In accordance with Rule 209(b), Respondents must "clearly identify" the aforementioned "36" pages they are referring to, and, if said 36 pages are indeed the same clearly identified documents set forth in Appellant's Amended Designation, Appellant shall only provide one copy of the aforementioned documents in the record on appeal. *Id.*

Where this Court has previously granted Respondents' prior 'Motion for Correction and/or Clarification of Appellant's Designation of Matter', per Rule 209, by way of Order on grounds Appellant did not "clearly identify what the party desires to have included in the record on appeal", this Court should impartially issue an appropriate order for Respondents to submit an amended designation on grounds that Respondents' designation did not clearly identify the aforementioned 36 pages respective of Respondents' Item No. 10. *Id.* Court Order dated Dec. 18, 2005.

3. Items contained within Respondents' Designation irrelevant to the instant appeal.

A review of Respondents' Return confirms that none of the disputed items (Item Nos. 4, 12, 14, 21, 23, 26, 27, 29, 30, 32, 33, 41-45, 49, 54-57, 81, 84, 88, 89 and 91-93) contain any matter related to arguments set forth in Respondents' Initial Brief. Respondents' Return. Instead, Respondents' allege that the aforementioned designations are advanced to support their statement of the case, in terms of providing copies of the aforementioned documents in the record on appeal. Further, Respondents cite the inapposite *Appellate Practice in South Carolina*, p. 212 (2nd Ed. 2002), for the proposition that "additional information that **may** assist in understanding

the procedural posture of the case". (Emphasis added). *Id.* Respondents' Return, p. 3.

However, this argument is meritless. The parties have no disputes as to the procedural posture of the instant appeal, and this Court needs no assistance in terms of understanding the procedural posture of this case. Appellant's Initial Brief, previously filed. Respondents' Initial Brief, previously filed. Because the parties have no disputes as to the procedural posture of this matter which **is not** at issue on appeal for the Court to consider, the excessive aforementioned item designations advanced by Respondents' to be included in the record, which are in fact hundreds of pages, are irrelevant to the instant appeal pursuant to Rule 209, SCACR. *Id.*

To put it in another way, what is the relevancy of Appellant's Form 30 dated Nov. 1, 2012 filed with the Commission (Respondents' Item No. 4) to the instant appeal? What is the relevancy of the June 3, 2013 Transcript from the dismissal hearing in CA # 2013-CP-32-01272 (Respondents' Item No. 26), when this Court Remanded that action back to the Circuit Court per the April 24, 2014 Appellate Court Order? Whether the majority of the documents sought to be included in Respondents' Designation were filed before the Commission or the Circuit Court by Appellant (Respondents' Return, p. 5), or not, based on the fact the documents **are not** cited to or relied upon by Respondents' within their Argument of their Initial Brief, the documents are not relevant to the instant appeal and only serves to inundate the record with irrelevant material.

Indeed, Respondents' sole argument to support the aforementioned designations being included in the record on appeal to provide a "full understanding of this dispute" (Respondent's Return, p. 3) is nonsensical, particularly where there is no dispute as to the procedural posture of the instant appeal, which fails to meet their burden to

substantiate the relevancy of Respondents' intended excessive designations, and as such, the Court should reject the Respondents' contentions as meritless.

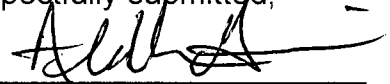
CONCLUSION

Based on the foregoing reasons, this Court should reject the defenses and relief contained within Respondents' Return, and order that Respondents' Designation be corrected as outlined in Appellant's Motion. In addition, Appellant request that the deadline for filing his Initial Reply Brief be suspended until this Court rules on this Motion and Respondents' Designation of Matter has been corrected and/or clarified.

VERIFICATION

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

July 21, 2016

Sworn to before me this
21 day of July, 2016


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



ATTACHMENT "1"



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

EMPLOYEE STATUS NOTICE

(rev 03/2005)

(Hires/Changes/Transfers)

Effective Date	Employee ID (8 digits)	Name (First)	(Middle Initial) (Last)
11/2/05	121674	Alexander	Guice
Section 1	Action(s)	Reason(s)	STD % (if applicable)
	Termination	IO9 - NO POSITION AVAILABLE Permanent lifting restrictions	
Section 2	Comments/Special Processing		
	Termination of Employment- Released from Doctor with permanent lifting restrictions not comparable with job duties		
Section 3	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		Job Code (5 chars)
	Position # (8 digits)	Grade	Position # (8 digits)
	Delivery Driver		Grade
	Job Title		Job Title
	Same		Job Title
	Department # (10 digits) and name		Department # (10 digits) and name
	Transportation		Department # (10 digits) and name
	Location (4 digits) and name		Location (4 digits) and name
	Conway, S C		Location (4 digits) and name
Section 4	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"/> Stepdown	Union Code:	Employee Type:
<input type="checkbox"/> Full time	<input type="checkbox"/> Incentive		<input type="checkbox"/> Salaried
Std Work Hours			<input type="checkbox"/> Hourly
<input type="checkbox"/> Part time			<input type="checkbox"/> Exception Hourly (only commission)
Std Work Hours			
Current Pay Group	Current Tax Location (4 digits):	Proposed Pay Group:	Proposed Tax Location (4 digits)
Section 5	Compensation - Current (A)		Compensation - Proposed (B)
	Comp Rate Code	<input type="checkbox"/> NAANNL(annual) <input type="checkbox"/> NAHRLY(hourly)	Comp Rate Code
	Comp Rate (annual amount or hourly rate)	Target Bonus %	<input type="checkbox"/> NAANNL(annual) <input type="checkbox"/> NAHRLY(hourly)
			Comp Rate (annual amount or hourly rate)
		% Cng	Target Bonus
Section 6	Additional Pay - Present (A)		Additional Pay - Proposed (B)
	Car Allowance	<input type="checkbox"/> Yes <input type="checkbox"/> No	Car Allowance
	Amount/pay period: \$		<input type="checkbox"/> Yes <input type="checkbox"/> No
			Amount/pay period: \$
	Other (describe)	<input type="checkbox"/> Yes <input type="checkbox"/> No	Other (describe)
	Amount/pay period: \$		Amount/pay period: \$
APPROVALS (some changes may require only some of the signatures indicated)			
Immediate Supervisor	Date	Division HR	Date
Mike Sanders	11/2/05	<i>[Signature]</i>	11-2-05
R A Bennett	Date	Zone or Region President (for exceptions or regional staff change)	Date
<i>[Signature]</i>	11/2/05		
Division President	Date	Region HR VP (for exceptions or regional staff changes)	Date
<i>[Signature]</i>			
Approvals for DIVISION TRANSFERS - Sending Division		Processed by HR	Date
Division HR (sending division)	Date	<i>[Signature]</i>	11/2/05
		Processed by Payroll	Date

ATTACHMENT "2"

The South Carolina Court of Appeals

Alexander Guice, Appellant,

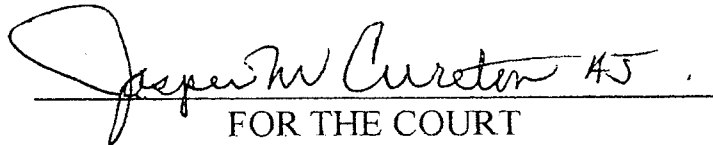
v.

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

Appellate Case No. 2015-001821

ORDER

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.


FOR THE COURT

Columbia, South Carolina

cc:
Alexander Guice
Erin Leigh Hantske, Esquire

FILED
12/18/15

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

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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 '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 **21st** day of July, 2016.



Alexander Guice
U.S. African American Citizen
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Appellant, Pro Se

July 21, 2016

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