

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.,	:	Case No. 03-1572
GREGORY T. HOWARD	:	Trial Court Case No. 97AP-860
	:	
Appellant,	:	
	:	
-vs-	:	
	:	
SEAWAY FOOD TOWN, INC., et al.,	:	
	:	
Appellees.		

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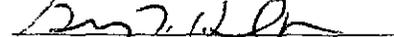
APPLICATION FOR LEAVE TO FILE S. CT. PRAC. RULE XI, SECTION 2  
AMENDED MOTION FOR RECONSIDERATION *INSTANTER*

\*\*\*\*\*

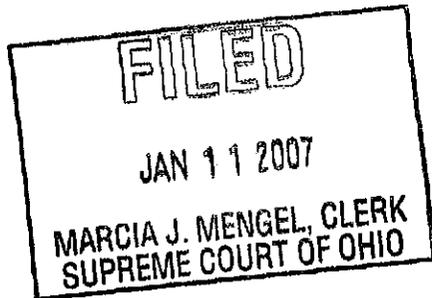
Appellant herein, Gregory T. Howard, pro-se asks for leave to file a S.Ct. Prac. R.

XI, Section 2 Amended Motion for Reconsideration, *instanter*.

Respectfully submitted,

  
 Gregory T. Howard  
 P.O. Box 3096  
 Toledo, Ohio 43607-0096  
 Telephone: (419) 450-3408

Relator-Appellant, Pro-se



PROOF OF SERVICE

This is to certify that a copy of the foregoing of Gregory T. Howard was sent via ordinary U.S. Mail this 11<sup>th</sup> day of January, 2007 to:

Eastman & Smith, Ltd.  
C/O Thomas A. Dixon, Esq.  
One Seagate, 24<sup>th</sup> Floor  
Toledo, Ohio 43699-0032

Governor Ted Strickland  
77 High Street, 30<sup>th</sup> Floor  
Columbus, Ohio 43215-6117

Ohio Attorney General Office  
Shawn M. Wollam, Esq.  
150 East Gay Street, 22<sup>nd</sup> Floor  
Columbus, Ohio 43215

The Ohio Attorney General Chief of  
Chief Counsel Staff-Atty Carney  
State Office Tower  
30 East Broad Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43266-0410

  
Gregory T. Howard  
Appellant-Claimant, pro-se

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.,	:	Case No. 03-1572
GREGORY T. HOWARD	:	Trial Court Case No. 97AP-860
	:	
Appellant,	:	
	:	
-vs-	:	
	:	
SEAWAY FOOD TOWN, INC., et al.,	:	

Appellees.

\*\*\*\*\*

S. CT. PRAC. RULE XI, SECTION 2 AMENDED MOTION FOR RECONSIDERATION *INSTANTER*

\*\*\*\*\*

Appellant herein, Gregory T. Howard, pro-se asked for leave to file a S. Ct. Prac. R. XI, Section 2 Motion for Reconsideration, *instanter*. By way of background, this Court denied the Appellant's motions for leave to file responses to the notices of failure of payment, a complaint for conversion and bad faith, a motion to dismiss notices of failure to pay sanctions, and to initiate contempt proceedings, and found the Appellant to be in contempt of court, and ordered Appellee Seaway Food Town, Inc., to pursue collection of the attorney fee award. Further, ordered the Clerk of this Court to issue a certificate of judgment. (Exhibit 1).

First of all, Seaway Food Town, Inc., legal counsel should be found in contempt of DR 2-106 of the Code of Professional Responsibility or this Court's rules for collecting an illegal or clearly excessive fee because Seaway Food Town, Inc., did not exist at the time this action was commenced in this Court. The fact of the matter is that Seaway Food Town, Inc., simply did not exist at the commencement of this appeal and are not legally entitled to the excessive attorney fees. (Evidence in support of this

assertion is attached hereto). With respect to this issue this Court did not address or consider it in its 01-05-2007 decision as authorized by controlling law. To the extent, the Court's 01-05-2007 decision is arbitrary and unfair to the Appellant. Moreover, this instant S. Ct. Prac. R. XI, Section 2 Amended Motion for reconsideration is therefore, appropriate and thus, must be granted as a matter of law. Thus, this Court must re-think this matter and change its previous decision to read that it overrides it's own, and the Common Pleas Court's entries or it otherwise vacate all of its entries including the Court of Common Pleas and hereby issues a certificate of judgment vacating all of their entries and hereby reinstate the respective cases back to day one.

Likewise, this Court failed to address or to consider or rule on the Appellant's long-standing, in the face of clearly valid case laws, motion to disqualify, to reinstate, and request for sanctions against the Appellee filed with this Court on November 8, 2005, and the Appellant's August 1, 2006 Response to Appellee's notice of Appellant's failure to pay sanctions. This Honorable Court has failed to rule on the Appellant's said motions and applications for leave to proceed, notwithstanding the Appellant's vexatious status. Therefore, the Appellant respectfully asks this Court to override it's own, and the Common Pleas Court's entries or to otherwise vacate all of its entries and to issue a certificate of judgment vacating all of their entries and to reinstate the respective cases back to day one. (Evidence in support that the Appellant has asked the current Governor to consider granting a constitutional pardon because of these assertions is attached). Thus, this Court must re-think this matter and change its previous decision to read that it overrides it's own, and the Common Pleas Court's entries or it otherwise vacate all of its

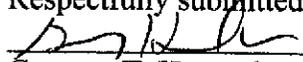
entries including the Court of Common Pleas and hereby issues a certificate of judgment vacating all of their entries and hereby reinstate the respective cases back to day one.

S. Ct. Prac. R. XI, Section 2 provides a motion for reconsideration may be filed within 10 days after the Supreme Court Judgment entry or order is filed with the Clerk; a motion for reconsideration shall be confined strictly to the grounds urged for reconsideration, shall not constitute a reargument of the case, and may be filed only with respect to a sua sponte dismissal of a case, or a decision on the merits of a case.

This Court issued its 01-05-2007 decision sua sponte on the merits of this case finding the Appellant in Contempt of its previous decision, therefore, the filing of the instant motion is timely filed herein. This motion for reconsideration is also confined strictly to reasonable grounds for the motion, is not an abuse of process of this Court and demonstrates that it is not a reargument of the case. Thus, this Court must re-think this matter and change its previous decision to read that it overrides it's own, and the Common Pleas Court's entries or it otherwise vacate all of its entries including the Court of Common Pleas and hereby issues a certificate of judgment vacating all of their entries and hereby reinstate the respective cases back to day one.

Accordingly, Appellant's application for leave and amended motion for reconsideration must be granted pursuant S. Ct. Prac. R. XI, Section 2 and other applicable legal provisions.

Respectfully submitted,

  
\_\_\_\_\_  
Gregory T. Howard  
P.O. Box 3096  
Toledo, Ohio 43607-0096  
Telephone: (419) 450-3408

Relator-Appellant, Pro-se

PROOF OF SERVICE

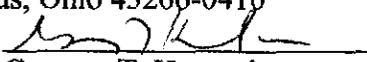
This is to certify that a copy of the foregoing of Gregory T. Howard was sent via ordinary U.S. Mail this 11<sup>th</sup> day of January, 2007 to:

Eastman & Smith, Ltd.  
C/O Thomas A. Dixon, Esq.  
One Seagate, 24<sup>th</sup> Floor  
Toledo, Ohio 43699-0032

Governor Ted Strickland  
77 High Street, 30<sup>th</sup> Floor  
Columbus, Ohio 43215-6117

Ohio Attorney General Office  
Shawn M. Wollam, Esq.  
150 East Gay Street, 22<sup>nd</sup> Floor  
Columbus, Ohio 43215

The Ohio Attorney General Chief of  
Chief Counsel Staff-Atty Carney  
State Office Tower  
30 East Broad Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43266-0410

  
Gregory T. Howard  
Appellant-Claimant, pro-se

ON COMPUTER-KMR

The Supreme Court of Ohio

FILED

JAN 05 2007

MARCIA J. MENGEL, CLERK  
SUPREME COURT OF OHIO

State of Ohio ex rel. Gregory T. Howard

Case No. 03-1572

v.

ENTRY

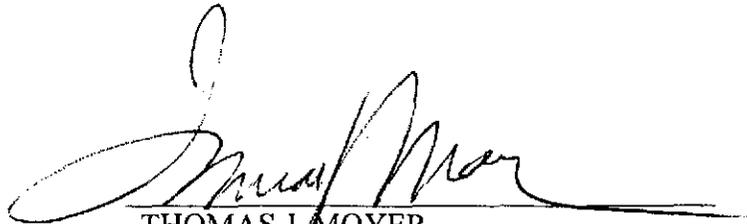
Industrial Commission of Ohio et al.

This cause came on for further consideration of appellee's fourth, fifth, and sixth notices of appellant's failure to pay sanctions, and appellant's motions for leave to file responses to the notices of failure of payment, a complaint for conversion and bad faith, a motion to dismiss notices of failure to pay sanctions, and to initiate contempt proceedings. Upon consideration thereof,

It is ordered by the Court that appellant's motions are denied.

It is further ordered, sua sponte, that appellant is found to be in contempt of this Court, and appellee Seaway Food Town, Inc., may pursue collection of the attorney fee award. The Clerk of this Court shall issue a certificate of judgment.

(Franklin County Court of Appeals; No. 97AP860)

  
THOMAS J. MOYER  
Chief Justice

I HEREBY CERTIFY that this document is a true and accurate copy of the entry of the Supreme Court of Ohio filed 1/5/07 in Supreme Court case number 03-1572

In witness whereof I have hereunto subscribed my name and affixed the seal of the Supreme Court of Ohio on this 8 day of Jan, 2007

MARCIA J. MENGEL, Clerk  
by Marcia Mengel, Deputy

EX. 1

# The Supreme Court of Ohio

## CERTIFICATE OF JUDGMENT

I, Marcia J. Mengel, Clerk of the Supreme Court of Ohio, hereby certify that on March 3, 2004, an entry was issued by the Supreme Court of Ohio in favor of Seaway Food Town, Inc., against Gregory T. Howard, Judgment Debtor, in the amount of Nine Hundred Thirty-Eight Dollars (\$938.00). Stated monetary judgment was for reimbursement of attorney fees incurred in an action in this Court entitled *State ex rel. Gregory T. Howard v. Industrial Commission of Ohio et al.*, Case No. 03-1572, which entry is entered in this Court in Journal Book 99, page number 168.

In witness whereof, I have hereunto subscribed my name and affixed the Seal of the Supreme Court of Ohio this fifth day of January, 2007.

MARCIA J. MENGEL, Clerk

by Robert Vaughn  
Robert Vaughn, Deputy Clerk



# SPARTAN STORES, INC.

THE FOOD PEOPLE

November 25, 2003

Mr. Michael Kwiatkowski  
Ohio Civil Rights Commission  
One Government Center  
Jackson & Erie Streets, Room 936  
Toledo, OH 43604

RECEIVED  
OCRC-TELEDO  
NOV 26 2003  
700101112111444

Dear Mr. Kwiatkowski:

I am in receipt of the Charge of Discrimination involving Gregory T. Howard (TOL) 72032399 (27931) 100903. After reviewing the charge and noting the termination date of Mr. Howard, I have determined that he was not an employee of Spartan Stores and his charge is more than three years old.

Spartan Stores purchased Food Town in August of 2000. Mr. Gregory was terminated on March 25, 1999. I do not have any personnel records on this individual. I will consider this charge closed against Spartan Stores unless I hear otherwise. Please feel free to contact me at 419-891-4243.

Sincerely,

Cynthia M. Kozak  
Human Resource Manager  
Spartan Stores - Pharm Division

Appendix D

9

PLAINTIFF'S EXHIBIT  
2

Thursday, January 11, 2007

Governor Ted Strickland  
30<sup>th</sup> Floor  
77 South High Street  
Columbus, Ohio 43215-6117

**VIA FACSIMILE 614-621-1024 ONLY**

Ohio Bureau of Workers' Compensation  
Acting Administrator/CEO Tina Kielmeyer  
30 West Spring Street  
Columbus, Ohio 43215

**Re: Gregory T. Howard v. Seaway Food Town, Inc.**  
BWC Claim Nos. L-246280-22, 882992-22

Dear Sir or Madam:

On June 30, 1999, the Industrial Commission of Ohio, pursuant to R.C. 4123.52, declared Gregory T. Howard's claim(s) legally dead. The Honorable Carl E. Habekost ("SHO"), hearing officer of the Commission, issued the record of proceedings or entry finding among other things that no further issues may be considered in the claim(s) unless they were filed prior to 11-6-97 or because of any issue filed prior to 11-6-97 compensation or medical benefits are paid extending the statute and that his opinion was based on the reports of "Drs. Mahajan, Funke."

The SHO had a duty at the June 24, 1999 hearing to determine that the fee bills which were on file for treatment with Dr(s) Mahajan, Funke, Rhee be paid retroactively pursuant to O.A.C. rule 4121-17-07, Effective Feb. 1, 1998 but failed to perform such required duty. Therefore, based upon a clerical error, or a clear error of fact or law in the SHO order of 6-30-1999 and pursuant to the continuing jurisdiction provision of O.R.C. 4123.52, the SHO's order of 6-30-1999 must be corrected as set forth below. An employee is entitled to the benefits of the Workers' Compensation Act when he demonstrates the "in the course of" and "arises out of" requirements. *Fisher v. Mayfield* (1990), 49 Ohio St. 3d 275, 277-278. The undersigned sustained both the April 1985 and the November 1993 injuries "while working." That is, it was during his shift and on the employer's premises. Therefore, his assertions made in his claims demonstrate injuries that occurred within the course of his employment. "Arising out of" involves the degree of control the employer had over the scene of the accident. *Fisher* at 279. Both injuries occurred on company property. Therefore, Food Town had full control over the accident scenes. Thus, the "arising" element is shown.

Furthermore, the injured worker submitted the required affidavit attesting to the fact of his knowledge and awareness that he is requesting an additional allowance of a mental disorder pursuant to Industrial Commission Policy U.2 and Industrial Commission

94-1-12. A copy of the attached Affidavit from the injured worker shows that he submitted medical evidence from a licensed psychiatrist or physician that showed a diagnosis of the injured worker's additional conditions of major depression, hypertension, varicose veins and its relationship to the 1993 injury herein. Therefore, the injured worker had provided the SHO with medical evidence which was on file at the time of the hearing to support the conditions of hypertension, varicose veins, and major depression and their direct or proximate cause to the 1993 claim allowed for cervical strain and head contusion. In fact, the 8-8-1995 report of Dr. Funke states major depression-recurrent implying a pre-existing condition; relates a history of the work related injury in November of 1993 and the 1993 claim allowed for cervical strain and head contusion. Also, the 9-20-1994 report of Dr. Rhee states lumbar and cervical strain, hypertension, varicose veins; relates a history of the work related injury in November of 1993 and the 1993 allowed claim for cervical strain and head contusion. The 1993 claim had not expired as the injured worker had received his last paid compensation from the self-insured employer on 3-28-1995. Thus, the "additional allowance" for the conditions of hypertension, varicose veins, and major depression elements is shown. See O.R.C. Sections 4123.52 and 4123.84. For the reasons set forth above, the SHO order of 6-30-1999 must be corrected as follows:

"The order of the District Hearing Officer, from the hearing dated 04-29-1999, is reversed;

It is the order of the Staff Hearing Officer that the C-86 Motion filed by claimant on 02-10-1999 is granted;

The Staff Hearing Officer reviewed and considered all evidence including medical fee bills on file at the time of hearing; the Staff Hearing Officer awards the requests for additional allowances for depression, hypertension, and varicose veins for reasons it is supported by evidence from a licensed psychiatrist or physician which indicates a diagnosis of the injured worker's additional industrial injuries and relationship to the 1993 claim herein as the injured worker has submitted not only the required affidavit but also there is medical evidence on file to support the conditions of hypertension, varicose veins, and major depression and their direct or proximate cause to the 1993 claim allowed for cervical strain and head contusion.

The Staff Hearing Officer finds that there are medical fee bills and an application for permanent total disability compensation which were filed prior to 11-6-97.

This Staff Hearing Officer finds that the last compensation received by the injured worker in the 1985 claim was paid by the self-insured employer on 11-6-87.

This Staff Hearing Officer further finds that the last compensation received by the injured worker in the 1993 claim was paid by the self-insured employer on 03-28-1995.

This order is based on the reports and fee bills of Dr(s) Mahajan, Funke, Rhee. The Staff Hearing Officer authorizes treatment and orders medical bills, compensation(s) paid for the allowed conditions herein to be paid retroactively pursuant to BWC/Rules and guidelines. See, O.A.C. rule 4121-17-07, effective Feb. 1, 1998, also see O.A.C. rule 4121-3-34(D)(2)(a).

The self-insured employer is ordered to comply with these findings.

In all other respects the Staff Hearing Officer order of 06-30-1999 is hereby vacated pursuant to the continuing jurisdiction provision of O.R.C. 4123.52."

Continuing-jurisdiction-10 year claim. The injured worker has requested relief under 4123.52 O.R.C., continuing jurisdiction. Under limited circumstances, the Industrial Commission of Ohio may revisit a prior decision. The injured worker has set forth one or more of these circumstances so as to justify that the Industrial Commission can revisit the hearing officer's order of 06-30-1999. Under these circumstances the Industrial Commission's continuing jurisdiction applies and is justified in the above-referenced claims. The injured worker urges a reversal based upon a mistake of law or mistake of fact by the hearing officer on 06-24-1999. Thus, the "mistake of law or mistake of fact" element is shown. O.R.C. 4123.52.

The injured worker has several industrial claims. The hearing officer of 06-24-1999 found that no further issues may be considered in the claims unless they were filed prior to 11-6-97 or because of any issue filed prior to 11-6-97 compensation or medical benefits are paid extending the statute. The injured worker cites the medical fee bills of Dr(s) Mahajan, Rhee, and his PTD applications which were filed prior to 11-6-1997 in both of his industrial injury claims as an example of issues that could be considered by the Industrial Commission in his claims. The injured worker was not afforded a full and fair hearing on this matter and was not afforded an opportunity to be heard on this matter by the Industrial Commission. See, U.S. Constitution 14<sup>th</sup> Amendment. The hearing officer of 06-24-1999 did not adjudicate these medical fee bills which were on file at the time of the 06-24-1999 hearing nor did he reach a reasonable conclusion of law concerning the said medical fee bills. Id. Therefore, the injured worker is legally entitled to the requested relief under O.R.C. 4123.52, and the Industrial Commission has a clear legal duty to revisit the 06-24-1999 decision, consider the medical fee bills which were filed prior to 11-6-1997 and change or correct the said 06-24-1999 hearing officer's order to read as set forth herein on page 2 of this letter.

Pursuant to Ohio Constitution Article III, Section 6, on January 4, 2007, injured worker sent a letter to the Governor asking him to require information, in writing, from the Ohio Attorney General's Office, upon the subject relating to the duties of the Industrial Commission of Ohio regarding his medical benefits and compensation and to see that the laws are faithfully executed. Ohio law requires that the Industrial Commission of Ohio authorize treatment and order that medical bills, or compensation(s) be paid for the allowed conditions herein and that the same be paid retroactively pursuant to BWC/Rules and guidelines. See, O.A.C. rule 4121-17-07, effective Feb. 1, 1998, also see O.A.C. rule 4121-3-34(D)(2)(a).

Ohio Constitution Article III, Section 6 provides that the governor may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed. The Ohio Attorney General's Office is one of the Executive departments in the Governor's cabinet. In the letter injured worker attested to the fact that the legislative affairs, Industrial Commission of Ohio and the Ohio Bureau of Workers' Compensation wantonly failed to adjudicate or process several motions/filings that were sent (07-27-2006 through 01-03-2007) to them for processing or adjudication in violation of its rules and guidelines. According to applications, medical evidence or fee bills on file at the

time of the 06-24-1999 hearing O.A.C. rule 4121-17-07, Effective Feb. 1, 1998 and other applicable legal provisions, as a matter of law, entitles the injured worker to the benefits of R.C. Chapter 4123, including a recovery against the Bureau of Workers' Compensation of payment from the statutory surplus fund pursuant to R.C. 4123.75. The Ohio Attorney General's Office is obligated to write about the subject relating to the duties of the Industrial Commission of Ohio regarding the injured worker's medical benefits and compensation and the Governor is obligated to see that the laws of (O.A.C. rule 4121-17-07, Effective Feb. 1, 1998 and other applicable legal provisions,) are faithfully executed.

In sum, the injured worker is entitled to the benefits of R.C. Chapter 4123, including a recovery against the Bureau of Workers' Compensation of payment from the statutory surplus fund pursuant to R.C. 4123.75 for work-related injuries. Food Town was not in compliance with BWC/IC Rules and guidelines as to timely making payment of the fee bills for treatment with Dr(s) Mahajan, Funke, Rhee which were filed prior to 11-6-1997. Therefore, because the injured worker proved the self-insured employer's non-compliance with the BWC/IC rules and guidelines he is legally entitled to the benefits of R.C. Chapter 4123, including a recovery of medical benefits and compensation(s) against the Bureau of Workers' Compensation of payment from the statutory surplus fund pursuant to R.C. 4123.75 to be paid retroactively. Accordingly, because the Ohio Attorney General Office has a clear legal duty to write about the subject relating to the duties of the respective offices of the legislative affairs, Industrial Commission of Ohio and the Ohio Bureau of Workers' Compensation with regards to the injured worker's valid workers' compensation claims, and the Governor has a clear legal duty to see that the laws are faithfully executed, the injured worker is legally entitled to the benefits of R.C. Chapter 4123, including a recovery of medical benefits and compensation(s) against the Bureau of Workers' Compensation of payment from the statutory surplus fund pursuant to R.C. 4123.75 to be paid retroactively as a matter of law. For the reasons set forth above, the injured worker must be granted a pardon from the respective courts unreasonable vexatious litigator entries pursuant to Ohio Constitution Article III, Section 11.

On January 8, 2007, Chief Justice Thomas J. Moyer administered the Oath of Office to Governor Ted Strickland and Lt. Governor Lee Fisher to uphold the Constitution. In order to uphold the Constitution and to see that the laws are faithfully executed the Governor must issue an Executive Order requiring that State elected official Ohio Attorney General Office of Marc Dann to state in writing the duties of the respective offices of the legislative affairs, Industrial Commission of Ohio and the Ohio Bureau of Workers' Compensation with regards to the subject of the injured worker's above-referenced valid workers' compensation claims, and to require that the said State Department or Agency to properly process or to adjudicate motions/filings that were sent from (07-27-2006 through 01-03-2007) to them for processing or adjudication by the injured worker pursuant to Workers' Compensation Act.

Finally, the Executive Order must require that the injured worker is granted a constitutional pardon from the respective courts unreasonable vexatious litigator entries

pursuant to Ohio Constitution Article III, Section 11 for the reasons made available in the prior letters and this subsequent letter. This requested Executive Order will send a clear message to all Ohioans that their government will protect their Bill of Rights afforded to them under the Constitution and as incumbent by the Governor's oath of office taken on January 8, 2007 to uphold the Constitution. See, Ohio Constitution Article I, Section 16.

Additionally, the injured worker alleges that he has a good faith belief to believe that on or before 01-08-2007 the Chief Justice and other justices of the Supreme Court of Ohio may have accepted gifts from the Ohio Attorney General's Office and the legal counsel of Seaway Food Town, Inc., in violation of the 1.8.07-Executive Order 2007-015; establishing New Ethics requirements in exchange for a written decision awarding them both attorney fees and additional attorney fees as there can be no other reason to justify an award attorney fees to Seaway Food Town, Inc., who was then and are now a non-existing company in the State of Ohio whom shirked its responsibility leaving unpaid medical benefits and compensations for the Ohio Bureau of Workers' Compensation/Industrial Commission of Ohio to pay from statutory surplus fund pursuant to R.C. 4123.75 to be paid retroactively. Therefore, on this basis alone together on the basis of the face of this letter, the injured worker has stated a claim for which the Governor may provide him relief pursuant to Ohio Constitution Article III, Section 11 and other applicable legal provisions. Accordingly, the Governor should issue an Executive Order requiring the Disciplinary Counsel to publicly reprimand the Chief Justice and other justices of the Supreme Court of Ohio for violation of the Canons of the Code of Judicial Conduct arising from the conduct that resulted in the undersigned being wrongfully found a vexatious litigator and its failure to report such gifts that it received on their annual financial disclosure statements, therefore, the undersigned has standing to pray for relief of their unreasonable vexatious litigator entries under Ohio Constitution Article III, Section 11. See, 2006-1561; *Disciplinary Counsel v. Taft*, 2006-Ohio-6525. In light of the foregoing reasons, the undersigned requested constitutional pardon must be granted as a matter of law.

Moreover, on January 9, 2007, the Industrial Commission of Ohio, in violation of O.R.C. 4123.522, acted in bad faith by disallowing all of the injured worker's valid workers' compensation claims in BWC Claim Nos. 800268-22, 882992-22 & L-246280-22 by not providing him and other parties of record with the proper required written notice of the disallowance decisions pursuant to O.R.C. 9.86. A letter attesting to the fact that the Industrial Commission of Ohio was not in compliance with R.C. 4123.522 on January 9, 2007 is attached to this letter. Copies of application tracking for BWC Claim Nos. 800268-22, 882992-22, & L-246280-22 from the Ohio Bureau of Workers' Compensation that demonstrate the Industrial Commission's bad faith are attached thereto as Exhibits "1," "2," and "3". Here, there is evidence or allegation that the Industrial Commission of Ohio acted with bad faith or failed to comply with the statutory law. Thus, at the time the Industrial Commission disallowed the true, valid or correctly done claims in BWC Claim Nos. 800268-22, 882992-22 & L-246280-22, the applicable law expressly required that it provide the injured worker and the other parties of record with the proper required written notice of the disallowance decisions pursuant to O.R.C. 4123.522. In light of this conclusion, the Governor must find that the Industrial

Commission of Ohio acted with bad faith in the underlying claims and that their statutory immunity as conferred upon it under R.C. 9.86 is lost in this action.

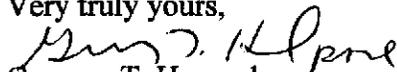
According to R.C. 9.86, the tracking applications, as a matter of law, entitle injured worker to recover the civil damages from the Industrial Commission in the amount of \$2,770,762.08 under Chapter 2743. of the Revised Code or injury caused in the performance of the Industrial Commission duties, for acting in bad faith as the civil immunity of the Industrial Commission and its employees is inapplicable because of the exception applies here in that the Industrial Commission acted in bad faith, or in a wanton or reckless manner, or reached a legal decision about the injured worker's true, valid, correctly done workers' compensation claims without providing him and the other parties of record with the proper required written notice of the disallowance decisions pursuant to O.R.C. 9.86 and other applicable legal provisions.

The bottom line here is that the Governor is free to grant the undersigned a constitutional pardon from the respective courts unreasonable vexatious litigator entries and alleged offenses pursuant to Ohio Constitution Article III, Section 11 for the reasons made available in the prior letters and this subsequent letter and to find that the undersigned is legally entitled to recover the civil damages from the Industrial Commission in the amount of \$2,770,762.08 under Chapter 2743. of the Revised Code for the injury caused in the performance of the Industrial Commission duties from the statutory surplus fund pursuant to R.C. 4123.75 to be paid retroactively as a matter of law, upon the showing of bad faith. O.R.C. 9.86.

To reiterate, this requested Executive Order will send a clear message to all Ohioans that their government will protect their Bill of Rights afforded to them under the Constitution(s) and as incumbent by the Governor's oath of office taken on January 8, 2007 to uphold the Constitution. See, Ohio Constitution Article I, Section 16. Accordingly, the full-text of this document will be attached to an Amended Motion for Reconsider filed in Ohio Supreme Court Case No. 2003-1572, or published for the whole World to see and can be found as *Howard v. Industrial Commission of Ohio, et al.*, at Ohio Supreme Court Case No. 2003-1572. Since this type of request is not barred by the constitution, it is enforceable under existing law.

Thank-you in advance for your consideration on this issue.

Very truly yours,

  
Gregory T. Howard  
P.O. Box 3096  
Toledo, Ohio 43607-0096  
Telephone: (419) 450-3408

Enclosure

cc: Thomas A. Dixon, Esq. (w/o/enc.) Facsimile: 419.247.1777

Bureau of Workers' Compensation (w/o/enc.):866.457.0594  
IC/BWC REPRESENTATIVE (w/o/enc.) 614.728.9535-Article III, Section 1  
Chief Justice Thomas J. Moyer (w/o/enc.) 614.387.9019  
Barbara Beasy (w/o/enc.) 614.644.5209  
Ombudsperson (w/o/enc.) 614.644.1998  
Scott Hines, Esq., (w/o/enc.) 419.245.2652  
Mackinaw Administrator (w/o/enc.) 734-856-6226  
JUDGE JOHN F. BENDER-(Fax #) 614.462.2462  
Court of Appeals Administrator-(Fax) 614-462-7249

AFFIDAVIT IN SUPPORT OF GREGORY T. HOWARD

STATE OF OHIO )  
 )SS:  
COUNTY OF LUCAS )

I, GREGORY T. HOWARD, CLAIMANT PRO-SE BEING FIRST DULY CAUTIONED AND SWORN ACCORDING TO LAW, DO HEREBY STATE, ALLEGE, COMPLAIN, AND AVER AS FOLLOWS:

1. I HAVE PERSONAL KNOWLEDGE OF THE FACTS ATTESTED TO HEREIN.

2. THAT I HAVE KNOWLEDGE AND AWARENESS THAT I AM REQUESTING AN ADDITIONAL ALLOWANCE OF A MENTAL DISORDER AS REQUIRED AND CONTEMPLATED, PURSUANT TO INDUSTRIAL COMMISSION POLICY U.2 AND INDUSTRIAL COMMISSION 94-1-12.

3. THAT I HAVE ATTACHED MEDICAL EVIDENCE TO THE ABOVE MOTION/LETTER THAT SUPPORT MY REQUEST FOR ADDITIONAL ALLOWANCE OF MY CONDITIONS OF HYPERTENSION AND VARICOSE VEINS THAT WERE DIRECTLY OR PROXIMATELY CAUSALLY RELATED TO THE AFORESAID 1993 CLAIM FOR HEAD CONTUSION AND CERVICAL STRAIN.

4. THAT THE LAST COMPENSATION RECEIVED BY ME THE CLAIMANT IN THIS CLAIM WAS PAID BY THE SELF-INSURED EMPLOYER ON 3/28/1995.

5. THAT THE LAST MEDICAL BILL PAID BY THE SELF-INSURED EMPLOYER WAS PAID ON 12/3/1996.

6. THAT I CONTINUE TO INCUR MEDICAL BILLS FOR THE ALL-OWED CONDITIONS AND THE REQUESTED AFORESAID ALLOWANCE TO THE ABOVE SAID CLAIM TO WHICH THE AFOREMENTIONED SELF-INSURED EMPLOYER HAS FAILED AND REFUSED TO PAY PURSUANT TO THE PROVISIONS OF OHIO REVISED CODE, SECTIONS 4123.35, 4123.66, 4123.72 AND OHIO ADMINISTRATIVE CODE, §4121-3-14.

FURTHER AFFIANT SAYETH NAUGHT.

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE ON THE \_\_\_\_\_ DAY OF MAY, 1999.

*Gregory T. Howard*  
CLAIMANT, PRO-SE

NOTARY PUBLIC  
SHAUN M. MURPHY  
Notary Public, State of Ohio  
My Commission Expires Sept. 1, 2000

RECEIVED  
INDUSTRIAL COMMISSION  
OFFICE OF THE SUPERVISOR  
5 AM 10:50  
L-246280-22

1/10/2007

**VIA FACSIMILE @ 419-245-2652 only**

Industrial Commission of Ohio  
Mr. Richard S. Hines  
One Government Center, 15<sup>th</sup> Floor  
Toledo, Ohio 43604

**Re: Gregory T. Howard v. Seaway Food Town, Inc.  
BWC Claim Nos. I-246280-22, 882992-22, & 800268-22  
NOTICE AND MOTION**

Dear Mr. Hines:

On January 9, 2007, the Industrial Commission of Ohio, in violation of O.R.C. 4123.522, disallowed all of the injured worker's valid claims in BWC Claim Nos. 800268-22, 882992-22 & I-246280-22. Evidence in support of this fact is attached hereto respectively as Exhibits "1," "2," & "3". With respect to these actions, the injured worker claims that he did not receive the required written notice of these decisions. The injured worker has not received the required written notice as it was beyond his control and without the fault or neglect of his own and he did not have actual knowledge of the import of the information contained in the disallowances notices. There is no prima facie evidence of a receipt of the written notice by the injured worker, notwithstanding the said claims status of 01-09-2007.

R.C. 4123.522 provides that the injured worker is entitled to written notices of any determination, order or decision under Ohio law, in fact, an employee is deemed not to have received notice until the notice is received from the Industrial Commission or its district or staff hearing officers, the administrator, or the bureau of workers' compensation by both the employee, and his representative of record, both the employer and his representative of record, and both the administrator and his representative. The record, the tracking applications demonstrate that injured worker did not receive the proper required written notices of these decisions and that it was beyond his control and without the fault or neglect of his own as he did not have actual knowledge of the import of the information contained in the disallowances notices. Accordingly, the injured worker is entitled to relief under R.C. 4123.522 and is legally entitled to take the action afforded to him within twenty-one days after the receipt of the notices of such determination of the Industrial Commission.

Finally, the injured worker asserts that the Industrial Commission of Ohio acted in bad faith by not providing him with the necessary written notice of the disallowances associated with his claims.

O.R.C. 9.86 provides that a judicial officer shall be liable for damages or injuries caused in the performance of his duties, when he has acted with malicious purpose, in

bad faith, or in a wanton or reckless manner. The injured worker has demonstrated that there are reasonable grounds for the claim of bad faith against the Industrial Commission and their employees.

According to R.C. 9.86, the tracking applications, as a matter of law, entitle injured worker to recover the civil damages from the Industrial Commission in the amount of \$2,770,762.08 under Chapter 2743. of the Revised Code or injury caused in the performance of the Industrial Commission duties, for acting in bad faith as the civil immunity of the Industrial Commission and its employees is inapplicable because of the exception applies here in that the Industrial Commission acted in bad faith, or in a wanton or reckless manner, or reached a legal decision about the injured worker's valid worker's claims without providing him and the other parties of record with the proper required written notice of the disallowance decisions pursuant to O.R.C. 9.86.

Accordingly, for the reasons set forth herein, the injured worker respectfully asks that requested relief be granted pursuant to O.R.C. 9.86 and other applicable legal provisions.

Thank-you in advance for your consideration on this issue.

Very truly yours,

  
Gregory T. Howard

P.O. Box 3096

Toledo, Ohio 43607-0096

Telephone: (419) 450-3408

Enclosure

cc: Third-Party Administrator (w/enc.) Facsimile: 734.856.6226 ←  
Bureau of Workers' Compensation (w/enc.): 866.457.0594 ✓

Type	Description	Filed Date	Status	Status Date
C86	IC - MOTION FILED BY IW REP REQUESTING	12/11/2006	DUPLICATE	12/18/2006
C86	MOTION	12/11/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING REQ	12/6/2006	DISALLOWED	1/9/2007
C86	MOTION	12/6/2006	DISALLOWED	1/9/2007
C86	MOTION	12/6/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING SI E	12/6/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING REVE	10/20/2006	DUPLICATE	10/24/2006
C86	IC - MOTION FILED BY IW REP REQUESTING	10/6/2006	DISALLOWED	1/9/2007
C86	MOTION	9/13/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING REAC	9/13/2006	DISALLOWED	1/9/2007
C86	MOTION	9/13/2006	DUPLICATE	9/15/2006
C86	MOTION	9/13/2006	DUPLICATE	9/15/2006
C86	MOTION	9/11/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING EMER	9/11/2006	DUPLICATE	9/26/2006
C86	IC - MOTION FILED BY IW REP REQUESTING	8/25/2006	DISMISSED	8/29/2006
1 - 15 of 93				

| Application Tracking |

Exhibit "1"

Type	Description	Filed Date	Status	Status Date
C86	MOTION	7/28/2006	DUPLICATE	7/31/2006
C86	MOTION	7/28/2006	DUPLICATE	7/31/2006
C86	IC - MOTION FILED BY IW REP REQUESTING	7/27/2006	DUPLICATE	8/8/2006
C86	MOTION	7/27/2006	DUPLICATE	7/27/2006
C86	MOTION	7/27/2006	DUPLICATE	7/27/2006
C86	MOTION	7/27/2006	DISALLOWED	1/9/2007
C86	MOTION	7/27/2006	DISALLOWED	1/9/2007
C86	MOTION	7/20/2006	DISMISSED	7/27/2006
C86	IC - MOTION FILED BY IW REQUESTING CONT	7/20/2006	DISALLOWED	1/9/2007
C86	MOTION	7/13/2006	DISMISSED	7/27/2006
C86	IC - MOTION FILED BY IW REP REQUESTING	7/13/2006	DISALLOWED	1/9/2007
IC12	NOTICE OF APPEAL	6/28/2006	COMPLETE	6/29/2006
C86	MOTION	6/8/2006	DUPLICATE	6/9/2006
C86	MOTION	6/8/2006	DUPLICATE	6/9/2006
C86	MOTION	6/8/2006	DUPLICATE	6/9/2006
16 - 30 of 93				

| Application Tracking |

Type	Description	Filed Date	Status	Status Date
C86	MOTION	1/3/2007	DISALLOWED	1/9/2007
C86	MOTION	12/28/2006	DISALLOWED	1/9/2007
C86	MOTION	12/11/2006	DUPLICATE	12/12/2006
C86	MOTION	12/11/2006	DUPLICATE	12/18/2006
C86	IC - MOTION FILED BY IW REQUESTING REQ	12/11/2006	DUPLICATE	12/18/2006
C86	IC - MOTION FILED BY IW REQUESTING REQ	12/6/2006	DISALLOWED	1/9/2007
C86	MOTION	12/6/2006	DISALLOWED	1/9/2007
C86	MOTION	12/6/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING SI E	12/6/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING REQ	11/13/2006	DUPLICATE	11/16/2006
C32	LUMP SUM ADVANCEMENT	11/7/2006	DISALLOWED	1/8/2007
C86	IC - MOTION FILED BY IW REQUESTING REVE	10/20/2006	DUPLICATE	10/24/2006
C86	MOTION	10/20/2006	DISALLOWED	1/9/2007
C86	MOTION	10/20/2006	DUPLICATE	10/23/2006
C86	MOTION	10/20/2006	DUPLICATE	10/23/2006
1 - 15 of 182				

| Application Tracking |

Exhibit "2"

Type	Description	Filed Date	Status	Status Date
C86	IC - MOTION FILED BY IW REP REQUESTING	10/6/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING REAC	9/13/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING EMER	9/11/2006	DUPLICATE	9/26/2006
C86	MOTION	9/11/2006	DISALLOWED	9/12/2006
C86	IC - MOTION FILED BY IW REP REQUESTING	8/25/2006	DISMISSED	8/29/2006
IC12	IC - NOTICE OF APPEAL OF SHO ORDER FILED	8/9/2006	COMPLETE	8/10/2006
IC12	NOTICE OF APPEAL	8/9/2006	COMPLETE	8/9/2006
IC12	NOTICE OF APPEAL	8/9/2006	COMPLETE	8/9/2006
C86	MOTION	7/27/2006	HEARING	7/27/2006
C86	MOTION	7/21/2006	DUPLICATE	7/24/2006
C86	MOTION	7/21/2006	DISMISSED	7/27/2006
C86	IC - MOTION FILED BY IW REQUESTING REQ	7/21/2006	DISMISSED	7/31/2006
C86	IC - MOTION FILED BY IW REQUESTING CONT	7/20/2006	DUPLICATE	7/31/2006
C86	MOTION	7/20/2006	DISMISSED	7/27/2006
C86	MOTION	7/19/2006	DISMISSED	7/27/2006
16 - 30 of 182				

| Application Tracking |

Type	Description	Filed Date	Status	Status Date
C86	MOTION	1/3/2007	DISALLOWED	1/9/2007
C86	MOTION	12/28/2006	DISALLOWED	1/9/2007
C32	LUMP SUM ADVANCEMENT	12/26/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING REQ	12/11/2006	DUPLICATE	12/18/2006
C86	IC - MOTION FILED BY IW REQUESTING REQ	12/6/2006	DISALLOWED	1/9/2007
C86	MOTION	12/6/2006	DISALLOWED	1/9/2007
C86	MOTION	12/6/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING SI E	12/6/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING REQU	11/13/2006	DUPLICATE	11/16/2006
C32	LUMP SUM ADVANCEMENT	11/7/2006	DISALLOWED	1/8/2007
C86	IC - MOTION FILED BY IW REQUESTING REVE	10/20/2006	DUPLICATE	10/24/2006
C86	IC - MOTION FILED BY IW REP REQUESTING	10/5/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IC REQUESTING REAC	9/13/2006	DISALLOWED	1/9/2007
C86	MOTION	9/11/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING EMER	9/11/2006	DUPLICATE	9/26/2006

1 - 15 of 319

| Application Tracking |

EXhibit "3"

Type	Description	Filed Date	Status	Status Date
C86	IC - MOTION FILED BY IW REP REQUESTING	8/25/2006	DISMISSED	8/29/2006
C86	MOTION	8/10/2006	DISALLOWED	1/9/2007
C86	MOTION	7/28/2006	DUPLICATE	7/31/2006
C86	MOTION	7/27/2006	DUPLICATE	7/27/2006
C86	MOTION	7/27/2006	DISALLOWED	1/9/2007
C86	IC - MOTION FILED BY IW REQUESTING REQ	7/21/2006	DISMISSED	8/11/2006
C86	IC - MOTION FILED BY IW REQUESTING CONT	7/20/2006	DISMISSED	8/11/2006
C86	MOTION	7/20/2006	DISMISSED	7/27/2006
C86	MOTION	7/19/2006	DISMISSED	7/27/2006
C86	IC - MOTION FILED BY IW REQUESTING REQ	7/19/2006	DISALLOWED	8/11/2006
C86	IC - MOTION FILED BY IW REQUESTING DISA	7/14/2006	DISMISSED	8/11/2006
C86	MOTION	7/14/2006	DISMISSED	7/27/2006
C86	MOTION	7/14/2006	DUPLICATE	7/14/2006
C86	MOTION	7/13/2006	DISMISSED	7/27/2006
C86	IC - MOTION FILED BY IW REP REQUESTING	7/13/2006	DISMISSED	8/11/2006
16 - 30 of 319				

| Application Tracking |

§ 9.36. Civil immunity of officers and employees; exceptions.

Except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the state is the plaintiff, no officer or employee shall be liable in any civil action that arises under the law of this state for damage or injury caused in the performance of his duties, unless the officer's or employee's actions were manifestly outside the scope of his employment or official responsibilities, or unless the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

This section does not eliminate, limit, or reduce any immunity from civil liability that is conferred upon an officer or employee by any other provision of the Revised Code or by case law. This section does not affect the liability of the state in an action filed against the state in the court of claims pursuant to Chapter 2743 of the Revised Code.

**HISTORY: 138 v S 76. Eff 3-13-80.**

The provisions of § 6 of HB 176 (141 v - ), eff 11-20-85, read as follows:

**SECTION 6.** Sections 3, 4, and 5 of Amended Substitute Senate Bill No. 76 of the 113th General Assembly are hereby repealed. The repeal of Section 3 of that act is not affected by the rule of construction contained in section 1.57 of the Revised Code.