



Redacted  
Copy

THE CAPONE FAMILY

October 26, 2018

US MAIL

The Honorable Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

**RECEIVED**

NOV 05 2018

SC Court of Appeals

Re: Terry Capone v. City of Columbia and Companion Third Party Administrator, LLC  
Appellate Case No.: 2018-001364 Request To Stay Remittitur and Appeal Order  
Filed September 20, 2018.  
W.C.C. File Nos. 1322451, 1319203, 1420487

Dear Ms. Kitchings:

Based on an email notification dated October 25, 2018 (enclosed), from [REDACTED] of SC WCC stating "The appeal was discussed on Monday and order instructions will be issued in the next few weeks. If you are dissatisfied with the decision, the next step would be to appeal that order to the Court of Appeals".

I am therefore requesting based on continued "Fraud On The Court" to Stay the Remittitur dated October 9, 2018 and appeal the order of the dismissal of my appeal dated September 20, 2018 and alternatively ask the case to be held in abeyance pending the decision of the South Carolina Workers Compensation Commission.

I had already paid \$100.00 fee for the appeal that did not take place, the Interlocutory order was a final order from signed [REDACTED]. Since the "appealed" order from the Full Commission only stated: "denied as Interlocutory, it was in fact final and was clearly Nonfeasance, Misfeasance and Malfeasance. To include and based on the following:

1. Our courts have consistently held that the Commission is required to "make findings from which an appellate court may reasonably infer that it gave proper consideration to all relevant testimony." *Smith v. Beasley Enters.*, 148 N.C. App. 559, 562, 577 S.E.2d 902, 904 (2002).
2. This Court has held that when the matter is 'appealed' to the full Commission pursuant to G.S. 97-85, it is the duty and responsibility of the full Commission *to decide all of the matters in controversy between the parties.*" *Vieregge*, 105 N.C. App. at 638, 414 S.E.2d at 774 (emphasis added) (citation omitted).
3. Further stated :The Commission is not an appellate court. *Joyner v. Rocky Mount Mills*, 92 N.C. App. 478, 482, 374 S.E.2d 610, 613 (1988). "It is a quasi-judicial agency with statutory authority to make findings of fact, state conclusions of law and enter an order resolving the issues between the employee and the employer and the employer's insurance carrier, if any, arising out of the application of the Worker's Compensation Act." *Vieregge v. N.C. State University*, 105 N.C. App. 633, 639-40, 414 S.E.2d 771, 775 (1992).

4.Fox, 319 S.C. at 282, 461 S.E.2d at 394-95. See also Parsons v. Georgetown Steel, 318 S.C. 63, 456 S.E.2d 366 (1995)(findings of fact of administrative body must be sufficiently detailed to enable reviewing court to determine whether findings are supported by evidence).

My acquiescing to the Commission requested review was for a "Full Review" of the "whole Record" to hear and review all evidence from the beginning to the end, this is an "extraordinary circumstance" as fundamental and substantial rights were prejudiced and Fraud Upon The Court by the Commissioner [REDACTED] who at no point made me aware that he was practicing law without a South Carolina license and merely "masquerading as a judge" while him and the [REDACTED] proceeded to perpetrate Fraud Upon The Court during the hearing held August 21, 2015 and his December 2, 2015 decision is Void and all others that proceeded it and violated my constitutional rights, as stated:

The U.S. Supreme Court has stated that "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958).

The Illinois Supreme Court has held that "if the magistrate has not such jurisdiction, then he and those who advise and act with him, or execute his process, are trespassers." Von Kettler et.al. v. Johnson, 57 Ill. 109 (1870) Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828)

This includes Procedural / Substantive Due process to deny / devalue my SC Workers Compensation Benefits (property) that myself and my family hold a substantial property interest to the minimum [REDACTED]

This is a controversy whose violations also had a disparate impact. If there was no reviewing of the "whole record" then any review could not have been meaningful; it is Fraud Upon The Court. Let this stand as notification that it will be my intention in the coming days to file official complaints for Fraud Upon The Court and others to include with the SC Ethics Committee, Disciplinary Council and will seek to file a Federal Complaints for Civil RICO for Wire Fraud and Mail Fraud. I can understand for the life of my, how the defendants City of Columbia can submit paper work to the State of South Carolina stating I was disabled as a result of Work-related injury as 10/21/2013, and then come into a SC Workers' Compensation Commission Court and deny the injuries are work related this is fraud upon the court.

Thank you for your consideration.

With The Highest Regards,



Enclosure(s) as Stated

Cc: Carmelo B. Sammataro Attorney for Respondents (w/all enclosures)

Mr. Terry H. Capone  
Fire Battalion Chief-Retired  
[REDACTED]

Email: [REDACTED]

LIMITATION OF CIVIL ACTIONS Section 15-3-670 - Circumstances in which limitations provided by Sections 15-3-640 through 15-3-660 are not available as defense as a defense to a person guilty of fraud, gross negligence, or recklessness in providing components in furnishing materials, in developing real property, in performing or furnishing the design, plans, specifications, surveying, planning, supervision, testing or observation of construction, construction of, or land surveying, in connection with such an improvement, or to a person who conceals any such cause of action. (C) The limitation provided by Section 15-3-640 may not be asserted as a defense to an action for personal injury, including a personal injury resulting in death, or property damage which is:

- (1) by its nature not discoverable in the exercise of reasonable diligence at the time of its occurrence; and
- (2) the result of ingestion of or exposure to some toxic or harmful or injury producing substance, element, or particle, including radiation, over a period of time as opposed to resulting from a sudden and fortuitous trauma.

HISTORY: 1962 Code Section 10-155; 1970 (56) 2397; 1986 Act No. 412, Section 3; 2011 Act No. 52, Section 5, eff January 1, 2012.

10/26/2018

Mail - [REDACTED]

# RE: TCAPONE-PLEASE SEE ATTACHED SUBPOENA REQUEST

[REDACTED]

Thu 10/25/2018 10:21 AM

To: [REDACTED]  
[REDACTED]

Sensitivity Confidential

Mr. Capone, there is no ongoing discovery in your case at the Commission level. The Appeal was discussed on Monday and order instructions will be issued in the next few weeks. If you are dissatisfied with the decision, the next step would be to appeal that Order to the Court of Appeals.

[REDACTED]

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From: [REDACTED]  
Sent: Wednesday, October 24, 2018 10:16 PM

[REDACTED]

Subject: TCAPONE-PLEASE SEE ATTACHED SUBPOENA REQUEST  
Importance: High  
Sensitivity: Confidential

Greetings,

Please see attached Subpoena request, as I've been informed discovery is ongoing.  
Thank you.

Sent from Terry H Capone's Verizon 4G LTE smartphone

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**CONFIDENTIAL & PRIVILEGED**  
The preceding email message, including any attachments, may be confidential and/or protected by the attorney-client or other applicable privileges. It is intended for the sole use of the individual or entity named above. If the

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**EXHIBIT #1**

Joe Stone Oct 25, 2018 9:25:15 AM South Carolina Retirement Systems

**Retirement Date Certification**

Form: <b>6201</b>	
SSN: [REDACTED]	Name: <b>TERRY H CAPONE</b>
Employer: [REDACTED]	
Application System: [REDACTED]	
System Requested: <b>PORS</b>	
Planned DOR: [REDACTED]	
Applications on file: <b>Disability</b>	
Task: [REDACTED]	
Date Received: [REDACTED]	
Confirmation: [REDACTED]	
<b>Dates</b> Last Date Of Earned Compensation: [REDACTED] Date Of Termination: [REDACTED]  <input type="checkbox"/> The employee is not planning to retire.  <input type="checkbox"/> We are unable to locate any employment records about this member and cannot provide any additional information about this members employment.	<b>TERI Data</b> There is no TERI information to report.
<b>Comments</b> [REDACTED]	

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**EXHIBIT #2**

South Carolina Retirement Systems

Final Payroll Certification

Form: 6202

SSN: [REDACTED] Name: TERRY H CAPONE

Employer: [REDACTED]

Application System: PORS Type: Disability Seq: 1

System Requested: 2

Task: [REDACTED]

Date Received: [REDACTED]

Confirmation: [REDACTED]

Dates

Last Date Of Earned Compensation: [REDACTED]

Date Of Termination From Active Employment: [REDACTED]

Date Of Final Paycheck: [REDACTED]

Final Payroll

Number Of Days In Contract Or Normal Work Year: 260

Contract Or Budgeted Annual Salary: \$ [REDACTED]

Hourly Rate Of Pay: [REDACTED]

Hours In A Shift: [REDACTED]

Paychecks Per Year: [REDACTED]

Position Title: Fire Battalion

This Member Was An Hourly Employee:  No

Annual & Sick Leave

Check Date On Annual Leave Payment: [REDACTED]

Number Of Annual Leave Days Paid: [REDACTED]

Amount Of Annual Leave Payment: [REDACTED]

Contribution On Annual Leave Payment: [REDACTED]

There Is No Sick Leave to Report.

Quarterly Data

Quarter: 01-01-2014 thru 03-31-2014

Active Earned Final Compensation: [REDACTED]

Active Earned Final Contributions: [REDACTED]

Contract Length: [REDACTED]

Months Paid: [REDACTED]

A Furlough Will Be Reported Separately For This Quarter:

Quarter: 04-01-2014 thru 06-30-2014

Active Earned Final Compensation: [REDACTED]

Annual Leave Payment: [REDACTED]

**Total Active Compensation:**

Active Earned Final Contributions: [REDACTED]

Annual Leave Contributions: [REDACTED]

**Total Active Contributions:**

Contract Length: [REDACTED]

Months Paid: [REDACTED]

A Furlough Will Be Reported Separately For This Quarter: No

Payroll Verification

FY 2014

Budgeted Salary	Date Effective
[REDACTED]	[REDACTED]

There Is No Additional Pay for FY 2014

There Is No Overtime Pay for FY 2014

FY 2013

Budgeted Salary	Date Effective
[REDACTED]	[REDACTED]

There Is No Additional Pay for FY 2013

There Is No Overtime Pay for FY 2013

FY 2012

Budgeted Salary	Date Effective
[REDACTED]	[REDACTED]

There Is No Additional Pay for FY 2012


FY 2011

Budgeted Salary	Date Effective
[REDACTED]	[REDACTED]

There Is No Additional Pay for FY 2011

FY 0

There Is No Additional Pay for FY 0

<b>Comments</b>	
	

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**EXHIBIT #3**

Copy C For EMPLOYEE'S RECORDS. (See Notice to Employee on back of Copy B.)		2011	OMB No. 1545-0008
a Employee's soc. sec. no.	1 Wages, tips, other compensation	2 Federal income tax withheld	
b Employer ID no. (EIN)	3 Social security wages	4 Social security tax withheld	
	5 Medicare wages and tips	6 Medicare tax withheld	
c Employer's name, address, and ZIP code			
d Control number 01430			
e Employee's name, address, and ZIP code			
7 Social security tips	8 Allocated tips	9	
10 Dependent care benefits	11 Nonqualified plans	12a Code See inst. for box 12	
13 Statutory employee	14 Other	12b Code	
Retirement plan X		12c Code	
Third-party sick pay		12d Code	
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	
18 Local wages, tips, etc.	19 Local income tax	20 Locality name	

Form W-2 Wage and Tax Statement Dept. of the Treasury - IRS 38-2099803  
For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Copy B To Be Filed With Employee's FEDERAL Tax Return		2012	OMB No. 1545-0008
a Employee's soc. sec. no.	1 Wages, tips, other compensation	2 Federal income tax withheld	
b Employer ID no. (EIN)	3 Social security wages	4 Social security tax withheld	
	5 Medicare wages and tips	6 Medicare tax withheld	
c Employer's name, address, and ZIP code			
d Control number			
e Employee's name, address, and ZIP code			
7 Social security tips	8 Allocated tips	9	
10 Dependent care benefits	11 Nonqualified plans	12a Code See inst. for box 12	
13 Statutory employee	14 Other	12b Code	
Retirement plan X		12c Code	
Third-party sick pay		12d Code	
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	
18 Local wages, tips, etc.	19 Local income tax	20 Locality name	

Form W-2 Wage and Tax Statement Dept. of the Treasury - IRS 38-2099803  
For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Copy C For EMPLOYEE'S RECORDS. (See Notice to Employee on back of Copy B.)		2013	OMB No. 1545-0008
a Employee's soc. sec. no.	1 Wages, tips, other compensation	2 Federal income tax withheld	
b Employer ID no. (EIN)	3 Social security wages	4 Social security tax withheld	
	5 Medicare wages and tips	6 Medicare tax withheld	
c Employer's name, address, and ZIP code			
d Control number			
e Employee's name, address, and ZIP code			
7 Social security tips	8 Allocated tips	9	
10 Dependent care benefits	11 Nonqualified plans	12a Code See inst. for box 12	
13 Statutory employee	14 Other	12b Code	
Retirement plan		12c Code	
Third-party sick pay		12d Code	
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	
18 Local wages, tips, etc.	19 Local income tax	20 Locality name	

Form W-2 Wage and Tax Statement Dept. of the Treasury - IRS 38-2099803

**EXHIBIT #4**

Form 6253 Revised 7/9/2012 Print or type in black ink	<b>EMPLOYER'S DISABILITY EMPLOYMENT STATUS REPORT</b> To Be Completed by Applicant's Payroll/Benefits Officer SC Public Employee Benefit Authority South Carolina Retirement Systems Attention: Customer Services Annuity Claims PO Box 11960, Columbia, SC 29211-1960	<input type="checkbox"/> SCRS <input checked="" type="checkbox"/> PORS <input type="checkbox"/> GARS
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The individual indicated below has applied for disability retirement benefits. Please complete the information on the remainder of this form, and return it to the address listed above as soon as possible. Upon receipt of this completed form, the employee's application will be processed.

*Revised Ann: Lewis Randolph*

Employee Name: _____	Social Security Number: _____
Employer: _____	Employer Code: _____

**RECEIVED**

Position Title: \_\_\_\_\_

JAN 15 2014

1. Is the position title shown above correct? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (please explain)	2. Annual salary on date of disability: _____
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**CUSTOMER CLAIMS**

3a. Is the employee currently working? <input checked="" type="checkbox"/> No (last day physically worked): _____ (skip to Question 4a) <input type="checkbox"/> Yes (proceed to Question 3b)	3b. Is the employee performing all regular duties? <input type="checkbox"/> Yes (skip to Question 6a) <input type="checkbox"/> No (proceed to Question 3c)
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3c. In what capacity is the employee currently working? <input type="checkbox"/> Light duty* <input type="checkbox"/> Diminished capacity* <input type="checkbox"/> Leave without pay (not terminated) (attach copy of Personnel Policy) <input type="checkbox"/> Reduced hours <input type="checkbox"/> Other (please explain): _____	3d. Date member was placed in status shown at left: _____ MM-DD-YYYY
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\*Attach letter explaining current duties in relation to normal work functions.

4b. Last day compensation was earned (including pay continuation, using annual and sick leave): _____ MM-DD-YYYY	4c. Amount of lump-sum payments for unused leave Annual leave \$ _____ Sick leave \$ _____	4d. Number of days of unused leave: (complete and proceed to Question 6a) Annual leave _____ Sick leave _____
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5. Employee's current payroll status (check one and indicate appropriate date):

<input type="checkbox"/> On annual leave (date leave began): _____	<input type="checkbox"/> On leave without pay (date leave began): _____
<input type="checkbox"/> On sick leave (date leave began): _____	<input type="checkbox"/> Applied for leave under sick leave bank (date leave begins): _____

6a. Was this employee injured on the job? <input type="checkbox"/> No _____ MM-DD-YYYY	6b. Is employee on leave without pay (not terminated) pending settlement of a Workers' Compensation claim? <input type="checkbox"/> No <input type="checkbox"/> Claim settled (date): _____ <input checked="" type="checkbox"/> Yes _____ MM-DD-YYYY
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I hereby certify that to the best of my knowledge, the information above correctly reflects the records of the employing entity.

Prepared by: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Telephone: \_\_\_\_\_

Return completed form to the SC Retirement Systems (address above).  
Please call SC Retirement Systems Customer Service with any questions: (800) 868-9002 (In state) or (803) 737-6800

RECEIVED  
JAN 15 2014  
CUSTOMER SERVICE

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**EXHIBIT #5**

Form 6254 Revised 7/9/2012  Print or type in black ink	<b>EMPLOYER'S DESCRIPTION OF DISABILITY APPLICANT'S JOB</b> (TO BE COMPLETED BY APPLICANT'S SUPERVISOR) SC Public Employee Benefit Authority South Carolina Retirement Systems ATTENTION: CUSTOMER ANNUITY CLAIMS PO Box 11980, Columbia SC 29211-1980	Retirement System <input type="checkbox"/> SCRS <input checked="" type="checkbox"/> PORS <input type="checkbox"/> GARS																																													
The individual indicated below has applied for disability retirement benefits. Please complete the information on the remainder of this form, and return it to the address listed above as soon as possible. Upon receipt of this completed form, the employee's application will be processed.																																															
<b>DISABILITY APPLICANT/EMPLOYEE INFORMATION</b>																																															
1. Last Name & Suffix	2. First/Middle Name	3. Social Security Number																																													
4. Position Title Battalion Chief	5. Employee ID	6. Employer Code																																													
Date employee started this position: MM-DD-YYYY		Date employee stopped work in this position because of disability: MM-DD-YYYY																																													
IN THIS JOB DID THE EMPLOYEE: <table style="width:100%; border: none;"> <tr> <td style="width:70%;">1. Use machines, tools, or equipment of any kind?</td> <td style="width:10%;"><input checked="" type="checkbox"/> Yes</td> <td style="width:20%;"><input type="checkbox"/> No</td> </tr> <tr> <td>2. Use technical knowledge of any kind?</td> <td><input checked="" type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> </tr> <tr> <td>3. Do any writing, complete reports, or perform similar duties?</td> <td><input checked="" type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> </tr> <tr> <td>4. Have supervisory responsibilities?</td> <td><input checked="" type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> </tr> </table>			1. Use machines, tools, or equipment of any kind?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	2. Use technical knowledge of any kind?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	3. Do any writing, complete reports, or perform similar duties?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	4. Have supervisory responsibilities?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																																	
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4. Have supervisory responsibilities?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No																																													
DESCRIBE BASIC DUTIES OF JOB BELOW AND ATTACH EMPLOYEE'S POSITION DESCRIPTION. ALSO, EXPLAIN ALL "YES" ANSWERS ABOVE BY GIVING A FULL DESCRIPTION OF: <ul style="list-style-type: none"> <li>A. Type of machines, tools, or equipment used, and exact operations performed.</li> <li>B. The technical knowledge or skills involved.</li> <li>C. Type of writing done and nature of reports.</li> <li>D. The number of people supervised and the extent of supervision.</li> </ul> Hurst tool use to extricate victim from vehicle entrapment; First responder skill and knowledge to administer CPR with proper AED operation Typing fire reports on computer Supervised over Ten employees																																															
DESCRIBE THE KIND AND AMOUNT OF PHYSICAL ACTIVITY THIS JOB INVOLVED DURING A TYPICAL DAY IN TERMS OF:																																															
<b>A. CHECK NUMBER OF HOURS A DAY:</b> <table style="width:100%; border: none;"> <tr> <td style="width:30%;">WALKING</td> <td>1 <input type="checkbox"/></td> <td>2 <input type="checkbox"/></td> <td>3 <input type="checkbox"/></td> <td>4 <input type="checkbox"/></td> <td>5 <input type="checkbox"/></td> <td>6 <input type="checkbox"/></td> <td>7 <input type="checkbox"/></td> <td>8 <input checked="" type="checkbox"/></td> </tr> <tr> <td>STANDING</td> <td>1 <input type="checkbox"/></td> <td>2 <input type="checkbox"/></td> <td>3 <input type="checkbox"/></td> <td>4 <input type="checkbox"/></td> <td>5 <input type="checkbox"/></td> <td>6 <input type="checkbox"/></td> <td>7 <input type="checkbox"/></td> <td>8 <input checked="" type="checkbox"/></td> </tr> <tr> <td>SITTING</td> <td>1 <input type="checkbox"/></td> <td>2 <input type="checkbox"/></td> <td>3 <input type="checkbox"/></td> <td>4 <input type="checkbox"/></td> <td>5 <input type="checkbox"/></td> <td>6 <input type="checkbox"/></td> <td>7 <input type="checkbox"/></td> <td>8 <input checked="" type="checkbox"/></td> </tr> <tr> <td>HANDLE, GRAB, OR GRASP LARGE OBJECTS</td> <td>1 <input type="checkbox"/></td> <td>2 <input type="checkbox"/></td> <td>3 <input type="checkbox"/></td> <td>4 <input type="checkbox"/></td> <td>5 <input type="checkbox"/></td> <td>6 <input type="checkbox"/></td> <td>7 <input type="checkbox"/></td> <td>8 <input checked="" type="checkbox"/></td> </tr> <tr> <td>WRITE, TYPE, OR HANDLE SMALL OBJECTS</td> <td>1 <input type="checkbox"/></td> <td>2 <input type="checkbox"/></td> <td>3 <input type="checkbox"/></td> <td>4 <input type="checkbox"/></td> <td>5 <input type="checkbox"/></td> <td>6 <input type="checkbox"/></td> <td>7 <input type="checkbox"/></td> <td>8 <input checked="" type="checkbox"/></td> </tr> </table>			WALKING	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input checked="" type="checkbox"/>	STANDING	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input checked="" type="checkbox"/>	SITTING	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input checked="" type="checkbox"/>	HANDLE, GRAB, OR GRASP LARGE OBJECTS	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input checked="" type="checkbox"/>	WRITE, TYPE, OR HANDLE SMALL OBJECTS	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input checked="" type="checkbox"/>
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<b>B. CHECK HOW OFTEN:</b> <table style="width:100%; border: none;"> <tr> <td style="width:20%;">BENDING</td> <td><input type="checkbox"/> NEVER</td> <td><input checked="" type="checkbox"/> OCCASIONALLY</td> <td><input type="checkbox"/> FREQUENTLY</td> <td><input type="checkbox"/> CONSTANTLY</td> </tr> <tr> <td>REACHING</td> <td><input type="checkbox"/> NEVER</td> <td><input checked="" type="checkbox"/> OCCASIONALLY</td> <td><input type="checkbox"/> FREQUENTLY</td> <td><input type="checkbox"/> CONSTANTLY</td> </tr> </table>			BENDING	<input type="checkbox"/> NEVER	<input checked="" type="checkbox"/> OCCASIONALLY	<input type="checkbox"/> FREQUENTLY	<input type="checkbox"/> CONSTANTLY	REACHING	<input type="checkbox"/> NEVER	<input checked="" type="checkbox"/> OCCASIONALLY	<input type="checkbox"/> FREQUENTLY	<input type="checkbox"/> CONSTANTLY																																			
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<b>C. LIFTING AND CARRYING:</b> <p>THIS EMPLOYEE OCCASIONALLY (UP TO 1/3 OF AN 8-HOUR DAY) LIFTS AND/OR CARRIES:</p> <table style="width:100%; border: none;"> <tr> <td style="width:20%;"><input type="checkbox"/> LESS THAN 10 LBS.</td> <td>Kinds of objects lifted: Screw Driver and Pliers</td> </tr> <tr> <td><input type="checkbox"/> 10 LBS.</td> <td>Kinds of objects lifted: Sledge Hammer</td> </tr> <tr> <td><input type="checkbox"/> 20 LBS.</td> <td>Kinds of objects lifted: Medical Bag</td> </tr> <tr> <td><input type="checkbox"/> 50 LBS. OR MORE</td> <td>Kinds of objects lifted: SCBA with firefighter bunker gear</td> </tr> </table> <p>THIS EMPLOYEE FREQUENTLY (1/3 TO 2/3 OF AN 8-HOUR DAY) LIFTS AND/OR CARRIES:</p> <table style="width:100%; border: none;"> <tr> <td style="width:20%;"><input type="checkbox"/> LESS THAN 10 LBS.</td> <td>Kinds of objects lifted: Walkie Talkie Radio</td> </tr> <tr> <td><input type="checkbox"/> 10 LBS.</td> <td>Kinds of objects lifted: _____</td> </tr> <tr> <td><input type="checkbox"/> 20 LBS.</td> <td>Kinds of objects lifted: _____</td> </tr> <tr> <td><input type="checkbox"/> 50 LBS. OR MORE</td> <td>Kinds of objects lifted: _____</td> </tr> </table>			<input type="checkbox"/> LESS THAN 10 LBS.	Kinds of objects lifted: Screw Driver and Pliers	<input type="checkbox"/> 10 LBS.	Kinds of objects lifted: Sledge Hammer	<input type="checkbox"/> 20 LBS.	Kinds of objects lifted: Medical Bag	<input type="checkbox"/> 50 LBS. OR MORE	Kinds of objects lifted: SCBA with firefighter bunker gear	<input type="checkbox"/> LESS THAN 10 LBS.	Kinds of objects lifted: Walkie Talkie Radio	<input type="checkbox"/> 10 LBS.	Kinds of objects lifted: _____	<input type="checkbox"/> 20 LBS.	Kinds of objects lifted: _____	<input type="checkbox"/> 50 LBS. OR MORE	Kinds of objects lifted: _____																													
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PHONE		DATE																																													
SIGNATURE		Position Description Attached																																													
Return completed form to the SC Retirement Systems (address above). Please call SC Retirement Systems Customer Service with any questions: (800) 668-8002 (in state) or (803) 737-6800, or cs@retirement.sc.gov																																															

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**CITY OF COLUMBIA, SOUTH CAROLINA  
CLASS DESCRIPTION  
2011**

**CLASS TITLE: FIRE BATTALION CHIEF  
FIRE SUPPRESSION DIVISION  
FIRE DEPARTMENT**

**GENERAL DESCRIPTION OF CLASS**

The purpose of the class is to plan, direct and supervise the operations and activities of assigned battalion area, including multiple fire stations; to direct firefighting crews at all incidents, including but not limited to fires, hazardous material incidents and rescue operations; to ensure the accurate and complete documentation of all assigned activities; and to perform related administrative, supervisory and technical work as required. This class works within broad policy and organizational guidelines and does independent planning and implementation, reporting progress of major activities through periodic conferences and meetings.

**ESSENTIAL TASKS**

The tasks listed below are those that represent the majority of the time spent working in this class. Management may assign additional tasks related to the type of work of the class as necessary.

Directs and participates in firefighting, rescue and hazardous materials incident response in assigned battalion area.

Supervises subordinate personnel through the chain of command; supervisory duties include instructing; assigning, reviewing and planning work of others; maintaining standards; coordinating activities; allocating personnel; acting on employee problems; and recommending employee discipline, transfers, promotions, selections and discharge.

Reviews the work of subordinates for completeness and accuracy; evaluates and makes recommendations as appropriate; offers advice and assistance as needed.

Ensures subordinate personnel are trained in required courses; participates in training as appropriate and maintains training records.

Oversees the proper operation of the incident command system, assisting volunteer officers in the effective and efficient command of incidents and/or taking command of incidents as required until relieved by a superior officer; determines necessity of additional personnel and/or equipment at the scene.

Documents all fire and other emergency incidents and responses.

Inspects personnel, apparatus, equipment and stations for compliance with established policies, procedures and standards of safety.

Assists in ensuring department compliance with all OSHA and other agency regulations and guidelines.

Ensures all assigned fire apparatus and equipment are cleaned, maintained and ready for service; implements corrective action for equipment in need of repair or maintenance; maintains related records.

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**CLASS TITLE: FIRE BATTALION CHIEF - SUPPRESSION**

Coordinates division activities with other City divisions, departments and other local, state and federal organizations as necessary or appropriate.

Represents the department at community / civic meetings and events as appropriate.

Receives and responds to public inquiries, complaints and requests for assistance regarding areas of responsibility.

May perform duties of Assistant Fire Chief as necessary in the Assistant Chief's absence.

Attends training, conferences, seminars, and meetings to remain knowledgeable of modern fire suppression methods and administration; maintains required certifications.

Performs general administrative / clerical work as required, including but not limited to preparing reports and correspondence, copying and filing documents, entering and retrieving computer data, attending and conducting meetings, etc.

Remains available 24 hours per day, seven days per week, for emergency response.

**INVOLVEMENT WITH DATA, PEOPLE, AND THINGS**

**DATA INVOLVEMENT:**

Requires planning or directing others in the sequence of major activities and reporting on operations and activities which are very broad in scope.

**PEOPLE INVOLVEMENT:**

Requires supervising or leading others by determining work procedures, assigning duties, maintaining harmonious relations and promoting efficiency.

**INVOLVEMENT WITH THINGS:**

Requires supervising the activities of those operating or repairing complex machinery or equipment that requires extended training and experience, such as fire engines, fire suppression / rescue equipment, etc., or the application of custom or commercial administrative or other complex software or systems; may involve installation and testing.

**COGNITIVE REQUIREMENTS**

**REASONING REQUIREMENTS:**

Requires performing work involving the application of logical principles and thinking to solve practical problems within or applying to a unit or division of the organization.

**MATHEMATICAL REQUIREMENTS:**

Requires using basic algebra involving variables and formulas and/or basic geometry involving plane and solid figures, circumferences, areas and volumes, and/or computing discounts and interest rates.

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**CLASS TITLE: FIRE BATTALION CHIEF - SUPPRESSION****LANGUAGE REQUIREMENTS:**

Requires reading journals, manuals and professional publications; speaking informally to groups of co-workers, staff in other organizational agencies, the general public, people in other organizations; presenting training; composing original reports, training and other written materials using proper language, punctuation, grammar and style.

**MENTAL REQUIREMENTS:**

Requires doing professional-level work requiring the application of principles and practices in a wide range of administrative, technical or managerial methods in the solution of administrative or technical problems; or the coordination of entry-level managerial work; requires general understanding of operating policies and procedures and the ability to apply these to complex administrative problems; requires continuous, close attention for accurate results or frequent exposure to unusual pressures.

**VOCATIONAL/EDUCATIONAL AND EXPERIENCE PREPARATION****VOCATIONAL/EDUCATIONAL PREPARATION:**

Requires high school diploma or GED equivalent supplemented with completion of one year of college education or specialized advanced training in fire science or a closely related field

**SPECIAL CERTIFICATIONS AND LICENSES:**

Must possess a valid Class "E" state driver's license.

Must possess S.C. Firefighter and Fire Officer certifications.

May be required to obtain other technical or professional certifications as deemed necessary by supervisor.

**EXPERIENCE REQUIREMENTS:**

Requires nine years of continuous service as a career uniform member of the Columbia Fire Department, with the last three years in the rank of Fire Captain within the Operations Bureau.

**AMERICANS WITH DISABILITIES ACT REQUIREMENTS****PHYSICAL AND DEXTERITY REQUIREMENTS:**

Requires medium-to-heavy work that involves walking, standing, climbing, balancing, stooping, lifting, pushing, pulling or raising objects and also involves exerting between 20 and 50 pounds of force on a recurring basis and 50 to 100 pounds of force on an occasional basis.

**ENVIRONMENTAL HAZARDS:**

The job may risk exposure to fire hazards, extreme heat and/or cold, wet or humid conditions, extreme noise levels, vibration, fumes and/or noxious odors, airborne particles, traffic, moving machinery, electrical shock, heights, disease/pathogens, toxic/caustic chemicals, explosives.

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**CLASS TITLE: FIRE BATTALION CHIEF - SUPPRESSION**

**SENSORY REQUIREMENTS:**

The job requires normal visual acuity, depth perception and field of vision, hearing and speaking ability, color perception, odor perception.

**JUDGMENTS AND DECISIONS**

**JUDGMENTS AND DECISIONS:**

Decision-making is a significant part of the job, affecting a large segment of the organization and the general public; works in a dynamic environment; responsible to assist in developing policy and practices.

**ADA COMPLIANCE**

The City of Columbia is an Equal Opportunity Employer. ADA requires the City to provide reasonable accommodations to qualified individuals with disabilities. Prospective and current employees are invited to discuss accommodations.

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**EXHIBIT #6**

<b>ACORD™ WORKERS' COMPENSATION - FIRST REPORT OF INJURY OR ILLNESS</b>					
EMPLOYER (NAME & ADDRESS (INCL ZIP))			LOCATION CODE		
(SEE BACK)					
SIC CODE	EMPLOYER FEIN #	EMPLOYER'S LOCATION ADDRESS (IF DIFFERENT)		PHONE #	
CARRIER/CLAIMS ADMINISTRATOR			LABOR ADM. REGISTRATOR (NAME, ADDRESS, & PHONE NO.)		
Self-insured					
POLICY PERIOD			CHECK IF APPLICABLE		
			<input checked="" type="checkbox"/> SELF INSURANCE		
POLICY/SELF-INSURED NUMBER			AGENT NAME & CODE (N/A/R/R)		
922					
<b>EMPLOYEE/WAGE</b>					
NAME (LAST, FIRST, MIDDLE)		DATE OF BIRTH	SOCIAL SECURITY NUMBER	DATE HIRED	STATE OF HIRED
ADDRESS		SEX	MARITAL STATUS	OCCUPATION/TITLE	W/CONTRO
		<input checked="" type="checkbox"/> MALE	<input type="checkbox"/> UNMARRIED SINGLE/VOIDED		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		<input type="checkbox"/> FEMALE	<input checked="" type="checkbox"/> MARRIED	EMPLOYMENT STATUS	INMATE
		<input type="checkbox"/> UNKNOWN	<input type="checkbox"/> SEPARATED	<input checked="" type="checkbox"/> P/T <input type="checkbox"/> P/T	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
PHONE #		# OF DEPENDENTS			
(H) (W)					
RATE	<input type="checkbox"/> DAY <input checked="" type="checkbox"/> WEEK	<input type="checkbox"/> MONTH <input checked="" type="checkbox"/> OTHER	# DAYS WORKED/WEEK	FULL PAY FOR DAY OF INJURY	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
				DID SALARY CONTINUE?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<b>OCCURRENCE/TREATMENT</b>					
TIME EMPLOYEE BEGAN WORK	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	DATE OF INJURY/ILLNESS	TIME OF OCCURRENCE	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	LAST WORK DATE
7:45		10/12/2013	Approx 4 PM		10/9/2013
CONTACT NAME/SUBVISOR/PHONE NUMBER		TYPE OF INJURY/ILLNESS		PART OF BODY AFFECTED	
Chief Mark Wright (803) 429-5454		sore wrist		wrist	
DID INJURY/ILLNESS EXPOSURE OCCUR ON EMPLOYER'S PREMISES?					
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED			ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED		
Old castover Road (On the scene of a motor vehicle accident)			Unknown		
SPECIFIC ACTIVITY THE EMPLOYEE WAS ENAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED			WORK PROCESS THE EMPLOYEE WAS ENAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED		
Trying to open door of a vehicle involved in an accident to get a patient out			Vehicle accident patient removal		
HOW INJURY OR ILLNESS/ACUTE/CHRONIC HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE.					
DATE RETURNED TO WORK	IF FATAL, GIVE DATE OF DEATH	WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED?		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
Not yet back to work		WERE THEY USED?		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
PHYSICIAN/HEALTH CARE PROVIDER (NAME & ADDRESS)			HOSPITAL (NAME & ADDRESS)		INITIAL TREATMENT
					<input type="checkbox"/> NO MEDICAL TREATMENT
					<input type="checkbox"/> MINOR BY EMPLOYER
					<input type="checkbox"/> MINOR CLINIC HOSP
					<input type="checkbox"/> EMERGENCY CARE
					<input type="checkbox"/> HOSPITALIZED > 24 HRS
					<input checked="" type="checkbox"/> FUTURE MAJOR AMPTN/LOSS TIME ANTICIPATED
WITNESSES (NAME & PHONE #)			DATE PREPARED		PREPARED BY (NAME & TITLE)
					PHON# NUMBER

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# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211  
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COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

October 30, 2018

Terry Capone  
130 Summerlea Drive  
Columbia SC 29203

Re: Terry Capone v. City of Columbia  
Appellate Case No. 2018-001364

**RECEIVED**

NOV 05 2018

SC Court of Appeals

Dear Mr. Capone:

We are in receipt of your correspondence dated October 30, 2018. Please be advised that the Court has immediately removed personal identifying information from the website. Within ten (10) days from the date of this letter, you must file a redacted copy of your document filed on October 29, 2018.

A handwritten signature in black ink, appearing to read "V. Claire Allen".

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Cynthia C. Dooley, Esquire  
Carmelo Barone Sammataro, Esquire



**South Carolina Court of Appeals**

JENNY ABBOTT KITCHINGS, CLERK  
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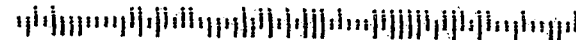
**\$00.47<sup>0</sup>**



ZIP 29201  
011D12602824

TERRY CAPONE  
130 SUMMERLEA DRIVE  
COLUMBIA SC 29203

29203-553230



From: Terry H Capone  
130 Summerlea Drive  
Columbia SC 29203  
~~REDACTED~~  
Copy

First Class Mail  
First Class Mail

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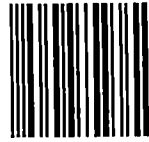
NOV 05 2018

SC Court of Appeals

To: The Hon. Jenny A. Kitchens  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia SC 29201



1005



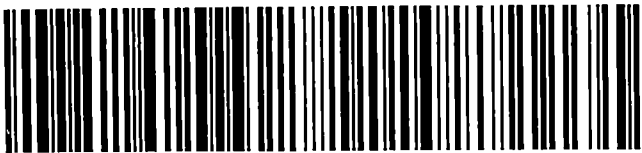
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