

19-7550

CASE NO.

Supreme Court, U.S.

FILED

JAN 22 2020

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**In the Supreme Court of the United States**

ALEXANDER GUICE – PETITIONER,

VS.

PAMELA LEE – RESPONDENT.

ON PETITION FOR A WRIT OF PROHIBITION OR  
MANDAMUS TO THE SOUTH CAROLINA SUPREME COURT

**PETITION FOR A WRIT OF PROHIBITION OR  
WRIT OF MANDAMUS**

**ORIGINAL**

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## QUESTIONS PRESENTED

1. Whether a writ of prohibition is warranted to confine the unlawful exercise of subject matter jurisdiction over *Pamela Lee vs. Alexander Guice*, Case No. 2006-DR-26-0536, and all other related cases, by the South Carolina Supreme Court, and all Lower Courts of that State, and the State of Florida.
2. Whether a writ of mandamus is warranted to compel the SC Supreme Court to take notice of and answer the subject matter jurisdictional questions of law presented prior to exercising any further jurisdiction in this matter.

## LIST OF PARTIES AND RELATED CASES

The following is a list of all parties to this action previously before the South Carolina Supreme Court:

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The following reflects all cases in all other courts that are directly related to the case before this Court, to include:

- *Lee v. Guice*, No. 06-DR-26-0536, Family Court for the Fifteenth Judicial Circuit, in and for Horry County, Conway, South Carolina. Judgment entered May 11, 2006.
- *Guice v. Lee*, No. 09-DR-26-0669, Family Court for the Fifteenth Judicial Circuit, in and for Horry County, Conway, South Carolina. Judgment entered September 11, 2009.

- *Guice v. Lee*, No. 09-DR-26-3169, Family Court for the Fifteenth Judicial Circuit, in and for Horry County, Conway, South Carolina. Judgment entered October 8, 2010.
- *South Carolina Dept. of Social Services v. Guice*, No. 06-DR-26-0536, Family Court for the Fifteenth Judicial Circuit, in and for Horry County, Conway, South Carolina. Judgment entered January 13, 2013.
- *South Carolina Dept. of Social Services v. Guice*, No. 2013-000369, South Carolina Court of Appeals. Judgment entered March 12, 2014.
- *Guice v. Lee*, No. 2013-000593, South Carolina Court of Appeals. Judgement entered June 18, 2014.
- *Guice v. Lee*, No. 2013-000576, South Carolina Supreme Court. Judgement entered July 23, 2015.
- *Florida Dept. of Revenue (obo Pamela Lee) v. Guice*, No. 13-DR-001258, Circuit Court, Thirteenth Judicial Circuit, Hillsborough County, Tampa, Florida. Judgment entered January 17, 2018.
- *Guice v. Lee*, No. 2019-000168, South Carolina Supreme Court. Judgment entered July 30, 2019.

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**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Sup. Ct. Rule 29.6, Petitioner states that no parties are corporations in this action.

**In The  
Supreme Court of the United States**

**PETITION FOR A WRIT OF PROHIBITION OR MANDAMUS**

Petitioner respectfully prays that a writ of prohibition, or in the alternative, a writ of mandamus issue with respect to the judgment below.

**OPINIONS BELOW**

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is reported at the South Carolina Family Court and all related parties and agencies throughout South Carolina.

The initial opinion of the South Carolina Family Court appears at Appendix C to the petition and is reported throughout South Carolina and the State of Florida.

**JURISDICTION**

The date on which the highest state court decided my case was July 30, 2019. A copy of that decision appears at Appendix A. A timely petition for rehearing was thereafter denied on the following date: November 19, 2019, and a copy of the order denying rehearing appears at Appendix B.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1651.

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The chief Constitutional Provisions involved are the Equal Protection Clause and the Due Process Clause of the U.S. Constitution, Amendments V ("No person shall be held to answer for a capital, or otherwise infamous crime, unless on a

presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."), and XIV, § 1 ("No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.").

The statutory provision involved is 28 U.S.C. § 1651(a) ("The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."). Further, Petitioner relies on the Doctrine of *stare decisis*, and specifically, the well settled laws issued by this Court and others, as well as applicable rules of civil procedure, in regards to:

- i) What constitutes subject matter jurisdiction (*U.S. v. Hill*, 123 U.S. 681, 686 (U.S. 1887));
- ii) How subject matter jurisdiction is initially invoked in all state and federal courts of the United States (*Joan E. Mair, et al. v. Wells Fargo Bank, NA, et al.*, Case No. 2013-cv-24265-MGC (S.D.Fla.2014));
- iii) The legal effect on a case when a moving party fails to invoke a court's fundamental subject matter jurisdiction in the first instance (Federal Rule of Civil Procedure 12(h) and *Louisville R.R. v. Motley*, 211 U.S. 149, 29 S. Ct. 42 (U.S. 1908));

- iv) The standard of review applied regarding challenges to a court's subject matter jurisdiction (*Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (U.S. 2006));
- v) Fundamental requirements a judgment of a court must facially contain on its judgment roll to be considered valid (*Limehouse v. Hulsey*, 404 C. 93, 104, 744 S.E.2d 566, 572 (S.C. Sup.Ct.2013) and *Ex parte Rowland*, 104 U.S. 604, 26 L.Ed. 861 (U.S. 1882));
- vi) When a potential void judgment of a court may be attacked regarding its validity (*Thompson v. Whitman*, 85 U.S. 18 Wall. 457 457 (U.S. 1873));
- vii) Fundamental actions required to be taken by a court once a challenge to subject matter jurisdiction has been presented to a court by a party in good faith (*Rhode Island v. Massachusetts*, 37 U.S. 657, 718, 9L.Ed. 1233 (U.S. 1838));
- viii) That a judgment is deemed void, and all subsequent proceedings founded upon the void judgment are nullities if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process (FRCP 60(b)(4); U.S. Const. Amend. V; *Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985)); and
- ix) The requirement of all state courts of the United States to comply with the opinions of this Court (*Cooper v. Aaron*, 358 U.S. 1 (U.S. 1958)).

#### STATEMENT OF THE CASE

Petitioner Alexander Guice and Respondent Pamela G. Lee were lawfully married on March 7, 2000. Marriage Certificate. App. E1. On February 27, 2006, Respondent Lee, via her retained counsel<sup>1</sup>, filed a Complaint against Petitioner, apparently seeking a divorce, among other things, with the Family Court, for the

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1 Respondent Lee's Instant Complaint (App. T) was formally drafted and filed by Respondent Lee's former Attorney of record, namely, Robert Paul Taylor, Esq., who was later disbarred from the practice of law by the SC Supreme Court for professional misconduct unrelated to this matter. *See In The Matter of Robert Paul Taylor*, Appellate Case No. 2014-001413 Opinion. No. 27425 (S.C.Sup.Ct. 2014).  
<https://www.sccourts.org/opinions/HTMLfiles/SC/27425.pdf>.

Fifteenth Judicial Circuit, in and for Horry County, Conway, South Carolina (hereafter “Family Court”), which assigned the case Docket No. 2006-DR-26-0536.

Complaint & Verification. App. T.

On page one (1), ¶ 4, of the instant Complaint (App. T), and under the heading, “**JURISDICTION AND VENUE**”, Respondent Lee pleads, “**Plaintiff [LEE]** is informed and believes that this Court has jurisdiction over the subject matter and parties herein”. App. T. However, Respondent Lee’s Complaint fails to facially reference or otherwise plea to any law, statute or constitution, anywhere on the four corners of aforesaid Complaint, legally vesting or otherwise invoking the Family Court’s subject matter jurisdiction over No. 06-0536 in the first instance. App. T.

Based solely upon Respondent Lee’s instant Complaint (App. T), on or around May 11, 2006, the Family Court issued a Temporary Order, the initial decree in this action. Temporary Order. App. C. On page two (2), ¶1 of the Temporary Order, and under the heading, “**FINDINGS OF FACT AND CONCLUSIONS OF LAW**”, the Family Court opined that “**The Court has personal jurisdiction as to both parties and jurisdiction as to the subject matter of this action**”; however, there are no references or citations to any laws, statutes or constitution provisions, facially appearing anywhere on the four corners of that judgment roll, proving the Family Court’s subject matter jurisdiction, or proof of jurisdictional authority to pronounce the particular judgments rendered, in the first instance. App. C.

On or around June 26, 2006, the Family Court found Petitioner in Civil Contempt of the Family Court, for failing to comply with the Temporary Order

(App. C), to include fining Petitioner \$50.00, and, *inter alia* ordering that,

Defendant [GUICE] is in civil contempt of court, and I ORDER that Defendant be confined to the County Detention Center...DEFENDANT IS NOT TO MISS A PAYMENT FOR THE NEXT FOUR MONTHS OR A BENCH WARRANT SHALL BE ISSUED. A LIEN IS PLACED ON ANY LUMP SUM RECEIVED FROM AUTO ACCIDENT."

Family Court Civil Contempt Order. App. D.

The Family Court Civil Contempt Order (App. D) fails to facially reference or otherwise opine any statute or constitution proving the Family Court's subject matter jurisdiction or jurisdictional authority to pronounce the judgments rendered, but instead, opines, "Pursuant to Rule to Show Cause", which is neither a statute nor a constitutional provision. *Id.*

For purposes of conciseness, none of the Orders issued by the Family Court in this matter, including two (2) Divorce Decrees (App. E, F), facially cites; opines; or otherwise references any statutes or constitutional provisions, proving the Family Court's subject matter jurisdiction or jurisdictional authority to pronounce the particular judgments that were rendered. Family Court Orders. App. C, D, E, F, G, H, I, J, K, L, M, N.

Both of the Divorce Decrees issued by the Family Court granted Respondent Lee "divorces" from Petitioner, on the ground of 'one year separation' (App. E, F); however, there is no cause of action on the face of Respondent Lee's instant complaint (App. T) seeking or praying for relief for a divorce against Petitioner Guice on the ground of one year separation, in the first instance. *Id.*

For purposes of conciseness, in addition to the instant Complaint (App. T),

neither Respondent Lee's "Verified Petition for Contempt" (App. U), nor the South Carolina Department of Social Services' (hereafter, "SCDSS") "NOTICE OF ASSIGNMENT AND ORDER SUBSTITUTING PARTY" (App. V), references or otherwise plea to any statute or constitution as the legal basis of invoking or vesting the Family Court with subject matter jurisdiction in the first instance. *Id.*

For purposes of conciseness, on two (2) separate occasions (App. C1, D1), Petitioner provided good faith notice, via written correspondence with attachments, to the Family Court; Respondent Lee; and Co-Respondent Ryan A. Stampfle, Esquire, advising and informing the same of alleged lack of subject matter jurisdiction in this matter, based on Respondent Lee's defective instant complaint (App. T) and all subsequent Family Court Orders (App. C thru L) issued.

On two separate occasions, the Family Court, via Honorable Ronald R. Norton, who previously presided over this matter (App. G), issued *de facto* Opinions (App. M, N), without any facial citation to authority, justifying why the Family Court would not take any action, *sua sponte* or otherwise, regarding Petitioner's notice of alleged lack of subject matter jurisdiction. *Id.*

Subsequent the second refusal of the Family Court to take notice of the alleged lack of subject matter jurisdiction (App. M, N), on February 2, 2018, Petitioner filed and served *inter alia* a Petition for a Writ of Prohibition, with the South Carolina Supreme Court. Petition for a Writ of Prohibition. App. W. The South Carolina Supreme Court denied the petition on July 30, 2019. App. A. After a timely filed Petition for Rehearing (App. A1), the South Carolina Supreme Court

denied the petition for rehearing on November 19, 2019. App. B. This petition follows.

### **NATURE OF RELIEF SOUGHT**

Upon consideration of this Petition; the Appendix; U.S. Const. Amends. V and XIV; and proper application of universally recognized well settled law(s), Petitioner prays for relief in the form of an appropriate Order:

- a) Issuing of a Writ of Prohibition to the SC Supreme Court, to include all Lower Courts of that State, in regards to this matter, to include all related family court cases, in terms of dismissal for lack of jurisdiction, with prejudice, to include vacating all orders issued in this matter as void judgments *ab initio*; or
- b) In the alternative, issuing of a Writ of Mandamus to the SC Supreme Court, directing that the SC Supreme Court take notice of and answer the subject matter jurisdictional question(s) of law presented in Petitioner's Petition for a Writ of Prohibition, prior to exercising any other jurisdiction over this matter; and
- c) For any and such other relief as this Court deems just and proper.

### **REASONS FOR GRANTING THE PETITION**

1. The issuance of an extraordinary writ will be in aid of the Court's appellate jurisdiction.

"The traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so".

*Ex parte Republic of Peru*, 318 U.S. 578 (U.S. 1943).

- A. Lack of Subject Matter Jurisdiction in this case is established by simple facial examination of the Instant Complaint and/or by facial examination

of the four corners of the SC Family Court Orders.

A challenge to a court's requisite subject matter jurisdiction, or lack thereof, is reviewed *de novo*. *Simmons v. Simmons*, 392 S.C. 412, 414, 709 S.E.2d 666, 667 (S.C.Ct.App.2011); *also see Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (U.S. 2006). It is well settled that a court's subject matter jurisdiction is invoked or otherwise established by plea or proper reference to applicable statute or constitution. *See, e.g., Joan E. Mair, et al. v. Wells Fargo Bank, NA, et al.*, Case No. 2013-cv-24265-MGC (S.D.Fla.2014) (dismissal of civil action for lack of jurisdiction due to complaint failing to plea to statute or constitution); *Johnson v. S.C. Dep't of Prob., Parole, & Pardon Servs.*, 372 S.C. 279, 284, 641 S.E.2d 895, 897 (S.C.Sup.Ct.2007) (“subject[-]matter jurisdiction refers to a court's constitutional or statutory power to adjudicate a case.”); *Peterson v. Peterson*, 333 S.C. 538, 548, 510 S.E.2d 426, 431 (S.C.Ct.App.1998) (quoting *Katzburg v. Katzburg*, 410 S.C. 184, 764 S.E.2d 3 (S.C.Ct.App.2014)) (“The jurisdiction of a court is determined by the sovereign creating it, and thus the question of the specific court in which an action is to be brought is determined in the first instance by reference to local law.”); *U.S. v. Hill*, 123 U.S. 681, 686 (U.S. 1887) (“The cause of action listed no law...jurisdiction of the Courts of the United States means a law providing in terms of revenue; that is to say, a law which is directly traceable to the power granted to Congress by the Constitution to lay and collect taxes, duties, imposts, and excises.”).

First, a *de novo* facial review of Respondent Lee's instant complaint (App. T) clearly establishes that Respondent Lee failed to plea to, or otherwise reference any

law, statute or constitution, as the legal basis for invoking the SC Family Court's subject matter jurisdiction in the first instance, in clear contravention of well settled laws, including, but not limited to, *Hill; Mair; Katzburg* and *Peterson*<sup>2</sup>. *Id.* Petitioner contends the only function remaining of this Court is that of announcing the fact of this defective complaint (App. T) and dismissing this cause, as held in *Limehouse v. Hulsey*, 404 S.C. 93, 104, 744 S.E.2d 566, 572 (S.C. Sup.Ct.2013), quoting 32A Am.Jur.2d *Federal Courts* § 581 (2007), and Federal Rule of Civil Procedure 12(h)(3). *Id.* *See also, Louisville R.R. v. Motley*, 211 U.S. 149, 29 S. Ct. 42 (U.S. 1908) ("If any tribunal finds absence of proof of jurisdiction over person and subject matter, the case must be dismissed.").

Second, it is well settled jurisdictional law that,

"A Decision is void on the face of the judgment roll when from four corners of that roll, it may be determined that at least one of three elements of jurisdiction was absent: (1) jurisdiction over parties, (2) jurisdiction over subject matter, or (3) jurisdictional authority to pronounce particular judgment that was rendered."

*Cockett Oil Co. v. Effie*, 374 S.W.2d 154 (Mo.App.Ct.1964); *also see B & C Investments, Inc. v. F & M Nat. Bank & Trust*, 903 P.2d 339 (Okla.App.Ct.1995); *also see Hulsey, supra.* "An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue." *Rose v. Himely*, 8 U.S. 241 2 L.Ed. 608 (U.S.

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2 Co-Respondent SCDSS' "Notice of Assignment" (App. V) (drafted and filed by Co-Respondent Attorney Holloway), as well as Respondent Lee's "Verified Petition For Contempt" (App. U) (drafted and filed by Co-Respondent Attorney Stampfle) also fails to plea to or otherwise reference any laws as the legal basis for invoking or otherwise establishing the SC Family Court's mandatory subject matter jurisdiction in the first instance, in contravention of *Hill; Mair; et al.*

1808); *see also Pennoyer v. Neff*, 95 U.S. 714 (U.S. 1878) (same); *Thompson v. Whitman*, 85 U.S. 18 Wall. 457 457 (U.S. 1873) (same); *Windsor v. McVeigh*, 93 U.S. 274 (U.S. 1876) (same); *McDonald v. Mabee*, 243 U.S. 90 (U.S. 1917) (same).

Here, a simple *de novo* facial examination of every SC Family Court Order issued (App. C thru L) in this matter establishes that none of the SC Family Court Orders at issue; *i*) references, cites or opines any laws proving the Family Court's "Conclusions of Law" that it has subject matter jurisdiction; and *ii*) references, cites or opines any laws proving the Family Court's jurisdictional authority to pronounce the particular judgment(s) that was rendered, in clear contravention of *Effie, B&C Investments*, and *Hulsey*, among numerous other universally recognized settled laws, rendering aforesaid SC Family Court Orders patently void judgments, notwithstanding Respondent Lee's defective instant complaint (App. T). *Id. See also, Ex parte Rowland*, 104 U.S. 604, 26 L.Ed. 861 (U.S. 1882) ("A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its wants of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists.")<sup>3</sup>.

Accordingly, issuance of a writ of prohibition is in aid to this Court's appellate jurisdiction by confining the unlawful exercise of jurisdiction and authority over this matter, by the SC Supreme Court, and all Lower Courts of

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3 As a comparison, Petitioner has attached true copies of two (2) Family Court Orders issued by the same SC Family Court, with respect to Petitioner's and Respondent Lee's Divorce Decrees from prior marriages (App. O, P), establishing and proving the SC Family Court's *Hulsey*, *supra* jurisdictional defects facially appearing on the four corners of the judgment rolls issued in this matter (App. C-L).

South Carolina and Florida, which cannot be remedied on appeal. *Supra*. See *Katzburg, supra* (“A court, lacking subject matter jurisdiction, cannot enforce its own decrees. It would serve no useful purposes to determine issues submitted to the court since the jurisdiction as to subject matter can be raised at any time, and if the case were remanded to the family court, it would have no authority to carry out its previously ordered mandate.”).

B. The SC Supreme Court’s legal basis for denying the Petition for a Writ of Prohibition, without taking notice of the alleged jurisdictional defects, contravenes South Carolina, Federal and other well settled laws, requiring issuance of a Writ of Mandamus.

Mandamus is appropriate where petitioner “lack adequate alternative means to obtain the relief they seek”, *Mallard v. U.S. Dist. Court for S. Dist. of Iowa*, 490 U.S. 296, 309, (1989). In *English v. McCrary*, an action involving the issuance of a writ of prohibition, the Florida Supreme Court provided guidance regarding a Court’s fundamental judicial requirements once notified of potential lack of subject matter jurisdiction, where that Court held,

*Every court has judicial power to hear and determine the question of its own jurisdiction, both as to parties and as to subject matter, and necessarily does so by proceeding in the cause. When at any time or in any manner it is in good faith represented to the court by a party or an amicus curiae that it has not jurisdiction, the court will examine the grounds of its jurisdiction before proceeding further. The Court may receive testimony on a preliminary question to determine its jurisdiction, and is not bound to dismiss the suit on a mere allegation of lack of jurisdiction, but may inquire into the correctness of the averment. A court cannot pass on its own existence as a court.*

*Id.* at 348 So. 2d 293, 298 (Fla. Sup. Ct. 1977) (Emphasis added). There are a line of settled laws apposite to *English* with respect to a Court’s fundamental obligation and duty once notified by a party that subject matter jurisdiction may be lacking.

*See, e.g., Rhode Island v. Massachusetts*, 37 U.S. 657, 718, 9L.Ed. 1233 (U.S. 1838) (“However late this objection [for lack of subject matter jurisdiction] has been made, or may be made in any cause, in an inferior or appellate court of the United States, it must be considered and decided, before any court can move one further step in the cause; as any movement is necessarily the exercise of jurisdiction.”) (emphasis added); *Maine v. Thiboutot*, 100 S.Ct. 250 (U.S. 1980) (“Jurisdiction, once challenged, cannot be assumed and must be decided.”); *John J. Joyce v. United States of America*, 474 F.2d 215, 219 (3<sup>rd</sup>Cir.1973) (“Where there is no jurisdiction over the subject matter, there is, as well, no discretion to ignore that lack of jurisdiction.”); *Johnson, supra* at 284, 641 S.E.2d at 897 (“[L]ack of subject[-]matter jurisdiction in a case may not be waived and ought to be taken notice of by an appellate court.”) (emphasis added); *United States v. Cotton*, 535 U.S. 625, 630 (U.S. 2002) (“[S]ubject-matter jurisdiction, because it involves a court’s power to hear a case, can never be forfeited or waived.”).

Here, a review of the Petition for a Writ of Prohibition filed with the SC Supreme Court (App. W) establishes that Petitioner raised at least two (2) separate good faith arguments challenging the SC Family Court’s subject matter jurisdiction, the same aforementioned grounds raised above, to include submitting evidentiary documentation and relied upon authorities. *Supra*. However, the SC Supreme Court denied the petition (App. A), without taking notice of the alleged subject matter jurisdictional questions of law, or answering the properly raised jurisdictional questions of law. *Id.* Instead, the SC Supreme Court denied the

petition on other grounds, opining that "...no extraordinary reason exists to entertain them in this Court's original jurisdiction..." (App. A), to include citing its holding of *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (S.C. Sup. Ct. 1991) in support of its decision<sup>4</sup>.

Petitioner contends, in light of this Court's holding in *Rhode Island*, and the SC Supreme Court's own holding in *Johnson*, among other well settled laws, the SC Supreme Court was prohibited from exercising any jurisdiction in this matter, to include denying the petition (App. W) on other grounds (App. A), until it took notice of and answered the alleged fundamental jurisdictional questions of law appearing on the record. *Id.*

Stated differently, and in light of the SC Supreme Court's own holding of *Hulsey*, upon taking notice of the alleged jurisdictional defects, the SC Supreme Court should have been left with one of two options **only**; either ruling that the Family Court had vested subject matter jurisdiction (at which point Petitioner's Writ is denied for failing to prove alleged lack of subject matter jurisdiction as a matter of course); or the SC Supreme Court announcing the jurisdictional defects; dismissing the case; and vacating all Family Court orders issued. *Id.*

Accordingly, and in the alternative, issuance of a writ of mandamus is in aid

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<sup>4</sup> Petitioner points out the SC Supreme Court's *sua sponte* holding of *Key* (App. A) as the settled law relied upon to deny the petition, is wholly inapposite to Petitioner's Petition for a writ of prohibition (App. W), in that: a) in *Key*, the moving party was seeking a writ of mandamus; and b) in *Key*, there were no allegation(s) by a party that a lower court lacked subject matter jurisdiction or allegation(s) of usurpation of judicial authority.

to this Court's appellate jurisdiction because the SC Supreme Court 'passed on its own existence as a court'; it has a duty and therefore must be compelled to exercise its jurisdiction first in terms of taking notice of and answering the properly raised subject matter jurisdictional questions of law prior to exercising any other jurisdiction in this matter, per *Rhode Island, Hill, Hulsey and Johnson*, among numerous other Black Letter well settled laws. *Id.*

**2. Exceptional circumstances warrant the exercise of the Court's discretionary powers.**

**A. The Invalid SC Family Court Orders at issue constitutes usurpation of judicial authority and clear abuse of discretion.**

This Court has held on numerous occasions that 'instances of usurpation of judicial authority and power' and 'clear abuse of discretion' constitutes exceptional circumstances to warrant the exercise of this Court's discretionary powers. *See, e.g., Roche v. Evaporated Milk Assn.*, 319 U.S. 21 (U.S. 1943); *Mallard, supra*; *De Beers Consolidated Mines, Ltd. v. United States*, 325 U.S. 212, 217, (U.S. 1945); *Bankers Life & Casualty Co. v. Holland*, 346 U.S. 379, 383, (U.S. 1953). *See also, Cooper v. Aaron*, 358 U.S. 1 (U.S. 1958) (holding that, once the United States Supreme Court interprets a provision of the Constitution, that interpretation is binding on all states, not just those party to the decision.).

Here, there are numerous material facts contained within the record facially establishing that this Court's Rule 20 and *Roche, supra* 'exceptional circumstance' requirement(s) have been met. In particular, based on Respondent Lee's defective complaint (App. T), not only are all the SC Family Court Orders patently void

judgments (App. C thru L), each Family Court Order issued constitutes separate acts of usurpation of judicial authority and power, as well as 'clear abuse of discretion', by the SC Family Court, in the matter of *Pamela Lee v. Alexander Guice*, Case No. 2006-DR-26-0536, and all subsequent related cases. *Id. See State v. Irick*, 344 S.C. 460, 464, 545 S.E.2d 282, 284 (S.C. Sup. Ct. 2001) ("An abuse of discretion arises from an error of law or a factual conclusion that is without evidentiary support.").

Stated differently, the SC Family Court's alleged unlawful usurpation of judicial power and authority in this matter, based on Respondent Lee's fundamentally defective instant complaint (App. T), has resulted in, to include, but not limited to;

- Unlawful issuance of not one (1), but two (2) invalid Divorce Decrees in this matter (App. E, F, G1, H1), although Petitioner and Respondent Lee never 'remarried' at any time after becoming lawfully married on March 7, 2000 (App. E1);
- Unlawful establishment of paternity regarding a former minor child (App. C, *et al.*);
- Unlawful award of monetary child support obligations, payable to Respondent Lee by Petitioner (App. C, *et al.*);
- Unlawful threat of force through the use of the SC Family Court's contempt powers against Petitioner and Respondent Lee for failing to comply with the Family Court orders (App. C, *et al.*);
- Unlawful distribution of marital property and debts regarding Petitioner and Respondent Lee (App. E);
- (Via invalid Divorce Decree(s) (App. E, F)) Unlawful deprivation to otherwise axiomatic entitlement to *U.S. Department of Veterans Affairs* Spouse and Dependent Benefits, secured pursuant to Petitioner's Veteran Status (App. F1) and Title 38, U.S. Code of Laws,

as amended; and

- Unlawfully finding Petitioner to be in Civil Contempt of the SC Family Court, to include unlawfully issuing two (2) separate sentences of incarceration against Petitioner (App. D, K)<sup>5</sup>.

**B. The SC Supreme Court and the SC Family Court has refused to perform its true adjudicator role and duty, corrupting the judicial process.**

A refusal of a court to perform its true adjudicator role and duty, and instead, corrupt the judicial process, also constitutes an exceptional circumstance to warrant the exercise of this Court's discretionary powers. *La Buy v. Howes Leather Co.*, 352 U.S. 249, 256-258 (U.S. 1957). Here, after Petitioner provided good faith notice to the Family Court that it lacked subject matter jurisdiction in this matter (App. C1, D1), the Family Court, via Family Court Judge Honorable Ronald R. Norton, refused to perform the Court's duty, in terms of taking notice of the alleged lack of subject matter jurisdiction, but instead, corrupted the judicial process, by providing Opinions (App. M, N) containing unsupported explanations to justify not taking any action at all. *Id.*

Further, the SC Supreme Court refused to perform its true adjudicator role and duty, by failing to take notice of and answer the jurisdictional questions of law

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5 In light of *Cooper*, which bounds the SC Supreme Court's determination of what constitutes 'extraordinary reasons' (App. A), based on this Court's examples of what constitutes "exceptional circumstances" as opined in *Roche, et al.*, Petitioner believes he implicitly met the SC Supreme Court's "extraordinary reasons" requirements based on the averments and supporting evidentiary documentation previously presented (App. W). *See Black's Law Dictionary* definition of 'Exceptional Circumstances' ("Conditions which are out of the ordinary course of events; unusual or extraordinary circumstances. For example, lack of original jurisdiction to hear and determine a case constitutes "exceptional circumstance" as basis for raising question for the first time on habeas corpus." (citation omitted) (emphasis added)).

properly raised (App. W), and instead, corrupted the judicial process, by denying the petition (App. A) on other grounds, improperly exercising jurisdiction in this matter without determining whether fundamental subject matter jurisdiction existed in the first instance, in light of *Rhode Island, et al. Id.*

Based on the foregoing, *supra*, Petitioner believes this Court's Rule 20 and *Roche, supra* 'exceptional circumstance' requirement(s) have been met for the Court to consider exercising its discretionary powers in this action. *Id. See Jannino v. Jannino*, 234 S.C. 352, 108 S.E. 2d 572 (S.C. Sup. Ct. 1959) (holding "...a void judgment of divorce cannot be legalized by the acts of the divorced parties nor can they become divorced by estoppel.").

**3. Adequate relief cannot be obtained in any other form or from any other court.**

**A. The SC Supreme Court is the highest State Court in South Carolina.**

Pursuant to Article V of the South Carolina Constitution, as amended, the South Carolina Supreme Court is the highest Court within the territorial jurisdiction of the State of South Carolina, and therefore, the "Court of last resort" with regards to Petitioner's ability to seek appellate review and adequate relief as to the properly raised subject matter jurisdictional question(s) of law (*supra*) being taken notice of and considered herein. *Id. App. A.*

Because the SC Supreme Court has apparently contravened this Court's *Rhode Island* and its own *Johnson* mandates in terms of improperly denying the Petition (App. A) without taking notice of the alleged jurisdictional defects, *supra*, in addition to the SC Family Court's prior refusal to take notice of the same

jurisdictional defects (App. M, N), Petitioner cannot obtain adequate relief in any other form or from any South Carolina State Court in this matter<sup>6</sup>. *Id.*

**4. The Nation's Public Interests, as Federal Taxpayers, demands that this Court exercise its discretionary powers in this matter.**

Title IV-D of the Social Security Act of 1975, as amended (42 U.S.C. § 601–687), among other things, provide **Monetary Incentive payments** to states' Child Support Enforcement Division programs ("CSED"), up to a ratio of 3 to 1, based in part upon child support payments actually paid by the non-custodial parent through enforcement of child support orders via a particular state's CSED program. *Id.* 42 U.S.C. § 658. The Monetary Incentive payments are wholly Federal Taxpayer funded, and administered by the U.S. Department of Health and Human Services ("HHS"). 42 U.S.C. § 651.

While Petitioner was unable to diligently obtain U.S. Supreme Court settled law regarding protecting federal taxpayers from potential fraud, misappropriation or otherwise illegal use of public funds, in *Jones v. O'Connell*, the Illinois Supreme Court opined that,

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6 Petitioner contends the Court should consider and take notice of the failure of Co-Respondents Attorney Stampfle and Attorney Holloway, in terms of not acting in the interest of the administration of justice, which wholly supersedes their duties owed to their clients, in neglecting to notice the SC Supreme Court of the aforementioned jurisdictional defects appearing on record, including their own defective formal pleadings (App. U, V) filed with the Family Court. *See, e.g., U.S. v. Frank*, 53 F.2d 128 (D.N.J. 1931) ("They, too, are officers of the courts, administrators of justice, oath-bound servants of society; that their first duty is not to their clients, as many suppose, but is to the administration of justice; that to this their clients' success is wholly subordinate; that their conduct ought to and must be scrupulously observant of law and ethics; and to the extent that they fail therein, they injure themselves, wrong their brothers at the bar, bring reproach upon an honorable profession, betray the courts, and defeat justice."); *also see 7 CJS, § 4 Attorney & Client (same); also see Langen v. Borkowski*, 188 Wis. 277, 301 (Wis. Sup. Ct. 1925) (same).

“The [Illinois] supreme court has held that tax revenues, upon their collection, become public funds, of which the taxpayers are the equitable owners, and that a taxpayer has the equitable right to restrain the illegal use or misappropriation of public funds in which he, in common with other taxpayers, ha[s] an interest.”

*Id.* at 443, 447-48 (Ill.Sup.Ct.1914) (Emphasis added).

Here, Co-Respondent South Carolina Department of Social Services, Integrated Support Services Division (formerly, CSED), and, via SCDSS’ ‘Title IV-D Registration Statement’ (App. I1), the Florida Department of Revenue, CSED (App. S), may be utilizing the patently void Family Court Child Support Orders (App. C, E, H) in terms of illegally receiving Federal Taxpayer funded monetary incentive payments from HHS, under Title IV-D, in addition to possibly trespassing and engaging in lawless violence against the undersigned Petitioner, while acting under ‘color of law’. *Id. See U.S. v. Booth*, 21 How. 524 (U.S. 1859) (“No judicial process, whatever form it may assume, can have any lawful authority outside the limits of the jurisdiction or the judge by whom it is issued, and an attempt to enforce it beyond these boundaries is nothing less than lawless violence.”).

Because Co-Respondent SCDSS and/or the Florida Department of Revenue may be obtaining monetary incentive payments from HHS via alleged Title IV-D authority<sup>7</sup>, through the enforcement of the alleged facially void Family Court Orders (App. C-L), wherein aforesaid monetary incentives funds are ‘clothed’ or

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7 Petitioner points out that a review of Co-Respondent SCDSS’ Title IV-D Registration Statement, which was Verified on June 4, 2012 (App. I1), clearly establishes that, among other things, SCDSS began unlawfully exercising and abusing Title IV-D authority over Petitioner in this matter more than FIVE (5) MONTHS PRIOR to the Family Court issuing the Order Confirming SCDSS’ Notice of Assignment (App. V), verified on January 7, 2013, and filed with the Family Court on January 22, 2013 (App. J).

otherwise ‘affected with a public interest’, the Court should exercise its discretionary powers in terms of ensuring the Family Court Orders are in fact and in law valid judgments, to protect all Federal Taxpayers nationwide. *Id. See* *Nebbia v. New York*, 291 U.S. 502, 531-536 (1934) (holding “To say that property is “clothed with a public interest”, or an industry is “affected with a public interest,” means that the property or the industry, for adequate reason, is subject to control for the public good”.).

## CONCLUSION

Based on the foregoing, this petition for a writ of prohibition should be granted, or in the alternative, a writ of mandamus should issue.

Respectfully submitted,



Date: January 29, 2020

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